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### Preaching to Managers

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## BOOK REVIEW

### Preaching to Managers

SENSE AND NONSENSE IN CORPORATE FINANCE. By Louis Lowenstein.<sup>1</sup> Reading Massachusetts: Addison-Wesley, 1991. Pp. viii, 263. \$24.95.

*Reviewed by Edward B. Rock<sup>2</sup>*

#### I.

Who is the appropriate role model for the corporate law academic? Are we case crunchers, organizing and summarizing current doctrine? Are we corporate engineers working to refine the system of checks and balances, of levers and counterweights, that control and channel management's discretion? Are we social scientists disinterestedly seeking to understand how the world of corporations works, patiently observing, measuring and modeling? Are we historians, tracing the doctrines and ideologies of capitalism? Are we political scientists, mapping the political choices that determine and constrain corporate structure? Are we advocates without clients, writing briefs to persuade courts, agencies, or legislatures to reform the law? Are we arbitrageurs, trading on the latest results of finance economics? Or are we perhaps preachers, exhorting judges, legislators, and particularly managers and shareholders to cleave to virtue and avoid sin?

Louis Lowenstein is one of corporate law's very best preachers. With the credibility that comes from having practiced corporate law, having managed a major corporation, and having written erudite law review articles replete with hundreds of footnotes, he thunders from his bully pulpit at Columbia, that cathedral of corporate law, the home of those great preachers of yesterday, Berle and Cary. In his latest collection of sermons, *Sense and Nonsense in Corporate Finance*, Professor Lowenstein continues his ministry of common sense and hard work, preaching primarily to corporate managers who are in danger of being led astray by the forces of evil.

The saints in Professor Lowenstein's sermons are the hard working, no nonsense managers and investors who know that there are no free lunches, no easy solutions to difficult problems, and no substitutes for honesty, hard work, common sense, and a firm grasp of accounting. Benjamin Graham and David Dodd wrote the

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holy scripture.<sup>3</sup> Warren Buffett is the living exemplar of the cardinal virtues and proof that one can live, even prosper, in their light.

The sinners in Lowenstein's world are the snake oil salesmen (finance economists and investment bankers, mostly) who peddle new fangled high tech cures for old corporate ailments, the dishonest or benighted corporate managers who cause the ailments for which snake oil is presented as a cure, and money managers and other investors who are too lazy or inept to distinguish good companies from bad, indexing their funds instead. Pride, greed, and sloth characterize their failings. By their sins, enormous economic devastation has been wrought.

The core of the book is a series of very well told morality tales. Chapter 2, *The Road to Junk Heaven: A Tale of Three Companies*, is the Parable of the Department Stores, a striking comparison of the fortunes of three retailers, Federated Department Stores, R.H. Macy, and May Department Stores. In 1985, the core businesses of the three companies looked much alike. By the time Lowenstein wrote the book, after Federated had been acquired by Campeau with junk bonds, and R.H. Macy had gone private in a management leveraged buyout, the comparison was markedly different. Federated was in Chapter 11 and Macy was close (subsequently to fall in), while May prospered at their misfortune. In all, according to Lowenstein, a sad and bitter "object lessons of the evil effects of excessive leverage" (p. 51).<sup>4</sup>

But the world is a complicated place, as Lowenstein consistently emphasizes. While Macy and Federated represent bad leveraged buyouts (LBOs), Lowenstein, in chapter 4, recognizes that LBOs can sometimes be good. As he shows in an instructive composite fictional account, LBOs can be soundly structured and fair to everyone, particularly in freeing a division from the deadening hand of conglomerate management. Like finance in general, LBOs are a modestly useful corporate structure. The crucial ingredients, as elsewhere, are prudence and honesty.

If too little cash (excessive leverage) poses one temptation, too much cash provides another. In chapters 6 through 8, Lowenstein considers the dangers of excess cash or what some now call "free cash flow." We hear of the evil influence of finance economics, of the right way to grapple with the dilemma and finally are presented with contrasting stories of saints and sinners.

Chapter 6, *Cash Dividends: How the Business Schools Got it Wrong*, is Lowenstein's account of the nonsense of financial economics' view of dividends. How, he asks, could finance economists take seriously Modigliani and Miller's

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3. BENJAMIN GRAHAM, DAVID L. DODD & SIDNEY COTTLE, *SECURITY ANALYSIS: PRINCIPLES AND TECHNIQUE* (4th ed. 1962).

4. The comparison, like many of Lowenstein's other tales, raises as many questions as it answers. Why was bankruptcy so costly? Is bankruptcy more costly in some industries than in others? Why were so many bankers so willing to fund buyouts that, in retrospect, made no sense? On Lowenstein's account, it is easy to understand how Campeau, a bad merchant and a bad financier, failed. It is easy to understand why a great merchandiser like Farrell of May Department Stores succeeded. But what about Macy? How is it that a first rate merchant like Finkelstein failed? Why did the new Macy issue so much debt and so little equity? Why did sophisticated investors like GE Capital, Goldman Sachs, Laurence Tisch, and Mutual Shares not require Macy to maintain a stronger capital base? To say that Macy is an object lesson of the evil effects of excessive leverage may be to beg the most interesting questions.

(MM) irrelevance thesis<sup>5</sup> when everyone with an ounce of common sense realizes that the amount of excess cash in the corporation will inevitably affect investment policy? How arrogant and unseemly for finance economists to describe the real world's concern for dividends and changes in dividend policy as "irrational prejudice"<sup>6</sup> or "optical illusion" (p. 119, n.11).<sup>7</sup> Worse even than this hubris is the patina of respectability that MM gives to management's obvious preference to keep dividends as low as possible. If, as MM assert, dividend policy is irrelevant to share price and, moreover, tax foolish, why not just let management keep the money?

Having, he thinks, disposed of finance economics as a source of wisdom,<sup>8</sup> Lowenstein turns in Chapter 7 to what he sees as the central issue, namely, "to keep the money or pay it out, that is the question" (p. 121). In doing so, Lowenstein highlights the danger of *not* paying dividends (namely, that management will waste the money), by recourse to some instructive tales. He quantifies the enormous cost to shareholders of the failed diversification programs of the former National Steel (which left the steel business about which it knew something and lost \$42.45 per share in businesses about which it apparently knew nothing) and Nortek (a defense contractor that launched a Drexel junk bond financed diversification effort).

But one can fall into sin even while sticking to a core business. For Lowenstein, mining companies provide an illustration: "[p]erhaps they were overexposed as children to the Con Ed signs in New York, 'Dig we must'" (p. 125). Mining executives know mining and love mining and seem unable to resist the temptation to spend the earnings of the few good years when prices are high on new mines, rather than treating them as windfalls and paying them out to shareholders. Cases in point are Hecla Mining (boasting that it owned the largest silver mine in the country which, unfortunately, was also losing money) and Denison Mines (which proclaimed that "carving a mine out of the wilderness . . . [is] a highly precise science and a finely tuned art").

But, of course, sometimes investing in core businesses *is* warranted, as in the case of Caterpillar, long a world leader in earth-moving equipment. Lowenstein lauds its determination to forego immediate gain and to invest vast sums in defending its franchise against Japanese competition.

Chapter 8 continues the discussion of dividends, turning to one means of paying out free cash flow, the corporate share repurchase. Lowenstein provides marvelous contrasting accounts of Exxon, which has paid out a huge amount of free cash flow through share repurchases, and American Express, which has dissipated vast sums

5. The irrelevance thesis asserts that dividend policy is irrelevant to stock prices if markets are perfect, future investments, profits, and dividends are known by the firm with certainty, and investment policy is fixed ahead of time and unaltered by changes in dividend policy. STEPHEN A. ROSS & RANDOLPH W. WESTERFIELD. *CORPORATE FINANCE* 405 (1988).

6. Lowenstein cites RICHARD A. BREALEY & STEWART C. MYERS. *PRINCIPLES OF CORPORATE FINANCE* 350 (3d ed. 1988).

7. Lowenstein cites Merton Miller, *Can Management Use Dividends to Influence the Value of the Firm?*, in *THE REVOLUTION IN CORPORATE FINANCE* 299 (Joel M. Stern & Donald H. Chew, Jr. eds., 1986).

8. See *infra* text accompanying notes 21-24.

in unsuccessful diversification. By Lowenstein's calculation, American Express, blessed with one of the great corporate franchises, the American Express Card and Traveler's Checks, wasted more than half of shareholders' value in its vain attempt to become a global financial supermarket.

In the end, Lowenstein's advice on free cash flow is similar to his advice on every other hard question of corporate finance. There are no easy answers. General rules and models do not work. Instead, one must make the decision patiently and wisely, only investing free cash flow when management truly, honestly, and skeptically believes that doing so will create at least a dollar of value for a dollar of retained earnings. If management is honest, intelligent, and knows its own limits, it will generally do a pretty good job.

In a final chapter, Lowenstein turns his attention to shareholders, a topic on which he spent more time in his first book.<sup>9</sup> Here the saints are the good, useful shareholders (like Pierre DuPont in GM and Warren Buffett in everything he owns) who are wise and patient, providing stability, counseling, and direction to management. Such shareholders have large enough stakes that it is in their interests to become involved in the company, looking out for the interests of all shareholders in looking out for their own interests. The sinners are those shareholders who trade constantly and who snap up any premium bid that comes their way, "unwilling to recognize any responsibility that [goes] beyond immediate market gains" (p. 220).

But how do the large institutional investors who index a substantial portion of their portfolios fit into this moral landscape? On the one hand, they do not trade, and thus can credibly claim a long term interest in their portfolio companies. But how can they claim to "resemble a Warren Buffett, who invests Berkshire Hathaway's capital in large sums, in only a handful of companies, each of which he carefully selects and monitors" (p. 222). Here Lowenstein is unsure. While urging investors to become more like Warren Buffett, he also recognizes that passive indexing is likely to be the most profitable course for large investors. Much as he would like the indexers to assume a Buffett-like role, he recognizes that the major cost advantage of indexing leaves little margin for the monitoring and discipline of management of portfolio companies. As he puts it, "two basis points, or even four, do not buy much corporate oversight" (p. 228). Only time will tell whether CalPERS is a saint or a sinner.

Lowenstein also devotes chapters to criticizing stock splits and stock dividends, and to decrying what he sees as the pernicious nonsense of using the capital asset pricing model for internal corporate capital budgeting. Throughout, he does a marvelous job presenting technical financial issues in plain language. He constantly emphasizes the importance of financial accounting, and how much an insightful reader can learn from publicly available disclosure documents. Lowenstein also effectively discusses "funny money," pay-in-kind, and zero coupon junk bonds that appeared in the waning years of the 1980s takeover boom.

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9. LOUIS LOWENSTEIN, *WHAT'S WRONG WITH WALL STREET: SHORT-TERM GAIN AND THE ABSENTEE SHAREHOLDER* (1988).



## II.

What is one to make of these tales? In Lowenstein's rendition, the stories of Federated, Macy, National Steel, Nortek, Hecla Mines, Denison Mining, and American Express are pretty awful. We can all supplement the list of sinners. Likewise, the saints are pretty inspiring. If only my folks had given me 100 shares of Warren Buffett's Berkshire Hathaway for my eighth birthday in 1964 when it was trading at \$16 per share or so, shares that are now worth around \$8,000 each!

In reflecting on these stories, one should be struck by the ineffectiveness of the various market restraints in rooting out sin. The hyperactive market for corporate control did nothing to prevent American Express from frittering away its shareholders' money. The public debt markets failed to restrain Federated/Campeau or Macy from their headlong plunge to their deaths. Indeed, they egged them on. The market for managers did nothing to prevent the ill advised diversification pursued by National Steel and Nortek and countless other conglomerates. Competitive product markets did little to constrain the unprofitable expansion and exploration by Hecla and Denison. While all these firms undoubtedly had the most up to date and elaborate incentive compensation schemes, managers still went badly wrong.

The legal and institutional checks, little mentioned by Lowenstein, fared no better. Boards of Directors have stood idly by while bad decision was piled upon bad decision. Derivative suits provided no check. Proxy fights were hardly a blip on the screen. The courts were entirely absent. Behavior that, in retrospect and in Lowenstein's rendition, constituted gross violations of the duty of care went unadjudicated. The horror stories clearly show the limited extent to which either market or institutional or legal mechanisms constrain management discretion.

At the same time, the structure of constraints on management discretion does little to explain the success of the saints. Many of those responsible for the saints' sterling performances would have personally done just as well, or perhaps better, had they worked less hard or frittered away the shareholders' money. But they did not do so.

This is a more general point. I am not alone in the uneasy sense I have at the end of the basic corporations course or a seminar on corporate governance. The market, institutional, and legal constraints that limit and channel management discretion, and on which we spend so much time, seem so impotent.<sup>10</sup> Can it be that corporate law is really about what it at least superficially seems to be about? Can it really be about perfecting an array of sticks and carrots, of constraints and incentives, that align managements' interests with those of the shareholders?

If neither markets, courts, nor institutional structures provide robust checks on management discretion, how is it that managers, on the whole, seem to do a pretty good job and millions entrust their savings to corporations? Likewise, we need to explain how it is that some managers go astray. In other words, what distinguishes the saints from the sinners?

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10. For a probing and comprehensive discussion of the ineffectiveness of market, legal, and institutional restraints, see CHRISTOPHER D. STONE, *WHERE THE LAW ENDS: THE SOCIAL CONTROL OF CORPORATE BEHAVIOR* (1975).

One answer, it seems to me, starts from the recognition that managers, like the rest of us, generally try to do their best. I prepare for class for a whole variety of reasons: because I get pleasure out of doing the best I can, because I am embarrassed to appear before my students unprepared, because I feel a sense of obligation to my students, because my colleagues value preparation, because I want to get tenure. I would expect that most corporate managers work hard for a similar variety of reasons: because doing a good job is often pleasurable, because of a sense of obligation to coworkers, because it is the right thing to do, because they want to keep their jobs. We are all motivated and constrained much more by social norms than we are by markets, institutional structures, or laws.

In Lowenstein's tales, the good managers had a clearer and better view of what their jobs were and of how they should perform them. They realized that they were stewards of other people's money and that they should not spend it, either in acquiring new businesses or in investing in the core business, unless they were darn sure that it would benefit shareholders. They realized that their jobs were to build strong companies, not to engage in financial manipulation for personal gain, nor to cave in to pressure from short term investors for a quick profit.<sup>11</sup> They were humble, realizing that paying out excess cash to the shareholders was a source of pride, not shame. They realized that the wealth of the country is generated by people who get their hands dirty in unspectacular places like Toledo, not flashy financiers in places like Wall Street. They realized that the significance of finance pales in comparison to research, development, and manufacturing.

If we take this explanation seriously, it becomes clearer what Lou Lowenstein is all about. He is in the business of generating and reinforcing norms for managers and shareholders, a task that explains the deeply *normative* character of his writing on corporate law. Contrasting narratives of saints and sinners, parables, inspirational and cautionary tales, are all classic means of establishing standards, of shaping conduct. Whenever I turn to Lowenstein's work, I am immediately struck by the extent to which he transforms corporate law into a branch of public morality.

This perspective also provides the most intelligible account of what it is that the Delaware courts do. In the long and rich narratives that form a very large part of every opinion, the Delaware courts can best be understood as providing us with contrasting tales of good and bad behavior, and as providing, by means of these

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11. Consider Lowenstein's moral vision, expressed through the words of Charles E. O'Rourke, his hypothetical CEO:

"[A company] is a social institution—one of some importance . . . An institution organized for profit but a social one nonetheless . . . Good, fairly priced drugs are the reason we exist. Shareholders have a role in that scheme. They contribute capital, and they are entitled (by dividends and price appreciation) to the profits. They are entitled to monitor management and to intervene, if necessary, to be sure that management is competent and honest. But stock price appreciation is the consequence, the mere reflection, of a successful enterprise, rather than the overriding objective.

"The rhetoric of private property tends to obscure this basic distinction. . . . [Through "greed factors"] we tempt people to become individually richer even though their companies and society are left poor (pp. 62-63).

illustrative accounts, fundamental pieces of the job descriptions of corporate directors, managers, and counsel. Fortunately, the Delaware courts usually tell the stories well: in reading and teaching the cases, I can almost always remember the stories, even when I have difficulty distilling the principles of law.

Think first of the sinners. We are troubled by the able but uninformed directors in *Smith v. Van Gorkom*, who couldn't be bothered to act with due care before letting the chairman and CEO sell the company for what we are told was an inadequate price.<sup>12</sup> In *Unocal*, we are asked to frown at the despicable attempt by T. Boone Pickens to take over the company (or extort greenmail) by the clever but evil "two-tier, front-end-loaded, classically coercive, bust-up, junk-bond-fueled tender offer."<sup>13</sup> In *Revlon*, we are asked to shudder at the spectacle of Michel Bergerac and the directors neglecting the interests of their shareholders because of Bergerac's "strong personal antipathy" for Ronald Perelman, or out of a craven desire to avoid liability to bondholders.<sup>14</sup> In *Mills*, we condemn the management team's transparent attempts to steal the company, and the directors' divided loyalties that led them to fail to provide any serious oversight.<sup>15</sup>

And consider the saints. We admire Peter Atkins who so ably kept RJR Nabisco's special committee focused on the interests of shareholders after their CEO sought to buy the company.<sup>16</sup> We are urged to respect Time's directors, who followed their well documented, comprehensive long range strategic plan, modifying the structure of the transaction to protect their shareholders from the threat posed to the corporate enterprise by Paramount's uninvited offer.<sup>17</sup> We are meant to applaud the eight independent outside directors of Unocal who, after meeting separately with Unocal's financial advisers and attorneys, rejected Mesa's "grossly inadequate" tender offer and subsequently directed a proportional response to Picken's threat to their shareholders.<sup>18</sup> The Delaware Chancellor's non-judicial speeches and writings are often of a similar character.<sup>19</sup>

What makes these contrasting narratives even more compelling is that the Delaware courts name names. The opinions collectively create a hall of honor and a hall of shame. Managers and lawyers reading them first or second hand must reflect upon the prospect of public praise or censure. One hears anecdotes of the fury of those who believe that they have been unjustly maligned by the Delaware courts.

To say that Lowenstein, like the Delaware courts, is in the business of generating and enforcing norms for corporate management and shareholders, states

12. *Smith v. Van Gorkom*, 488 A.2d 858 (Del. 1985).

13. *Unocal Corp. v. Mesa Petroleum Co.*, 493 A.2d 946 (Del. 1985); Andrew G.T. Moore, II, *The 1980s—Did We Save The Stockholders While the Corporation Burned?*, 70 WASH. U. L.Q. 277, 282 (1992).

14. *Revlon v. MacAndrews & Forbes Holdings*, 506 A.2d 173, 176 (Del. 1986).

15. *Mills Acquisition Co. v. Macmillan, Inc.*, 559 A.2d 1261, 1265 (Del. 1988).

16. *In re RJR Nabisco Shareholder Litig.*, [1988-1989 Transfer Binder] Fed. Sec. L. Rep. (CCH) ¶ 94,194 (Del. Ch. 1989).

17. *Paramount v. Time*, 571 A.2d 1140, 1153 (Del. 1989).

18. *Unocal Corp. v. Mesa Petroleum Co.*, 493 A.2d 946, 950 (Del. 1985).

19. See, e.g., William T. Allen, *Independent Directors in MBO Transactions: Are They Fact or Fantasy?*, 45 BUS. LAW. 2055 (1990).



rather than answers the more fundamental and contested question: What should the *content* of those norms be? How do we (as citizens or as shareholders) want corporate managers and shareholders to behave? Much of the heat in Lowenstein's writing, here and elsewhere, seems to me to derive from a deep felt commitment to a particular set of norms that he seeks to further against a competing set that claim support from the results of finance economics. He sets forth twelve "Basic Rules or Principles," norms illustrated in his accounts of saints and sinners (pp. 8-12). In Lowenstein's view, he is defending the traditional virtues of patience, hard work, and humility against corporate finance's siren song of easy money and vast gains from "financial engineering."

Characterizing saints and sinners is tricky. For some, the saints of Lowenstein's or the Delaware courts' tales are sinners of the worst sort. Similarly the sinners, while perhaps somewhat unsavory, may be seen as heroic upon further reflection. As one relatively uncharged example of the difficulty, consider Lowenstein's reverence for Graham and Dodd. It is far from obvious that we want the money managers who control the large institutional investors to be Graham/Dodd "value investors." Given the enormous volume of empirical evidence that active management, with its attendant trading and management costs, consistently underperforms the market indices, indexing should perhaps be viewed not as sloth but as the efficient and prudent stewardship of other people's money. If monitoring management with a Buffett-like intensity does not improve portfolio performance, it is not at all clear that we, either as pension fund participants or as citizens, really want to encourage such behavior among institutional investors. Maybe yes, maybe no, but one cannot look to common sense alone for the answer.

Similarly, common sense cannot provide the answers to a host of other fundamental normative and at least partly empirical questions that underpin our judgments of virtue and sin. Whether the LBO form is superior to the publicly held corporation, as Michael Jensen claims, depends at least in part on whether bankruptcy costs are large or small.<sup>20</sup> Whether hostile tender offers are to be encouraged or decried depends, at least in part, on whether they create wealth or destroy it. Whether corporate diversification is generally wise or foolish depends, at least in part, on whether diversification can be achieved more efficiently at the firm level or at the portfolio level.

Lowenstein's hostility to the normative conclusions that some derive from finance economics interferes with an appreciation of the substantial contributions that it makes to corporate law and business practice. Take, for example, his treatment of the Modigliani and Miller irrelevance theorem. To Lowenstein, this epitomizes the nonsense of finance economics.

But Lowenstein's shot flies wide of its mark. *Of course* MM does not describe the real world: it is a model of the polar case. What makes the Modigliani-Miller thesis so seminal is that it sets the stage for subsequent analysis. As one recent

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20. Michael C. Jensen, *Eclipse of the Public Corporation*, HARV. BUS. REV., Sept.-Oct. 1989, at 61. For a response, see Alfred Rappaport, *The Staying Power of the Public Corporation*, HARV. BUS. REV., Jan.-Feb. 1990, at 96.

study explains, the “‘dividend irrelevance proposition’ has led to much subsequent research focusing on two related issues—the tax effects of dividend yield on stock valuation and the explanation for the observed price reactions to dividend announcements.”<sup>21</sup>

Finance economists have long recognized that the market does not find dividends irrelevant.<sup>22</sup> The challenge is to figure out what features best explain this behavior. Indeed, Lowenstein’s favored explanation, that excess cash will alter the investment plans, has been extensively discussed by economists.<sup>23</sup> Even the basic finance textbooks that Lowenstein cites as the source of the confusion include references to the various explanations for dividends, including agency cost explanations.<sup>24</sup> The fact that the introductory finance texts spend so much time discussing the basic MM model does not mean that the texts are teaching students that the model describes the real world. Rather, it reflects how difficult it is to teach an abstract model.

While I am ignorant and therefore agnostic on whether MM and the literature it spawned has value in the business context, its “modestly useful” promise, like that of much else in corporate finance, is to make more rigorous the application of common sense. As Lowenstein himself explains, dividend policy must be set with an eye both to the financing needs of the firm, the demands of the market, and tax consequences (pp. 121-43). The MM literature potentially provides a model for tying these competing considerations together, a method of thinking about them in a systematic fashion.

Lowenstein, although acknowledging corporate finance or finance economics as a “modestly useful discipline,” spends little time exploring its uses (p. 22). I, at least, am grateful that a branch of economics devotes its efforts to gathering and analyzing the data fundamental to corporate law. In this regard, corporate law academics are far better off than our colleagues in, say, bankruptcy, who have had to learn to collect such critical data themselves.<sup>25</sup> Corporate finance may only be a

21. Mukesh Bajaj & Anand M. Vijh, *Dividend Clienteles and the Information Content of Dividend Changes*, 26 J. FIN. ECON. 193 (1990).

22. See, e.g., Eugene Fama, Lawrence Fisher, Michael C. Jensen & Richard Roll, *The Adjustment of Stock Prices to New Information*, 10 INT’L ECON. REV. 1 (1969); R. Richardson Pettit, *Dividend Announcements, Security Performance, and Capital Markets Efficiency*, 27 J. FIN. 993 (1972); Joseph Aharony & Itzhak Swary, *Quarterly Dividend and Earnings Announcements and Stockholders’ Returns: An Empirical Analysis*, 35 J. FIN. 1 (1980).

23. See, e.g., Larry H.P. Lang & Robert H. Litzenberger, *Dividend Announcements: Cash Flow Signaling vs. Free Cash Flow Hypothesis?*, 24 J. FIN. ECON. 181 (1989); Michael C. Jensen, *Agency Costs of Free Cash Flow, Corporate Finance, and Takeovers*, 76 AM. ECON. REV. 323 (1986); Frank H. Easterbrook, *Two Agency Cost Explanations of Dividends*, 74 AM. ECON. REV. 650 (1984); Michael Rozeff, *How Companies Set Their Dividend Payout Ratios*, in THE REVOLUTION IN CORPORATE FINANCE 320 (Joel M. Stern & Donald H. Chew, Jr. eds., 1986); Michael S. Rozeff, *Growth, Beta and Agency Costs as Determinations of Dividend Payout Ratios*, 5 J. FIN. RES. 249 (1982); Bajaj & Vijh, *supra* note 21, at 214-17.

24. See, e.g., ROSS & WESTERFIELD, *supra* note 5, at 416-19; RICHARD A. BREALEY & STEWART C. MYERS, *PRINCIPLES OF CORPORATE FINANCE* 382-83 (4th ed. 1991).

25. See, e.g., TERESA A. SULLIVAN, ELIZABETH WARREN & JAY WESTBROOK, *AS WE FORGIVE OUR DEBTORS: BANKRUPTCY AND CONSUMER CREDIT IN AMERICA* (1989).

“modestly useful discipline,” but that is not so shabby. Corporate law, in either its academic or law firm incarnations, can hardly claim more.

The very best sermons leave you thinking. They inspire, they amuse, they inform, they caution, they disturb, they provoke. In *Sense and Nonsense*, Louis Lowenstein does all these and more. Read the book.