Future Interests

Interests in the Transferor

- Reversion
- Possibility of Reverter (NOT a possibility of reversion)
- Right of Entry/Power of Termination

Interests in the Transferee

- Executory Interest
- Vested Remainder
- Contingent Remainder

Present and Future Interests

<table>
<thead>
<tr>
<th>Present Interest</th>
<th>Future Interest</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fee Simple Determinable</td>
<td>Possibility of Reverter (transferor)</td>
</tr>
<tr>
<td>Fee Simple Subject to Executory Limitation</td>
<td>Executory Interest (transferee)</td>
</tr>
<tr>
<td>Fee Simple Subject to Condition Subsequent</td>
<td>Right of Entry/Power of Termination (transferor)</td>
</tr>
</tbody>
</table>
Vested Remainders

- If given to an **ascertained** person **AND**
- Not subject to a condition **precedent**
  (other than the natural termination of the preceding estate)
- Precedent: (pri-**seed**-[a]nt)
  preceding in time or order;
  **contingent upon some event occurring**
- Note: Not subject to the rule against perpetuities

Types of Vested Remainders

1. Indefeasibly vested remainders
   - Certain to become possessory in the future
   - Cannot be divested
Types of Vested Remainders

2. Remainders subject to open/remainders vested subject to partial divestment
   • Remainder is created in a class of persons (such as A’s children)
   • One member of the class is ascertainable and no condition precedent
   • Later-born members of the class are entitled to share in the gift

Contingent Remainders

• If given to an unascertained person OR
• Subject to a condition precedent (other than the natural termination of the preceding estate)
• Note: Subject to the rule against perpetuities
Alternative Contingent Remainders

Contingent remainders are “alternative” when they each follow the same estate and when their conditions precedent are the opposite of each other, so that the vesting of one precludes the vesting of the other.

See Example 7, p. 230

Executory Interests of Old

• **Shifting** Executory Interest
  
  • If in order to become possessory, the future interest must *divest or cut short* some interest in another transferee.

• **Springing** Executory Interest
  
  • If in order to become possessory, the future interest must *divest the transferor* in the future.
Defeasible Estates
And
The Rule Against Perpetuities

The rule against perpetuities does not apply to defeasible estates because reversions, possibilities of reverters and rights of entry/powers of termination are inherently vested.