

G R I L L O T ' S

# INTRODUCTION TO LAW AND THE LEGAL SYSTEM

S C H U B E R T

SIXTH EDITION





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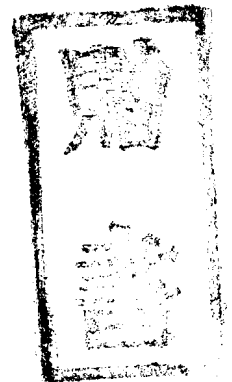
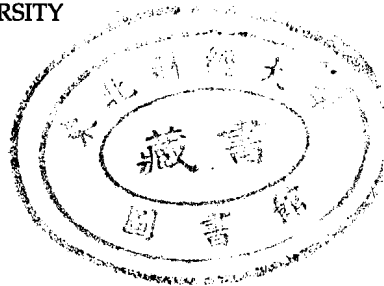
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# *Grilliot's Introduction to Law and the Legal System*

*Sixth Edition*

**Frank A. Schubert**

NORTHEASTERN UNIVERSITY



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# Preface

This book provides an introduction to a topic every educated citizen should know about—law and the American legal system. It gives students an interesting and exciting means of developing an understanding of the strengths and weaknesses of law. A basic understanding of law's philosophical, historical, and cultural antecedents and its fundamentals promotes a better understanding of the role law plays in a complex modern society. From this understanding, students can decide for themselves whether the lawmaking institutions—the legislative, judicial, and administrative agencies—are dealing adequately with society's many problems.

This text is designed to stimulate students to exercise their powers of reasoning. Students read case reports of real-world problems along with textual and appellate court discussions of alternative approaches and theories to resolving the underlying disputes. Case analysis helps students to develop an understanding of legal method and legal reasoning.

This course is designed for basic law courses offered in any graduate or undergraduate program. It is a survey of the American legal system that can be used in courses such as Survey of Law, Introduction to Law and the Legal System, Legal Environment of Business, and Legal Process. This course could be an integral part of a business, political science, criminal justice, interdisciplinary, paralegal, or any other similar program in an institution of higher education.

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## New to the Sixth Edition

The Sixth Edition includes a new chapter on family law that was added to reflect the tremendous interest that has been shown in this topic in recent years. Concerns about the legal definition of what constitutes a family, the

duties and obligations of family members, and the role of law in divorce and adoption proceedings are issues about which students have personal experience, strong beliefs, and much curiosity. Family-related topics lend themselves to spirited class participation and create a vehicle for talking about broader and fundamental issues of substantive and procedural public policy.

The importance of legislation as a source of American law has been emphasized and integrated with the previously existing discussion of judicial lawmaking in a chapter entitled Institutional Sources of American Law. Throughout the text, new cases which have proven to be more effective teaching tools in the classroom have replaced previous choices. The discussions of civil procedure and alternative dispute resolution have been significantly rewritten to improve clarity. A discussion of the important topic of tort reform has also been added.

Instructors will probably differ as to whether the Civil Procedure chapter should precede Institutional Sources of American Law. I prefer the current sequencing because it has been my experience in teaching this subject for twenty years that students have an easier time reading and understanding case reports after they have studied civil procedure. However, instructors can easily assign the chapters to suit their own preferences.

Most case footnotes have been deleted. When footnotes were retained, original numbers have been used. Many citations have similarly been omitted, as well as less important portions of majority opinions. Ellipses have been inserted to indicate such omissions.

## Teaching and Learning Aids

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Law, like other disciplines, has a language of its own. A glossary of selected terms from *The Law Dictionary (Cochran's Law Lexicon, 6th Edition)* is included at the end of the book to help students. The Constitution of the United States is also reprinted there.

*Grilliot's Introduction to Law and the Legal System* is accompanied by a *Study Guide* and an *Instructor's Resource Manual*. The *Study Guide* provides students with case summaries and a series of review exercises to test comprehension. Case summaries and case questions appear in the *Instructor's Resource Manual*, followed by a section of test items for each chapter, including completion, true-false, multiple choice, and essay questions.

## Acknowledgments

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This revision would not have been possible without the valuable contributions of several people. The following reviewers were instrumental in shaping the Sixth Edition:

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The manuscript for the Sixth Edition was also significantly improved by the dedicated professionals at Houghton Mifflin. Special thanks are extended to Denise Clinton, Bonnie Binkert, Kelly Faughnan, Joan Horan, Nancy Doherty Schmitt, and Kate Burden.

Finally, I'd like to thank my wife, Barbara; my daughter, Tracy Lea; and my son, Andy for their continuing support, patience, and understanding throughout the duration of this project. This edition is dedicated to my father, Professor Glendon A. Schubert of the University of Hawaii, to honor his fifty years of college teaching and to thank him for kindling my interest in law.

F.A.S.

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# *Contents*

Preface   xxiii

## **I INTRODUCTION   1**

---

WHAT IS LAW?   1

Law as Power   1

Natural Law   2

Historical Jurisprudence   2

Utilitarian Law   3

Analytical Positivism   4

Legal Realism   5

Sociological Jurisprudence and Legal Sociology   5

OBJECTIVES OF LAW   6

Continuity and Stability   6

Adaptability   7

Justice, Speed, and Economy   7

Determining Desirable Public Policy   8

ORIGIN OF LAW IN THE UNITED STATES   9

The Origins of English Common Law   9

The Norman Invasion   10

The Development of the Common Law	11
The Origin of the English Equitable Court	13
READING CASES	15
<i>E.I. Du Pont de Nemours &amp; Co., Inc. v. Christopher</i>	15
CASE ANALYSIS	19
Sample Brief	21
CONSTITUTIONAL POLICYMAKING	23
<i>Cruzan v. Director, Missouri Dept. of Health</i>	23
DUE PROCESS	30
Substantive Due Process	31
Substantive Due Process and Economic and Social Regulation	32
The Scope of Substantive Due Process	33
<i>Kolender, Chief of Police of San Diego, v. Lawson</i>	33
Procedural Due Process	37
<i>Goss v. Lopez</i>	38
CRIMINAL AND CIVIL LAW	42
<i>Katko v. Briney</i>	44
TORT AND CONTRACT LAW	49
Torts	49
Contracts	49
<i>Suggs v. Norris</i>	50
<b>Chapter Questions</b>	53
<b>Notes</b>	56
 <b>II THE JUDICIAL SYSTEM</b>	 59
COURTS	59
Trial Courts	60
Appellate Courts	61
STATE COURT SYSTEMS	62
JURISDICTION	62
Subject Matter Jurisdiction in State Court	63
<i>In the Matter of the Application of Arthur Hyde RICE to Register and Confirm Title to Land Situated in Kailua, District of Koolaupoko, Oahu, City and County of Honolulu, State of Hawaii</i>	64



Jurisdiction Over the Person	65
Long-Arm Statutes	66
<i>In Personam</i> Jurisdiction Over Corporations	67
Jurisdiction Over Property— <i>In Rem</i> Jurisdiction	69
Procedural Due Process Requirements	69
<i>Calder v. Jones</i>	69
Venue	72
<i>In re Union Carbide Corporation Gas Plant Disaster at Bhopal, India, in December 1984</i>	73
THE FEDERAL COURT SYSTEM	77
THE U.S. DISTRICT COURTS	77
Subject Matter Jurisdiction	77
The Plaintiff's Choice of Forum	79
<i>Ramírez de Arellano v. Eastern Airlines, Inc.</i>	79
<i>In Rem</i> or <i>In Personam</i> Jurisdiction	83
Venue in Federal Courts	83
Removal from State to Federal Courts (Removal Jurisdiction)	83
<i>Gatch v. Hennepin Broadcasting Associates, Inc.</i>	84
The <i>Erie</i> Doctrine	85
<i>Carson v. National Bank</i>	86
THE 13 U.S. COURTS OF APPEALS	88
THE U.S. SUPREME COURT	89
<i>Chapter Questions</i>	92
<i>Notes</i>	95

### III CIVIL PROCEDURE 96

---

A PROCEDURAL PRIMER	97
PROCEEDINGS BEFORE A CIVIL TRIAL—A CLOSER LOOK	100
Hiring a Lawyer	100
<i>Fracasse v. Brent</i>	101
The Pleadings	105
Methods of Service	107
<i>Dorsey v. Gregg</i>	109
Pretrial Motions	110
<i>Meyers v. Ramada Hotel and Operating Co., Inc.</i>	111

Discovery and Pretrial Conference	114
<i>Downey v. Dixon</i>	115
CIVIL TRIALS	117
Selection of the Jury	117
Opening Statements and Examination of Witnesses	119
<i>Alexander v. Chapman</i>	121
RULES OF EVIDENCE	125
Relevance and Materiality	125
Competency	125
The Best Evidence Rule	126
The Hearsay Rule	126
Privileges	126
<i>Cline v. William H. Friedman &amp; Assoc.</i>	127
Trial Motions	129
Jury Verdict and Posttrial Motions	130
<i>Cody v. Atkins</i>	130
Judgment and Execution	134
<i>Newhouse v. Farmers National Bank</i>	134
<b>Chapter Questions</b>	<b>136</b>
<b>Notes</b>	<b>140</b>

#### **IV INSTITUTIONAL SOURCES OF AMERICAN LAW 141**

---

COMMON LAW AND CIVIL LAW LEGAL SYSTEMS	141
CONSTITUTIONS	142
LEGISLATION	142
The Power to Legislate	144
Federal Government	144
State Government	145
Federal Supremacy	145
Constitutionality of Statutes	146
<i>Ex Post Facto</i> Laws	147
Statutory Construction	148
ADMINISTRATIVE AGENCIES	149

JUDICIAL DECISION MAKING	149
Following Precedent	150
The Holding and Rule of the Case	151
<i>State v. Butler</i>	152
Requirements for a Precedent	155
The Retroactive Versus Prospective Application Question	155
<i>Adkins v. Sky Blue, Inc.</i> ,	155
Absence of Precedent	160
<i>Strunk v. Strunk</i>	161
RECOGNIZING LAWS OF OTHER STATES AND COUNTRIES	165
Conflict of Laws	165
Tort Cases	166
<i>Hubbard Manufacturing Co., Inc., v. Greeson</i>	166
Contract Cases	168
Full Faith and Credit	169
<i>GNLV Corporation v. Jackson</i>	170
Comity	171
<i>Somportex Limited v. Philadelphia Chewing Gum Corporation</i>	171
 Chapter Questions	 174
Notes	177
 V LIMITATIONS IN SEEKING RELIEF	 178
CASE OR CONTROVERSY	178
<i>American Postal Workers Union v. Frank</i>	179
MOOTNESS	182
<i>DeFunis v. Odegaard</i>	183
POLITICAL QUESTIONS	186
<i>Belk v. United States</i>	186
THE ACT OF STATE DOCTRINE	189
STATUTE OF LIMITATIONS	189
<i>Marybeth Atkins v. Jiminy Peak, Inc.</i>	192
RES JUDICATA	195
<i>Caporino v. Lacasse</i>	196
IMMUNITY FROM LEGAL ACTION	198
Sovereign Immunity	198

Immunity of Government Officials	199
<i>Forrester v. White</i>	200
Charitable Immunity	203
<i>Thompson v. Mercy Hospital</i>	204
Immunity Among Family Members	205
<i>Hurst v. Capitell</i>	206
Immunity Through Contract	208
<i>Gimpel v. Host Enterprises, Inc.</i>	208

**Chapter Questions** 210

**VI JUDICIAL REMEDIES 214**

---

**COMMON LAW REMEDIES 214**

Compensatory Damages	216
<i>Macomber v. Dillman</i>	217
Punitive Damages	222
<i>Volz v. Coleman Co., Inc.</i>	223
Nominal Damages	226
Liquidated Damages	226
<i>Lakewood Creative Costumers v. Sharp</i>	227

**EQUITABLE REMEDIES 229**

Injunctions	229
<i>Gano v. School District No. 411 of Twin Falls County, Idaho</i>	230
Reformation and Rescission	232
<i>Department of Transportation v. Ronlee, Inc.</i>	233
Court of Conscience	236
<i>Campbell Soup Company v. Wentz</i>	237
Equitable Maxims	239
<i>New York Football Giants v. Los Angeles Chargers Football Club</i>	240
Specific Performance	242
<i>Bloch v. Hillel Torah North Suburban Day School</i>	244
Restitution	245
<i>Iacomini v. Liberty Mutual Insurance Company</i>	246
Declaratory Judgment	248
Jury Trial	249
<i>State v. Yelsen Land Company</i>	249

**Chapter Questions** 251

**Notes** 255

**VII CRIMINAL LAW AND PROCEDURE 256**

---

**CRIMINAL LAW 256**

Sources of American Criminal Law 257

Classification of Crimes 257

Constitutional Limitations on Criminalization 258

*Loving v. Commonwealth of Virginia* 259

The Imposition of Punishment 263

**THE BASIC COMPONENTS OF A CRIMINAL OFFENSE 263**

The Wrongful Act 263

*People v. Shaughnessy* 264

Special Rules 266

Status Crimes 267

The Criminal State of Mind 267

*State v. Gordon* 268

Strict Liability 273

Vicarious Liability 273

Causation 274

*Commonwealth v. Berggren* 274

Inchoate Crime 276

The Racketeer Influenced and Corrupt Organization Act 277

Defenses 277

*United States v. Scott* 278**CRIMINAL PROCEDURE 282****PROCEEDINGS PRIOR TO TRIAL 282**

Arrest 283

*Draper v. United States* 283

Investigatory Detentions (Stop and Frisk) 288

*Adams v. Williams* 288

Custodial Interrogation 291

Searches and Seizures 292

*New Jersey v. T.L.O.* 293

Bail 298

*United States v. Salerno* 299

The Right to an Attorney 304

Line-ups 305

Preliminary Hearing and Grand Jury 305

Arraignment	306
THE CRIMINAL TRIAL	306
<i>Sullivan v. Louisiana</i>	309
Trial by Jury	311
Fair and Public Trial	312
Right to a Speedy Trial and Cross Examination	312
The Prosecutor's Role	312
Sentencing	312
Appeal	313
Habeas Corpus	313
<b>Chapter Questions</b>	<b>314</b>
<b>Notes</b>	<b>318</b>

## VIII FAMILY LAW 320

---

INTRODUCTION	320
<i>Wisconsin v. Yoder</i>	321
THE FAMILY	330
What Is a Family?	330
<i>Moore v. City of East Cleveland, Ohio</i>	331
CREATING FAMILY RELATIONSHIPS	337
Marriage	337
<i>Zablocki v. Redhail</i>	338
Marriage Solemnization Ceremonies	342
Common Law Marriages	342
Adoption	342
Matching	343
<i>Adoption of Tammy</i>	346
Voluntary/Involuntary Adoption	350
The Adoption Petition	351
<i>Lehr v. Robertson</i>	351
Interim Orders	356
Foster Care	356
FAMILY RELATIONS IN ONGOING FAMILIES	357
Spousal Considerations	357



Decision Making Within Traditional Families	358
Evidentiary Privileges	359
The Parent-Child Relationship	359
<i>State ex rel. Hermesmann v. Seyer</i>	359
Child Support	363
<i>Nash v. Mulle</i>	364
Noneconomic Obligations	370
Parental Immunity from Suit by Child	370
ENDING SPOUSAL RELATIONSHIPS	370
Annulment	370
Legal Separations	371
Divorce/Dissolution	371
Jurisdictional and Procedural Considerations	374
Jurisdiction	374
Procedure	374
Allocation of Financial Obligations	375
Court-ordered Alimony	375
Child Custody and Child Support	376
<i>In re Marriage of Riddle</i>	377
Preferred Custody Statutes	379
Child Support	380
Property Division	380
Common Law/Equitable Distribution Approach	381
<i>O'Brien v. O'Brien</i>	381
Determining Fairness	387
Community Property Approach	387
Conclusion	388
<i>Chapter Questions</i>	388
<i>Notes</i>	391

## IX CONTRACTS 395

---

A BRIEF HISTORY OF AMERICAN CONTRACT LAW	395
NATURE AND CLASSIFICATION OF CONTRACTS	397
Valid, Void, Voidable, and Unenforceable Contracts	397
Bilateral and Unilateral Contracts	398

AGREEMENT	398
Offer	399
Termination of an Offer	399
Acceptance	400
<i>Pluhacek v. Nebraska Lutheran Outdoor Ministries, Inc.</i>	401
REALITY OF CONSENT	403
Duress	404
Undue Influence	404
Fraud	405
Misrepresentation	406
Mistake	406
<i>Carter v. Matthews</i>	406
CONSIDERATION	408
<i>Modern Laundry and Dry Cleaning v. Farrer</i>	410
CAPACITY	413
Minors	413
Transactions a Minor Cannot Avoid	413
Disaffirmance of Contract	414
Insane People	415
ILLEGALITY	416
Contracts Against Public Policy	417
<i>Principal Casualty Insurance Company v. Blair</i>	417
Agreements to Commit Crimes	419
Agreements to Commit Civil Wrongs	419
<i>Diaz v. Indian Head, Inc.</i>	420
WRITING	422
Agreement by Executor or Administrator	423
Agreement in Consideration of Marriage	423
Agreement to Answer for the Debt of Another	423
Agreements Not to Be Performed in One Year	424
Agreement Conveying an Interest in Real Property	424
<i>Mulford v. Borg-Warner Acceptance Corp.</i>	425
Sale of Goods	426
Parol Evidence Rule	426
<i>Jinright v. Russell</i>	427

ASPECTS OF CONTRACT PERFORMANCE	428
Accord and Satisfaction	428
Anticipatory Repudiation	429
Warranties	429
Discharge, Rescission, and Novation	429
Transfers of Duties and Rights	430
<i>Macke Company v. Pizza of Gaithersburg, Inc.</i>	431
Contracts for the Benefit of Third Parties	433
<i>Castorino v. Unifast Bldg. Products</i>	433
The Duty to Perform and Breach of Contract	435
<i>Clarkson v. Orkin Exterminating Co., Inc.</i>	436
REMEDIES FOR BREACH OF CONTRACT	438
Common Law Remedies	438
<i>Anuszewski v. Jurevic</i>	438
Punitive Damages	440
<i>Hibschman Pontiac, Inc. v. Batchelor</i>	440
Equitable Remedies	443
UCC Remedies for Breach of Contract for the Sale of Goods	444
 <i>Chapter Questions</i>	 444
<i>Notes</i>	448

## X PROPERTY 449

---

### HISTORICAL DEVELOPMENT OF THE REGULATION OF REAL PROPERTY 449

#### CLASSIFICATIONS OF PROPERTY 451

*Far West Modular Home Sales, Inc. v. Proaps* 452

#### Property Ownership 454

#### Title 455

#### GOVERNMENT'S RIGHT TO REGULATE AND TAKE PRIVATE PROPERTY 455

#### Zoning 456

#### Eminent Domain 456

#### *Dolan v. City of Tigard* 458

#### Taxation 469