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May 18, 1971

Mr. Victor Riesel
Publishers-Hall Syndicate
30 East 42nd Street
New York, New York 10017

Dear Victor:

The enclosed article is submitted for your guest column series and per your letter of April 14. Please call me if you have questions.

With warm regards.

Sincerely,

Arthur A. Fletcher
Assistant Secretary of Labor

Enclosure

VJLincoln -- 5/18/71

ARTICLE FOR VICTOR RIESEL'S COLUMN

The Philadelphia Plan is my baby and was issued under my direction by the Department of Labor in June, 1969. The purpose of the Plan is to create employment opportunities within the five county Philadelphia area for minorities in six designated construction trades.

Contrasted with a thirty percent minority representation in the construction industry in this area, generally, the evidence adduced at a public hearing indicated that the minority participation in the designated trades was approximately one percent. I leave it to you to decide whether this was a chance occurence of the result of racial discrimination and a calculated policy of exclusion.

Numerical goals was the method decided upon to open up these trades to minorities. This created an immediate furor because anyone looking at the Plan could see that the Administration was serious about its commitment to end employment discrimination.

This signalled an abrupt departure from prior policies. Up to the time the Philadelphia Plan was issued "affirmative action" had never been defined and equal employment opportunity

programs were run on a voluntary basis. With few exceptions, the Federal Government had not sought firm commitments from employers and had almost solely relied upon the beneficence of those regulated.

A number of ploys were used to change the direction of this new policy. The Comptroller General was requested to opine whether the Plan violated Title VII of the Civil Rights Act of 1964, and an opinion finding a violation of that statute was issued.

This was quickly countered by an opinion of the Attorney General holding that the Plan was valid and binding. Since the Comptroller General is a Congressional agency, these two contrary views created a classical confrontation between the executive and legislative branches. The immediate result was a standoff.

The forces opposed to the Plan were not happy with any impasse that might allow the Plan to continue. In a carefully timed maneuver, a rider was attached in the Senate to an appropriation bill that would have effectively killed the Plan. The bill passed the Senate but was defeated in the House even though it had strong White House backing.

Voting on the bill produced some strange bedfellows. Organized labor was aligned with southern and other

conservative elements. Civil rights advocates sided with mainstream Republicans.

The alliance between labor and minority groups was broken at least momentarily. Blacks had come of age. The issue was fundamental and they did not need their liberal mouth pieces to define the issue for them.

Besides driving a wedge between some of the most solid elements of the Democratic Party, blocking the defeat of the Philadelphia Plan was one of the successful forays that the Administration has had on Capitol Hill.

Having failed in an attempt to mount a successful campaign in the halls of Congress, the next line of attack was a suit brought by a group of contractors in the Federal District Court in Philadelphia. An application for a preliminary injunction was denied and on the merits of the case the judge ruled, as did the Attorney General, that the Plan was valid.

An appeal was filed by the plantiffs with the Circuit Court of Appeals. In a landmark decision, the court again held the Plan valid. Furthermore, it pointed out that the executive branch had a right to establish conditions under which persons do business with the Federal Government.

Doing Federal construction work is no different than selling hardware to the Department of Defense. The agency can specify how the item is to be made and, if you want to get the contract, you must bring your plant in line with the specifications.

The minority community is a ready source of neglected and unused manpower. The Court was not unaware of the fact that from an economic point of view the Federal Government had a substantial interest in having a labor pool available to build Federal projects on schedule and within reasonable cost restraints.

Moreover, morally the Administration has a responsibility to see that Federal dollars are equally available to all segments of the population. This is a matter of fair play, if not a Constitutional requirement.

Is the Philadelphia Plan a union busting device? No. The present problem has been created by the failure of a number of construction unions to represent minority workers or to allow them to join locals.

The answer for the unions is to organize this labor supply, let minorities in and allow them to participate.

More Philadelphia-type Plans are an alternative. Other alternatives are to have all black unions or to encourage black contractors to do more and more Federal construction work. These black contractors are largely non-unions simply because the locals will not accept their employees as members.

As the proposed reform of the Welfare System points up, work ceases to be a right but is a necessity. It is a necessity to obtain food, clothing and shelter. But more importantly it is a requisite to maintaining self-respect and identity.

What is at stake in the Philadelphia Plan is the self respect of a significant segment of this nation. And along with self respect hanging in the balance is the credibility of the Federal Government.

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