

Corporate Ethics - A Personal Potpourri
A speech presented by Sir Graham Day,
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While I am pleased to be here today, principally because of the positive and thoughtful contributions which the Centre makes to Canadian corporate life, I cannot help but feel that, yet again, the human race has been somehow diminished morally in the face of the monstrous evil which was manifest on September 11th in New York and in Washington. In truth, for me to examine aspects of my personal ethical odyssey, which you know was my announced intention, now seems just a little unreal and, perhaps, irrelevant. Nevertheless, I agreed to speak and, by your attendance, you are prepared to listen. So, let me proceed.

Referring to Raymond Chandler, the American author of classic hard edged mystery stories, such as "The Big Sleep" and "Farewell My Lovely", may seem a somewhat unorthodox start to a luncheon talk about ethics. However, please bear with me!

Chandler attended an English public school, Dulwich College, on the southern outskirts of London. There, just prior to World War I, he received a classical education. Thus Chandler learned in a system which believed literature was useful as a source for moral education.

The morality which Chandler and his English public school contemporaries thus learned was essentially Judeo-Christian, but with elements of Greek and Roman virtues. That particular system was intended to produce a public school gentleman who was, as Chandler's Headmaster at Dulwich expressed it, capable of understanding that which was good, capable of subordinating the poorer part of his nature to the higher part.

It should not be surprising that, at the time, a public school education interested in morality included Greek and Roman virtues. Indeed, our word ethics is derived from the Greek ethika, meaning standards of human conduct. My recalling something of Chandler's background, and then looking up the specifics, was the result of a comment made to me several months ago by your President, Chris Chorlton, when he and I were working together at Hydro One. Chris, then Hydro One's Chief Ethics Officer, among other responsibilities, said to me that his take on individual behavioural responsibility was that each person must be his or her own ethics officer.

As I considered Chris's view, and began to prepare these remarks, I found myself wondering where we acquire the foundation for our individual ethical positions, hence my Raymond Chandler reference. An obvious next step was to consider where, when and from what sources did I receive that which influenced my own ethical standards.

My English father, who I consider to have been one of the last Victorians, where King, Empire and clear delineations between right and wrong were manifest, I later realized was an early and significant ethics source for me. Another was the Principal of my first school. Somehow these two combined to provide what I now realize is the foundation for what I consider to be my ethical standards. My father taught me to read before I went to school and, like so many immigrant parents, was determined I would be educated. I was encouraged to read everything and anything. The school which I began in 1939 had as its principal a Miss. Harlow who, incidentally, had taught my mother. Under Miss. Harlow's regime we students were imbued with many of the attitudes of the late Victorians. For example, in Grade One we were assured that the Empire would be successful in the War provided each of us did our duty to collect aluminum, do odd jobs for money so as to be able to buy 25 cent War Savings Stamps and so on. I realized later, as an adult, that all this meshed perfectly with my father's view of the world.

Consequently, I can claim that my ethical positions, like Chandler's, have their foundation in literature and school and for me, unlike Chandler, at my father's knee.

Those of my generation who attended school in Nova Scotia were required to study Latin beginning at Grade 8. The required learning of that dead language, if indeed in my case learning is what it was, lasted into my university years as there too Latin was compulsory for undergraduate students.

Those of you who either of necessity, like me, or by choice were exposed to Latin may, on this prompt, recall something of Cicero's orations against Catiline, in particular the portion beginning, *tempore, mores...*, Oh the times, oh the customs...

Cicero, the lawyer/orator/senator, was decrying the ethical standards of the late Roman Republic in general and those of Catiline in particular. Cicero went on to say that the Senate was both aware of and condoned unethical behaviour. The facts that Catiline was barred from being a candidate for Consul on allegations which, subsequently, were found to be groundless and, later, was acquitted on conspiracy charges, largely have been forgotten. Quite simply, the power and longevity of Cicero's orations have overwhelmed the facts. The purpose of this brief Roman interlude is to make two points. First, ethical behaviour, as perceived at the time, was a matter of importance to the Senate of Rome, the parliament of the Roman Republic. The second point, which follows, is that consideration of ethics, or behaviours viewed by society as acceptable, is a very old practice. Indeed, of course, much older than the Romans!

For me, and I suspect for many of you, university was a very mixed bag. I was blessed by having Canada's greatest philosopher, the late Professor George Grant, as a teacher in my first year. While ethics were not specifically addressed in my three years at Dalhousie's Law School, the professional standards required of practicing lawyers were made very clear indeed.

However, it was not until I joined Canadian Pacific in 1964, after eight years of private law practice, that ethical considerations became a part of my business life.

During the late 1960's I was negotiating the purchase of five 35,000 dwt petroleum products tankers to be built at a smallish Dutch shipyard. So far as I was concerned all the important aspects had been agreed and I was about to leave for Holland to conclude the contract itself. Just before I left I was summoned to see Canadian Pacific's Chairman and Chief Executive, Norris R. Crump. I was to learn, Mr. Crump held very firm views as to what was right! Mr. Crump began by quizzing me on the design of and operating criteria for the ships and as to whether I was confident that they would satisfy all of the requirements of the back to back long term charters I was negotiating at the same time with Royal Dutch Shell. Finally he asked me if I considered that the Dutch shipyard would make a profit on the contracts. I told him that I did not know, had not considered that to be a matter of concern for Canadian Pacific, and had concerned myself only so as to be satisfied that the shipyard was sufficiently sound financially to be able to honour the contracts.

Mr. Crump then instructed me that now I must satisfy myself, so far as possible, that if the shipyard performed it would not lose money. I was told that while Canadian Pacific required competitive prices and quality products, if I concluded that a loss was likely then we would not contract with the Dutch shipyard. He said that Canadian Pacific would never knowingly contract so as to cause a financial loss to a supplier who performed.

He reminded me also that in the 1880's when the CP main line railroad was being constructed across Canada and when there were many and varied financial difficulties, Dutch bankers had provided critical financial support and thus that Canadian Pacific was particularly concerned to ensure that dealings with Holland reflected that relationship history.

When I arrived in Holland the Dutch shipyard was astounded to learn that now I had to be satisfied as to the likelihood of a positive financial outcome for the shipyard. In the event, I was satisfied, the contracts were concluded and the ships built. I learned later that the shipyard lost money on the first ship, broke even on the second and made money on each of the next three. Canadian Pacific built more ships at that same Dutch shipyard.

It is, perhaps, a little trite, but I believe it to be true, that those in leadership positions, like Mr. Crump, play a disproportionately important role in the corporate ethics paradigm. This role includes insuring appropriate observances of legislated requirements, but, much more testing, taking decisions, taking stands, where no compliance is mandated. Of course, this is but one element of leadership.

Today in corporate life important issues having ethics aspects increasingly are addressed by boards of directors. In such situations the leadership responsibility is that of the board on a joint and several basis. This is not to take away the executive responsibility of the chief executive, who today tends to be a member of the board, but, rather, to ensure that directors, who, in law, owe their duty to the company, take the decisions on issues which discharge that duty. Let me give you two example of boards of directors taking difficult decisions where, in each case, an ethical dimension was the key determinant.

For five years until 1993 I was Chairman of Cadbury Schweppes. As some of you may know, the original Cadbury founder was a Quaker who, through the preparation and sale of drinking chocolate, sought both to offer an alternative to spirits and, at the same time, find an ethical way to earn a living and support his family. Today, Cadbury Schweppes is a widely held company which does business in more than 140 countries around the world.

In the late 1980's, led by the United States, many western and other governments put increasing pressure on international companies with operations in South Africa to leave that country because of its apartheid policies and laws. Many companies did leave, particularly American companies. Those who left either sold their South African businesses, closed and mothballed them, or created non-owned local franchise operations. Trade sanctions against South Africa were increased and were more stringently enforced.

Cadbury Schweppes has a long history and several quite large, profitable businesses in South Africa. Cadbury Schweppes' employees, including in management ranks, were predominately black. These employees participated in a variety of benefit plans; e.g. pensions and opportunities for education and housing assistance. Cadbury Schweppes contributed openly to anti-apartheid organizations.

Pressures of a not very discrete nature were exerted to encourage us to join the exodus from South Africa. Following several board discussions a number of related positions were developed. First, and most basic, Cadbury Schweppes would not leave South Africa. To do so would have breached our duty to the company and negated our moral responsibilities to our employees. Second, we determined further that we would neither invest new funds in South Africa from external sources nor would we repatriate any dividends which might be declared. In other words, we would put a ring fence around our South Africa businesses. Third, we determined to continue financial support for organizations who were campaigning for the abolition of apartheid.

Not surprisingly, and before reaching these positions, we discussed the issues with Her Majesty's Government. Mrs. Thatcher's policy with respect to repressive regimes was always to keep communications open even while operating sanctions. (Remember, it was Thatcher who first met Gorbachev in Moscow and reported that he was a man with whom one could do business. Incidentally, this visit of Mrs. Thatcher's marked the beginning of the end of the so-called Cold War.) HMG was comfortable with our proposed South Africa policy, the Cadbury Schweppes board took its formal decisions and those decisions were implemented.

The roll out of the South Africa anti-apartheid story is very well known. The Cadbury Schweppes' South African employees maintained their employment as the business activity was maintained. Although the economic results could not be anticipated, today the respective businesses continue in being and are doing well.

My second, and last, tale deals with a transaction underway during my time as Chairman of British Aerospace. Be, one of the world's top three aerospace companies, initially was

the result of the nationalization of a number of smaller companies by a 1970's Labour Government. The company was privatized early in Mrs. Thatcher's second term as Prime Minister. In late 1991- early 1992 Be was going through a bad patch for a number of reasons. One consequence was that for some nine months I became the interim Chairman.

Among Be's products are various types of military aircraft. In 1991, Indonesia, the world's fourth most populous nation, was discussing with Be the purchase of several new jet trainer and fighter aircraft. There was vocal opposition in London from a group protesting the forced annexation in 1975 of East Timor, a former colony of Portugal. It was alleged that if these aircraft were purchased they would be used to suppress further the opposition in East Timor.

The relevant facts, as we ascertained them, were as follows. First, the population of Indonesia was over 200 million and that of East Timor around 1.5 million. Second, Indonesia had over 270,000 persons in her armed forces. Third, Indonesia had been a republic since the end of the Second World War and was a member of the United Nations. Fourth, since Indonesia's independence, the only armed conflicts in which she engaged were with the Netherlands in 1947 and 1948 as Holland sought to regain her former South East Asian empire. Fifth, the aircraft in question, jet engined and fixed wing, were not suited for ground staffing, were not interdiction types and no helicopter gun ships were to be supplied.

We concluded that if Indonesia wished to overwhelm East Timor she did not require jet aircraft. Indonesia's record for peaceful co-existence was as good as most and better than some South East Asian countries and, whatever one thought about the East Timor situation, this was separate and apart from the acquisition of fighter aircraft. British Government export permit was available, as was an End User Certificate, and so the sale was concluded.

Since then the fortunes of East Timor have run the full range of reported local abuses at the instance of Indonesia, interventions by the United Nations including a military peace keeping team led by the Australians and finally, after elections just a few weeks ago, a 90 day period of constitution drafting is underway which will result in official independence for East Timor as one of the world's newest nations.

Now, to conclude, let me turn again, briefly, to Cadbury Schweppes. I told you of the Quaker beginnings of the company and while this particular religious connection has diminished, including on the parts of the present generation of Cadburys, only one of which is presently employed in the company, much of the ethical orientation continues even through the shares are very widely held and the management and directors are the usual international mix.

My immediate predecessor as Chairman was Sir Adrian Cadbury. He was the first corporate leader I met who spoke freely about ethics in the normal course of his duties. Sir Adrian is a Cambridge University graduate where he was a Rowing Blue and an Olympic oarsman. Later he was a Brigade of Guards officer in the British Army. It was to

Adrian that the London Stock Exchange turned for its first Inquiry into corporate governance following the Guinness affair. (The Toronto Stock Exchange inquiry into corporate governance led by Peter Dey, subsequent to the Cadbury Report, built upon Adrian Cadbury's work.)

I was with Adrian on one occasion shortly before his retirement when he was speaking to a group of Cadbury Schweppes' latest university graduate recruits. He was asked how one could know whether a particular course of conduct was proper, that is ethical, or not. Sir Adrian answered that if you had to ask, in most cases the answer should be No.

Since then I have thought often how appropriate was Adrian's answer. That answer is not to offer a simplistic response to a complex situational problem. However, in my experience it is a solid response when the questioner is contemplating pushing the ethical perimeter beyond its established limits. Also, in my experience, most questioners know the answer already. I commend that No answer to you.