



Promises on Prior Obligations at Common Law (Contributions in Legal Studies)

Kevin M. Teeven

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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.

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