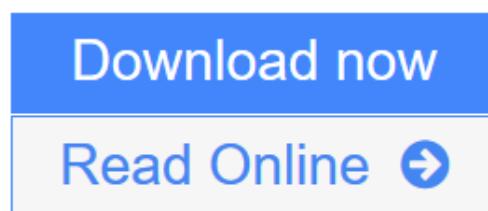




# **A treatise on the law of partnership and joint-stock companies Volume 1; according to the law of Scotland, including private copartnerness, common law ... companies, and others, formed under the con**

*Francis William Clark*



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...important to bear this difference between the two legal systems in mind, for otherwise a very erroneous inference might be drawn from numerous English decisions of which the doctrine of merger is the true ratio. III. RELEASE--DISCHARGE BY CREDITOR, AND BY OPERATION OF LAW. If a creditor chooses to discharge his debtor or obligant, the Discharge by.. creditor. release will be effectual, provided the fact can be established by legal evidence, whatever may have been the motive upon which the creditor acted; and as to the kind of evidence which the law requires to establish a discharge, the same rules generally apply in (a) Previous case; and see llardinge and W. 494. See Lindley, p. 367, and v. Webster, 1 Dr. and Sm. 101. Sup. 78. (b) Basset v. Wood, 11 Vin. Ab. (c) Erek. iii. 4, 22; M. 11518. Exting. B. 8; King v. Hoare, 13 M. the case of firms and companies as in that of individuals, and will be found in any work on evidence. When the discharge is required by law to be in writing, if the creditor be a copartnery, attention must be paid to the mode in which the firm signs obligations; if it be an incorporated company, regard must be had to the forms laid down in its instrument of incorporation for this purpose. The modes in which company debtors may be effectually discharged will be afterwards more fully considered. Engii.-h There is a doctrine of English law, as to the effect which the doctrine as to--,, release by one release of one partner has to release the others, or, in other words, to terminate the company obligation, which it is here necessary to consider, as some doubts have been entertained whether it was not, or at least has not now become, law in Scotland. According to the law of England, an absolute and unconditional release of a company obli...



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