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https://www.100test.com/kao_ti2020/350/2021_2022__E6_B3_95_E5_BE_8B_E6_9C_AF_E8_c92_350057.htm The Law of Property 财产法 The old common law¹ was preeminently the law of real property. and the distinction between "real property" and "personal property³" was a crucial one. Generally speaking, real property means real estate -¹land and buildings but it also includes such things as growing crops. Everything else money, stocks and bonds, jewelry, cars, carloads of lumber, IOUs, bank deposits- is personal property. We all have a stake in real estate, since we all live somewhere. and we work, study, and travel somewhere, too. Everyone is a renter or an owner, or lives with renters or owners. But for most of us, that as far as the law is concerned the word property means primarily real property. personal property is of minor importance. Actually, personal property is legally a minor field. There is no single, special field of law devoted to personal property. Personal property is what contract law, commercial law, and bankruptcy law yes, and torts, too are all about. But there are so many special rules about real estate that it makes sense to treat this as a separate field of law. Property law is still one of the fundamental branches of law, and real estate is a significant branch of law practice. Yet property law is a mere shadow of its former self, legal speaking. In fact, one of the major developments in our system, if you take the long view, is the relative decline of real property law. In medieval England, it would have only been a slight exaggeration to say that land law was the law of the land.

When Blackstone published his "Commentaries " midway through the eighteenth century, one whole volume was devoted to land law. A modern Blackstone would shrink the topic to a fraction of this bulk 5 or 10 percent, at most, of the total law. Medieval England lived under a feudal system. Power and jurisdiction the cornerstones of wealth and position in society were based on land and land alone. The "lord" was a person who held an estate a person with ownership, mastery, control over land. A person without land was a person with no real stake in affairs of state. The common law, as the royal law courts expounded it had little to say to men and women without land, who were the majority of the English population. In America, at one time, only persons who had interests in land were entitled to vote or hold office. The New York constitution of 1777, for example, restricted the right to vote for state senators to men who owned "freeholds" with \$100 or more, free and clear of debt (Article X) all this, of course, has ended. land is only one form of wealth. A great and powerful family is one that controls mighty enterprises, rather than one that rules vast estates. Property law still covers a rich and varied group of subject. To begin with, it asks. What does it mean to "own" land? How can I get title to land and how can I dispose of it legally? There are issues about deeds, joint ownership, and land records and registration. and problems of land finance, including rules about mortgages and foreclosures. There is the law of "nuisance", which restricts me from using my land in such a way as to hurt my neighbors, pouring smoke or sending bad smells onto his land, for example. There are the law of "easements" and the exotic

law of "covenants" (especially those that "run with the land") : these deal with rights a person might have in his neighbors land rights to drive a car up his driveway, to walk across his lawn, or to keep him from taking in boarders. These are not rights of ownership. rather they are "servitudes" restrictions or exceptions to the owners rights, in favor of those another. The common law was ingenious in carving up rights to land into various complex segments called "estates". These could be either time segments or space segments. A "life estate" (my right to live in a certain house, for example, until I die) , is a time segment. so is a three-year lease of a farm or apartment house. Space segments include air rights (the right to build on top of certain property) and mineral rights (the right to dig underneath it) . Nowadays, the condominium is also popular. I can own a slice of some building thirty stories above the ground. The common law was also quite ingenious in devising forms of common or joint ownership, with subtle technical differences between them. There are also all sorts of "future interests" known to the common law. Suppose I leave my house to my sister for life, and then to any of her children who might be alive when she dies. The children have a future interest. that is, the time they will get the house is postponed to some far-off date. But the future event is certain to happen, and thus the future interest can have value and reality now, while my sister is very much alive. The law of future interests developed in a most gnarled and complicated way. Its intricacies drove generations of law students to despair. Another important, fairly new, branch of property law is the law of "land use controls". It deals with the limit

imposed on what people can do with their property. This was an issue in the law of nuisance, but modern controls go far beyond this. Zoning is a familiar type of land use restriction. Zoning ordinances date from about the time of the First World War. they are now almost universal in cities and villages. Zoning ordinances divide towns into zones designated for different uses. If my neighborhood is "zoned" residential, I cannot build a factory or run a restaurant on my property. If the zone is restricted to single-family dwellings, I cannot even run a rooming house or rent out apartments. 100Test 下载频道开通，各类考试题目直接下载。详细请访问 www.100test.com