The bottom line

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President's Column

Corporation: An ingenious device for obtaining profit without individual responsibility
Ambrose Bierce

Our nation seems to be polarized as never before and there's little we agree on. But 90 percent of Americans agree on this: Big business has too much influence on government. And that sentiment—as shown in a recent Harris Poll—has been trending upward in recent years.

Worries about corporations possessing too much power have been around for centuries. The great capitalist Adam Smith wrote in his classic *Wealth of Nations* that corporations' restraint of competition and establishment of monopolies encroached upon people's liberty. And mere decades after writing the document giving birth to our nation, Thomas Jefferson had this to say about corporations: "I hope we shall crush in its birth the aristocracy of our moneyed corporations which dare already to challenge our government to a trial of strength and bid defiance to the laws of our country."

About that time, Chief Justice John Marshall wrote a U.S. Supreme Court opinion that established protection for charters of institutions and businesses under the constitution's contract clause. And by the late 19th century the Supreme Court had extended protection to corporations as persons entitled to the 14th Amendment's rights to due process and equal protection under the law.

In the 1930s, Justice Louis Brandeis considered corporations "the Frankenstein monster which states have created by their corporation laws." By then the law recognized corporations could own property, sign binding contracts, and participate in the social arena in just about every way save for the right to vote.

Now, more than one-half of the planet's top 100 wealthiest entities are corporations. In large part, corporations determine what clothes you wear, the content of what you watch and hear over electronic media, what you read, and the food you put in your mouth.

You tend to think of corporations as being dissimilar because of the variety of products they make or the different services they perform. But all corporations are very much alike in that the bottom line is, well, the bottom line. And in order to enhance the bottom line, corporations try to externalize their costs, avoid responsibility for their harmful conduct and exhibit pathological tendencies in the process, all while following the legal doctrine of "best interests of the corporation."

The best interests of the corporation legal principle compels corporate decision makers to act in a manner which maximizes the wealth of shareholders and forbids any other motivation for corporate decision making.

So explains distinguished academic and professor of law Joel Balkan in his book *The Corporation: The Pathological Pursuit of Profit and Power*, which is also the subject of a documentary film DVD. All corporations share institutional traits that may well satisfy a psychopathic diagnosis if applied to humans. For example, unlike the people who work for it, the corporation is singularly self-interested and not able to feel genuine concern for others.

As pointed out by an internationally renowned expert on psychopathy interviewed for the book (whose diagnostic checklist of psychopathic traits is highlighted in bold typeface below), the corporation is **irresponsible** because "in an attempt to satisfy the corporate goal, everybody is put at risk;" corporations will try to "**manipulate** everything, including public opinion;" and they are **grandiose**, always boasting that "we're number one" or "we're the best." Corporations often show a **lack of empathy** and **asocial tendencies** because they **refuse to accept responsibility** for their own actions and are **unable to feel remorse**. They are **superficial** because "their whole goal is to present themselves to the public in a way that is appealing to the public [but] in fact may not be representative of what th[e] organization is really like."

Corporations use the traits of manipulation and superficiality to market themselves to the public. Way before the wave of recent corporate scandals, corporations used "branding" to create intellectual and emotional bonds with consumers, shareholders, and regulators by creating special personas for themselves—think Mickey Mouse, Ronald McDonald, Mr. Goodwrench and you get the idea. Companies have used advertising and public relations to sway public opinion for as long as they have existed.

Corporations are now using a new strategy labeled "corporate social responsibility" by which they act as if they care about society as a whole, not just their profit and loss statement. The strategy of corporate social responsibility recently touted by numerous business leaders seeks to assuage public fears in a post-Enron world that corporations are too powerful.

But Nobel laureate Milton Friedman, one of the world's foremost economists, thinks this newfound moral posing by business is itself immoral. That's because although Friedman thinks corporations are good for society, he rejects the notion they should try to do good. The only acceptable "responsibility" allowed to company executives is to make as much money as possible for shareholders—in other words, follow the best interest of the corporation principle.

An executive choice of social goals over profits—an attempt to act moral—is, in fact, immoral.

There's only one exception when corporate social responsibility can be tolerated, says Friedman, and that's when it is insincere. As Friedman says in Bakan's book, it's like "putting a good-looking girl in front of an automobile to sell an automobile. That's not in order to promote pulchritude. That's in order to sell cars." All of which causes Professor Bakan to conclude that "hypocrisy is virtuous when it serves the bottom line. Moral virtue is immoral when it does not."

Since 1975, the Louisiana Legislature has enacted about 150 pieces of legislation concerning tort reform. Much of this tort reform legislation has been promoted by corporate lobbyists (in their furtherance of the best interests of the corporation principle) as good for our state's economy with everyone ultimately to benefit. But Louisiana's economy has consistently been at or near the bottom of almost every significant indicator evaluating performance.

So the next time legislators propose more tort reform, let's ask them some questions.

- What benefits have Louisiana citizens received from tort reform?
- How has tort reform strengthened Louisiana's economy?
- Why do other states, which have stronger consumer protection laws and control corporate misconduct by applying punitive damages, perform better economically than Louisiana?
- How will your proposed tort reform legislation help Louisiana citizens or does it just protect another corporation's bottom line?

Remember, 90 percent of us think Big Business has too much influence. Let's invite legislators to be specific in their answers.