

## **Don't Make Me Say 'I Told You So'**

Interview with Bob Monks, evangelist for shareholder activism

by Heather Stewart

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As America's corporate giants crashed to the ground over the last year, taking investors' cash and public confidence with them, Bob Monks could have been forgiven for saying "I told you so." As a US businessman, then legislator, then full-time campaigner, he has been banging on about the lack of restraints on big business for more than 20 years.

Monks is on one of his regular visits to the UK - as deputy chairman of Hermes, the investment firm owned by the British Telecom Pension Fund, he pushes the shareholder activism agenda on this side of the Atlantic as well as at home, and while here, he has been promoting another of his many articles on the issue.

With his right-hand woman, Nell Minow, Monks has written books on corporate governance, and the two set up Institutional Shareholder Services - advising huge collective investors such as pension funds and insurers on how to exercise power over the companies whose shares they own. A veteran of a tough series of guerrilla battles between shareholders and firms, Monks once famously took out a full-page ad in the Wall Street Journal picturing the directors of retailer Sears Roebuck, with the headline "Non-performing assets".

After Enron, and WorldCom and the rest, and with politicians' interest finally focused - at least for now - on tightening up companies' responsibilities, it might seem a good moment for the 68 year old to slip quietly into retirement.

Not a bit of it. Instead, the stream of corporate woe since the dotcom bubble burst - and the search for solutions seems to have given him a new lease of life. "Imagine being Don Quixote when windmills are in," he grins, admitting people often didn't return his calls during the stock market boom of the late 1990s, when corporate governance was the last thing on CEOs' minds.

However - unsurprisingly for someone who has spent so much time campaigning for change - Monks is cynical about politicians' commitment to clean up the corporate sector. In fact, he accuses George Bush of actively engineering the threat of war on Iraq to take the public's eye off the corporate ball.

After politicians had hurriedly signed the anti-corruption Sarbanes-Oxley Act to make it law, under severe pressure from the public to be seen to be doing something, "it became clear that if the political issue was 'do you feel more should be done about corporate corruption?' the Democrats would win the November elections; if it was war on Iraq, the Republicans would win. In those circumstances, I've had to admire the president's ability to create reality."

With the extra funding to the US financial regulator, the securities and exchange commission, under dispute, and a fresh row about the appointment of former FBI head, William Webster, to the new accountancy oversight board ("The largest campaign contributor in the US is the accounting profession," Monks caustically comments) he now believes Sarbanes-Oxley was barely worth the paper it was written on.

"Looked at today, it was the worst of all worlds - it was enough to let the congressmen go home without being lynched, but it wasn't enough to require substantive change. Right before the election, the president is saying, 'shove the reform bill I signed just a few months ago'."

To Monks, the solution to many of the ills in the corporate world has long seemed simple. "Capitalism without owners will fail", screams the title of an article he has just co-authored. He believes that if shareholders had taken more interest in what the firms they held shares in were up to, much of the corporate malfeasance which has become a familiar theme in the last few months could have been avoided.

Monks's crusade - and that's exactly how he sees it - began in 1972, when he was staying in Bangor, Maine, on one leg of an unsuccessful campaign to win the Republican nomination for the senate. The Penobscot river outside his hotel window was polluted with a 10 foot layer of scum, dumped by the paper mills upstream.

"One of the businesses I had been in was selling oil to the paper mills, so I knew the bosses," Monks explains, "and through politics I knew the local people, and I thought 'nobody wants this to happen: not one single person'." The penny dropped some time later, back at his desk in Boston, when he was asked - as chairman of the Boston Safe Deposit & Trust Co - to sign the voting papers for a shareholder motion concerning one of the very same paper mills. "It was our company, and we didn't have to have it do that." And so began what would become a life-long crusade.

This story, with which Monks opened *Power and Accountability*, his first book on the subject - has been repeated so many times in the corporate governance community, it has the ring of a parable. And there is certainly something of the preacher in Bob Monks.

A relentless self-publicist, with a streak of self-righteousness thrown in, he admits that the urge to change the world began early. "The starting point is having a father who's a clergyman. It makes you believe that what you do is important - life is sacred rather than profane."

Once he had formulated his personal manifesto for change, Monks managed to slide into government, under Ronald Reagan (the path smoothed by backing his campaign) - and within a year, had left again, having started the legislative ball rolling on setting up a legal duty for shareholders to oversee the companies they own, under the so-called ERISA legislation.

"What I really wanted to do was move forward my agenda. As a political appointee, I could press a lot of buttons, and nothing would happen, but I could probably get one thing done. The secretary of labor [Raymond J Donovan] was under indictment for building a non-existent tunnel in Manhattan, so I wrote the stuff, and put it in the Federal Register."

The problem - which he is still wrestling with after all these years - is that even with a duty to intervene in underperforming companies written into the statute book, it is hard for holders of individual pensions and insurance policies to hold the managers of their money to account.

"You are beguiled that you have a pension held in 'trust' - but in fact, you as a [pension fund] beneficiary don't have the same ability to hold the trust to account as an individual beneficiary. Why do we let it be different because it's a pension?"

Monks is just as cynical about gestures at closer shareholder involvement on this side of the Atlantic, where the City's Institutional Shareholders' Committee last week committed its members to taking a more active interest in the companies in their portfolios.

The move, by the Association of British Insurers and the National Association of Pension Funds, among others, seemed to have sated the Treasury's desire to legislate for shareholder activism. But Monks believes that without a change in the law, it will be impossible to overcome the web of conflicts of interest which riddle the City. He argues that no fund management firm, for example, wants to kick up a fuss with a firm which might be a potential client.

"The troubling thing [about the ISC agreement] is the expectation that some people are going to behave in a way contrary to their immediate professional self-interest. The government needs to make clear exactly what is required. It isn't that trustees are bad people, or managers don't want to do the right thing. If you want trustees to take on that responsibility you have to give them legal protection - you can't expect anybody to act in a way that is going to be professionally suicidal."

He is equally contemptuous of the ISC's insistence that an awful lot of shareholder activism already goes on - but behind closed doors. "It just doesn't wash - this has to be an open process."

In fact, although Monks concedes that corporate governance - the field he has spent most of his life shaping - started life in Britain, when bank supervisors at the Bank of England decided to take a more pre-emptive approach, he thinks the Brits have an unfortunate propensity to brush tricky issues under the carpet.

"There isn't much appetite to ask ugly questions. If we were like the UK, Enron would just have been a bankruptcy - a Marconi."

He finds it hard to believe that Marconi's collapse did not prompt a more thorough inquest by the firm's owners, or by policymakers. "They lost 99 pence in every pound - don't you think some of the trustees might have asked some questions?"

Sometimes, the evangelism peels back to reveal the frustration of someone who has spent 20 years knocking at the same door. Despite his bullishness, Monks has decided to open up a new front in the war against bad corporate governance. Returning to his original profession, he plans to use that traditional US remedy, litigation, as a battering ram to enforce better boardroom behaviour.

"The best way I have to make changes is to be involved with law firms which have had success with bringing lawsuits against companies with bad corporate governance practices."

He seems to realise this is tantamount to admitting defeat in his long struggle to force shareholders to evolve into fully-fledged owners. "I'm sick to death of winning by losing," he says. "It's more desirable than doing nothing," he says. Characteristically, though, he recasts this as yet another way of trying to achieve his original dream of firms waking up to their responsibilities.

"It may be that you make enough of a nuisance this way that people prefer to do it the other way." Making a nuisance of himself is something in which Bob Monks specialises. And judging by his current mood, he is likely to continue doing it for a long time yet.

## **The CV**

**Education** Harvard, scholarship to Cambridge, Harvard Law School

**Career** Partner in a Boston law firm; then into business, becoming CEO of coal and oil company CH Sprague. 1979, chairman of The Boston Safe Deposit & Trust Company and the Boston Company. Administrator of the Office of Pension and Welfare Benefit Programs in the US Department of Labor under Reagan. 1985, created Institutional Shareholder Services with Nell Minow, leading it until 1990-1991, set up the Lens investment fund, to take shares in underperforming firms and campaign for board changes. He is now deputy chairman of Hermes, the investment management firm owned by British Telecom Pension Scheme. Bob Monks is author of a number of books on corporate governance, most recently *The New Global Investors*.

**Personal** Bob has been married to Millie, for 50 years. Earlier this year, he took his grandson to Japan to watch the World Cup - and he recently took a cookery course on the Isle of Harris.