



Protecting Reliance

**The Emergent
Doctrine of Equitable
Estoppel**

Michael Spence

B L O O M S B U R Y

Protecting Reliance The Emergent Doctrine Of Equitable Estoppel

Michael Spence



Protecting Reliance The Emergent Doctrine Of Equitable Estoppel:

Protecting Reliance Michael Spence, 1999-06-19 One party induces an assumption in the mind of another Australian law has arguably given expression to three moral duties relating to induced assumptions the duty to keep promises the duty not to lie and the duty to ensure the reliability of induced assumptions This book expounds the third of these duties and shows how it can be used to shape equitable estoppel a doctrine emerging from the decisions of the High Court of Australia in *Waltons Stores and Verwayen* It does not purport to cover the entire law of estoppel but does examine analytically how the doctrine might operate in a series of problematic cases at the edge of contract law **Contract Law** Ewan

McKendrick, 2018 Celebrated and respected this is the stand alone guide to contract law Written by Ewan McKendrick it uses a unique balance of commentary cases and materials Explaining applying and contextualizing it shows students the law at work and helps them to gain a thorough understanding **Dimensions of Private Law** S. M. Waddams, 2003-07-10 This book considers the inherent complexities of private law relevant to property tort contract legal method and legal theory

Private Law and the Rule of Law Lisa M Austin, Dennis Klimchuk, 2014-12-18 The rule of law is widely perceived to be a public law doctrine concerned with the way in which governmental authority conforms to the dictates of law The goal of this book is to challenge this presumption The chapters in this volume all consider the idea that the rule of law concerns the nature of law generally and the conditions under which any relationship that among citizens as well as that between citizens and the state becomes subject to law Addressing two major questions they ask if our understanding of the rule of law is enriched by considering how and to what degree it is expressed or realized in private law and whether our understanding of the private law is enriched by adding the principles of the rule of law to the traditional list of core private law concepts Bringing together leading philosophers of private and public law this volume examines key questions in a little explored field and will be essential reading for all those interested in the rule of law and in private law theory *Philosophical*

Foundations of Property Law James Penner, Henry Smith, 2013-11-28 Property has long played a central role in political and moral philosophy Philosophers dealing with property have tended to follow the consensus that property has no special content but is a protean construct a mere placeholder for theories aimed at questions of distributive justice and efficiency Until recently there has been a relative absence of serious philosophical attention paid to the various doctrines that shape the actual law of property If the philosophy of property is to be more attentive to concepts lying between broad considerations of political philosophy and distributive justice on the one hand and individual rules on the other what in this broad space needs explaining and how might we justify what we find The papers in this volume are a first step towards filling this gap in the philosophical analysis of private law This is achieved here by revisiting the contributions of philosophers such as Hume Locke Kant and Grotius and revealing how particular doctrines illuminate the way in which property law respects the equality and autonomy of its subjects Secondly by exploring the central notions of possession ownership and title and

finally by considering the very foundations of conceptualism in property **Rationalising Constructive Trusts** Ying Khai Liew, 2017-09-21 Constructive trusts significantly interfere with the rights of an apparent legal owner of property This makes it necessary for their imposition to be properly explained and justified Unfortunately attempts to rationalise constructive trusts as a whole as opposed to specific doctrines or particular aspects of constructive trusts have been few and far between Rationalising Constructive Trusts proposes a new structure for a coherent understanding of constructive trusts By using a combination of conceptual tools it provides answers to a number of crucial questions for example What are the ingredients of a constructive trust claim What are the limits of constructive trusts How can we rationalise the imposition of constructive trusts in particular situations Why do judges exercise varying degrees of remedial discretion in different doctrines From a wider perspective the structured understanding helps us to appreciate the precise ambit and role of express constructive and resulting trusts **Reasoning with Law** Andrew Halpin, 2001-12-12 The reader is invited to follow a route that visits Fish's

view of theory and practice Raz's legal reasoning thesis theoretical models of judicial review Dworkin's right answer thesis the law of the excluded middle and Lukasiewicz's development of three valued logic Wittgenstein's language games and Moore's metaphysical realism The destination is the practice at the heart of legal reasoning It is suggested that this manifests the way in which the limitations of language and the incompleteness of human experience allow the opportunity for coherent development of the law and at the same time produce an inherent incoherence within the law The central part of the book seeks to demonstrate how the problems of understanding legal reasoning replicate difficulties encountered in the philosophy of language but challenges the attempts that have been made to harness approaches from within that discipline to illuminate legal reasoning Instead it is argued that law provides an unrivalled test bed for examining the limits of the capacity of our words and that the study of law may be used to confront in a robust and illuminating manner the limitations of that discipline The final chapter considers some of the implications of recognising the incoherence at the heart of legal reasoning commenting on an institutional approach to law the legitimacy of law legal definitions different approaches to legal reasoning the role of appellate courts the general possibility of providing a theoretical model of law the use of legal rules and the nature of law's critical aperture The book should be of interest to advanced undergraduate students particularly on jurisprudence courses postgraduate students academics and practitioners concerned to reflect on the nature of the discipline they practice **Enforcing Corporate Social Responsibility Codes** Anna Beckers, 2015-10-22 Corporate social

responsibility codes are guidelines that companies voluntarily develop and publish with the objective of showing the public their commitment to respect human rights to improve fundamental workplace standards worldwide and to protect the natural environment These corporate codes have become a crucial element in the regulatory architecture for globally operating companies By focusing on the characteristics of the codes their effects on society and their legal consequences this book seeks to provide a comprehensive analysis of corporate codes and the law Enforcing Corporate Social Responsibility Codes

develops proposals on the relationship between global corporate self regulation and the national private law systems It uses methods of comparative law and sociological jurisprudence to argue that national private law can and in fact should enforce these codes as genuine legal obligations The author formulates legal policy recommendations for English and German private law that indicate how the proposed legal enforcement could be realised in practice The dissertation on which this book is based was awarded the second prize in the humanities category of the Deutscher Studienpreis German Thesis Award by the Koerber Foundation in November 2015

The Law of Obligations Andrew Robertson, 2012-07-23 This collection of essays makes an important contribution to debate about the structure underlying private law and the relationships between its different branches The contributors including leading private law scholars from Australia England and Canada provide valuable insights by looking beyond the traditional categories and accepted structure of the law of obligations This book covers three topics The first is concerned with classification and the law of remedies The chapters on this topic deal with both the classification of remedies themselves and with remedial issues that cross classificatory boundaries within the law of obligations The chapters on the second topic reconsider some of the boundaries drawn by judges and scholars within the law of obligations The third topic deals with the relationship between obligations and property The chapters in this book offer illuminating new perspectives on fundamental issues in the law of obligations Together they provide a thought provoking reconsideration of connections and boundaries in private law

Contract Law Mindy Chen-Wishart, 2015 This textbook provides an accessible account of the intricacies of contract law and the problems that can arise during the life of a contract These problems along with their solutions are discussed in detail using everyday language that stimulates thought and reflection

Justifying Private Rights Simone Degeling, Michael JR Crawford, Nicholas Tiverios, 2021-02-11 Many of the most influential contributions to private law scholarship in the latter part of the twentieth century go beyond purely doctrinal accounts of private law A distinctive feature of these analyses is that they straddle the divide between legal philosophy on the one hand and the sort of traditional doctrinal analysis applied by the courts on the other The essays contained in this collection continue in this tradition The collection is divided into two parts The essays contained in the first part consider the nature of and justification for private rights generally The essays in the second part address the justification for particular private law rights and doctrines Offering insightful and innovative analyses this collection will appeal to scholars in all fields of private law and legal theory

Poole's Textbook on Contract Law Robert Merkin, Séverine Saintier, 2019 The fourteenth edition of this established and popular text provides a clear and commercially focused exposition of contract law Case driven content and succinct explanations are combined with summaries questions and examples to allow students to gain a sound understanding of the theory and application of contract law principles

Exploring Contract Law Jason W Neyers, Richard Brunaugh, Stephen G.A. Pitel, 2009-05-14 In this book leading scholars from Australia Canada Hong Kong New Zealand Singapore the United Kingdom and the United States deal with important theoretical and practical issues in the

law of contract and closely related areas of private law The articles analyse developments in the law of estoppel mistake undue influence the interpretation of contracts assignment exclusion clauses and damages The articles also address more theoretical issues such as discerning the limits of contract law the role of principle in the development of contract doctrine and the morality of promising With its rich scope of contributors and topics Exploring Contract Law will be highly useful to lawyers judges and academics across the common law world Contributors Rick Bigwood Richard Branaugh Mindy Chen Wishart Helge Dedek Gerald H L Fridman Mark P Gergen Andrew S Gold Kelvin F K Low Jason W Neyers Stephen G A Pitel Andrew Roberston Stephen A Smith Robert Stevens Andrew Tettenborn Chee Ho Tham Catherine Valcke Stephen Waddams Charlie Webb Foreword by Justice Ian Binnie of the Supreme Court of Canada

Misleading Silence Elise Bant, Jeannie Marie Paterson, 2020-10-29 This collection brings together a team of outstanding scholars from across the common law world to explore the treatment of misleading silence in private law doctrine and theory Whereas previous studies have been contractual in focus here the topic is explored from across the full spectrum of private law Its approach encompasses equitable and common law principles as well as taking an integrated approach to key statutory regimes The highly original contributions draw on rich theoretical historical comparative cross disciplinary and doctrinal perspectives This is truly a landmark publication in private law with no counterpart in the common law world Contributors Professor Elise Bant Professor Jeannie Paterson Professor Rick Bigwood Professor Michael Bryan Professor John Cartwright Professor Mindy Chen Wishart Professor Simone Degeling Professor Pamela Hanrahan Professor Luke Harding Professor Matthew Harding Professor Catharine MacMillan Professor Hector MacQueen Professor Donna Nagy Justice Andrew Phang Professor Pauline Ridge Professor Andrew Robertson Ms Anna Williams

The Construction, Sources, and Implications of Consensualism in Contract Kane Abry, 2023-09-28 This book offers a comprehensive introduction to French contract law with a focus on the role of consent and the evolution of consensualism considering its immediate historical sources The book provides a clear in depth and analytical discussion of the contingency of consensualism and how the development of consensual ideas across time and transnational geographical settings has specifically underpinned modern French contract law which has inspired other legal systems and continues to do so It also challenges the macro narratives of European legal history and redefines consensualism so that it may be properly understood addressing its manifest contemporary misinterpretations Thorough engaging well structured and inventive there is no other English language scholarly work that offers a similar analysis This monograph makes an evident contribution to the field by offering an original interpretation of several provisions in the Code Civil which relate to the law of contract The author demonstrates an impressive grasp of Latin French and English sources as well as knowledge of Roman law legal history and contemporary French law It is well referenced and offers an extensive bibliography Dr Stephen Bogle Senior Lecturer in Private Law University of Glasgow UK The author brings a critical perspective to bear throughout the monograph and develops a clear and quite sophisticated position on the interaction

between consensualism and formalism in Roman and French law and the intervening European *ius commune* Prof Hector MacQueen Emeritus Professor of Private Law University of Edinburgh UK Modern Studies in Property Law - Volume 2 Elizabeth Cooke, 2003-05-14 The Modern Studies in Property Law series is a collection of the papers given at the biennial conferences of the Centre for Property Law at the University of Reading Volume II contains the proceedings from the conference in 2002 and includes a wide range of papers from both English and international speakers covering many of the most topical issues within the law of property **Contract Law** Neil Andrews, 2011-05-26 This textbook takes a fresh approach to contract law as a first edition it reflects the subject in the 21st century more accurately than other texts Comprehensive and scholarly it maps the curriculum perfectly but detailed references and further reading sections encourage students to explore the subject further Understanding is paramount and chapter introductions clearly guide students through the material The textbook takes an innovative approach to case law breaking down and discussing individual elements of a case and selecting short key extracts it gives students the tools to read cases independently and with confidence An examination of the historical and theoretical foundations of the subject and a concluding chapter tracking emerging fields ensure the broadest possible perspective Discussion of key recent cases such as *Durham Tess Valley Airport* 2010 and *Chartbrook* 2009 make this important new text a must for contract law students **Equity** Irit Samet, 2018-12-06 This book sets out to defend the claim that Equity ought to remain a separate body of law the temptation to iron out the differences between neighbouring doctrines on the two sides of the Equity Common Law divide should in most cases be resisted The theoretical part of the book is argues that the characteristics of Equity namely appeal to conscience flexibility retroactivity and the use of morally freighted jargon are essential for the implementation of a legal ideal that has been neglected by the Common Law Accountability Correspondence According to this fundamental legal ideal liability imposed by legal rules should correspond to the pattern of moral duty in the circumstances to which the rules apply Equity promotes this ideal in the fields of property and obligations by disallowing parties to exploit the rule like nature of Common Law norms in a way that breaches their moral duty to the other party By reference to various equitable doctrines it is argued that the faults identified by critics of Equity especially from the perspective of the Rule of Law are highly exaggerated and that the criticism often reflects a political belief in the supremacy of individualism and free market over empathy and social justice The theoretical part is followed by three chapters each dedicated to an in depth analysis of the equitable doctrines of fiduciary duties proprietary estoppel and clean hands For each doctrine it is shown how their equitable characteristics are indispensable for achieving their social ethical and economic purpose *Rights, Wrongs, and Injustices* Stephen A. Smith, 2019-11-12 *Rights Wrongs and Injustices* is the first comprehensive account of the scope foundations and structure of remedial law in common law jurisdictions The rules governing the kinds of complaints that common law courts will accept are generally well understood However the rules governing when and how they respond to such complaints are not This book

provides that understanding It argues that remedies are judicial rulings and that remedial law is the law governing their availability and content Focusing on rulings that resolve private law disputes for example damages injunctions and restitutionary orders this book explains why remedial law is distinctive how it relates to substantive law and what its foundational principles are The book advances four main arguments First the question of what courts should do when individuals seek their assistance the focus of remedial law is different from the question of how individuals should treat one another in their day to day lives the focus of substantive law Second remedies provide distinctive reasons to perform the actions they command in particular they provide reasons different from those provided by either rules or sanctions Third remedial law has a complex relationship to substantive law Some remedies are responses to rights threats others to wrongs and yet others to injustices Further remedies respond to these events in different ways while many remedies merely replicate substantive duties others modify substantive duties and some create entirely new duties Finally remedial law is underpinned by general principles principles that cut across the traditional distinctions between so called legal and equitable remedies Together these arguments provide an understanding of remedial law that takes the concept of a remedy seriously classifies remedies according to their grounds and content illuminates the relationship between remedies and substantive law and presents remedial law as a body of principles rather than a historical category

The Change of Position Defence Elise Bant, 2009-05-27 This book defines and explains the operation of the defence of change of position in Anglo Australian law It is a widely accepted view that the defence is a modern development the first express recognition of which can be traced in England to the seminal decision of the House of Lords in *Lipkin Gorman a firm v Karpnale Ltd* Commentators have accordingly tended to focus on post *Lipkin* case law in discussing the defence and its many disputed features This work takes a different stance arguing that the defence is best understood by placing it within its broader historical and legal context It explains that the foundations of the defence can be found in the related doctrines of estoppel by representation the agent's defence of payment over and the law of rescission The analysis applies crucial insights from those areas together with the change of position authorities and broader considerations of policy and principle to develop a rigorous model of the change of position defence The work not only provides a clear and exhaustive examination of the defence but demonstrates that properly understood the defence operates in a rational and justifiable manner within its broader private law context In so doing its analysis meets the oft expressed concern that the defence may operate in an unprincipled way or by reference to that vague jurisprudence which is sometimes attractively styled justice as between man and man

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Table of Contents Protecting Reliance The Emergent Doctrine Of Equitable Estoppel

1. Understanding the eBook Protecting Reliance The Emergent Doctrine Of Equitable Estoppel
 - The Rise of Digital Reading Protecting Reliance The Emergent Doctrine Of Equitable Estoppel
 - Advantages of eBooks Over Traditional Books
2. Identifying Protecting Reliance The Emergent Doctrine Of Equitable Estoppel
 - Exploring Different Genres
 - Considering Fiction vs. Non-Fiction
 - Determining Your Reading Goals
3. Choosing the Right eBook Platform
 - Popular eBook Platforms
 - Features to Look for in an Protecting Reliance The Emergent Doctrine Of Equitable Estoppel
 - User-Friendly Interface
4. Exploring eBook Recommendations from Protecting Reliance The Emergent Doctrine Of Equitable Estoppel
 - Personalized Recommendations
 - Protecting Reliance The Emergent Doctrine Of Equitable Estoppel User Reviews and Ratings
 - Protecting Reliance The Emergent Doctrine Of Equitable Estoppel and Bestseller Lists
5. Accessing Protecting Reliance The Emergent Doctrine Of Equitable Estoppel Free and Paid eBooks
 - Protecting Reliance The Emergent Doctrine Of Equitable Estoppel Public Domain eBooks
 - Protecting Reliance The Emergent Doctrine Of Equitable Estoppel eBook Subscription Services
 - Protecting Reliance The Emergent Doctrine Of Equitable Estoppel Budget-Friendly Options

6. Navigating Protecting Reliance The Emergent Doctrine Of Equitable Estoppel eBook Formats
 - ePub, PDF, MOBI, and More
 - Protecting Reliance The Emergent Doctrine Of Equitable Estoppel Compatibility with Devices
 - Protecting Reliance The Emergent Doctrine Of Equitable Estoppel Enhanced eBook Features
7. Enhancing Your Reading Experience
 - Adjustable Fonts and Text Sizes of Protecting Reliance The Emergent Doctrine Of Equitable Estoppel
 - Highlighting and Note-Taking Protecting Reliance The Emergent Doctrine Of Equitable Estoppel
 - Interactive Elements Protecting Reliance The Emergent Doctrine Of Equitable Estoppel
8. Staying Engaged with Protecting Reliance The Emergent Doctrine Of Equitable Estoppel
 - Joining Online Reading Communities
 - Participating in Virtual Book Clubs
 - Following Authors and Publishers Protecting Reliance The Emergent Doctrine Of Equitable Estoppel
9. Balancing eBooks and Physical Books Protecting Reliance The Emergent Doctrine Of Equitable Estoppel
 - Benefits of a Digital Library
 - Creating a Diverse Reading Collection Protecting Reliance The Emergent Doctrine Of Equitable Estoppel
10. Overcoming Reading Challenges
 - Dealing with Digital Eye Strain
 - Minimizing Distractions
 - Managing Screen Time
11. Cultivating a Reading Routine Protecting Reliance The Emergent Doctrine Of Equitable Estoppel
 - Setting Reading Goals Protecting Reliance The Emergent Doctrine Of Equitable Estoppel
 - Carving Out Dedicated Reading Time
12. Sourcing Reliable Information of Protecting Reliance The Emergent Doctrine Of Equitable Estoppel
 - Fact-Checking eBook Content of Protecting Reliance The Emergent Doctrine Of Equitable Estoppel
 - Distinguishing Credible Sources
13. Promoting Lifelong Learning
 - Utilizing eBooks for Skill Development
 - Exploring Educational eBooks
14. Embracing eBook Trends
 - Integration of Multimedia Elements

- Interactive and Gamified eBooks

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