Time: 1 hour. Unless otherwise specified, assume all problems occur in a modern-day jurisdiction.

1. Oscar conveys Blueacre “to Adam for life, then to Betsy and her heirs, but if Betsy receives a Ph.D., then to Cynthia and her heirs.” What interests are created in 2004?

   a. Adam has a life estate, Betsy has a contingent remainder in fee simple absolute, Cynthia has an alternative contingent remainder in fee simple absolute, and Oscar has a reversion in fee simple absolute.

   b. Adam has a life estate, Betsy has a contingent remainder in fee simple absolute, and Cynthia has a springing executory interest in fee simple absolute.

   c. Adam has a life estate, Betsy has a vested remainder subject to divestment in fee simple absolute, and Cynthia has a shifting executory interest in fee simple absolute.

   d. Adam has a life estate, Betsy has a vested remainder subject to open and subject to divestment in fee simple absolute, and Cynthia has a shifting executory interest in fee simple absolute.

   e. Adam has a life estate, Betsy has a vested remainder in fee simple subject to executory limitation, and Cynthia has a shifting executory interest in fee simple absolute.

2. In the year 2000, Olivia conveys Whiteacre “to Annie for life, then to Bill and his heirs, but if Whiteacre is used for commercial purposes, then to Cathy and her heirs.” Classify the interests.

   a. Annie has a life estate, Bill has a contingent remainder in fee simple subject to condition subsequent, Cathy has a contingent remainder in fee simple subject to condition subsequent, and Olivia has a right of re-entry in fee simple absolute.

   b. Annie has a life estate, Bill has a vested remainder subject to divestment in fee simple absolute, and Cathy has a shifting executory interest in fee simple absolute.

   c. Annie has a life estate, Bill has a vested remainder in fee simple subject to condition subsequent, Cathy has a shifting executory interest in fee simple absolute, and Olivia has a right of re-entry.

   d. Annie has a life estate, Bill has a vested remainder in fee simple subject to executory limitation, and Cathy has a shifting executory interest in fee simple absolute.

   e. Annie has a life estate, Bill has a vested remainder in fee simple subject to condition subsequent, and Olivia has a possibility of reverter.
3. Andy conveys the family home “to Aunt Bea for life, then to my son Opie if he becomes Sheriff of Mayberry, and if Opie does not become sheriff of Mayberry then to Barney’s heirs.” Barney is alive. What interests are created?
   a. Aunt Bea has a life estate and Opie has a vested remainder in fee simple absolute.
   b. Aunt Bea has a life estate, Opie has a contingent remainder in fee simple absolute, Barney’s heirs have an alternative contingent remainder in fee simple absolute, and Andy has a reversion in fee simple absolute.
   c. Aunt Bea has a life estate, Opie has a contingent remainder in fee simple subject to executory limitation, and Barney’s heirs have a springing executory interest in fee simple absolute.
   d. Aunt Bea has a life estate, Opie has a contingent remainder in fee simple subject to executory limitation, Barney’s heirs have a shifting executory interest in fee simple absolute and Andy has a reversion in fee simple absolute.
   e. Aunt Bea has a life estate, Opie has a contingent remainder in fee simple absolute, Barney’s heirs have a contingent remainder in fee simple absolute, and Andy has a reversion. The contingent remainders are not alternative.

4. Pick the correct statement of the law:
   a. In a conveyance of Blackacre from O “to A for life, then to B and her heirs, but if alcohol is sold on the land, then O has a right to re-enter and reclaim the property,” B’s interest is a vested remainder in fee simple subject to condition subsequent and O has a possibility of reverter in fee simple absolute.
   b. If a person holds a vested remainder subject to divestment, the divesting condition can only occur after the remainderman vests in possession.
   c. A condition precedent is a condition that must occur before a grantee dies in order to be effective.
   d. A vested remainder in life estate cannot be followed by a vested remainder in fee simple absolute.
   e. A feoffee in a pre-1536 enfeoffment to use is similar to a modern-day trustee in a trust.

5. O conveys Blackacre “to A for life, then to B and his heirs unless B dies before reaching age 21, and if B does die before reaching 21 to C and his heirs.” When A dies, B is 15 years old. Applying the Doctrine of Destructibility of Contingent Remainders, which statement is correct?
   a. B’s interest failed within 21 years of A’s death, so B’s interest is valid.
   b. B’s interest is destroyed because he did not reach 21 before A died, but C’s interest vested because it was an alternative contingent remainder.
   c. B’s interest is not destroyed until his interest actually vests or fails by reaching or not reaching 21.
   d. Both B’s interest and C’s interests are destroyed. O takes the property in fee simple absolute.
   e. Both B’s interest and C’s interest are destroyed and A’s heirs will take the property in fee simple absolute.
6. Hawthorne conveyed the House of Seven Gables “to Dimmsdale for life, then to Hester Prynne’s children and their heirs.” At the time of the conveyance, Hester Prynne had one child, Pearl. Hester Prynne is still alive. Immediately following this conveyance, what interest, if any, does Pearl have in the House of Seven Gables?

   a. Vested remainder subject to open in fee simple absolute.
   b. Vested remainder subject to divestment in fee simple absolute.
   c. Contingent remainder in fee simple absolute.
   d. No interest until Hester Prynne dies.
   e. A void contingent remainder under the What Might Happen test of the Rule Against Perpetuities.

7. Gomez conveys the family mansion “to my dreadfully beautiful wife Morticia for life, then one day after her death, to the solemn and staid Lurch and his heirs.” What estates are created in the year 2004?

   a. Morticia has a life estate and Lurch has a vested remainder in fee simple absolute.
   b. Morticia has a life estate and Gomez has a possibility of reverter in fee simple absolute.
   c. Morticia has a life estate, Gomez has a reversion in fee simple subject to executory limitation, and Lurch has a shifting executory interest in fee simple absolute.
   d. Morticia has a fee simple absolute, but only in a jurisdiction that recognizes the Rule in Shelley’s Case and the Rule of Merger.
   e. Morticia has a life estate, Gomez has a reversion in fee simple subject to executory limitation, and Lurch has a springing executory interest in fee simple absolute.

8. Oliver conveys Greenacres “to his beloved wife Lisa for life, then to Mr. Haney and his heirs, but if Greenacres is not used as a farm, then to Mr. and Mrs. Ziffel and their heirs.” What interests are created in the year 2000?

   a. Lisa has a life estate, Mr. Haney has a contingent remainder in fee simple absolute, the Ziffels have a contingent remainder in fee simple absolute, and Oliver has a reversion in fee simple absolute.
   b. Lisa has a life estate, Mr. Haney has a vested remainder in fee simple subject to an executory limitation, and the Ziffels have a shifting executory interest in fee simple absolute.
   c. Lisa has a life estate, Mr. Haney has a vested remainder subject to divestment in fee simple absolute, and the Ziffels have a shifting executory interest in fee simple absolute.
   d. Lisa has a term of years, Mr. Haney has a vested remainder subject to divestment in fee simple absolute, and the Ziffels have a springing executory interest in fee simple absolute.
   e. Lisa has a life estate, Mr. Haney has a vested remainder in fee simple absolute, and the Ziffels have a contingent remainder in fee simple absolute, and Oliver has a reversion.
9. Shirley Partridge conveys Partridge Meadows “to my friend and manager Ruben Kincaid for life, then to the children of my only child Keith Partridge so long as the property is used as a bird sanctuary.” Keith Partridge dies, survived by his only child, Laurie. Laurie has no children. Ruben Kincaid dies. Shirley Partridge dies intestate. She has no other relatives except those mentioned in this problem. What is the state of title?

a. Laurie owns Partridge Meadows in fee simple absolute because of the Rule of Merger.

b. Laurie owns Partridge Meadows in fee simple determinable and the state owns Shirley’s possibility of reverter in fee simple absolute through escheat.

c. Laurie owns Partridge Meadows in fee simple subject to condition subsequent and the state owns Shirley’s right of entry in fee simple absolute through escheat.

d. Laurie owns Partridge Meadows in fee simple subject to executory limitation and the state owns a shifting executory interest in fee simple absolute through escheat.

e. Laurie owns Partridge Meadows in fee simple absolute because of the Doctrine of Worthier Title.

10. Ogilvie conveys Blackacre “to Anderson for life, then to Bartlett so long as the land is not used for hunting, then to Coleman and his heirs.” What interests are created in the year 2000?

a. Anderson has a life estate, Bartlett has a vested remainder in fee simple subject to condition subsequent, and Coleman has the right of re-entry in fee simple absolute.

b. Anderson has a life estate, Bartlett has a vested remainder in fee simple determinable, and Coleman has a possibility of reverter in fee simple absolute.

c. Anderson has a life estate, Bartlett has a vested remainder in fee simple subject to executory limitation, and Coleman has a shifting executory interest in fee simple absolute.

d. Anderson has a life estate, Bartlett has a vested remainder in fee simple subject to executory limitation, and Coleman has a springing executory interest in fee simple absolute.

e. Anderson has a life estate, Bartlett has a contingent remainder in fee simple determinable, and Coleman has an alternative contingent remainder in fee simple absolute.
11. O conveys Blueacre “to my friend A for life, then to those of A’s children who graduate from law school.” A dies, survived by her sole child and heir B. B has not yet graduated from law school. In a jurisdiction that follows the Rule in Shelley’s Case, the Doctrine of Worthier Title, and the Doctrine of Destructibility of Contingent Remainders and the Rule of Merger, and without applying the Rule Against Perpetuities, which of the following is a true statement?

a. O holds a fee simple subject to executory limitation and B holds a springing executory interest in fee simple absolute.

b. B holds a fee simple subject to executory limitation and O owns a shifting executory interest in fee simple absolute.

c. B owns Blueacre in fee simple absolute because of the Rule in Shelley’s Case and Rule of Merger.

d. O owns Blueacre in fee simple absolute because of the Doctrine of Worthier Title.

e. O owns Blueacre in fee simple absolute because of the Doctrine of Destructibility of Contingent Remainders.

12. Alan and Beth own adjoining tracts of land, Alanacre (owned by Alan) and Bethacre (owned by Beth). One day a wild deer wanders onto Bethacre from a forest that is not on Alan’s or Beth’s land. Over the next several months, Beth feeds it daily and allows her children to play with it. Each evening the deer returns to the forest, but comes back to Bethacre again each morning. Six months later, Alan traps the deer and confines it on Alanacre. Beth demands return of the deer. Beth’s best argument would be based on:

a. Rule of Discovery.

b. Rule of Escape.

c. Rule of Animus Revertendi.

d. Rule of Lost Property.

e. Rule Against Perpetuities.

13. In the year 1500, Olivette conveys the family estate “to her granddaughter Alexis for life, then to Alexis’s son Beauregard for life if he graduates from medical school.” Alexis conveys her life estate back to Olivette before Beauregard graduates from medical school. Which of the following is a correct statement of the law?

a. In a jurisdiction that recognizes the Doctrine of Destructibility of Contingent Remainders, Olivette owns the land in fee simple absolute.

b. In a jurisdiction where the Doctrine of Worthier Title applies, Olivette owns a fee simple absolute because it was an inter vivos conveyance to her heir Beauregard.

c. In a jurisdiction where the Rule in Shelley’s Case applies, Olivette owns a fee simple absolute because Olivette created a life estate in Alexis and a remainder in Alexis’s heir Beauregard.

d. Both b and c.

e. None of the above.
14. Which of the following is a true statement?
   a. Joint tenants must receive their interests at the same time, but not necessarily in the same conveyance or devise.
   b. Joint tenants cannot alter their possessory rights by agreement.
   c. Joint tenants must be married.
   d. A tenancy in common will be converted into a joint tenancy as soon as the tenants acquire equal shares in the property.
   e. None of the above.

15. When determining who inherits in cases of intestacy at common law, the following order applies:
   a. Collateral kin, ancestors, issue, state.
   b. State, ancestors, collateral kin, issue.
   c. Issue, ancestors, collateral kin, state.
   d. Issue, collateral kin, ancestors, state.
   e. Issue, ancestors, descendants, state.

16. O’Brien conveys Redacre “to Adams for life, then to Bailey for life if Bailey reaches 25, then to the children of Bailey who reach 25.” Applying the What Might Happen test of the Rule Against Perpetuities, which of the following is true?
   a. Bailey’s contingent remainder is valid, and Bailey’s children’s contingent remainder is valid.
   b. Bailey’s contingent remainder is valid, and Bailey’s children’s contingent remainder is void.
   c. Bailey’s contingent remainder is void, and Bailey’s children’s contingent remainder is valid.
   d. Bailey’s contingent remainder is void, and Bailey’s children’s contingent remainder is void.
   e. None of the above, because Bailey’s and Bailey’s children’s interests are not contingent remainders.
17. Snidely Whiplash is a “rock hound” from the big city. He asks Polly Purebred’s permission to come onto Polly’s land and collect rocks that are lying on the surface of the land. Polly, thinking the rocks have no value, gives Snidely permission. Polly has no knowledge of any valuable rocks on her property. Through a stroke of luck, Snidely discovers diamond-bearing rocks completely buried underground and without Polly’s knowledge, digs these rocks out, extracts the diamonds, and sells them for a fortune. Several months later, Polly learns of Snidely’s extraction and sale of the rocks. Infuriated, she sues Snidely for the value of the rocks. The most likely result will be:

a. Snidely will win because the rule of lost property says that between a locus owner and a finder, the finder wins if the locus owner is unaware of the existence of the object found.

b. Polly will win because the rule of treasure trove is that treasure trove found under the landowner’s land belongs to the landowner.

c. Snidely will win because he had express permission to dig up the rocks.

d. Polly will win on the theory of constructive possession, because she owns everything under her land.

e. Polly will win because of the rule of mislaid property.

18. Oscar conveys “to Alvin for life, then to Bethany forever.” In 1500, the interests created would be:

a. Alvin has a life estate, Bethany has a life estate, and Oscar has a reversion in fee simple absolute.

b. Alvin has a life estate, and Bethany has a vested remainder in fee simple absolute.

c. Alvin has a life estate, Bethany has a vested remainder in life estate, and Oscar has a reversion in fee simple absolute.

d. Alvin has a life estate, Bethany has a contingent remainder in fee simple absolute, and Oscar has a reversion in fee simple absolute.

e. Alvin has a life estate, and Oscar has a reversion in fee simple absolute; Bethany has nothing.

19. In the conveyance “to A for life, then to B and her heirs,” the interest held by the heirs of B is:

a. A vested remainder subject to open.

b. A contingent remainder because B must die first before her heirs are known.

c. A reversion in the event B dies before A dies.

d. A remainder in the event B dies before A dies.

e. Nothing.
20. In the year 2000, Homer conveys “to Bart so long as he does not tease his sisters, then to Milhouse.” Classify the interests without applying the Rule Against Perpetuities.

a. Bart has a fee simple determinable, Milhouse has a possibility of reverter, and Homer has a reversion in fee simple absolute.

b. Bart has a fee simple subject to condition subsequent, Milhouse has a right of entry, and Homer has a reversion in fee simple absolute.

c. Bart has a fee simple subject to executory limitation, and Milhouse has a springing executory interest in fee simple absolute.

d. Bart has a fee simple subject to executory limitation, and Milhouse has a shifting executory interest in fee simple absolute.

e. Bart has a fee simple determinable and Homer has a possibility of reverter.

21. Gary Coleman, while on real property (“realty”) owned by Mr. Drummond, finds a gold watch. Mr. Drummond admits that he has never seen the watch before, but claims that he (Mr. Drummond) owns it because he owns the building where it was found. Gary Coleman claims he owns the watch. Facts that would best support Gary’s claim for ownership would be:

a. The realty is Mr. Drummond’s house, Gary was a guest in the house, and he found the watch in the bathroom on the counter next to the sink.

b. The realty is Mr. Drummond’s house, Gary is trespassing, and Gary finds the watch on the porch.

c. The realty is Mr. Drummond’s coffee shop, Gary was an employee of a pest control company hired by Mr. Drummond, and Gary found the watch while digging up gophers behind the coffee shop on Mr. Drummond’s land.

d. The realty is Mr. Drummond’s coffee shop, Gary was a customer in the shop, and Gary found the watch on top of a table.

e. The realty is Mr. Drummond’s coffee shop, Gary was a customer in the shop, and he found the watch on the floor under the table.
Questions 22 and 23 are based on the following facts:

In 2000, Scott conveys Blackacre “to Charles and his heirs, but should the land be sold then to William and his heirs.” Both Charles and William are alive.

22. Classify the interests without applying the Rule Against Perpetuities.
   
a. Charles has a fee simple subject to condition subsequent, and William has a right of re-entry in fee simple absolute.

b. Charles has a fee simple subject to executory limitation, and William has a shifting executory interest in fee simple absolute

c. Charles has a fee simple subject to executory limitation, and William has a shifting executory interest in fee simple subject to condition subsequent and Scott has a right of re-entry in fee simple absolute.

d. Charles has a fee simple absolute, and William has a vested remainder in fee simple subject to condition subsequent and Scott has a right of re-entry in fee simple absolute.

e. Charles has a vested remainder subject to divestment in fee simple subject to executory limitation, and William has a shifting executory interest in fee simple absolute.

23. Charles and William are still alive. William’s interest is:
   
a. Void under the What Might Happen test of the Rule Against Perpetuities.

b. Valid under the common law Wait and See test of the Rule Against Perpetuities.

c. Void as a restraint on alienation.

d. Both a and c.

e. All of the above.

24. O conveys Blackacre “to John for life, remainder to John’s heirs.” Five years later, John wishes to sell Blackacre to Nick in fee simple absolute. In a jurisdiction that recognizes the Rule in Shelley’s Case and the Rule of Merger, can John convey a fee simple absolute?
   
a. John cannot convey a fee simple absolute because a life estate prohibits him from conveying any estate other than a life estate pur autre vie.

b. John cannot convey a fee simple absolute unless his heirs agree to convey their remainder to Nick as well.

c. John can convey a fee simple absolute.

d. John cannot convey a fee simple absolute because the remainder in his heirs is contingent.

e. John cannot convey a fee simple absolute because there is an intervening life estate.
25. Tim prepares a will that will devise Orangeacre “to my children, Aaron, Bridgette, and Cora, per stirpes.” Aaron has one child, Dan. Bridgette has one child, Ethan. Cora has one child, Frank. Cora dies, devising all of her property to her husband Gerry. Then Tim dies and his will takes effect. Who owns Orangeacre and in what shares?

a. Aaron owns 1/3, Bridgette owns 1/3, and Frank owns 1/3 as tenants in common in fee simple absolute.

b. Aaron owns 1/3, Bridgette owns 1/3, and Frank owns 1/3 as joint tenants with the right of survivorship in fee simple absolute.

c. Aaron owns 1/3, Bridgette owns 1/3, and Gerry owns 1/3 as tenants in common in fee simple absolute.

d. Aaron owns ½ and Bridgette owns ½ as tenants in common in fee simple absolute.

e. Aaron owns ½ and Bridgette owns ½ as joint tenants with the right of survivorship in fee simple absolute.

26. Tina is 115 years old, owns Redacre, and does not have a will. She has one son, Harry, and no other relatives. Harry has run up huge debts and wants to sell his interest in Redacre to pay the debts. You represent the prospective buyer. Your soundest advice would be:

a. Harry will soon own a fee simple absolute in the property through intestacy. Therefore, the buyer should purchase the interest.

b. Harry is only an heir apparent. He currently has no interest in the property. Therefore, the buyer should not purchase the interest.

c. Harry will soon own a fee simple absolute through a devise. Therefore, the buyer should purchase the interest.

d. Harry currently owns a contingent interest in the property, contingent on Tina dying. Therefore, the buyer should pay only the value of a contingent interest.

e. Harry currently owns a vested interest in the property. Therefore, the buyer should pay the value of the vested interest discounted by the length of time that Tina will probably still own the property.

27. Opal conveys “to Avery for life, then to Avery’s children who graduate from law school.” At the time of the conveyance, Avery has no children. Two years later, Avery has Bob. Which of the following is a true statement?

a. The Rule Against Perpetuities does not apply because Bob’s interest is vested.

b. The Rule Against Perpetuities does not apply because Avery’s children’s interest is contingent.

c. Avery’s children’s interest is valid under the What Might Happen test of the Rule Against Perpetuities because it will necessarily vest or fail within Bob’s lifetime.

d. Avery’s children’s interest will be valid under the common law Wait and See test of the Rule Against Perpetuities if the interest will actually vest or fail within ninety years.

e. Avery’s children’s interest is void under USRAP unless a child of Avery graduates from law school within ninety years.
28. In the year 2000, Omar conveys Brownacre “to my father Andrew for life, then to my mother Beatrice.” Beatrice dies devising all of her property to Omar and his sister Cecilia “in equal shares.” Then Andrew dies. Which of the following is a true statement?

a. Omar owns Brownacre in fee simple absolute because he held a reversion after Andrew’s life estate.

b. Omar owns Brownacre in fee simple absolute because Beatrice cannot devise her interest in Brownacre until she vests in possession.

c. Omar and Cecilia own Brownacre as joint tenants in fee simple absolute.

d. Omar and Cecilia own Brownacre as tenants in common in fee simple absolute.

e. Omar and Cecilia own Brownacre as tenants by the entirety in fee simple absolute.

29. Prior to the Statute of Uses, Oldfather enfeoffs Blackacre “to Xavier and his heirs for the benefit of Oldfather and his heirs, then to the use of Angelina when she turns 30.” Which of the following is a true statement?

a. This type of conveyance was prohibited prior to the Statute of Uses. Therefore, Oldfather holds the land in fee simple absolute.

b. This type of conveyance was permitted prior to the Statute of Uses. Therefore, Xavier holds the land in fee simple absolute, and Oldfather and Angelina have no interests in Blackacre.

c. This type of conveyance was permitted prior to the Statute of Uses. Xavier holds an equitable interest in the land, and Oldfather and Angelina hold legal interests in the land.

d. This type of conveyance was prohibited prior to the Statute of Uses. If Xavier failed to hold the land for the benefit of Oldfather and Angelina, Oldfather and Angelina could seek monetary damages in the Courts at Law.

e. This type of conveyance was permitted prior to the Statute of Uses. If Xavier failed to hold the land for the benefit of Oldfather and Angelina, Oldfather and Angelina could seek equitable enforcement of Xavier’s duties in the Courts of Equity.
30. Owen grants Blackacre “to Andy for life, then to Andy’s children, but if any child born during Andy’s lifetime dies before Andy then that child’s share shall go to his or her issue.” Andy has two children, Brandy and Candy. Andy is still alive. It is the year 2000. Classify the interests.

a. Andy has a life estate, Brandy and Candy have vested remainders subject to open, and the issue of Brandy and Candy have shifting executory interests in fee simple absolute.

b. Andy has a life estate, Brandy and Candy have vested remainders subject to open and vested remainders subject to divestment in fee simple absolute, and the issue of Brandy and Candy have shifting executory interests in fee simple absolute.

c. Andy has a life estate, Brandy and Candy have contingent remainders in fee simple absolute, the issue of Brandy and Candy have contingent remainders in fee simple absolute, and Owen has a reversion in fee simple absolute.

d. Andy has a life estate, Brandy and Candy have vested remainders in fee simple absolute, Andy’s grandchildren have a contingent remainder in fee simple absolute, and Owen has a reversion in fee simple absolute.

e. Andy has a life estate, Brandy and Candy have vested remainders subject to open and vested remainders subject to divestment in fee simple absolute, and Andy’s grandchildren have a shifting executory interest in fee simple absolute.
1. C  Betsy’s interest is a *vested remainder subject to divestment in fee simple absolute*. Her interest is a remainder because it follows a life estate. It is vested because Betsy is a known person and she does not have a condition precedent in her granting clause. It is subject to divestment because the condition in Cynthia’s granting clause could possibly occur (but does not necessarily have to) *before* Betsy takes possession of Blueacre. (This is why *E* is incorrect – Betsy would only have a vested remainder in fee simple subject to executory limitation if the condition can only occur *after* Betsy took possession of the property.) Because vested remainders subject to divestment are always followed by an executory interest, Cynthia has an executory interest. Cynthia’s interest is shifting because she will divest a grantee (Betsy). Note that *D* is incorrect because the remainder is not subject to open – the conveyance was to Betsy specifically, not to a class.

2. D  In contrast to #1, Bill has a *vested remainder in fee simple subject to executory limitation* because the condition in Cathy’s granting clause can only occur after Bill takes the property. Because fee simples subject to executory limitation are always followed by executory interests, Cathy’s interest is an executory interest; it is shifting because she will divest a grantee (Bill). Note that Bill’s interest is not a vested remainder in fee simple subject to condition subsequent because the person who can divest him is a grantee (Cathy) and not the grantor (Olivia).

3. B  Opie’s interest is a contingent remainder in fee simple absolute. It is a remainder because it follows a life estate. It is contingent because there is a condition precedent in his granting clause (he must become the Sheriff). Barney’s heirs have a contingent remainder for three reasons: (1) the heirs are unascertained (Barney is alive and therefore his heirs are unknown); (2) the heirs’ granting clause contains a condition precedent (Opie must not become Sheriff); and (3) because when the first future interest of a fee estate is a contingent remainder, the second stated future interest is also a remainder. The remainders are alternative because only one can vest—either Opie becomes the Sheriff or he does not become the Sheriff. Andy has a reversion because, whenever there is a contingent remainder, there is always a reversion in the grantor.

4. E  *E* is the correct answer. A pre-1536 enfeoffment can be compared to a modern-day trust. The feoffee held the legal interest in the estate for the benefit of the *cestui que use*, just as a trustee in a modern-day trust holds legal interest in the estate for the benefit of the trust’s beneficiaries.

- *A* is incorrect because a vested remainder in fee simple subject to condition subsequent (which is what *B* has because of the language “but if”) has a right of entry and not a possibility of reverter (which only follows a fee simple determinable).
- *B* is incorrect because the divesting condition for a vested remainder subject to divestment may occur before the remainder becomes possessory. For example, O conveys “to A for life, then to B, but if C turns 21 to C.” C turns 21 before A dies. B’s interest is divested before B was entitled to possession of the property (no actual possession until A dies).
- *C* is incorrect because a condition precedent may occur before a grantee dies as long as that scenario is not the condition in the grant. (Compare O conveys “to A for life, then to B if B survives A” to O conveys “to A for life, then to B if B turns 21.”)
- *D* is incorrect because a contingent remainder in *life estate* can be followed by a vested remainder (such as “to A for life, then to B for life, then to C in fee simple absolute”).

5. D  This conveyance creates the following interests: A has a life estate; B has a contingent remainder in fee simple absolute; C has an alternative contingent remainder in fee simple absolute; O has a reversion in fee simple absolute. Applying the Doctrine of Destructibility of Contingent Remainders, when A, the life tenant, dies, neither condition (B reaching or not reaching 21) has occurred. Therefore, both remainders are destroyed, and O’s reversion would kick in, resulting in O taking the property in fee simple absolute. Note that *A* is incorrect because the Destructibility Doctrine has nothing to do with the Rule Against Perpetuities, which this answer suggests. Note also that *C* is incorrect because this statement would only be true if the Doctrine of Destructibility of Contingent Remainders did not apply.
6. **A** Pearl has a vested remainder subject to open because if Hester Prynne had another child, Pearl’s interest would be divided in half with the second child. (Similarly, if Hester Prynne had a third child, Pearl’s interest would be divided into thirds, with each of her siblings having a 1/3 interest.) Note that **E** is wrong for two reasons: first, Pearl does not have a contingent remainder, and second, even when you apply the Rule Against Perpetuities, the interest is valid because all children would vest as soon as Hester (a life in being) died.

7. **E** **E** is correct because Gomez will step in and hold seisin for the one day that Lurch must wait before he takes the property. Gomez will hold the property as a fee simple subject to executory limitation (because he will be divested by Lurch). Lurch’s interest is a springing executory interest because he will divest the grantor. Note that **C** is incorrect because the answer classified Lurch’s interest as a *shifting* executory interest.

8. **B** Mr. Haney’s interest is a remainder because it follows a life estate. It is vested because Mr. Haney is known and his granting clause does not contain a condition precedent. He will take it in fee simple subject to executory limitation because the condition cannot occur until *after* Mr. Haney takes the property. The Ziffels have a *shifting* executory interest because (1) it follows a fee simple subject to executory limitation; and (2) they will divest a transferee.

9. **A** The answer to this problem is best understood in several steps.
   - First, when this interest was created, Ruben held a life estate and Keith’s children held a contingent remainder (because they were unascertained) in fee simple determinable (because of the language “so long as”), and Shirley held a reversion in fee simple absolute (because of the contingent remainder) and a possibility of reverter in fee simple absolute (because of the children’s fee simple determinable).
   - Second, when Laurie was born, the state of the title was life estate in Ruben, vested remainder subject to open in fee simple determinable in Laurie, and possibility of reverter in fee simple absolute in Shirley.
   - Third, when Keith died, Laurie’s class closed. Therefore, the state of the title was life estate in Ruben, vested remainder in fee simple determinable in Laurie, and possibility of reverter in fee simple absolute in Shirley.
   - Fourth, when Ruben died, Laurie vested in possession. Therefore, the state of the title was fee simple determinable in Laurie and possibility of reverter in fee simple absolute in Shirley.
   - Fifth, when Shirley dies intestate, her estate went to her heirs. In this instance, her sole heir is Laurie (Laurie is her grandchild—the daughter of her only child, Keith). Therefore, the state of the title is fee simple determinable in Laurie followed by a possibility of reverter in fee simple absolute in Laurie.
   - Sixth, because both estates are held by one person, the merger rule will apply and the smaller estate (the fee simple determinable) merges into the larger estate (fee simple absolute). Therefore, Laurie holds Partridge Meadows in fee simple absolute because of the Rule of Merger.

Note that the state gets no interest whatsoever because Laurie existed as an heir. Note also that the Doctrine of Worthier Title does not apply because the exact language required by the rule (“to A, then to O’s heirs”) was not used.

10. **C** Anderson has a life estate. Bartlett has a remainder (because it follows a life estate). It is vested because Bartlett is known and he is not subject to a condition precedent in his granting clause. However, the language “so long as” does limit Bartlett’s interest to a vested remainder in some type of defeasible fee. Because the interest will revert to Coleman (a grantee) if Bartlett uses it for hunting, Bartlett’s interest is a vested remainder in fee simple subject to executory limitation and Coleman’s interest is a *shifting* executory interest in fee simple absolute (because he will divest a grantee).
11. E  When this interest was created, A had a life estate, A’s children had a contingent remainder in fee simple absolute (because the remainderman are unascertained and they are subject to a condition precedent), and O had a reversion in fee simple absolute (because there was a contingent remainder in fee simple). When B is born, she still holds a contingent remainder because of the condition precedent.
   • The Rule in Shelley’s Case does not apply because the conveyance did not say “to A, then to A’s heirs.” Rather, it was a remainder “to A’s children.” Therefore, this rule has no impact on this question.
   • The Doctrine of Worthier Title does not apply because the conveyance did not create an interest in “O’s heirs.” Therefore, this rule has no impact on this question.
   • Applying the Doctrine of Destructibility of Contingent Remainders, when A dies, B’s interest has not vested because she had not yet graduated from law school. Therefore, her interest was destroyed and O owns Blueacre in fee simple absolute.

12. C  Under the Doctrine of Animus Revertendi, a wild animal that escapes from a possessor does not lose title to the animal if the animal has a habit of return. The Rule of Discovery applies to discovery of land. The Rule of Escape would work against Beth.

13. A  When this conveyance is created, the interests are a life estate in Alexis and a contingent remainder in Beauregard (contingent because of a condition precedent) in life estate, and Olivette has a reversion in fee simple absolute (because of the contingent remainder). Since the conveyance occurred in the 1500’s, traditional common law rules applied. Therefore, when Alexis conveyed her life estate back to Olivette, the life estate ended and merger occurred, destroying the contingent remainder under the Doctrine of Destructibility of Contingent Remainders. Note that neither Worthier Title nor Shelley’s Case applied because (1) the correct language for each rule is not used; and (2) Beauregard is not an heir yet, he is only an heir apparent.

14. E  A is incorrect because joint tenants must not only receive their interests at the same time (“time”), but also from the same instrument (“title”). B is wrong because once the joint tenancy has been created, the joint tenants can alter their right to possession by agreement. C is wrong because only tenants by the entirety have to be married, not joint tenants. D is wrong because a tenancy in common cannot turn into a joint tenancy unless all four unities (time, title, interest, possession) required for a joint tenancy are met and, depending on the jurisdiction, the title is specified to be held as joint tenants. Therefore, the correct answer is “none of the above.”

15. C  This answer is self-explanatory. Note, however, that descendants in E is just another word for issue and issue take first. Note also that at common law, spouses were protected by dower and curtesy, and only statutory recognition of spousal intestacy rights places spouses at the same level as issue.

16. B  Bailey’s interest is a contingent remainder (condition precedent). Bailey’s children’s interest is a contingent remainder (unascertained and condition precedent).
   • Bailey’s contingent remainder is valid. Bailey is a life in being. His interest will vest or fail within his lifetime. (Using the Create/Kill/Count approach – no one other than Bailey can be created to take the interest. Therefore, the interest is valid.)
   • Bailey’s children’s contingent remainder is void. Applying Create/Kill/Count approach—create Bailey’s child, X. Kill Adams, Bailey, and O’Brien. Count 21 years. It is impossible for X to reach 25 years old in 21 years. Therefore, the interest is void.
17. **D** Under these options, the most likely result would be that Polly will win because of the idea of constructive possession. Constructive possession is the idea that a landowner owns everything under their land regardless whether they know what is there. *A* is less acceptable because the diamonds are not “lost” objects, which connotes that Polly had them in her possession then lost them (but if these were Polly’s anniversary diamond earrings that Snidely found, it would be a different story). *B* is less acceptable because treasure trove is generally gold or silver coins or bullion or something like that and not unrefined diamonds. *C* is incorrect because Snidely had express permission to take rocks lying on the land, not buried underneath the land. *E* is incorrect because Polly did not know about the rocks, so they couldn’t be mislaid.

18. **C** The words “to Bethany forever” at old common law would be insufficient to create a fee simple absolute, but instead would create a life estate. Therefore, since she (a grantee) is known and there is no condition precedent, she has a vested remainder in life estate. Oscar would have a reversion in fee simple absolute because someone would need to be there to take the land once Bethany died.

19. **E** The words “and her heirs” are merely words of limitation, indicating that B will receive a fee simple absolute in the land once her interest becomes possessory. It creates no interest in B’s heirs.

20. **D** Bart’s interest is a fee simple subject to executory limitation because he can be divested if he ever teases his sisters and he will be divested by a grantee (Milhouse). Because fee simple subject to executory limitations are always followed by executory interests, Milhouse holds an executory interest. It is shifting because Milhouse will divest a grantee (Bart). Milhouse will hold it in fee simple absolute because the language of his grant is “then to Milhouse,” which is equivalent to “then to Milhouse and his heirs,” which grants a fee simple absolute.

21. **E** This question requires you to analyze the different scenarios discussed with regard to the law of find. The best facts to support Gary’s claim is *E*, because he could argue that the watch lying under the table is *lost* property, and the finder keeps lost property over the locus owner. *A* is not a good answer because Mr. Drummond is the locus owner and the watch neither seems lost nor mislaid. *B* is also not the best answer because the locus owner generally owns everything on, under or in his property. *C* is not the best answer because, between an employer/locus owner (Drummond) and an employee (Gary), the employer wins. *D* is also not the best answer because the watch seems mislaid (on top of the table), in which case the locus owner will win over a finder of mislaid property.

22. **B** The language of the grant conveys to Charles a fee simple subject to executory limitation. Because this estate must always be followed by an executory interest, William holds an executory interest. Because William’s interest will divest Charles (a grantee), the executory interest is shifting. Because the language of William’s interest states it is to “William and his heirs,” which grants a fee simple absolute if the condition (i.e., that Charles sells the land) ever occurs.

23. **D** William’s interest is void under the What Might Happen test of the Rule Against Perpetuities because there is no guarantee that Charles’s heirs will sell the land within 21 years of Charles’ or William’s deaths. The interest is also void as a restraint on alienation (see Martin Brow v. Toscano Lodge) because it absolutely prohibits the sale of land. *B* is incorrect because Charles and William are still alive, so we do not know whether the interest will vest or fail within 21 years of a life in being. We have to wait until 21 years after Charles and William die. Therefore, *D* is correct.

24. **C** The Rule in Shelley’s Case states that if one instrument purports to convey a life estate in A and a remainder in A’s heirs, and both are legal or both equitable, then the remainder to A’s heirs is converted to a remainder in A. The Rule of Merger provides that, if there is no intervening vested interest, a life estate will merge into a remainder in fee simple when they come into the same hands. Here, the conveyance was to John for life, then John’s heirs. The conveyance was in one instrument and both are legal interests. Therefore, the Rule in Shelley’s Case applies, in which case the conveyance reads “to John for life, then to John.” Because there is no intervening life estate, the Rule of Merger applies and John’s life estate merged into his remainder in fee simple absolute.
25. **A** *Per stirpes* means that the child(ren) of a deceased devisee will take the share of the deceased devisee. Here, although the will was prepared before Cora’s death, it does not become effective until Tim dies. Therefore, no conveyance occurred until Tim died. Tim died after Cora died, so Cora received nothing from the conveyance and her share went to her child (Frank) and not her husband (Gerry). Aaron, Brigitte and Frank own the property in fee simple absolute in equal shares. They take it as tenants in common because the specific language required to create a joint tenancy (e.g., “as joint tenants with a right of survivorship”) are not in the conveyance.

26. **B** Because Harry is Tina’s sole relative, Harry is an heir apparent. As an heir apparent, Harry holds no interest in Redacre. It would be unwise to advise the buyer to purchase the property at all because Tina can still sell the property before she dies or prepare a will and devise it to another when she dies.

27. **E** Opal has created a life estate in Avery, a contingent remainder in fee simple absolute in Avery’s children (contingent because they are unascertained and subject to a condition precedent), and a reversion in fee simple absolute in herself.

- The contingent remainder is not a vested remainder until the class closes; therefore **A** is incorrect.
- Because the remainder is contingent, the Rule Against Perpetuities does apply.
- The children’s interest is void under the What Might Happen test of the Rule Against Perpetuities because it is possible that the interest might vest more than 21 years after Opal and Avery die. Using the Create/Kill/Count approach: Create X. Kill Opal, Avery and Bob. Count 21 years. It is possible that X will not graduate from law school until after that time (or not at all). Therefore, **C** is incorrect.
- Although the children’s interest might be valid under the common law Wait and See test, the test calls for 21 years after a life in being and not 90 years. Therefore, **D** is incorrect.
- **E** is correct because USRAP allows 90 years to determine whether an interest will vest. If a child of Avery’s does not graduate within 90 years, the interest is void.

28. **D** Omar created a life estate in Andrew and a vested remainder in fee simple absolute in Beatrice. Vested remainders (regardless of the type) are conveyable, inheritable and devisable. Vesting in possession is not required, only vesting in interest. Therefore, Beatrice could devise her vested remainder to Omar and Cecilia. When Andrew died, the vested remainder kicked in and Omar and Cecilia vested in possession. Because Beatrice only used the words “in equal shares,” a joint tenancy could not be created. Similarly, because Omar and Cecilia are not married (they are brother and sister – they’d better not be married!), they cannot be tenants by the entirety. Therefore, Omar and Cecilia hold the land in fee simple absolute as tenants in common.

29. **E** Enfeoffments creating a use were permitted prior to the Statute of Uses. An enfeoffment created a legal interest in the feoffee (Xavier) and equitable interests in the *cestui que use* (Oldfather and Angelina). Equitable interests could only be enforced in Courts of Equity. Only equitable relief (e.g., injunctions) was available. Monetary relief (damages) was available only in Courts at Law.

30. **B** Andy has a life estate. Brandy and Candy, because they are named and because Andy is alive, have vested remainders subject to open. Because they can be divested by their respective issue if they do not survive Andy, their vested remainders are also subject to divestment. Because a vested remainder subject to divestment is always followed by an executory interest, Brandy and Candy’s *issue* (which is not equivalent to Andy’s grandchildren) have an executory interest that is shifting because it will divest a grantee (Brandy or Candy). All future interests are in fee simple absolute because the language used (“to Andy’s children,” etc.) are all equivalent to the common law “and their heirs.”