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Case on Corporations--Including Partnerships and Limited Partnerships by Robert W. Hamilton

John B. McAdams
University of Oklahoma

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BOOK REVIEW

CASES ON CORPORATIONS—INCLUDING PARTNERSHIPS AND LIMITED PARTNERSHIPS. By Robert W. Hamilton. St. Paul, Minn.: West Publishing Co., 1976. Pp. xxviii, 989. \$18.95.

Cases on Corporations is a commendable addition to the moderately crowded ranks of casebooks in the field of business associations. Time-proven classic analysis and modern changes provide the basic strength of this casebook.

Professor Hamilton's approach recognizes what some law schools' curricula have overlooked: Business associations should be a single integrated course that covers agency and partnerships as well as corporations. This work appropriately covers every type of business organization, whether or not incorporated, except the sole proprietorship.¹

Part One of *Cases on Corporations* is a comparative analysis of partnerships and corporations, the two primary forms of business associations. The casebook recognizes that these two business forms are more thoroughly understood if scrutinized in terms of relative strengths and weaknesses, advantages and disadvantages, and what one form may accomplish that the other cannot. Yet the work also acknowledges that a partnership is not just a simplified closely held corporation, nor is a closely held corporation only a more sophisticated form of partnership. Each, to some extent, requires independent analysis. This delicate balance is maintained throughout Part One of Professor Hamilton's casebook.

Chapter One introduces the student to a chronological study of the "closely held business." In order to add depth to the student's planning techniques, it first analyzes business associations other than the simple partnership and corporation. For example, professional corporations are now a fundamental part of business planning because of federal legislation conferring on self-employed persons the tax fringe benefits allowed employees. Additionally, limited partnerships, while not

¹ An individual proprietorship has a "substantial tie-in with agency law," and is more appropriately covered in a course of that type. H. HENN, *LAW OF CORPORATIONS* 2 (2d ed. 1970).

at the heart of business associations law, are discussed from a planning standpoint. Chapters Two and Four are parallel in that they provide a look at the requisites of a simple partnership and a closely held corporation, respectively. Chapter Three covers the development of corporate law in the United States, and Chapter Five examines one of the most feared pitfalls in corporate planning, the disregard of the entity by piercing the corporate veil. Chapters Six and Seven complete Part One by analyzing the financing techniques and requirements of the closely held business and by discussing the standards for control and management of the entity. These chapters are essentially traditional in their approaches except for the final portion of Chapter Seven. There the author allots a separate subsection to state legislation dealing with the fairly recent phenomenon of the "closely held corporation statute." This legislation allows an organization to maintain the attributes of a corporation while keeping control in the hands of "shareholder-partners" rather than directors. "Shareholder agreements," which are becoming more and more commonplace under this special legislation, are treated in section F of Chapter Seven.

Part Two of the casebook shifts the focus from the small closely held business entity to the large publicly held corporation. It opens by examining the "social responsibility" and policy ramifications of the publicly held corporation. After laying this groundwork, Professor Hamilton explores how the directors and shareholders implement what it is hoped will be a mutually agreeable policy. Also, the educational process of the publicly held corporation with respect to its shareholders is analyzed through an examination of proxy requirements and uses. Chapter Nine concludes Part Two by discussing policy implementation as it is attained by the most radical of means: effecting a change of corporate control by either a proxy fight or tender offer.

Part Three of Professor Hamilton's work is the most interesting portion of the casebook. It indicates that of all of the emerging law specialties, securities litigation is not only where the action is, but perhaps where all the action is. It points out that securities lawsuits have never been more numerous. A major portion of Part Three is devoted to four decisions by the United States Supreme Court within the last two years involv-

ing securities litigation.² The myriad decisions interpreting sections 10(b) and 16 of the Securities Exchange Act of 1934 compel the diligent practitioner to allocate substantial periods of time simply to stay abreast of developments. Certainly the student should do no less, and Part Three of *Cases on Corporations* reflects Professor Hamilton's emphasis in this respect. This part of the casebook concludes by examining the frontier areas of corporate law such as the so-called "vested property rights" of securities holders and corporate "freeze out" techniques.

Unfortunately, every work has its drawbacks, and Professor Hamilton's casebook is no exception. To treat partnerships and corporations without sufficiently analyzing income tax consequences may at times miss the point of corporate planning. While it is not suggested that a business associations casebook should cover the more esoteric aspects of taxation, it should include tax considerations which are basic to understanding planning techniques for partnerships and corporations. It must be acknowledged, however, that due to increasingly strict federal corporation law (based primarily on federal securities legislation), the field has become so broad that it is almost impossible for the corporate practitioner to keep abreast of all the changes in both the tax and securities aspects of corporate practice. It seems, therefore, that Professor Hamilton has made a justifiable choice in emphasizing securities planning over tax planning.

Cases on Corporations organizes business associations into specific, well-defined topics which are comprehensible to students and practitioners alike, and which can be readily assigned in the order preferred by individual teachers. Professor Hamilton realizes that unlike common law subjects such as property and torts, the subject of business associations is governed largely by statute. Thus he stresses the Uniform Partnership Act and the Uniform Limited Partnership Act as positive law and as objects of interpretation. Additionally, the Model Business Corporation Act, a modern attempt to balance the

² *Chris-Craft Indus., Inc. v. Piper Aircraft Corp.*, 516 F.2d 172 (2d Cir. 1975), cert. granted, 425 U.S. 910 (1976); *Ernst & Ernst v. Hochfelder*, 425 U.S. 185 (1976); *Foremost-McKesson, Inc. v. Provident Sec. Co.*, 423 U.S. 232 (1976); *Blue Chip Stamps v. Manor Drug Stores*, 421 U.S. 723 (1975).

interests of the state, corporations, shareholders and management, now provides the pattern for corporate statutory revision in some thirty-five states and the District of Columbia.³ Therefore, Professor Hamilton treats the Model Business Corporation Act as the fundamental source of statutory analysis to complement his casebook.

Robert W. Hamilton guided this reviewer through business associations as a student. Now, through his recent casebook, Professor Hamilton continues to guide the reviewer through business associations as a teacher.

*John B. McAdams**

³ Sebring, *Proposed Changes in the Model Business Corporation Act*, 28 BUS. LAWYER 329 (1973).

* Assistant Professor of Law, University of Oklahoma. B.A. 1969, Oklahoma State University; J.D. 1972, University of Texas.

