

LAW OF FEDERAL COURTS

Charles Alan Wright

Hornbook Series



HANDBOOK
ON THE LAW OF
FEDERAL COURTS

By

CHARLES ALAN WRIGHT

Charles T. McCormick Professor of Law
The University of Texas

THIRD EDITION

HORNBOOK SERIES

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POVERTY LAW

- Brudno's Poverty, Inequality, and the Law: Cases-Commentary-Analysis, 934 pages, 1976 (Casebook)
- Cooper, Dodyk, Berger, Paulsen, Schrag and Sovern's Cases and Materials on Law and Poverty, 2nd Ed., 1208 pages, 1973 (Casebook)
- LaFrance, Schroeder, Bennett and Boyd's Hornbook on Law of the Poor, 558 pages, 1973 (Text)
- See also Social Legislation

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PROPERTY

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See also Poverty Law

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- Shapo's *Cases on Tort and Compensation Law*, 1244 pages, 1976 (Casebook)
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- Gulliver's *Introduction to the Law of Future Interests*, 87 pages, 1959 (Casebook)—reprint from Gulliver's *Cases and Materials on Future Interests*, 1959
- Halbach (Editor)—*Death, Taxes, and Family Property: Essays and American Assembly Report*, 189 pages, 1977 (Text)
- Mennell's *Cases and Materials on California Decedent's Estates*, 566 pages, 1973 (Casebook)
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- Simes' *Hornbook on Future Interests*, 2nd Ed., 355 pages, 1966 (Text)
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- Uniform Probate Code, 5th Ed., Official Text With Comments, 384 pages, 1977
- Waggoner's *Future Interests in a Nutshell*, 361 pages, 1981 (Text)

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- Trelease's *Cases and Materials on Water Law*, 3rd Ed., 833 pages, 1979 (Casebook)
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WILLS

- See *Trusts and Estates*

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- Kay's *Text, Cases and Materials on Sex-Based Discrimination*, 2nd Ed., approx. 1030 pages, 1981 (Casebook)
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PREFACE TO THIRD EDITION

In the Second Edition of this book, published in 1970, provision was made for a Pocket Part, and indeed a Pocket Part was published in 1972, primarily because of the decision in *Younger v. Harris*, 91 S.Ct. 746, and its companion cases. In the fall of 1975 I began work on a new Pocket Part, but after I had done a part of that it seemed clear to me that so much of significance had occurred in this field that a Pocket Part would have been voluminous and that it would be far more convenient for users of the book if I were to prepare a new edition, in which the discussion of the recent developments could be integrated with what had occurred earlier.

As in the past, this book makes frequent references to the multi-volume *Treatise on Federal Practice and Procedure*, which I have been writing in collaboration with Professors Arthur R. Miller and Edward H. Cooper. Those who wish more detail on matters discussed here will find it by going to the cited portions of the *Treatise*. In addition, so many references are made in this book to the American Law Institute Study of Division of Jurisdiction between State and Federal Courts (Official Draft, 1969), that a short form of reference, "ALI Study," has been used.

The manuscript of this Third Edition went to the publisher in April, 1976, and in general the book covers only those decisions and other materials that were available to me prior to that date. It has been possible, however, to incorporate decisions of the Supreme Court through the end of its term in July, 1976, and a few other later developments of great importance, including the Act of August 12, 1976, which substantially abolishes three-judge courts.

One of my students, Stephen Greenberg, read a large part of the manuscript for this edition, and pointed out many places where revision was needed if the book were to be understandable to law students. I am very grateful to him for that assistance.

In the Preface to the First Edition I suggested that the needs of law students are far different from those of lawyers and judges and said that this work was intended for students. It was and is. But I underestimated the extent to which all of us in the legal profession remain students throughout our lives, and it has been highly gratifying to see the extent to which courts and lawyers have found the earlier editions of the book useful.

The Preface to the First Edition is not retained in this edition simply as a monument to my own failure to appreciate the needs of lawyers and judges. A more important reason is to preserve what I said then about my dear friends and mentors, Charles E. Clark and Charles T. McCormick.

PREFACE TO THIRD EDITION

The First Edition of this book was published in September, 1963. Before the end of that year both Judge Clark and Dean McCormick were dead. I miss them very much.

CHARLES ALAN WRIGHT

Austin, Texas
August, 1976