

**COMPARATIVE
ADVANTAGES OF THE
CORPORATION LAWS OF ALL
THE STATES AND TERRITORIES**

Published @ 2017 Trieste Publishing Pty Ltd

ISBN 9780649487813

Comparative Advantages of the Corporation Laws of All the States and Territories by Herbert M. Heath

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

HERBERT M. HEATH

**COMPARATIVE
ADVANTAGES OF THE
CORPORATION LAWS OF ALL
THE STATES AND TERRITORIES**

COMPARATIVE ADVANTAGES
OF THE
CORPORATION LAWS
OF ALL THE
STATES AND TERRITORIES

BY
HERBERT M. HEATH

Counsellor-at-Law

COUNSEL DOING BUSINESS WITH HEATH & ANDREWS WILL
ANNUALLY RECEIVE "ADDENDA" TO KEEP THIS
MANUAL UP TO DATE.

KENNEDEC JOURNAL PRINT
1902

~~VZ-11215~~
Econ 384-115

112380



Boston Athenaeum

COPYRIGHTED, 1902,
BY
HEATH & ANDREWS,
AUGUSTA, MAINE.

PREFACE.

The writer has long felt that active practitioners needed a hand-book to succinctly call their attention to the salient features of the corporate systems of the different States and Territories. This pamphlet is submitted as an attempt in that direction.

It does not purport to be exhaustive. To make it so would load it with the burdens of the outstanding manuals, too bulky and minute to serve the uses of busy men.

It is written from the stand point of the incorporator seeking simplicity, economy and the fewest possible restrictions, at the same time looking for a State not likely to change its legislative policy.

The compiler does not necessarily endorse the social economics of the systems upon which he comments. He believes there can be no effective corporate regulation until the Federal Government has broader constitutional powers. Until then, incorporators will seek the state giving the greatest freedom if convinced of the reasonable stability of its legislative policy.

HERBERT M. HEATH.

AUGUSTA, ME., April, 1902.

CHAPTER I.

ANALYSIS OF ALL THE SYSTEMS.

ALABAMA.

Before beginning business fifty per cent of authorized capital stock must be subscribed by solvent persons and satisfactory evidence given under oath of the payment in cash or property of twenty per cent.

Two incorporators required. Maximum capital ten million dollars. Except for mining and manufacturing, limit of life is twenty years.

No annual statements. Debts not to exceed the capital stock. May hold stocks of other corporations. Preferred stock permitted by two-thirds vote. Number of directors limited to nine. Resident stockholders may consent to meetings out of the state, copy of proceedings to be filed with resident agent. Must make return to local assessors that stock may be properly taxed at market value. Stock may be issued for property on valuation fixed by commissioners.

Original subscriber remains liable to extent of amount unpaid even after transfer.

Fees.—Not over \$50,000, \$25; over \$50,000 to \$100,000, \$50; over \$100,000 to \$250,000, \$75; over \$250,000 to \$500,000, \$100; over \$500,000 to \$1,000,000, \$200; over \$1,000,000, \$250. No annual franchise tax.

Foreign corporations on admission pay same license fees as domestic.

Non-residents would not be attracted by the requirements as to preliminary subscriptions and payments. For this reason and to secure perpetual corporate life residents in many instances find advantages abroad.

ARIZONA.

No particular amount of stock to be subscribed before commencing business. Nothing to be paid in. Articles to be published in local paper one week. No limit to amount of stock. Corporate life limited to twenty-five years, with right of renewal for a period not exceeding twenty-five years, if three-fourths of stock so votes.

No annual statements. Debts must not exceed two-thirds of the amount of capital stock. No power by statute to hold stocks in other corporations. Stockholders' meetings to be held within the territory. Preferred stock not permitted. Books at all times open to inspection by stockholders. No power of consolidation.

All stockholders are individually liable to creditors to the amount of the unpaid instalments on the stock owned by them. The liability follows the stock in the hands of a transferee.

Fees for incorporation average about \$35. No annual franchise tax. Foreign corporations pay no admission fee.

The literature distributed by the territory inviting corporate business is inaccurate. Among other things we notice—"Nothing preventing stockholders and directors holding their meetings and keeping their books anywhere—" The statute is silent; in the absence of affirmative permission, the universal rule applies that such meetings beyond the limits of the incorporating state are void—

Next, "Private property is exempt from corporate debts and there is no individual liability on the part of either directors or stockholders when so specified in the Articles of Incorporation." Section sixteen of the statute, however, gives the rule as above stated in the text, "Nothing herein shall exempt the stockholders of any corporation from individual liability to the amount of the unpaid instalments on the stock owned by them." The liability therefore attaches to the stock however acquired.

Again—"Capital stock is made full paid and non-assessable when issued in exchange for property and so provided by the Articles." The statute confers no such power. There is no statutory provision for fixing the value of such property. If negligently or fraudulently

overvalued, liability follows under well-settled rules. Such stock is non-assessable by the corporation but its holders are liable to creditors.

Again—"Preferred stock may be issued when so provided." Leading counsel in the territory, following the judicial rule that the silence of the statute excludes the power, say "there is no such thing as preferred stock in the territory."

Non-residents may be attracted by the nominal fee, but, if incorporated elsewhere, they secure perpetual corporate life, freedom as to indebtedness, the right of the directors to meet anywhere, the right to issue preferred stock, clear authority to hold stocks of other companies, and (if organized in Maine or West Virginia) less personal liability for transferees of unpaid stock. Even residents of Arizona would secure increased privileges. The statutory system is crude, poorly developed, and subject to the sudden changes of legislative policy naturally to be feared from a territorial legislature.

ARKANSAS.

No particular amount of stock to be subscribed before commencing business. Nothing to be paid in. No limit to amount of stock. Shares \$25 or \$100. Corporate life unlimited.

Annual statement to be filed with county clerk, showing capital actually paid in, cash value of real estate, personal estate and credits, amount of debts, name and number of shares of each stockholder; otherwise, president and secretary liable for debts contracted during period of neglect. When debts exceed capital stock, directors liable. No statutory power to hold stocks of other companies. Preferred stock not permitted.

All stockholders are liable for the debts of the corporation to the extent of their unpaid stock. Liability follows the stock in hands of transferees.

Fees for incorporation, \$25. No annual franchise tax. Foreign corporations on admission pay same fees as domestic.

Non-residents are not likely to be attracted to these restrictions. Residents, incorporating elsewhere, could well afford to pay heavier fees to secure greater freedom as to indebtedness, less publicity and, if organized in Maine or West Virginia, less personal liability.

CALIFORNIA.

In organizing ordinary business corporations no particular amount of stock to be subscribed. Nothing to be paid in. At least five incorporators, majority to be residents. No limit to amount of stock. Corporate life fifty years, with right of extension for fifty years by vote of two-thirds of stock.

No annual statements. Debts not to exceed the capital stock, otherwise directors liable. Meetings of stockholders and directors to be held within the state. Shares not taxable but every issue of a certificate of stock is taxed ten cents. One corporation cannot hold stocks of another corporation. At least five directors, majority to be citizens of the state. Treasurer to be resident. No provision for statutory valuation of property received for stock. No provision permitting preferred stock.

Each stockholder is individually and personally liable for such proportion of all the corporate debts and liabilities contracted or incurred during the time he is a stockholder as his stock bears to the total capital stock. Liability not released by subsequent transfer.

Fees—\$25,000 or less, \$15; over \$25,000 to \$75,000, \$25; over \$75,000 to \$200,000, \$50; over \$200,000 to \$500,000, \$75; over \$500,000 to \$1,000,000, \$100; over \$1,000,000, \$150. Foreign corporations pay same fees as domestic. No annual franchise tax.

While non-residents can find nothing in this system to attract them, it would seem as if residents would prefer to pay double fees as a foreign company to avoid the burdensome restriction of the double liability feature to secure perpetual corporate life, have greater freedom as to indebtedness and authority to issue preferred stock.