

Build the Hill: How the Resilient Entrepreneur Can Persevere

Arthur M. Diamond, Jr.*
University of Nebraska Omaha

adiamond@unomaha.edu

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Abstract

Entrepreneur Jim Clark wanted to protect his privacy by installing a new taller fence. But the government told him he could not build a taller fence. He could have fought the government, but instead he built a hill around his property, and put his old fence on top of the hill. I discuss a few examples of entrepreneurs ‘building the hill,’ closing with the example of what Walt Disney did when a poorly drawn contract lost him his first major cartoon character, Oswald the Lucky Rabbit: he shortened Oswald's ears, lengthened his tail, and changed his name to Mickey. Entrepreneurs too often view their only options as giving up or as fighting to change the rules. Sometimes a third option is best: to find a nimble, out-of-the-box pivot that can achieve a goal without the drain of time and energy it takes to change the rules.

[146 words]

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1. Build the Hill

When Silicon Graphics founder Jim Clark built his home in Atherton, no neighbors were close enough to threaten his privacy. But with development, next door neighbors could look down into his swimming pool. The obvious solution was to build a higher fence. But that was against Atherton's zoning laws. Jim Clark did not fight city hall. Instead he built a hill around his property, putting his old short legal fence on his new higher legal hill (Hamm 1998; Lewis 2000, pp. 46-47).

Jim Clark was not the first to build the hill. Several examples can illustrate the diversity of time, place, and context in which oppressive obstacles have been overcome by nimble pivots. In the mid-1800s, when the landlords of Scotland felt threatened by the growth of the Free Church, they refused to allow land to be used by the church to build places of worship. The Free Church congregation in the town of Strontian responded by having a boat built that came to be known as "the Floating Church of Loch Sunart" (MacColl 2006, pp. 21-22). Entrepreneur Soichiro Honda evaded the Japanese law restricting post-war gasoline use, by mixing gasoline with pine resin, so the resin smell covered the gas smell (Gilder 1992, p. 220).

Albert Champion was going to have to engage in a legal fight to call his spark plug firm Champion Spark Plugs. So Billy Durant (the entrepreneur who first pulled General Motors together) told Champion that he should not fight to maintain the name for his spark plug company, but could achieve his goal by calling the company by its initials: AC Spark Plug (Pelfrey 2006).

When Rollin King had the idea for a low-cost, low-price airline, he faced the

government obstacle of the high fares mandated by the federal Civil Aeronautics Board (CAB). By at first flying just within Texas, Rollin's Southwest Airlines was able to charge lower fares without being subject to CAB authority (Corkery 2014, p. 25).

Wal-Mart's first efforts to enter the banking industry were blocked when the federal government refused to issue them a federal bank charter. Instead they built the hill by offering banking services that did not require a charter, and by partnering with financial services companies, such as Green Dot (Tabuchi and Silver-Greenberg 2014, p. B3).

Besides the examples of building the hill to overcome government obstacles to innovation, there is another set of examples of building the hill to overcome non-government obstacles to innovation. The inertia of a large, old, corporate bureaucracy can stifle entrepreneurial innovation in the ranks almost as much as the inertia of a large, old, government bureaucracy. Those working with or within such bureaucracies may benefit from finding ways to build the hill.

They may find inspiration from Jeff Bezos, whose early Amazon depended on using a bureaucratic book distributor to fulfil early online Amazon book orders. When an online order came into Amazon, they would re-order it through the distributor. But Amazon was slowed down and stymied by the distributor's rule that all orders had to be for 10 or more books. Amazon found out that when 10 books were ordered and nine were out of stock, then the distributor would go ahead and fulfil the order for the one book that was in stock. So Amazon found an unknown book on lichen that was always out of stock. When they needed one book, they would order that one book, along with

nine copies of the lichen book, and the distributor would send them the one book that they needed (Stone 2013, p. 37). Bezos built the hill with “élan” and “devious glee” (Brandt 2011, p. 78).

2. Oswald the Lucky Rabbit

My favorite example of building the hill involves Walt Disney. As a young man, Disney’s first major cartoon character was Oswald the Lucky Rabbit. Disney had a contract with Charles Mintz, who was a middle-man between Disney and Universal, the distributor of the Oswald cartoons.¹ Before meeting with Walt in New York, Mintz decided to sign contracts with some of Disney’s cartoonists to make the Oswald cartoons without Walt Disney’s involvement, in effect cutting Disney out of Disney’s own creation. Mintz could do this because Disney, not excelling at contract negotiation, had signed a contract that gave Universal ownership of the Oswald character. Disney would have liked to work directly with Universal, but Universal decided they liked Mintz more than Disney.

This may be an illustration of Edward Lazear’s claim that to be successful, new entrepreneurs need to be jacks-of-all-trades—to have at least a threshold of knowledge in each of several key areas (Lazear 2004). They need to know enough of the basics of many skills so they can stay afloat, and eventually so they can hire competent specialists in some of the skills. If the entrepreneur fails to reach a minimal threshold

¹ The account in the rest of the paragraph, of Disney losing Oswald to Mintz, is condensed from Gabler (2006, pp. 106-110) and Barrier (2007, pp. 54-57).

in any of the skills, they may be out of business. In the Oswald example young Walt apparently did not have much skill in contract drafting and negotiation.

He tried to remain optimistic on the train trip back from New York City to Los Angeles. He could have thought of fighting Mintz in court; instead he started sketching (Gabler 2006, p. 110). He shortened Oswald's ears and he changed Oswald's tail from short and fluffy, to long and skinny. And he changed the name to "Mortimer." He showed it to his wife, who liked the mouse, but not the name (Barrier 2007, p. 57; and Gabler 2006, p. 112). She suggested that a friendlier name would be "Mickey."

The story of Oswald the Lucky Rabbit is one of entrepreneurial resilience. Walt Disney had trusted Mintz and Universal, and his trust was betrayed. Instead of giving in to discouragement, he shortened Oswald's ears and transformed him into a mouse with a new name.

Barrier writes that in this episode Disney "was a sort of human Brer Rabbit, constantly wriggling out of the snares set for him" (Barrier 2007, p. 325). Later in his career, Disney was to celebrate Brer Rabbit in the now controversial "Song of the South" movie and in the still much-loved "Splash Mountain" ride in the Disneyland and Magic Kingdom parks.

So what is the lesson from the "build the hill" examples? It is *not* that entrepreneurs should never fight for something they care about. Sometimes, to avoid being bullied or to improve the rules, it is necessary to draw a line in the sand and stick by it (remember the Alamo?). But often entrepreneurs can make more progress by

being alert to clever ways to achieve their goals without direct conflict. ‘Pick your fights, and do not pick too many,’ is a good lesson.

Just because pivots can be found to work around oppressive legal obstacles does not justify complacency about those obstacles. The time entrepreneurs spend to pivot around legal obstacles, is time they cannot use to overcome the obstacles presented by physics and biology. The cleverness of the pivot should not blind us to its cost. Seeing this, principled entrepreneurs should vote, advocate, and donate, to reduce the legal obstacles.

But perhaps the most important lesson from the “build the hill” examples, is the crucial importance of perseverance for those who seek to make a difference in the world. When someone steals your rabbit, find another way to keep drawing.

3. Discussion

Our ability to explain the world sometimes depends on how well we have classified what we observe. So the common practice of denigrating taxonomists as far inferior to theorists, may bode ill for scientific progress. The taxonomist Hodgkin did not explain or cure the disease that now bears his name. Before Hodgkin, swelling of the lymph glands was attributed to tuberculosis or syphilis. But Hodgkin noticed that some of his specimens were different, examples of what would eventually be called "Hodgkin's lymphoma" (Mukherjee 2010, p. 156). Hodgkin did not know the cause or the cure, but he saw a pattern. And seeing a pattern was a key step toward its eventual explanation and (partial) cure.

The taxonomist of entrepreneurship can parse the phenomena along different dimensions. She can parse by the desirability of the results, as when Baumol (1990) discussed productive, unproductive, and destructive entrepreneurship. She can parse by the motivation of the entrepreneur, and so discuss entrepreneurs as motivated by fame, wealth, a desire to win, or a desire to bring a project into the world (Diamond 2012; Diamond 2019). She can parse by the type of institution within which the entrepreneurship occurs, such as for-profit, non-profit, and governmental (Boettke and Coyne 2009). She can parse by the dominant activity that the entrepreneur engages in, such as innovation, arbitrage, risk-taking, or management (Casson 2002, Schumpeter 1950, Kirzner 1973, Knight 1921, Drucker 1985).

She can parse by the level or tier of the goal of the entrepreneurship, whether the lower tier of directly creating goods or services, or the higher tiers of providing the broader security or other infrastructure needed to create the goods or services (Leeson and Boettke 2009; Adner 2012, Christensen et al. 2019), or of changing the rules which the entrepreneur must obey as she creates goods and services (Martin and Thomas 2013; Leighton and Lopez 2013).

The literature arising from these taxonomies is broad and rich and has reached many useful insights. The question asked in this note is more modest: from the point of view of an innovative project entrepreneur, when is it best to take the time and effort to try to change the rules and when is it best to find ways to pivot around the rules, to "build the hill"?

When the Carmel Planning Commission told Clint Eastwood he could not build a retail-office complex building next to his Hog's Breath Inn restaurant, he got mad, sued them, and settled out of court (UPI 1986). But he stayed mad and ran for mayor to defend the principle that government should unbind entrepreneurs—he won the election in a landslide and famously got a law passed to allow the sale of take-out ice-cream cones on Carmel's main street (Lindsey 1986a, 1986b, 1987). But he spent a lot of time on his routine mayoral duties (AP 1986, Lindsey 1987), which raises the question: how many great Clint Eastwood movies did he (and we) forego as the opportunity cost of his efforts to change the rules?

Entrepreneurs too often view their only options as giving up or as fighting to change the rules. Through a few compelling examples, I have shown in this note that sometimes a third option is best: to find a nimble, out-of-the-box pivot that can achieve a goal without the drain of time and energy it takes to change the rules.

The cost of this third option would be high if it implied that rules and institutions would never improve. My hope is that entrepreneurial pivots, rather than direct frontal assaults, can often result in improvements (Henrekson and Sanandaji 2011, Olopade 2014, Tusk 2018, Thierer 2020). The growth of email, and of private package delivery services, has made the United States Postal Service increasingly irrelevant. Those who created email did not first run for Congress in order to repeal the Post Office's mandated monopoly on first class mail. Perhaps few will notice when the lights of the Post Office are eventually turned off, just as few noticed when the lights of Western Union's telegram service were turned off (Bloomberg 2006).

But when pivots are not enough, and when more is at stake than ice-cream cones, entrepreneurs' best move may still be to remember how the Alamo's William Travis drew a line in the sand.

4. Walt Disney's Exiled Rabbits

When the Walt Disney Company's CEO Michael Eisner jeopardized the spirit and culture of Walt Disney, Walt's nephew Roy, along with Steve Jobs, organized a coup to oust Eisner and install Bob Iger as CEO. A few years later, Universal-NBC wanted to hire Disney-ABC's sportscaster Al Michaels. Iger said that in return for Michaels, the Walt Disney Company wanted Universal to sign back the contractual rights to Oswald. So in 2006, after 78 years exiled in the wilderness, Oswald the Lucky Rabbit returned home to the Walt Disney Company (Lang 2012).

Unfortunately, the Walt Disney Company's treatment of Walt's other rabbit shows that Bob Iger was not as true to the spirit and culture of Walt Disney as Roy Disney and Steve Jobs had hoped. In African American folk tales, the king of pivot is the resilient trickster Brer Rabbit. When Brer Fox catches him and threatens to skin him, Brer Rabbit says that is fine, but 'please, please don't throw me into the briar patch!' Brer Fox then throws him into the briar patch, and he escapes.

Some have criticized Brer Rabbit for the way he talks, but what is important about Brer Rabbit is his spirit, his actions, and his example. He was a spunky, hopeful, unprivileged little guy, who persevered. He has been explained, defended, and even celebrated (Gladwell 2013, Gates and Tatar 2017). Yet during Iger's tenure

as CEO, Brer Rabbit's scenes from "The Song of the South" were kept entombed in the Walt Disney Company vaults.² More recently, the Walt Disney Company even announced plans to exile Brer Rabbit from his home in Splash Mountain (Diamond 2020).

We can speculate what Walt Disney would have done when cancel culture came for Brer Rabbit. He would have sought a pivot to save the rabbit who is the exemplar of pivoting resilience. But, being a principled man, if no pivot could be found, Walt Disney would have drawn a line in the sand.

² Neither Oswald the Lucky Rabbit nor Brer Rabbit were important enough to Bob Iger to receive any mention in his autobiographic account of his years as CEO (Iger 2019).

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