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ODYSSEY: FROM ABORTION TO SUSTAINABILITY

RICHARD D. LAMM*

I came back from a trip to India in the mid-1960s believing passionately that the world was at war with its own fertility. There is something compelling about spending time in a country like India, which is geographically smaller than the United States, but has four times as many people. It made me question for the first time what America's demographic future was going to be, and whether it was amenable to public policy. Was demography destiny or a public policy choice? America was then, and still is, the fastest growing developed country in the world, and I started to ask whether this was an asset or a liability.

Public policy can be thought of as the constant redefinition of the unacceptable. Public policy is often born when what has been accepted (as status quo or misfortune) is seen as an amenable injustice. Much public policy is finally deciding that a factor previously "given" is unacceptable and can, after all, be changed through human action. Yesterday's inevitabilities become today's public policy choices.

At one time, people thought whether they lived or died was "God's will." My grandmother was old at fifty and said God "blessed" her with nine children. Slowly, humankind learned that to a great extent health can be improved by public policy. Similarly, the number of children a woman had was thought to be beyond human control, but an impressive number of women (and men) pioneers showed the world that women can have control over their fertility. Must not the countries of the world soon decide that public policy can, through laws on women's rights, birth control, abortion, and immigration have a large impact of their demographic future? Has the future demography of a country become a new issue to be discussed and subject to public policy influence?

It seemed to me at the time, and more strongly now, that the world needs a whole new concept of thinking about population growth,

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sustainability, and fertility. This, of course, goes against some of our most atavistic human feelings. But that notwithstanding, humankind has to recognize that the pro-natalistic policies are obsolete. The "multiply and replenish the earth" culture needed for a harsh world where human survival was in doubt has become obsolete.

I began to ask: Why would a nation in the late 20th Century want to double its size? Are additional people really a national asset? How could the world sustain a doubling in size and then another doubling? Believing, ultimately, that the world must stabilize its population and that sooner was better than later, I embarked on a whole new odyssey that would deeply impact my life and career.¹

In 1966, I was elected to the Colorado State Legislature. Public policy is a front row seat on how new pressures change old laws and morés, and how the "felt necessities" of a given time grow, develop and cause change. The public changes its mind slowly, one step at a time. I have been lucky enough to have a front row seat on this process for the last 35 years, and the University of Denver College of Law has played an important role in my odyssey.

When I was in college, there were parts of the United States where married couples' use of birth control was illegal; i.e., *Griswold vs. Connecticut*.² There was a feeling of revulsion in Connecticut, Massachusetts, and other states that law would intrude into the private lives of people, especially married people. Clearly, here was a law that was a hangover from our pro-natalistic and puritan past, and one which attempted to impose a particular religious view on the general public. In the first case to find privacy rights, the U.S. Supreme Court struck down Connecticut's anti-birth control law as unconstitutional.³

When I took office in the Colorado Legislature in 1967, I was approached by a group of women who principally represented the nascent and emerging women's rights movement. There were others in the group who did not know what the "women's rights" movement was, but saw abortion as a public health problem which was not being handled correctly. Most sought more control over their lives, particularly their bodies. I was reluctant to get involved in a subject so controversial, feeling it was a fool's errand for a freshman legislator; but, as I listened, I became increasingly intrigued. Perhaps the public had moved on this subject much more than was generally recognized. Was this an issue whose time had come?

1. See Richard D. Lamm, *The Reproductive Revolution*, 56 A.B.A. J. 41 (1970) (arguing that the threat of overpopulation and unrestricted growth mandates legislative and legal steps to restrict human fertility).

2. 381 U.S. 479 (1965).

3. *Id.*

At that time abortion was not only illegal, it was a taboo and a word not said in polite company. While most religions accepted abortion in some circumstances, principally to save the life of the mother or to save her from great bodily harm, few people discussed the issue publicly and very few legal abortions were done in the United States prior to 1967. On the other hand, some estimates put the number of illegal abortions at one million.⁴

I cautiously started sounding out to other legislators, and kept getting encouragement. At this point, I needed a sample bill to show my colleagues. Shortly before that time, I was the President of the Denver Young Democrats. Susan Barnes had been an officer in the organization and was now enrolled in University of Denver's College of Law. I called her, and serendipitously she enrolled in a legislation class where she agreed to do a draft of a liberalized abortion bill as her class project. The planets were starting to align.

Public opinion on abortion had changed—changed dramatically in the 1960s. There seemed to be a number of reasons for this. One was the increasing publicity given to illegal abortion and the toll it took on the health of American women. Additionally, people were starting to argue that women from the beginning of time sought abortions no matter what the law said or what the general public thought of the practice. Many people had come to the understanding that for all practical purposes the law could not say “if”—only “where” abortions were performed. A prescient few were comparing abortion to the language in *Griswold v. Connecticut*. They asked if there were not “penumbras” of privacy where the law could not and should not intrude. A fissure was opening up between the law's demand and the public's attitude toward those demands.

However, the main underlying policy reason deep in the back of my mind was: Is there any justification to force unwilling women to have unwanted babies? Attitudes had changed, partly in response to a new awareness of women's rights and partly because a new birth was no longer seen as an automatic asset that helped to keep the community going. What public policy purpose was served in a crowded world to demand a woman carry every pregnancy to term?

I started to carefully talk to other legislators and was surprised at how receptive they were. Soon, I had an active Republican in the House, Carl Gustafson, and in the Senate, John Bermingham, who had already done so much good work carrying family planning bills. We put on a full court press quietly contacting the legislators one at a time. By the time we introduced the bill, we had a majority in both houses in favor of a bill which would have made abortion legal if the physical or mental health of

4. See CYNTHIA GORNEY, ARTICLES OF FAITH: A FRONTLINE HISTORY OF THE ABORTION WARS 23-25 (1998); Mark A. Graber, *The Ghost of Abortion Past: Pre-Roe Abortion Law in Action*, 1 VA. J. SOC. POL'Y & L. 309, 315 (1994).

the mother was at risk, if there was a substantial chance of fetal deformity, or if the pregnancy was the result of rape or incest. The bill engendered massive debate but passed both houses, and was signed into law by a courageous Governor, John Love (himself a University of Denver College of Law graduate). We were shell-shocked. A University of Denver College of Law project in this, the most controversial of areas, had become law!

I spent considerable time over the next few years helping other states shepherd change to their abortion laws. I testified in a large number of states about the "Colorado Experience," but was there as a witness mainly because I was a living example of someone who had touched political fire and survived.

Then, in 1969, I was elected to the leadership of the legislature and accepted an invitation from Dean Bob Yegge to join the faculty with a special emphasis on the student practice program. Bob Yegge's role in brilliantly responding to the student activism of the time with intelligence and understanding has not been adequately told. It was a study in how you maintain institutions in times of turmoil by strong leadership, flexibility, and by leaking off some of the pressure. Dean Yegge had (and has) that wonderful combination of vision, toughness, honesty, and flexibility so important in a law school dean.

As Director of the Student Practice program, I sued—challenging the constitutionality of the law that I myself was the chief sponsor. Many University of Denver law students volunteered to work on the brief. We argued a wide variety of constitutional objections, but our suit was made moot a year later by the U.S. Supreme Court in *Roe v. Wade*.⁵

A revolution was in progress. The political landscape was completely altered. During the late 1960s, change could not come fast enough. The women's movement, the civil rights movement, the war—we were in a period of galloping change.

In the areas of family planning and abortion, it was almost like some cosmic burden of proof had been shifted from "Why?" to "Why not?" The previously unthinkable had become the widely accepted. In a crowded world filled with poverty and disease, one which was rapidly changing the roles of women, was there any valid reason to force unwilling women to have unwanted children? Most Americans do not believe, and most religions do not teach, that a fetus is the moral equivalent to a child. The issue is still unresolved in many minds, but Colorado's experience has essentially been duplicated by countries all over the world.

5. 410 U.S. 113 (1973).

PLANNING AND POPULATION

In 1970, I was on the faculty of the University of Denver College of Law and a state legislator when I became interested in land use planning and the growth issue. With the help of some wonderful students and my very able assistant, Howard Gelt, we drafted laws which I would introduce in the legislature and wrote articles stating the case for state and local control over land use planning and legal justifications for zoning. Again, the law students played a great role, and some of them would come with me to the legislative hearings. I had begun to think not only of sprawl and poor planning, but of the whole question of state growth and development. What policies would preserve the assets of Colorado that had attracted me so powerfully when I first moved here?

I became increasingly convinced that new residents to a state or community caused an increase in state and local taxes largely because the cost of the new roads, schools, water, sewers was greater than the new taxes paid by the new residents. We were on a treadmill that would increase our taxes and decrease our quality of life.

Proving this was difficult. One of the biggest, but most satisfying, projects of my University of Denver years was our attempt to quantify the total costs of growth. We collected statistics on schools, highways, hospitals, water and storm sewer systems, recreation facilities, etc., and did one of the first studies on the costs of growth. While this will always remain an inexact science, we clearly showed that a few people profited from growth (builders, landowners, etc.), but the rest of the citizenry subsidized that profit. Growth clearly generates more demand for taxes than it creates in new taxes as subsequent studies confirm.⁶

OLYMPICS

As the only certified public accountant (CPA) in the Colorado legislature in the early 1970s, I was chair of the Legislative Audit Committee when Denver won the bid to host the 1976 Winter Olympics and turned to the state for financial assistance. Denver's bid for the 1976 Winter Olympics had the almost unanimous backing of the state's political and economic elite, and broad support from the Colorado public. As chairman of the Legislative Audit Committee, I started looking at the Denver organizers' estimates of revenue and expenses. It was less than confidence inspiring.

The Olympic Organizing Committee, under a short time line to get the bid ready for the International Olympic Committee (IOC) had, of necessity, to prepare rough estimates of the costs and benefits of the Olympics for the United States Olympic Committee and IOC. More

6. See Joe Mount, *Relieving the Debt*, 27 URB. LAW. 605, 611 (1995) (noting that economic growth creates additional demand for tax-dependent services, and arguing that growth without responsible fiscal management can result in budget deficits).

telling, the history of previous Winter Olympics was written in red ink, with host cities like Shappiro, Japan or Montreal, Canada suffering what appeared to be billion dollar deficits. Many host cities and countries found the deficit figure so large that the country hid the exact total from the public.

It soon became apparent that Denver's plan for Olympic funding made the State of Colorado the default funder for the 1976 Winter Olympics. Whatever the Denver Organizing Committee could not raise, or the Federal Government would not contribute, the State of Colorado had a moral, if not legal, obligation to fund. Where the national governments funded most previous Winter Olympics, here in Colorado we had only a population of 2.5 million to spread the cost. This small population tax base would be left responsible for any deficits, and a large deficit seemed not only possible, but probable.

In law, it is always important to understand the context of events and decisions. Today's population watches the Olympics on television and they are impressed. The Olympics are a magnificent event and, financially, the Olympic deficits have moderated due in part by the increased television Olympic revenues and the fact that the IOC has become more flexible with their demands on the facilities. But, in the 1970s, we were facing a sea of red ink.

At first, our efforts were ignored. My deputy, Howard Gelt, who was the heart and soul of the University of Denver Student Practice Program, started to get involved in my lonely battle. A young University of Denver law student, John Parr, volunteered to go with Howard Gelt to the IOC meeting in Japan to present our case against Denver's bid for the 1976 Winter Olympics. We audaciously asked the IOC to cancel Denver's award of the 1976 Winter Olympics. We raised some money from a growing concerned crowd of Coloradans who were starting to have second thoughts about this event. Howard Gelt and John Parr traveled to Japan where they did a terrific job in making the case to withdraw Denver's Olympic designation. At one point in Tokyo, the Executive Committee of the IOC made a decision to withdraw the Olympic award, but a few emergency meetings reinstated Denver's bid. Tempers were rising, the sides were hardening, and the stakes were rising. Out of this obscure office at the University of Denver College of Law, a revolution was forming.

I was visited, often in my University of Denver office, by delegations of Olympic supporters to try to persuade me to withdraw my objections and, additionally, was told that this issue would end my political career. We continued forward. More and more University of Denver students joined our efforts.

A courageous and honest newspaper editor, Michael Howard, of the *Rocky Mountain News*, though an Olympic supporter himself, had the

integrity to take an objective look at the Denver Olympics issue. He asked the type of hard questions that our small group of opponents was asking. The result was a series of articles in the *Rocky Mountain News* setting forth the organizers' mistakes and looking at the real costs of the Winter Olympics. While the *Denver Post* did puff pieces about the Olympics, Mike Howard and his reporters followed high journalistic standards and even got the Olympic organizers to admit that they "lied a bit" in getting the Olympic bid. The spotlight of publicity was starting to outline and shine on both the good and the bad.

We soon started a petition drive to amend the Colorado Constitution to prohibit any additional state funding for the Winter Olympics. Riding both the fear of cost overruns, and the new concern about growth along with the fine articles by the *Rocky Mountain News*, we fielded an army of volunteers. Soon, the proposed constitutional amendment to deny state funding was on to the ballot.

The rest is history. Buie Seawell, now a professor at University of Denver's Business School, hosted a widely watched debate on Channel 6 where I debated some of the supporters amidst a rash of continuing bad stories on the proposed sites, planning, and costs. At the same time, we argued. Why spend millions of dollars to "promote Colorado" (the main justification for our bid) when we were already among the fastest growing states in the Union? Why did we want to attract more people? To the Chamber of Commerce this was heresy, but the people of Colorado overwhelmingly voted to stop any state funding of the Olympics in November 1972. *Time Magazine* ran a picture of our victory party where our volunteers were lifting me to the ceiling of our headquarters and yelling "the next Governor of Colorado." I had never really considered it because I was so controversial—but it sounded pleasing to the ear—and I get ahead of my story.

IMMIGRATION

Ever since my visit to India, I was intrigued with the relationship between population and the law. When I was appointed to the faculty at the University of Denver College of Law in 1969, I developed and taught a course on "Population and the Law" with the great help of a brilliant law student (and now a brilliant lawyer), Howard Holme. While developing this course at University of Denver, I started to become interested in the antagonizing question of immigration. It was, after all, an inescapable part of the growth issue.

As we were developing the course, the Commission on Population Growth and the American Future (the Rockefeller Commission) reported to President Nixon:

We have looked for, and have not found, any continuing economic argument for continued population growth. The health of our country

does not depend on it, nor does the vitality of business, nor the welfare of the average person.⁷

These words made immense sense to me. To borrow the words of Professor Al Bartlett at the University of Colorado, "What U.S. problem is made better by more people?"

It soon became clear to me that immigration patterns would largely dictate the kind of America in which our children and grandchildren will inherit. It continues to be an issue with me today as I try to articulate the non-xenophobic reasons to limit immigration. I co-authored a book in 1984, *The Immigration Time Bomb*,⁸ which started to make the case against continuing high levels of immigration—but the seeds were planted in planning that course.

We are presently headed, but for immigration, for a stable U.S. population. The average American woman has 2.1 children in her lifetime—a number which would stabilize the U.S. population by the year 2040 at approximately 305 million Americans. Whether we grow to 400 million or 500 million Americans, or even a billion Americans, depends almost entirely on immigration. Today, 24.5 million people (approximately one out of every eleven people living in the United States) were born in another country. We have doubled the foreign-born population in the U.S. since 1970.⁹

What are the public policy reasons for immigration? The United States was a large and mostly empty continent for hundreds of years, but suddenly people were recognizing that we are no longer an empty continent. The days when an immigrant could take a plow to empty land and create wealth were over. We now live in a cash/wage society, where it takes massive amounts of capital to make a worker productive; and perhaps more importantly, we now had a welfare state where the government provided a safety net. Times had changed; policy and thinking about immigration had not.

I soon came to believe that mass immigration is a policy which has outlived its usefulness. Yet, past successes of various immigrant groups prevents us from fully considering whether it continues to make demographic sense. Our society must look at the long-term domestic impacts

7. See COMMISSION ON POPULATION GROWTH AND THE AMERICAN FUTURE, RESEARCH REPORTS 1, DEMOGRAPHIC AND SOCIAL ASPECTS OF POPULATION GROWTH (C. Westoff & R. Parke, Jr. eds., 1972).

8. RICHARD D. LAMM & GARY IMHOFF, *THE IMMIGRATION TIME BOMB: THE FRAGMENTING OF AMERICA* (1985); see also LEON F. BOUVIER & LINDSEY GRANT, *HOW MANY AMERICANS? POPULATION, IMMIGRATION AND THE ENVIRONMENT* (1994). For additional work by the author on population growth and sustainability, see Richard D. Lamm & Steven A.G. Davison, *The Legal Control of Population Growth and Distribution in a Quality Environment: The Land Use Alternatives*, 49 DENV. L.J. 1 (1972).

9. THE 1998 WORLD ALMANAC AND BOOK OF FACTS 382 (1997).

of immigration and answer some hard questions. It is not enough to quote some words written on the Statue of Liberty by a New York schoolgirl. We must ask: What benefits to the U.S. would be gained by additional large scale immigration?

Do we really want America to grow from our present 260 million to 400 or 500 million? Who will benefit and who will pay? Will it make America a better place to live?

In 1957, I was stationed by the U.S. Army in Colorado. The state was a paradise. Denver's air was so clean that it seemed like small diamond shavings glittered in suspension. There were approximately 1.5 million people living in Colorado. It was while developing my course on "Population and the Law" that I started to ask: What is Colorado's demographic future? What was America's demographic future?

In 1790, the first U.S. Census found 4 million Europeans living in America. The U.S. has since had six doublings of our population in our very short 200-year history (to 8, 16, 32, 64, 128, and 256 million).¹⁰ It dawned on me that just two more doublings would give us more people in the United States than they currently have in India. Why would a nation want such a scenario? To whose benefit?

The United States is no longer an empty continent that can absorb endless pools of labor. We are a society that requires tens of thousands of dollars in capital to create a job. We have large numbers of unemployed and underemployed. It is time to close down the age of immigration. It has served us well in the past. It does not make public policy sense for the future.

Today, nations and regions are increasingly looking at other aspects of growth. For the first time, they are asking questions about their demographic destiny. As an example, fear of excessive growth, crime, gangs, congestion, pollution, foreign immigrants, earthquakes, fires, and a reduced quality of life are the most frequently cited reasons for leaving California. Likewise, excessive growth is a major issue in most parts of the U.S. The Clinton Administration's muddled immigration policy is contributing to the uneasiness and changing attitudes. On his recent trip to Mexico and Central America, the President decried illegal immigration, but seemed to shrink from any major steps to deport illegal aliens or refugees overstaying their welcome.

Perhaps the most common reason given for additional population growth is the claim that it is good for the economy. At the risk of treating lightly what is a complex subject, it is important to point out the fastest growing per capita incomes are in countries with the lowest rates of population growth. Conversely, the lowest (or negative) rates of per cap-

10. *Id.* at 376-81.

ita income growth are in countries with the highest population growth.¹¹ Clearly, there is a significant difference between population growth and economic growth.

Not all members of a region (or country) experience the same economic impact from a growing population. Large landowners and those involved in real estate benefit disproportionately. The benefit to the average person is more problematic. Japan, for instance, has set a policy of increasing the per capita wealth of its existing citizens. Its public policy since World War II has been to slow population growth dramatically. The Japanese go to great lengths to eliminate low-skilled jobs by automation, and try to move the workforce into higher value-added jobs.¹² With 120 million people on an island the size of Montana, they want a high quality workforce—not an endlessly growing population. They want to train their own people. The wealth of a country has much more to do with the education level and skills of its population than the size of its population.

It has been said the hardest challenge to public policy is to change a policy that has been successful. Immigration has, in the past, been good for America. A world that has always promoted population growth is now moving to stabilize the same growth. Both, at a world and a regional level, people are thinking the unthinkable, questioning the unquestionable, and reforming the previously unalterable.

THE LOST NOTEBOOK

During my second term as Governor of Colorado (1978-1982), at my urging, the Department of Local Affairs looked at how state policy could better balance population growth in Colorado. Of Colorado's sixty-three counties, over twenty of them had a larger population in 1900 than they had in 1970. Colorado and the nation were suffering twin-related problems: urban sprawl and rural decline. Why not work on both problems at once, and try to find state policies that could revitalize rural Colorado and, at the same time, take at least some pressure off the urban areas. Setting forth policies thought to accomplish these twin goals, we issued what we unwisely called the "Human Settlement Policy."¹³ The legislature exploded in furry of protest. My administration was called on to defend its actions.

While at the University of Denver College of Law, I kept a number of notebooks on a number of different subjects, including one on this vexing question of public policy initiatives that could influence where

11. *Id.* at 737-76, 785-837.

12. See Steven C. Earl, *The Need for an American Industrial Policy*, 1993 B.Y.U. L. REV. 765, 788 (1993).

13. Neil Westergaard, *Lamm Faces Challenge of Obscurity*, DENVER POST, Jan. 12, 1987, at A1.

and how people settled. It had extensive notes justifying and supporting what we were trying to accomplish. Smugly, I went home to the Governor's Mansion to defend my administration. No notebook. None of my good quotes, none of my research showing that this was a subject a number of nations and leaders were addressing.

Being Governor is like drinking out of a fire hydrant. It can, as they say, be a twenty-four hour a day job, and it comes at you from early morning to evening. The phone is always ringing; there are always people to see. You divide the day into hundreds of small parts. No more time for quiet contemplation; it is constantly in your face—and the governor/professor was without his research. No one in my Department of Local Affairs could duplicate the work I had done on such short notice, and I did not have a minute to reconstruct the research. My "Human Settlement Policy" not only went down in flames, but it went down without an adequate defense in its behalf.

Fast forward to a week in 1986. We were preparing to move out of the Governor's Mansion after twelve years. There is a Parkinson's Law to living in a twenty-seven room mansion where "stuff accumulates to fit into the space available." There were endless hours of packing, sorting, deciding what to give to the Colorado State Historical Society when, behind a row of books, was my notebook! Oh, how useful it would have been. Belatedly, let me justify my misnamed "Human Settlement Policy."

It was all there. All the material I could have used. President Nixon in his 1970 State of the Union message supported this concept strongly. He spoke of the emptying out of rural America on the one hand, and on the other the problem of violent cities. He also thought we could alleviate both problems by trying to use government to develop rural America.

Just pouring more and more people into already overcrowded cities is not the way to build a better country...so our goal is for balanced growth in America, and a key is the program to revitalize the American countryside.¹⁴

He continued:

Where are those 100 million going? You cannot pour them into New York, into Los Angeles, into Chicago, and the rest, and choke those cities to death with smog and crimes and all the rest of what comes with overpopulation. This is one nation. and for the good of all Americans, we need one national policy of balanced growth.¹⁵

14. PRESIDENT RICHARD M. NIXON, STATE OF THE UNION ADDRESS (Jan. 22, 1970), *reprinted in relevant part in* COUNCIL ON ENVIRONMENTAL QUALITY, ENVIRONMENTAL QUALITY: FIRST ANNUAL REPORT 6 (1970).

15. *Id.*

The notebook had the citation to the 1968 Republican Party Platform language stating: "Success with urban problems in fact requires acceleration of rural development in order to stem the flow of people from the countryside to the city."¹⁶ This would have been incredibly useful.

Similarly, the 1968 Democratic Party Platform promised: "Balanced growth is essential for America...to achieve the balanced growth, we must greatly increase the growth of the rural non-farm economy."¹⁷ More grist for the mill.

The National Governor's Conference of 1968 passed a bipartisan resolution stating that "population imbalance is the core of nearly every major social problem facing the nation today," and urged policies to bring out a "more even distribution of population among states."¹⁸

Additionally, I had page after page of language which could have helped justify our efforts. Example:

Cities have been building and rural communities emptying for a long time in the United States and every other advanced country. Mechanization of agriculture released manpower from the land. Most rural countries had reached their population peaks decades before, as early as 1850 in some cases. Commonly, by the end of the century, nearly half the counties in the nation, while most all of them rural, lost population in the 1940s, and about the same number in the 1950s.¹⁹

It was all there. It was all too late. Would it have made a difference? Probably not. My generation has become much more skeptical about the ability of government policy to counter market forces, and I now know of the numerous failures in other parts of the country and world to accomplish the goal of balancing population growth. However, the difference between a spirited defense, and total defeat can be as simple as a lost notebook. The moral of this story is that you have some gold in your notebooks and on your computer. Keep it handy.

SUSTAINABILITY

No trees grow to the sky, and geometry tells us that *no* growth rate is ultimately sustainable. Sustainability is an idea whose time has come, but it will be a difficult birth. As Bronowski says in *The Ascent of Man*: "In every age, there is a new way of looking at and asserting the coher-

16. REPUBLICAN NATIONAL COMMITTEE, THE REPUBLICAN PLATFORM 1968 16 (1968).

17. See DEMOCRATIC PLATFORM OF 1968, in 1 NATIONAL PARTY PLATFORMS 1840-1972, (Donald B. Johnson & Kirk H. Porter eds., 5th ed. 1975).

18. 1968 NATIONAL GOVERNOR'S CONFERENCE, RESOLUTION 2 (1968).

19. *Id.* at 17; see also 116 CONG. REC. 31,607 (1970) (stating congressional findings in the proposed Agricultural Act of 1970 regarding population migration from rural to urban areas).

ence of the world.”²⁰ I am now trying to think of the public policy implications of such a sustainable world.

We need a whole new paradigm around which to organize our civilization. Our economic and demographic thinking is unsustainable. This renders obsolete many of our political and social institutions and much of our ethical tradition. We must ask what is the cumulative impact of how we live and what we consume. The next age of humanity will be the age of sustainability where we recognize we cannot have infinite growth in a finite world. There is an old Aztec saying: “The frog does not drink up the pond in which he lives.”

Sustainability is a new way of looking at the world. It tries to see our place in the ecological whole. It tries to recognize the cumulative impact of 6 billion people (or 3.5 million Coloradans), and the economy they produce on the natural world. I believe our current trends to be unsustainable. You cannot have an economic system that does not sustain the biosystem. You cannot have religious or ethical principles that conflict with the natural world. All human systems inevitably exist subject to the biosystem, and we need to increasingly give thought to a sustainable world economy, a sustainable population, and a sustainable Colorado.

It has been said by others that “nature bats last” and, ultimately, ecology trumps economics and the environment trumps the economy. I increasingly believe neither population growth nor economic growth is sustainable and that sustainability will eventually replace growth as an organizing paradigm. We cannot have a religious tradition, or an economy or even an ethical code that is inconsistent with the biosphere.

It is not only our ecosystem warning us that it is under stress. Our biodiversity is shrinking, our fisheries are in decline, our biotic world is in decline, our oceans are warming, our topsoil erodes, and our water tables fall. Mammals, birds, reptiles, and even our nearest relatives, the primates, are declining in numbers. These, to my mind, are not unrelated events. They go the heart of a new view of the world.

CONCLUSION

In a document entitled, “Warning to Humanity,” over half of the living Nobel laureates in the sciences added their names to a list of over 1,600 senior scientists, which stated:

We, the undersigned senior members of the world’s scientific community, hereby warn all humanity of what lies ahead. A great change in our stewardship of the earth and the life on it is required if vast

20. J. BRONOWSKI, *THE ASCENT OF MAN* 20 (1973).

human misery is to be avoided and our global home on this planet is not to be irretrievably mutilated.²¹

They went on to state: "Human beings and the natural world are on a collision course . . . that may so alter the living world that it will be unable to sustain life in the manner that we know it."²²

I reached a painful conclusion during my years at the University of Denver College of Law that our human-centered use of the earth, even our human-centered ethics, was not sustainable. I am willing to admit that I may be wrong, but at least I am in good company.

ADDENDUM: RICHARD LAMM'S NEW RULES OF PUBLIC POLICY

As a final thought to reflect upon where my personal odyssey has led, I share twelve rules of public policy. They reflect my years of legislative, executive, and academic experience.

- (1) The New Deal's social insurance was wise public policy, but it is unsustainable. It has become demographically obsolete. We must get America prepared to run a nation of 50 Floridas, with twice the percentage of elderly as in the recent past. Defending the status quo in Medicare, Social Security and Medicaid is like defending your snowman in the spring. It is just a matter of time.
- (2) The dreams of the 1960s cannot be funded with the economy of the 1990s. Being in government and having to balance a budget is like sleeping with a blanket that is too short. Needs exceed resources; projected costs exceed projected revenues.
- (3) Everything we do in public policy prevents us from doing something else. You cannot say "yes" without also saying "no" somewhere else.
- (4) Public policy is, thus, faced with a series of choices to which there is not an answer without some political sacrifice and pain. Yet, America has no tradition of making hard choices. In the future on many issues, we must choose between the unacceptable and the unpalatable. Politics faces what unions call "give-backs." It will be a time of testing for democracy.
- (5) Yesterday's solutions are often today's problems. Deficit spending, for example, has turned from an asset to a liability. My generation has accumulated more "future taxation without representation" than King George III.

21. UNION OF CONCERNED SCIENTISTS, WORLD SCIENTISTS' WARNING TO HUMANITY 1 (1993).

22. *Id.*

- (6) We cannot buy justice for today by encumbering tomorrow. Both political parties are guilty of “credit card” compassion. To be compassionate, you must pay for it yourself—not put it on your children’s credit card. We have to be concerned about being both good neighbors and good ancestors.
- (7) There are no public policy reasons for blindly transferring resources from the young to the old.
- (8) The price of compassion is restriction. If we are to provide health care to all Americans, we cannot afford to pay for every available procedure for every person, and we will be forced to set priorities. The sooner we admit that all societies ration medicine, the better will be our national health.
- (9) Immigration clearly has been shown to negatively affect our own poor. A nation has its first duty to its own poor.
- (10) U.S. public policy cannot solve its pressing problems within the existing political dialogue. America is not only *not* solving many important problems, but we are not even debating them.
- (11) The best short-term politics is often the *worst* long-term public policy. We face a time of testing—whether a democracy can downsize expectations.
- (12) The above rules cannot be accomplished within the existing political system. The Republicans do not see the value in government and the Democrats do not see the limitations. Neither can act responsibly without massive self-inflicted pain. We need either a new party, or a new political movement to save the country.

