

## PREFACE

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First published in 1951 by Harvard Professors A. James Casner and W. Barton Leach, *Cases and Text on Property* established the contours of the modern Property course, integrating into one casebook material previously taught in separate courses including personal property, estates in land, future interests, conveyancing, and landlord and tenant. Through subsequent editions, the book has evolved to reflect continuing changes in property law and the society it serves. The increasing importance of intellectual property, common interest communities, and constitutional limits on the ability of government to acquire and regulate property, as well as other changes, are reflected in the materials included in this seventh edition.

In the sixth edition we responded to changes in the first year curriculum that cut the number of hours devoted to Property and increased student options to pursue, or opt out of, studying land transactions, zoning, marital property, and trusts and wills. We cut back from 1,370 pages in the fifth edition to 944 in the sixth. Chapters on medieval land law and zoning were cut entirely and coverage of marital property was limited to a note that covers the differences between community and common law property regimes, the question whether professional degrees, celebrity status, and frozen ova, sperm, and embryos are marital property subject to division on divorce, rights of the surviving spouse on death of the first spouse, and pre-marital agreements. We also replaced a number of principal cases with notes and ruthlessly edited those that remained, a practice we continued in this edition. We have not cut many pages from this seventh edition, but we have managed to update and add new material without increasing the length of the book.

Major changes in this edition include a reorganization of Chapter 4 to begin with copyright, followed by trademark and trade dress, right of publicity, and patent law. In the copyright section we have added notes on the Google and TVEyes cases and, in the patent law section, we have added *Impression Products, Inc. v. Lexmark Int'l, Inc.*, an important new case on patent exhaustion. In Chapter 6, *Marbar, Inc. v. Katz* replaces *Sigsbee Holding Corp. v. Canavan*, *Craig Wrecking Co. v. S.G. Loewendick & Sons, Inc.* replaces *Jordan v. Talbot*, and *Vallely Investments, L.P. v. Bancamerica Commercial Corp.* replaces *Kelly v. Tri-Cities Broadcasting, Inc.* In Chapter 9, *Sparks v. Fidelity Nat'l Title Ins. Co.* replaces *Tristram's Landing v. Wait* and *Coons v. Carstensen* replaces *Conklin v. Davi*. In Chapter 13, a new subsection highlights coverage of the public trust doctrine and two new Supreme Court cases have been added: *Murr v. Wisconsin* and *Horne v. Dep't of Agriculture*. There is a final note on *Knick v. Township of Scott*, which may overturn the ripeness doctrine of *Williamson County Regional Planning Commission v. Hamilton Bank of Johnson City*.

Professors Casner and Leach ended their Preface to the second edition of this book, in 1969, by saying: “*We wonder why all of our colleagues are not fighting to get a chance to teach the first-year property course. We can only surmise that they want to live*

*more sheltered lives. We do not envy them.*" We, too, would not trade places with our colleagues. Property is a fascinating and ever-evolving subject.

- Property law engages some of the most important and contentious topics of our time including allocation, use, and conservation of natural resources; protection of and access to the fruits of intellectual and creative activity; land use regulation; condemning land for private industry; privatizing local government through common-interest communities; improving substandard housing; and eliminating discrimination in housing.
- Property law involves some of the most immediate and personal of human interactions such as buying a house or renting an apartment; fighting with neighbors over noise, smells, pets, water, and boundaries; protecting property against trespassers; making gifts; providing for the family on death; dividing property on divorce.
- Property law draws the attention of some of the most interesting legal thinkers of our time, as it has in prior generations. The literature is rich.

The materials in this book are designed to expose students to the broad sweep of property law and to allow them to gain the basic knowledge critical to understanding property issues and relationships. They engage students in searching analysis of the policy choices that face judges and legislatures and help them move along the road to becoming lawyers and scholars. The materials have been selected not only for their ability to teach law, lawyering, and legal analysis, and to highlight significant policy issues, but also with an eye to the human dramas and real-life consequences that make studying Property so interesting, as well as so important. The style and presentation are designed to be user-friendly with informative notes, examples, and charts. Questions and problems throughout the book focus attention in the soundness of rulings, examine the underlying policy issues, and encourage students to think beyond the decided cases.

To improve readability of the materials, we have sometimes omitted text, citations, corrected apparent typographical and spelling errors, and broken up or combined paragraphs in opinions without noting the intervention. Footnotes by the court or a quoted author retain their original numbers; footnotes we have added are numbered consecutively throughout a chapter. Some, but not all, textual omissions are indicated by ellipses.

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