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# Nonprofit Corporation Statutes: A Critique and Proposal by Ralph E. Boyer

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# Book Reviews

NONPROFIT CORPORATION STATUTES: A CRITIQUE AND PROPOSAL. By Ralph E. Boyer. Michigan Legal Studies. University of Michigan, Ann Arbor, Michigan. Pp. x, 269, 1957. \$5.00.

Much attention has been given during the past quarter century to the modernization of corporation statutes dealing with the private business corporation organized for profit. New general corporation acts have been enacted in a substantial number of states; and it is fair to assume that this modernization process will continue unabated as state legislatures strive to create and maintain a suitable statutory framework for the needs of the modern profit corporation. The attention thus given to the profit corporation is no doubt justified when one considers the important role which such corporations play in the economic life of our nation. Yet the intense legislative activity generated by these corporations has tended to obscure the fact that the nonprofit corporation also exists under statutory sanction as a vital institution in our modern society.<sup>1</sup>

Professor Boyer's book would be amply justified if it served no other purpose than to focus attention on the significant contribution which nonprofit corporations, with their almost infinite variety of purposes, make to our national welfare. But his book aims at much more than this. As he says in Chapter I concerning the scope of his study, it has been undertaken "with the twofold purpose of analyzing present statutes and determining their adequacy in light of present day practices."<sup>2</sup> While his study concentrates on Michigan law and culminates in a proposed act for nonprofit corporations designed to clarify, simplify, and improve the existing Michigan statutes on the subject, he has sought throughout to make his study broad enough to enable his suggested act to be, as he says, "amenable to adoption in any state with a minimum of alteration."<sup>3</sup> His book thus should prove useful to any state which undertakes a systematic review of its own nonprofit statutes.

The author divides his study into two parts. Part I, entitled "A Critique," contains a concise but thorough analysis and commentary

<sup>1</sup> See Haller, "The Model Non-Profit Corporation Act," 9 *Baylor L. Rev.* 309 (1957).

<sup>2</sup> P. 7.

<sup>3</sup> *Ibid.*

on the existing statutes pertaining to nonprofit corporations in the State of Michigan. The existing treatment of these corporations in Michigan is contained in a number of special acts as well as in special sections appended to the Michigan General Corporation Act.<sup>4</sup> The author found that this multitudinous treatment of nonprofit corporations resulted in a considerable amount of unnecessary duplication and overlapping of provisions, particularly with reference to matters pertaining to the routine operations of these corporations, which made consolidation and rearrangement of these numerous statutes seem advisable in the interests of clarity and simplicity. Part II, entitled "A Proposal," contains a proposed nonprofit corporation act consisting of provisions which, if adopted, would be added as supplementary sections to the Michigan general business corporation act, replacing the existing statutes on the subject.<sup>5</sup> Explanatory notes follow each of the sections of the proposed act, and these notes contain numerous references to comparable nonprofit statutory provisions in other states. This in itself gives to the proposed act a usefulness that extends beyond the boundaries of Michigan.

The examination of cooperatives, which forms the subject matter of Chapter II, Part I, deserves special mention, since the distinct characteristics of these organizations and their extensive use makes adequate statutory treatment of their operational methods all the more important. The author's detailed analysis and evaluation of the present Michigan statutes on cooperatives should afford an excellent basis for similar studies of comparable statutes in other states.<sup>6</sup>

Professor Boyer's book deserves commendation as a significant

<sup>4</sup> See pp. 5-6.

<sup>5</sup> See the author's comments concerning this manner of dealing with nonprofit corporations in Chapter VI, Part I, at pages 121-122. The technique varies somewhat among the states. See Chapter I, Part I, pages 3-5. In Kentucky, nonprofit corporations are treated in separate chapters of the Kentucky Revised Statutes rather than in supplementary sections to the general corporation act. However, Chapter 271, which sets out the general provisions pertaining to private corporations, states that "this chapter shall apply to any corporation formed under the laws of this state unless either the statutes relating to a corporation of that kind are inconsistent with this chapter or state that the provisions of this chapter do not apply to it." Ky. Rev. Stat. 271.015 (1956). It is thus apparent that consideration of the statutes pertaining to nonprofit corporations in Kentucky also necessitates reference to the general corporation law of the state.

<sup>6</sup> For example, he discusses the possible use of the revolving fund as a method of financing cooperatives, a plan not always specifically recognized as such in cooperative statutes but nevertheless susceptible of adoption, in his opinion, as a form of reserve fund where the applicable statute (as in Michigan) expressly provides that a portion of the earnings may be reserved for future distribution. See pages 27-32. The author includes in his proposed act a section recognizing the legality of the revolving fund and prescribing certain conditions as to the operation of such a fund designed to protect the relative interests of patrons, creditors, and stockholders of the cooperative. See section 212 of the proposed act, at pages 145-147.

contribution to an area of corporation law which has been given but scant attention in recent years. The Model Non-Profit Corporation Act (1951), prepared by the Committee on Corporate Laws of the American Bar Association, stands as a conspicuous exception to this, but as Laylin K. James says in his foreword to Professor Boyer's book, the Model Act "eliminates no part of the examination of the laws of a particular jurisdiction where there are a substantial number of nonprofit corporation statutes."<sup>7</sup> Professor Boyer's book undertakes to meet this need, and while it is focused on the Michigan statutes, his book should prove to be a helpful guide to statutory reform not only in Michigan but elsewhere.

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<sup>7</sup> P. v.