Real Property Law
Important to the Purchase of a Farm

What Is "Real Property"?

To get closer to an understanding of the legal right-duty relationships which arise when a farm is purchased or leased, we turn from our brief look at contract law to some fundamentals of real estate law. Lawyers make a strong distinction between "real property law" and "personal property law." With certain fairly important exceptions real property law deals with immovables like land and permanent buildings, while personal property law deals with movables like cattle, farm machinery, bank accounts, stock in a corporation, grain in the bin.

The law of real property is at many points different from personal property law. The law of real property is filled with subtle and difficult concepts and distinctions which have never, to any important extent, been taken over into the much simpler law of personal property. This is to be expected because of the great economic and political importance of land during that feudal era when English judges were laying down the fundamental principles which still color our real property law.

What Is "Property"?

Before we go on we must take a critical look at the word "property." In ordinary conversation it is used to refer to the thing that is owned or held. Thus, a man refers to his auto as "my property," or to his 80 acre farm as "my farm property."

For present purposes, we must think of property, not as the thing owned, but as the intangible and invisible rights, powers and privileges of the owner. I say to you, "Joe Schultz owns a farm." This means that Joe has rights, powers and privileges with regard to the farm superior to those of anyone else. He has "property in the farm."
When using the word "property" in this sense, it is helpful to think of it as a cable of many strands running between Joe and the land he owns. Then it is easy to visualize what happens when Joe transfers just some, but not all of his rights (strands) to Josiah Green. For example, he transfers to Josiah a right to drive across his land, or a right to take off gravel or timber. This means that some of the strands are no longer in Joe's cable, they are now held by Josiah. But Joe still holds the remaining strands.

Again, Joe leases the farm to Sam Tenant for a year. Sam now has the strands which carry the right to present possession and use, but all the other strands remain with Joe.

Or Joe, by contract in appropriate form, contracts to sell the farm to A. Buyer. Joe has, by his contract, divested himself of some strands from his cable; these strands are now in A. Buyer. But Joe retains certain other strands from the cable as security for the balance of the purchase price. A specific description of what the buyer gets under the contract and what the seller retains will come later.

It is evident then that two people or many people can own "property" (i.e. strands of the cable) in the same land at the same time. From this point of view a man who has just a right to cross another's farm may be said to be the owner of "property" in that farm. Or again, speaking technically, a tenant owns property in the farm. The man who has most of the strands in the cable, the person we usually call "owner," may not be the only one who has "property" in the farm.

These strands in the cable we call "interests." This is a shorthand way of referring to the rights (legally enforceable claims), privileges (legal freedom to do or not do an act) and powers (legal ability to transfer) which are included in the entire cable called "property."

**Kinds of Property Interests**

From what has been said it is evident that a man may be the sole owner of property in a farm, or he may share ownership with others. Where ownership of property is shared, the interests that may be owned can be classified as follows: