
BUSINESS AND THE LAW

DONALD P. LYDEN

J. DAVID REITZEL

NATHAN J. ROBERTS

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DONALD P. LYDEN

Professor of Business Law and Former Acting Dean,
School of Business Administration and Economics
California State University, Northridge

J. DAVID REITZEL

Professor of Business Law
California State University, Fresno

NATHAN J. ROBERTS

Emeritus Professor of Law
Loyola University, Los Angeles

With contributions by

James M. Highsmith

Professor of Business Law
California State University, Fresno

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ABOUT THE AUTHORS

DONALD P. LYDEN holds a J.D. degree from the University of California, Los Angeles. He is currently Professor of Business Law, California State University, Northridge. He is a former chair of the department of business law, and was formerly acting dean of the School of Business Administration and Economics at California State University, Northridge. Dean Lyden is a member of the California Bar, and has maintained a private law practice in the Los Angeles area since 1959. He is a past president of the Pacific Southwest Business Law Association.

J. DAVID REITZEL is currently professor of business law, California State University, Fresno, and was formerly professor and chairman of the department of business law at The American College, Bryn Mawr. Before that, he taught at St. Cloud State University, St. Cloud, Minnesota. Professor Reitzel holds a J.D. from Indiana University and B.S. and M.S. degrees from Purdue University. Admitted to the Indiana and the federal bars in 1969, Professor Reitzel is currently co-editor of the *American Business Law Journal* and is the author of numerous articles and papers, many dealing with business law education.

NATHAN J. ROBERTS, emeritus professor of law at Loyola University, Los Angeles, received a J.D. degree from the University of Florida and a LL.M. from George Washington University. He has previously held positions at the University of California, Santa Barbara, and at the Army Industrial College in Washington, D.C. He is a retired Brigadier General, formerly Assistant Judge Advocate General of the Army for Civil Law. He is a member of Phi Kappa Phi.

Dean Lyden, Professor Reitzel, and Professor Roberts also are three of the authors of *Contemporary Business Law: Principles and Cases*, by Hoeber, Reitzel, Lyden, Roberts, and Severance (McGraw-Hill, 1982).

PREFACE

PURPOSE, COVERAGE, AND THE NEEDS OF STUDENTS

Many factors have affected the content and approach of *Business and the Law*: The immediate and long-term student needs that a basic law book for undergraduates should meet, the striking array of occupations our students will seek, the varying degrees of legal literacy employers will expect, and the immense variety of legal topics that contend for limited space. Our main concern is student needs. We believe that a basic course in business law—and the textbook used in it—should contribute not only to the professional and vocational aspects of a business student's education, but also to his or her awareness of the fundamental, enduring, and universal aspects of the law. The business law literature, countless discussions with colleagues, the comments of reviewers, and our own teaching experience confirm this belief.

We are addressing undergraduate students studying law for the first time: business majors primarily, but students from other programs as well—paralegal studies, nursing, vocational studies, general studies, education, journalism, political science, and pre-engineering, to mention a few. All need an orientation to the law. To that end, the opening chapters of the book and substantial portions of many other chapters focus on the nature of lawmaking, the legal processes by which law is applied to resolve disputes, the values and policy that underlie our law and legal processes, and the role of law and litigation in the conduct of everyday business affairs. The “why’s” of the law are prominent throughout the book, for as Lord Coke said, “If by your studie and industrie you make not the reason of the law your owne, it is not possible for you long to retaine it in your memorie.” Yet, the overwhelming emphasis of this book is on the fundamentals—both philosophical and technical—that all undergraduate business law students should receive from their courses.

Believing that a basic course in business law should contribute not only to the professional and vocational aspects of business education, but also to the process of general education, we have tried to assemble a set of instructional materials that will serve each student in both of these significant ways. Regardless of how general education is perceived—as education for citizenship, as an introduction to a basic discipline or thought process, or as a study of American culture and legal tradition—this book provides a basis for many insights.

The background and introductory chapters will help students understand the essential nature of our law and legal system. From the book as a whole, students will see how the legal system facilitates business operations and discourages or controls harmful business practices.

From that examination, students will begin to recognize that the legal system is an organic part of our social system, both shaping and being shaped by the broader society.

Another point may eventually be brought home—that every citizen has the right and the duty to evaluate the law and to contribute to its improvement. The process of evaluation requires that students be able to analyze so-called “legal” problems (which often are social problems), to detect and weigh the competing interests involved, and to judge whether a given law or judicial decision is a fair or reasonable resolution of the problem it allegedly addresses. This book, in its textual discussion of policy and functions of the law, provides a basis for the beginnings of evaluation. These qualities that make the book suitable for the general education of students are by no means out of place in a business law course attended mainly by business majors. Business students simply have additional reasons for studying business law, *viz.*, the fact that knowledge of law can enhance their professional effectiveness.

The main purpose of this book is, of course, to provide a set of instructional materials that has legal content appropriate for business majors. So, the book has the following ten parts and an appendix containing the Uniform Commercial Code:

- Part One: Law and the Legal System
- Part Two: Tort and Criminal Law
- Part Three: Contracts
- Part Four: Sales
- Part Five: Agency
- Part Six: Property and Estates
- Part Seven: Secured Transactions and Insurance
- Part Eight: Commercial Paper
- Part Nine: Business Organizations
- Part Ten: Government Regulation of Business

Within the framework of these ten parts, the book contains three kinds of chapters. First are those that discuss the legal foundations of business—the chapters on contracts, property, agency, torts, and crimes. These branches of law are the cornerstones upon which all business conduct rests, and students should study them for that reason, but also because those topics are the basis for understanding other foundation elements such as sales, secured transactions, commercial paper, partnerships, and corporations.

Second are the chapters dealing with the more global aspects of business law, those of special interest to future business managers. The government regulation chapters are an example. Chapter 41 sketches in broad outline the roles of the federal and state governments in the regulatory process, the central position of the United States Constitution in the regulation of business activity, the pervasive impact of administrative agencies in formulating and carrying out governmental policy, and the basic types of administrative regulation. Antitrust policy receives specific mention as an example of economic regulation; and the Federal Trade Commission is the main illustration of how administrative agencies function.

Chapters 42, 43, and 44 elaborate by focusing on key aspects of the regulatory effort: consumer protection, employment and labor law, and bankruptcy.

Third are the chapters discussing topics of interest to future technical specialists or CPA candidates. The chapter on insurance and those on the law of sales are of general interest, but also will be of vocational interest to anyone who may work in these or related areas such as banking. The parts of Chapter 23 on carriers, warehouses, and documents of title should be especially useful to persons who find employment in the distribution of goods or in the financing of sales. Likewise, the chapters on secured transactions, commercial paper, estates and wills, suretyship, limited partnership, corporate securities, and bankruptcy will help prepare students for careers in banking, financial counseling, debt collection, and other financial specialties.

COURSE FORMATS

This book has ample material for one or two courses in business law. Moreover, because of its design, the book can be used in a variety of course formats. Basic topics such as contracts, torts, and property appear relatively early in the book, while the more complex, advanced, or specialized topics appear later. Where necessary in the treatment of advanced topics, the text provides cross-references to or a review of basic material as a springboard into the new. Consequently, each part and many of the individual chapters can serve as nearly self-contained instructional units which may be assigned in a variety of orders.

By a judicious selection and sequencing of chapters, instructors can accommodate a broad spectrum of student needs. For example, an instructor could use the book as the basis for a survey course in business law by assigning, in whatever order seems appropriate, Parts One, Two, Three, Five, and Ten, together with (1) the introductory chapters of most other parts; (2) Chapters 23 and 24 on property, Chapter 26 on estates and wills, and Chapter 29 on insurance; and (3) any other chapters of interest such as Chapter 18 on product liability and Chapter 25 on checks and the relationship between bank and customer. Chapter 30, the introductory chapter on commercial paper, is especially suited to a survey course because it presents the rationale of commercial paper law in a nutshell.

This book is also well suited for use in a two-course sequence, often called Business Law I and Business Law II. Business Law I usually deals with some combination of the following basic topics: law and the legal system, tort and criminal law, contracts, property, agency, and government regulation of business. Business Law II usually covers the more advanced, technical, or specialized topics such as sales, secured transactions, commercial paper, and business organizations, together with topics of special interest to CPA candidates, such as insurance, suretyship, and bankruptcy. The formula varies, however, since property and agency often appear in Business Law II, while sales frequently appears in Business Law I as an extension of contracts. In a growing number of business programs, the topics of agency and business organizations are grouped with a treatment of employment-labor law and workers' compensation, the subjects of Chapter 43. Whatever the combination of topics in a particular

course, the two-course sequence and the style of this book permit a relatively in-depth treatment of the law, and provide great flexibility in the choice and grouping of topics.

ETHICS AND BUSINESS LAW

A course in business law provides an excellent opportunity for considering the ethical standards to which business conduct should conform. Most rules of law strike some sort of balance between or among contending interests, and it is a natural inquiry whether the balance struck is a fair, reasonable, just, or expedient one. To judge whether the law is fair—to evaluate the law—a student must be conversant with the ethical considerations that underlie it. So, although most of the ethics content of this book is expressed in terms of policy and rationale of the law, a number of review questions at the ends of the chapters focus explicitly on selected ethical issues. However, our most concerted effort at emphasizing ethics is found in the instructor's manual. There, for most chapters, the instructor will find a number of *ethics highlights*, each of which stresses the ethical implications of some rule or principle of law.

In formulating the ethics highlights, we do not subscribe to any particular school of ethical thought, nor do we try to state or develop any particular theory of ethics or jurisprudence. Rather, we focus on "ethics in practice." Consequently, in developing the ethics highlights, we have been guided by two questions: (1) Is the law as fair as it can be to the persons it affects? (2) If not, how should the law be adjusted?

PEDAGOGICAL AIDS

We are ever mindful of the futility of rote memorization as a technique for studying law. Yet the mastery of basic legal terms, principles, and concepts underlies the ability to explore the law at a more sophisticated level. The end-of-chapter review questions have been carefully designed to provide students with an opportunity systematically to review and check their comprehension of the textual materials. Many of these questions encourage students to look more deeply into a principle or topic. The end-of-chapter case problems encourage the application of legal principles in the discussion, resolution, and evaluation of legal disputes. We hope these activities will lead students to a heightened awareness of the nature, roles, limits, and suitability of the law.

Several other features of this book will also facilitate learning. They include:

1. A content outline preceding each chapter. The outline provides an overview of the chapter and a framework to aid in study, discussion, review, and retention of important terms, concepts, and principles.
2. Key terms highlighted in the text in boldface type and defined in understandable language. An extensive glossary is also provided at the end of the book.

3. Principles and rules of law, and policies underlying the law, explained in sufficient depth for accurate understanding.
4. An abundance of examples to illustrate the application of principles and rules of law, including several extended examples in particularly difficult areas.
5. Diagrams and line drawings that will help students visualize difficult abstract concepts.
6. Case briefs, in an easy-to-read format, integrated with text material and located where they best illustrate the application of the law to business situations.
7. Chapter summaries to aid in review and retention of legal concepts and principles.
8. Review questions and case problems arranged in a sequence that corresponds with the order of textual material, and worded to provide clues for locating the textual material needed to answer the questions or apply legal principles in solving the problems.
9. An index to aid in quick location of textual material.

SUPPLEMENTARY MATERIALS

Additional aids are available in three separate supplements. Each supplement is carefully integrated with text material. A Student's Study Guide and a Test Bank were prepared by Paulette Stenzel (Michigan State University) and Penny Mercurio (University of California, Northridge). The Instructor's Manual was prepared by the text authors, with the assistance of Penny Mercurio and Joerg Knipprath (University of California, Northridge) in the preparation of teaching notes and ethical highlights.

The Study Guide provides general help on how to study business law as well as providing for each chapter: introductions; summary outlines; self-test study questions consisting of fill-in, true and false, multiple-choice, and application questions (with all answers in the guide).

The Instructor's Manual features for each chapter extensive teaching notes, an outline grid keying the case briefs, review questions, and case problems to the pertinent topics in the chapter; solutions to the case problems; and transparency masters.

The Text Bank offers approximately 2000 test items (multiple-choice, true/false, and short essay) in a chapter-by-chapter format. All test questions also are available on MICROEXAMINER, a program enabling instructors to easily produce exams using a microcomputer.

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DONALD P. LYDEN

J. DAVID REITZEL

NATHAN J. ROBERTS

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