
Modern Partnership Law

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CROOM HELM
London & Canberra

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Croom Helm Ltd, Provident House, Burrell Row,
Beckenham, Kent BR3 1AT

British Library Cataloguing in Publication Data

Milman, David

Modern partnership law.

1. Partnership – Great Britain

I. Title II. Flanagan, Terence

344.106'682 KD2051

ISBN 0-7099-1014-2

ISBN 0-7099-1015-0 Pbk

Typeset by Mayhew Typesetting, Bristol
Printed and bound in Great Britain by
Biddles Ltd, Guildford and King's Lynn

PREFACE

Although widely taught at undergraduate level (usually as part of the Company Law course) the Law of Partnership nevertheless remains a 'Cinderella' subject. Compared to the increasingly technical and frequently amended subject of Company Law, Partnership Law has appeared primitive and moribund with the result that the time devoted to its study has been progressively reduced. To some extent it has been its own worst enemy in that the Partnership Act 1890 has provided such a flexible and successful framework for a business organisation that there has been no pressure to introduce reform and little need to clarify its provisions by judicial interpretations.

However there is evidence that the worm has turned. After completing his review of Partnership Law in an article in *Current Legal Problems* in 1973, E.H. Scamell, one of the learned editors of *Lindley* prophesied (at p. 240):

I think it may reasonably be expected that partnerships will be figuring much more in future reported cases and I venture to suggest that if a further paper of this kind were to be written in 1983 the writer of such a paper would be confronted with a very much more formidable task.

This prediction has been borne out by an article by Markson in *The Solicitors' Journal* (1982 125 SJ 320) in which the author drew attention to the number of recent cases involving partnerships. Thus since 1980 the following cases have been reported: *Hensman v Traill*, *The Times* 20 October 1980, *Re Bell's Indenture* [1980] 3 All ER 425, *Allen v Coventry* [1980] ICR 9, *Tunstall v Condon* [1980] ICR 786, *Anthony v Rennie* 1981 SLT (Notes) 11, *Roxburgh v Dinardo* 1981 SLT 291, *Bolton v Halpern & Woolf* [1981] STC 14, *Turner v Fenton* [1982] 1 WLR 52, *Barclays Bank Trust Co v Bluff* [1982] 2 WLR 198, *Oswald Hickson Collier & Co v Carter-Ruck* (1982) 126 SJ 120, and *Customs & Excise Commissioners v Evans* [1982] STC 342. In addition there have been several important Commonwealth authorities to note. If one had to single out a reason for this metamorphosis one might point to the breakdown of relationships in society. Partnerships rather like marriage and contracts no longer appear sacrosanct. Parliament has also

been responsible for change in Partnership Law; the Companies Act 1981 abolished the Registry of Business Names and substituted for it a more informal system of regulation of business names. Finally Partnership Law has benefited from a revival of interest in business organisations suitable for small firms. The Green Paper 'A New Form of Incorporation for Small Firms' published in February 1981 will be considered in detail in Chapter 10.

This is the defence argument for the production of our book on Partnership Law. This book will be slightly different in emphasis to the existing works on the subject. Greater prominence will be given to Commonwealth authorities in preference to their nineteenth-century English counterparts. An attempt will also be made to consider the application of Partnership Law principles to employees, spouses and financiers.

The law is described as it stands on 31 August 1982.

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