

## THE GROWTH AND MORAL ATTITUDE OF CORPORATIONS.

Corporations fill so large a place in modern civilization that it would be almost impossible for us to do without them. Indeed, corporate activity is one of the most striking material facts of the age in which we live—an age rendered famous above all others by man's extraordinary control over the forces of nature and a corresponding development of its resources that will be no less the wonder than the admiration of coming generations. To state that such achievements would have been well-nigh impossible without the impulse furnished by the solidarity of corporations is to put in words a fact few intelligent persons, especially Americans, would be disposed to question. Nor has the omnipotent influence of these associations been confined to the fields of industry; for in every realm of human thought and action experience has demonstrated both the wisdom and the necessity of combination, particularly where collective rights are to be perpetuated from generation to generation irrespective of the personality of those who, from time to time, may perchance enjoy those rights. Behold, therefore, the rise of the corporation—civil and religious—public and private—aggregate and sole—designated one and all by Chief Justice Marshall as “an artificial being, invisible, intangible, and existing only in contemplation of law.” But centuries before the Dartmouth College case had evoked this classic definition, corporations, in one form or another, had played their rôle in the history of civilization. The Romans, for example, with their remarkably acute legal sense, possessed an unusually clear conception of these artificial persons, although, as every one knows, the comprehensive grandeur of the state, together with the absence of a highly-organized system of industry, limited greatly the energy of the Roman corporation. Later on, however, the corporate principle gained a wider sphere of usefulness, when the mediæval guilds or unions, by resisting in town and city the extortions of feudal despots, laid broad the foundations of

civil freedom and paved the way for modern constitutional government. And while the handicraftsmen of that period were thus discovering strength in union, it was the various ecclesiastical organizations of the day that fostered those sentiments of brotherhood which did so much to reclaim the human race throughout the night that fell upon Europe after the collapse of the western empire. To pursue the history of the subject one step forward. When the renaissance aroused to nobler efforts a sluggish world it was corporate life and zeal that thrilled humanity with the joy of a new learning and started it upon the path it has ever since been following. In point of fact, moreover, the nascent states of Europe, then everywhere thwarted by the separatist tendencies of the baronial party, would have been powerless without the moral and financial support extended them by the rising corporations of the times. The great trading and banking companies of Holland, England and other countries came into existence early in the seventeenth century, just in time to unfetter the hands of royalty and aid in the onerous task of bringing order out of chaos. Nor was this all. Did not such organizations lay the rich old Orient at the feet of a lusty rejuvenated West? Did they not indeed rescue from savage hands our own America? In all the pages of history there are recorded few more astonishing results than those brought about by the Dutch and the English East India Trading Companies or those achieved nearer home by the great London, Plymouth, and Hudson Bay Associations. A magnificent history it surely is. In the light of it let no man gainsay the debt of civilization to corporations, albeit they in turn may owe something to civilization.

But the corporations just alluded to, be they municipalities or universities, monasteries or guilds, trading companies or banks, differ very essentially in aim and scope from their modern antitypes which sway, at present, the complicated mechanism of the industrial world and bid fair to absorb the bulk of its wealth. To explain this obvious unlikeness one need only recall the numberless inventions and discoveries of modern times. These, as is well known, have not only recast society in a fresh mould, but altered entirely the time-

honored relations between the various industrial classes. Briefly, therefore, the progress of the greater part of the century which has just ended was accompanied by a revolution at once the mightiest and most far-reaching in its consequences the human race has ever encountered. Not only has machinery displaced the handicrafts almost everywhere, but steam and electricity, by annihilating time and space, have been slowly drawing into the compass of one vast neighborhood the scattered members of the human race. And what in this connection is perhaps of even greater moment, these contrivances have demanded aggregations of wealth which no single individual could have been expected to furnish even had he been disposed to incur the tremendous risks involved. The old corporate idea lent itself readily therefore to the tasks of a new era, and the vast accumulations of capital necessary for modern industry became something more than a possibility.

Endowed by the policy of the law with a fictitious personality, together with the right of perpetual succession, the corporation rapidly supplanted both individuals and partnerships. An extraordinary development of corporate life ensued. So great indeed has been the growth of these associations that, with the possible exception of trade and agriculture, they have now drawn unto themselves the greater portion of the world's business. Their activities, moreover, include a countless variety of transactions from the simplest personal services to those of the most stupendous magnitude and involving the interests of millions of people. More significant still, we appear now to have reached a new and inevitable phase of corporate growth—the era of the federation or amalgamation of hitherto rival organizations. Even granting that advantages often accrue from "trusts" and that in certain branches of industry the consolidation of organizations having a "community of interests" can scarcely be avoided, few can be indifferent to the many questions presented by these colossal associations or look to the future with a mind free from the gravest forebodings. It ought to be borne in mind, moreover, that this vast concentration of wealth and power flatly contradicts some of the pet dogmas of the Manchester School of Political Econ-

omy, which restricted the functions of government to the narrowest limits and relied upon competition to settle every industrial war. But whatever measure of truth might have been contained in the axioms of Adam Smith at a time when the constitution of industrial society was an extremely simple one and man's wants few in point of numbers, there can be no doubt that such postulates as those which he and his followers championed can scarcely be applicable to modern conditions or modern methods of conducting business. It has, however, taken the English-speaking race—especially the branch which dwells on this side of the Atlantic—an unusually long time to discern the fact that with advancing civilization government must necessarily assume an ever-widening range of functions, while in certain branches of industry—inherently monopolistic—competition is entirely out of the question. One ought never to lose sight of these economic aspects of corporations, since many evils connected with the attempted control of such combinations may be traced directly to the strong aversion felt, both in England and America, to governmental initiative and activity. In continental lands, on the other hand, where no such degree of public timidity and jealousy prevails, the state is rarely confronted by powerful rivals who divide with it the exercise of some of the most important and delicate functions of government. Therefore, it is not altogether surprising to find that in most Anglo-Saxon communities the inborn love of individualism has left to private initiative the development of most of the new enterprises that followed in the wake of modern inventions and discoveries. But while these facts may account in part for the rapid multiplication of corporations in the United States, it is generally known that their astonishing growth has been further accelerated by the ease with which they may now be created. A few words of explanation will doubtless make this statement clearer.

It is a familiar fact that for a long time our corporations were created by special acts of legislation. But this cumbersome method not only consumed too much valuable time, but it also gave rise to gross corruption. Accordingly most, if not all, the states have adopted general acts of incorpora-

tion, which enable the charter members of an association to organize themselves into a body politic by complying with a few simple statutory requirements. In the United States the greater part of such laws have been passed by the several commonwealths composing the Union, and aside from certain local peculiarities, which will not be discussed here, they are all very similar in their provisions. Applicants for a charter must, as a rule, present a petition to the Secretary of State, setting forth the names of the incorporators, the nature of the enterprise, the capital stock and proposed name of the company, together with its place of business. The charter is usually granted as a matter of course, on the payment of a small fee.

Such has been the growth of the modern corporation. From several points of view it is a curious anomaly. As someone has well suggested, here is a person who in this country of ours employs the larger number of people, owns probably the greater part of the wealth of the New World, claims an increasing amount of judicial time and attention, and wields in some quarters an influence of paramount importance, and yet this person is said to possess neither a soul nor a conscience. An invisible, intangible, abstract being towering high above the heads of ordinary mortals, the corporation knows no other rule of action than that of self-interest, although in its numberless transactions with men and states it may come in contact with some of the nicest ethical questions. In view, therefore, of the rapid development of corporate activity, a grave question presents itself *in limine*—what is to be the effect on future moral conceptions and standards of this augmenting expansion of the corporate idea? According to the strict legal theory, which has unfortunately been largely adopted by the laity, the acts of a corporation are not the acts of its members. Public opinion is unable therefore to drive it from society, neither can the police authorities lock it up in jail. Then again there is the curious psychological fact, pointed out years ago by Herbert Spencer, that “a body of men will commit as a joint act that which every individual of them would shrink from, did he feel personally responsible.” This, indeed, is one of the most menacing aspects of these associations;

for sheltered from public scorn by a corporate veil, men not infrequently commit acts of unrighteousness which otherwise they would not dare commit. Hence the moral element is at a minimum, because responsibility is divided. The consequences of wrongdoing are remote. The sanctions of society cannot penetrate the obscurity of the directors' room.

It is unnecessary to repeat the manifold complaints urged against corporate management. Many of them, of course, are the selfish and ignoble clamors that have been raised against every form of wealth in all ages. But there are some evils, connected with a certain class of corporations, that ought not to be ignored. Take, for example, those of which stockholders themselves so often complain. Now the stockholder is often referred to on the "stump" and even in legislative halls as a "greedy plutocrat" or a "blood-sucking monopolist." Just as often as not, however, the stockholder is a widow or orphan or some equally as dependent a person whose little fortune is thus invested. Inexperienced in the ways of the world and in nine cases out of ten far removed from the scenes of the corporation's activities, such helpless stockholders are obliged to rely almost exclusively on the good faith of the directors—a body of men elected for the express purpose of administering, for the benefit of all concerned, the common affairs of the association. So far, however, from faithfully executing the sacred trust delegated to them, directors sometimes—nay often—act as though the entire plant belonged to them; and in these circumstances they rarely hesitate to sacrifice, in a most flagrant manner, the interests of those whom they are expected to protect. Such shameful breaches of trust are especially liable to occur when directors fancy they see a conflict between their own interests and those of their co-stockholders. Hence it not infrequently happens that the unsuspecting victim of this sort of treachery awakes some morning to find himself ruined financially by a hostile combination of dishonest trustees. Do the latter lose much of the esteem of the public? On the contrary, they are often regarded with something approaching awe. Indeed, are not additional honors heaped upon them? It is thus that ambitious clerks are taught that the pathway to wealth does not lie along the road of patient,

honest toil, but must be cut for one's self through the tortuous maze of speculation and sharp practice. For how else can a "Napoleon of Finance" hope to mount above his fellows? Annual elections there are, to be sure, and it is sometimes possible to oust from office a guilty directorate; but long before the meeting of the stockholders takes place there frequently ensues a campaign wherein are exhibited all the wire-pulling and dirty work which so often beset our party struggles and which Mr. Spencer found in England when he took up this subject. Nor is it necessary to point out several other facts which have often been commented on, namely, that the stockholders are scattered, disorganized, timid, while the directorate are usually exactly the reverse and completely dominated by a strong personality corresponding to the party "boss." They are also equipped with all the election machinery, including the much-abused proxy system. For their disaffection therefore refractory stockholders sometimes find themselves "frozen out," as the expression goes, and the corporate affairs managed along lines not only at variance with their interests, but in spite of their vigorous protests.

That some corporations are deliberately wrecked in order to enable their managers—sometimes aided by an obliging receiver—to enrich themselves at the expense of many of the stockholders is a fact too notorious for extended comment. No less familiar is the fact that certain sorts of companies are, from their very inception, nothing more or less than organized gangs of swindlers. A cunningly worded prospectus—usually the work of a crafty promoter who knows how to entrap the unwary—gives an altogether erroneous impression to intending purchasers of stock. The charters of such dishonest associations, moreover, instead of setting forth in a plain, straightforward manner the purposes of the organization, will contain a long enumeration of particulars designed expressly to obfuscate the understanding of those who subscribe for stock. In such cases the incorporators themselves are frequently mere men of straw. For so far from being persons of financial responsibility they are just as often as not clerks and office boys behind whom skulk the sharpers who expect to reap the profits

of the adventure. Thus with "dummy" incorporators, an unpaid capital stock, and shares frequently distributed gratuitously in order to obtain a factitious credit, this filibustering craft, with a noisy salute, is launched upon the sea of speculation to prey upon legitimate business and to help bring upon the large number of scrupulously managed corporations the maledictions of the unthinking. Is it at all surprising therefore that the busy demagogue at home finds material ready to hand with which to inflame popular prejudice or that buyers abroad of American securities often circulate at the bourse damaging reports regarding investments in this country?

If the complaints of shareholders are loud and bitter those of the public are, if anything, even more so. The catalogue of such grievances embraces every conceivable form of iniquity, from accusations touching a disregard of public ease and comfort to those involving the wanton destruction of life and property. A very familiar political sin, laid at the door of a certain class of corporations, is the sinister influence they exert upon city councils and state legislatures. The methods said to be employed in debauching the local governments are bribery, "logrolling," and the indirect assaults upon the integrity of public officials which are made by the subterranean diplomacy of the lobby and the political machine. Can it be denied, moreover, that corporations guilty of such practices—and they are usually street-car and gas companies—contribute liberally to the campaign funds of whichever party "boss" offers them the most favorable terms? Are there not indeed in more than one of our large cities well-known party managers who act as the brokers of corporations and legislative assemblies on the Bismarckian theory of *do ut des*? It would be unfair, of course, to bring such accusations against legislatures and corporations as a whole, for a large proportion of both are composed of honest and efficient men. The types we have indicated, however, are unfortunately painfully familiar to many a community in this country.

A third class of complaints often mentioned in connection with corporate management are those which proceed from the servants of such associations. To appreciate thoroughly

the nature of such complaints one must bear in mind the undemocratic character of our present industrial organization. For notwithstanding the triumph of liberal ideas in matters political, such ideas are almost wholly unknown in the field of corporate action. This at present may be necessarily so, but the fact remains unaltered. Production and exchange are increased, diminished or checked altogether at the bidding of one person who throughout the workday has multitudes of men, women, and children under his control. They get up when told and labor for whatever amount it is thought proper to give them. "If they don't like it, let them go elsewhere: this is a free country." To say this is easy enough and words of like import are not infrequently addressed to employes who may be disposed to grumble about low wages, long hours, or some wretched system of extortion practiced at a "pluck-me store" belonging to the company. But what irony! Is it not sufficiently well known that the division of labor has reached such a point that the wage-earner is almost wholly at the mercy of his employer?

No mention whatever has thus far been made of the treatment one corporation often receives from a rival organization. False news is circulated, property wantonly destroyed, and cruel reprisals indulged in. What is more bitter or demoralizing than a "rate war"? Or what will not a corporation do in order to drive from its path another corporation or even an individual who may happen to stand in its way?

The evils granted, what are the remedies? Surely not the dissolution of corporations, for we may say in concluding what we said at the beginning: it would be almost impossible for us to do without them. It is far easier to believe, on the contrary, that, purged of its evil accretions, there is for the corporation a future career of usefulness far greater than even the magnificent record of the past. What is needed above everything else, of course, is the cultivation of a healthier public sentiment in regard to the acquisition of wealth, for the fact cannot be blinked that the apotheosis of money has had no little to do with that deplorable state of things which makes possible a debased corporate and public life. No nominally constituted person could deny that

wealth honestly acquired is deserving of all respect or that corporations are often unjustly censured. But our entire corporation law might be so recast as to make it conform more nearly to modern social conditions. Nor is there any reason why the directorate could not be made more amenable to legal restraints. As trustees handling the money of other persons, it has wisely been proposed that they be required to furnish such bonds as are usually exacted of all who fill positions of trust. Other reforms that have been advocated include the requirement of greater publicity on the part of corporations in regard to the management of their business; the creation in each state of a corporation department endowed with visitorial powers; the establishment of a uniform corporation code in order to prevent the creation, under the loose statutes of some states, of corporations designed to prey upon the industries of other states; the curtailment of the borrowing power; the increase of the liability of directors, and the granting of minority representation to stockholders. To these proposed reforms may be added the demand, on the part of a growing number of persons, that all natural monopolies be owned and operated by the government, as in some parts of Europe. These or similar provisions, suggested in great measure by the very rational corporation laws of Belgium, France and Germany, might go far towards putting an end to stock-jobbing and various other forms of corporate swindling. And so far from injuring the legitimate business of corporations there is every reason for believing that changes along the lines already indicated would, in many instances, contribute greatly towards the elevation of corporate life. Many such reforms would in all probability also enlighten public opinion and check the ever-recurring and indiscriminate abuse of all forms of corporate activity and wealth. Curiously enough, Massachusetts and one or two other New England states that have done so much to control corporate growth and management, are singularly free from those outbursts of popular wrath so unpleasantly familiar to persons residing in other parts of the United States. Reforms judiciously encouraged might, therefore, do much in the way of making corporations more amenable

to the moral law, for after all they are composed of individuals. States have become self-conscious moral entities largely through the slow evolution of those international rules of conduct now supported by the public opinion of the world, and someone has called corporations states, of which the stockholders are citizens. But there can be no substitute for the human conscience, and since even states often act in a manner directly at variance with the ideals of large bodies of their citizens, who are more directly influenced by moral impulses, so perhaps will corporate actions always fall short of the standards of individuals.

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