
Corporate Governance in China:
Some Experiences and Lessons

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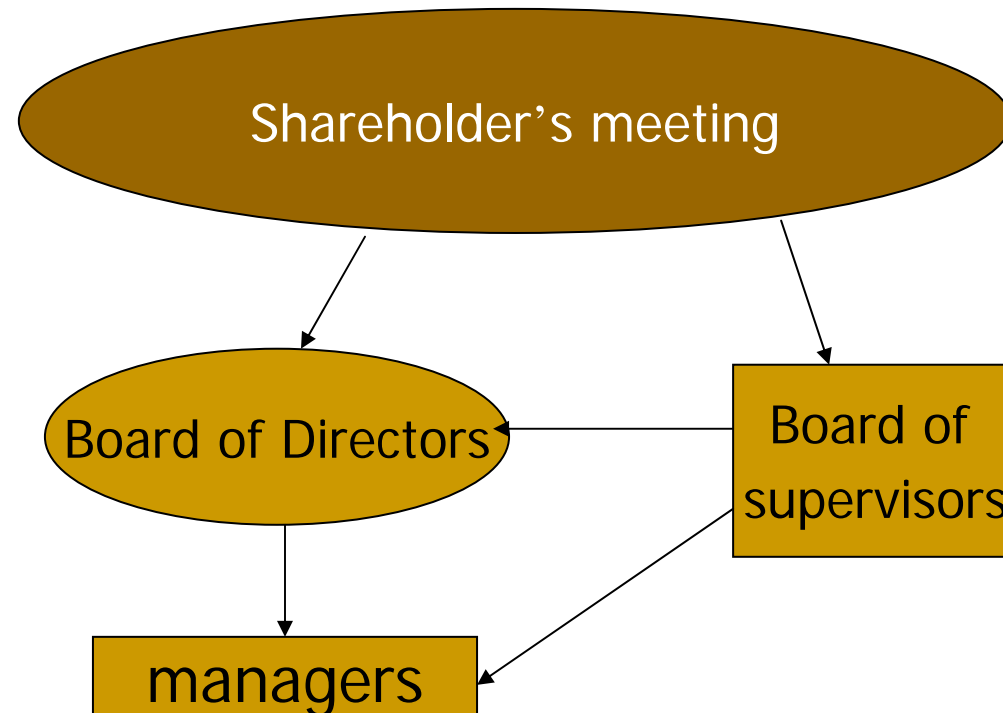
Will the Corporate Governance Converge?

- Henry Hansmann and Reinier Kraakman, The End of History for Corporate Law, 89 Geo. L.J. 439(2001).
- The Manager-Oriented Model: 1930-1960 U.S.
- The Labor-Oriented Model: Germany
- The State-Oriented Model: Japan
- Stakeholder Models: Company Social Responsibilities?

The Shareholder-Oriented Model

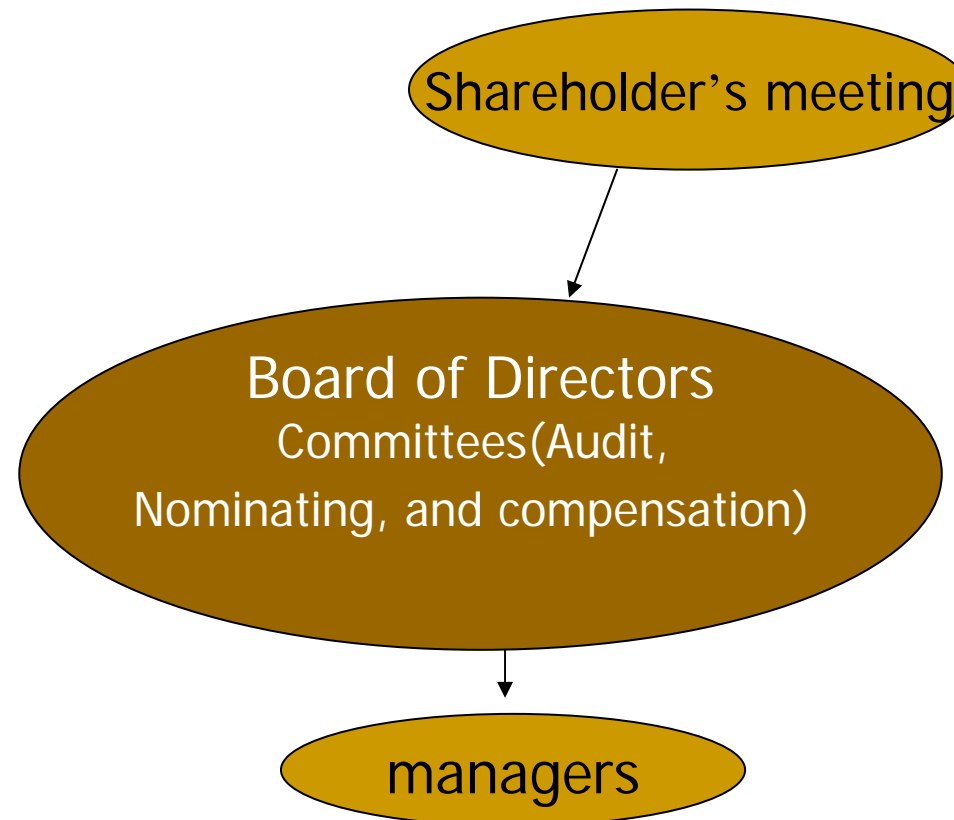
Corporate Governance: Difference and Convergence

- Chinese Corporate Governance Model (in the book)



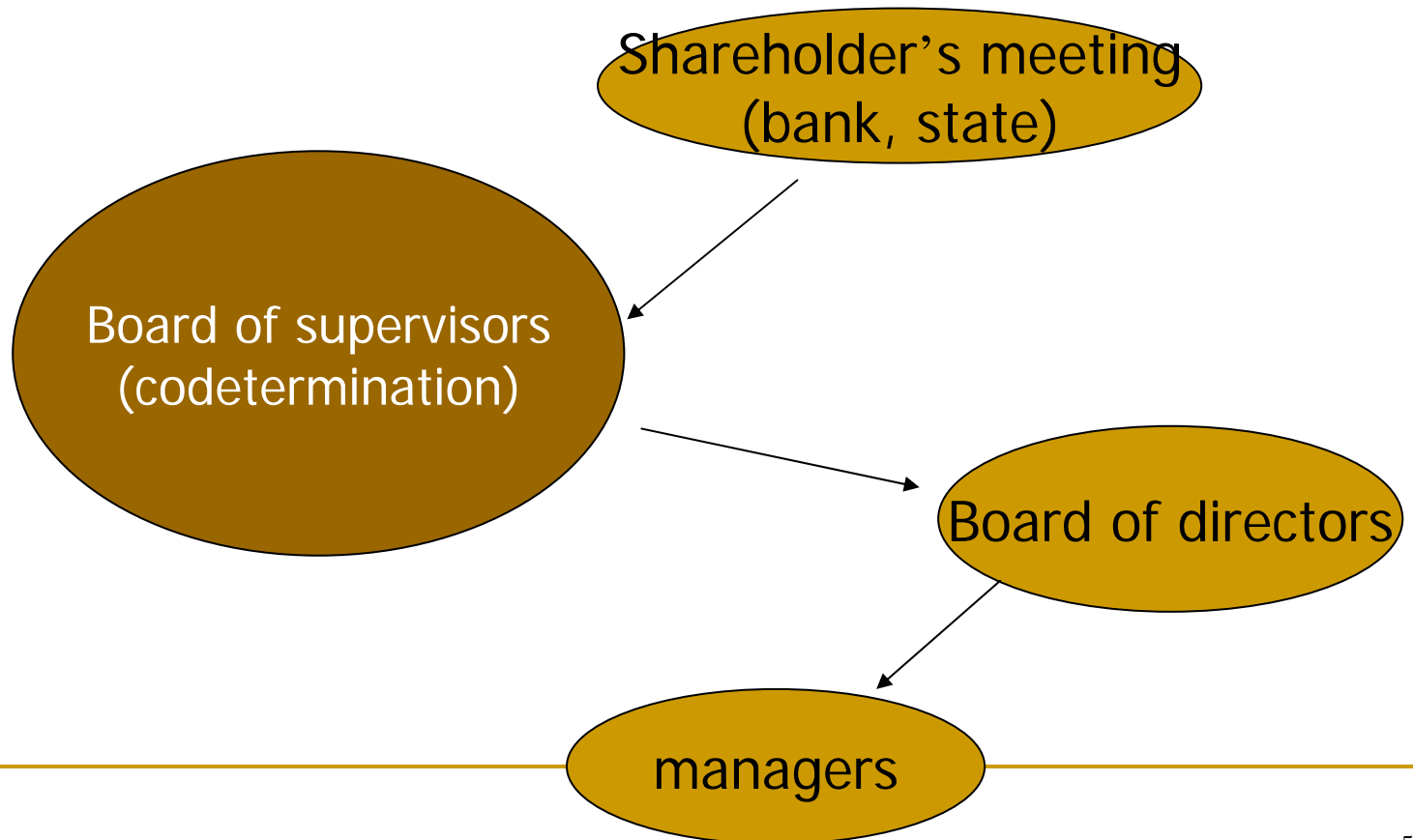
The US Corporate Governance Model

- One Board



German Corporate Governance Model

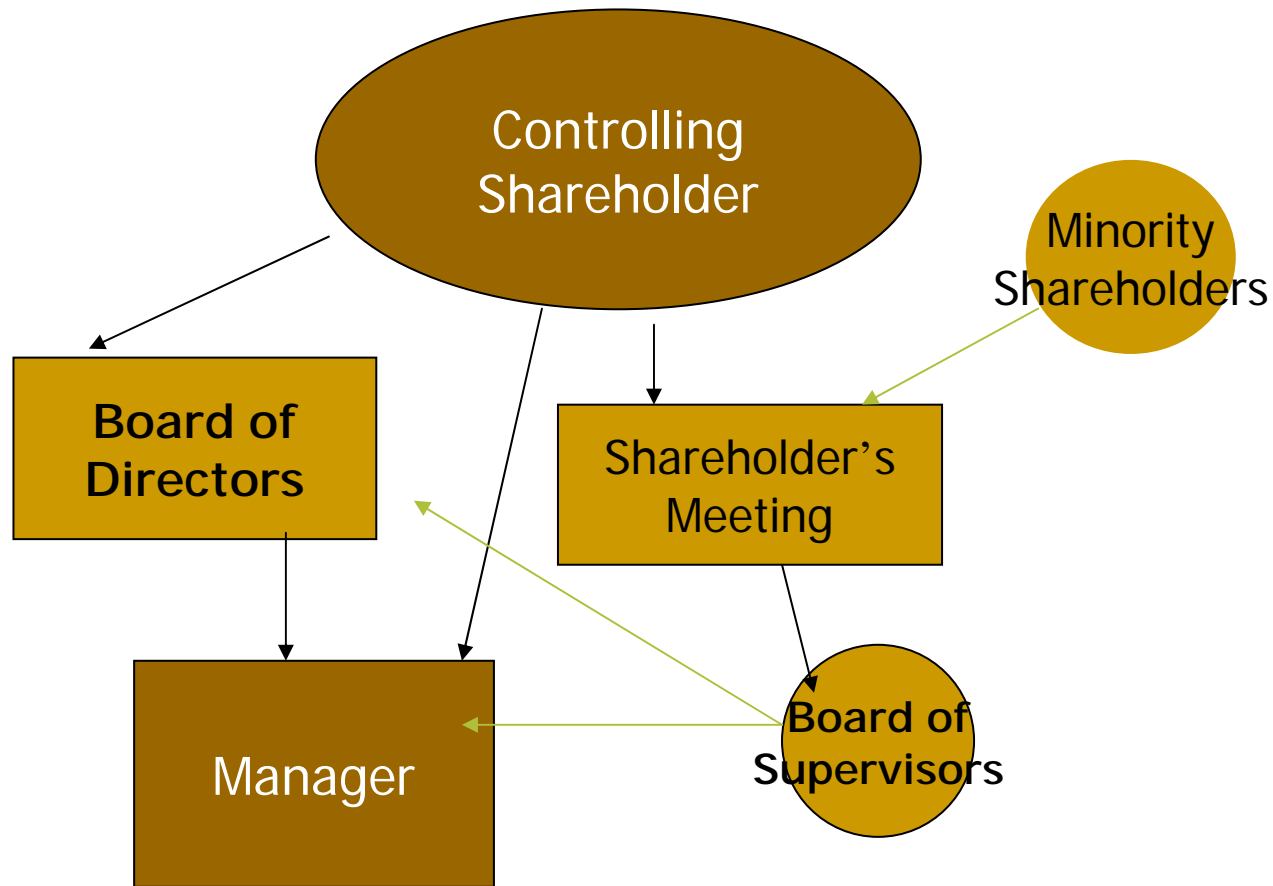
- Two-tier Board



Choose of the Models

- Ownership Structure
- Dispersed Ownership Structure
 - Manager control
 - Earnings management (Enron, WorldCom)
 - Protection of minority shareholders
- Concentrated Ownership Structure
 - Controlling shareholders
 - Appropriation of private benefits of control (Parmalat)
 - Concerns for creditors

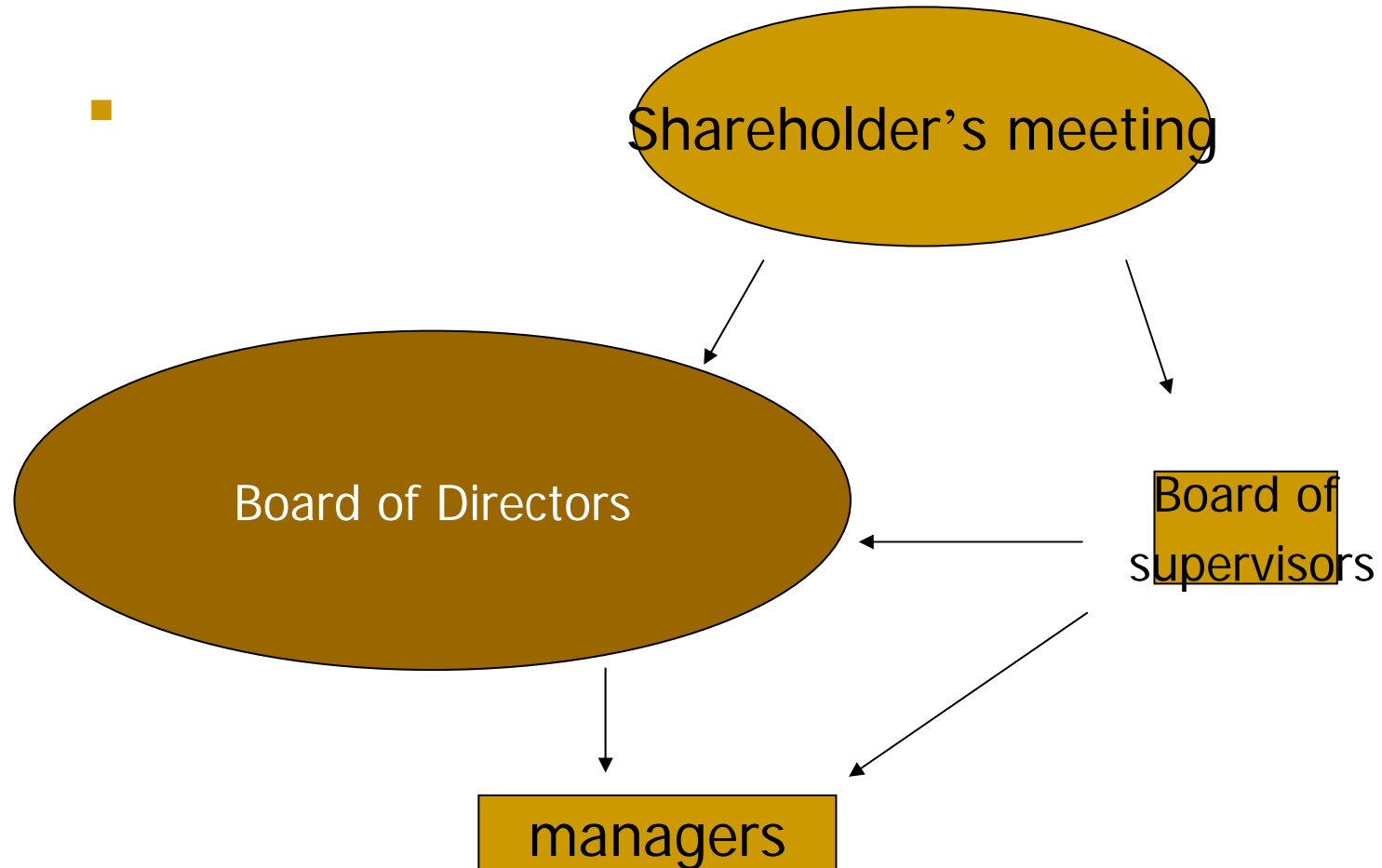
China: Concentrated Ownership + Controlling Insiders (M or BOD)



China's Experience 1:

- **Board of Supervisors** 监事会
 - To check the financial affairs of the company
 - To monitor the Board of Directors and Managers
 - To convene or propose the S/H Meeting
 - To get involved in the S/H derivative suit
 -
- **Relationship between Board of Directors and Board of Supervisors**

- Chinese Corporate Governance (in practice)



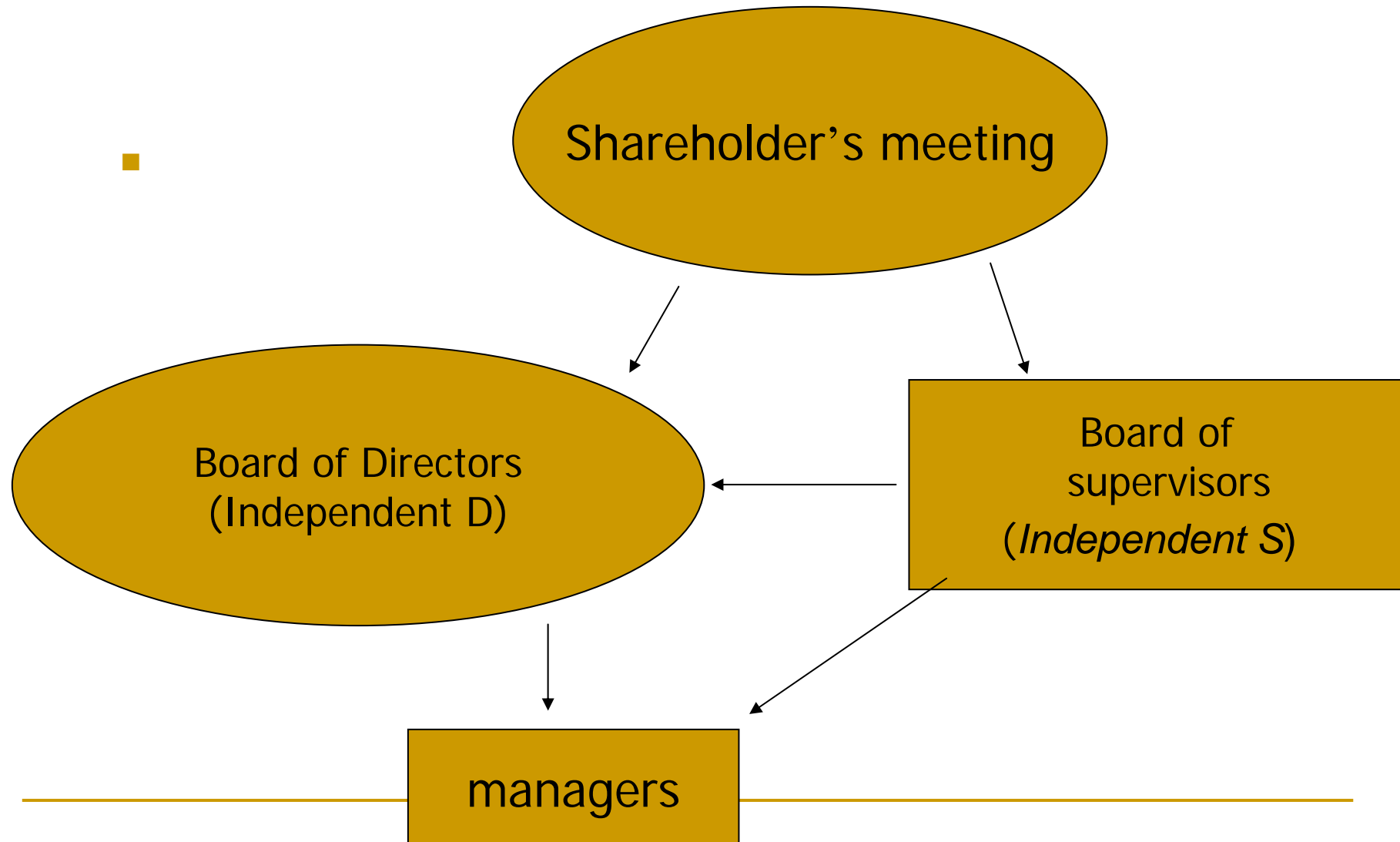
China's Experience 2: Independent Director 独立董事

- Problems of Corporate Governance in China:
- State owned majority shares in many listed companies.
 - the representatives of state have not been monitored carefully (insider control)
- Private companies: controlling shareholders exploit small shareholders (dominative shareholders)
- Results for many listed companies: local governments /their representatives or private large controlling S/Hs take advantage of the small shareholders dispersed in the whole country, as well as the nationwide banks as the major creditors.
 - But, Market Won Gree 格力 (Electric Appliances) Board Bid (May 25th, 2012)
 - **Mighty & Entrenched Management?**

Independent Director in China

- Statute of Independent Director is in the legislative process by state Council (required by CL Art.123).
- Guidance Opinion on the Establishment of an Independent Director System in Listed Companies, by China Securities Regulatory Commission (2001, CSRC).
- The end is to make independent directors become the “supervisor” on behalf of the CSRC?
 - Donald C. Clarke, The Independent Director in Chinese Corporate Governance, 31 Del. J. Corp. L. 125 (2006).

■ Chinese Corporate Governance (current)



Independent Directors in a dilemma

- Capacity & Experience
- Restraints
- Information Asymmetry
- Relationship
- Incentives ?
- Interest Group or Privilege?
- Obligation ↗
- Liabilities ↗
- Shortage of independent director candidates, especially for the small and risky listed companies on the ChiNext
- Listed Com.:2314
- ID position: 7595
- ID: 5593; 1: 1.36
(end of 2011)
- Professors & Researchers (40%)
- Lawyers & Accountants
- Retired government officials