

Promises on Prior Obligations at Common Law

Kevin M. Teeven

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Promises On Prior Obligations At Common Law:

Promises on Prior Obligations at Common Law Kevin M. Teeven, 1998-08-27 An historical analysis of the development and reform of the law of prior obligations as expressed in preexisting duty rule and past consideration rule Teeven's principal focus is on the judicial rationalization of common law reforms to partially remove the bar to enforcement of promises grounded in the past This study traces American deviations from English common law doctrine over the past two centuries in developing theories to overcome traditional impediments to recovery presented by the law of prior obligations It also explores ideas for further reforms found buried in past case law The growing unease with both the dashing of legitimate consensual expectations and the perceived unfairness to naive ill informed and otherwise disadvantaged parties served as the impetus for liberalization of the exclusive contract bargain test The resultant reforms adhered to the modern realist emphasis on fairness The expansion of contractual liability to include promises looking to the past encompasses some of the most important reforms of the consideration contract since its genesis As a consequence contractual liability can no longer be defined solely in terms of bargain consideration since contract law now includes a broader range of promissory liability

Calculating Promises Roy Kreitner, 2006-12-08 This book is a history of American contract law around the turn of the twentieth century It meticulously details shifts in our conception of contract by juxtaposing scholarly accounts of contract with case law and shows how the cases exhibit conflicts for which scholarship offers just one of many possible answers Breaking with conventional wisdom the author argues that our current understanding of contract is not the outgrowth of gradual refinements of a centuries old idea Rather contract as we now know it was shaped by a revolution in private law undertaken toward the end of the nineteenth century when legal scholars established calculating promisors as the centerpiece of their notion of contract The author maintains that the revolution in contract thinking is best understood in a frame of reference wider than the rules governing the formation and enforcement of contracts That frame of reference is a cultural negotiation over the nature of the individual subject and the role of the individual in a society undergoing transformation Areas of central concern include the enforceability of promises to make gifts the relationship of contracts to speculation and gambling and the problem of incomplete contracts

Contract as Promise Charles Fried, 2015 Contract as Promise is a study of the foundations and structure of contract law It has both theoretical and pedagogic purposes It moves from trust to promise to the nuts and bolts of contract law The author shows that contract law has an underlying unifying moral and practical structure This second edition retains the original text and includes a new Preface It also includes a lengthy postscript that takes account of scholarly and practical developments in the field over the last thirty years especially the large and rich law and economics literature

The Enforceability of Promises in European Contract Law James Gordley, 2001-07-12 Civil law and common law systems are held to enforce promises differently civil law in principle will enforce any promise while common law will enforce only those with consideration In that respect modern civil law

supposedly differs from the Roman law from which it descended where a promise was enforced depending on the type of contract the parties had made This 2001 volume is concerned with the extent to which these characterizations are true and how these and other differences affect the enforceability of promises Beginning with a concise history of these distinctions the volume then considers how twelve European legal systems would deal with fifteen concrete situations Finally a comparative section considers why legal systems enforce certain promises and not others and what promises should be enforced This is the second completed project of The Common Core of European Private Law launched at the University of Trento Lloyd's Maritime and Commercial Law Quarterly Lloyd's (Firm),2004 *The Central Law Journal* ,1883 Vols 65 96 include Central law journal s international law list The Law of Contract 1670–1870 Warren Swain,2015-02-12 The foundations for modern contract law were laid between 1670 and 1870 Rather than advancing a purely chronological account this examination of the development of contract law doctrine in England during that time explores key themes in order to better understand the drivers of legal change These themes include the relationship between lawyers and merchants the role of equity the place of statute and the part played by legal literature Developments are considered in the context of the legal system of the time and through those who were involved in litigation as lawyers judges jurors or litigants It concludes that the way in which contract law developed was complex Legal change was often uneven and slow and some of the apparent changes had deep roots in the past Clashes between conservative and more reformist tendencies were not uncommon

Commentaries on American Law James Kent,1844 *Commentaries on American Law ... Second edition* James KENT (Chancellor of New York.),1844 *New York Supplement* ,1899 Includes decisions of the Supreme Court and various intermediate and lower courts of record May Aug 1888 Sept Dec 1895 Superior Court of New York City Mar Apr 1926 Dec 1937 Jan 1938 Court of Appeals **The New York Supplement** ,1899 **Columbia Law Review** ,2001 American law reports annotated ,1922 Sovereignty's Promise Evan Fox-Decent,2011-12-08 Political theory is traditionally concerned with the justification and limits of state power It asks Can states legitimately direct and coerce non consenting subjects If they can what limits if any constrain sovereign power Public law is concerned with the justification and limits of judicial power It asks On what grounds can judges read down or read in statutory language against the apparent intention of the legislature What limits if any are appropriate to these exercises of judicial power This book develops an original constitutional theory of political authority that yields novel answers to both sets of questions Fox Decent argues that the state is a fiduciary of its people and that this fiduciary relationship grounds the state s authority to announce and enforce law The fiduciary state is conceived of as a public agent of necessity charged with guaranteeing a regime of secure and equal freedom Whereas the social contract tradition struggles to ground authority on consent the fiduciary theory explains authority with reference to the state s fiduciary obligation to respect legal principles constitutive of the rule of law This obligation arises from the state s possession of irresistible public powers The author begins with a discussion of Hobbes s

conception of legality and the problem of discretionary power in administrative law Drawing on Kant he sketches a theory of fiduciary relations and develops the argument through three parts Part I shows that it is possible for the state to stand in a public fiduciary relationship to its people through a discussion of Crown Native fiduciary relations recognized by Canadian courts Part II sets out the theoretical underpinnings of the fiduciary theory of the state Part III explores the implications of the fiduciary theory for administrative law and common law constitutionalism The final chapter situates the theory within a broader philosophical discussion of the rule of law **Lawyers' Reports Annotated** ,1907 **Consideration in Contract Law** Mark Giancaspro,2024-09-06 In this innovative book Mark Giancaspro examines the origins functions principles and legacies of the common law doctrine of consideration that regulates contractual exchange Through a systematic analysis he explores deep rooted rules and current controversies in legal jurisdictions across the world **The Lawyers Reports Annotated** ,1915 *Text, Cases and Materials on Contract Law* Richard Stone,James Devenney,Ralph Cunningham,2011 Clear and accessible this book provides full coverage of most topics in the contract law syllabus alongside up to date illustrative case examples stimulating commentaries and learning support from a regularly updated companion website *The Lawyers Reports Annotated, Book 1-70* ,1902 **Selected Cases on the Law of Contracts** Ernest Wilson Huffcut,Edwin Hamlin Woodruff,1925

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