

LAW OF CORPORATIONS

Harry G. Henn

Hornbook Series



HANDBOOK
OF THE
LAW OF CORPORATIONS
AND
OTHER BUSINESS ENTERPRISES

By
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The Cornell Law School

SECOND EDITION

HORNBOOK SERIES

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POVERTY LAW

- Brudno's Poverty, Inequality, and the Law: Cases-Commentary-Analysis, 934 pages, 1976 (Casebook)
- Cooper, Dodyk, Berger, Paulsen, Schrag and Sovern's Cases and Materials on Law and Poverty, 2nd Ed., 1208 pages, 1973 (Casebook)
- LaFrance, Schroeder, Bennett and Boyd's Hornbook on Law of the Poor, 558 pages, 1973 (Text)
- See also Social Legislation

PRODUCTS LIABILITY

- Noel and Phillips' Cases on Products Liability, 836 pages, 1976 (Casebook)
- Noel and Phillips' Products Liability in a Nutshell, 2nd Ed., 341 pages, 1981 (Text)

PROPERTY

- Aigler, Smith and Tefft's Cases on Property, 2 volumes, 1339 pages, 1960 (Casebook)

PROPERTY—Continued

- Bernhardt's Real Property in a Nutshell, 2nd Ed., approx. 440 pages, 1981 (Text)
- Boyer's Survey of the Law of Property, 766 pages, 1981 (Text)
- Browder, Cunningham, Julin and Smith's Cases on Basic Property Law, 3rd Ed., 1447 pages, 1979 (Casebook)
- Burby's Hornbook on Real Property, 3rd Ed., 490 pages, 1965 (Text)
- Chused's A Modern Approach to Property: Cases-Notes-Materials, 1069 pages, 1978 with 1980 Supplement (Casebook)
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- Uniform Land Transactions Act, Uniform Simplification of Land Transfers Act, Uniform Condominium Act, 1977 Official Text with Comments, 462 pages, 1978
- See also Housing and Urban Development, Land Finance, Land Use

REAL ESTATE

- See Land Finance—Property Security

REGULATED INDUSTRIES

- Morgan's Cases and Materials on Economic Regulation of Business, 830 pages, 1976, with 1978 Supplement (Casebook)
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REMEDIES

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- Dobbs' Hornbook on Remedies, 1067 pages, 1973 (Text)

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- Dobbs' Problems in Remedies, 137 pages, 1974 (Problem book)
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SECURITIES REGULATION

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Ratner's Securities Regulation in a Nutshell, 300 pages, 1978 (Text)

SOCIAL LEGISLATION

- Brudno's Income Redistribution Theories and Programs: Cases-Commentary-Analyses, 480 pages, 1977 (Casebook)—reprint from Brudno's Poverty, Inequality and the Law, 1976
LaFrance's Welfare Law: Structure and Entitlement in a Nutshell, 455 pages, 1979 (Text)
Malone, Plant and Little's Cases on Workers' Compensation and Employment Rights, 2nd Ed., 951 pages, 1980 (Casebook)
See also Poverty Law

TAXATION

- Chommie's Hornbook on Federal Income Taxation, 2nd Ed., 1051 pages, 1973 (Text)
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TAXATION—Continued

- Gunn's Cases and Materials on Federal Income Taxation of Individuals, 785 pages, 1981 (Casebook)
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Kramer and McCord's Problems for Federal Estate and Gift Taxes, 206 pages, 1976 (Problem book)
Lowndes, Kramer and McCord's Hornbook on Federal Estate and Gift Taxes, 3rd Ed., 1099 pages, 1974 (Text)
McCord's 1976 Estate and Gift Tax Reform—Analysis, Explanation and Commentary, 377 pages, 1977 (Text)
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McNulty's Federal Income Taxation of Individuals in a Nutshell, 2nd Ed., 422 pages, 1978 (Text)
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TORTS—Continued

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- Keeton's Computer-Aided and Workbook Exercises on Tort Law, 164 pages, 1976 (Coursebook)
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- Kionka's Torts in a Nutshell: Injuries to Persons and Property, 434 pages, 1977 (Text)
- Malone's Torts in a Nutshell: Injuries to Family, Social and Trade Relations, 358 pages, 1979 (Text)
- Prosser's Hornbook on Torts, 4th Ed., 1208 pages, 1971 (Text)
- Shapo's Cases on Tort and Compensation Law, 1244 pages, 1976 (Casebook)
- See also Products Liability

TRADE REGULATION

- Oppenheim and Weston's Cases and Materials on Unfair Trade Practices and Consumer Protection, 3rd Ed., 1065 pages, 1974, with 1981 Supplement (Casebook)
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- Hegland's Trial and Practice Skills in a Nutshell, 346 pages, 1978 (Text)
- Jeans' Handbook on Trial Advocacy, Student Ed., 473 pages, 1975 (Text)
- McElhaney's Effective Litigation, 457 pages, 1974 (Casebook)
- Nolan's Cases and Materials on Trial Practice, 518 pages, 1981 (Casebook)

TRUSTS AND ESTATES

- Atkinson's Hornbook on Wills, 2nd Ed., 975 pages, 1953 (Text)
- Averill's Uniform Probate Code in a Nutshell, 425 pages, 1978 (Text)

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- Bogert's Hornbook on Trusts, 5th Ed., 726 pages, 1973 (Text)
- Clark, Lusky and Murphy's Cases and Materials on Gratuitous Transfers, 2nd Ed., 1102 pages, 1977 (Casebook)
- Gulliver's Cases and Materials on Future Interests, 624 pages, 1959 (Casebook)
- Gulliver's Introduction to the Law of Future Interests, 87 pages, 1959 (Casebook)—reprint from Gulliver's Cases and Materials on Future Interests, 1959
- Halbach (Editor)—Death, Taxes, and Family Property: Essays and American Assembly Report, 189 pages, 1977 (Text)
- Mennell's Cases and Materials on California Decedent's Estates, 566 pages, 1973 (Casebook)
- Mennell's Wills and Trusts in a Nutshell, 392 pages, 1979 (Text)
- Powell's The Law of Future Interests in California, 91 pages, 1980 (Text)
- Simes' Hornbook on Future Interests, 2nd Ed., 355 pages, 1966 (Text)
- Turrentine's Cases and Text on Wills and Administration, 2nd Ed., 483 pages, 1962 (Casebook)
- Uniform Probate Code, 5th Ed., Official Text With Comments, 384 pages, 1977
- Waggoner's Future Interests in a Nutshell, 361 pages, 1981 (Text)

WATER LAW

- Trelease's Cases and Materials on Water Law, 3rd Ed., 833 pages, 1979 (Casebook)
- See also Energy and Natural Resources Law, Environmental Law

WILLS

- See Trusts and Estates

WOMEN AND THE LAW

- Kay's Text, Cases and Materials on Sex-Based Discrimination, 2nd Ed., approx. 1030 pages, 1981 (Casebook)
- See also Employment Discrimination

WORKMEN'S COMPENSATION

- See Social Legislation

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PREFACE TO THE SECOND EDITION

The reception of the first edition of this *Handbook of the Law of Corporations and Other Business Enterprises* by the legal profession—bench, practising bar, law teachers, and especially those for whom the work was originally written, law students, who after all are the future members of all branches of the profession—has been most gratifying.

Like the first edition, this second edition follows the trilevel approach: (1) the overview in the bold-face summaries at the beginning of each of the 389 sections; (2) the adequate coverage for law students in the 834 pages of text; and (3) the guides to further information and research in the some 5,250 footnotes.

For some law teachers, a hornbook probably spoils their classroom fun, but for most, a hornbook should permit more intensive classroom treatment of the more important subjects, with the hornbook serving to supplement coverage of other perhaps less interesting aspects.

Since 1961, many developments have occurred in the area of corporations and related subjects, necessitating a general updating and the inclusion of a few new sections and the omission of some obsolete material. To facilitate the finding of the appropriate section in this second edition by a reader having a reference to the first edition, a conversion table has been included as Appendix B immediately preceding the Table of Cases Cited.

Among the more significant developments during the past decade have been (1) the emergence of increasingly-strict federal corporation law, based primarily on federal securities legislation, which federal case law development began in the late 1940's but burgeoned in the 1960's—as compared to state corporate law revisions in some half of the states during the past decade of expanding permissiveness—patterned after the highly-touted Delaware revision of 1967–69 (doubling Delaware's annual incorporations) with its band-wagon effect on other states—a throwback to the 1875–1900 period of intensive interstate incorporation competition; (2) the some 25 corporate statutory revisions, including the 1969 Model Business Corporation Act revision—many of them—in a period of much unrest—encouraging corporate irresponsibility; and (3) the Federal Tax Reform Act of 1969, with its complicated transitional rules, superimposing some 255 pages of legislation on the already 1012-page Internal Revenue Code of 1954, with its 1,117 pages of amendments prior to 1969.

Even the Model Business Corporation Act, which has provided the pattern for corporate statutory revision in some 32 states and the District of Columbia, and which was drafted initially “as a modern statute that preserves in proper balance the interests of the state and the rights and interests of corporations, shareholders and management”—with recognition that the Act “may not appeal to a state that is soliciting corporate business”—has become increasingly permissive, especially in the 1969 revision, some

PREFACE TO THE SECOND EDITION

of the more sensitive provisions of which were drafted by the Committee on Corporate Laws of the American Bar Association in collaboration with the revisers drafting the Delaware General Corporation Law of 1967 and its 1968 and 1969 amendments. Discussion of the Model Act can be deceptive if one is not aware of the various versions, and optional and alternative sections, adopted over the years by different so-called "Model Act jurisdictions".

The 1969 Model Act revision changed the numbering of the sections, which had remained uniform in the pre-1969 versions and which are used in this second edition. A conversion table listing the changes in numbering of the sections appears as Appendix A immediately following section 389.

The period of the preparation of this second edition was saddened by the passing of my first law school Dean, later colleague, long-time mentor, and close friend, Robert Sproule Stevens (1889-1969).

Principal acknowledgment for this second edition is due my dedicated and indefatigable secretary, Mrs. Mary D. Mignano, whose contributions throughout were beyond expectation; to Frank J. Franzino, Jr., of the Cornell Law School Class of 1970, for his research assistance; to Dean W. Ray Forrester, for his constant encouragement; to the Cornell Law Library staff, under Professor Harry Bitner, Law Librarian, and especially Miss Lorraine A. Kulpa and Mrs. Betty Prior Reese, for their unfaltering assistance in legal research; not to mention the Law Library's magnificent facilities for research and scholarship; to my colleagues, Professors Robert S. Pasley, Ian R. Macneil, David L. Ratner and John Skidmore Brown, for reviewing portions of the text; and to my now more than 1,500 former students for their stimulation.

The Preface to the first edition began with a quotation from Blackstone's *Commentaries*. This Preface to the second edition might well end with Blackstone's epitaph:

"Who rescu'd law from pedant phrase,
Who clear'd the student's clouded eyes,
And led him through the legal maze."

HARRY G. HENN

Ithaca, New York
March 1, 1970