Property

- Module 4
- Co-Ownership

Common Law Concurrent Interests

- Tenants in common
- Joint Tenants
  - Right of survivorship
  - Four unities (pg. 276)
- Judicial partition
- Tenancy by the entirety
  - Neither can defeat the right of survivorship
  - Neither have partition right
- Presumptions
  - Common law
  - Modern approach
- Problems, pg. 278
  - 1 & 3

Riddle v. Harmon (Cal. App. 1980)

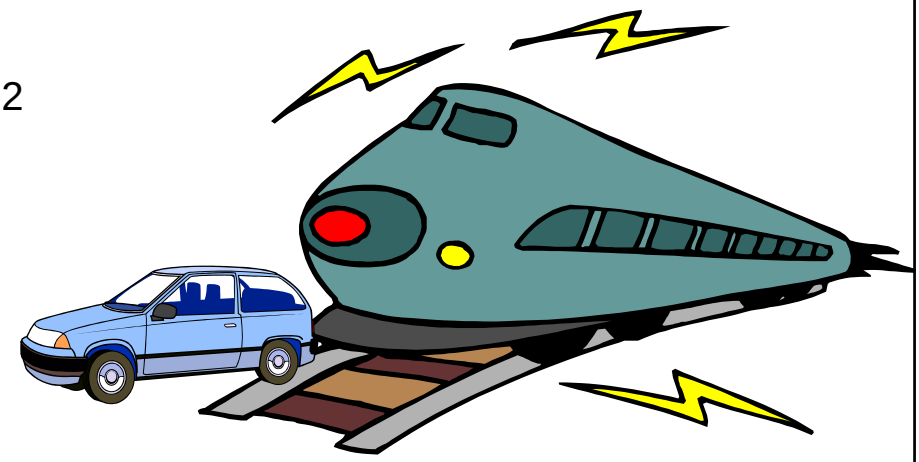
- Dispute?
- What is revolting about the rule at issue?

- A conveys to A & B to create a joint tenancy
  - Allowed at common law?
  - Allowed under the law applicable to this case?

- Riddle conveys from herself as J/T to herself as TinC
  - Two to transfer?
  - Clark v. Carter

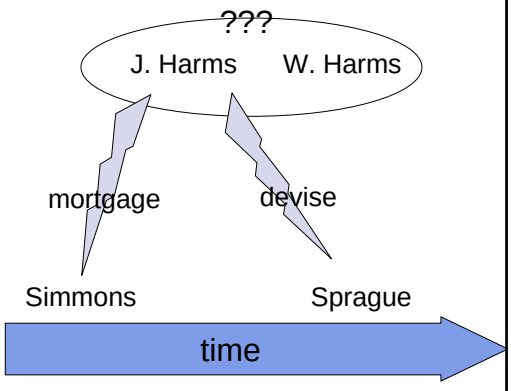
Notes, pg. 284

- 1
  - What are the issues with the wife's handwritten deed?
- 2



Harms v. Sprague (Illinois 1984)

- Dispute
- Issues
  - Is J/T severed when less than all holders mortgage their interest?
  - Does this mortgage survive the death of the mortgagor as a lien on the property?



- Characterization and effect of mortgage
  - Options?
    - Lien theory versus title theory

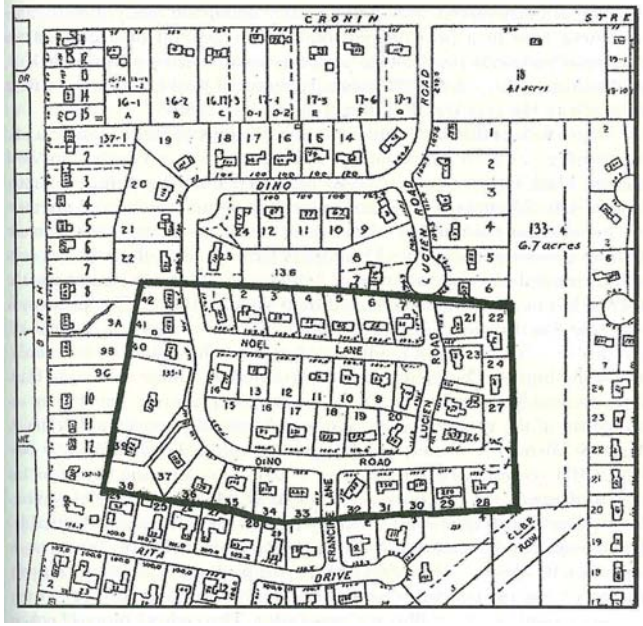
Questions and Problems, pg. 288-289

- 1. Result if court held that the mortgage severed the J/T?
- 2. A & B are joint tenants, A conveys a 10 year term of years to C. After 5 years, A dies, devising all to D. What are B's rights?

Delfino v. Vealencis (Conn. 1980)

- Dispute?
- Partition
  - Types?
- Partition by sale conditions
  - Physical attributes of the land are such that a partition in kind is impracticable on inequitable
  - Interests of owners better promoted by a sale

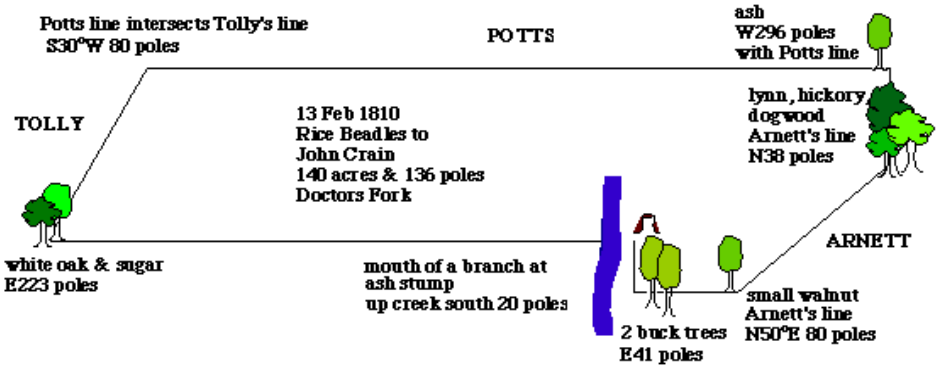
Delfino v. Vealencis (Conn. 1980)



Boundary descriptions - indiscriminate metes and bounds

JONES sells 140 acres and 36 poles of land in HAYES County on WEST Fork to SMITH for 200 dollars. Land bounded as follows...:

- Beginning at the mouth of a branch at an ash stump
- thence up the creek S 20 poles to 2 beach
- thence east 41 poles to a small walnut in Arnett's line
- thence north 50 east 80 poles to a linn hickory dogwood in said line
- thence north 38 poles to an ash
- thence west 296 poles with Potts's line till it intersects with Tolly's line
- thence south 30 west 80 poles to a whiteoak and sugar
- thence east 223 poles to beginning....

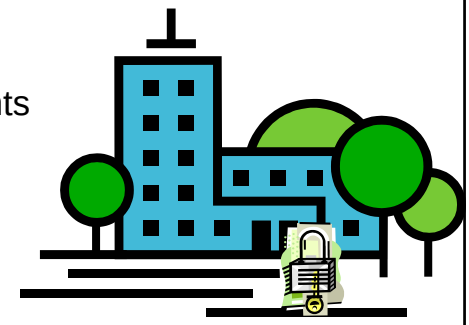


Notes pg. 299-300

- 5.
- 6.
- 7.

Spiller v. Mackereth (Ala. 1976)

- Dispute?
- Rule for rent among co-tenants
- Ouster
- Ouster for rent among cotenants
  - Majority
  - Minority



Accounting for Benefits, Recovering Costs

- Rents and profits
- Taxes, mortgage payments, carrying charges
- Repairs and improvements