
CASES AND MATERIALS

PROPERTY

SEVENTH EDITION

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*Dedicated to the thousands of law students who were
introduced to the law of property in the first six
editions of this casebook.*

*

PREFACE TO THE SEVENTH EDITION

This Seventh Edition of Cases and Materials on Property traces its “chain of title” back to 1960 with the publication of Cribbet, Fritz and Johnson’s casebook on the same subject. If the editors maintain their past schedule of a revised casebook every six years, the Eighth Edition will appear in a new century—the year 2001. Society, law and other things that matter have been vastly altered in the decades since 1960, but the basic importance of property as an institution has not changed. Indeed, the role of property has assumed added significance as many world societies struggle to enter a market economy and to develop legal systems that have some semblance to the relatively stable property systems of the west. In this chaotic world, it is important for American lawyers to understand the history and principles that have formed our institution of property and particularly of the law of land, which remains one of our most vital national assets.

This casebook, like previous editions, was prepared on the assumption that property law is one of the basic building blocks of the all-important first year of law school. Advanced courses in the curriculum will provide more detailed coverage of specific areas of property law, but every student should be introduced to the basic concepts underlying our sophisticated (and sometimes arcane) property doctrines. Our goal is to provide an understanding of those doctrines and to paint the “big picture” into which can be inserted the individual pieces of the grand mosaic which is the Anglo-American property system.

The preface and table of contents to earlier editions, if reprinted, would show the incremental changes that have led to the evolution of the modern law of property. Some areas have declined in importance, others have moved center stage, and some, like the “jurisprudence of taking,” are still evolving under the pressure of a changing polity. Property rights still have a reputation for permanence that ignores the changing economic factors and social conditions which are reflected in the mirror of the law. Nonetheless, this undeserved reputation does reveal a modicum of truth: property law is a relatively stable platform in the shifting sands of modern American jurisprudence. This edition reflects that debt to the past while demonstrating the principal areas of change.

This casebook, like its predecessors, was prepared for a six-hour course (three hours each semester), and it would take that much classroom time to cover adequately the materials encompassed herein. For law schools where six hours is still allotted to the basic course, this book provides the material for substantial coverage of the “big picture.” We are realists, however, and we know that many law schools now require a reduced coverage of the classic course. We considered producing a truncated casebook that would be designed for a four or five hour course but, because of the wide pattern of curriculum development, we decided, wisely we hope, to retain the scope of prior editions and allow the individual professor to decide which materials most nearly meet his or her requirements. For example, a teacher might decide to omit all of Part Five—The Sale of Land, and leave that material to an advance course in real estate finance, or to delete Part Four—Public Interests in Land, and settle for an upper level course in land use planning. Similarly, the personal property material could be omitted and the course begun with Part Three—Private Interests in Land, etc. Obviously, the patterns are various but we hope that we have provided enough teachable materials so that the individual professor can shape the course which best meets the needs of his or her law school.

In this edition, Professor Cribbet assumed primary responsibility for Chapters 1–6 and 13–16, Professor Johnson for Chapters 7–12, 19–22, and Section 2D of Chapter 18; Professor Findley for Chapters 23–26; and Professor Smith for Chapters 17–18, except Section 2D of Chapter 18.

We express our gratitude to others who have assisted us in this endeavor. We are especially indebted to over 100 teachers of property who responded to our request for suggestions for the Seventh Edition.

JOHN E. CRIBBET
CORWIN W. JOHNSON
ROGER W. FINDLEY
ERNEST E. SMITH

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