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An outline of the Law of Agency

Butterworths

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England London	Butterworth & Co (Publishers) Ltd 88 Kingsway, WC2B 6AB
Australia Sydney	Butterworths Pty Ltd 586 Pacific Highway, Chatswood, NSW 2067 Also at Melbourne, Brisbane, Adelaide and Perth
Canada Toronto	Butterworth & Co (Canada) Ltd 2265 Midland Avenue, Scarborough M1P 4S1
New Zealand Wellington	Butterworths of New Zealand Ltd 77-85 Customhouse Quay
South Africa Durban	Butterworth & Co (South Africa) (Pty) Ltd 152-154 Gale Street
USA Boston	Butterworth (Publishers) Inc 19 Cummings Park, Woburn, Mass 01801

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ISBN 0 406 62269 8

Typeset by Butterworths Litho Preparation Department
Printed in Great Britain by Billing & Sons Limited
Guildford, London and Worcester

Preface

For the academic, the law of agency can present an interest which is both profound and intellectually satisfying. In its rules are to be found frequent variations from the so-called general principles of the law of contract which, often, can only be explained by reference to commercial exigencies. Equally interesting is the fact that the principles of agency have evolved from such disparate sources as the law of contract, equity, tort, restitution and Admiralty cases dealing with the legal powers of shipmasters. However, the practical applications of the law of agency are no less important and, in the circumstances, it is both surprising and a matter for regret that in Britain the subject has not yet managed to attain the status it has achieved in other countries, notably the United States of America.

The fact that the law of agency in this country tends to be incorporated into general courses on mercantile law or the law of contract and to have no independent existence has greatly influenced the size and format of this book. This, then, is a small book with modest aims and with no particular pretensions to be breaking new ground. Indeed, the authors are deeply conscious of their considerable, though not perhaps immediately apparent, debt to the standard textbooks. In writing this book we have striven to produce a text which is readable and concise. But whilst adopting a broad approach to the subject with the intention of sparing the overburdened student its more complex minutiae, we have at the same time set out to make the text sufficiently detailed to be informative. We have also innovated in one sense by combining in one volume both an introductory textbook and a casebook. Our selection of cases, it should be said, has been greatly facilitated

by the fact that within this subject judicial statements of law are relatively few, the vast majority of reported decisions being concerned essentially with questions of fact. This phenomenon may serve to explain why the extracts from judgments given in the second part of this book do not evenly cover the entire material discussed in the text.

Our intention has not been to produce a book which will supplant the standard works of reference in the field. Nothing so ambitious. Rather we have sought to complement the existent literature by offering an outline of the law of agency which both stands on its own as an independent, self-contained textbook designed to cater for courses in universities and polytechnics where greater emphasis is laid upon principles than upon matters of technical detail, and which also will serve as an introductory book for more specialised courses on agency laying the foundation for more detailed study of the subject. We feel that this novel combination of text and materials fills an important gap in the literature of the law of agency and we hope that it will offer students for the first time a general introduction to the subject which is stimulating, but, most of all, clear and concise.

January 1979

B. S. M.
R. J. C. M.

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