

## Unit 2 Textbook Rationales

1. c Common law treats annual crops, those that must be planted each year, as the personal property of the person who planted and tended them. When a farm is sold, trees, air rights, and mineral rights may all convey, but the annual crops (*fructus industriales*, or emblements)—lacking effective contractual agreement to the contrary—are still the personal property of the tenant farmer or other person who planted them. The farmer may return and harvest them in season.
2. b Common law protects business tenants who install fixtures for their business by treating these trade fixtures as their personal property and giving tenants the right to remove them before the end of their lease. Any damage to the building due to removal of the fixtures must be repaired by the departing tenant. A licensee who participates in the sale of business properties should make known to purchasers what, if any, trade fixtures will not convey with the building.
3. c The characteristics of each property differ from one another; this is also called *heterogeneity*.
4. c *Chattels* is another term for personal property. Fixtures, *fructus naturales*, and realty are all real property.
5. c Under the Doctrine of Prior Appropriation the right to use water is controlled by the state rather than by the landowner adjacent to water.
6. b The heir inherits exactly what the deceased owned just before his death: a location on the earth's surface, everything below it to the center of the earth, and the space above it toward infinity.
7. a The overall test in determining whether an item is a fixture or real property is the intention of the person installing it, how uniquely adapted the item is to the property in which it is installed; how the item was installed and the damage its removal would cause, and what the parties have agreed to. The original cost of the installation, although important to one or the other of the parties, is not considered in this decision.
8. a The ability to make improvements, preference for the area, and relative scarcity of similar property all are economic matters. The land's indestructibility is a physical matter.
9. a When we sever something, we cut it loose. Severing (felling) a tree from its roots converts it from realty—real(property)—to personalty—personal(property). The process is *severance*.
10. a Whatever fixtures are present in the structure at the time of contract, and are not mentioned in the contract, convey to the purchaser. Replacement fixtures are not personal property of the resident; they became real estate when annexed (attached) to the building.
11. c *Sub* means under or beneath. *Subsurface*, then, is below the surface—usually the place where minerals are found.
12. b The lumber will become realty if and when it is later affixed in the course of construction. Until then it is personal property—a chattel—of the landowner.

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14. d *Appurtenances* are rights or privileges associated with the property, although not necessarily part of the property.
15. a The technical term *improvement* refers to any permanent structure—building, fence, shed, or underground tank—erected on a property, despite the negative esthetic and environmental impact.
16. c Riparian rights are a common law right granted to owners of land along the course of a river, stream or similar flowing body of water.
17. b The right of “exclusion” allows an owner to exclude someone else from entering the property. This does not include the right to exclude the utility meter reader.
18. c An item used in conducting business is considered a trade fixture and can be removed by the tenant. It is considered personal property (personalty) even though it may be attached to a building.
19. b Area preference, or location, is also known as *situs* and is the single most important economic characteristic of land.
20. d Personal property, such as patio furniture, is movable. A fireplace, bathtubs, and awnings are all attached to the property and considered real property.