

LEGAL METHODS

UNDERSTANDING AND USING CASES AND STATUTES

SECOND EDITION

PETER L. STRAUSS

FOUNDATION PRESS

75TH ANNIVERSARY

LEGAL METHODS: UNDERSTANDING AND USING CASES AND STATUTES

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by

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Columbia University School of Law

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For Joanna

PREFACE

Some debts need to be acknowledged, and it may be useful to you, whom I imagine as now for the first time reading law school materials, to have a word or two about usage.

The debts are chiefly to my colleagues Professors Emeritus John Kernochan and Arthur Murphy, who for years have permitted me to use substantial portions of their Second Edition of **Jones, Kernochan & Murphy, Legal Method: Cases and Text Materials** (1980).

As these materials have progressed over the years, my colleague Kent Greenawalt has been endlessly helpful and patient in suggesting improvements and relaying the suggestions of his students. This version includes brief excerpts from his recent book, **Statutory Interpretation: Twenty Questions**, which is an important supplementary reading for any course like this one. My debts to John Fabian Witt, another colleague and the author of **The Accidental Republic – Crippled Workingmen, Destitute Widows, and the Remaking of American Law**, will also be evident. Associates with whom I have taught these materials – Cristie Ford and Anil Kalhan most recently – have helped me understand what beginning law students would find unfamiliar. Many students, too, have been helpful in research and in the details of producing a work such as this; Lori Outtz '95, Christopher Cross, Elaine Golin and Julia Tarver '96, Tim Tanner '97, Alex Wilson '06, Sangyoon Park, Kathleen Reeder, Rachel Rubenson, and Michael Sanchez '07, Robert Weinstock '09, and Devi Rao '10 stand out in memory. Tanisha Madrid and Kristie Hart have patiently typed and retyped these materials, with help from several others. Any errors are of course my own.

For this edition, special thanks are owing to another Columbia Associate, Aref Amanat, BCL and LL.B. McGill '03. Principal among the changes from the first edition of this text, alongside recent developments in American caselaw and legal literature, has been the integration of much more extensive material respecting the other great legal tradition of the western world, the civil law. Unique among law schools in the Americas, McGill's Faculty of Law teaches the civil and common law traditions transsystemically, observing their differences but not giving either pride of place – just as you will find your classes do with the variations in the common law found among American states. Given the global economy, given the integration of Europe reflected in the European Union, American law schools, too, will

need to find ways to make our students aware of and comfortable with the civilian as well as the common law tradition. The added civilian materials of this book are no more than a start in that direction, and Mr. Amanat has been of enormous assistance in producing them.

Regarding usage: like the editors of most casebooks you will read, I have felt free to delete some footnotes, to renumber footnotes generally, and to delete citation materials without indicating to you that I have done so. With these exceptions, deletions from quoted materials are indicated by three-period ellipses, thus: “...” Where the ellipses stand alone, you can be sure that at least a paragraph was omitted. However, other uses – at the beginning or end of paragraphs or in the middle of paragraphs – do *not* signal how much material was removed. While the order of edited materials is never changed from what appears in the original, I have preferred to give only one deletion signal. Thus, the signal only tells you that there has been a deletion, and not how much material has been deleted.

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PLS

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