

PROPERTY I QUIZ: INITIAL ACQUISITION

Prof. Bell

NOTE: Choose the one best answer to each question, applying the majority rule of property law. As on the MBE, you have 1.8 minutes/answer.

Question 1

The term "property" comprises:

- (a) Both real property and the appurtenances affixed thereto.
- (b) Both real and personal property.
- (c) Both real and intangible property.
- (d) All of real, personal, and impersonal property.

Question 2

Hunter flushed a covey of quail and prepared to fire upon them. Softy intervened, shouting and waving her arms, causing the quail to veer away from Hunter and escape capture. Hunter brought suit alleging that Softy had wrongfully interfered with his property rights in the birds.

- (a) Hunter should prevail under the holding of *Pierson v. Post*.
- (b) Softy should prevail under the holding of *Pierson v. Post*.
- (c) Hunter should prevail because Softy intended not to capture the quail, but only to frustrate his attempt to shoot them.
- (d) Softy should prevail if she owned the land on which Hunter was hunting.

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1. This simply reviews the categories of property. Take care to note that "comprises" means something more than simply "includes"; it means "to be composed of." The proper answer should thus exhaust the possibilities.
 - (a) is wrong because it is under-inclusive. One lesson if you chose this: Don't be fooled by the fancy (albeit correctly used) legal lingo.
 - (b) is correct.**
 - (c) is wrong because it is under-inclusive; intangible property is but one kind of personal property, the other kind being tangible property. Also, you might argue that some types of real property—future interests, most notably—are intangible.
 - (d) is wrong because there is no legal category of "impersonal property."

2. Although inspired by *Pierson v. Post*, the set-up to this question does not specify the crucial question of who owns the real property in question.
 - (a) is wrong because, even if *Pierson v. Post* controlled, Hunter did not evidently have such control over the quail as to be able to claim property rights in them.
 - (b) is wrong because we cannot be sure that *Pierson v. Post* controls unless we know who, if anyone, owns the real property where the hunting took place.
 - (c) would be right if we knew Hunter was on his own land (though we did not read or discuss the relevant rule), but we don't know that.
 - (d) is right because the owner of real property has constructive ownership of all wild animals on it.**