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Corporate Management

Thomas S. Issack
West Virginia University

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BOOK REVIEWS

CORPORATE MANAGEMENT. By Percival E. Jackson. Charlottesville, Virginia: The Michie Company, 1955. Pp. xxii, 489. \$10.00.

Corporate law would do well to emulate the evolution of the modern foundation garment. It should be designed to provide guides to proper form, but should allow enough flexibility for the dynamic demands of modern society. However, Percival Jackson notes that corporate law in the United States has been a laggard. With rare exceptions involving public scandals, legislative changes in corporate law have been at the insistence of corporate pressures so that the main body of the law has not been designed with perspective focused on the dynamic corporate growth which we have experienced. Our law still clings to a framework fabricated in a day when the corporation provided a means for the Cape Cod sea captain to share the profits and losses of his ventures with his friends. Such painfully slow progress has meant that corporate law fails to distinguish between the small, one-man corporation organized to avoid personal liability and the huge industrial enterprise with tens of thousands of stockholders.

In the eyes of Mr. Jackson, this is unfortunate because our democratic political government and our economic capitalism have become so closely interwoven that abuses involving the corporation as an economic institution may tend to weaken our political democracy. Since democracy and capitalism are keystones in the American system, they must be kept strong in the world struggle against socialism and communism. In their practical operations, stockholders, directors and corporate executives may have to give precedence to social responsibilities which transcend their rights to profits in order to keep the American environment healthy.

The author points out that, in its current form, the corporation is management-centered rather than owner-dominated. Stockholders who have the voting power to determine this management are relatively impotent unless their shareholdings are large enough to encourage an active interest in the enterprise's affairs. Such large holders usually become a part of the corporate management or control members of that management directly. Generally, stockholders exert little influence on corporate affairs because of their apathy regarding all activities except dividend payments. In addition, there is no legal machinery to provide the stockholders with a means of selecting candidates for directors so that their major source of

authority is weakened in this respect. Geographical distribution of stockholders can prevent stockholders from determining candidates effectively, and management takes advantage of such limitations in order to maintain control.

Stockholder impotence means that directors and corporate executives carry the real burden of responsibility for managing the corporation. There is a need then for proper selection of directors to meet the responsibilities of administration and trusteeship, but the law is weak in this respect so that business prescribes the qualifications for the directors' performance. However, the conduct of directors and executives, like that of Caesar's wife, should be above reproach. Corporate executives should be interested in having qualified directors to assure the formation of a sound board, and directors should be conscientious in meeting their obligations of trusteeship and administration.

Management and board relationships are established through the give and take of actual experience. For proper functioning, directors and executives should cultivate a framework of relations similar to that which exists between the executive and legislative branches of our political democracy. Then the directors and executives could work as a unit with the board, assisted by the executives, establishing broad policies, and the board could aid executives on carrying out the policies. Finally, the board could act as the judge of all action to ascertain if the autocratic power vested in corporate management is used properly. Just as individual figures should conduct themselves properly in order to minimize abuses on the political scene, members of corporate management should do the same in the practical operation of the corporation.

Mr. Jackson shows that in exercising their functions, directors and executives find little guidance from corporate law and they must rely on their own discretion to make practical decisions regarding dividends and other stockholder relationships. Even though a director may be held liable for his actions, the law is not imposing. It is concerned, primarily, with how conscientious he was on meeting his trust obligations.

In presenting his theme, the author describes the details of corporate management activities and of the problems regarding the selection of directors, their qualifications and the procedures for electing directors. He, also, gives attention to the organization and compensation of the board of directors, the practices regarding

board meetings and the powers and functions of the board within the framework of directors' disabilities and liabilities. The impact of corporate executives on directors and their activities is woven into the subject matter in order to complete the picture of dynamic corporate management. A second portion of the book is devoted to a treatment of the corporation as an instrument of business ownership.

Throughout his book, Mr. Jackson points to proper standards of conduct for corporate management, executives and directors, to follow in acting where the law does not speak or where its voice is barely audible. There are examples of how not to act as well as examples of correction action and most of them stem from familiar situations like the recent Montgomery-Ward proxy battle and the General Motors stock split. The scope of corporate management activities is very broad and the author goes into great detail in order to get the depth for emphasizing the need for standards of conduct.

The book is a definite contribution in providing standards of conduct for corporate management since corporate control has become management centered and since the law contributes few guides for practical operations. Attention to this subject is essential because professional management has become such an influential factor in our society and has shown sensitive interest in social responsibilities.

The subject should be of interest to a lawyer whose work involves corporate affairs and to members of the corporate management. These individuals will find very little legal discussion since major emphasis is given to the proper conduct of practical operations. However, two factors may detract the attention of these readers from the main theme. The material is organized into so many small units that unnecessary repetition is inevitable, and these persons may be too familiar with the subject material for this kind of organization. Consequently, they would be tempted to make a "horseback" exploration so that the complete pattern of conduct would be missed.

THOMAS S. ISAACK

Associate Professor of Management,
West Virginia University.