

CLARENDON
LAW
Lectures

CHANGE AND
CONTINUITY

Statute, Equity, and Federalism

William Gummow

Change And Continuity Statute Equity And Federalism

Michael Taggart



Change And Continuity Statute Equity And Federalism:

Change and Continuity W. M. C. Gummow, 1999 This volume is based closely on the lectures delivered by The Hon Justice W M C Gummow at Oxford University in 1999 as part of the Clarendon law lectures series sponsored by Oxford University Press These lectures take up themes of continuity and change in the law particularly as they appear in the great common law jurisdictions The tension between continuity and change appears from a consideration of the interaction between statute and the case law which interprets it of the interaction between equity and statute and finally of the operation of that constitutional arrangement known as federalism Statute speaks to the state of affairs at the time of enactment That state of affairs is dynamic the statute at least in form is static Conversely in its development the common law may be informed by changes effected by statute The extent to which the common law may or should respond in this way is a matter of controversy Further the accommodation of an apparently rigid statutory structure to individual circumstances has for centuries been assisted by the leavening effect of equitable doctrines and remedies Finally in federal systems with a division of governmental power and authority by a written supreme law tensions between continuity perceived in terms of original intent and changed circumstances which were unforeseen may become acute Is Britain in the process of becoming a federal state or indeed a component of a European federal state In all these situations the doctrines developed by the courts assist the passage of society from the past through the present and into the future This invites an inquiry considered in these lectures as to the requirements of legal scholarship in a court of ultimate appeal in a common law system

Interpreting Statutes Suzanne Corcoran, Stephen Bottomley, 2005 Interpreting Statutes was cited 4 times by the High Court in *Momcilovic v The Queen* 2011 HCA 34 8 September 2011 Interpreting Statutes has been written for lawyers and judges who must interpret statutes on a daily basis as well as for students and scholars who have their own responsibility for the future This book takes a new approach to statutory interpretation The authors consider the fundamental importance of context in statutory interpretation across various fields of regulation and explore the problems which arise from the frequent disjunction between regulatory design and subsequent statutory interpretation As a result they bring to the fore fundamental theoretical questions underlying interpretive choice and expand our appreciation of how critical interpretive issues are to the proper functioning of our legal system The book is divided into two parts The first covers several areas dealing with fundamental theoretical issues The second deals with particular areas of the law such as criminal law or corporate law addressing the utility and functionality of the general theories from different legal perspectives and illustrating the fact that different interpretive principles may take precedence in different areas of the law It reveals the complexity of statutory interpretation when applied to actual practice in a particular area of law Despite this complexity and the unique problems of statutory interpretation within each area of law some major themes emerge including the strong influence of constitutional interpretation tension between common law rights and statutory innovation questions about the interaction of domestic law

with international law tension between settled judicial principles of interpretation and principles embedded in legislation issues concerning the interpretation of delegated legislation and questions about gap filling and discretion in the interpretation of statutes and codes

International Trade & Business Law Review Gabriël Moens, 2005 The International Trade and Business Law Review is the official publication of the Australian Institute of Foreign and Comparative Law The Review includes leading articles case notes and comments as well as book reviews and understanding of recent developments in international trade and transnational business The Review contributes in a scholarly way to the discussion of these issues whilst being informative and of practical relevance to business people It also promotes further development of the trading relationship between Australia and its traditional trading partners including the European Community and the APEC countries of leading international trade law practitioners and academics from the European Community the United States Asia and Australia

Judging Equity T. Leigh Anenson, 2018-11-15 This book explores the clean hands doctrine a safety valve in the legal system designed to correct injustice

Equity and Law María José Falcón y Tella, 2008-12-31 Equity is a multi faceted subject an authentic crossroads of problems The perspective of this study is as a result a mix of focuses which includes the philosophy of law general legal theory justice theory the history of law comparative law legal dogma etc In this book as in various earlier studies of the author she uses the three dimensional method which facilitates a stratified focus in agreement with three levels facts norms and values The subject of equity has never been analysed as completely as in this work It includes a dynamic study of the different types of equity throughout history and in the different legal systems the concept content limits functions and types of equity the relationship between equity and related ideas and equity in all the branches of the legal order

The Rule of Law Cheryl Saunders, Katherine Le Roy, 2003 This book brings together the views of an extraordinary range of well known authors It contains essays by Chief Justice Murray Gleeson High Court of Australia Justice Louise Arbour Supreme Court of Canada Justice Ruth Bader Ginsburg Supreme Court of USA Dr Radhika Coomaraswamy the UN Special Rapporteur on Violence against Women and Professors Saunders Australia Dyzenhaus Canada and Troper France The essays cover issues such as the debate about the meaning and application of the rule of law the gaps between the theory and practice of the rule of law relations between governments and people the tensions between the judiciary and the elected branches of government international criminal justice and the position of women in situations of conflict and insurrection The analyses in the book draw on topical events ranging from the Florida appeal in the election of President Bush to the indictment of Slobodan Milosevic at the War Crimes Tribunal

Equity and Administration P. G. Turner, 2016-05-26 What is equity This book explores modern equity s nature especially its facilitative character and its role in common law systems

Law and Liberty in the War on Terror Andrew Lynch, Edwina MacDonald, George Williams, 2007 How can we ensure national security against people unafraid to kill themselves along with their victims people who self evidently will not be deterred by traditional laws which punish offenders

after their crimes are committed This is the challenge for liberal democracies such as Australia New laws specifically designed to forestall terrorist activity have been a key response Law and Liberty in the War on Terror describes these laws and debates both their effectiveness and impact on civil liberties International and domestic commentators from the fields of government law and political science address questions such as How does the law define terrorism Can the criminal justice system accommodate preparatory terrorism offences Is torture ever acceptable as an interrogative method What is the role of the judiciary in times of emergency How do Australia s anti terrorism laws compare with those of the United Kingdom and New Zealand How are Australian communities and politics affected by responses to terrorism I n this book proponents of the new anti terrorism laws seek to justify their provisions and opponents argue that the laws go too far These chapters also show the extent of the changes that have been made to our legal and administrative structures The chapters in this book cannot be dismissed as mere academic analyses They have to do with the lives and aspirations of all Australians They ask whether Australia is and whether it will be a united secure free and confident nation Sir Gerard Brennan AC KBE former Chief Justice of Australia , Some Landmarks of Twentieth Century Contract Law G. H. Treitel,2002 Treitel covers the extent to which contracts can benefit or bind third parties variation of contracts by subsequent agreement and the distinction between four contractual terms warranties intermediate or innominate terms and fundamental terms **Annual of German and European Law** Russell A. Miller,Peer Zumbansen,2004 Complementing the highly successful online German Law Journal this new publication aims to deepen and develop some of the issues discussed in the Journal as well as to take up new questions and directions of commentary Focusing on pressing legal questions of socio political relevance it offers scholarly articles reports book reviews and selected statutes or court decisions in English translation in all fields of German and European Law The main objective is to offer border transcending and interdisciplinary research into fast moving areas of the law often involving a complex array of institutional political and private actors **Corpus Juris of Islamic International Criminal Justice** Farhad Malekian,2018-09-30 This pioneering scholarly oeuvre evaluates the major comparative philosophy of Islamic international criminal justice It represents an in depth analysis of the necessities of creating an Islamic international criminal court its possible jurisdiction proceedings judgments and sanctions It implies a court functioning under the legal personality of the International Criminal Court with comparative international criminal lawyers with basic knowledge of Shariah contributing to the prevention of crimes and impunity at an international level The morality and philosophy of Islamic justice are highly relevant with reference to the atrocities committed explicitly or implicitly under the pretext of Islamic rules by superiors groups and governments The volume focuses on substantive criminal law and three methods of the criminal procedure namely the inquisitorial adversarial and adquisitorial The first two constitute the corpus juris of civil and common law systems The third term presents a hybrid of the first two methods The intention is to enhance the scope of each method of the criminal procedure comprehensively The volume examines their variations and effects on a

shared system of international criminal justice The inherence of comparable norms in the foundation of Islamic and international criminal law affirms their efficiency in the implementation of the essence of the complementarity principle This book will appeal to readers who are interested in comparative criminal law international criminal justice and Shariah criminal law It is recommended for course literature

Research Handbook on Unjust Enrichment and Restitution Elise Bant, Kit Barker, Simone Degeling, 2020-07-31 This comprehensive yet accessible Research Handbook offers an expert guide to the key concepts principles and debates in the modern law of unjust enrichment and restitution

Commercial Law and Commercial Practice Sarah Worthington, 2003-12-31 This book contains essays by legal experts which aim to prompt a critical and constructive reassessment of current commercial law and its practices

Borderlines in Private Law, 2024-10-02 Mapmaking analogies are a longstanding hallmark of private law scholarship but the boundaries between subject areas are not always neat and tidy Can lines be drawn between property and obligations or common law and equity Should tort and unjust enrichment be subordinate to the law of contract Should equity enforce agreements that contract does not Are equitable wrongs meaningfully different from torts Where do these borders sit and what does one do with areas that intersect In this collection of essays several of the UK's leading academic lawyers discuss these borderlines and intersections Covering five broad topics contract tort unjust enrichment property and equity the contributors take varied approaches Some argue for distinct categories and the careful maintenance of borders while others celebrate cross border exchanges or say that any attempt to draw and maintain borders is a futile endeavour In addition to the contributions from academic lawyers the book contains responses from senior members of the UK judiciary including Lord Sales and Lady Carr offering their perspectives on these debates and advice on how to structure order and understand private law in the context of real world disputes With an esteemed group of contributors *Borderlines in Private Law* is at the cutting edge of modern private law scholarship providing invaluable discussion on the interactions between contract tort equity unjust enrichment and property law

Private Property and Abuse of Rights in Victorian England Michael Taggart, 2002 The case of the Borough of Bradford v Pickles was the first to establish the principle that it is not unlawful for a property owner to exercise his or her property rights maliciously and to the detriment of others or the public interest This book explores why the common law developed in this way

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

Great Australian Dissents Andrew Lynch, 2016-09-08 This book identifies analyses and celebrates the significant and influential dissenting judicial opinions in Australian legal history

Intellectual Property William Rodolph Cornish, 2004 Intellectual property rights IPRs are increasingly significant elements of economic policy they are vital to developed countries in an age of global trade Today's astounding new technologies stemming from the digital and biotechnological revolutions are creating new problems William Cornish focusses upon the major dilemmas that currently enmesh the subject the omnipresent spread of IPRs across

some recent technologies the distraction caused by rights that achieve little of their intended purpose and the seeming irrelevance of IPRs in the face of new technologies such as the internet What IPRs are good for and what they should achieve depends upon the law which defines them There is great international as well as national pressure for new laws and in Europe the EU is now the dominant force in shaping IP policy Against this background William Cornish surveys current arguments over legal policy in this field How can the the issues raised by advances in human genetics be reconciled with the potential for diagnostic and therapeutic advances and the patenting of molecules genes and even organisms by biotechnology and pharmaceutical companies How can this new field be fairly protected through the existing requirements of patent law and who should be responsible for effecting this result Copyright is the traditional buttress of publishing computer programming and record and film production It now faces a life sapping threat from free and ready access to material via the Internet and other digital resources How can a mixture of legal rights and technological barriers to access give reasonable protection to investment in new intellectual products without becoming an inordinate instrument of control Trade marks are the crux of branding a cornerstone of marketing that often eclipses even the very things being sold How can we reconcile the tension between those intent on legal protection for every element of investment in branding and those concerned to balance freedom to compete against the drive for fair trading

The Modern Law of Marine Insurance D. Rhidian

Thomas, 2023-02-21 This fifth volume in the series comprises ten contributions written by an expert team of academics and practitioners Collectively they analyse and expound many of the contemporary legal issues and debates in the law and practice of marine insurance The new volume is not to be considered as a new edition superseding the earlier volumes To the contrary it extends on the previous coverage and contributes to the expanding coverage of the series It achieves this by introducing new topics for analysis and by noting significant developments in themes considered in earlier volumes thereby providing a useful tool for keeping abreast of an ever developing body of judicial law This volume tackles topics such as the impact of the Insurance Act 2015 on remedies and the pre contractual duty of insurers as well as a contribution from Professor Wilhelmsen on the state ship arrest as a peril under the Nordic Marine Insurance Plan and London terms It explores the impact of Brexit on jurisdiction in marine insurance whilst also dedicating time to the comparison of US and English law relating to the duties of brokers and analyses the but for test in marine insurance as well as historical development of the law relating to fraudulent claims Alongside many other important topics this book meticulously examines Direct and Third Party claims against P I Insurers Passenger liabilities and class actions Seaworthiness and the operation of the MIA 1906 s 39 post Insurance Act 2015 and the insuring of autonomous and remote controlled vessels This book is essential reading for maritime lawyers brokers and insurance market practitioners academics and companies associated with the marine insurance markets worldwide

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