

UNDERSTANDING HOSPITALITY LAW

Second Edition

Jack P. Jefferies

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Jack P. Jefferies, J.D., LL.M., J.S.D.



A nonprofit educational foundation

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Preface

Understanding Hospitality Law, Second Edition, is addressed to students and laypersons who are or may become involved in the lodging industry. This book alerts hotel and restaurant operators to a number of potential legal problems and pitfalls. My primary legal resources for this book come from many years of service to the American Hotel & Motel Association and state hotel associations and from working with individual hotel and motel properties to solve their legal problems or prevent potential legal problems insofar as possible.

As the Table of Contents indicates, this book is very concerned with the growth of federal government legislation and regulations that have a nationwide impact on the lodging industry. Such legislation and regulations include federal discrimination laws affecting employment, Occupational Safety and Health Administration (OSHA) regulations, antitrust regulations, the National Labor Relations Act, copyright music laws, tax laws and tip reporting regulations, franchise regulations, and the developing product liability laws.

Many years of reviewing state statutes and court decisions have made it clear that the New York State Legislature and court decisions have, in effect, often led the way in defining basic legal principles affecting hotels, and we have used many of these statutes and cases in this book as a means of illustrating basic legal issues. However, we have also included statutes and court decisions from many other states throughout the nation to demonstrate recent developments and trends in the laws affecting the relationship of the hotel to its guests and others, the hotel's liability for guest protection and for losses of guest property, and the important and growing number of consumer protection laws. As indicated above, this book also discusses the major laws impacting the hotel's relations with its employees and general hotel operations today.

Understanding Hospitality Law, however, is not intended to be a "how to" handbook whereby the hotel or restaurant operator, upon reading this book, will become a legal expert on the subjects reviewed. This book is not presented as, or intended to be, a substitute for the services or legal opinion of your local attorney. (However, it is hoped that it will be a valuable aid to your local attorney.) Hoteliers should consult with their local attorneys on legal problems arising in the state concerned. When the hotel operator is able to recognize a legal problem, or a potential lawsuit, the operator will know that he/she should consider consulting with a local attorney then, rather than waiting for the legal problem to mushroom and perhaps grow out of hand. Experience has shown that if the lawyer is contacted at the beginning of a legal problem, it will often prove far less costly to find a solution to the problem or resolve the dispute.

At the end of each chapter, you will find "Important Points for Management," a section which summarizes the basic legal principles discussed in the chapter. This is followed by a series of "Discussion Questions" to stimulate classroom discussion of the legal subjects covered in the chapter. These are valuable instructional aids for both teacher and student.

Key legal terms are printed in bold-face type when they first appear in the text, and the definition of each bold-face legal term appears in the "Definitions" section of the chapter. A Glossary of Selected Legal Terms is included in Appendix A to this book.

Incidentally, I should remind you that notwithstanding the thickness of this book, the lodging industry is probably the least controlled industry in the United States. We hope to keep it that way so that hotelkeepers may remain free, so to speak, to continue to pursue their course of private enterprise.

I dedicate this book to Herbert Brownell and the late Charles W. Merritt, who have led the way.

I would like to express my appreciation to Carol Davis, Thom Davis, Russell Freymuth, Linda Hoops, Jolie Gaston, G. Kent Stearns, CHA, and Brian Terry for their constructive criticism and review of the manuscript.

Jack P. Jefferies, Esq.

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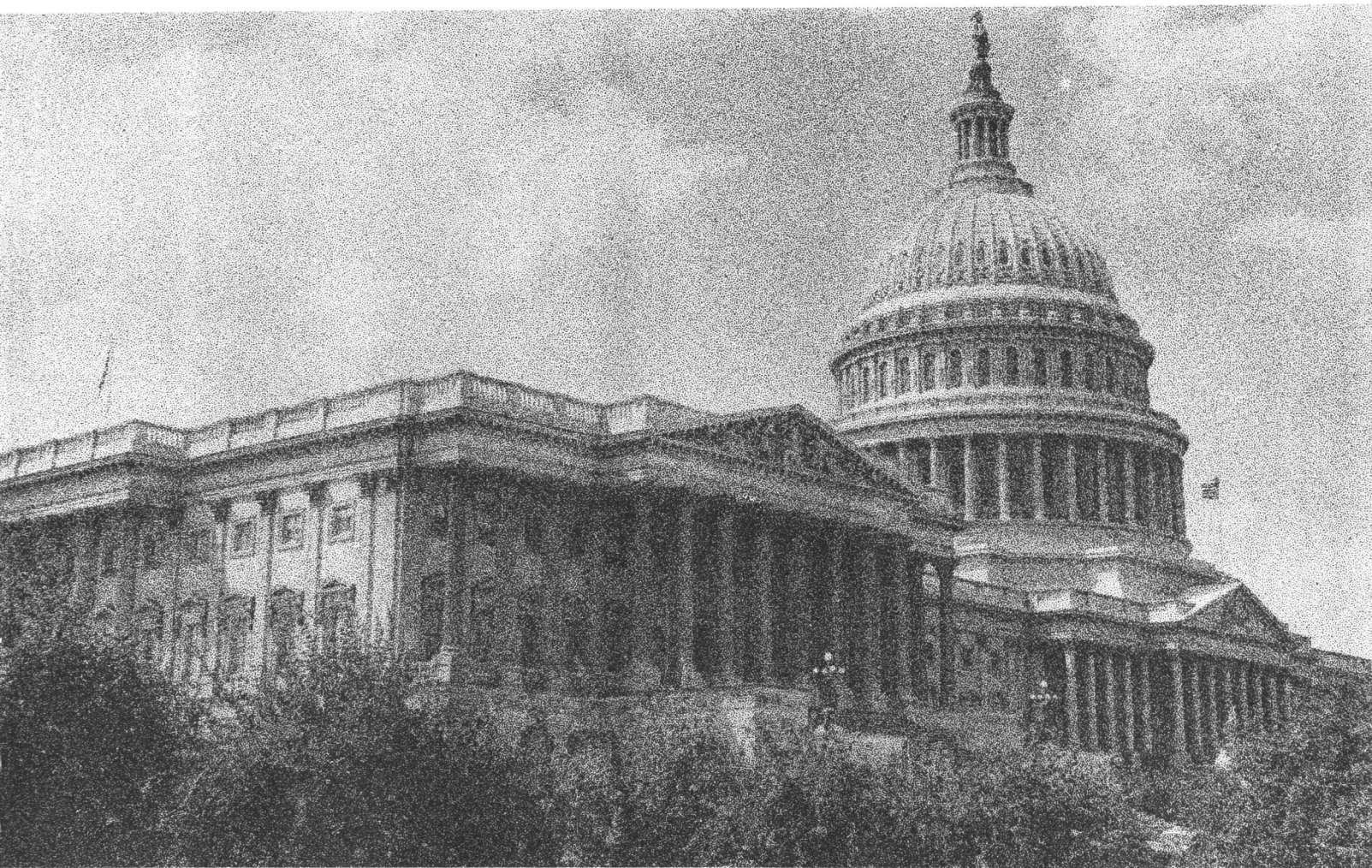
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Part One

Some Basic Legal Principles
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 - Definition of a Hotel
 - Definition of a Motel
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