



**A Treatise Law of Partnership and Joint-Stock
Companies, Vol. 1: According to the Law of
Scotland, Including Private Copartneries,
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Consolidati**

Francis William Clark

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Excerpt from A Treatise Law of Partnership and Joint-Stock Companies, Vol. 1: According to the Law of Scotland, Including Private Copartneries, Common Law Companies, Registered Companies, Chartered Companies, Railway Companies, and Others, Formed Under the Consolidation Acts

My design in the present Treatise is to investigate the principles of the Scottish law of Society, in so far as they are applicable to associations formed for purposes of mercantile gain; and to trace their practical working in the private copartnery, in the public company existing at common law, and in the corporation created by Royal Charter, by Registration, or by Special Act.

The systems of partnership law existing in England and Scotland respectively, discover, when properly understood, the same underlying principles of equity, and in the general case eventuate in similar practical results. It is obvious, however, on the most cursory examination, that the theory of each is essentially different, - the Scottish system prominently recognising, the English system entirely ignoring, a quasi person in unincorporated associations however large. The consequence is, that while the English authorities, so much more numerous than our own, form valuable precedents in Scottish practice, their indiscriminate use is fraught with great danger, and has unquestionably tended to obscure the simplicity and artistic beauty which characterize the Scottish law of society. Throughout the present work I have endeavoured to trace out and bring into prominent notice this fundamental distinction, and to show in what respects it produces a mere variance in phraseology, and in what cases it creates a difference in legal principle or in matter of remedy. To accomplish this object in a way commensurate with its importance, would necessitate an acquaintance with English law for which the mere theoretical study of that system is a very inadequate preparation.

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