

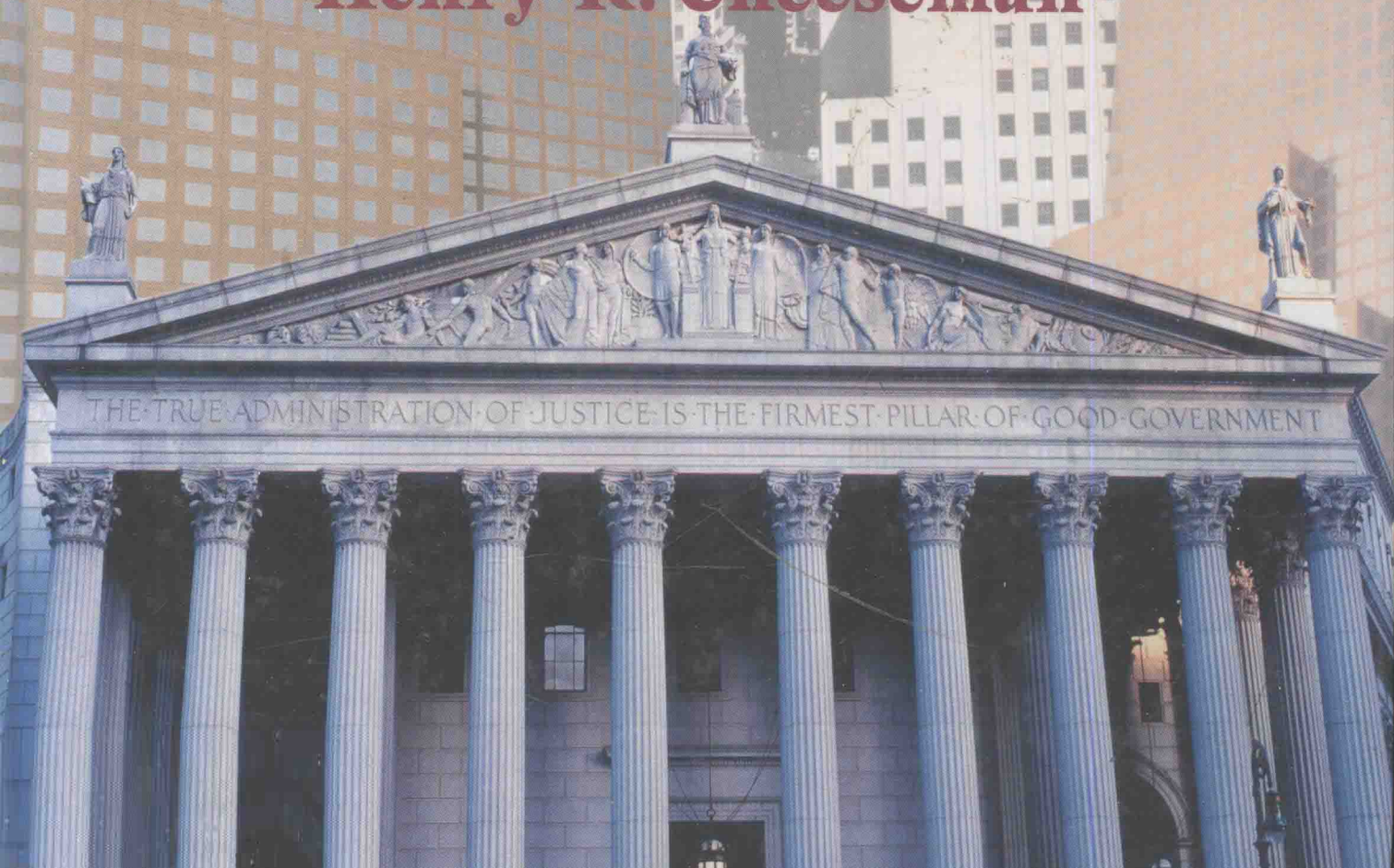
Includes



Second Edition

The
LEGAL
and
REGULATORY
ENVIRONMENT

Henry R. Cheeseman



SECOND EDITION

The Legal and Regulatory Environment

Contemporary Perspectives in Business

Henry R. Cheeseman

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In Memory of Henry B. And Florence Cheeseman

A grain of
sand has been
ten thousand
mountains.
Who are we
to hold it?

Preface

The Legal and Regulatory Environment: Contemporary Perspectives in Business, Second Edition provides complete coverage of business law topics and addresses the *legal environment* in which business must operate. Because the study of the legal environment of business is as much a study of history, ethics, social responsibility, policy, diversity, economics, and technology as it is a study of the laws themselves, I have integrated these issues into my presentation of business law topics. Over 100 enrichment boxes throughout the book focus on contemporary, ethical, international, and technological issues. Every case ends with questions about the ethical and business implications of the issue before the court. More space is devoted to the fundamental concepts of ethics, environmental and government regulation, telecommunications, and international topics than in other books, allowing this book to meet the AACSB's standards on *ethics* and *globalization* in the curriculum.

Focuses of the Book

THE LEGAL AND REGULATORY ENVIRONMENT

The AACSB's accreditation standards require that the *legal environment of business* and *government regulation* be included in the business school curriculum. This book includes the following chapters that specifically cover the legal environment of business.

Unit One contains four chapters that introduce the student to "The Legal and International Environment." The first chapter discusses legal systems of the world and critical legal thinking. Chapter 2 is a separate chapter on "Ethics and Social Responsibility of Business." Chapter 3 discusses judicial and alternative dispute resolution. A chapter devoted exclusively to international law, "International Law and Dispute Resolution," completes the unit.

Unit Two, entitled "The Public Environment," includes five chapters. Chapter 5 discusses constitutional and administrative law. Chapter 6 covers traditional tort law, including intentional torts, negligence, and strict liability. Chapter 7 discusses product liability law. Chapter 8 covers intellectual property rights law and telecommuni-

cations law. The last chapter of this unit, Chapter 9, discusses crimes, including business crimes.

Unit Three, entitled "The Private Environment," contains five chapters that discuss contract law and business organization. Chapter 10 covers contract formation and the Uniform Commercial Code (UCC). Chapter 11 discusses contract performance and international contracts. Chapter 12 discusses noncorporate forms of business, including limited liability partnerships and companies. Corporate law is covered in Chapter 13, as well as how to conduct business in foreign countries. The last chapter of this unit, Chapter 14, discusses credit transactions, negotiable instruments, and bankruptcy.

Unit Four is entitled "The Employment Environment." The first chapter of this three-chapter unit is Chapter 15, which discusses agency law. Chapter 16 covers employment, labor law, and worker safety laws. Chapter 17 discusses equal opportunity in employment, including laws prohibiting race, sex, age, and other forms of discrimination.

Unit Five is entitled "The Regulatory Environment." The first chapter of this four-chapter unit, Chapter 18, covers consumer protection laws and global regulation of business. Chapter 19 discusses environmental protection laws. Chapter 20 discusses antitrust law. Chapter 21 covers investor protection, securities regulation, and commodities regulation.

Contemporary Business Law

One of the primary goals of this book is to review *contemporary* business law concepts and topics. This is done by presenting modern statutory and regulatory law and recent court decisions in (1) the cases and (2) the "Contemporary Business Environment" boxes. The choice of cases balances contemporary cases against more traditional cases usually taught to illustrate specific concepts.

The "Contemporary Business Environment" boxes highlight modern legal issues faced by business and also indicate how the law evolves as new business-related issues arise. There is one Contemporary Business Environment box in almost every chapter. For example, in "The Reasonable Woman Standard" (p. 495), the court adopted a new legal standard to be applied in sexual harassment cases brought by female plaintiffs.

Ethics and Social Responsibility

Ethics is integrated throughout the book in three ways: (1) by discussing ethics frequently in the text itself, (2) by asking ethics questions after every case, and (3) by having special boxes entitled “Ethical Perspective” located in all chapters.

Chapter 2 is devoted exclusively to *ethics* and *social responsibility of business*. The moral theories of Kant and other philosophers are discussed, and then applied to actual cases.

The ethics boxes set forth the facts of real court cases and ask the reader to consider the ethical issues raised in the case. This is the format of *applied ethics*—asking probing ethics questions pertaining to real business situations, rather than using hypothetical cases. For example, in “Joe Camel Exhales” (p. 32), students are asked to apply their understanding of equity to a dispute over a controversial advertising campaign. The answer requires students to consider the bounds of fairness in a particular situation.

International Law

Because of the importance placed on international issues in today’s business education, I thoroughly integrate international issues into the presentation in three ways. First, the major legal systems of the world are discussed in Chapter 1.

Second, a chapter devoted exclusively to international law—Chapter 4—introduces international law, courts, and organizations. This chapter also discusses the U.S. government’s role in foreign affairs, sources of international law, and how international business disputes are resolved.

Third, almost every chapter has at least one “International Perspective” box. These boxes focus on specific international issues relevant to the chapter. For example, the intellectual property rights chapter—Chapter 8—includes the International Perspective box “International Protection of Intellectual Property Rights” (p. 207).

Business Application

Many of today’s Business Law and Legal Environment textbooks take a too “legalistic” approach to presenting legal topics to business students. This book recognizes that what is important to business students is the *applica-*

tion of court decisions, statutes, and government regulation to business. In addition to the cases and Contemporary Business Environment boxes presented in the book, I have included a feature that clearly demonstrates the application of law and government regulation to the business environment.

This feature is a box entitled “Business Checklist,” which appears in each chapter. These boxes are designed to show a business person the laws and regulations she or he should consider when making a business decision and the steps to take to comply with the law. For example, the box entitled, “Policies Against Sexual Harassment” (p. 496) sets out an example of a company’s policy against sexual harassment.

Diversity

The AACSB accreditation standards require that issues concerning *diversity* be included in the business school curriculum. This book accomplishes this goal in two ways. First, specific boxes located throughout the book address diversity issues. For example, the box “Feminist Legal Theory” appears in Chapter 1 (p. 4).

Second, this book contains a separate chapter that covers equal opportunity in employment. This chapter—Chapter 17—discusses the major statutes and court decisions that outlaw discrimination in employment. This chapter discusses Title VII of Civil Rights Act of 1964, the Civil Rights Act of 1991, the Americans with Disability Act of 1990, and other federal and state laws that guarantee equal opportunity to all protected classes. The topics of sexual harassment in the workplace and affirmative action/reverse discrimination are thoroughly covered.

Internet and Cyberspace Law

In recognition of the importance and problems that telecommunication advances present to business, a new feature entitled “Internet and Cyberspace Law” has been added to this book. These featured items discuss the enactment of new statutes and the application of existing laws to such developing fields as intellectual property, computer law, free speech rights, and criminal law. For example, the featured box entitled “Broad Free Speech Rights Granted in Cyberspace” in Chapter 5 (p. 106) discusses how a federal court granted the highest possible free speech protection under the Constitution to communications over the Internet. These boxes are interspersed throughout the book.

Critical Legal Thinking

In studying this book, students should learn to apply *critical legal thinking* in reading and analyzing law cases. Critical legal thinking is covered in four ways in this book. First, critical legal thinking is introduced in Chapter 1, where the student is presented with the U.S. Supreme Court case *Harris v. Forklift Systems, Inc.* (p. 18) that is analyzed and briefed using the critical legal thinking method.

Second, every case in the book is followed by a critical legal thinking question. Third, each chapter ends with approximately ten **Critical Legal Thinking Cases** drawn from real-life cases whose facts and situations have been edited and written to test the application of the legal concepts and principles developed in the chapter. These questions can be used for class discussion or as homework assignments. The answers to these questions appear in the *Instructor's Resource Manual*.

Fourth, each chapter ends with a suggested **Critical Legal Thinking Writing Assignment** for students. The name of the case and the questions the students are to address appear at the end of each chapter. The actual writing assignment cases themselves—which are in the court's language—appear in Appendix A to this book and are numbered by chapter. For example, Case A.1 is the writing assignment case for Chapter 1. These writing assignments are optional and may be assigned at the discretion of individual professors. The writing assignment cases can be used as homework assignments, group projects, additional cases to cover in class discussions, test questions, or otherwise.

Working the Web

The Internet has become an important and valuable tool in education. Applications have developed over the last few years in education that put more information in the hands of professors and students than at any other time in our history. This book includes Internet materials in the text itself and in the supplements package (more on that later in the Preface). Each chapter of the text has a "Working the Web" section. "Working the Web" contains URLs and descriptive information about the Web sites. All of the Web sites selected are relevant to the particular chapter. Five or six exercises are also included so that students have the opportunity to apply some of what was learned by exploring the Web sites. These exercises can be used for in-class or homework assignments.

Development of the Text

Our goal in developing this text has been to provide professors with the kind of *legal environment* text they are seeking—one that gives students the clearest, most relevant explanation of the fundamental principles of business law, and at the same time conveys the fascinating interplay of ethical, social, environmental, and global issues, and emerging trends in the law.

To ensure that the text would meet the needs of the students for whom it was written, Prentice Hall assigned a developmental editor, Marsha Leest, to work with me as I was writing the text. Marsha and I labored over each of the 21 chapters of this book and fine-tuned draft after draft until we were sure that each chapter was the best that it could be. As a result, readers of this book will find each chapter interesting and fully comprehensible.

To ensure that the text would be totally accurate and up-to-date, several reviewers read each draft and made excellent suggestions for improvement.

Pedagogical Features

CASES

Cases are the examples in a business law course. They show how the abstractions of the law are actually applied to disputes. For students, cases must clearly illustrate points of law. For professors, cases can be the basis of student exercises that involve the student in the thought process behind the rules of law. In this book and in the supplements that accompany it, Prentice Hall and I have kept these two goals in mind. The approximately 100 cases in the book clearly identify the issue under question, yet retain the voice of the court in the opinions. Each case provides (1) the facts, (2) the issue, (3) the decision, (4) the opinion, and (5) case questions that explore the critical legal thinking, ethical, and business implications of the case.

EXHIBITS

Because the law has its own forms and documents that are perhaps foreign to the student, this book includes many illustrations of these items. For example, on p. 606 there is a tombstone advertisement of the Walt Disney Company from when it sold debt securities. Most of the exhibits are available to the instructor in the Transparency Masters supplement.

CHAPTER SUMMARIES

At the end of each chapter, students will find a detailed “Chapter Summary” of the important topics they have just read. The summaries are well organized as a review of the most important topics covered in each chapter. They contain page references that refer the student to the appropriate page in the text if he or she wishes to review the topic in detail.

MARGIN ANNOTATIONS

Students will find the notes placed in the margins helpful as they study each chapter. These annotations draw students to consider important aspects of the topics they are reading—to expand their understanding of the topic and to give study advice. The types of annotations include:

- **Caution:** Notes that alert the reader to a possible misapplication or misperception of the law
- **Note:** Dates, places, and people important to business law
- **Business Brief:** Applications that are specific to the functioning of a business.

A *running glossary* in the margins helps students learn key terms.

To the Instructor: Supplements

In addition to the text itself, we have assembled a full and dynamic supplements package that is designed to streamline the course preparation and administrative process for instructors and enrich your student’s experience and exposure to the ideas and implications of the law for business. The supplements include both print and media components. Contact your Prentice Hall sales representative for examination or desk copies.



TOTALAW CD ROM

One thing that you will notice right away is that there is a CD ROM in the back of this book. Prentice Hall is the first college publisher to include a CD ROM with every copy of the text for a business law or legal environment of business course. The TotalLaw CD ROM includes the complete text of 30 of the most important and relevant acts that have made an impact on the business world. A feature

is built-in that allows the user to search by keywords. Textbooks have traditionally included appendixes that contain the Constitution, the Uniform Commercial Code, and other important materials, but have always been limited by the amount of space (paper) that this information takes up. TotalLaw is a much deeper resource and will be more convenient for students to use. TotalLaw is free with each new copy purchased! TotalLaw is easy to load and to use, but feel free to contact your Prentice Hall sales representative for a personal demonstration.



CUSTOM VIDEO SERIES

Starting this fall, Prentice Hall will be releasing customized videos that illustrate the important relationship between business, management, and law. The first ten videos in a series of fifteen will be available to adopters of this text. These videos have been carefully planned and developed by a partnership including Prentice Hall Business Publishing’s Senior Editor Linda Schreiber, Peter Shedd of the University of Georgia and Prentice Hall’s Consulting Editor in Legal Studies in Business. The goal of these videos is to illustrate business law/legal environment concepts in a realistic business setting. The entire series of videos revolves around the activities of a single company and its employees, suppliers, and other associates. Each video is about 10 minutes in length so that they can be easily incorporated in the classroom.



PRENTICE HALL CUSTOM VIDEO SERIES FOR LEGAL STUDIES IN BUSINESS

- | | |
|--|---|
| 1. Litigation Process & Alternative Dispute Resolution | 7. Sale of Goods |
| 2. Constitutional Authority to Regulate Business | 8. Product Liability |
| 3. Torts | 9. Suretyship |
| 4. Ethics in the Legal Environment of Business | 10. Agency |
| 5. Contracts: Offer & Acceptance | 11. Formation/Dissolution of Business Partnership |
| 6. Contracts: Third Party Rights | 12. Securities Regulation |
| | 13. Employment Discrimination |
| | 14. Labor Relations |
| | 15. Anti-Trust/Price Discrimination |



PHLIP/CW—WEB SITE SUPPORT

www.prenhall.com/cheeseman

PHLIP is Prentice Hall's Learning on the Internet Partnership; CW is our companion Web site. PHLIP is a virtual learning community—a Web site built and supported by business faculty, including academics from the Legal Studies community. PHLIP/CW includes on-line quizzes for students, bi-weekly current event updates, and downloadable supplements for instructors. Complete and unedited cases are available in the student resources section. Faculty and students are supported by actual instructors through the "Faculty Lounge" and "Talk to the Tutor."

LEXIS

Prentice Hall will provide professors who adopt this book with 10 free hours of Lexis, the legal, on-line database service used by law professionals. This offer is valid each semester the text is in use and applies to adoptions where new books are purchased. You can get the ball rolling on your free Lexis account by contacting your local Prentice Hall sales representative.

INSTRUCTOR'S MANUAL

The Instructor's Manual contains extensive coverage of chapter objectives, overviews, outlines, answers to critical thinking questions, ethics cases, and critical legal writing assignment questions.

STUDY GUIDE

The Study Guide contains a wealth of material reinforcing the information presented in the text, including a macro view with an outline of all major topics and a micro view with a concise summary of all detailed information in each chapter. There are three levels of discussion questions—basic recall, application, and critical thinking questions.

TEST ITEM FILE

This includes multiple-choice, true/false, fill-in, and essay questions, and Internet exercises and questions for every chapter. It is available in hard copy as well as in a computerized format. The computerized testing program allows you to generate an exam, administer it in a tradi-

tional fashion or on-line, and then evaluate, track, and analyze results.

POWERPOINT SLIDES

The PowerPoint electronic transparencies can be used as part of a classroom computer presentation or printed out to make traditional overhead transparencies.



SURFING FOR SUCCESS IN LEGAL STUDIES: AN INTERNET GUIDE

This concise, discipline-specific guide to the Internet can be packaged with the text at no additional cost. This **free** supplement covers frequently asked questions and offers concrete advice on finding your way along the information superhighway.

Acknowledgments

When I first began writing this book, I was a solitary figure researching cases in the law library and writing text at my desk. As time passed, others entered upon the scene—editors, research assistants, reviewers, production personnel—and touched the project and made it better. Although my name appears on the cover of this book, it is no longer mine alone. I humbly thank the following persons for their contributions to this project.

- The professionals at Prentice Hall in Upper Saddle River, NJ: Linda Schreiber, Senior Acquisitions Editor; Lynda P. Hansler, Production Editor; Natalie Anderson, Editor-in-Chief; Deb Clare, Marketing Manager; James Boyd, Editor-in-Chief; Kristen Imperatore, Assistant Editor; Michael Weinstein, Director of Production and Manufacturing; Judy Leale, Associate Managing Editor; Cybele Scala, Production Coordinator; Vincent Scelta, Manufacturing Manager; Arnold Vila, Manufacturing Supervisor; and Pat Smythe, Design Director.
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Professor Rachel Kowal	New York University
Professor William Bockanic	John Carroll University
Professor Howard Elliss	Millersville University of Pennsylvania

Professor Dawn University of Georgia
Bennett-Alexander

Professor Dan Khanna Golden Gate University

■ My family: Henry B., Florence, Gregory, and Marcia
Cheeseman.

■ And thanks to Spinner for his companionship and to
Los Angeles, California, where most of this book was
written.

While writing this Preface, I have thought about the
thousands of hours I have spent researching, writing,
and preparing this manuscript. I loved every minute, and

the knowledge gained has been sufficient reward for the
endeavor.

I hope this book and its supplementary materials will
serve you as well as they have served me.

*With joy and sadness, emptiness and
fullness, honor and humility,
I surrender the fruits of
this labor.*

Henry R. Cheeseman

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