

Legislation vs. Movement

In my view, every significant piece of labor or civil rights legislation in this country has come about because of long-term social strife and conflict. And while at first glance, the moving party, that is, the challenger to the status quo, seems to be the beneficiary of such legislation, in fact it is the historically conservative and entrenched economic and political establishment itself which benefits the most. This is because the legislation slows down the pace of change and gives government-authorized bodies the tools to manage and control it. Furthermore, the entrenched interests historically opposed to change have the financial power to influence the day-to-day government decisions interpreting and implementing the legislation.

I believe this opening statement is as true for the farmworker movement in the 1970's as it was for the civil rights movement in the 1960's.

One may argue that legislation allows for change, but in easier-to-digest incremental amounts, so that society might adjust more easily to the desired outcome. In other words, legislative change is society's answer to revolution. This may well be the case, but it comes at a great price, paid over many generations by those who need social justice.

But the promise that social legislation lifts up the disenfranchised and the underclass in society is rarely realized, even though it is widely held to be the best remedy for such injustice. In fact, such legislation serves as a drag on the momentum of those who seek social change. As an example, just consider the astronomical financial costs imposed on both advocates and adversaries in pursuing the protections afforded them by the Agricultural Labor Relations Act. In the case of farmworkers and growers, who can better afford to pay for these protections? Which group has the financial staying power to impose its will?

One of the inevitable side effects of social change legislation, with its attendant legal processes, is to dampen the ardor of the movement and allow for the release of its pent-up energy through a series of government-supervised, calculated procedures. Those who one day were breaking down the barricades that protected the injustice of the status quo are the next day trying to cope with new government rules and regulations, which they neither

understand nor agree with. The movement leaders, who once could act with impunity because of the absence of law, now must compromise their militancy because, as responsible citizens, they are expected to respect and accept the new law. And while this new change-legislation never makes a complete return to the status quo that existed prior to the movement demanding change, it is close enough so as not to cause too much discomfort to the old business-as-usual policies.

The Agricultural Labor Relations Act is a case in point. Prior to the passage of the ALRA, the farmworkers union in the early 1970's counted a dues-paying membership of more than 80,000 members. In the summer of 1975, after the passage of the ARLA, more than 40,000 farmworkers voted in secret ballot elections supervised by the state of California. The vast majority of those voting selected the United Farm Workers union to represent them, but during the ensuing 27 years, the union's membership never again reached 20,000 members. In fact, some large agribusiness employers have been meeting one day a year, now 25 years and counting, with the United Farm Workers in order to fulfill the letter of the legislation, which seeks to provide for the "collective-bargaining rights" of their agricultural employees.

It must be said that these observations and conclusions are mine and mine alone, but it is also true that I learned many of these concepts from my ten-year association with Cesar Chavez. On the record, Cesar was always in favor of legislation; e.g., including farmworkers in the National Labor Relations Act. He was especially vocal in his support of such legislation when the growers were publicly opposed to it. The same was true for secret ballot elections. Off the record, Cesar was opposed to any legislation, including secret ballot elections. He knew that government could not bring the growers to recognize and bargain with the union, because only the power of the union, developed through the guerilla warfare of its strikes and boycotts, could accomplish this.

And yet in the spring of 1975, in the governor's conference room filled with grower lobbyists, attorneys, state senators, and union representatives, I heard Cesar's voice on the speakerphone agreeing to legislation. Of course, I knew in advance what his position would be, but when I heard his voice, I held my breath because I felt he should be opposed. But he wasn't.

What caused him during those intervening years to change his mind? The loss of the grape contracts, a flagging boycott, the Teamster invasion, pressure from the AFL-CIO, a simpatico governor, the only alternative left – since legislation is inevitable, cut the best deal you can under the most favorable circumstances – these are all questions for which I have no answers.

Was the passage of the ALRA the end of Cesar's momentum? In retrospect, with 25 years of hindsight, I lean toward the conclusion that it was the beginning of the end. Did it have to be? I suppose not, but once Cesar agreed to what he believed was a level playing field tilted toward unionization, it was too late for him to recover when, in less than a year after the passage of the ALRA, the state's largest industry was able to tilt the field back to more than level.

For the sake of movements yet to be born, I hope history will explain the critical factors that led Cesar, against his better judgment, I believe, to accept legislation.