

Property I Midterm – A+ Paper

1. Wilson's claim for the boar will be supported by the theory in *Pierson v. Post*. Wilson hunted the boar and he will say since he hit the boar, he robbed it of his natural rights. Wilson can also argue, like in *Ghen v. Rich*, that by piercing the tail, he marked the boar as his. He can claim that since it was marked, customs should be established to say it is his boar and that in denying this, will lead to unfair competition and eventually a tragedy of the commons. Wilson will also be supported by Locke's labor Theory. This says that whoever puts in the work, deserves to gain the benefit. Since Wilson put in the work of making the spear to hunt the fox, and actually tracked and chased the fox, he will say the boar is his. Tom relies first on Labor theory. This is a fair view, but not an efficient view. Tom will also claim he put in the work and deserves the boar. Tom can say the boar lost its natural liberty by being frozen in Northacre. The strongest claim will go to Wilson. This is because of the *ratione soli* and *ferrea naturae* doctrines. The boar is a *ferra naturae*, wild beast. There is no owner and it is not domesticated. *Ratione Soli* says whoever's property the wild animal is on, has a right to it while it is on the property. The boar floated onto Wilson's property and was killed and robbed of his natural rights by Wilson. The rule of capture then comes into play. This is an unfair but efficient doctrine that says whoever actually possesses it, gets it. Wilson possess the boar, so Wilson gets it.

2. Tom's strongest claim to the gold coins is *finder's keepers*. This rule says, from *Armory v. Delamare*, whoever finds something has the strongest claim besides the true owner. Also, as *Hannah v. Peel* states, anything that is attached to the land, is owned by the person who owns the land. Since the treasure chest was buried in the ground of the land owned by Tom, he has the strongest claim. Wilson can also claim *finder's keepers*. Since the chest was not taken and just the gold, Wilson can argue that the coins were not actually attached to the land. This claim will fall short because Tom has the stronger claim. Tom was the original finder of the coins. Even though he is not the original owner, his claim is stronger. Tom was aware of the coins existence and the coins were on his land. If Tom had not opened the chest and was unaware of the coins, Wilson may succeed in keeping the coins. He does not.

3. The present interest in the flashlight is a life estate for Wilson. This is because, whoever put the flashlight in the box that ended up on Wilson's possession, gave it to him. A gift has three elements, Intent, delivery, and acceptance. The intent was putting the flashlight in the box. The delivery was putting in the water, and Wilson accepted by taking the box and removing the flashlight. The future interest is a remainder in fee simple for Tom, and his heirs after Tom dies. It is a vested remainder because Tom is ascertained. Since Wilson says he will use it for his life, a life estate, and then Tom can have it, the future interest is in fee simple. There are no conditions or limits to Tom's claim. This promise will not hold up to the statute of wills since Wilson did not write it down. If Wilson dies tomorrow, he would die intestate and Tom would not have a claim for the future interest of the light.

4. The present interest of northacre is in Tom as a life estate. Since the condition for Wilson to receive the land is Tom's death, and Tom will one day die, Tom's interest is only for the rest of his life. The future interest will be a vested remainder for Wilson and his heirs. It is vested because it follows a natural death and Wilson is ascertained. Wilson can claim the land was gifted by Tom to him *causa mortis*, on Tom's death bed. The gift must have intent, delivery, and

acceptance. The Intent was Tom stating he would give Wilson and his heirs the land. The delivery would be a symbolic delivery in Tom's writing in his will. This is valid delivery because Tom cannot physically hand Wilson the land. Wilson has a valid acceptance as well. This gift holds up to the statute of wills as well because it was written down. There were not two witnesses but it was not possible for there to be. The present interest however remains in Tom since he has not died. Wilson has a valid future interest in remainder in fee simple after Tom dies.

5. Water can be governed by the rule of capture. There are different rules depending on the climate. Wilson would be governed by the eastern rule, that he can use as much as he can get as long as it is not wasteful. Tom is governed by the western rule, that whoever uses it in the most beneficial way, gets to use as much as they want. Tom can claim he has right because of the labor theory. He built the dam and has actual possession of the water. It will depend on what Tom uses it for. Wilson likely has a better claim since he is putting the water to better use by growing crops for both of them to eat. The Coase theory to work out a scenario where they would both benefit. However, since we do not know what Tom is using it for and he is governed by the western rule, Wilson has a more beneficial use, so Tom should not be allowed to use the dam and Wilson should get rights to the water.