CHAPTER 5

NOTES ON THE SMOTHERING OF QUARRELS WITH SPECIAL REFERENCE TO THE UNIVERSITY WORLD

HAROLD L. ENARSON*

It is an honor to address the tribal medicine men of our conflict-ridden society: the National Academy of Arbitrators. I trust your meetings open with a prayer of gratitude for the bountiful work opportunities in an America so richly endowed with enlarging confusion, deepening conflict, and escalating controversy. It is flattering to be invited to your meeting, and deeply rewarding to see, after so many years, so many familiar faces—some chubby with achieved gentility, others lean with cultivated elegance, and all marked by that special assurance that comes with success in the American competition.

Possibly not even Eli Rock, your distinguished president, knows the painful truth: that I never mediated a case, and never arbitrated a case, and further that at one time in my life I wanted more than you can imagine to be in the thick of the game and earn a place in this happy band of brothers (with an occasional sister as added attraction). But if I never mediated a labor dispute, or negotiated a contract, or participated in the tribal rituals of the bargaining process, I do lay claim to the greatest string of good luck that a young man could stumble upon.

It was no little thing for a very young man to draft passages of Harry Truman's veto message of Taft-Hartley (I knew in my head, heart, and bones that the fate of the American economy and the free world depended on full exposure of purposeful evil).

It was no small thing to be secretary to the Steel Industry Board and watch Judge Sam Rosenman finesse the development

* President, The Ohio State University, Columbus, Ohio.

of a new proposition: that men as well as machines wear out and that pensions for steelworkers are as important as the care and maintenance of equipment.

It was no small thing to be (in Mr. Justice Holmes' great phrase) "part of the action and passion of the times": in longshore disputes, in structuring the wage stabilization machinery during the Korean emergency, in watching from the East Wing of the White House (and at John R. Steelman's elbow) the slow unfolding of an American edition Greek tragedy—the 1952 steel dispute, and the tangled webs made by President, Court, and Congress in that historic confrontation.

Nor was it any small thing (when one is 32 years old) to be a public member of the Wage Stabilization Board and to watch from very close range Archibald Cox's first dramatic departure from Washington. (How could anyone who studied Archie ever have thought that as Special Prosecutor he would not have done precisely what he did!)

Relax. Enough—almost—of faded memories.

It is amusing, and not a little sad, to discover that one cannot remember the rules and policies of WLB and WSB and NLRB, or even the great issues that once obsessed one. It is the people and the philosophies they exemplified in their working lives that one remembers.

I think of Billy Leiserson, struggling with a pipe never fully lit, thoughtfully elucidating the web of history from which the National Labor Relations Act emerged; Wayne Morse, ardent in strong convictions powerfully expressed, describing the full force of the multiple constraints signified by a national no-strike pledge; George Taylor, always the teacher, giving a near-religious coloration to the great value of *agreements* born of the struggle of hot controversy; John R. Steelman, super-optimist, expressing by the motion of hands and the tender cradling of telephone that there is no dispute that does not have hidden within it the seeds of settlement; Judge Rosenman, who taught by example that clear thinking and clear expression are as one, and that the serious polishing emerges, can only emerge, in the fourth or even fifth draft; Cy Ching, whose faith in "good faith" did so much to create that very good faith—itself the healing bond that makes for lasting settlements; and another man, Donald Scott Crawford,

not so well known but a professional who in his lifetime exemplified the best of your chosen profession.

Scotty Crawford had the stuff from which great arbitrators are made: a keenly critical mind, much patience with human frailty, and a deep feeling for the human condition, both in its magnificence and absurdity. He also had in special richness those qualities that raise one above the crowd: a tenderness toward others born of a real, never feigned, interest; an abiding hunger for justice; a quizzical humor that bubbled quietly, roaring to the surface sometimes in deep laughter. Along with so very many of you in this room tonight, I was proud to call Scotty my friend.

I make no apologies for this rather personal eulogy. It is important to all of us that we be reminded that there are standards of excellence to be achieved, sustained, protected, and—yes—extolled. But my larger purpose is to use those remarks as a springboard for comments about quarrels and controversies and the social processes by which they can be ameliorated. All of which is to say that I insist on talking tonight about my current work obsession: the special world of the university. It is a world very little understood, even by those whose lives are spent in its sheltering arms. It is a very important world by any fair test.

First, higher education is a very large and very expensive industry; nine million or so students are enrolled in some form of postsecondary education, largely in four-year colleges or universities. Its payroll is substantial. As an example, the Ohio State University is among the largest "smokeless industries" in Columbus, with an annual budget (including dorms and food service and Rose Bowl expenses) of $285 million and a payroll of over $150 million.

Second, higher education is a massive contributor to the shape of the American future. There really is such a thing as new knowledge, and the modern university creates that new knowledge with an exuberance that borders on reckless abandon. Genetics, food supply, transportation systems, the chemistry of the brain, and the chemistry of social conflict—these and all other matters of concern or interest to anyone at any time—all this is our province.

On both fronts, research and education, much hangs in balance. Research is easily corrupted. It can be subservient to estab-

lished power and/or the conventional wisdom. It lends itself to that common trait—a sure instinct for the trivial. It is not immune from the disease of self-pride and professional provincialism. But research is also our hope for human advancement, if the focus on the great problems of the age is sharp and clear.

As for education itself, it too can be corrupted. Censorship by the radical left may yet do what the McCarthyism of the 1950s failed to do, and this is to cow the independent spirit and stifle free speech. Liberal learning is easily eclipsed in a curriculum that is splintered and fragmented. Specialization invites trivialization, and an obsession with disciplinary boundaries can impose a narrowness of vision for which there is no known antidote. And yet, quality education continues to be that last best hope which university presidents insist it is.

Third, the university world is in serious trouble. It is no longer the favorite of foundations and of federal agencies—or of the American people. Overselling itself in the 1960s (let us join you in the war on poverty, in the assault on urban ills, in the solution by research of all your social and economic aches and pains), the university now underrates its importance in the scheme of things.

Exuberance has vanished, and with it much aspiration. Our scholars "hunker down" against the storm and hope for safe sanctuary in the growing legions of the tenured faculty. Inflation is our cruel master; neither our bargains individually arrived at nor those bargains collectively arrived at protect faculty or the university from a special kind of cost-price squeeze. We are a cottage industry, denied the unit cost efficiencies that accompany the industrial production process. We are also an industry that, like the railroads, faces a declining market; only a few years ahead, in the early 1980s, we can expect substantially fewer students along with constant or increasing cost in overhead. Our own versions of "full-crew" provisions are already in the making. And like the railroads which we reluctantly emulate (little R&D investment, addiction to customary routines, inadequate sensitivity to consumer needs, and general unawareness of growing competition from other delivery systems such as the corporations and the proprietary schools), we face growing resistance as we try to pass increased costs on to the consumer.

Fourth, the university world now serves as a test case in big systems management. We stumbled into this role quite by accident, but there we are, like it or not. I do not mean big systems management in the conventional sense. We quite understand the symmetrical logic of the organization chart. We are fully capable of using the computer when an adding machine would do better. We do understand that as even every cowboy has horse and saddle, each deputy must have an assistant deputy and each floor must have its water cooler and its Xerox machine. No, I mean the larger, infinitely important issue of how to match efficiency and freedom.

But this also puts the issues much too simply. In an earlier age, each college and university stood alone and apart, and James Russell Lowell could talk of a land whose colleges "glowed like campfires in the night," each with its sense of individual identity and purpose. Today our "campfires" of learning are rapidly being joined into giant regulated public utilities which smother diversity and press inexorably toward the imagined efficiencies of systems management. The architects of the new bureaucracy come dangerously close to reenacting errors that industry long ago abandoned. In recent reports, including the report of the National Commission on Postsecondary Education, there is the strong hint of Frederick Taylor's "one best way" of handling a mechanical factory operation. The intellectual process is now to be brought to heel. The implicit assumption is that meaningful standard cost data can be assembled. It is an assumption breathtaking in its excess simplicity. We are told that a unit of instruction, whether for political science or poultry management, should cost the same. All this is done in the name of accountability; all this is done, really, in service of the tyrant-bureaucrats who desire to tidy up a universe that resists easy policing. Something very precious is about to be lost—unless the university can recapture a larger share in the control of its own destiny.

The world of academe as we have known it is on a collision course with political reality. The impulse toward centralized control by state agencies (I speak primarily of the state-supported universities) makes all of us—faculty and administrators alike—an endangered species. In an earlier age, unwritten custom controlled. It was assumed without question that classes would be met, that colleagues would "cover" for one another in the event

of absence from campus or illness. We lived by codes of conduct so well understood as to hardly require expression in rule and policy. Informality in all things was the order of the day. Personnel records were, as often as not, on three by five cards in the office of the academic vice president. There were no sick leave records because there was no sick leave, no paid holidays because faculty were not employees in the sense that they worked a 40-hour week and kept time cards to prove it.

All this is vanishing with extraordinary rapidity under the impact of multiple onslaughts, chiefly from state and federal sources. State civil service systems now often include faculty in their sticky embrace. In matters both large and small we move from custom to prescription, from unspoken understandings to increasingly minute regulation. State coordinating agencies regulate the inner life of the university in ever more detailed fashion. Control over program offerings is increasingly vested in state agencies, which exercise the power of the purse in ways that diminish campus discretion to an astonishing degree.

But it is the requirement of affirmative action programs that contributes the most to the vanishing of the old order. The National Labor Relations Act ushered in a new era of industrial relations and an ever-growing corpus of industrial jurisprudence. And I take it that the end is not yet in sight. Similarly, the Civil Rights Act and the equal-pay legislation are now ushering in an entirely new system of personnel practices for our colleges and universities. Just as the obligation to "bargain collectively" and bargain "in good faith" had far-reaching implications that no one could possibly foresee, so the legislation requiring affirmative action by colleges and universities is beginnning to force drastic change upon higher education. And the end is nowhere in sight.

Some things are already painfully evident. The "old boy" system, whereby vacancies in faculty positions were filled on the basis of personal choice and preference, is outlawed. A good-faith search for women and minorities is required, whether for provosts or police officers, librarians or language instructors.

The parallel with the obligation to bargain collectively is compelling. Nothing in the NLRB statute, as I recall, forces any particular agreement as such. Similarly, with respect to employment of women and minorities, there is no compulsion that for any

particular job a minority person be hired. There is simply the question, relentlessly pursued: What evidence is there that you have made a complete search, a genuine effort? Let us see your records.

Records? But in the past there were no records. Now there must be. The shape of the future is written in a "consent agreement" of sorts recently signed, after a protracted controversy, by HEW and the University of California. Briefly, the university agrees to "plan for a plan" of affirmative action. In 50 pages of prose that would delight the Kafka specialist, HEW imposes a crown of thorns upon the University of California.

Salvation is through unbelievably extensive record-keeping. Records must be kept on all applicants, on all persons employed, on all persons discharged. Records must even be kept on applicants who, in the euphemism of HEW, are "deselected." If all this is honest effort in the pursuit of long-delayed social justice, and I believe that it is, it is also the flowering of a great bureaucracy. Perhaps E. B. White had universities in mind when he wrote, "I predict a bright future for complexity."

I think it is fair to say that the typical president, dean, and chairman has not the foggiest notion of the immensity of change that these first-step federal agency (and court) interventions portend. It is not that we deplore the thrust toward genuine equality of opportunity. It is simply that most of us wish to achieve the millenium slowly, quietly, unobtrusively—maybe in someone else's tomorrow.

It won't happen that way. Most presidents are bush-league Tom Girdlers. We bristle with condemnations of the 20th century. We speak of "management prerogative" with much the passion and the folly that Tom Girdler once brought to his problem. Graduate students organize to bargain, and we are deeply offended by their ingratitude. The students who wash dishes in the cafeteria form a union, and we trumpet with righteous indignation. Faculty mutter about collective bargaining, and most of us move from panic to outright hostility in 30 seconds flat. In the meantime, there are problems to be faced, and presidents are expected to do just that.

Much is made of the trend toward collective bargaining in university affairs. Informed opinions are in violent contradiction. In

one view, the end of all that we know, love, cherish is at hand. Bargained agreements symbolize the final triumph of enforced mediocrity. In the other view, the university is simply a slow learner, a latecomer to beneficent reality: namely, the agreement collectively bargained.

I come now to the crunch. The gospel faith of your fraternity instructs me in the obvious: Collectively bargained agreements are good things. Your profession tells me so. But my academic faith marches to the beat of a different drummer. In the world of intellectual achievement, we beg that the university be preserved as a redoubt forever safe for individual achievement. Granted that our instruments for the measurement of talent are indeed frail; still, it must be said, merit is an individual matter, and its measure is best taken by one's peers. No academic teamsters-type admissible, thank you!

Those who believe that collective bargaining in universities is an idea whose time has come readily concede that the industrial model of collective bargaining cannot be applied uncritically to the university. However, the devotees of collective bargaining in universities insist that the best of both worlds is ours for the taking. It is entirely feasible, they assert, to observe the collegial principle of shared authority (with faculty serving both as employees and policy-makers) while entering into a direct, explicit labor-management adversary relationship. What innocence! Can anyone believe that the fragility of the collegial and consultative process will survive the fallout from the adversarial process?

It is easy to ridicule university governance, and always fashionable to do so. Ambiguity, confusion—even absurdity—abound. The typical faculty senate meeting has an intensity in inverse proportion to the importance of the issues; Abbott-and-Costello-type confusion is commonly endured and occasionally enjoyed. Student elections attract about the same share of the vote as in a Central American republic, and often with about as much result. "The faculty" and "the administration" frequently glare at one another across the barricade of stereotypes that each has built of the other. And finally, it is practically impossible to find who is actually *the person responsible* for any single policy or decision or failure.

On one score our critics are right. Ours is a very messy system, and it defies description by those who like to have organizational

life depicted in simplistic terms. But university governance works. It is cumbersome, awkward, time consuming, and disappointing in short-term results. And yet, on matters that most matter, it works amazingly well.

In the great art of venting life's hostilities in ways that are largely harmless (because localized), the university has few equals. In placing great reliance on consultation, the university eventually earns the consent (grudging) of the governed. In acknowledging the legitimacy of the local interests of the various fiefdoms (law, medicine, sports, alumni, and so forth), the university somehow manages to build enough support (always just barely) to maintain the minimum necessary cohesion and purpose. By processes so instinctive as to defy analysis, the university lurches uncertainly toward the millenium, trailing clouds of discontent along the path of real achievement.

And so one wonders: Is the corporate model really appropriate for mimicry by universities? Or is it just possible that the contemporary university—reluctant foot in the past and reluctant eye on the future, clumsily evolving (simultaneously) program and structure and goals—is the model for industry? Just possibly there may be efficiencies in freedom, efficiencies not found either in the cosy confines of civil service or the troubled cosmos of collective bargaining. If so, it will not be the first time that either/or formulations have betrayed us and that novel approaches to familiar problems have saved us.

But enough on my self-assigned topic—the "smothering of quarrels." As one of your colleagues said, "At this 'point in time,' your tired audience will think you spoke of the 'mothering of squirrels'—and wonder why."