

Classifications des obligations

Classification selon l'intensité de l'obligation

- ❖ Obligation de garantie (ex. assurance de dommage art. 2464 C.c.Q.)
 - Devoir de garantir la réalisation d'un résultat précis et déterminé
 - Même la survenance d'un cas de force majeure ne peut pas exonérer le débiteur

Critères d'identification

- ❖ **Explicite**
 - Précisée dans la loi
 - Stipulée au contrat
- ❖ **Implicite** : interprétation des indices
 - Maîtrise de la situation par le débiteur
 - Rôle du créancier
 - Existence d'aléa
 - Attente ou utilité de l'exécution pour le créancier
 - Enjeu de partage de risques

Intérêt de distinction

- Preuve de l'inexécution de l'obligation

Implicite : interprétation des indices

- Maîtrise de la situation par le débiteur

- Rôle du créancier

- Existence d'aléa (risque qui échappe au débiteur (ex. le médecin ne peut pas prévoir le résultat d'un traitement))

- Attente ou utilité de l'exécution pour le créancier

- Enjeu de partages de risques

Les Sources Des Obligations

David Hunter Miller



Les Sources Des Obligations:

Mémoires Et Comptes Rendus de la Société Royale Du Canada Royal Society of Canada, 1917 **Manuel Élémentaire de Droit Romain** Paul Frédéric Girard, 1911 *Les sources des obligations* Stéphane Obellianne, 2015-04-14

Notion plurale la source des obligations se compose en source formelle source technique et source substantielle Les sources formelles signifient le fondement juridique partir duquel seront dégagées les sources techniques fruit de l'interprétation judiciaire Les sources substantielles ont été définies comme les conditions concrètes de naissance de l'obligation Nécessité de l'application des notions techniques réalisées par les magistrats elles s'articulent autour de la liberté du débiteur et la protection du créancier L'approche classique a été définie comme la politique qui consacre la liberté du débiteur Contenue en l'article 1370 du Code civil elle plonge ses racines dans le passé et s'illustre aujourd'hui travers de nombreux concepts l'opposée l'approche moderne fait prévaloir la protection du créancier Consacrée indirectement elle laisse intact l'ordre technique existant et s'labore partir de applications renouvelées des notions Consacrée directement elle donnera naissance de nouvelles notions dont certaines recevront une traduction formelle Une nouvelle approche de la liberté est souhaitable L'acte juridique a été redéfini comme la libre création d'une croyance légitime Le fait juridique consiste en la création domageable d'un risque anormal En chacune de ces sources l'expression de la liberté est appréciée en la personne du débiteur tandis que le produit de la liberté est valu en la personne du créancier Par ailleurs l'approche libérale fait aussi l'objet d'un dépasement la faveur de celui-ci l'obligation se traduira par une charge individuelle définitive d'une part et une charge collective finale d'autre part

Law, Norms and Freedoms in Cyberspace / Droit, normes et libertés dans le cybermonde Cécile de Terwangne, Elise Degrave, Séverine Dusollier, Robert Queck, 2018-05-29

Professeur chercheur directeur de centre doyen et recteur Yves Pouillet s'est illustré dans toutes les tapes et fonctions d'une carrière universitaire bien remplie marquant des générations d'étudiants de chercheurs de collègues et de pairs Spécialiste minent et incontournable du droit de l'internet et des technologies de l'information et de la communication il en est aussi l'un des précurseurs en fondant dès 1979 un des premiers centres de recherche européens en la matière Par cet ouvrage collègues amis anciens doctorants rendent hommage à l'une des plus belles plumes de la discipline en lui offrant leurs réflexions sur l'influence réciproque du droit et de la technologie Leurs contributions démontrent l'étendue de l'expertise et des réseaux européens et internationaux d'Yves Pouillet Elles s'articulent autour de trois axes qui furent autant de perspectives dans lesquelles il a inscrit sa recherche le droit les normes et les libertés La richesse de ce volume témoigne de son attention à l'humain des amitiés qu'il a nouées mais aussi des sillons qu'il a tracés en droit des technologies de l'information et de la communication sillons dans lesquels a poussé une forêt luxuriante toujours fertile C'est le héritage d'un grand penseur d'un véritable universitaire Yves Pouillet has not merely served but excelled in all functions of the University world Whether as professor researcher director of a research centre or as dean and rector he has left a lasting impression in the minds of generations of students researchers colleagues and peers He is a preeminent expert on the law of Internet and Information

and Communications Technologies who already in 1979 pioneered one of the first European research centres in the field This volume is a tribute to Yves Poulet from colleagues friends former PhD researchers offering their reflections on the reciprocal influence of law and technology These contributions highlight both the range of expertise and the extent of the European and international networks he has nourished They address the three main research axes Yves Poulet has developed through the years law norms and freedoms The authors of this volume pay homage to a mentor a friend but above all to an exceptional researcher who has sown countless seeds in the field enabling a luxurious landscape to grow and become a source of inspiration for many scholars This is the heritage of a genuine thinker a real academic

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 Royal Society of Canada,1917 Des obligations, sources, extinctions, preuve A. Hudelot,1894 *Proceedings of the Royal Society of Canada* Royal Society of Canada,1916 **La Revue critique de législation et de jurisprudence du Canada**,1873 Dictionnaire D'archéologie Chrétienne Et de Liturgie, Publié Par Le R. P. Dom Fernand Cabrol ... Avec Le Concours D'un Grand Nombre de Collaborateurs Fernand Cabrol,1910 **La Revue critique de législation et de jurisprudence du Canada** ,1875 **The Individualization of Punishment** Raymond Saleilles,1911 **Conférences fédérales-provinciales du 3 au 10 novembre 1927, du 9 au 13 décembre 1935, les 14 et 15 janvier 1941** ,1928
Les Obligations en Droit Romain P. A. H. van Wetter,1884 Manuel du droit fédéral des obligations Jacottet,1884
Essai d'une théorie générale de l'obligation d'après le projet de code civil allemand Raymond Saleilles,1890 The Canada Gazette Canada,1909 **Parliamentary Papers** Great Britain. Parliament. House of Commons,1924 **The Drafting of the Covenant** David Hunter Miller,1928 **Documents** David Hunter Miller,1928 SCOTT Copy 1 V 1 2 From the John Holmes Library Collection The Drafting of the Covenant: Documents David Hunter Miller,1969

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