

# Introduction

ON THE MORNING OF August 2, 2002, millions of Americans turned on their TVs to see an unusual spectacle: a high-level corporate executive in handcuffs, being paraded by law enforcement officials in front of the news media. The executive was Scott Sullivan, chief financial officer of the telecommunications firm WorldCom. Along with fellow executive David Myers, Sullivan was charged with hiding \$3.85 billion in company expenses, conspiring to commit securities fraud, and filing false information with the Securities and Exchange Commission. The combined maximum penalties from the charges were sixty-five years. In response to the arrests, Attorney General John Ashcroft told reporters, “Corporate executives who cheat investors, steal savings, and squander pensions will meet the judgment they fear and the punishment they deserve.”

Now consider a different crime, committed by the leadership of General Motors together with Standard Oil of California, Firestone Tire and Rubber Company, B. F. Phillips Petroleum, and Mac Manufacturing. In 1936, the five companies formed National City Lines, a holding company that proceeded to buy electric trolley lines and tear up the tracks in cities across the nation. Each time it destroyed a local trolley system, National City would license the rights to operate a new system to a local franchisee, under the stipulation that the system convert to diesel-powered General Motors buses.

By 1949, more than one hundred electric transit systems in forty-five cities had been torn up and converted. In April of that year, a federal jury convicted GM and the other firms of conspiracy to commit antitrust violations. But the penalty turned out to be negligible. The judge set the fine at \$5,000 for each company. H. C. Grossman, treasurer of General Motors and a key player in the scheme, was fined one dollar. After the conviction, the companies went back to purchasing transit systems, removing electric trolley lines, and replacing them with buses. By 1955, 88 percent of the country’s electric streetcar network was gone.

Both the Scott Sullivan case and the National City Lines case fit the traditional definition of crime: laws were broken, the legal system intervened. But the second case suggests that the larger the crime, the more the

boundaries between “crime” and “business as usual” begin to blur. As Atlanta mayor and former United Nations ambassador Andrew Young once said, “Nothing is illegal if one hundred businessmen decide to do it.”

Young may have overstated things a bit, but the observation encapsulates a basic truth about American society. Business does tend to get its way, acting by means of a nebulous force known as “corporate power” that drives much of what happens in both the public and private spheres. But there are a few details to work out. What is the nature of this power? Exactly how does it work? Does the law *instantly* conform to the needs and wants of those one hundred businessmen? What happens when corporate America finds its wishes thwarted by constitutional barriers? Who decides what is “public” and what is “private?” Who defines the nature of “crime” versus “business as usual?”

IN ORDER TO ANSWER such questions, one challenge is merely to begin seeing a phenomenon that surrounds us so completely and continuously. I’ve spent most of my working life in the corporate world, founding and running a company that publishes how-to books about computers. In that world the corporation is the air you breathe. There is no questioning whether it is a good thing or a bad thing. It just is. Nor is there any thought about where the corporation—this particular institutional form—comes from. You assume that corporations have always been a natural part of the American system of “democracy and free enterprise.” But even as I pursued my business, questions lurked in the back of my mind, some of which had been triggered as early as my high school years.

I grew up in southwestern North Dakota, and my first summer job was building trails in the Badlands for the U.S. Forest Service. One day, I learned that a large energy corporation had applied to strip-mine a spot called the Burning Coal Vein, a rugged area where at night deep fissures emitted a glow caused by smoldering veins of coal, ignited long ago by lightning strikes or prairie fires. Along the hillsides, columnar junipers reminiscent of the trees in Van Gogh’s “Starry Night” stood like silent watchers draped in tunics. Piles of scoria—brilliant red, orange, and purple ceramic shards—covered the ground, the metamorphosed products of shale baked by the intense underground heat. It was like being in an immortal potter’s workshop, where every footstep made a tinkling sound as the scoria broke under your feet. That someone could dare propose

destroying a place of such beauty in exchange for a few thousand tons of low-grade coal stunned me. But, of course, the entity planning the mine wasn't a *someone* but a *something*—a corporation. Although people in the company may well have cared, the corporation itself didn't.

After college, I started working as a community organizer for a group of farmers and ranchers in North Dakota who were opposed to a vast expansion of strip-mining being proposed by a number of large companies. The shadow cast by these corporations across farms and ranches was not just a metaphorical one. The machines used in strip mines are quite literally of an awesome physical scale. When I saw *Jurassic Park* I experienced a feeling of *déjà vu*—it reminded me of being in a strip mine. To extract the coal underneath millions of acres of productive farmland and rangeland, the mining companies have to peel away the overlying layers of plant-nurturing soil, water-bearing aquifers, and rock. The peeling is done by immense, crane-like earth-eaters called draglines, which soar into the air the length of a football field. Like long-necked dinosaurs, the draglines make their way slowly amid ridges of rubble. Using tooth-edged buckets large enough to hold three Greyhound buses, they perform a drop-drag-lift-swivel maneuver, dropping the giant bucket, dragging it until it overflows, then suddenly jerking tons of dirt and rock high into the air, swiveling with surprising grace, and finally dumping the load onto the spoil piles. Especially at night, when intense lights illuminate the machinery and the rubble, the impression is hair-raising—a specter of monsters feeding upon the earth. And then you remember that the rubble being moved and dumped had been someone's pasture, favorite hillside, or alfalfa field. Reclamation? The companies promised that they would restore the land, but given the semiarid conditions, the fragility of the soil, and the complexities of such critical factors as hydrology and salinity, such assurances rang hollow.

You couldn't help but be affected by the courage of the families who carried on a daily existence next to the mines. I recall sitting in the kitchen of a wheat farmer named Werner Benfit and his elderly mother Anna, looking out at the advancing edge of North American Coal Company's Indian Head Mine near Zap, an ordinary town except for its Dr. Seussian name. Even though the towering spoil piles of the mine had come literally to the edge of the Benfits' property, chain-smoking Werner never lost his sense of humor. Anna brought out a plate of cookies and Werner told about the "suit" from North American Coal who had recently paid

a visit. The executive had told Anna that she could name any price in the world for her land. “I don’t know about that,” replied Anna, “but do you think you could move your spoil pile back a little ways so the rocks stop rolling onto my lawn?”

My boss was a genial Norwegian-American rancher named Randolph Nodland. Randolph had spent years fighting a company called Nokota, which had surreptitiously acquired the mining rights to thousands of acres of land and now threatened a number of farms and ranches with the possibility of an immense strip mine and an accompanying synthetic fuels plant.

One summer evening, as Randolph and I passed the time over pitchers of beer in the Shamrock Bar downstairs from our small office, he told me about a funeral he had attended the previous week at his local country church, Vang Lutheran. Flowers had been brought by the family of the deceased, but as Randolph took his place in the pews, a particularly large bouquet caught his eye. On a card the inscription read: “With deepest sympathies, Nokota, Inc.”

The memory of the funeral raised a mixture of emotions, which passed like prairie clouds across Randolph’s weathered face—disgust, anger, amusement. The funeral bouquet was just one of a variety of “personal” gestures by the company, including congratulatory cards sent to graduating high school seniors, booths at local fairs, and sponsorship of sports teams, all designed to ingratiate Nokota Inc. with the local community.

This particular gesture, though, crossed the line, and I knew Randolph would make sure the story of the grotesque social miscue made the rounds. In relating the encounter with the bouquet, the mere raising of an eyebrow would be enough to define and convey the insult—and having delivered that cue himself, Randolph could be assured that the message would pass from person to person. Such is the nature of a rural community.

But it occurred to me that Nokota’s weird social gesture also stood for something else. In a curious way, the ineptness of the funeral bouquet dramatized the mindless persistence that only a corporation can sustain. Randolph’s own energies, along with the combined energies of all his neighbors, were ultimately limited. In contrast, the energies of the corporation had no clear bottom. Maybe all the public relations activities of the company weren’t really about making Nokota popular.

Maybe they were simply a way of saying, “We’re here, we won’t go away, get used to it.” You can laugh at or hate a corporation, you can turn it into an object of contempt. You may experience it as a tenacious foe, you can get mad at it one day and ignore it the next. Nothing you may feel or do really matters, because in the end there is no getting around the fact that you are not fighting a normal opponent—your opponent is simply *nobody*. As Baron Thurlow said some three centuries ago, “Did you ever expect a corporation to have a conscience, when it has no soul to be damned, and no body to be kicked?”

From the inside, the view is different. I’ve repeatedly been struck by the paradox that even the most destructive corporations are populated by friendly, caring people. Sure, there are exceptions to that—corrupt companies, companies with poisonous internal cultures, even companies that ought to be classified as instances of organized crime. But in general, far more harm is caused by corporations acting in ways that are utterly legal and that seem, from the perspective of those inside the corporation, to be perfectly appropriate. Quite obviously, if corporations do harm, it is not because the people inside them lack souls. Rather, it’s because the company as a whole, like any organization, is a complex entity that acts according to its own autonomous set of motives and dynamics.

I was to learn that basic fact firsthand after I moved from North Dakota to California and started my computer book publishing business on the outskirts of Silicon Valley. The company started on my kitchen table with a single book that I had painstakingly written and printed on a first-generation laser printer. At that point the farthest thought from my mind was that I might be giving birth to an impersonal, monstrous entity, another Nokota. Indeed, nothing could have been more personal than this funky little company, Peachpit Press. For the first five years the business was in our house, with marketing meetings in the kitchen and kids’ toys under the desks. In the early days there were just a handful of us. I would write my how-to books in an office next to the bedroom. I would also answer the phones, and my wife would do the accounting. A friend would come in every few days and help ship books to people who had ordered them.

Over time, the company grew, and as it grew it subtly changed. Gradually our revenues advanced into the millions of dollars. In airports I picked up magazines like *Inc.* and *Business Week*. I opened my laptop computer on the plane and made cash-flow projections. I thoroughly

bought into the “win-win” notion of the self-made entrepreneur, providing useful things to help people solve their problems—and of course making money in the process.

Occasionally my company enclosed software with our books. I dealt with my production manager, who worked through an independent contractor with an assembly company that inserts floppy disks into vinyl envelopes that are stuck into the backs of books. After a while, I rarely thought much about the physical aspects of these various stages, or about the people who performed the tedious manual labor involved in assembling our book-and-software packages.

One particular day stands out in my memory, a day when things had gone slightly awry and I needed to step into an aspect of the business that I rarely got involved with. My production manager was on vacation, there had been a miscommunication of instructions, the warehouse staff called to say that the assembly company was applying our floppy disk labels in the wrong way, and someone needed to straighten things out.

I drove over to the assembly company in South San Francisco and met an account manager, who walked me through a warehouse with towering metal shelves. I saw clerks behind glass walls, line managers, workers lined up along the steel rollers of assembly lines.

Suddenly it dawned on me. All the clerks in the offices and all the foremen on the floor had white faces. All the workers on the assembly had brown faces. I speculated that they were Filipino immigrants. I had no idea how much they were paid, whether they were unionized, what sort of benefits they received, or what their hours were. So many aspects of the world economy became illuminated at once: the division of labor between haves and have-nots; the distancing of those who benefit from that division by means of “independent contractors”; my own personal involvement, which I had so conveniently compartmentalized and not thought about as long as it remained abstract.

“So this is how it works,” I thought, realizing that somewhere along the line, my little company’s operations had changed quite profoundly. But I had no time to let my thoughts go deeper. The pace was simply too fast to dwell on it. The thought passed quickly, vanishing into a crazy day embedded in a crazy month.

I had promised several key people that they would receive ownership shares of the company, and so one day my accountant called, saying, “Time to incorporate.” Until this point we had been operating as a sole

proprietorship, meaning simply that in the eyes of the state of California my wife and I were operating the business merely as individuals.

“What’s involved?” I asked. “What does it give us?”

“You go to a lawyer. He’ll give you some paperwork, register you with the state, and charge you a couple thousand. In theory it gives you a bit of protection from lawsuits, and it means that if the company goes bankrupt you won’t lose your personal assets. The company now will be owned by its shareholders, and your family will have more security because the company is now immortal—if you get run over by a bus, it will go on without you.”

“That’s it?”

“Yeah, that’s it—pretty much.”

Fair enough, I thought, adding “call lawyer re: incorp” to my to-do list. A week later, I made the call.

As I jumped through the hoops of the incorporation process, meeting with the lawyer and signing forms, I saw little significance in the whole exercise. I knew that our company could now put “Inc.” after its name and that the several people to whom I had promised shares could receive certificates documenting their ownership. But it struck me as little more than a necessary formality—like putting on a necktie when you go to ask for a loan. When the certificate of incorporation arrived one day, I stuck it in a file and got back to work. Still, an idea had begun to form in my mind, something like this: “Here I am, building a company. I enjoyed it when it was seven people, and I enjoyed it when it was twenty. But in struggling to survive, we inevitably keep growing. The larger the company gets, the more I feel that it is becoming something strange and separate—something that is taking on a life of its own.”

**F**OUNDING A COMPANY is a deeply personal act. After all, you invest years of your life and all of your creative energies in bringing that company into existence. Ironically, if you do your work well, you build something that gains momentum and eventually becomes capable of functioning without you—or any other single individual. Seemingly by magic, the company develops an existence of its own.

As the father of children both grown-up and on-the-way-to-being-grown-up, the sensation was familiar for me. As your children become capable of functioning on their own two feet, there’s always a slight feel-

ing of sadness: childhood is fading away. But that sadness is more than compensated for by a feeling of exhilaration, a sense of discovery and possibility.

With a corporation growing into maturity, you definitely feel a sense of creative pride, but alongside that pride you also feel a chill. Something complex and even alive has come into existence, but it is no longer governed by intuitively familiar human motives and values. Instead, it is a sophisticated, complex, adaptive, continually evolving system—a sort of mindless yet intelligent being—governed by an array of internal and external programming.

Is this really a problem? It all depends on your assumptions about the behavior of the complex systems we call institutions. Economists, for example, tend to see the profit-maximizing orientation of the corporation as a healthy thing. The interaction of numerous such actors, left to their own devices, produces an efficient allocation of resources. But economists, in their myopic fascination with the workings of markets, have little to say about the tendency of corporations, like all institutions, to seek goals beyond simple profit maximization, including that of gaining political power.

Much of what determines the behavior of such a system is internal, starting of course with the ethics, personality, and style of the leadership, in addition to innumerable other elements that make up the ineffable thing we called “corporate culture.” But a significant portion of a corporation’s programming is actually external to the corporation, embedded in the framework of laws that define the corporation’s powers and proscribe certain behaviors. For example, a city ordinance that excludes giant chain retailers or a statute that allows farmers to sue a nearby polluting facility for reducing their crop yields are both ways in which society attempts to program corporate behavior. So what happens when a corporation is able to interject itself into the political process and successfully undermine such controls? This question has been a persistent one in America for a long time—beginning even in the colonial era. But I’m getting ahead of myself. . . .

Eleven years after starting my company, I knew the time had come for a change. Business was booming, and one month I counted seven of our books on the computer-book best-seller lists. Yet I had the feeling I was living on borrowed time. I knew that unpredictability is the only constant in the tech industry, and that a small company like ours might well

be capsized by whatever round of unforeseeable craziness would present itself next. So I did what countless other nervous entrepreneurs have done—I sought out a business broker, who began quietly approaching potential buyers. Eventually a deal was done on terms that seemed as good as could reasonably be expected: a guarantee of two years of employment as well as a sizable bonus for each person on our staff, and a promise of autonomy for our company within the larger organization.

But my inner gyroscope forced me to call it what it was: a sellout. There was no getting around the fact that Peachpit Press was no longer an independent company. Instead it was now the colony of an immense empire—Pearson, Ltd., a multinational corporation with over ten thousand employees. On my last day I put a rose on each person's desk, thanked them all for our time together, and walked away.

ONE OF THE DISABILITIES of being an American is that when we try to talk—or even think—about the workings of power, we often find ourselves strangely hobbled, swinging wildly between naiveté and cynicism. We live in a world of complex and finely tuned institutions and legal structures, yet our outlook is often formed through incoherent images, shallow concepts, and simplistic ideologies. We easily lapse into false dichotomies: if you're not gung ho for capitalism, you must be against it. I understand fully why most Americans, although well aware of the reality of corporate power, tend to accept it as a given. There seems to be an attitude that inquiring into the substantive aspects of corporate capitalism is vaguely unpatriotic—a holdover, perhaps, from the fears and witch hunts of the Cold War.

The story of American government is familiar to all of us: the backdrop of colonial settlement under a monarchical system of rule, the rebellion against that rule, the crafting of a constitutional system, the national crisis over slavery, the extension of suffrage to women, and so on. In contrast, the story of how the central institution of our economic system—the corporation—developed is not part of our culture. In my own life, I had experienced the corporation from two drastically different angles: first, from the outside perspective of watching giant energy corporations assault a rural community; second, from the inside perspective of creating a business from scratch. Still, I knew next to nothing about the origins and evolution of the corporation as an institution. It certainly

wasn't something I had learned in school, even though I had studied American history in high school and majored in economics in college.

After the sale of Peachpit Press I took a vacation, and then I went back to work—this time alone, probing the questions that had slowly been forming in my mind: *What is a corporation? How did corporations get so much power? Where did corporations come from? How did this particular institution develop?* I began haunting the libraries at the nearby college campus. I fired up Google to see what people out in the world were saying about corporations. Not surprisingly, the story seemed scattered. Sociologists, political scientists, historians, legal scholars, economists, political activists, and even philosophers have taken up the question of corporate power, each within the confines of a particular discipline. But little has been done to reconcile these varying accounts and weld them into a coherent story. This book represents my effort to fill the gap.

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