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RESCUING BUSINESS

*The Making of Corporate Bankruptcy
Law in England and the United States*

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TERENCE C. HALLIDAY

Rescuing Business The Making Of Corporate Bankruptcy Law In England And The United States

Christopher F. Symes



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Rescuing Business Bruce G. Carruthers, Terence Charles Halliday, 1998 Corporate bankruptcy is a defining characteristic of the market economy. It encapsulates the fundamental conflicts between capital and labour, owners and managers, debtors and creditors, the state and the market. Yet with one or two notable exceptions, the political and social dynamics of bankruptcy law and practice have been overlooked by serious socio-legal scholars. This book remedies that neglect. Adopting an approach that compares English and American law, the authors identify the underlying political forces that established corporate bankruptcy law on both sides of the Atlantic. The book demonstrates how, by a recursive loop of professional self-interest, corporate insolvency regulation is the creation of the lawyers who interpret and administer it. This book will be welcomed as an important sociological study and advances our understanding of how substantive law results from conflicts among the professionals who help to create it. Creditor Treatment in Corporate Insolvency Law Kayode Akintola, 2020-11-27 The significant role of credit in obtaining corporate capital means that credit and the treatment of creditors' interests raises distinctive issues in the event of company insolvency. In this book, Kayode Akintola addresses these issues, providing an exceptional in-depth analysis of the principles, policy and practice of creditor treatment in corporate insolvency law.

Corporate Insolvency Law Vanessa Finch, David Milman, 2017-10-19 A new and substantially revised edition which looks critically at the broad effect and conceptual underpinnings of corporate insolvency law. **European Insolvency Law** Gerard McCormack, Andrew Keay, Sarah Brown, 2017-01-27 Critically analysing the substantive law of insolvency in the EU countries as a whole, this book carries out horizontal cross-cutting analysis of the data gathered from a study of national insolvency laws. It selects particular areas for detailed discussion and considers the pros and cons of particular legislative solutions. Corporate Rescue Law--an Anglo-American Perspective Gerard McCormack, 2008-01-01 a highly readable and informative text and an excellent addition to insolvency scholarship. In their entirety, the chapters of Corporate Rescue Law: An Anglo-American Perspective represent one of the most incisive and relevant treatments of comparative insolvency regimes to date. This book is an absolute boon; it provides the reader with a mass of legal and practical insights into the workings of two ostensibly divergent systems and challenges received wisdom in a fluent and persuasive manner. Not only are legal differences examined through the lens of practice, but also commercial, philosophical and social responses to failure are considered and highlighted as possible drivers of those real distinctions that do exist. Professor McCormack has produced an exceptional work that should be required reading for academics, practitioners and policy makers alike and is to be warmly congratulated. Sandra Frisby, Banking and Finance Law Review. The issues are well chosen. They are easily the most important aspects of any corporate rescue law. The careful analysis of the technical provisions, the incorporation of the extensive scholarship on the two corporate rescue regimes and the reference to practice in the real world all help to make these chapters an indispensable tool for any scholar wishing to gain a better understanding of the similarities and differences of

English and American corporate rescue laws This monograph could not have come at a better time The comparative account in this book will help law reformers judges and scholars to have a better grasp of the issues and appreciate better how the two systems have dealt with them Comparative law has a critical role to play in promoting mutual understanding and respect It is hoped that this monograph will help in that respect Wee Meng Seng Singapore Journal of Legal Studies This book offers an unprecedented and detailed comparative critique of Anglo American corporate bankruptcy law It challenges the standard characterisation that US law in the sphere of corporate bankruptcy is pro debtor and UK law is pro creditor and suggests that the traditional thesis is at best a potentially misleading over simplification Gerard McCormack offers the conclusion that there is functional convergence in practice while acknowledging that corporate rescue as distinct from business rescue still plays a larger role in the US The focus is on corporate restructurings with in depth scrutiny of Chapter 11 of the US Bankruptcy Code and the UK Enterprise Act and offers other comparative oversights Integrating theoretical and practical insights this book will be of great interest to academics and practitioners and also to policymakers in the DTI Insolvency Service and regulatory bodies

Manufacturing Possibilities Gary Herrigel, 2010-07-15 This alternative view consists of two distinctive claims

International Perspectives on Consumers' Access to Justice Charles E. F. Rickett, Thomas G. W. Telfer, 2003-03-20 Consumer protection law in the age of globalisation poses new challenges for policy makers This book highlights the difficulties of framing regulatory responses to the problem of consumers access to justice in the new international economy The growth of international consumer transactions in the wake of technological change and the globalisation of markets suggests that governments can no longer develop consumer protection law in isolation from the international legal arena Leading scholars consider the broader theme of access to justice from socio legal law and economics perspectives Topics include standard form contracts the legal challenges posed by mass infections such as mad cow disease and CJD ombudsman schemes class actions alternative dispute resolution consumer bankruptcy conflict of laws and cross border transactions This book demonstrates that advancing and achieving access to justice for consumers proves to be a challenging and sometimes elusive task

Personal Insolvency in the 21st Century Iain Ramsay, 2017-05-04 Since 1979 the world has witnessed a remarkable cycle of personal insolvency law reform Changes in capitalist economies financial crises and political interest groups all contributed to this cycle of reform This book examines the role of interest groups and distinct narratives in shaping reform in different countries while drawing attention to the role of timing path dependency and unintended consequences in the development of personal insolvency law The book presents case studies of personal insolvency law in the US France Sweden and England and Wales It then analyses how following the Great Recession of 2008 international financial institutions paid greater attention to the significance of household debt in contributing to financial instability and the role of individual insolvency law in providing a fresh start Personal insolvency law reform became part of EU responses to the eurozone crisis and the EU has proposed harmonisation of individual insolvency law to promote

entrepreneurialism This book examines the extent to which these developments represent an emerging international commonsense about personal insolvency and its relationship to neo liberalism Finally this book discusses whether the international emergence of individual personal insolvency law represents a progressive step or a band aid for the costs of neo liberal policies where a significant number of people live close to the precipice of over indebtedness

The Economy of Promises Bruce G. Carruthers, 2024-08-20 A comprehensive and illuminating account of the history of credit in America and how it continues to divide the haves from the have nots The Economy of Promises is a far reaching study of credit in nineteenth and twentieth century America Synthesizing and surveying economic and social history Bruce Carruthers examines how issues of trust stitch together the modern U S economy In the case of credit that trust involves a commitment by debtors to repay money they have borrowed from lenders Each promise poses a fundamental question why does the lender trust the borrower The book tracks the dramatic shift from personal qualitative judgments to the impersonal quantitative measurements of credit scores and ratings which make lending on a much greater scale possible It discusses how lending is shaped by the shadow of failure and the possibility that borrowers will break their promises and fail to repay their debts It reveals how credit markets have been shaped by public policy regulatory changes and various political factors And crucially it explains how credit interacts with economic inequality contributing to vast and enduring racial and gender differences which are only exacerbated by the widespread use of credit scores and ratings for big data and algorithmic decision making Bringing to life the complicated and abstract terrain of human interaction we call the economy The Economy of Promises is an important study of the tangle of indebtedness that for better or worse shapes and defines American lives

Statutory Priorities in Corporate Insolvency Law Christopher F. Symes, 2016-12-05 Who enjoys statutory preferred creditor status What justifications exist for jurisdictions to maintain statutes that favour priority creditors over other creditors and contributories This book examines preferential debts derived from specific legislative provisions applying to corporate insolvency In exploring the concept of preferential treatment Statutory Priorities in Corporate Insolvency Law includes chapters that provide a doctrinal theoretical and historical analysis of who enjoys preferred creditor status As well as examining the traditional major categories of priorities this work also identifies potential new categories for priority status such as environmental clean up costs international creditors tort claimants and consumers among other non consensual creditors While the study focuses on Australian corporate insolvency law where appropriate comparisons are made with other common law jurisdictions particularly the UK Canada New Zealand and the US

International Insolvency Law Professor Paul Omar, 2013-12-28 International insolvencies are a common feature worldwide in business and finance sectors and the scale and frequency of such occurrences have caught the attention of many academics and commentators Following on from the 2008 book International Insolvency Law Themes and Perspectives this book presents up to date accounts of themes in the field of insolvency law It deals with reforms in and challenges to the subject in relation to its comparative and international

aspect The cutting edge contributions include chapters from common law civil and mixed traditions and have been conceived to increase awareness of the impact of insolvency law within domestic regional and global contexts Useful and thought provoking the chapters take an innovative approach and give new interpretations to hitherto available material This book will be invaluable for those wishing to keep abreast of developments in jurisdictions representing all legal traditions and is a useful guide to the improvement and reform of insolvency laws and frameworks

A Debtor World Ralph Brubaker, Robert M. Lawless, Charles J. Tabb, 2012-11-15 A Debtor World contains a collection of contributions about the societal implications of private debt The essays comprising this volume are authored by dozens of leading U S and international academics who have written about debt or issues related to debt in a wide range of disciplines including law sociology psychology history economics and more The goal of this collection is to explore debt neither as a problem nor a solution but as a phenomenon and to promote the exchange of knowledge to better comprehend why consumers and businesses decide to borrow money It asks what happens to businesses and consumers under a heavy debt load and what legal norms and institutions societies need to encourage the efficient use of debt while promoting a greater understanding of the global phenomenon of increased indebtedness and societal dependence

Governance by Indicators Kevin Davis, 2012-07-05 Indicators and rankings are widely used by governments and organisations to assess the effectiveness efficiency and success of policy decisions This book evaluates the creation of indicators their impact on policy decisions and the implications of their use

International Insolvency Law Paul Omar, 2017-07-05 International insolvency is a newly established branch of the study of insolvency that owes much to the phenomenon of cross border incorporations and the conduct of business in more than one jurisdiction It is largely the offspring of globalization and involves looking at both law and economic rules This book is a compendium of essays by eminent academics and practitioners in the field who trace the development of the subject give an account of the influences of economics legal history and private international law and chart its relationship with finance and security issues as well as the importance of business rescue as a phenomenon Furthermore the essays examine how international instruments introduced in recent years function as well as how the subject itself is continually being innovated by being confronted by the challenges of other areas of law with which it becomes entangled

The Oxford Handbook of Comparative Institutional Analysis Glenn Morgan, John Campbell, Colin Crouch, Ove Kaj Pedersen, Richard Whitley, 2010-04-08 It is increasingly accepted that institutions matter for economic organization and outcomes The last decade has seen significant expansion in research examining how institutional contexts affect the nature and behaviour of firms the operation of markets and economic outcomes Yet institutions conceal a multitude of issues and perspectives Much of this research has been comparative and followed different models such as varieties of capitalism national business systems and social systems of production This Handbook explores these issues perspectives and models with the leading scholars in the area contributing chapters to provide a central reference point for academics scholars and students

Asian Insolvency

Systems: Closing the Implementation Gap OECD, 2007-11-26 A conference proceedings that provides a regional and country perspective on Asian insolvency reform including individual Asian country reports and reports on broader international trends and developments

Neoliberalism and Institutional Reform in East Asia Meredith Jung-En Woo, 2007-11-06 This book brings together scholars of political economy law and sociology to interrogate the seemingly unproblematic notions the rules of law good corporate governance and flexible labour market that inform neoliberal policy prescriptions It also discusses how these concepts have been translated and practiced in East Asia *Lesser Harms* Sydney A. Halpern, 2006-08-01 Research physicians face intractable dilemmas when they consider introducing new medical procedures Innovations carry the promise of preventing or curing life threatening diseases but they can also lead to injury or even death How have clinical scientists made high stakes decisions about undertaking human tests of new medical treatments In *Lesser Harms* Sydney Halpern explores this issue as she examines vaccine trials in America during the early and mid twentieth century Today s scientists follow federal guidelines for research on human subjects developed during the 1960s and 1970s But long before these government regulations medical investigators observed informal rules when conducting human research They insisted that the dangers of natural disease should outweigh the risks of a medical intervention and they struggled to accurately assess the relative hazards Halpern explores this logic of risk in immunization controversies extending as far back as the eighteenth century Then focusing on the period between 1930 and 1960 she shows how research physicians and their sponsors debated the moral quandaries involved in moving vaccine use from the laboratory to the clinic This probing work vividly describes the efforts of clinical investigators to balance the benefits and dangers of untested vaccines to respond to popular sentiment about medical hazards and to strategically present risk laden research to sponsors and the public Concise and extremely well written A fascinating synthesis of sociology history and institutional theory Samuel C Blackman *Journal of the American Medical Association*

The Oxford Handbook of Empirical Legal Research Peter Cane, Herbert Kritzer, 2012-05-17 The empirical study of law legal systems and legal institutions is widely viewed as one of the most exciting and important intellectual developments in the modern history of legal research Motivated by a conviction that legal phenomena can and should be understood not only in normative terms but also as social practices of political economic and ethical significance empirical legal researchers have used quantitative and qualitative methods to illuminate many aspects of law s meaning operation and impact In the 43 chapters of *The Oxford Handbook of Empirical Legal Research* leading scholars provide accessible and original discussions of the history aims and methods of empirical research about law as well as its achievements and potential The Handbook has three parts The first deals with the development and institutional context of empirical legal research The second and largest part consists of critical accounts of empirical research on many aspects of the legal world on criminal law civil law public law regulatory law and international law on lawyers judicial institutions legal procedures and evidence and on legal pluralism and the public understanding of law

The third part introduces readers to the methods of empirical research and its place in the law school curriculum

Culture Wars Roger Chapman, 2015-03-17 The term culture wars refers to the political and sociological polarisation that has characterised American society the past several decades This new edition provides an enlightening and comprehensive A to Z ready reference now with supporting primary documents on major topics of contemporary importance for students teachers and the general reader It aims to promote understanding and clarification on pertinent topics that too often are not adequately explained or discussed in a balanced context With approximately 640 entries plus more than 120 primary documents supporting both sides of key issues this is a unique and defining work indispensable to informed discussions of the most timely and critical issues facing America today

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