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EDUCATION

1973-75, 1976-77, UNIVERSITY OF CHICAGO LAW SCHOOL, Chicago, Illinois. J.D. June 1977. Graduated with honors.

1965-69, CORNELL UNIVERSITY, Ithaca, New York. Ph.D., History, 1970. Major concentration European social & constitutional history; minor American Constitutional Law.

1962-63, UNIVERSITY OF CHICAGO, Chicago, Illinois. M.A. Political Science, 1963.

1958-62, ANTIOCH COLLEGE, Yellow Springs, Ohio. B.A., Philosophy, 1962. Third year in Germany, studied at University of Tübingen.)

WORK EXPERIENCE

2005-2015, and Emerita 2015 - ASHBY LOHSE PROFESSOR OF WATER AND NATURAL RESOURCE LAW, EMERITA, UNIVERSITY OF ARIZONA COLLEGE OF LAW, Tucson, Arizona

1989-2005, and Emerita 2005 - GORDON BRADFORD TWEEDY PROFESSOR OF LAW AND ORGANIZATION, YALE LAW SCHOOL, New Haven, Connecticut (formerly Fred A. Johnston Professor)

Spring 2002, VISITING PROFESSOR OF LAW, New York University School of Law, New York, New York

Spring 1997, VISITING PROFESSOR OF LAW, University of Arizona School of Law, Tucson, Arizona

Spring 1992, FUJIYAMA DISTINGUISHED VISITING PROFESSOR OF LAW University of Hawaii, Honolulu

Summer 1990, DISTINGUISHED VISITING SCHOLAR, UNIVERSITY OF ADELAIDE SCHOOL OF LAW, Adelaide, Australia

1982-1989, LEWIS AND HARRIET ANCEL PROFESSOR OF LAW AND PUBLIC POLICY, NORTHWESTERN UNIVERSITY SCHOOL OF LAW, Chicago, Illinois.

Fall 1988, VISITING PROFESSOR OF LAW, HARVARD LAW SCHOOL, Cambridge, Massachusetts.

Spring 1986, VISITING PROFESSOR OF LAW, UNIVERSITY OF CHICAGO SCHOOL OF LAW, Chicago, Illinois.

1980-82, ACTING PROFESSOR, UNIVERSITY OF CALIFORNIA LAW SCHOOL, Berkeley, California.

Summer, 1982 VISITING SCHOLAR, RECHTSWISSENSCHAFTLICHE FACULTÄT, UNIVERSITY OF COLOGNE, Cologne, Germany.

1978-80, ASSISTANT PROFESSOR, STANFORD UNIVERSITY LAW SCHOOL, Stanford, California.

1977-78, LAW CLERK FOR THE HONORABLE THOMAS GEE, United States Court of Appeals, Fifth Circuit, Austin, Texas.

1975-76, ASSOCIATE DIRECTOR, SOUTHERN GOVERNMENTAL MONITORING PROJECT, Southern Regional Council, Atlanta, Georgia [project to study impact of Revenue Sharing and related programs on Southern communities; took year's leave of absence from law school for position].

1969-73, DEPARTMENT OF HISTORY, OHIO STATE UNIVERSITY. Instructor, promoted to Assistant Professor. Small classes and large lectures [up to 700 students and 10 teaching assistants] in Western Civilization, European history; developed and taught history classes in women's studies program.

OTHER PROFESSIONAL POSITIONS & MEMBERSHIPS

Board of Editors, Foundation Press (retired 2018)

Board of Editors, Legal Theory

Board of Editors, Land Use and Environmental Law Review

Member, American Law and Economics Association

Member, International Association for the Study of Common Property

MAJOR AWARDS AND HONORS

Member, American Law Institute (since 2018)
Member, American Academy of Arts and Sciences (since 1994)
Lohse Chair in Water and Natural Resource Law, University of Arizona College of Law (2005-2015), Emerita 2015 -
Gordon Bradford Tweedy Chair in Law and Organization, Yale Law School (1994 - 2005), Emerita 2005 –
Douglas McK. Brown Visiting Chair in Law, University of British Columbia Allard School of Law (2017)
Distinguished Environmental Lecturer, Florida State University Law School, Tallahassee, Florida (2016)
Keynote Lecturer and Honoree, Association for Law, Society and Property (2013)
Wolf Family Lecturer, University of Florida, Gainesville, Florida (2013)
Cameron Fellow, University of Auckland Faculty of Law, Auckland, New Zealand (2011)
Brigham-Kanner Prize for Scholarship in Property Rights, William and Mary Law School (2010)
Inaugural Fellow, Straus Institute for the Advanced Study of Law and Justice, New York University (2009-2010)
Childress Lecturer, St. Louis University (2005)
Higgins Distinguished Visitor, Lewis & Clark Law School (2002)
Kerlin Lecturer, Pace University (2000)
Leary Lecturer, University of Utah (1999)
Jefferson Lecturer, University of California, Berkeley (1998)
Lockhart Lecturer, University of Minnesota School of Law (1997)
Honorary Degree, Illinois Institute of Technology/Chicago-Kent College of Law (1996)
Fred Johnston Chair in Property and Environmental Law, Yale University Law School (1990-94)
Wallace A. Fujiyama Distinguished Visiting Professorship, University of Hawaii (1992)
Dunwoody Lecturer, University of Florida School of Law (1992)
Distinguished Visiting Scholar Appointment, University of Adelaide (Australia) (1990)
Alumni Distinguished Annual Lecturer, University of Tennessee Law School (1990)
Louis and Harriet Ancel Chair in Law and Public Policy
Northwestern University Law School (1986-89)
Order of the Coif (University of Chicago Law School)
Honors graduate (University of Chicago Law School)
Mechem Prize Scholarship (University of Chicago Law School)
National Defense Education Fellowship (Cornell University)
National Merit Scholarship (Antioch College)
George Mason High School Athletic Hall of Fame (inducted 1995 for athletic achievements long ago)

PUBLICATIONS

Books

Saving the Neighborhood: Racially Restrictive Covenants, Law, and Social Norms (with Richard R.W. Brooks) (2013)

Perspectives on Property Law (5th ed., with Robert Ellickson and Henry Smith, 2023)

El Derecho de Propiedad en Clave Interdisciplinaria (2010) [The Right to Property in an Interdisciplinary Key]

Property and Persuasion: Essays on the History, Theory and Rhetoric of Property (1994)

Articles and Book Chapters

Advanced Capitalism and Advanced Democracy: Of Modules, Marshmallows and (maybe) Monarchs, 42 Yale Journal on Regulation 1209 (2025)

Traditional Knowledge and the Limits of Property, 66 Harvard International Law Journal (Special Edition) 82 (2025)

Property: The View from Shakespeare's Venice, Elgar Concise Encyclopedia of Law and Literature, edited by Robert Spoo and Simon Stern, Edward Elgar, 2025.

Property Law, Encyclopedia of New Institutional Economics (2025)

General Customs and Legal Institutions: The Short, Sad Example of Racially Restrictive Covenants in the United States, Interstitial Private Law, edited by Samuel Bray et al, Oxford University Press, 2024.

Commodity's Propriety: A Commentary on the Work of Gregory Alexander, 13 Brigham Kanner Property Rights Journal 35 (2024).

Foreword: Property from the Outside In, Foreword to Routledge Handbook of Property, Law and Society (N. Graham, M. Davies, and L. Godden, eds., 2023)

What E.J. has to Do with It: Vicki Been's Empiricism in the Forge of Environmental Justice, 11 Brigham-Kanner Property Rights Journal 25 (2022)

Property Law and Inequality: Lessons from Racially Restrictive Covenants, 117 Northwestern University Law Review 225 (2022).

A Glimpse of Early Modern Governance in Claire Priest's *Credit Nation*, 33 Yale Journal of Law and the Humanities 288 (2022)

Modularity, Modernist Property, and the Modern Architecture of Property (Symposium on Scholarship of Henry E. Smith), 10 Brigham-Kanner Property Rights Journal 69 (2021)

Thinking about the Commons, 14 International Journal of the Commons 557 (2020)

Rations and Takings: in Symposium on Andrew Coan's Rationing the Constitution, 2019 Wisconsin Law Review 344.

Cold Corpses, Hot News, and Dead IP: The Reasons and Consequences of a Legal Status of No-Property, Institute for Intellectual Property and Information Law Symposium, 57 Houston L. Review, 377 (2019)

Raisin, Race and the Real Estate Revolution of the Early 20th Century, in Power, Prose, and Purse: Law, Literature and Economic Transformations, eds. Alison LaCroix, Saul Levmore and Martha C. Nussbaum, Oxford University Press, 2019

Property's Relationship to Human Rights, in Economic Liberties and Human Rights, eds. Jahel Queralt and Bas van der Vossen, New York and London: Routledge, 2019

The Equality Norm Meets the Evolution of Property in the Law of "Takings," 35 Social Philosophy and Policy 149 (2018)

Commons and Cognition, 19 Theoretical Inquiries in Law 587 (2018)

Commons, Cognition and Climate Change (Distinguished Environmental Lecture, Florida State Law School), 42 Journal of Land Use and Environmental Law 297 (2017)

Racially Restrictive Covenants: Were They Dignity Takings? 41 Law & Social Inquiry 939 (2016)

Racial Covenants and Housing Segregation, Yesterday and Today (with Richard R. W. Brooks), in Race and Real Estate, eds. Adrienne Brown and Valerie Smith, Oxford 2015.

The Law is Nine-Tenths of Possession: An Adage Turned on Its Head, in The Law and Economics of Possession, ed. Yun-chien Chang, Cambridge University Press, 2015

Claiming While Complaining on the Federal Public Lands: A Problem for Public Property or a Special Case? 104 Georgetown Law Journal Online 95 (2015)

Surprising Commons (Keynote address, Symposium on The Global Commons), 2014 Brigham Young Law Review 1257 (2015)

Author's Introduction, Panel Discussion on *Saving the Neighborhood: Racially Restrictive Covenants, Law, and Social Norms*, 56 Arizona Law Review Syllabus 11 (2014)

A Real Property Lawyer Cautiously Inspects the Edges of Intellectual Property, in Intellectual Property at the Edge: The Contested Contours of IP (R. C. Dreyfuss and J. C. Ginsburg, eds., 2014)

Psychologies of Property (and Why Property is not a Hawk-Dove Game), in The Philosophical Foundations of Property Law, eds. J.E. Penner & H.E. Smith, 2013

Evolution and Environment in the Property Scholarship of James Krier, 2 Brigham-Kanner Property Rights Journal 27 (2013)

Property Law and Rise, Life, and Demise of Racially Restrictive Covenants; Sixth Wolf Family Lecture, 11 Powell on Real Property, WFL 13-1 (2013)

Property and Emerging Environmental Issues – the Optimists vs. the Pessimists, 1 Brigham-Kanner Property Rights Conference Journal 405 (2012)

Ostrom and the Lawyers: The Impact of Governing the Commons on the American Legal Academy, 5 International Journal of the Commons 28 (2011)

Servitudes. In Research Handbook on the Economics of Property Law eds. Kenneth Ayotte and Henry E. Smith, 2011

Game Stories, 22 Yale Journal of Law and the Humanities 369 (2010).

Invasions, Innovation, Environment, in Hernando de Soto and Property in a Market Economy, ed. Benjamin D. Barros (London and New York: Routledge 2009)

Of Natural Threads and Legal Hoops: Bob Ellickson's Property Scholarship, 18 William & Mary Bill of Rights Journal 199 (2009).

Liberty, Property, Environmentalism, 26 Social Policy & Philosophy, Issue 2, 1-25 (2009); reprinted in Natural Resources, the Environment, and Human Welfare 1-25 (2009)

Derechos de Propiedad, Necesidades del Desarrollo y Protección Medioambiental (translation of Property Rights, Development Imperatives, and Environmental Protection), 5 Revista de Economía y Derecho (2008)

Federalism and Climate Change in a Future Federal Regime: An Introduction, 50 Arizona Law Review 673 (2008)

Big Roads, Big Rights: Varieties of Public Infrastructure and Their Impact on Environmental Resources, in Symposium on Property Rights in Environmental Assets: Economic and Legal Perspectives, 50 Arizona Law Review 409 (2008).

From H₂O to CO₂: Lessons of Water Rights for Carbon Trading, in 50th Year Anniversary Issue, 50 Arizona Law Review 91 (2008).

Hot Spots in the New Climate Change Legislation, 102 Northwestern University Law Review Colloquy 109 (2008)

What Federalism Tells Us About Takings Jurisprudence, in Symposium on Constitutional Niches, 54 UCLA Law Review 1681 (2007).

The Moral Subject of Property, in Symposium on the Morality of Law, 48 William & Mary Law Review 1897 (2007).

Introduction: Property and Language, Or, The Ghost of the Fifth Panel, 18 Yale Journal of Law & the Humanities 1 (2006).

Privatization—The Road to Democracy? (Childress lecture) 50 St. Louis University Law Review 691 (2006)

Whither Commodification? in Rethinking Commodification (2005)

Between Developers and the Deep Blue Sea: The Story of Lucas v. South Carolina Coastal Council, in Environmental Stories (2005)

Property in All the Wrong Places? (Review essay) 114 Yale Law Journal 991 (2005)

Environmental Law Grows Up (More or Less), and What Science Can Do to Help, 9 Lewis & Clark Law Journal 273 (2005)

Strategies for Public Land Management—the United States' Experience, published in Chinese in 21st Century Business Herald (2004)

Economic Claims and the Challenges of New Property, in Property in Question: Value Transformation in the Global Economy (2004)

Shelley v. Kraemer, in Property Stories (2004)

Romans, Roads, and Romantic Creators: Traditions of Public Property in the Information Age, in Symposium on the Public Domain, 66 Law and Contemporary Problems 89 (2003)

Quien es responsable por los derechos fundamentales? Algunas perspectivas del presente y del pasado [translation of Who is responsible for fundamental rights? Some perspectives from the present and the past], in Los Derechos Fundamentales (2003)

Scientific Innovation and Environmental Protection: Some Ethical Considerations, 32 Environmental Law 755 (2002)

Common Property, Regulatory Property, and Environmental Protection, in The Drama of the Commons (ed. Elinor Ostrom et al. 2002)

Property and Expropriation: Themes and Variations in American Law (Leary Lecture, Univ. of Utah), 2000 Utah Law Review 1

Left Brain, Right Brain and History in the New Law and Economics of Property, 79 Oregon Law Review 479 (2000)

Canons of Property Talk, or, Blackstone's Anxiety 108 Yale Law Journal 601 (1999), also in Legal Canons (eds J. M. Balkin & S. Levinson, 2000)

Expanding the Choices for the Global Environmental Commons: Comparing Newfangled Tradeable Allowances to Oldfashioned Common Property Regimes, 10 Duke Environmental Law & Policy Forum 45 (1999)

What Government Can Do for Property (and Vice Versa), in Mercurio & Samuels, The Fundamental Interrelations Between Government and Property 209 (1999)

The Several Futures of Property: Of Cyberspace and Folk Tales, Emission Trades and Ecosystems, 83 Minnesota Law Review 129 (1998) (Lockhart Lecture)

Joseph Sax and the Idea of the Public Trust, 25 Ecology Law Quarterly 351 (1998)

The Evolution of Property, New Palgrave Dictionary of Law and Economics (1998)

Riparian Rights, New Palgrave Dictionary of Law and Economics (1998)

Demystifying Ecosystems, 24 Ecology Law Quarterly 865 (1997)

The Shadow of The Cathedral, 106 Yale Law Journal 2175 (1997)

Property as the Keystone Right? 71 Notre Dame Law Review 329 (1996)

A Dozen Propositions on Property Rights: Private Property, Public Rights, and the New Takings Legislation (Tucker Lecture, Washington & Lee), 53 Washington & Lee Law Review 265 (1996)

Takings, Federalism, Norms (review essay), 105 Yale Law Journal 1121 (1996)

Trust in the Mirror of Betrayal, 75 Boston University Law Review 531 (1995)

Il Contributo dell'Economia al Diritto di Proprieta (The Contribution of the Law and Economics Movement to Property Law), 13 Rivista Critica del Diritto Privato 621 (1995)

Rhetoric and Romance (Comment), 82 Georgetown Law Journal 2409 (1994)

Environmental Lessons 27 Loyola of Los Angeles Law Review 1023 (1994)

Given-ness and Gift: Property and the Quest for Environmental Ethics 24 Environmental Law 1 (1994)

A Tale of Two Rivers (Review) 91 Michigan Law Review 1623 (1993)

"The Guardian of Every Other Right" (Review), 10 Constitutional Commentary 238 (1993)

Giving, Trading, Thieving and Trusting: How and Why Gifts become Exchanges and Vice Versa (Dunwoody Lecture, Univ. of Fla.), 44 Florida Law Review 295 (1992)

Giving Some Back--A Reprise (response to commentators), 44 Florida Law Review 365 (1992)

Women and Property: Gaining and Losing Ground, 78 Virginia Law Review 421 (1992)

Rethinking Environmental Controls: Management Strategies for Common Resources, 1991 Duke Law Journal 1

Property as Wealth, Property as Propriety, 33 Nomos 223 (Journal of the American Society for Legal and Political Philosophy) (1991)

Property Rights, Regulatory Regimes and the New Takings Jurisprudence--An Evolutionary Approach, 57 Tennessee Law Review 577 (1990)

Energy and Efficiency in the Realignment of Common-Law Water Rights, 19 Journal of Legal Studies 261 (1990)

Property as Storytelling: Perspectives from Game Theory, Narrative Theory, Feminist Theory, 2 Yale Journal of Law & the Humanities 37 (1990)

The Ancient Constitution vs. the Federalist Empire: Antifederalism from the Attack on "Monarchism" to Modern Localism, 84 Northwestern University Law Review 74 (1989)

Environmental Faust Succumbs to Temptations of Economic Mephistopheles, or, Value By Any Other Name is Preference (review), 87 Michigan Law Review 1631 (1989)

Crystals and Mud in Property Law, 40 Stanford Law Review 577 (1988)

"Enough, and As Good" of What? 81 Northwestern University Law Review 417 (1987).

The Comedy of the Commons: Commerce, Custom and Inherently Public Property, 53 University of Chicago Law Review 711 (1986); reprinted as one of ten best land use/environmental articles of 1986, in 1987 Land Use and Environmental Law Review

New Models for Local Land Use Decisions, 79 Northwestern University Law Review 1155 (1985)

Possession as the Origin of Property, 52 University of Chicago Law Review 73 (1985).

Mahon Reconstructed: Why the Takings Issue is Still a Muddle, 57 Southern California Law Review 561 (1984); reprinted as one of ten best land use/environmental articles of 1984, in 1985 Land Use and Environmental Law Review

Public Property, Old and New (review), 79 Northwestern University Law Review 216 (1984).

Planning and Dealing: Piecemeal Land Controls as a Problem of Local Legitimacy, 71 California Law Review 837 (1983); reprinted as one of ten best land use/environmental articles of 1983, in 1984 Land Use and Environmental Law Review

Servitudes, Security and Assent, 55 Southern California Law Review 1403 (1982).

Preservation and Community: New Directions in the Law of Historic Preservation 33 Stanford Law Review 473 (1981).

Evaluating Law Reform (review essay), 31 Stanford Law Review 977 (1979).

Recent Issues in the Liability of Children's Welfare Agencies (1976) (written while in law school for Child Welfare League of America)

Citizen Participation in Revenue Sharing: A Report From the South (1975) (written for Southern Governmental Monitoring Project)

Empire and Territories at the End of the Old Reich, in The Old Reich: Essays on German Political Institutions (1975).

The Issue of Parliamentary Suffrage at the Frankfurt National Assembly, 1848-1849, 5 Central European History 127 (1972).

Several reviews of books on European social and constitutional history in American Historical Review and Journal of Modern History

LANGUAGES: German; some Spanish; read French, Italian, Portuguese

RECREATIONAL ACTIVITIES: Bicycling, birding, gardening, tennis, music, dance