
OXFORD LEGAL PHILOSOPHY

Series Editors: Timothy Endicott, John Gardner, and Leslie Green

Reason and Restitution

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Charlie Webb

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Series Editors' Preface

As compared with the rest of the common law of obligations, the law of unjust enrichment is still in its infancy. At any rate it Reason and Restitution: A Theory of Unjust Enrichment (Oxford Legal Philosophy) is in its infancy as a Reason and Restitution: A Theory of Unjust Enrichment (Oxford Legal Philosophy) distinct area of law. Cases that could be held to exemplify its main themes go back a long way. Yet only fifty years separate us from the seminal first edition of *The Law of Restitution* by Robert Goff and Gareth Jones. Lately that book has been renamed *The Law of Unjust Enrichment* to reflect changes in the way the subject is understood that are largely owing to changes in the analysis offered over the years by the subject's greatest guru, the late Peter Birks. It is thanks to Birks more than anyone else that Reason and Restitution: A Theory of Unjust Enrichment (Oxford Legal Philosophy) the subject now benefits from such a developed literature and such lively debate. But Birks was openly resistant to the idea that philosophers could enhance or augment the debate. His influence, while accelerating the

development of the law of unjust enrichment, slowed down the development of the Reason and Restitution: A Theory of Unjust Enrichment (Oxford Legal Philosophy) *philosophy* of the law of unjust enrichment.

With that in mind we are delighted to include in *Oxford Legal Philosophy* this provocative book by Charlie Webb. Webb is a leading light in the new wave of unjust enrichment scholars who bring a more philosophical eye to the subject. The book is already provocative for that reason alone, but it is also provocative for another reason. Webb argues for the minority view, given short shrift by Birks, that the law of unjust enrichment is best understood as an incident or offshoot of the law of property. His defence of that view does not involve a Birksian attempt to show how the cases line up in support of it. He is interested in themes and undercurrents in the law of Reason and Restitution: A Theory of Unjust Enrichment (Oxford Legal Philosophy) unjust enrichment. Ultimately he is Reason and Restitution: A Theory of Unjust Enrichment (Oxford Legal Philosophy) interested in how that body of law could be justified morally. This book makes more than a start with that justificatory project. It makes a powerful case that the justification of unjust enrichment law will only be found by focusing first on the question of ownership.

TAOE

JG

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September 2015

Acknowledgements

In one respect at least, this book is long overdue. When, in the autumn of 2010, Oxford University Press agreed to publish the book, I had envisaged having it ready within a year. By this point I had a more or less complete draft and planned to make only a few minor additions. That it's taken so much longer is due more to my own fussiness than to any significant changes in my thinking Reason and Restitution: A Theory of Unjust Enrichment (Oxford Legal Philosophy) or in the arguments the book presents. My thanks to all at OUP for this indulgence.

I didn't come to study, or to think about, the law of unjust enrichment until I moved to London, first as a master's student, in 2001. The move was a good one and I doubt this book would have been written had I not made it. But the broad direction the book would end up taking was, in some important respects, set earlier. For this, and much else, I am indebted to my Reason and Restitution: A Theory of Unjust Enrichment (Oxford Legal Philosophy) first law tutors, Adrian Zuckerman, Martin Matthews, and John Finnis, who encouraged a certain attitude or approach to law, one that, years later, led me here. (My footnotes may suggest a more direct link. In fact I left Oxford with little understanding of Finnis' work. My own fault: I picked a tutorial on the enforcement of morals over one on natural law. The reading list was shorter.)

Many others have helped along the way. My thanks, in particular, to all those who read and commented on draft chapters and on earlier work upon which this book builds: notably Charles Mitchell, Simon Gardner, Robert Reason and Restitution: A Theory of Unjust Enrichment (Oxford Legal Philosophy) Stevens, Neil Duxbury, Grégoire Webber, and, most of all, Sarah Worthington.

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