

CONTENTS

Acknowledgments page x

Introduction 1

The moral case for private property 1

Definitions 5

Practical reasonableness in mediated dominion 6

An outline of the argument 8

1 Practical reason and private law 12

The importance of private property 12

Conflicting intuitions about private property 13

Practical reason and property law 20

2 The architecture of property 37

Mediated dominion 37

The core of property 39

Common law institutions shaping property 49

Specifying the shape of mediated dominion 56

3 The possibility of private property 64

Property for all? 64

Waldron's Proudhon strategy 65

State-enforced actual ownership is neither sufficient nor
 necessary for liberty 70

Inequality and the least well-off 87

| | | |
|----------|---|-----|
| 4 | Property from the inside | 91 |
| | Beyond property as politics | 91 |
| | Property and perfectionism | 92 |
| | Freedom: pre-moral exercises of practical reason | 97 |
| | Mediated dominion supplies the necessary conditions | 107 |
| | Conclusion | 121 |
| 5 | Property and charity | 122 |
| | Property norms and human motivations | 122 |
| | Explaining charity | 123 |
| | Charity and practical reason | 128 |
| | Charity's treatment in private law | 132 |
| 6 | Abuse of rights | 146 |
| | The need for limits | 146 |
| | Abuse of rights in the common law | 148 |
| | A political theory of abuse of rights | 153 |
| | Moral categories | 160 |
| | Abusive exercises of rights | 163 |
| | Sketching a doctrine of abuse of rights | 171 |
| 7 | The nature of property rights | 173 |
| | Rights and their limits | 173 |
| | The normative force of rights | 176 |
| | Property rights as rights | 184 |
| | Two-term right statements | 188 |
| | The dangers of abstraction | 196 |
| 8 | The contours of property rights | 197 |
| | The nature of property norms | 197 |

CONTENTS

ix

| | |
|--|------------|
| The moral foundations of legal norms | 198 |
| Property norms and practical reason | 204 |
| 9 Settling property rights in law | 216 |
| Specifying rights | 216 |
| Individualist and collectivist accounts | 219 |
| Private ordering: specifying rights for the common good | 233 |
| <i>Bibliography</i> | 242 |
| <i>Index</i> | 254 |