



**Professor Robert T. Farley**  
**Business Law 421/521 - Law of Property - Midterm Examination**

Student Name: _____	
<i>For Office Use Only</i>	
Midterm Exam Grade:	/30
Biography Grade:	/03
Class Attendance Grade:	/12
Final Examination Grade:	/55
Total Grade Points:	/100    Final Grade: _____

## Directions – Version Two

1. Please fill in your name above
2. You need to return this exam sheet in, together with your scantron sheet, to receive credit.
3. You will have one hour to complete this exam. It is worth 30 points toward your final grade.
4. The exam contains 60 multiple choice questions, worth 1/2 point each.
5. Please write legibly, and fill in your personal information and test version number on the scantron sheet.
6. If it cannot be determined which answer circle is filled in, the question will be marked incorrect.

### Multiple Choice Questions - Total 30 Points

#### Section One - General Principles and History of the Law

Please fill in the circle of the electronic marking sheet, **STARTING WITH NUMBER ONE**. Please fill in the circle completely using a number two pencil.

**1. In the United States, the legal concept of sovereignty vests:**

- a. In the Congress;
- b. In the President;
- c. In the Supreme Court;
- d. In the People; or
- e. In no one.

**2. The First Postulate of Property Law is:**

- a. Property is the basis of all law, and its principles should be respected;
- b. Property Law is mostly Federal Law and its elements reflect such;
- c. Property is a collection of Rights, not a collection of Things; or
- d. Property is a capitalistic value that is becoming less important.

**3. The Second Postulate of Property Law is:**

- a. Property is the basis of all law, and its principles should be respected;
- b. Property Rights are those recognized by Law, and the Law evolved from Property Right, with the two being intertwined;
- c. Property is valuable, portable, redeemable and important; or
- d. Property is an American invention and not recognized under other nation's systems of laws

**4. The Third Postulate of Property Law is:**

- a. Property is the basis of all law, and its principles should be respected;
- b. Our Foundations of Law recognize that we are all endowed with property rights from our Creator, and that no man or lawful government can take them away without just cause;
- c. Property Rights are an 18<sup>th</sup> century concept that no longer apply in modern legal systems; or
- d. Human Beings and Robots, just like chattel animals, are Property under modern law.

**5. The Fourth and Final Postulate of Property Law is:**

- a. Property Rights can be summarized by the acronym EPUT;
- b. Property Rights are vast, diverse and all inclusive;
- c. Property Rights are illusory and often imaginary; or
- d. Property is valuable, portable, redeemable and important.

**6. The priority of Laws is in the following order:**

- a. Statute, Constitution, Executive Order, Regulation;
- b. Constitution, Statute, Regulation, Executive Order;
- c. Constitution, Regulation, Statute, Executive Order, or
- d. Constitution, Statute, Executive Order, Regulation

**7. The Term "Right" has been defined as:**

- a. The legally recognized ability to exercise power and control over an action or object;
- b. Rules by which civilization is ordered;
- c. Whatever a trial lawyer says it is;
- d. Whatever the Governor says it is; or
- e. Whatever you say it is.

**8. The Three Principal Types of Property Include:**

- a. Real (Rights in Land), Personal (Rights in Objects), and Intellectual (Rights in Ideas);
- b. Simple (Easily Recognizable Property Rights); Mixed (Overlapping Property Rights), and Complex (Challenging Property Rights);
- c. Common Law, Statutory, and Constitutional; or
- d. Red, Green and Yellow (just like traffic lights).

**9. The Initials EPUT stand for the following exercising of Property Rights:**

- a. Enjoy, Possess, Understand and Take;
- b. Entangle, Part, Undo and Terminate;
- c. Exclude, Possess, Use and Transfer; or
- d. Enjoy, Preclude, Undo, and Take.

**10. The first real concept of a body of law, with an executive to enforce it, a senate to debate it, and courts to decide it, was in:**

- a. China;
- b. Rome;
- c. Russia;
- d. Egypt; or
- e. Canada.

**11. Black's Law Dictionary has defined "Law" to be "That is laid down, ordained or established" and "A body of rules of action or conduct proscribed by controlling authority, and having binding legal force". The simple definition of the concept of the law, as has been set forth in class, however, is:**

- a. The legally recognized ability to exercise power and control over an action or object;
- b. Rules by which civilization is ordered;
- c. Whatever a trial lawyer says it is;
- d. Whatever the Governor says it is; or
- e. Whatever you say it is.

**Section One - General Principles and History of the Law Cont.**

**12. The law we know today in the United States is descended from:**

- a. France;
- b. England
- c. China;
- d. Egypt; or
- e. Canada.

**13. The priority or ranking of law (from highest to lowest) is**

- a. Statute, Constitution, Executive Order, Regulation;
- b. Constitution, Statute, Regulation, Executive Order;
- c. Constitution, Regulation, Statute, Executive Order; or
- d. Statute, Constitution, Regulation, Executive Order.

**14. The reason the first set of laws was developed in Rome is because they viewed their society and culture as lasting longer than a human lifetime. Accordingly, they viewed Law as a means to maintain that society and to:**

- a. Promote the continuity of trade and commerce;
- b. Help administrate military conquests;
- c. Instill consumer confidence; or
- d. All of the above.

**15. The Common Law concept known as "Stare Decisis" is Latin for:**

- a. Stare into the Eyes (of a witness);
- b. Stairs (steps) to a Determination;
- c. Let the Decision Stand;
- d. Determined in the Stars (Cases are predetermined by heaven); or
- e. None of the above.

**16. The Courts of Law and Equity were divided at Common Law as follows:**

- a. Equity had sole jurisdiction over injunctions while law had sole jurisdiction over damages;
- b. Equity had sole jurisdiction over damages while law had sole jurisdiction over injunctions;
- c. There was no distinction between equity and law under British Common law;
- d. Equity judges were elected while law judges were appointed; or
- e. None of the above.

**17. The man who was the first to compile the Case (Common) Law in British Courts into his famous "Commentaries" that become known as the "Bible of the Law", was:**

- a. Sir Walter Raleigh;
- b. Sir Charles Blackburn
- c. Thomas Jefferson;
- d. Sir William Blackstone; or
- e. Cicero

**18. What body of law was the most prevalent in Colonial and Early America from England:**

- a. Common Law;
- b. Statutes;
- c. Royal Decrees;
- d. The Napoleonic Code; or
- e. Chaos.

**19. Who said "Property and Law are born together, and die together. Before laws were made, there was no property; take away laws, and property ceases":**

- a. Oliver Wendell Holmes;
- b. Thomas Jefferson;
- c. Abraham Lincoln;
- d. Jeremy Bentham; or
- e. John Locke

**20. Who identified our three principal Rights as "Life, Liberty and the Pursuit of Property":**

- a. Oliver Wendell Holmes;
- b. Thomas Jefferson;
- c. Abraham Lincoln;
- d. Jeremy Bentham; or
- e. John Locke.

**21. Who identified our three principal Rights as "Life, Liberty and the Pursuit of Happiness":**

- a. Oliver Wendell Holmes;
- b. Thomas Jefferson;
- c. Abraham Lincoln;
- d. Jeremy Bentham; or
- e. John Locke.

**22. Most law of property is:**

- a. State law;
- b. Federal law;
- c. Both;
- d. Neither; or
- e. Not law at all.

**23. The "Magna Carta" is Latin for:**

- a. Magnificent Conquest;
- b. Magnificent Compact;
- c. Great Charter;
- d. Volcanic Rock; or
- e. The Big Wave.

**24. The ruler of England who was forced to sign the Magna Carta, granting specific property rights to the barons of the day, was:**

- a. Richard, brother of John, son of Henry;
- b. Henry, father of Richard, husband of Eleanor;
- c. Queen Eleanor of Aquitaine, wife of Henry;
- d. John, son of Henry, brother of Richard; or
- e. None of the above

**25. The Magna Carta, which contained 63 clauses, DID NOT grant which right:**

- a. Fair trial and access to the courts by all freemen;
- b. Legal powers to the Catholic Church to settle certain disputes;
- c. The elimination of unfair fines and punishments.
- d. The right against indentured servitude; or
- e. The establishment of a King's Council which would later become Parliament.

**26. The nickname the Magna Carta was known by is:**

- a. The Declaration of British Independence;
- b. The Edict of the Star Chamber;
- c. King Richard's Revenge; or
- d. The Charter of Liberties.

**27. English Common Law was made by:**

- a. Judges;
- b. Parliament;
- c. Kings; or
- d. Robin of the Hood..

**Section Two - Personal Property - Terms, Actions Gifts, Liens, Bailments and Special Property Interests**

**28. An action to recover the value of the chattel along with damages for dispossession is known as:**

- a. Replevin;
- b. Trover;
- c. Trespass;
- d. All of the above; or
- e. None of the above.

**29. When Property "Escheats", it:**

- a. Is sold from its original owner to a new owner;
- b. Returns to the State;
- c. Is stolen by a "cheater"; or
- d. Is transformed from Real Property to Intellectual Property

**30. Rights and Title to Property can be acquired or lost by:**

- a. Transfer or Sale;
- b. Adverse Possession;
- c. Judgment;
- d. Gift; or
- e. All of the Above.

**31. Plants and crops that are grown in the land:**

- a. Are viewed as real property if they are Fructus Industriales (Cultivated and Harvested);
- b. Are viewed as personal property if they are Fructus Naturales (Natural to the Land);
- c. Are viewed as real property if they are Fructus Naturales and personal property if Fructus Industriales;
- d. Are always viewed as personal property; or
- e. None of the above.

**Section Two - Personal Property - Terms, Actions Gifts, Liens, Bailments and Special Property Interests -Continued**

**32. Lost, Mislaid and Abandoned Property:**

- a. Mislaid Property can always be kept by the finder, but abandoned property can almost never be kept by the finder;
- b. Lost Property can be kept by the finder if it is under \$20 in value and a reasonable attempt to made to find the owner, and abandoned property can be kept by the finder no matter what value;
- c. Lost or Mislaid property can be kept by the finder if it is over \$20 but reported to the police and abandoned property can't be kept by the finder if it is over \$20 in value;
- d. All of the above; or
- e. None of the above.

**33. Wild animals that have never been captured by humans are deemed to be the personal property of:**

- a. The nearest real property owner;
- b. The person who chases the animal;
- c. The last person to shoot at and miss the animal; or
- d. No one.

**34. A domesticated Dairy Cow is considered:**

- a. Real Property because it is a fixture attached to the land by means of eating the grass that grows on the field;
- b. Personal property of the farmer that owns her;
- c. The property of no one, under the doctrine of *liberte steakus este un milkus*, that holds all dairy cows should be considered free on the range; or
- d. Intellectual property, because cows are really smart.

**35. There are two types of gifts. Their legal names are:**

- a. Gift Inter Mortis (Gift During Lifetime) and Gifts Causa Vivos (Gift in Contemplation of Death);
- b. Gift Inter Vivos (Gift During Lifetime) and Gifts Causa Mortis (Gift in Contemplation of Death);
- c. Gift Validus (A Valid Gift) and Gift Non Validus (A Non Valid Gift); or
- d. Gift Giveitbacktome and Giftinolongerwantthething.

**36. In order for a gift in contemplation of marriage to be valid, what has to happen:**

- a. The parties merely have to demonstrate an intent to get married, but never actually need to;
- b. The parties merely have to get engaged, but never have to actually get married;
- c. The parties merely have to get engaged, and show that they live together;
- d. The marriage has to happen; or
- e. All of the above.

**37. Your lovely Aunt IDA wishes to give you her very valuable grandfather clock. She is of sound mind and body and never thinks of death. What are the three factors that would make it a valid gift?**

- a. Intent, Delivery and Acceptance;
- b. Instant, Delayed, and Agreement;
- c. Intent, Dapper, and Alienate; or
- d. Instant, Delivered and Agreement.

**38. In order for a gift causa mortis to be upheld, the person offering the gift:**

- a. Has to die of what they were afraid of;
- b. Doesn't have to die, but has to deliver the gift thinking that they will;
- c. Has to die and the recipient has to show that the gift was delivered;
- d. Has to die and the recipient need only show that the deceased only wanted to deliver the gift; or
- e. Has to be afraid they were going to die at the time the gift was offered, but can live.

**39. A Lien:**

- a. Gives the lien holder the right to possess and retain certain property under certain circumstances;
- b. Can not be levied against an item not given by its owner;
- c. Can be deemed waived by contract, acceptance of other security or a demand for unlawful charges; or
- d. All of the above.

**40. A Lien has been defined as "a charge or security or encumbrance upon property", "a claim or charge on property for payment of some debt, obligation or duty", and "a right to retain property for payment of debt or demand":**

- a. True
- b. False

**41. The difference between a general and special lien is:**

- a. A special lien is only on a car;
- b. A general lien is only on a car;
- c. A general lien allows the lien holder to retain all of the property of another person as security;
- d. A general lien only allows the lien holder to retain only specific property of another person as security; or
- e. A general lien can only be levied by the Army, while a special lien can only be levied by the Navy or Air Force.

**42. The elements of a bailment have been described in the acronym DAPPER. These elements include:**

- a. Delivery, Agreement, Personal Property, Purpose, Entered into for the benefit of one or both parties, and ended with Redelivery; or
- b. Discovery, Acceptance, Purpose, Plain Language, Exclusive, and Recovered.

**43. The legal level of the Duty of Care of a Bailee depends upon:**

- a. Whose benefit the bailment is for;
- b. How much the bailed item is worth;
- c. Where the bailment takes place;
- d. All of the above; or
- e. None of the above.

**44. A bailment is:**

- a. The right to possess and retain personal property as security until a person pays a debt;
- b. A contractual relationship created by the transfer of possession of personal property for a certain purpose;
- c. A contractual relationship where possession and title are temporarily transferred;
- d. The same as a trusteeship; or
- e. The same as a guardianship.

**45. The Highest Level Court in the State of New York is:**

- a. The Supreme Court;
- b. The Appellate Division;
- c. The Court of Appeals; or
- d. The District Court.

**46. The Highest Level Court in the United States Federal Courts is:**

- a. The Supreme Court;
- b. The Bankruptcy Court;
- c. The Court of Appeals; or
- d. The District Court.

**47. What are the three basic types of Law in America?**

- a. Red, White and Blue;
- b. Sections, Articles and Subdivisions;
- c. Constitutions, Statutes and Case Law; or
- d. Republicans, Democrats and Independents.

**48. When a statute and a regulation or executive policy are in conflict, which ranks supreme?:**

- a. Both a regulation and an executive policy can over rule a statute;
- b. A statute always over rules both a regulation and an executive policy;
- c. Only a regulation can over rule a statute; or
- d. A statute over rules a regulation, but not an executive policy.

**Section Three - Intellectual Property Law**

**49. Computer Programs are protected by what area of Intellectual Property?**

- a. Patents
- b. Copyrights
- c. Trademarks
- d. All of the above; or
- e. None of the above.

**50. Intellectual Property Rights:**

- a. Were widely recognized in common law;
- b. Are always enforceable-world wide;
- c. Are recognized in modern law pursuant to federal statutes;
- d. A and C; or
- e. None of the above.

#### Section Four - The Criminal Law - Common Law Felonies

The following Questions are based on the following fact pattern:

Judge Learned Lamb is a County Court Judge in Fulton County, New York.

The County Court is responsible for the trials of all criminal matters brought within the County.

Mary Lamb, Learned's wife, is a very accomplished assistant United States Attorney who practices in Federal Court in Albany.

Clarence Darrow Lamb is the Lamb's 12 year old son.

One night at dinner young Clarence announces that he is studying criminal law as an elective in his middle school.

Both experts in this field, MR/MRS LAMB ask their son the following questions:

**51. Today, under New York Law, a felony is generally considered a crime:**

- a. That is not a serious crime;
- b. That can be punished by more than a year in jail;
- c. That carries no jail time;
- d. That is always be punished by death before a firing squad; or
- e. That is less serious than a misdemeanor.

**52. A person is guilty of which crime when:**

**With intent to cause the death of another person, he causes the death of such person or of a third person;**

**Under circumstances evincing a depraved indifference to human life, he recklessly engages in conduct which creates a grave risk of death to another person, and thereby causes the death of another person; or**

**Acting either alone or with one or more other persons, he commits or attempts to a felony, and, in the course of and in furtherance of such crime or of immediate flight therefrom, he, or another participant, if there be any, causes the death of a person other than one of the participants;**

- a. Murder;
- b. Manslaughter
- c. Mayhem
- d. Malicious Intent; or
- e. Robbery

**53. The day after their discussion at the dinner table, Clarence Lamb went to school to share with his friends what he had learned the night before.**

**Hearing the tale, the school bully, Bad Bart, grabbed Clarence, wrestled him to the ground, and holding him in a headlock, demanded that Clarence provide Bart with the snow-white, special edition Yankee jacket, which Clarence had just received as a birthday present.**

**After Clarence came home that evening without his jacket, his mom and dad asked him what had happened.**

**Enraged over the fact that someone had forcibly stolen their son's new fleece jacket, Mary called the police and demanded that Bart be arrested for the crime of:**

- a. Arson;
- b. Mayhem;
- c. Manslaughter;
- d. Robbery; or
- e. None of the above.

**\* Moral of the story: Don't be a bully. Most importantly, don't mess with Mary's Little Lamb, whose fleece is white as snow (especially when his mom is an Assistant US Attorney).**

#### Section Five – Class Exercises and Cases

**54. Most states have a bicameral (two house) legislature:**

- a. True
- b. False

**55. In order for a bill to become a state law in New York:**

- a. It must pass both the State Senate and State Assembly and be signed by the Governor;
- b. It must pass the United States Senate and the House of Representatives and be signed by the President;
- c. It must be passed by the State Legislature and approved by the judiciary; or
- d. It must be passed by the voters in a referendum.

**56. The holding in Marbury v. Madison was:**

- a. A federal law that violates the United States Constitution can be nullified under the doctrine of judicial review by the United States Supreme Court;
- b. Mere Pursuit is not possession;
- c. Land claims that based before the American Revolution that were founded in Native American real property rights can be superseded by a federal land grant; or
- d. A gift where delivery was questioned could be deemed valid when done in a manner to protect the gift and assure its later transfer.

**57. The holding in Pierson v. Post was:**

- a. A federal law that violates the United States Constitution can be nullified under the doctrine of judicial review by the United States Supreme Court;
- b. Mere Pursuit is not possession;
- c. Land claims that based before the American Revolution that were founded in Native American real property rights can be superseded by a federal land grant; or
- d. A gift where delivery was questioned could be deemed valid when done in a manner to protect the gift and assure its later transfer.

**58. The holding in Dred Scott v. Sandford was:**

- a. A taking by a government for the purpose of economic development and the cure of "blight in the community is a "public purpose under the "takings clause";
- b. An African American was not deemed a person who could maintain a federal action due to their lack of citizenship in their individual state;
- c. The failure to operate certain equipment at a business enterprise did not change the nature of the purpose of the enterprise under a deed restriction (defeasible estate) which carried a reversion for not operating the enterprise;
- d. The defense of necessity is not a valid defense against a charge of murder, for self defense only is valid when the person acts to prevent another person from taking a life of the defender or a third person; or
- e. Witchcraft, as a capital felony offense causes the lands of a person convicted of such crime to escheat to the state.

**59. The holding in Gruen v. Gruen was:**

- a. A federal law that violates the United States Constitution can be nullified under the doctrine of judicial review by the United States Supreme Court;
- b. Mere Pursuit is not possession;
- c. Land claims that based before the American Revolution that were founded in Native American real property rights can be superseded by a federal land grant; or
- d. A gift where delivery was questioned could be deemed valid when done in a manner to protect the gift and assure its later transfer.

**60. The holding in Regina v. Dudley and Stephens was:**

- a. A taking by a government for the purpose of economic development and the cure of "blight in the community is a "public purpose under the "takings clause";
- b. An African American was not deemed a person who could maintain a federal action due to their lack of citizenship in their individual state;
- c. The failure to operate certain equipment at a business enterprise did not change the nature of the purpose of the enterprise under a deed restriction (defeasible estate) which carried a reversion for not operating the enterprise;
- d. The defense of necessity is not a valid defense against a charge of murder, for self defense only is valid when the person acts to prevent another person from taking a life of the defender or a third person; or
- e. Witchcraft, as a capital felony offense causes the lands of a person convicted of such crime to escheat to the state.

#### Section Four - Extra Credit Questions

**61. What is the name of Bob Farley's Dog**

- a. Sunny;
- b. Counselor;
- c. Justice; or
- d. Fido

**62. The famous legal writing that declared people have three rights: Life, Liberty and the Pursuit of Property, was:**

- a. John Locke's Two Treatise on Government; or
- b. Oliver Wendell Holmes The Common Law