

**THE LAW OF DIRECTORS AND
OFFICERS OF JOINT STOCK
COMPANIES, THEIR POWERS,
DUTIES AND LIABILITIES**

Published @ 2017 Trieste Publishing Pty Ltd

ISBN 9780649626199

The Law of Directors and Officers of Joint Stock Companies, Their Powers, Duties and Liabilities by Henry Hurrell & Clarendon G. Hyde

Except for use in any review, the reproduction or utilisation of this work in whole or in part in any form by any electronic, mechanical or other means, now known or hereafter invented, including xerography, photocopying and recording, or in any information storage or retrieval system, is forbidden without the permission of the publisher, Trieste Publishing Pty Ltd, PO Box 1576 Collingwood, Victoria 3066 Australia.

All rights reserved.

Edited by Trieste Publishing Pty Ltd.
Cover @ 2017

This book is sold subject to the condition that it shall not, by way of trade or otherwise, be lent, re-sold, hired out, or otherwise circulated without the publisher's prior consent in any form or binding or cover other than that in which it is published and without a similar condition including this condition being imposed on the subsequent purchaser.

www.triestepublishing.com

HENRY HURRELL & CLARENDON G. HYDE

**THE LAW OF DIRECTORS AND
OFFICERS OF JOINT STOCK
COMPANIES, THEIR POWERS,
DUTIES AND LIABILITIES**

THE LAW
OF
DIRECTORS AND OFFICERS
OF
JOINT STOCK COMPANIES.

THE LAW
OF
DIRECTORS AND OFFICERS
OF
JOINT STOCK COMPANIES,
THEIR POWERS, DUTIES AND LIABILITIES,

BY
HENRY HURRELL,
OF THE INNER TEMPLE,
AND
CLARENDON G. HYDE,
OF THE MIDDLE TEMPLE,
ESQUIRES, BARRISTERS-AT-LAW.
(AUTHORS OF "A TREATISE ON THE LAW OF JOINT STOCK COMPANIES.")

LONDON:
WATERLOW AND SONS LIMITED, LONDON WALL.
1884.

P R E F A C E.

THE Authors in this book endeavour to point out as clearly and concisely as possible the legal position of Directors, Secretaries, Managers and other officers of Joint Stock Companies formed under the Companies Acts, and to indicate the duties and liabilities which the holding of those offices involves.

The many cases which are brought annually before the Courts tend to show that by very many persons the nature and extent of the powers, duties and liabilities devolving on Directors and other Officers of Companies are greatly misunderstood.

The Authors trust that this attempt to summarise the legal position of Directors and Officers may contribute somewhat to a clearer understanding on the subject.

As many Companies incorporate with their Articles of Association most of the provisions of Table A of the Companies Act, 1862, it has been thought convenient to subjoin that table as an Appendix.

Throughout the text of the book the references to reported cases have been taken, as a matter of convenience, from one source only ; but in the Table of Cases will be found references to the other reports.

H. H.
C. G. H.

1, TEMPLE GARDENS, TEMPLE,
May, 1884.

1. 2. 3. 4. 5. 6. 7. 8. 9. 10. 11. 12. 13. 14. 15. 16. 17. 18. 19. 20. 21. 22. 23. 24. 25. 26. 27. 28. 29. 30. 31. 32. 33. 34. 35. 36. 37. 38. 39. 40. 41. 42. 43. 44. 45. 46. 47. 48. 49. 50. 51. 52. 53. 54. 55. 56. 57. 58. 59. 60. 61. 62. 63. 64. 65. 66. 67. 68. 69. 70. 71. 72. 73. 74. 75. 76. 77. 78. 79. 80. 81. 82. 83. 84. 85. 86. 87. 88. 89. 90. 91. 92. 93. 94. 95. 96. 97. 98. 99. 100.

TABLE OF CONTENTS.

CHAPTER I.

DIRECTORS.—Their position—Who may be—Who may not be—Unlimited liability of.

CHAPTER II.

OFFICERS.—Their position—Remedies—Duties—Statutory obligations—Authority—Liabilities—Dismissal.

CHAPTER III.

DIRECTORS.—Their appointment—Removal—Remuneration—Qualification—Eligibility.

CHAPTER IV.

PROMOTERS.—Who are—Their position—First Directors—Adoption of Contracts—Abortive Companies—Provisional Committees—Preliminary Expenses.

CHAPTER V.

PROSPECTUS.—Its office—Misrepresentation—Who are responsible for—Remedies of Shareholders—Innocent mis-statements—Measure of Damages.

CHAPTER VI.

CONTRACTS IN PROSPECTUS.—Effect of non-disclosure—Secret profits—"Knowingly issue"—Sub-contracts—Waiver of notice—Requirements of Stock Exchange.

CHAPTER VII.

SHARES.—Allotment of—Transfer of—Discretionary power—Married women—Calls—Forfeiture—Issue at discount—Dealings in, by Directors.

CHAPTER VIII.

BOARD MEETINGS.—How constituted—Casual vacancies—Quorum—Exclusion of Directors—Knowledge of Directors—Place of Meeting—Minutes—Committees.

CHAPTER IX.

STATUTORY DUTIES.—Name of Company—Register of Mortgages—Share Register—Special Resolutions—Alteration in Capital—Published Balance Sheets—Penalties.

CHAPTER X.

GENERAL MEETINGS.—Notice of—Ordinary—Extraordinary—Resolutions—Amendments—Committee of Investigation—Powers of Majority—Quorum—Poll—Proxies.

CHAPTER XI.

POWERS OF DIRECTORS.—Excess of authority—General scope of—*De facto* Directors—Indemnity—Directors as creditors—Interference of Court.

CHAPTER XII.

LIABILITIES OF DIRECTORS.—Losses by imprudence—Losses by fraud—Misapplication of funds—Profits made out of Company—Actions by Shareholders—*Ultra vires*.

CHAPTER XIII.

MISFEASANCE.—Bribes—Improper dividends—Fraudulent balance sheets—Liability of officers—Payment of promotion money—Claims in winding up—Examination of witnesses.

CHAPTER XIV.

CRIMINAL LIABILITY.—Misapplication of funds—Fraudulent prospectus—False entries—Fraudulent balance sheets—Fictitious dividends.

APPENDIX.

Companies Act, 1862. Table A.

TABLE OF CASES.

| | PAGE |
|--|------------|
| Aberdeen Railway Coy. v. Blaikie, 1 Macq., 471; 2 Eq. R. 1281 | 30, 65 |
| Accidental Insurance Coy. v. Davis, 15 L. T. 182 | 44 |
| Agar v. Athensum Life Assurance Association, 3 C. B. N. S. 725; | |
| 27 L. J. C. P. 95 | 94 |
| Albion Steel Coy. v. Martin, 1 Ch. D. 580; 45 L. J. Ch. 173; 33 | |
| L. T. 660; 24 W. R. 134 | 89 |
| Alexandra Palace Coy., 21 Ch. D. 149; 51 L. J. Ch. 655; 46 L. T. | |
| 730; 30 W. R. 771 | 106, 110 |
| Alma Spinning Coy., 16 Ch. D. 681; 50 L. J. Ch. 170; 43 L. T. | |
| 620; 29 W. R. 133 | 56, 57, 62 |
| Ambrose Lake Tin Coy., 14 Ch. D. 390; 49 L. J. Ch. 457; 42 L. T. | |
| 604; 28 W. R. 783 | 90 |
| Anglo-Universal Bank v. Baragnon, 46 L. T. 362 | 56 |
| Arkwright v. Newbold, 17 Ch. D. 301; 50 L. J. Ch. 372; 44 L. T. | |
| 393; 29 W. R. 465 | 37, 43, 49 |
| Ashbury Railway Carriage Coy. v. Riche, 7 H. L. 653; 44 L. J. | |
| Ex. 185; 33 L. T. 451 | 96 |
| Ashhurst v. Fowler, 20 Eq. 225 | 108 |
| Ashhurst v. Mason, 20 Eq. 225; 44 L. J. Ch. 337; 23 W. R. 508 | 63 |
| Atwood v. Merryweather, 5 Eq. 464 n.; 37 L. J. Ch. 35 | 77 |
| Austin's Case, 24 L. T. 932 | 64 |
|
 | |
| Bagnall v. Carlton, 6 Ch. D. 371; 47 L. J. Ch. 20; 37 L. T. 481; | |
| 26 W. R. 243 | 25, 47 |
| Barber's Case, 5 Ch. D. 963; 26 W. R. 3 | 16 |
| Barnes v. Addy, 9 Ch. 244; 43 L. J. Ch. 513; 30 L. T. 4; 22 | |
| W. R. 505 | 109 |
| Barwick v. English Joint Stock Bank, 2 Ex. 259; 36 L. J. Ex. 147 | 9, 98 |
| Beattie v. Lord Ebury, 7 H. L. 102; 44 L. J. Ch. 20; 30 L. T. 581; | |
| 22 W. R. 897 | 91, 195 |
| Belfast Railway v. Belfast and Holywood Railway, L. R. (Ir.) 3 | |
| Eq. 581 n. | 19 |
| Bird v. Randall, 3 Burr 1,345; 1 W. Bl. 373, 387 | 7 |
| Bishop's Case, 7 Ch. 296 n. | 55 |