Syllabus for LS 140
Property and Liberty
Spring 2014

Professor Ben Brown

Reading assignments are from Perspectives on Property Law (PPL) or my internet site:

http://legalconstitutionalhistory.sharepoint.com/

Some assignments require logging onto other internet sites.

**Week of January 20** - How Property Structures Personhood.

- **PPL** - 1-44 - Erving Goffman, "Asylums: Essays on the Social Situation of Mental Patients and Other Inmates."
- Margaret Jane Radin, "Property and Personhood."
- Richard Pipes, "Human Nature and the Fall of Communism."
- Carol M. Rose, "Property As Storytelling: Perspectives from Game Theory, Narrative Theory, Feminist Theory."
- **Internet** – www.pemberley.com/janeinfo/pridprej.html
  - Read Pride and Prejudice Vol. 1, chap. 13 – Arrival of Mr. Collins and follow the hyperlink **entailed away from your own children** and read about entail; chap. 19 – Where Elizabeth rejects Mr. Collins’s proposal; chap. 22 – Charlotte Lucas accepts Mr. Collins’s proposal and follow the hyperlink **honourable provision for well-educated young women of small fortune** for a discussion of why Miss Lucas accepted the proposal.

Class 1 - Introduction to the course, explain the written/oral assignment. The Relationship of Property and Liberty; Property and Personhood.

Class 2 - Feminism and Property in Pride and Prejudice.

**Week of January 27** - Origins of Property.

- **Website** - Locke, Rousseau.

Class 3 - Locke and the labor theory of property. Blackstone and the Common Law of Property.

Class 4 - Rousseau’s critiques of individual property rights - Establishing the ongoing dispute.
Week of February 3 - Property and the Founding of the United States.

- **Website** - Pennsylvania Constitution, Karl Marx, John Stuart Mill.

Class 5 - Republican Theory of Property and the American Revolution; Classical Liberalism and the Framing of the Constitution.

Class 6 - Marx and the Critique of Property. Mill and the Critique of Communism.

Week of February 10 - Colonialism and Property - How European prejudices about the appropriate use of property rationalized colonialism.

- **PPL** - 180-189 - Carol M. Rose, "Possession As the Origin of Property."
  321-335 - Stuart Banner, "Two Properties, One Land: Law and Space in 19th-Century New Zealand."
  135-146 - Harold Demsetz, "Toward a Theory of Property Rights."

Class 7 - Possession as the basis of property. Colonialism and Real Property in New Zealand.

Class 8 - How the Indians lost their land - European versus Native property systems.

Week of February 17 - Slavery and Property - What does being owned do to slaves? What does owning people do to owners?

- **PPL** - none
- **Website** - John Belton O'neall “Negro Law of South Carolina” chapter 2 pp. 17 - 28 found at:

  [https://archive.org/details/negrolawofsouthc00onea](https://archive.org/details/negrolawofsouthc00onea)

  Somerset v. Stewart; Bryan v. Walton; State v. Mann; State v. Boyce;  Dred Scott v. Sanford.

Class 9 – American Law of Slavery.

Class 10 - **Group 1** - Valerie Martin, *Property*.

Week of February 24 - Late 19th and 20th century Property Theorists and the Critique of Property in the United States.

Website - Henry George, excerpt from “Progress and Poverty,” “Ode to Liberty;” Thorstein Veblen.

Class 11 - Henry George and the logic of the Single Tax.

Class 12 - Thorstein Veblen and the anthropological analysis of property. Property and Capitalism in the 20th Century.

Week of March 3 – The Tragedy of the Commons - Do communal use systems always lead to inefficiencies?

PPL – 119-135 - Garret Hardin, "The Tragedy of the Commons."
James M. Acheson, "The Lobster Gangs of Maine."
Website – R. Ben Brown “Free Pigs and Free Men.”
Internet: Elinor Ostrom youtube clip:
http://www.youtube.com/watch?v=ByXM47Ri1Kc

Class 13 – The tragedy of the commons.

Class 14 – The tragedy of the commons critiqued. Elinor Ostrom and sustainable common resources.

Week of March 10 – Law and Economics Analysis and Property; Are Markets Rational?

Internet - Dan Ariely Ted Talk:
http://www.ted.com/talks/dan_ariely_asks_are_we_in_control_of_our_own_decisions.html

Dan Pink:
http://www.ted.com/talks/dan_pink_on_motivation.html


Class 16 - Group 2 - Dan Ariely, Predictably Irrational.

Week of March 17 – Law and Economics and History of Property; Midterm Examination.
Class 17 – Ellickson’s Meta-History of Property.

**Class 18 - Midterm Exam**

**Week of March 24 – Have a great spring break!!**

**Week of March 31** – Race and Property in the 20th Century; Property and Poverty

- **Website** – [Bell v. Maryland](http://www.denversroadhome.org/)
- **Internet** Denver’s Road Home program: http://www.denversroadhome.org/

Class 19 - “We reserve the right to refuse service!” Civil rights sit-ins and trespass law.

Class 20 – Community and Homelessness. Addressing Homelessness.

**Week of April 7** – Government Regulation and Property Rights

- Thomas W. Merrill, "Explaining Market Mechanisms."
- 548-559 - Robert C. Ellickson, Controlling Chronic Misconduct in City Spaces: of Panhandlers, Skid Rows, and Public-Space Zoning."
- **Website** - Pennsylvania Coal Co. v. Mahon, Just v. Marinette County.


Class 22 - How severely can the government regulate the use of property before it must pay compensation to the owner? Government Regulation and the Environment.

**Week of April 14** - Environmentalism and Eminent Domain


Class 23 - Group 4 - Environmental Conflict - Book - *A Good Forest for Dying.*
Class 24 - Eminent domain and local control of environmental measures. Oregon Prop 37 and Prop 49, Post-Kelo propositions.

**Week of April 21** - The Internet and Public Goods - Should the Internet be a commons?

- 159-169- Michael A. Heller and Rebecca S. Eisenberg, "Can Patents Deter Innovation? The Anticommons in Biomedical Research."

**Internet** – [http://www.authorama.com/free-culture-1.html](http://www.authorama.com/free-culture-1.html)

Lawrence Lessig, *Free Culture*, Read chapter 5 on piracy and property

Class 25 - An Introduction to Public Goods; The Internet as a commons; Patents, Copyright and Intellectual Property.

Class 26 - Group 5 - Lawrence Lessig, *Remix: Making Art and Commerce Thrive in the Hybrid Economy*.

**Week of April 28** - Organizing the Internet and Internet Piracy.


Class 28 - Organizing the Internet - Cooperation versus Competition. Is Internet Piracy a social good or a social evil?

**Final – Friday, May 16 - 7:00 – 10:00 p.m.**