The Law Of Property Clarendon Law Series

Written by the Law Commissioner responsible for land law, this second edition is an invaluable resource for students new to the subject. It provides a clear overview of the subject, details key cases, and offers both a clear explanation of how the law works and insights into how property lawyers think.

The law of personal property covers a very wide spectrum of scenarios and has had little detailed scrutiny of its overarching structure over the years. This is a shame. It is a system and can best be understood as a system. Indeed without understanding it as a system, it becomes much more difficult to understand. This new textbook is intended to provide a comprehensive and yet detailed coverage of the law of personal property in England and Wales. It includes transfer of legal title to chattels, the nemo dat rule, negotiable instruments and assignment of choses in action. It also looks at defective transfers of property and the resulting proprietary claims, including those contingent on tracing, the tort of conversion, bailment and security interests. By bringing together areas often scattered throughout company law, commercial law, trusts and tort textbooks, it enables readers to see common themes and issues and to make otherwise impossible generalisations across different contexts about the nature of the concepts English law applies. Throughout the book, concepts are explained rigorously, with reference to how they are used in commercial practice and everyday life. The book will be of use to students on undergraduate commercial law courses, or related LLM courses, as well as those on integrated property law courses, and particularly specialised personal property modules. It will also be useful to academics and practitioners working in the area.

This book is a collection of papers given at the sixth biennial conference at the University of Reading held in March 2006, and is the fourth in the series Modern Studies in Property Law. The Reading conference has become well-known as a unique opportunity for property lawyers to meet and confer both formally and informally. This volume is a refereed and revised selection of the papers given there. It covers a broad range of topics of immediate importance, not only in domestic law but also on a worldwide scale.

Here is an introduction to the intellectual challenges presented by law in the western secular tradition. Treating not just British law, but the whole western tradition of law, Professor Honore guides the reader through eleven topics which straddle various branches of the law, including constitutional and criminal law, property, and contracts. He also explores moral and historical aspects of the law, including a discussion of justice and the difference between civil and common law systems. The law, Honore argues, is mainly concerned with the question of obedience to authority, and establishing the situations in which obedience is required and those in which it may be waived ought to be the central concern of all legal theorists.

In this book, Buckle provides a historical perspective on the political philosophies of Locke and Hume, arguing that there are continuities in the development of seventeenth and eighteenth-century political theory which have often gone unrecognized. He begins with a detailed exposition of Grotius's and Pufendorf's modern natural law theory, focussing on their accounts of the nature of natural law, human sociability, the development of forms of property, and the question of slavery. He then shows that Locke's political theory takes up and develops these basic themes of natural law. The author argues further that, rather than being a departure from this tradition, the moral sense theory of Hutcheson and Hume represents a not entirely successful attempt to underpin the natural law theory with an adequate moral psychology.

This invaluable introduction to the study of the conflict of laws provides a survey and analysis of the rules of private international law as they apply in England. Written to take account of the various possible outcomes of the Brexit process, it goes as far as is possible to make sense of the effect it will have on English private international law. The volume covers general principles, jurisdiction, and the effect of foreign judgments; the law applicable to contractual and non-contractual obligations, the private international law of property, of adults (the increasingly complex law of children is described in bare outline), and of corporations. It does so in a manner which explains and illuminates the principles which underpin the subject in a clear and coherent fashion, as the wealth of literature, case law, and legislation can often obscure the architecture of the subject and unnecessarily complicate its study. This new edition organizes the existing material in light of European legislation on private international law, reflecting the way in which an accurate representation of the topic requires it to be interpreted as European law with a common law periphery, instead of common law with European legislative influences. As at the time of writing - and possibly for some time to come - the consequences of Brexit are a mystery, but the attempt is made to describe the various possible shapes which the subject will assume in the future. The book adopts a pragmatic approach and avoids the more abstract theory; as the theory of the conflict of laws is actually to be found in and by applying the legislation and jurisprudence to the cases and issues which arise in private international litigation and in giving legal advice.

Adrian Briggs' invaluable introduction to the study of the conflict of laws provides a survey and analysis of the rules of private international law as they apply in England. The volume covers general principles, jurisdiction, and the effect of foreign judgments; choice of law for contractual and non-contractual obligations, the private international law of property, of persons, and of corporations. It does so in a manner which explains and illuminates the principles which underpin the subject in a clear and coherent fashion, as the wealth of literature, case law, and legislation often obscures the architecture of the subject and unnecessarily complicates study. This new edition organizes its material in light of European legislation on private international law, reflecting the shift towards understanding private international law as European law with a common law background instead of common law with European legislative influences. The author's approach is focused on the law and avoids the more abstract theory; as the theory of the conflict of laws is actually to be found in and by applying the legislation and jurisprudence to the cases and issues which arise in private international litigation and legal advice.

Fifty years on from its original publication, HLA Hart's The Concept of Law is widely recognized as the most important work of legal philosophy published in the twentieth century, and remains the starting point for most students coming to the subject for the first time. In this third edition, Leslie Green provides a new introduction that sets the book in the context of subsequent developments in social and political philosophy, clarifying misunderstandings of Hart's project and highlighting central tensions and problems in the work.

This book presents an alternative viewpoint in the ongoing dialogue on property. Dr Penner places the idea of property within the broader system of rules, rights and powers which make up the legal system.

Robert Chambers has written a much-needed, detailed examination of the resulting trust which will be invaluable to all barristers and academics working in the areas of equity and trusts, restitution and the law of property.

A comprehensive, stimulating introduction to trusts law, which provides readers with a clear conceptual framework to aid understanding of this challenging area of the law. Aimed at readers studying trusts at an undergraduate level, it provides a succinct and enlightening account of this area of the law. Concise and clear, this book also identifies and discusses many analytical perspectives, encouraging a deeper understanding of the issues at hand. It offers an outstanding treatment of specific areas, in particular remedial constructive trusts and trusts of family homes. Ideal for providing a broad background to the issues before embarking on an in-depth study of trusts, it can also be used to help the reader to develop their understanding. For those looking to challenge themselves, detailed footnotes highlight further issues and point the direction for future reading. Fully revised to take into account the Charities Act 2006, judicial developments through case law, and recent academic work in this area, this new edition in the renowned Clarendon Law Series offers a well-written, careful, and insightful introduction to the law of trusts.

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This new edition of Unjust Enrichment by the editor of the Clarendon Law Series, is a fully updated, clear and concise account of the law of unjust enrichment. It attempts to move away from the use of obscure terminology inherited from the past. This text is the first book to insist on the switch from restitution to unjust enrichment, from response to event. It organises modern law around five simple questions: Was the defendant enriched? If so, was it at the claimant's expense? If so, was it unjust? The fourth question is then what kind of right the claimant has, and the fifth is whether the defendant has any defences. This second edition was revised and updated by Peter Birks before his death from cancer on 6 July 2004 at the age of 62. It represents the final thinking of the world's leading authority on the subject.

To offer a core concept of intellectual property, to consider various justifications for the recognition of intellectual property rights and to expound their operation in particular areas of activity is the purpose of this book. It is essential to examine both the concept of intellectual property and the reasons why a legal system might incorporate such a concept. We are increasingly told that the wealth of nations, consists in 'intangible assets'. These are the intangible products of human creativity, ingenuity and effort. It is frequently argued that these assets represent the future of the developed economies and that their adequate protection by the intellectual property regimes is essential to national, regional, and even global, prosperity. We are also told that the creators of such assets have a strong moral claim to them, and that developed legal systems should recognise this claim. This text examines the ethical issues and debates surrounding intellectual property law and focuses on three aspects of the major intellectual property regimes: subject matter; the allocation of the first ownership of rights; and the scope of protection. These three aspects of the major regimes provide readers with a strong sense of the shape and purpose of the most important intellectual property systems.

What type of right is a property right? How are items of property classified for legal purposes? In this revised edition of Personal Property Law, Michael Bridge provides answers to these fundamental questions of property law. His critical analysis includes new material on insolvency, in particular the anti-deprivation principle and the pari passu rule, as well as comprehensive accounts of recent case law (OBG v Allan, Yearworth, and Datastream,) and statutory developments. Widely considered to be the best short introduction to English personal property law, Bridge constructs an authoritative and systematic summary of this complex field for readers approaching the subject for the first time. It focuses on the acquisition, loss, transfer, and protection of interests in personal property law, and specific topics include: ownership and possession; treatment of the separate contributions of the common law and equity to modern personal property law; discussion of modes of transfer; the means of protecting property interests; the resolution of disputes concerning title to personal property; the grant of security interests, and the issues arising out of the transformation and mixing of tangible personal property.

There is a huge body of case law that has built up over many years concerning obligations and restitution. Alastair Hudson's study draws attention to this aspect of the law with regard to property.

This work provides a history of the main institutions of South African private law, as well as exploring the process through which the integration of English common law and continental civil law was achieved in that jurisdiction. It is a first stepping stone in the writing of the history of private law in South Africa.

In Eighteenth-Century Fiction and the Law of Property, Wolfram Schmidgen draws on legal and economic writings to analyse the description of houses, landscapes, and commodities in eighteenth-century fiction. His study argues that such descriptions are important to the British imagination of community. By making visible what it means to own something, they illuminate how competing concepts of property define the boundaries of the individual, of social community, and of political systems. In this way, Schmidgen recovers description as a major feature of eighteenth-century prose, and he makes his case across a wide range of authors, including Daniel Defoe, Henry Fielding, William Blackstone, Adam Smith, and Ann Radcliffe. The book's most incisive theoretical contribution lies in its careful insistence on the unity of the human and the material: in Schmidgen's argument, persons and things are inescapably entangled. This approach produces fresh insights into the relationship between law, literature, and economics.

This classic work (formerly entitled An Introduction to the History of Land Law) has been thoroughly revised with some chapters rewritten to bring it completely up to date. It is available for the first time in paperback.

This book provides an accessible and engaging account of the contemporary laws of war. It highlights how, even though war has been outlawed and should be finished as an institution, states continue to claim that they can wage necessary wars of self-defence, engage in lawful killings in war, and imprison law-of-war detainees.

This new edition of a landmark study of the law of restitution has been substantially revised and updated. Concentrating on structural principles rather than detailed rules, the book is an invaluable guide to this difficult area of law.
This study traces the influence of philosophical ideas on the development of contract law from the post-Roman period to the 19th century, focusing upon the synthesis of Roman law and the moral philosophy of Aristotle and Aquinas.
This new edition of Property Law is completely revised and updated to incorporate all recent legislative changes and provides a clear and critical account of the basic principles of the law of property. It provides both a succinct and thoughtful overview of the subject and also pulls together themes and raises thought-provoking insights and synergies.
What makes an argument in a law case good or bad? Can legal decisions be justified by purely rational argument or are they ultimately determined by more subjective influences? These questions are central to the study of jurisprudence, and are thoroughly and critically examined in Legal Reasoning and Legal Theory, now with a new and up-to-date foreword. Its clarity of explanation and argument make this classic legal text readily accessible to lawyers, philosophers, and any general reader interested in legal processes, human reasoning, or practical logic.
When philosophers put forward claims for or against 'property', it is often unclear whether they are talking about the same thing that lawyers mean by 'property'. Likewise, when lawyers appeal to 'justice' in interpreting or criticizing legal rules we do not know if they have in mind something that philosophers would recognize as 'justice'. Bridging the gulf between juristic writing on property and speculations about it appearing in the tradition of western political philosophy, Professor Harris has built from entirely new foundations an analytical framework for understanding the nature of property and its connection with justice. Property and Justice ranges over natural property rights; property as a prerequisite of freedom; incentives and markets; demands for equality of resources; property as domination; property and basic needs; and the question of whether property should be extended to information and human bodily parts. It maintains that property institutions deal both with the use of things and the allocation of wealth, and that everyone has a 'right' that society should provide such an institution.
Questions about the nature of law, its relationship with custom, and the distinctive form of legal rules, categories, and reasoning, are placed at the centre of this introduction to the anthropology of law. It brings empirical scholarship within the scope of legal philosophy, while suggesting new avenues of inquiry for the anthropologist. Going beyond the functional and instrumental aspects of law that underlie traditional ethnographic studies of order and conflict resolution, The Anthropology of Law considers contemporary debates on human rights and new forms of property, but also delves into the rich corpus of texts and codes studied by legal historians, classicists, and orientalist scholars. Studies of the great legal systems of ancient China, India, and the Islamic world, unjustly neglected by anthropologists, are examined alongside forms of law created on their peripheries. The coutumes of medieval Europe, the codes drawn up by tribal groups in Tibet and the Yemen, village laws on both sides of the Mediterranean, and the intricate codes of saga in Iceland provide rich empirical detail for the author's analysis of the cross-cultural importance of the form of law, as text or rule, and the relative marginality of its functions as an instrument of government or foundation of social order. Carefully-selected examples shed new light upon the interrelations and distinctions between law, custom, and justice. Gradually an argument unfolds concerning the tensions between legalistic thought and argument, and the ideological or aspirational claims to embody justice, morality, and religious truth which lie at the heart of what we think of as law.
This second edition of Sarah Worthington's Equity maintains the clear ambitions of the first. It sets out the basic principles of equity, and illustrates them by reference to commercial and domestic examples of their operation. The book comprehensively and succinctly describes the role of equity in creating and developing rights and obligations, remedies and procedures that differ in important ways from those provided by the common law itself. Worthington delivers a complete reworking of the material traditionally described as equity. In doing this, she provides a thorough examination of the fundamental principles underpinning equity's most significant incursions into the modern law of property, contract, tort, and unjust enrichment. In addition, she exposes the possibilities, and the need, for coherent substantive integration of common law and equity. Such integration she perceives as crucial to the continuing success of the modern common law legal system. This book provides an accessible and elementary exploration of equity's place in our modern legal system, whilst also tackling the most taxing and controversial questions which our dual system of law and equity raises.