



Philosophical Foundations of Property Law (Philosophical Foundations of Law)

By James Penner, Henry Smith

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Property has long played a central role in political and moral philosophy. Philosophers dealing with property have tended to follow the consensus that property has no special content but is a protean construct - a mere placeholder for theories aimed at questions of distributive justice and efficiency. Until recently there has been a relative absence of serious philosophical attention paid to the various doctrines that shape the actual law of property. If the philosophy of property is to be more attentive to concepts lying between broad considerations of political philosophy and distributive justice on the one hand and individual rules on the other, what in this broad space needs explaining, and how might we justify what we find?

The papers in this volume are a first step towards filling this gap in the philosophical analysis of private law. This is achieved here by revisiting the contributions of philosophers such as Hume, Locke, Kant, and Grotius and revealing how particular doctrines illuminate the way in which property law respects the equality and autonomy of its subjects. Secondly, by exploring the central notions of possession, ownership, and title and finally by considering the very foundations of conceptualism in property.

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- Rank: #3105094 in Books
- Published on: 2014-01-21
- Original language: English
- Number of items: 1
- Dimensions: 6.40" h x 1.30" w x 9.30" l, 1.65 pounds
- Binding: Hardcover
- 400 pages

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Review

This book presents the state of the art philosophical thinking about property law and is required reading for anyone with interests in the field. * Christopher Essert, Notre Dame Philosophical Reviews *

About the Author

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Henry Smith is the Fessenden Professor of Law at Harvard Law School, where he directs the Project on the Foundations of Private Law. He teaches in the areas of property, intellectual property, natural resources, remedies, and taxation. He has written primarily on the law and economics of property and intellectual property.

James Penner is Professor of Property Law at University College London. He was the deputy chief examiner of the Law of Trusts for the University of London External LL.B, and now serves the programme in the capacity of Chief Examiner in Jurisprudence. Professor Penner writes on trusts law, the law and philosophy of property, and generally in the philosophy of law.

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