

A farmer executed a document granting to a local gun club and its assignees the exclusive right to hunt geese to the extent permitted by law on a portion of his farm. The club recorded the document. Two years later the club disbanded, but before doing so, the club assigned its hunting rights on the farm to its 10 members, individually.

The farmer denied the former members access to his farm to hunt geese. The former members filed a court action to compel the farmer to permit them access.

If a court rules in favor of the former members, which of the following is it likely to apply in dividing this profit?

- A. The *cy pres* doctrine.
- B. The shelter rule.
- C. The one-stock rule.
- D. The rule of convenience.

Explanation:

Profit

(right to enter another's land & remove natural resources)

	Characteristics	Transferability	Apportionability
Exclusive	Unlimited & exclusive right	Can be transferred unless profit is personal or contrary to parties' intent	If transferable, can be divided unless contrary to parties' intent or burden on servient estate unreasonably increased
Nonexclusive	Right limited by quantity, use, or time OR shared with another		

The gun club's right to hunt geese on the farm was a **profit** since it gave the club the right to enter another's land to remove natural resources. When a profit is **apportioned or divided up** among multiple transferees, the "**one stock**" rule applies.

Under this rule, the transferees are limited to the **amount of material taken by the transferor** (ie, the transferor's "stock"), and this quantity is divided up by the transferees taking the profit. This ensures that the burden on the servient (burdened) estate is not unreasonably increased. Therefore, the court is likely to apply the "one stock" rule in dividing the former members' right to hunt geese on the farm.

(Choice A) The *cy pres* doctrine permits a court to alter a legal instrument to come "as close as possible" to the creator's intent when the stated purpose cannot be accomplished due to impracticability or illegality. It is typically applied in the context of a charitable gift in a will or trust when the named beneficiary has ceased to exist and the donor has died. Here, the farmer is alive and challenging the former members' right to hunt on his farm.

(Choice B) Under the shelter rule, grantors who are protected by a [recording act](#) protect (or "shelter") their grantees who would otherwise be unprotected from subsequent purchasers. Since profits are not subject to recording acts, the shelter rule does not apply here.

(Choice D) The rule of convenience applies to a class gift and closes the class when any member of the class becomes eligible to take immediate possession of the property. This rule can prevent a future interest from violating the Rule Against Perpetuities. Here, the club transferred the profit to its members individually—not as a class—so this rule is inapplicable.

Educational objective:

The "one stock" rule applies to the division of a profit. Under this rule, the transferees are limited to the amount of material taken by the transferor (ie, his/her "stock"), and this quantity is divided up by the transferees taking the profit.

References

Miller v. Lutheran Conference & Camp Ass'n, 200 A. 646, 651–52 (Pa. Super. Ct. 1938)
(explaining that the one-stock rule applies to the division of profits or easements in gross).

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