

CHAPTER 3

MINISTRY OF RECONCILIATION: A HIGH AND INDISPENSABLE CALLING

RICHARD F. SCHUBERT*

It is standard operating procedure at each of the luncheons of the annual meeting of the Academy for the speaker to open up with evidences of pleasure at the occasion, then proceed to dazzle the audience with well-chosen wit and humor, and finally impart some weighty wisdom of readily perceived worth. It goes without saying that S.O.P. is not possible this afternoon. Even as I am honored at the invitation, my heart groans, with yours, at the proximate cause. Under the circumstances, wit and humor, or even any attempt at a facsimile thereof, seem highly inappropriate. And now that I've officially left public life, even wisdom seems hard to come by.

And so I have decided, with considerable trepidation, to simply share some thoughts with you, my greatly esteemed friends in and guests of the Academy. They may not be really profound, but, if sincerity counts for anything, they are very deeply and personally held. They are thoughts that in the final analysis relate not as much to the "stuff" of which labor and management is made, but rather to the quality of life that we as individuals create, wherever we are, by the force of our individual personalities and contributions.

Several times over the last few months, when for a few fleeting moments I seemed to have been perceived in the unlikely role of elder statesman, I have been asked by friends in the labor-management community where we are going, particularly vis-à-vis government regulation in the marketplace and the workplace. Almost unequivocally, my response has been that growth in the government regulatory process is inevitable and, moreover, that such growth necessarily will impact in a significant way on the institution of free collective bargaining.

* Assistant Vice President, Bethlehem Steel Corp., Bethlehem, Pa.

Growth in the governmental regulatory process seems inevitable primarily because it appears certain that there will be continuing scarcities of commodities, goods, and services that are sensitive to already powerful or rapidly emerging interest groups. Indeed, we seem to be reaching a point, both in our internal development here in the United States and in the development of the world, where the margin for waste and error is being sharply reduced and in which slack is being steadily pulled out of the world's system. In a recent article, Alvin Toffler, author of *Future Shock*, emphasizes the great difference between our economic problems today and those that troubled the era of the Great Depression. Concerned with overproduction, the economists and politicians of the depression era needed to pump purchasing power into the hands of the people in order to increase demand. Today, contrasts Toffler, quoting *New York Times* economic writer Leonard Silk, "the crisis stems not from a deficiency of demand but of supply—the most dramatic manifestations of which have been shortages of food, oil and energy. Clearly the relationship between people and resources has drastically changed on a planet whose population has more than doubled since 1929."

There has been a phenomenon concurrent with, or perhaps even part of, the reason for the feeling, if not the reality, of scarcity. I'm referring to the development of impatient groups of individuals who believe that there is great value in collectivizing their strength into a special interest body with perceivable and often loudly proclaimed "group rights."

Daniel Bell, Harvard sociologist and writer, sees this development as a forerunner of what he calls a communal society. Such a society is characterized, says Bell, "by emphasis on 'group rights.'" Increasingly, as he puts it, "social claims on the community are made on the basis of membership in a group" rather than individually. This, he points out, "leads to a situation of conflict in which there are no unambiguous grounds for adjudication." He concludes that "in the coming years the demand for group rights will widen in society because social life is increasingly organized on a group basis," and he notes the need to work out "philosophical legitimations and political mechanisms to adjudicate these claims."

Legislators, I would suggest, have become increasingly vulnerable to such group interests and pressures. Indeed, it can be

argued that the erosion of the seniority system, particularly in the House of Representatives, will result in an unanticipated side effect of further insecurity for legislators, and consequently a greater intensity of concern about special-interest groups and legislation providing for their care and feeding.

Interestingly enough, when legislators try to respond affirmatively to the demands of a pressure group, the result is not necessarily a clear, definitive legislative mandate. In fact, the more likely result is a rather abstruse, somewhat hortatory directive to some regulatory body, with the implicit admonition that if the rights are not "sliced" in precisely the "right," albeit undefined, fashion, oversight hearings will surely follow.

One need not look beyond the confines of the Labor Department to illustrate that phenomenon. It was in 1973 that congressional staff almost literally slipped into the Vocational Rehabilitation Act of 1973 some oblique language directing the Labor Department to require government contractors to develop "affirmative action" programs for handicapped persons. This was done without benefit of legislative hearings and without definitional assistance of any consequence to administrators concerning either the meaning of the word "handicapped" or the content to be poured into the term "affirmative action." Even in the now-famous pension legislation, ERISA, as it is affectionately pronounced by Assistant Secretary Fasser, the Congress left a great deal of hard decision-making to the executive branch simply because they could not come to grips with and resolve some of the knottier issues.

The result of such implicit delegation of legislative power to the executive branch is almost predictable, I think, for two reasons. The first is the increasing difficulty experienced by the executive branch generally in attracting broad-gauge talent into top-level, so-called political, but more appropriately labeled executive, positions.

After all is said and done, government attracts only five or six kinds of people: young people, without significant experience or reputation, who are seeking a name and career for themselves and for whom there are not significant risks in a fling along the Potomac; political hacks or "has beens"; those looking for a sinecure; those seeking power; and good people with a track record who are looking for an opportunity, or feel compelled to take an

opportunity, to make a contribution. At 1969 salaries, the sacrifices attendant to the fifth group are becoming more and more overwhelming. The personal price one has to pay for making a contribution has simply become too high.

And the jobs in the executive branch do not get any easier. One needs only to look at the Labor Department since 1970 to see the remarkable growth and, necessarily, the accompanying complexity which greets the administrator. Long hours are not a myth, nor do they generally reflect incompetence, but rather an almost impossible burden of decision-making. The interrelationships of the problems faced are anguishing. As I have said on many occasions, it's like pushing in one side of a balloon. The physical properties of the structure are such that the pressure must come out in at least one other place.

There is a second reason for saying that the results of excessive delegation of legislative power to the executive branch are predictable. In fact, executive-branch bureaucrats are almost universally committed to the notion that a statute should be construed as broadly as possible for the benefit of the named beneficiaries. This is done with the underlying assumption that if the construction gets "out of hand," the courts will tend to cut it back.

The problem with that approach, of course, is that the courts are not really equipped to deal with the systematic questions that arise out of that kind of quasilegislative action. Indeed, in recognition of their limitations, and by disposition, most appellate courts are intent on a narrow, ad hoc, case-by-case approach to the development of the law. Hence, the relief provided is fragmentary and not really comprehensive.

The combination of all of this—scarcity, pressure groups and the emergence of group rights, incomplete legislation, and inadequate administration—means, more often than not, that the unintended or latent consequences of social-reform legislation become more powerful than the intended or patent consequences.

Pat Moynihan, graduate cum laude of the Department of Labor, former presidential counselor, ambassador, and well-known phrase-maker, put it this way: "Altogether too frequently it will be found that the actual results of a program are not at all what was hoped for or promised. More dams may not produce

more flood control; more price support may not produce more prosperous family farms. Still more frequently it will be found that the desired results of a given program in the area to which it is directed produce quite undesirable results in another area that was either presumed not to be related, or was not thought to be related in any significant way."

Ambassador Moynihan mentioned farm price supports. For just a moment, let us examine the relationship between our 40-year-old farm-price-support policy and certain problems that have caused acute concern to our society generally, and which have called forth a number of Department of Labor and other federal program responses.

Between 1940 and 1970, the total farm population of the United States dropped from 30.5 million to 10.3 million, and agricultural workers declined from 20 percent of the labor force to 12 percent. One by-product was an enormous migration of unskilled people into our urban areas. In fact, the migration ranks in size and effect with the great movements of peoples during early European history. But these twentieth-century migrants were not Visigoths, or Ostrogoths, or Longobardi; these were Americans. And this is not simply a matter of ancient history, but something that continues. In fact, the most recent data indicate farm workers now make up only 3.5 percent of the labor force.

Now, why did this migration start taking place? Did 20 million people suddenly become unhappy with life down on the farm? Did all of them become fed up at the same time with being the only Americans who still heeded Benjamin Franklin's advice of "early to bed and early to rise"? Of course not. The movement took place primarily because of a federal policy: the policy of supporting the price of agricultural commodities. Various subsidy programs greatly stimulated the substitution of capital for labor. And since the subsidy program was based on real estate and produce rather than on people, the larger farms naturally secured the bulk of the federal money.

By employing more capital, such farms became ever more efficient producers while, relatively, the efficiency of the smaller farms steadily declined. Farming became a highly technical business, and the semiliterate farm owner or farm laborer found himself being plowed under by the machinery of the agricultural corporation and the knowledge of the agriculture-school specialist.

In other words, a government policy that meant well triggered a vast migration that began in 10,000 country bus terminals and ended in the slums of a handful of major cities. Not only has this caused severe problems in the central cities to which so many of these displaced rural people moved, but it has had an equally profound effect on the economy and quality of life in the thousands of communities they came from.

Consider this almost poetical description by South Dakota Farmers Union President Ben H. Radliffe, in hearings before the Senate Subcommittee on Antitrust and Monopoly:

"You can drive almost anywhere in the rural areas and see the results of our failure to weigh the social consequences in determining our economic objectives: the weathered, abandoned farm house, a curtain flapping through a broken window, the soaped-up plate glass of the store front with the 'closed' sign taped to the door, and weeds standing tall around the vacant service station, the growing ratio of older people on our main streets. . . ."

And so it goes—example after example. A policy is designed on a partial basis to meet perceived problem X, only to spawn a host of unforeseen and unanticipated problems A, B, M, and W. We spray a field to kill weeds or a particular harmful insect. In instance after instance, the results are that both good and bad organisms are wiped out. We plow the sides of roads to keep down the weeds, and create conditions that foster the growth of even more objectionable plants. We build jetties to slow beach erosion, and the whole area gets washed away.

On the human side, we pass welfare laws with a man-in-the-house provision to hold down the welfare rolls, and instead we destroy families and increase welfare costs. We pass well-intentioned laws to protect groups such as migrant workers, but without adequate resources to effectively administer those standards; thus, not only do we fail to protect, but worse, we weaken the respect for law. We attempt to keep young people in school, but, at the same time, we increase incentives for dropping out of school by emphasizing greater employment opportunities and providing higher wage requirements.

Dr. Constantinos Doxiadis, perhaps the most creative city planner in the world, summed it up this way: "We can never solve problems—unless we conceive the whole. We cannot build a cathedral by carving stones, but only by dreaming of it, conceiving of it as a whole."

I would like to believe that there will be sufficient “whole” men and women able to grasp the whole of our problems—people who are capable of building cathedrals—but I fear, for all of the reasons I have cited, that the realities run the other way. And so we have a picture of increasing scarcity, emerging interest groups through their self-created group rights claiming the limited resources, with an incomplete legislative and administrative response—and fewer Solomons to rationalize the pieces into viable, comprehensive entities.

If I am even partially correct, there is no way that all of this can take place without a considerable impact on the fabric of an institution like free collective bargaining. Indeed, I’m sure that I don’t even have to spend the time to support the thesis because the past serves as prologue. We have only to look at occupational safety and health and equal employment opportunity to see and sense the growing and pervading impact of the government-ordained regulatory process.

It is inevitable that the professionals of the Academy, as well as the labor-management professionals, like many guests of the Academy today for whom the members toil, will be called upon to utilize their resource of reconciliation in countless instances of conflicting and unintended consequences arising in the panoply of employee protection and employee rights. Responding to such challenge is nothing more or less than being a complete professional in one’s chosen vocational pursuit, and I have no doubt that you will fill the void. In fact, I’m confident that you will reconcile the competing demands and ameliorate the impact of the unintended consequences in the labor-management field as much as that is possible.

The challenge I would leave you today, however, goes beyond the realm of the ordinary course of your business. For, indeed, if the best minds in the private sector do not feel compelled to go beyond “their immediate thing,” then the very fabric of our society is in grave danger of being torn asunder from the ever-increasing and competing pressures of group or communal rights. I guess what I am trying to say is that your professional qualities—your ministry of reconciliation—are sorely needed in the broader realm of citizenship if we are going to preserve any degree of tranquility in this disputatious age.

On a day like today, when we are forced to reflect on our own lives, even as we have reflected on David Miller's life, we cannot help but ask the question: What's it all about?

I have come to know Dave only through the remarks that have been made by many of you in his memory. But the impression created is strong. Dave has not been judged by his peers on the basis of the number, size, or remuneration of his clientele, but rather, as Harry Platt said, on the quality of his life. "He gave of himself," said Lew Gill, "to his work, his friends and to the Academy in a way I wish I could and which very few ever do." He was, as Ben Aaron has expressed in the *Chronicle*, a truly rare spirit who inspired not only respect but also deep affection among all those who knew him well.

And so we ask quietly, introspectively: What's it all about, for us? What is our obligation to that small world in which we live and breathe and have our being—the world at the end of our fingertips? Are we not responsible for that world and for being agents of change, conflict resolution, and reconciliation, between troublesome, difficult, albeit legitimate, group and individual rights and priorities? Are we not compelled to recognize that there is a vast vineyard in which we can work our ministry of reconciliation?

There are in each of our communities the conflicts between those who have access to scarce commodities and those who have not, and the tensions within the have-not group, and the disputes between youths and graybeards—all of which will be heightened as our demographic picture changes. Moving down the abstraction ladder, there are the conflicts over school busing, law and order, private property and human dignity, centralization of government and local power-sharing, and so on.

There is no question but that the decision to plunge into the controversies that surround one's life may quicken the pace of that life and, indeed, pull one into troubled, uncertain, turbulent waters. Such an experience, frankly, can affect the quietude and maybe even the duration of life, but it can only enhance the quality. And so the call goes out to each of you not only to demonstrate excellence in your professional pursuit, but to be a total practitioner of reconciliation in the entire social fabric at your fingertips. Indeed, our society can survive with nothing less.