

## Cases on the Law of Partnership (Book Review)

William Tapley

Follow this and additional works at: <https://scholarship.law.stjohns.edu/lawreview>

---

This Book Review is brought to you for free and open access by the Journals at St. John's Law Scholarship Repository. It has been accepted for inclusion in St. John's Law Review by an authorized editor of St. John's Law Scholarship Repository. For more information, please contact [selbyc@stjohns.edu](mailto:selbyc@stjohns.edu).

under protection; the state or federal district attorney who uses his office as a publicity bureau to attain a nomination for high office; the judge who turns his court room into a free-for-all show; the daily newspaper with its haunch, paunch and jowl methods, giving first place to that part or group of our so-called "respectability" that considers itself the holder of letters patent to cheat and loot.

There are no facts which justify a finding by the scientific mind that the traditions pronounced in the Bill of Rights of the Federal Constitution or in the civil rights laws of the various states, have become moribund in our society. Perhaps time will establish that there is greater vitality in the spirit which pervades the opinion in *Entick v. Carrington and the Three Others Kings' Messengers*,<sup>1</sup> in which are embodied Lord Camden's condemnation of unreasonable searches and seizures, than in *People v. Defore*.<sup>2</sup> And this may be so despite the fact that some forty states have seized with avidity the underlying attitude of the New York Court of Appeals towards unreasonable searches and seizures and follow its reasoning.

NATHAN PROBST, JR.

St. John's College School of Law.

---

CASES ON THE LAW OF PARTNERSHIP. By Charles E. Clark and William O. Douglas. St. Paul: West Publishing Co., 1932, pp. XV, 743.

In appraising the value of a new selection of cases on any legal subject, one unconsciously searches the volume to ascertain whether the author has included his "latest favorites." If they are found the book is worth while; to the extent of their omissions, its value depreciates. Subjected to this test, this newest addition to the American Casebook Series will undoubtedly meet the approval of all. There are included in the one volume about five hundred cases and although they are not all reported in full, they are sufficiently discussed in the footnotes and text to apprise the student and lawyer of their holdings and to distinguish them from the principal reported cases. Many of the recent opinions included in the selection deal with the interpretation of the Uniform Partnership Law and, as the authors have chosen from many states, it is possible to note wherein the courts have adopted uniformity in construing the statute.

If not content with this superficial examination, one turns to the arrangement of the cases. Has the author, we ask, followed the usual classification or is the law developed along different lines. Professors Clark and Douglas have, indeed, charted an entirely new course. They have omitted the usual introductory cases respecting the nature of the partnership and the tests to determine its existence. Instead, the student is presented at the very beginning with those interesting problems concerning the liability of persons carrying on business

---

<sup>1</sup> 19 How. St. Tr. 1029 (1762).

<sup>2</sup> 242 N. Y. 13, 150 N. E. 585 (1926).

in non-corporate form. Following these, are the cases dealing with the assets from which the liabilities may be satisfied. Into this plan the authors ingeniously place the cases showing differences between partnerships and other non-corporate associations, such as the joint stock company, defective corporations, and business trusts. The distribution and marshaling of assets between creditors and members complete Part One of the volume.

Cases pertaining to the management of the business are included in Part Two. Here again the authors show originality. Under this one heading they have arranged in a logical order those cases bearing on the question of disputed control, holding of property, standard of conduct, termination and enforcement of rights. At first sight it might appear that the new arrangement will prove confusing to the student. However, the complete notes following each case should overcome such difficulties.

The appendix includes the Uniform Partnership Act, Uniform Limited Partnership Act, Fraudulent Conveyance Act. In the Table of Contents the second part of Chapter Five is improperly inserted under the appendix.

In the case of *Martin v. Peyton* (1927) 246 N. Y. 213, 158 N. E. 77, Judge Andrews pointed out that much learning as to partnership is obsolete. The truth of this proposition cannot better be demonstrated than by referring to the decision rendered by the New York Court of Appeals in that particular case. Rules that were appropriate when the law of partnership was developing among the traders and merchants have ceased in many respects to apply to these modern non-corporate business associations. The adoption of a Uniform Partnership Law by so many of our states evidences this fact. The authors have sensed this change in the selection of their cases. They do not emphasize cases which no longer constitute the law. The notes point out wherein the law has been modified and by means of the references the student is able to trace its historical development. The selection is a worthy contribution to the valuable series sponsored by its publishers.

WILLIAM TAPLEY.

St. John's College School of Law.

---

AMERICAN FAMILY LAW: Volume II—DIVORCE AND SEPARATION. By Chester G. Vernier. Stanford University, California: Stanford University Press, 1932, pp. XXVII, 523.

This volume is the second in a series of five dealing with American family law. Volume I dealt of marriage and Professor Vernier has now essayed an analysis of divorce and separation. Later volumes will complete the series under titles of "Husband and Wife," "Parent and Child," and "Incompetents and Dependents."

The key to Professor Vernier's work is found in his subtitle, "A Comparative Study of the American Family Law of the Forty-eight American States, Alaska, the District of Columbia and Hawaii." By the use of fifty-one excellent tables there is laid before us the whole of the statutory law of this nation and its dependencies on divorce, limited divorce or judicial separation,