18. Undue influence

This chapter examines 'undue influence'. In a typical case, C claims that a transaction should be set aside because he reposed trust and confidence in D, and the influence that D had upon C was exerted in a way which was 'undue'. The effect is to render a contract voidable such that it can be rescinded. The basis of undue influence is controversial: it has been argued both that undue influence is based upon D’s exploitation of the relationship, and that the focus is solely upon C’s impaired consent. There are two ways of proving undue influence, which explains actual undue influence and presumed undue influence. Actual undue influence is distinct, though there are overlapping areas, from duress since there is no need to prove a threat or illegitimate pressure. Presumed undue influence requires C to prove that C placed trust in D and that the transaction calls for explanation.
18. Undue influence

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