
Subject Index

- "Adventures with Capital," 339
- Adverse selection problem: in freezeout, 251; in new issue of stock, 260; with no constraints on block investors, 141
- Agency costs: of close corporation, 203, 205-7; of controlling-minority structures (CMS), 296, 301-6, 310-11, 316; of control transfers, 304-5; legal constraints on, 306; of leveraged controlling-shareholder (LCS) structure, 9, 306-11; reputation as constraint on, 305-6; situations causing, 97; in taking a firm public, 58-59
- Alaska Plastics v. Coppock* (1980), 202n4, 232nn43, 44
- In re American Lumber Co. v. Bergquist*, (1980), 88n18
- Armstrong v. Marathon Oil* (1987), 250n10
- "Asia's Stock Nightmare," 164
- Assets: of closely held corporation, 209; match and match-specific, 206, 240; under no non pro rata distribution rule, 203, 241, 226, 228, 230-32
- "Auditor Was Wrong," 347
- Banking system, Canada: entry into banking under Bank Act, 88; lending practices to corporations, 85-87, 101-2; regulations, 88-89
- Barriers to entry: to Canadian banking system, 89; cross-country relation between R&D investment, capital ownership, and, 346-48; as determinant of concentrated ownership, 89-90. *See also* Protectionism
- Blackwell v. Nixon* (1991), 225n37, 228n39
- Blaustein v. Pan American Petroleum & Transport Co.* (1940), 155n17
- Block investors. *See* Shareholders, majority
- "Boards Cut Out of Family Trees," 329
- "Bronfman Companies," 314
- Bronfman family: consolidation of corporate structure, 313-14; debt financing by, 306; pyramid control by, 329-30; tax avoidance, 347
- Businesses, Canada: tax incentives for CCPCs and private, 113-14; tax incentives for private, 110-13; tax treatment in Canada for small, 109-10. *See also* Canadian-controlled private corporations (CCPCs); Firms, heir-controlled
- Business groups, Sweden, 298
- Business-judgment rule, 229
- Canada Deposit Insurance Corp. v. Canadian Commercial Bank* (1992), 88n17
- Canadian-controlled private corporations (CCPCs): capital gains tax, 108-9, 112-13; corporate tax rate, 110; tax integration, 110-12; tax provisions for smaller, 113
- Canadian disease, 11, 320, 349-62
- CCPCs. *See* Canadian-controlled private corporations (CCPCs)

- Cede & Co. v. Technicolor, Inc.* (1987, 1988, 1993), 248nn6, 7
- Chareon Pokphand group, Thailand: cross-holding structure, 300
- Chokel v. First National Supermarkets, Inc.* (1986), 250n10
- Competition Act (1986), Canada, 90, 93n26
- Controlling-minority structure (CMS): absence of limits on agency costs, 301–6; context for survival, 318; cross-ownership, 299–301, 311; difference from leveraged controlling-shareholder (LCS) structure, 306–10; differential voting rights, 297–98, 311; explaining emergence of, 311–13; of firm ownership, 295; need to monitor firms with, 310; outside United States, 296; recommendations for research about, 310–14; stock pyramids, 298–99, 311
- Control transfers: effect of choice of ownership structure on, 55–69, 76–79; under equal opportunity rule, 69–70, 304–5; under market rules, 70, 304–5
- Corbin v. Corbin* (1977), 155n15
- Corporate governance: Canadian firm performance by type of controlling shareholder, 334–38; by controlling-minority structure (CMS), 295–301; with entrenched family control, 332–33; fiduciary duty principle applied to, 7, 191–93, 211–13, 225, 233; of firms with concentrated ownership, 5; in India, 8–9, 265–70; literature related to, 82–84; of public and private firms, 105
- Corporate-governance law, Canada, 332
- Corporate groups, India: firms as part of interlocked, 8–9, 273–75; identification of, 273–75; investment in, 9; lack of transparency in, 8–9; monitoring of, 9, 265, 292–94; Tobin's *q* for, 276–81
- Corporations: circumstances for legal intervention, 213–14; with entrenched family control, 332–33; protection from threat of opportunistic exit, 209–11
- Corporations, Canada: vertical pyramids, 136
- Corporations, closely held: circumstances for pro rata dissolution and merger, 219–20, 226, 229; constraints on opportunism, 214–19; definitions of, 201n1; exit rules, 179–82, 196; family business as, 207–9; fiduciary duty rule, 211–13; judicial scrutiny, 193–94, 197–98; lock-in provisions related to, 209–13, 216, 219, 226–36, 243; match assets, match-specific assets, and investments, 206–9, 214–16, 225–26; match assets in Silicon Valley start-ups, 206–9; nonlegal constraints on opportunism, 216–19; no non pro rata distribution rule, 210–12, 219, 223, 229; piercing the corporate veil, 203n7; self-enforcing norms of, 214–16, 243–44; shareholders bargaining for buyouts, 189–92; Silicon Valley start-up, 204, 206–9; trust game between majority and minority shareholders, 182–89. *See also* Control transfers; Ownership concentration; Ownership structure; Sale-of-control transactions; Self-dealing; Trust game model
- Corporations, United States: absence of federal tax on corporate capital, 113; capital gains tax rules, 113–14; limited-liability corporations (LLCs), 108, 112, 114; subchapter S tax rules, 108, 111–12, 114, 124–28
- Crosby v. Beam* (1989), 202n4, 232n43, 233
- Re CTC Dealer Holdings Ltd. and Ontario Securities Commission* (1987), 94–95, 99
- Data sources: analysis of effects of inherited wealth, 325, 363–66, 369; determinants of corporate venture capital success, 3, 18, 28–32, 34–35; model of entrepreneur's choice of private or public firm ownership, 121–23; role of foreign intermediaries in Indian businesses, 272–75; VentureOne database, 18, 28–29
- Debt: priority rights of, 307–9
- Delahoussaye v. Newhard* (1990), 189n4
- Disclosure rules, Canadian, 91
- Distribution: wealth distribution in Canada, 319–24
- Distributions: no non pro rata distribution rule, 210–11, 223, 226, 228–32, 233–37, 244–45
- Dividends: under no non pro rata distribution rule, 220, 235, 237; tax credit in Canada, 107–8; tax treatment in United States, 107–8
- Donahue v. Rodd Electrotype Co.* (1975), 189n3, 202n3, 204n9, 225–28, 232n43
- Duty of loyalty rule, 236

- Efron v. Kalmanovitz* (1964), 156n18
- Employment-at-will doctrine: in close corporation employment relationship, 7–8, 203, 215–16, 218–19, 220–24, 229–30, 233, 244
- Employment relationship: in closely held corporation, 208–9, 214–19, 230; of minority shareholder in closely held corporation, 220–24
- Entire fairness standard, 210, 224–29, 232, 248
- Entrepreneur: in closely held corporation, 218–19; model of decision for private or public ownership, 10–11, 116–21; talents of descendants, 324
- Equal opportunity rule: in Canada, 5, 93–99; controlling-minority shareholder (CMS) control transfers under, 304–5; control transfers under, 305; effect on legal rule distortion, 57; influence on choice of ownership, 70, 76; to limit selective buyback of shares, 227; minority shareholder options under, 67, 69–70
- Equitable subordination doctrine, 88
- Exit rules: default, 196; defined, 196; exit at will, 197; exit by consent, 196–97; trust game under different, 196–97
- Fiduciary duty rule, 7, 191–93, 211–13, 225, 233
- “Finance and Economics,” 339
- Financial institutions: foreign and domestic firms monitoring Indian firms, 265–70, 292–94; intermediaries can restrict investment, 85–87; relations between foreign and domestic, 277–81. *See also* Banking system, Canada
- Financial sector, India: review (1991), 268
- Firms: with cash-flow and control, 297–98; characteristics of majority-owned, 6; market power of firms with concentrated ownership, 90–93; mechanisms to separate cash-flow and control rights, 297–301; in model of decision for public or private ownership, 116–21; performance when financed by corporate venture capital, 18–19; performance when financed by independent venture capital, 18–19; policy implications of sale-of-control transactions, 70–72; sale-of-control transactions, 58–69; with stock pyramid structure, 10, 298–99. *See also* Businesses, Canada; Canadian-controlled private corporations (CCPCs); Corporate groups, India; Corporations; Ownership structure
- Firms, heir-controlled: under Canada-U.S. Free Trade Agreement, 352–63; compared to firms controlled by entrepreneurs, 10–11, 116–21, 338–51; in stock pyramids, 10, 298–99, 323–24
- Firms, India: domestic and foreign ownership in group and nongroup firms, 276–77; external monitoring of affiliated and unaffiliated, 265, 292–94; firms with insider control, 265–68, 271–72; foreign ownership, 278–81; intragroup financial transactions, 275–76; ownership structure, 275–77; as part of business interlocked groups, 273–75; performance related to ownership structure, 281–84. *See also* Corporate groups, India
- Free-rider problem: under equal opportunity rule, 96
- Free Trade Agreement (FTA), Canada-U.S.: diffusion of ownership in Canada under, 6, 11, 93n26; opening of markets under, 11, 90, 352–63
- Freezeouts: adverse selection effect, 251; implementation, 69–70; minority shareholder remedies for low price in, 248; model under asymmetric information, 252–57; using market prices in, 250–52
- Friedman v. Beway Realty Corp.* (1989), 250n10
- Gallagher v. Lambert* (1989), 239–40n57
- Genesco, Inc. v. Scolaro* (1993), 250n10
- Gerdes v. Reynolds* (1941), 156n22, 234n48
- In re Glosser Brothers* (1989), 250n10
- Gondrej family, India: stock pyramid structure, 299
- Guth & Loft Inc.* (1939), 155n17
- Haloid Company, 23. *See also* Xerox Corporation
- Hernando Bank v. Huff* (1985), 250n10
- Hoes v. Bateson* (1978), 239n56
- Holding company pyramids, 4–5, 298–99
- Information: about corporate groups in India, 267–70; rights of minority shareholders to, 237–39

- Information, asymmetric: in closely held corporation, 214–15, 223, 237–38; freeze-out model with, 8, 252–57; freezeouts with conditions of, 249–58; between inside and outside investors, 92, 98
- Ingle v. Glamore Motor Sales, Inc.* (1989), 239–40n57
- Initial public offerings (IPOs): choice of ownership structure, 55–58, 70; incidence in United States, 57; ownership structure emerging from, 3–4
- Insiders, corporate: insider control in Indian business groups, 265–68; insider trading, 251n13
- Insuranshares Corp. v. Northern Fiscal Corp.* (1940), 156n22
- Investments: in Indian corporate groups, 9; in match and match-specific assets, 206–9, 213–16, 222; model of choices between public and private firm, 116–21; restriction by financial intermediaries, 85–87; success of corporate and independent venture fund, 34–42, 51–52; valuation of corporate venture, 32–33; of Xerox in venture-backed firms, 3, 24–28, 51
- Jedwab v. MGM Grand Hotels, Inc.* (1986), 248n6
- Jones v. H. F. Ahmanson & Co.* (1969), 156n21, 189n3, 202n5
- Jordan v. Duff & Phelps* (1987), 239–40n57
- Judicial intervention: in actions of closely held corporation, 230–34, 245; in some forms of non pro rata distributions, 245; to value shares in freezeout, 248–49. *See also* Valuation
- Kahn v. Tremont Corp.* (1997), 211n25, 226n38
- Knudsen v. Northwest Airlines* (1990), 239–40n57
- Landreth Timber Co. v. Landreth* (1985), 239n55
- Laws: encouraging market power, 90–93; providing shareholders' information rights, 237–39. *See also* Legal rules and concepts
- Legal rules and concepts: business-judgment rule, 229; buyout rule, 186–88, 197–98; Canadian disclosure rules, 91; Canadian takeover rules, 95–96; duty of loyalty rule, 236; employment-at-will doctrine, 7–8, 203, 215–16, 218–19, 220–24, 229–30, 233, 244; entire fairness standard, 210, 224–29, 232, 248; equal opportunity rule, 5, 57, 69–70, 76, 93–99, 227, 304–5; equitable subordination doctrine, 88; exit rules, 179–82, 196–97; fiduciary duty rule, 7, 191–93, 211–13, 225, 233; legitimate-business-purpose standard, 222–24; market rules, 70, 304–5; no non pro rata distribution rule, 203, 210–11, 226, 228–29, 230–32, 233–37, 241, 245; prudent man rule, 21–22. *See also* Judicial intervention
- Legitimate-business-purpose standard, 222–24
- Leveraged buyouts (LBOs), 10
- Leveraged controlling-shareholder (LCS) structure: difference from controlling-minority structure (CMS), 306–10; separation of cash-flow and control rights under, 306–10
- Li Ka-shing family, Hong Kong: stock pyramid structure, 299
- Limited-liability corporations (LLCs), United States, 108
- Lippo group: cross-holding structure, 300–301
- Market power: as determinant of ownership concentration, 90–93
- Market prices: in freezeout model, 252–57; of prefreezeout minority shares, 249–52; to value minority shares in freezeout, 249–52, 259
- Market rule: control transfers under, 304; influence on choice of ownership, 57, 70. *See also* Equal opportunity rule
- McCauley v. Tom McCauley & Son, Inc.* (1986), 250n10
- Michaels v. Michaels* (1985), 239n56
- Miller v. Magline, Inc.* (1977), 155n16
- Minority oppression. *See* Shareholders, minority
- Monitoring of firms: costs of failure to monitor, 271; in emerging markets, 265–68; in India, 9, 265–70, 292–94
- Narasimhan Committee, India, 268–69
- National Policy (1879), Canada, 90
- Net present value (NPV), negative and positive, 8, 11

- Nixon v. Blackwell* (1993), 189n4, 202n3, 225–28
- No non pro rata distribution rule, 210–11, 223, 226, 228–29, 233–37, 245
- “Nothing Can Hold Back Lippo,” 301
- Ontario Securities Act, 94–96
- Ownership concentration: deconcentration, 93–97; factors influencing, 260; literature related to, 82–84; problems and determinants of, 4–5, 82–97; rent seeking with, 4–5, 91–93
- Ownership structure: Canadian tax issues related to, 106–7; choice at initial public offering (IPO) stage, 55–58, 70; conditions for minority shareholder control, 10; controlling-minority structure (CMS), 295; costs and benefits of publicly owned, 57–58; of a country’s capital, 324–29; cross-ownership, 299–301; as determinant of ownership concentration, 93–97; diffuse, 4, 6; dispersed ownership (DO) with controlled structure (CS), 295; efficient choice of, 70–71; emerging from IPO, 3–4; extending control under some, 9–10; influence of market and equal opportunity rules on, 64–72, 75–76; private or socially optimal, 61–64, 76. *See also* Controlling-minority structure (CMS); Control transfers; Leveraged controlling-shareholder (LCS) structure; Pyramid ownership structure
- Paramount Communications, Inc. v. QVC Network, Inc.* (1994), 247n2
- Partnership: corporate form, 204–5; exit-at-will rule, 179–82, 208; Uniform Partnership Act, 204n10
- Protectionism: under Canada-U.S. Free Trade Agreement, 352; Canadian trade barriers, 89–90; as determinant of concentrated ownership, 89–90, 97–98. *See also* Free trade agreement (FTA), Canada-U.S.
- Prudent man rule, 21–22
- Pyramid ownership structure: of billionaire families, 323–24; controlling-minority structure (CMS) of, 298–99, 311, 317; in control pyramids, 329–32
- Regulation: under Canadian corporate-governance law, 332; of corporate freezeouts, 249; question related to controlling-minority structures (CMS), 313–14
- Reichmann family, 306
- Rent seeking: by interlocked firms in India, 9, 272; prevention, 208; relation to ownership concentration, 4–5, 90–93; stock pyramids multiply power of, 10
- Reputation: of closely held firm, 228; as constraint on agency costs, 305–6; role in curbing opportunistic behavior, 244; trust game model of exit rules, 179–89, 198
- Rochez v. Rhoades* (1975), 239n56
- Rosenblatt v. Getty Oil Co.* (1985), 248n7
- Sale-of-control transactions: corporation-related, 58–69; minority shareholders, 70–71; relation to non pro rata distributions, 235–37; rules governing, 70–72, 75–76
- Securities and Exchange Board of India (SEBI), 270
- Self-dealing: in closely held corporation, 212, 226, 228–29, 232, 245; by majority shareholders, 172–75; mechanisms to counter, 170–72; in merger transactions, 173–74
- Shareholders, closely held corporations: bargaining for buyout rights, 189–92; as employees, 208–9, 214–19; exit-at-will or exit-by-consent rules, 179–89, 196–98; trust game model, 182–89
- Shareholders, controlling. *See* Shareholders, majority
- Shareholders, large: buying out minority shareholders, 140–41; firm value with, 142–44; incidence of firms with, 141–44; legal constraints on, 155–66, 172–75; organizational constraints on, 144–55, 165–66, 170–72
- Shareholders, majority: control in pyramid, 136; effect of close corporation lock-in on, 210; fiduciary standards in closely held corporations, 205–6; in freezeout model, 252–57; freezing out of minority shareholders, 248–52; legal constraints on, 155–65, 172–75; legal restraints in closely held corporation, 210–14; oppressive conduct by, 7, 193–94, 202–3, 212; power in freezeout of, 247–48, 250–52; relationship to minority shareholders in close corporation,

- Shareholders, majority (*cont.*)
7–8; trust game with minority shareholders, 7, 182–89, 196–98. *See also* Shareholders, large
- Shareholders, minority: actions by majority shareholders against, 173–74; bringing suit against majority shareholders, 212; with concentrated corporate ownership, 4–5; in control transfer, 70–71, 76; effect of close corporation lock-in on, 210; effect of corporate control transfer on, 64–69; effect of freezeout on price of shares, 251; as employees in close corporation, 7; under equal opportunity rule, 67, 69–70; in firm controlling-minority structure (CMS), 295–301, 315–18; in freezeout model, 252–57; freezing out by controlling shareholder, 8, 248; information rights, 237–39; legal protection, 211–13, 306; minority oppression doctrine, 212; oppression in close corporation, 7, 193–94, 202–3; treatment in reorganization in New Zealand, 162; trust game with majority shareholders, 7, 182–89, 196–98; when holding bought by dominant shareholder, 6. *See also* Controlling-minority structure (CMS); Employment-at-will doctrine; Ownership structure
- Singer v. Magnavox Co.* (1997), 173
Smith v. Duff & Phelps (1990), 239–40n57
Smith v. Van Gorkom (1985), 194n9
“Storming the Citadel,” 298, 306
- Taxes: of businesses in Canada, 107–9; effect on decision to create public company, 116; in model of decision for private or public ownership, 116–21
- Tax system, Canada: capital gains tax, 108–9; death taxes, 109; dividend tax credit, 107–8; incentives for small business, 113–14; influence on private corporations, 105–6; intercorporate dividends, 108; progressive personal tax rates, 106–7; public and private firms under, 121–30, 135–36; simulations of decision to go public under, 130–35; tax treatment for small business, 109–10
- Tax system, United States: capital gains, 108–9; death taxes, 109; dividend income treatment, 107–8; intercorporate dividends, 108; public and private firms under, 121–30, 135–36; simulations of decision to go public under, 130–35
- Thermo Electron Corporation: carve-outs and majority control by, 143–44; pyramiding by, 317
- Thomas v. Duralite Co.* (1975), 156n24, 239n56
- Tobin’s *q*: defined, 275, 276; for domestic firm ownership in India, 283–84; for foreign-owned firms in India, 277–81; of group and nongroup firms in India, 276–81
- Toner v. Baltimore Envelope Co.* (1985), 189n4
- In re Topper* (1980), 202n2
- Trade barriers. *See* Protectionism
- Trust game model: under buyout rule, 186–88, 197–98; under exit-by-consent rule, 182–86, 196–98
- Valuation: of assets in closely held corporation, 224, 230–34; corporate venture investments, 34–42, 51; entire fairness standard, 224–29; of firms with large shareholders, 142–44; judicial assessment of minority shares, 248–49; judicial valuation of minority shares, 219
- In re Valuation of Common Stock of Libby, McNeill & Libby* (1979), 250n10
- Venture capital: categories of corporate and independent investment (1983–94), 32–33; defined, 21n2
- Venture capitalists: curbing behavior in close corporation, 244; using non pro rata distributions, 245
- Venture funds: bank-affiliated, 17–18; factors influencing flow of money to, 21–22
- Venture funds, corporate: differences between independent and, 17–18; duration of programs, 19, 42–46; factors determining success or failure of, 19–23; history of investment by, 21; investments and characteristics (1983–94), 31–33; measures of success of investments, 34–42, 51–52; relative performance of, 50–51; structure, 17, 22–23; Xerox Technology, 18. *See also* Xerox Technology Ventures (XTV)
- Venture funds, independent: differences be-

- tween corporate and, 17–18; duration of programs, 42–46; investments and characteristics (1983–94), 31–33; success of investments, 34–42
- Wallenberg family: entrenched family control, 332; shifting balance of stakes in firms, 313, 331
- Wealth distribution: of billionaires by country and source of wealth (1993), 320–24; effects of skewed, 319
- Weinberger v. UOP, Inc.* (1983), 156n25, 191n5, 211n24, 248n6
- White et al. v. Bank of Toronto et al.* (1953), 86
- “Whither the Wallenbergs?” 313
- Wilkes v. Springside Nursing Home* (1976), 202n2, 222–24, 237
- Xerox Corporation: emergence of, 23; establishment of Xerox Technology Ventures (XTV), 24–26; investment in venture-backed firms, 24–25; Palo Alto Research Center (PARC), 24; Xerox New Enterprises (XNE), 3, 28
- Xerox Technology Ventures (XTV): Docu-mentum, 3, 27–28, 51; establishment (1988), 24–26; structure similar to independent venture funds, 25–26; termination (1996), 28
- Zetlin v. Hanson Holdings* (1979), 234n47