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Understanding Property Law

FIFTH EDITION

John G. Sprankling

PROFESSOR OF LAW
UNIVERSITY OF THE PACIFIC
MCGEORGE SCHOOL OF LAW



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For Gail, Doug, Tom, Alexis, and Addy.

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Preface

The goal of this book is simple: to help you understand property law. It is designed for law students who are taking the standard first-year course in property. Thus, it (a) explains the basic principles of property law in the United States and (b) discusses the policy concerns and historical currents that shape this law. Accordingly, the book can be used as a supplement to any property casebook. At the same time, I hope that it will be useful to attorneys, judges, and scholars as a general survey of property law doctrine, history, and theory.

Property law reflects a society's fundamental economic, political, and social choices. First, it determines how the society allocates its resources—and thus how it distributes its wealth. Who owns a particular farm or factory? Or a particular invention? Property law answers these questions.

Second, the distribution of wealth, in turn, affects political power. Indeed, American property law still mirrors Thomas Jefferson's view that property is necessary for democratic self-government.

Finally, property law embodies our core social values, such as protection of individual liberty and freedom from discrimination. As a result, the study of property law is both challenging and fascinating.

Many people contributed to this book, and I owe them my thanks. Dean Michael Hunter Schwartz and Associate Deans Mary Beth Moylan and Frank Gevurtz provided constant support. In preparing this edition, I benefited from the insights of colleagues who teach property at law schools across the country. Finally, the entire Carolina Academic Press team was a pleasure to work with throughout the editorial and production process.

I am grateful to my former partners at Miller, Starr & Regalia, especially Harry Miller, Marvin Starr, and Edmund Regalia; their treatise on California real estate law inspired the first edition of this book. I also honor the contributions that other treatise authors—especially Roger Cunningham, Joseph Singer, William Stoebuck, and Dale Whitman—have made toward our understanding of American property law.

Most importantly, I thank my wife Gail Heckemeyer for her loving encouragement and careful proofreading.

I welcome your comments, criticisms, and suggestions. Please write me at the University of the Pacific, McGeorge School of Law, 3200 Fifth Avenue, Sacramento, CA, 95817 or email me at jsprankling@pacific.edu.

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May 2022