

**EXXON ANNUAL MEETING
MAY 28, 2003
DALLAS, TEXAS**

The Morton H. Myerson Symphony Center near Dallas' Ross Street is a well designed modern structure with a certain elegance. The exterior has some sculptures, felicitous planting, a mini plaza and an entrance allee. Before nine in the morning of this fine May Day, barriers, saw horses, police and the ubiquitous accoutrements for crowd control were rather more in evidence than the couple of dozen demonstrators who must be congratulated for a plucky effort of acting out the philosopher's classic conundrum – if a tree falls in the forest and no human hears it, is there sound? The entry process was a generally success effort to blend a high level of security concern and efficient movement of – non-existent – crowds. I actually had the correct ticket, so maybe my perspective is a touch naïve. Also – is it paranoia – but I had the feeling that they knew who I was and passed the word on.

I had received in advance an advisory about limiting the materials that I proposed to bring in to the meeting hall, so I carefully transferred all my written materials about Exxon into a single file folder and left behind any of the miscellaneous – cell phone, keys, extra pens, for example – I usually carry in my leather wallet. After I had successfully negotiated the metal detector, I placed my papers on a low counter in front of a woman who was in plain distress about how to do her job. She twice called over her supervisor to look at my papers; he will go far in Exxon – he said finally “it's a matter of your judgment”. One of my documents was the 2003 version of Claros Consulting's analysis of Exxon's value destroying strategies, computer edited to show changes in red. At first, the woman seemed fearful lest I have in mind circulating single pages with red print and destroying the decorum of the meeting. Having made this fuss, the lady was even more distressed. I really didn't need the papers and rather felt I would get more fun writing about it than in creating embarrassment for an Exxon apparatchik, so I surrendered the offending pages in exchange for a rather seedy receipt.

The Myerson works well for a small number of attendees at an annual meeting. We couldn't have been more than 200. The lobbies provide excellent display space for corporate exhibits and for talk between spectators and corporate officials. I walked around the exhibit hall, listened to the company's explanation of its policies on upstream logistical problems and Global Warming and made myself known to a man identified by his badge as a corporate official. I asked him whether I could be introduced to any of the directors of the corporation who I presumed were available. He assured me that they were, but that he personally did not know a director and therefore couldn't help. I was reassured when I walked off to hear him say *Robert Monks* as a kind of grown up in joke – he wanted me to know that he knew that I knew that this was a carefully managed operation. OK – one for the home side – I am not going to get access to a real board member! But, the *Robert* was a bit unprofessional.

Talking to a director of Exxon has been an expensive concern of mine for the past couple of years. The fact that I know two of them personally is an irrelevance in light of the plainly understood – if never publicly articulated – “club” rule that a director never talks about company business outside of the board room. The expense arises out of the several abominations that the Securities & Exchange Commission has made of the efforts by reformers in 1934 to create a “shareholders' democracy”. To understand what has happened to a laudable and simple idea, you have to imagine over seven decades consistent effective pressure from the corporate bar working like a stream of water creating a course on rock with the result that any shareholder resolution that today's SEC will require a company to include on its proxy statement will have no real significance. Reformers have occasionally felt fulfillment from achieving a majority vote for a precatory resolution; managements have more frequently filled their pockets by ignoring these non-binding expressions of ownership will. Why then would anyone waste any time or money in

this predictably fruitless effort? The answer is quite simple – under the prevailing law for virtually all American corporations, the only time that a management is *legally obligated to make themselves accessible* to their owners is at the Annual Meeting and – with a few expensive exceptions – the only subjects that management can be required to address are those affirmatively passed on by the SEC.

My personal concern is accommodation of the wealth producing capabilities of large corporations with the interest of individual citizens. Large energy companies, by the nature of their businesses, raise questions about the adverse impact of man's doing on the environment that our grandchildren will inherit. Exxon, and in particular its CEO Lee Raymond, have made a point out of confronting conventional wisdom and sensitivities about Global Warming. In order to get responses from Exxon about Global Warming, you cannot file a plain spoken resolution according to the requirements of their by-laws. You have to file something that you are confident the SEC will require be included in the company proxy statement – SEC Speak. This is a place where “pioneering don't pay”. With occasional exception, a filer simply can *never* succeed in persuading the SEC to force a company with the legal resources and disposition of Exxon to include any resolution other than those where precedent is indisputable. Even there, be careful of the alligators! Exxon was allowed by the SEC to exclude my resolution for the 2002 Annual Meeting to separate the CEO and Chairman positions, even though its required inclusion was common practice. The company artfully managed to persuade the commission that my resolution was really a disguised solicitation for votes to replace Lee Raymond on the board. In view of the fact that there were only as many nominees on the proxy card – none from me – as there were vacancies, the argument was absurd on its face, but such absurdities have nourished the corporate bar for many decades. My law school classmate, the public spirited Professor Paul Newhouser, charged me less than \$10,000 for his losing effort. In 2003, I turned to the excellent Wilmington lawyer Jay Eisenhower who managed to stem several waves of Exxon legal argumentation to achieve SEC support for our resolution. Now, along with the expense of the trip to Dallas, this looks like \$25,000 to ask a question to which I already know the answer – welcome to Corporate America 2003 style. The amount of time and money spent by Exxon on this matter will be many times larger.

The interior of the Myerson is cozy and not intimidating. The baffling arrangement, suitable for fine musical performances, provides two doors to pass through to achieve entry. In the context of the Exxon Annual meeting, this simply means another level of security to pass. We have been told that there will be two microphones – one for proponents of the resolutions and the other for opponents. As the mover of resolution #9, I ask the attendant whether the blue scarfed seats are reserved and am pleased with the yes answer which enables me to accommodate my over length legs in the aisle. Lee Raymond enters the stage from the right precisely at 9:00 a.m. and convenes the meeting. A very attractive blue backdrop has been projected with ExxonMobil, 121st Annual Meeting and three views of the Globe from space. There is an American flag on the left and one for the state of Texas on the right. Pots of white flowers surround the flags and Raymond's modest proscenium. He stands alone while the corporate Secretary Pat Mulva sits at the adjoining table. Pat came to see me in Florida last year and it looked as if we would develop a substantive relationship, until we were both surprised that my resolution was thrown out by the SEC. This year, we spoke by phone. I said again that I would withdraw the resolution if I would be given the opportunity to speak to the board of directors. The question as to whether there is a chairman is uniquely a question for the board and not really for the shareholders. I wanted to speak to this group that includes some fine people. A personal meeting is a better way to communicate than with the tension of a somewhat confrontational annual meeting. It is not surprising that the board declined to meet with me, but it is too bad. Unlike some of his predecessors, Pat is unfailingly correct and called me personally with the bad news. A finishing touch to the meeting's décor are pairs of male and female police officers very much armed at the access points to the stage.

This was very much a meeting by the rules. Exxon carefully explained and complied with them all. All of the board members were in attendance in slightly raised side seats to the left of the stage.

Ten minutes could be spent on each issue. The mover was allowed four minutes, which could be split between opening statement and rebuttal. Each person desiring to talk had two minutes. There were green, yellow and red lights on each microphone and on each side of the stage. With red, an increasing level of static was projected. As a practical matter, this meant that the proponent and one other advocate along with two opponents would be able to speak to each motion. There were often more people who wanted to speak, but the rules were courteously enforced and courteously observed.

Raymond delivered a superbly produced account of the state of the company. There was a time in days past when the CEO of Jersey Standard had to have managed the Bayonne Rouge refinery in his career path and was often not a college graduate. The culture has been a bit roughneck. Raymond has an earned PhD, is patently a talented corporate executive and it is readily apparent that the traditional “Jersey types” would not have had a chance against him in the competition to become CEO. The graphics were of high quality and were organized to communicate helpful information. The impact was genuinely powerful – Exxon Mobil is something new in the history of the world – a sophisticated enterprise flourishing with new technology on every continent in the world. This is a business in which I have had a lot of experience – at one time I was Chairman and substantial owner of an energy company that bought a million barrels of #6 oil from Exxon of Venezuela. As President Regan’s appointed director of the United States Synthetic Fuels Corporation, I had visited the aborted Exxon shale oil development in Parachute Creek Colorado. Still and all, Exxon today cannot be compared with any predecessor enterprise in terms of scale.

The first item of business was the election of directors. This was a rare opportunity for real discussion as the ten minute limit was not imposed, so literally anybody and everybody could get in their two minutes worth. They tried. The charismatic Franciscan Michael Crosby started with a point of order and ended wrangling with Raymond, who rather disappointingly retreated to New Jersey law and “I make the rules here”. There were no other nominees than those who had already been elected through the proxies in hand, but Phil Lippincott was the target for some abuse. He was asked as Public Issues Committee chair to explain what had been done during the year on the subject of Global Warming. He had no microphone, and – it is fair to say – no indicated enthusiasm to answer the question. Lee Raymond simply said this was a board issue and the board had considered the question appropriately. Next question. The suspense was deathless, but finally about an hour and twenty minutes after convening – you guessed it, that means 10:20 – no fooling around – we turned to confirming the auditors and approval of the 2003 executive incentive program. No surprises. Pride of place for shareholder proposals of which there were twelve belonged to Evelyn Davis who has combined sensible ideas and appalling behavior with the unfortunate effect of trivializing shareholder involvement. She did not appear in person – I thought that ExxonMobil had the better of the argument and voted for management. There is a certain sameness to Annual Meetings. Sometimes, my cynical side wonders whether the management imports shareholders like Sidney Kay who spoke passionately about the first six resolutions, without any great certainty whether he was in favor or opposed, but with a crowd pleasing litany of onomatopoeic abuse of the directors, individually and collectively. Sidney doubted their independence. It finally sank in; Sidney was taking time away from people who had a real stake in the particular resolutions. Nothing would move the inflexible ten minute limitation. It seems absurd – what is so important that on the one occasion in a year at which management can be called on to respond to shareholders that a time limit is considered the controlling consideration. Happily, as the old expression goes I’ve run for public office, I’ve been insulted by experts, so the use of my own four minutes in aid of proposition #9 was – frankly – fun.

I got to the mike – and found as usual that it didn’t extend far enough for me comfortably to speak into it so I crouched a bit.

“Mr. Mulva, I wish to reserve three minutes for rebuttal. As we speak, the eight great nations are meeting in St. Petersburg. It is not beyond possibility that sometime in the future they would expand this number. If they did so, Exxon Mobil could be invited to the meeting, as it is today the 21st largest economic system in the world. And, Mr. Chairman, you have less restraints on the

exercise of power than any of the leaders of countries today. The scope of your operations – as you so brilliantly described them to us earlier in this meeting – is global, and goes beyond the usual language of business into politics and foreign policy. The scope of your power, Mr. Chairman, is truly imperial. You are an Emperor.”

As I moved to sit down, Raymond demurred, but he didn't look upset at the thought of a bit or ermine. The proponents and opponents hacked away at each, until – eyes always on the clock, the Chairman said – “Mr. Monks”. I rose to the microphone: “You have two minutes and thirty seven seconds.” I turned to talk directly to the directors: “In referring to you as Emperor, Mr. Raymond, I meant no disrespect. I use this language to point out the real nature of the problem of governance for Exxon Mobil. You have the nature of a country. The board must think more in terms of the mode developed for a national system and stop trying to apply the business precedents which ExxonMobil has grown out of. As Americans, we must think with pride of the care that the Framers of our Constitution organized a system in which the power of the Chief Executive was effectively accountable to that of a Congress and a Supreme Court. We are not talking of Pfizer, where Dr. McKinnell is Chair and CEO, which I consider the best governed company in America. ExxonMobil is an empire and the board needs to look at the political model to find a counterforce for the power of the executive. Mr. Raymond, if you don't like what I say, you have only yourself to blame. You are a victim of your own success, and, remember – Napoleon Bonaparte had his Talleyrand.....” Two minutes and thirty five seconds – yellow lights are still on. I won! Oh my God, they have me thinking like them!

There were three more resolutions, all well presented, all well intentioned, all subject to the ten minute rule with lines of people waiting to speak. Two of the resolutions related to global warming and ExxonMobil's rather hostile approach towards those questioning its position. What I was saying to the board of directors is – you have excellent operating people running the company. That they do not have the skills, the vocabulary or the competence to deal credibly or compassionately with questions of great concern to many of their shareholders is not surprising. What is surprising is that the board will not undertake the responsibility to organize the venture to meet the needs created by its success.

Corporate power presents very serious problems for the future of democracy in America. Corporations with the constitutionally guaranteed right of speech have taken over the political process. Their power over government agencies has enabled a few private companies to own the preponderance of the communications capacity in all media. The ExxonMobil 2003 Annual Meeting is a milestone which we should not pass without careful examination – the power and ability of the management has effectively focused on nullifying even the slender rights of corporate owners to monitor that which is theirs. In a welcome note of dignity as the time clocks tolled the end of the meeting, the splendid Sister Pat Daly implored the chairman to take note of the “mockery” over which he was presiding – the needless restrictions on shareholder communication, the minatory security apparatus, the anal fixation on the clock, the obvious enlistment of “bought” testimony on particular resolutions.

As I walked out of Myerson into the noonday Dallas spring, warmth chapters out of Russian history flashed through my mind. Maybe, it was that talk of Emperors. A hundred years ago the masses respectfully petitioned the Tsar for reform. But the enduring image is – the Show Trials of the 1930s. I felt diminished – no I felt dirty – for having participated in this charade.

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