

- ²⁴ Henry Hansmann and Reinier Kraakman, "The End of History for Corporate Law," 89 *Georgetown Law Review* 439 (2001).
- ²⁵ Hansmann and Kraakman, "The End of History," 440–441.
- ²⁶ *Id.*, 468.
- ²⁷ Margaret M. Blair, "Post Enron Assessments of Comparative Corporate Governance" (2002), http://papers.ssrn.com/sol3/papers.cfm?abstract_id=316663.

Notes to Chapter Two

- ²⁸ Tina Rosenberg, "A Scorecard for Companies with a Conscience," *New York Times* (April 4, 2011), <http://opinionator.blogs.nytimes.com/2011/04/11/a-scorecard-for-companies-with-a-conscience>. Similarly, *Times* columnist Joe Nocera defended GE's ruthless exploitation of corporate tax loopholes on the grounds that "the executives who run America's corporations have a fiduciary duty to maximize profit for their shareholders." Joe Nocera, "Who Could Blame GE?" *New York Times* (April 4, 2011), www.nytimes.com/2011/04/05/opinion/05nocera.html.
- ²⁹ Marjorie Kelly, *The Divine Right of Capital: Dethroning the Corporate Aristocracy* (San Francisco: Berrett-Koehler Publishers, 2001, 2003), 54.
- ³⁰ Joel Bakan, *The Corporation: The Pathological Pursuit of Profit and Power* (New York, London, Toronto, Sydney: Free Press, 2004).
- ³¹ *Dodge v. Ford Motor Co.*, 170 N.W. 668 (Mich. 1919).
- ³² Einer Elhauge, "Sacrificing Corporate Profits in the Public Interest," 80 *New York University Law Review* 733, 772–75 (2005).
- ³³ *Id.*, 684.
- ³⁴ For examples, see Stephen M. Bainbridge, "Director Primacy: The Means and Ends of Corporate Governance," 97 *Northwestern University Law Review* 547, 574–75 (2003); Joel Bakan, *The Corporation* 36; Marjorie Kelly, *The Divine Right of Capital* 52–53.
- ³⁵ *Blackwell v. Nixon*, Civ. A. No. 9041, 1991 WL 194725, at *4 (Del. Ch. Sept. 26, 1991).
- ³⁶ The federal Circuit Court for the District of Columbia recently struck down an SEC attempt to impose a "proxy access" requirement that public corporations give certain share-

- holders access to company funds to solicit proxies. *Business Roundtable et al. v. Securities and Exchange Commission*, No. 10–1305 (D.C. Cir., July 22, 2011).
- ³⁷ Delaware General Corporation Law, Section 102 (2011).
- ³⁸ Lynn A. Stout, “Why We Should Stop Teaching *Dodge v. Ford*,” 3 *Virginia Law & Business Review* 163 (2008).
- ³⁹ Delaware General Corporation Law, Section 101 (2011).
- ⁴⁰ Stout, “Why We Should Stop Teaching,” 169.
- ⁴¹ *Id.*
- ⁴² *Id.*, 170.
- ⁴³ Margaret M. Blair and Lynn A. Stout, “A Team Production Theory of Corporate Law,” 85 *Virginia Law Review* 247, 293 (1999).
- ⁴⁴ *Unocal Corp. v. Mesa Petroleum Co.*, 493 A.2d 946 (1985).
- ⁴⁵ *Shlensky v. Wrigley*, 95 Ill. App.2d 173, 237 N.E.2d 776 (1968).
- ⁴⁶ *Air Products and Chemicals, Inc. v. Airgas Inc.*, Civ. 5249-CC, 5256-CC (Del. Ch., Feb. 15, 2011) 92, citing *Paramount Communications Inc. v. Time, Inc.*, 571 A.2d 1140, 1150 (Del. 1990).
- ⁴⁷ *Revlon, Inc. v. MacAndrews & Forbes Holdings, Inc.*, 506 A.2d 173 (Del. 1986).
- ⁴⁸ Lynn A. Stout, “Why We Should Stop Teaching *Dodge v. Ford*,” 3 *Virginia Law & Business Review*, 163, 171–172 (2008).

Notes to Chapter Three

- ⁴⁹ William T. Allen, Jack B. Jacobs and Leo E. Strine, Jr., “The Great Takeover Debate: A Mediation on Bridging the Conceptual Divide,” 69 *University of Chicago Law Review* 1067 (2002); Margaret M. Blair and Lynn A. Stout, “A Team Production Theory of Corporate Law,” 85 *Virginia Law Review* 247 (1999); Einer Elhauge, “Sacrificing Corporate Profits in the Public Interest,” 80 *New York University Law Review* 733 (2005); D. Gordon Smith, “The Shareholder Primacy Norm,” 23 *Journal of Corporation Law* 277 (1998).
- ⁵⁰ Henry Hansmann and Reinier Kraakman, “The End of History for Corporate Law,” 89 *Georgetown Law Review* 439 (2001).
- ⁵¹ For a classic example, see Lucian Bebchuk and Jesse M. Fried, *Pay without Performance: The Unfulfilled Promise of Executive Compensation* (Cambridge, Massachusetts: Harvard University Press, 2006).