

CASES AND MATERIALS
ON
DECEDENTS' ESTATES
AND TRUSTS

By

JOHN RITCHIE

Dean and John Henry Wigmore Professor of Law,
Northwestern University

NEILL H. ALFORD, JR.

Doherty Professor of Law, University of Virginia

RICHARD W. EFFLAND

Professor of Law, Arizona State University

FOURTH EDITION

Mineola, N. Y.

THE FOUNDATION PRESS, INC.

1971

COPYRIGHT © 1955, 1961, 1967 THE FOUNDATION PRESS, INC.

COPYRIGHT © 1971

By

THE FOUNDATION PRESS, INC.

Library of Congress Catalog Card Number: 76-167957

University Casebook Series

ACCOUNTING AND THE LAW, Third Edition (1964), with Problem Pamphlet

The late James L. Dohr, Director, Institute of Accounting, Columbia University,

Ellis L. Phillips, Jr., Professor of Law, Columbia University.

George C. Thompson, Professor, Columbia University Graduate School of Business, and

William C. Warren, Professor of Law, Columbia University.

ACCOUNTING, LAW AND (1949)

Donald Schapiro, Instructor in Law, Yale University, and

Ralph Wienshienk, Visiting Lecturer in Law, Yale University.

ACCOUNTING, MATERIALS ON, (1959), with 1968 Supplement

Robert Amory, Jr., Esq.,

W. Covington Hardee, Esq., Third Edition by

David R. Herwitz, Professor of Law, Harvard University, and

Donald T. Trautman, Professor of Law, Harvard University.

ADMINISTRATIVE LAW, Fifth Edition (1970), with Problems Supplement

Walter Gellhorn, Professor of Law, Columbia University, and

Clark Byse, Professor of Law, Harvard University.

ADMIRALTY (1969)

Jo Desha Lucas, Professor of Law, University of Chicago.

ADMIRALTY (1954)

The late Stanley Morrison, Professor of Law, Stanford University, and

The late George W. Stumberg, Professor of Law, University of Texas.

ADVOCACY, INTRODUCTION TO (1970) with Supplementary Cases Pamphlet

Board of Student Advisers, Harvard Law School.

ANTITRUST LAW (1967), with 1969 Supplement

Harlan M. Blake, Professor of Law, Columbia University.

Robert Pitofsky, Professor of Law, New York University.

ARBITRATION (1968)

Shelden D. Elliott, Professor of Law, New York University.

BANKRUPTCY ACT (Annotated) 1967 Edition

The late James Angell MacLachlan, Professor of Law Emeritus, Harvard University.

BIOGRAPHY OF A LEGAL DISPUTE, THE: An Introduction to American Civil Procedure (1968)

Marc A. Franklin, Professor of Law, Stanford University.

UNIVERSITY CASEBOOK SERIES — Continued

**BUSINESS ORGANIZATION: EMPLOYMENT—AGENCY—PARTNERSHIP—
ATTORNEYS, Third Edition (1965)**

Alfred F. Conard, Professor of Law, University of Michigan, and
Robert L. Knauss, Associate Professor of Law, University of Michigan.

BUSINESS ORGANIZATION: CORPORATIONS (1948)

A. A. Berle, Jr., Professor of Law, Columbia University, and
William C. Warren, Professor of Law, Columbia University.

BUSINESS PLANNING (1966) with 1971 Problem Supplement

David R. Herwitz, Professor of Law, Harvard University.

CIVIL PROCEDURE, see Procedure

**COMMERCIAL AND INVESTMENT PAPER, Third Edition (1964) with Statu-
tory Materials**

Roscoe T. Steffen, Professor of Law, University of California, Hastings
College of the Law.

**COMMERCIAL LAW, CASES & MATERIALS ON, Second Edition (1968) with
Statutory Supplement**

E. Allan Farnsworth, Professor of Law, Columbia University.
John Honnold, Professor of Law, University of Pennsylvania.

COMMERCIAL PAPER (1968), with Statutory Supplement

E. Allan Farnsworth, Professor of Law, Columbia University.

**COMMERCIAL PAPER AND BANK DEPOSITS AND COLLECTIONS (1967)
with Statutory Supplement**

William D. Hawkland, Professor of Law, University of Illinois.

**COMMERCIAL TRANSACTIONS—Text, Cases and Problems, Fourth Edition
(1968)**

Robert Braucher, Professor of Law, Harvard University, and
Arthur E. Sutherland, Jr., Professor of Law, Harvard University.

COMPARATIVE LAW, Third Edition (1970)

Rudolf B. Schlesinger, Professor of Law, Cornell University.

CONFLICT OF LAWS, Sixth Edition (1971)

Willis L. M. Reese, Professor of Law, Columbia University, and
Maurice Rosenberg, Professor of Law, Columbia University.

CONSTITUTIONAL LAW, Third Edition (1963) with 1971 Supplement

Edward L. Barrett, Jr., Professor of Law, University of California, Davis.
Paul W. Bruton, Professor of Law, University of Pennsylvania, and
John O. Honnold, Professor of Law, University of Pennsylvania.

CONSTITUTIONAL LAW, Eighth Edition (1970) with 1971 Supplement

Gerald Gunther, Professor of Law, Stanford University.
Noel T. Dowling, late Professor of Law, Columbia University.

**CONSTITUTIONAL LAW, INDIVIDUAL RIGHTS IN (1970) with 1971 Sup-
plement**

Gerald Gunther, Professor of Law, Stanford University.
Noel T. Dowling, late Professor of Law, Columbia University.

UNIVERSITY CASEBOOK SERIES — Continued

CONTRACTS, (1965) (Successor Volume to Patterson, Goble & Jones, Cases on Contracts) with Statutory Supplement

Harry W. Jones, Professor of Law, Columbia University.
E. Allan Farnsworth, Professor of Law, Columbia University.
William F. Young, Professor of Law, Columbia University.

CONTRACTS (1971) with Statutory and Administrative Law Supplement

Ian R. Macneil, Professor of Law, Cornell University.

CONTRACT LAW AND ITS APPLICATION (1971)

Addison Mueller, Professor of Law, University of California, Los Angeles.
Arthur I. Rosett, Professor of Law, University of California, Los Angeles.

CONTRACT LAW, STUDIES IN (1970)

Edward J. Murphy, Professor of Law, University of Notre Dame.
Richard E. Speidel, Professor of Law, University of Virginia.

CONTRACTS AND CONTRACT REMEDIES, Fourth Edition (1957)

Harold Shepherd, Professor of Law Emeritus, Stanford University, and
Harry H. Wellington, Professor of Law, Yale University.

CONTRACTS AND CONTRACT REMEDIES, Second Edition (1969)

John P. Dawson, Professor of Law, Harvard University, and
Wm. Burnett Harvey, Dean of the Law School, Indiana University.

CONVEYANCES, Second Edition (1941)

Marion R. Kirkwood, Professor of Law Emeritus, Stanford University.

COPYRIGHT, Unfair Competition, and Other Topics Bearing on the Protection of Literary, Musical, and Artistic Works (1960)

Benjamin Kaplan, Professor of Law, Harvard University, and
Ralph S. Brown, Jr., Professor of Law, Yale University.

CORPORATE REORGANIZATION, with Statutory Supplement (1950)

The late E. Merrick Dodd, Professor of Law, Harvard University, and
DeForest Bilyou, Professor of Law, New York University.

CORPORATIONS, Fourth Edition—Unabridged, 1969

William L. Cary, Professor of Law, Columbia University.

CORPORATIONS, Fourth Edition—Abridged (1970)

William L. Cary, Professor of Law, Columbia University.

CORRECTIONAL PROCESS (1971) (Pamphlet)

Reprinted from Miller, Dawson, Dix and Parnas's Criminal Justice Administration & Related Processes

CREDITORS' RIGHTS, Fifth Edition (1957)

The late John Hanna, Professor of Law Emeritus, Columbia University, and
The late James Angell MacLachlan, Professor of Law Emeritus, Harvard University.

UNIVERSITY CASEBOOK SERIES — Continued

CREDITORS' RIGHTS AND CORPORATE REORGANIZATION, Fifth Edition (1957)

The late John Hanna, Professor of Law Emeritus, Columbia University, and
The late James Angell MacLachlan, Professor of Law Emeritus, Harvard
University.

CREDITORS' RIGHTS AND SECURED TRANSACTIONS, 1967

William E. Hogan, Professor of Law, Cornell University.
William D. Warren, Professor of Law, University of California Los
Angeles.

CRIMINAL JUSTICE, THE ADMINISTRATION OF, CASES AND MATERIALS ON, Second Edition (1969)

Francis C. Sullivan, Professor of Law, Louisiana State University.
Paul Hardin III, Professor of Law, Duke University.
John Huston, Professor of Law, University of Washington.
Frank R. Lacy, Professor of Law, University of Oregon.
Daniel E. Murray, Professor of Law, University of Miami.
George W. Pugh, Professor of Law, Louisiana State University.

CRIMINAL JUSTICE, Third Edition, 1968, two volumes: I. Criminal Law, II. Criminal Law Administration, with 1971 Supplement

Fred E. Inbau, Professor of Law, Northwestern University.
James R. Thompson, Professor of Law, Northwestern University, and
Claude R. Sowle, President, Ohio University.

CRIMINAL JUSTICE ADMINISTRATION AND RELATED PROCESSES (1971)

Frank W. Miller, Professor of Law, Washington University.
Robert O. Dawson, Professor of Law, University of Texas.
George E. Dix, Professor of Law, Arizona State University.
Raymond I. Parnas, Professor of Law, University of California, Davis.

CRIMINAL LAW (1969)

Lloyd L. Weinreb, Professor of Law, Harvard University.

CRIMINAL LAW AND ITS ADMINISTRATION (1940), with 1956 Supplement

The late Jerome Michael, Professor of Law, Columbia University, and
Herbert Wechsler, Professor of Law, Columbia University.

CRIMINAL LAW AND PROCEDURE, Third Edition (1966)

Rollin M. Perkins, Professor of Law, University of California, Hastings
College of the Law.

CRIMINAL PROCESS (1969)

Lloyd L. Weinreb, Professor of Law, Harvard University.

DAMAGES, Second Edition (1952)

The late Charles T. McCormick, Professor of Law, University of Texas, and
William F. Fritz, Professor of Law, University of Texas.

DECEDENTS' ESTATES (1971)

Max Rheinstein, Professor of Law Emeritus, University of Chicago.
Mary Ann Glendon, Professor of Law, Boston College Law School.

DECEDENTS' ESTATES AND TRUSTS, Fourth Edition (1971)

John Ritchie III, Dean and Professor of Law, Northwestern University,
Neill H. Alford, Jr., Professor of Law, University of Virginia, and
Richard W. Effland, Professor of Law, Arizona State University.

UNIVERSITY CASEBOOK SERIES — Continued

DECEDENTS' ESTATES AND TRUSTS (1968)

Howard R. Williams, Professor of Law, Stanford University.

DOMESTIC RELATIONS (1970), with Statutory Supplement

Monrad G. Paulsen, Dean of the Law School, University of Virginia.
Walter Wadlington, Professor of Law, University of Virginia.
Julius Goebel, Jr., Professor of Law Emeritus, Columbia University.

DOMESTIC RELATIONS: STATUTORY MATERIALS

Monrad G. Paulsen, Dean of the Law School, University of Virginia.
Walter Wadlington, Professor of Law, University of Virginia.

DOMESTIC RELATIONS—Civil and Canon Law (1963)

Philip A. Ryan, Professor of Law, Georgetown University, and
Dom David Granfield, Associate Professor, Catholic University of America.

DYNAMICS OF AMERICAN LAW, THE: Courts, the Legal Process and Freedom of Expression (1968)

Marc A. Franklin, Professor of Law, Stanford University.

EQUITY, Fifth Edition (1967)

The late Zechariah Chafee, Jr., Professor of Law, Harvard University, and
Edward D. Re, Professor of Law, St. John's University.

EQUITY, RESTITUTION AND DAMAGES (1969)

Robert Childres, Professor of Law, Northwestern University.

ETHICS, see Legal Profession

EVIDENCE (1968) with 1969 Supplement

David W. Louisell, Professor of Law, University of California, Berkeley,
John Kaplan, Professor of Law, Stanford University,
Jon R. Waltz, Professor of Law, Northwestern University.

EVIDENCE, Fifth Edition (1965) with 1970 Supplement

John M. Maguire, Professor of Law Emeritus, Harvard University.
Jack B. Weinstein, Professor of Law, Columbia University.
James H. Chadbourn, Professor of Law, Harvard University.
John H. Mansfield, Professor of Law, Harvard University.

EVIDENCE (1968)

Francis C. Sullivan, Professor of Law, Louisiana State University,
Paul Hardin, III, Professor of Law, Duke University.

FEDERAL COURTS, FIFTH EDITION (1970) with 1971 Supplement

The late Charles T. McCormick, Professor of Law, University of Texas,
James H. Chadbourn, Professor of Law, Harvard University, and
Charles Alan Wright, Professor of Law, University of Texas.

FEDERAL COURTS AND THE FEDERAL SYSTEM (1953)

The late Henry M. Hart, Jr., Professor of Law, Harvard University and
Herbert Wechsler, Professor of Law, Columbia University.

FEDERAL RULES OF CIVIL PROCEDURE, 1971 Edition

UNIVERSITY CASEBOOK SERIES — Continued

FEDERAL TAXATION, see *Taxation*

FREE ENTERPRISE AND ECONOMIC ORGANIZATION, Third Edition (1966)
two volumes: I. *Concentration & Restrictive Practices*, II. *Regulation
of Entry, Rates and Discrimination*
Louis B. Schwartz, Professor of Law, University of Pennsylvania.

FUTURE INTERESTS AND ESTATE PLANNING (1961) with 1962 Supplement
W. Barton Leach, Professor of Law, Harvard University, and
James K. Logan, Dean of the Law School, University of Kansas.

FUTURE INTERESTS (1958)
The late Philip Mechem, Professor of Law Emeritus, University of Pennsylv-
vania.

FUTURE INTERESTS (1970)
Howard R. Williams, Professor of Law, Stanford University.

HOUSING (THE ILL-HOUSED) (1971)
Peter W. Martin, Professor of Law, University of Minnesota.

INSURANCE (1971)
William F. Young, Professor of Law, Columbia University.

INTERNATIONAL LAW, See also *Transnational Legal Problems and United
Nations Law*

INTERNATIONAL TRADE AND INVESTMENT, REGULATION OF (1970)
Carl H. Fulda, Professor of Law, University of Texas,
Warren F. Schwartz, Professor of Law, University of Virginia.

INTERNATIONAL TRANSACTIONS AND RELATIONS (1960)
Milton Katz, Professor of Law, Harvard University, and
Kingman Brewster, Jr., President, Yale University.

INTRODUCTION TO THE STUDY OF LAW (1970)
E. Wayne Thode, Professor of Law, University of Utah.
J. Leon Lebowitz, Professor of Law, University of Texas.
Lester J. Mazor, Professor of Law, University of Utah.

INTRODUCTION TO LAW, see also *Legal Method*, also *On Law in Courts*, also
Dynamics of American Law

**JUDICIAL CODE: Rules of Procedure in the Federal Courts with Excerpts from
the Criminal Code**, 1971 Edition
The late Henry M. Hart, Jr., Professor of Law, Harvard University, and
Herbert Wechsler, Professor of Law, Columbia University.

JURISPRUDENCE (Temporary Edition Hard Bound) (1949)
Lon L. Fuller, Professor of Law, Harvard University.

JUVENILE COURTS (1967)
Hon. Orman W. Ketcham, Juvenile Court of the District of Columbia.
Monrad G. Paulsen, Dean of the Law School, University of Virginia.

UNIVERSITY CASEBOOK SERIES — Continued

JUVENILE JUSTICE PROCESS (1971) (Pamphlet)

Reprinted from Miller, Dawson, Dix & Parnas's Criminal Justice Administration & Related Processes

LABOR LAW, Seventh Edition 1969 with Statutory Supplement

Archibald Cox, Professor of Law, Harvard University, and
Derek C. Bok, President, Harvard University.

LABOR LAW (1968) with Statutory Supplement

Clyde W. Summers, Professor of Law, Yale University.
Harry H. Wellington, Professor of Law, Yale University.

LABOR RELATIONS (1949)

The late Harry Shulman, Dean of the Law School, Yale University, and
Neil Chamberlain, Professor of Economics, Columbia University.

LAND FINANCING (1970)

Norman Penney, Professor of Law, Cornell University.
Richard F. Broude, Professor of Law, Georgetown University.

LEGAL DRAFTING (1951)

Robert N. Cook, Professor of Law, University of Cincinnati.

LEGAL METHOD, Second Edition (1952)

Noel T. Dowling, late Professor of Law, Columbia University,
The late Edwin W. Patterson, Professor of Law, Columbia University, and
Richard R. B. Powell, Professor of Law, University of California, Hastings
College of the Law.
Second Edition by Harry W. Jones, Professor of Law, Columbia University.

LEGAL METHODS (1969)

Robert N. Covington, Professor of Law, Vanderbilt University,
E. Blythe Stason, Professor of Law, Vanderbilt University,
John W. Wade, Professor of Law, Vanderbilt University,
Elliott E. Cheatham, Professor of Law, Vanderbilt University,
Theodore A. Smedley, Professor of Law, Vanderbilt University.

LEGAL PROFESSION (1970)

Samuel D. Thurman, Dean of the College of Law, University of Utah.
Ellis L. Phillips, Jr., Professor of Law, Columbia University.
Elliott E. Cheatham, Professor of Law, Vanderbilt University.

LEGISLATION, Second Edition (1959)

Horace E. Read, Vice President, Dalhousie University.
John W. MacDonald, Professor of Law, Cornell Law School, and
Jefferson B. Fordham, Professor of Law, University of Pennsylvania.

LOCAL GOVERNMENT LAW (1949)

Jefferson B. Fordham, Professor of Law, University of Pennsylvania.

MENTAL HEALTH PROCESS (1971) (Pamphlet)

Reprinted from Miller, Dawson, Dix & Parnas's Criminal Justice Administration & Related Processes

UNIVERSITY CASEBOOK SERIES — Continued

MODERN REAL ESTATE TRANSACTIONS, Second Edition (1958)

Allison Dunham, Professor of Law, University of Chicago.

MUNICIPAL CORPORATIONS, see Local Government Law

NEGOTIABLE INSTRUMENTS, see Commercial Paper

NEW YORK PRACTICE, Second Edition (1968)

Herbert Peterfreund, Professor of Law, New York University,
Joseph M. McLaughlin, Dean of the Law School, Fordham University.

OIL AND GAS, Second Edition (1964)

Howard R. Williams, Professor of Law, Stanford University,
Richard C. Maxwell, Professor of Law, University of California, Los
Angeles, and
Charles J. Meyers, Professor of Law, Stanford University.

ON LAW IN COURTS (1965)

Paul J. Mishkin, Professor of Law, University of Pennsylvania.
Clarence Morris, Professor of Law, University of Pennsylvania.

OWNERSHIP AND DEVELOPMENT OF LAND (1965)

Jan Krasnowiecki, Professor of Law, University of Pennsylvania.

PARTNERSHIP PLANNING (1970) (Pamphlet)

William L. Cary, Professor of Law, Columbia University.

PATENT, TRADEMARK AND COPYRIGHT LAW (1959)

E. Ernest Goldstein, Professor of Law, University of Texas.

PLEADING & PROCEDURE: STATE AND FEDERAL, Second Edition (1968)

David W. Louisell, Professor of Law, University of California, Berkeley,
and
Geoffrey C. Hazard, Jr., Professor of Law, Yale University.

POLICE FUNCTION (1971) (Pamphlet)

Reprinted from Miller, Dawson, Dix & Parnas's Criminal Justice Admin-
istration and Related Processes

PROCEDURE—Biography of a Legal Dispute (1968)

Marc A. Franklin, Professor of Law, Stanford University.

PROCEDURE—CIVIL PROCEDURE (1961)

James H. Chadbourn, Professor of Law, Harvard University, and
A. Leo Levin, Professor of Law, University of Pennsylvania.

PROCEDURE—CIVIL PROCEDURE, Temporary Second Edition (1968)

Richard H. Field, Professor of Law, Harvard University, and
Benjamin Kaplan, Professor of Law, Harvard University.

PROCEDURE—CIVIL PROCEDURE, Second Edition (1970)

Maurice Rosenberg, Professor of Law, Columbia University,
Jack B. Weinstein, Professor of Law, Columbia University.
Hans Smit, Professor of Law, Columbia University.

UNIVERSITY CASEBOOK SERIES — Continued

PROCEDURE—FEDERAL RULES OF CIVIL PROCEDURE, 1971 Edition

PROCEDURE PORTFOLIO (1962)

James H. Chadbourn, Professor of Law, Harvard University, and
A. Leo Levin, Professor of Law, University of Pennsylvania.

PRODUCTS AND THE CONSUMER: Defective and Dangerous Products (1970)

W. Page Keeton, Dean of the School of Law, University of Texas,
Marshall S. Shapo, Professor of Law, University of Virginia.

PROPERTY, Second Edition (1966)

John E. Cribbet, Dean of the Law School, University of Illinois,
William F. Fritz, Professor of Law, University of Texas, and
Corwin W. Johnson, Professor of Law, University of Texas.

PROPERTY—PERSONAL (1953)

The late S. Kenneth Skolfield, Professor of Law Emeritus, Boston Uni-
versity.

PROPERTY—PERSONAL, Third Edition (1954)

Everett Fraser, Dean of the Law School Emeritus, University of Minnesota
—Third Edition by
Charles W. Taintor II, late Professor of Law, University of Pittsburgh.

PROPERTY—REAL—INTRODUCTION, Third Edition (1954)

Everett Fraser, Dean of the Law School Emeritus, University of Minnesota.

PROPERTY—REAL PROPERTY AND CONVEYANCING (1954)

Edward E. Bade, late Professor of Law, University of Minnesota.

PROPERTY, REAL, PROBLEMS IN (Pamphlet) (1969)

Edward H. Rabin, Professor of Law, University of California, Davis.

PUBLIC UTILITY LAW, see Free Enterprise, also Regulated Industries

RECEIVERSHIP AND CORPORATE REORGANIZATION, see Creditors' Rights

REGULATED INDUSTRIES (1967) with Statutory Supplement

William K. Jones, Professor of Law, Columbia University.

RESTITUTION, Second Edition (1966)

John W. Wade, Professor of Law, Vanderbilt University.

SALES AND SECURITY, Fourth Edition (1962), with Statutory Supplement

George G. Bogert, James Parker Hall Professor of Law Emeritus, Uni-
versity of Chicago.

The late William E. Britton, Professor of Law, University of California,
Hastings College of the Law, and
William D. Hawkland, Professor of Law, University of Illinois.

SALES AND SALES FINANCING, Third Edition (1968) with Statutory Sup-
plement

John Honnold, Professor of Law, University of Pennsylvania.

UNIVERSITY CASEBOOK SERIES — Continued

SECURITY, Third Edition (1959)

The late John Hanna, Professor of Law Emeritus, Columbia University.

SECURITIES REGULATION, Second Edition (1968) with 1971 Supplement

Richard W. Jennings, Professor of Law, University of California, Berkeley.
Harold Marsh, Jr., Professor of Law, University of California, Los Angeles.

SOCIAL WELFARE AND THE INDIVIDUAL (1971)

Robert J. Levy, Professor of Law, University of Minnesota.
Thomas P. Lewis, Professor of Law, University of Minnesota.
Peter W. Martin, Professor of Law, University of Minnesota.

TAXATION, FEDERAL, Sixth Edition (1966) with 1970 Supplement

Erwin N. Griswold, Solicitor General of the United States.

TAXATION, FEDERAL ESTATE AND GIFT, 1961 Edition with 1965 Supplement

William C. Warren, Professor of Law, Columbia University, and
Stanley S. Surrey, Professor of Law, Harvard University.

**TAXATION, FEDERAL INCOME, 1960 Edition Integrated with 1961 Supplement
and a 1964 Supplement**

Stanley S. Surrey, Professor of Law, Harvard University, and
William C. Warren, Professor of Law, Columbia University.

TORT LAW AND ALTERNATIVES: INJURIES AND REMEDIES (1971)

Marc A. Franklin, Professor of Law, Stanford University.

TORTS, Second Edition (1952)

The late Harry Shulman, Dean of the Law School, Yale University, and
Fleming James, Jr., Professor of Law, Yale University.

TORTS, Fifth Edition (1971)

William L. Prosser, Professor of Law, University of California, Hastings
College of the Law.
John W. Wade, Professor of Law, Vanderbilt University.

TRADE REGULATION, Fourth Edition (1967) with 1970 Supplement

Milton Handler, Professor of Law, Columbia University.

TRADE REGULATION, see Free Enterprise

TRANSNATIONAL LEGAL PROBLEMS (1968) with Documentary Supplement

Henry J. Steiner, Professor of Law, Harvard University,
Detlev F. Vagts, Professor of Law, Harvard University.

TRIAL ADVOCACY (1968)

A. Leo Levin, Professor of Law, University of Pennsylvania,
Harold Cramer, Esq., Member of the Philadelphia Bar. (Maurice Rosen-
berg, Professor of Law, Columbia University, as consultant).

TRUSTS, Fourth Edition (1967)

George G. Bogert, James Parker Hall Professor of Law Emeritus, Uni-
versity of Chicago.
Dallin H. Oaks, President, Brigham Young University.

UNIVERSITY CASEBOOK SERIES — Continued

TRUSTS AND SUCCESSION, Second Edition (1968)

George E. Palmer, Professor of Law, University of Michigan.

UNITED NATIONS IN ACTION (1968)

Louis B. Sohn, Professor of Law, Harvard University.

UNITED NATIONS LAW, Second Edition (1967) with Documentary Supplement (1968)

Louis B. Sohn, Professor of Law, Harvard University.

WATER RESOURCE MANAGEMENT (1971)

Charles J. Meyers, Professor of Law, Stanford University.

A. Dan Tarlock, Professor of Law, Indiana University.

WILLS AND ADMINISTRATION, 5th Edition (1961)

The late Philip Mechem, Professor of Law, University of Pennsylvania,
and

The late Thomas E. Atkinson, Professor of Law, New York University.

WORLD LAW, see United Nations Law

University Casebook Series

EDITORIAL BOARD

LON L. FULLER

DIRECTING EDITOR

Professor of Law, Harvard University

EDWARD L. BARRETT, Jr.

Dean of the Law School, University of California, Davis

JEFFERSON B. FORDHAM

Professor of Law, University of Pennsylvania

HARRY W. JONES

Professor of Law, Columbia University

PAGE KEETON

Dean of the Law School, University of Texas

BAYLESS A. MANNING

Professor of Law, Stanford University

LOUIS H. POLLAK

Professor of Law, Yale University

WILLIAM L. PROSSER

Professor of Law, University of California, Hastings College of the Law

JOHN RITCHIE, III

Dean of the Law School, Northwestern University

SAMUEL D. THURMAN

Dean of the Law School, University of Utah

WILLIAM C. WARREN

Professor of Law, Columbia University

PREFACE

This Fourth Edition of our casebook continues the functional integration of legal concepts pertaining to the transmission of wealth from one generation to the next which we sought in our first three editions, and it continues much the same form of organization utilized in the earlier editions.

Since our last edition went to press, there have been three major developments in the law of decedents' estates and trusts which are reflected in this edition.

First are three decisions by the United States Supreme Court which deal with constitutional problems in this area. In *Labine v. Vincent*, the Court dealt with the status of illegitimates in intestate succession under the equal protection and due process clauses of the Fourteenth Amendment. In *Zschernig v. Miller*, the Court was concerned with the activities of Oregon Courts in administering a statute pertaining to nonresident aliens as these activities might intrude upon the conduct of foreign relations. In *Evans v. Abney*, the Court dealt with state action as applied to a failure by the Georgia Court to exercise its *cy pres* power to save a charitable trust. We develop *Labine* and the problems stemming from *Zschernig* by text and have expanded our textual treatment of aliens in intestate and testate succession. We think it likely that the rationale of *Zschernig* will be extended to cover other areas of state court activity with which we are concerned in this book; for example, state court activity in the administration of gifts for "foreign" charitable purposes, some of which have involved the application of "retention" statutes similar to the Oregon statute. We include *Evans v. Abney* as a principal case in Chapter XI on Gifts to Charity.

A second major development since the appearance of our Third Edition has been the approval of the Uniform Probate Code in 1969 by the National Conference of Commissioners on Uniform State Laws and by the American Bar Association. We have included pertinent sections of the Code in this edition. We believe that the Code will have great influence upon the shape of reform of the probate and related laws in the future and that the sections we present in this book will prove excellent springboards for class discussion.

A third development of importance was the Tax Reform Act of 1969. Although we believe that tax materials are most effectively taught in courses specialized to treatments of tax law, we include tax materials to the extent necessary to point up the tax ramifications of problems being considered. The 1969 Act, having made major changes

PREFACE

in the law pertaining to accumulations of trust income, in the taxation of private foundations, and in the taxation of charitable remainder interests, has required revision of our tax materials. We also attempt to develop briefly for the student the possible impact upon the use of trusts and powers that might stem from enactment by the Congress of the 1969 tax reform proposals of the Treasury Department which are based on studies undertaken in the Johnson Administration and published by the Congressional Tax Committees on February 5, 1969.

There are numerous other additions. Community property materials have been expanded with particular emphasis upon the relationship of community property to elections by the surviving spouse. Several cases are included on "no-contest" clauses and abatement, subjects that were dealt with only by text in the earlier editions. New problems have been added. A number of cases in the Third Edition have been replaced in this edition by cases which we think will prove to be more teachable and stimulating. Also the text and notes have been updated to reflect the extensive legislative activity relating to decedents' estates and trusts that has occurred since the last edition was published.

Although the materials in the book have been expanded and new cases have been added, the book can still be used effectively either in a six hour course or in a four hour course if, in the latter situation, a separate course can be offered in fiduciary administration. The law of intestate succession and wills continues to be developed to a great extent by text, to the end that classroom time can be reduced in these areas.

As we have stated in our prefaces to earlier editions, our view is that teaching materials in decedents' estates and trusts should be designed to train a student in two respects. He should gain a working knowledge of the basic principles underlying the type of practice now generally described as "estate planning" and he should be prepared to conduct litigation that may arise concerning decedents' estates and trusts. Also he should be sensitized to the social and economic goals which these principles serve in order to evaluate critically current methods of wealth transmission and to guide needed reforms. No collection of materials is likely to satisfy both of these requirements. We believe, however, that the cases and materials offered in this edition can be presented, with such deletions or additions as the teacher chooses, so as to excite the interest of students and equip them, when supplemented by courses in taxation, to discharge their professional responsibilities as members of the bar engaged in the practice of the law of decedents' estates and trusts.