

DAMAGED GOODS—OR DURABLE?
A RESPONSE TO TOM MCINERNEY

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Abstract: Contrary to criticisms by Thomas McInerney, *Durable Goods* proposes a realistic and empirically testable "covenantal" ethic for moving management and labor beyond tactics of mutual coercion and evasion. Nonetheless, two questions asked by McInerney remain germane. First, should the moral claims of management and labor always receive equal moral consideration, as a matter of justice? To this substantive question *Durable Goods* admittedly provides a less than satisfactory answer. Second, can the normative theory proposed by *Durable Goods*, based in part as it is on the Bible, meet the standards of cogency, coherence, and parsimony appropriate to business ethics as a field of rigorous inquiry? This methodological question remains unaddressed.

Tom McInerney closes his largely negative January, 2001, review of my *Durable Goods: A Covenantal Ethic for Management and Employees* (Notre Dame, Ind.: University of Notre Dame, 1997) with a query: "Is Christianity a useful source for articulating a business ethic?"(222) I only wish he had pursued this worthy question! *Durable Goods* proposes one answer to the vexing question of how to connect Christianity's foundational text to contemporary human practice. It develops a three-sided conversation between Biblical theology, organization theory, and labor history, in order to connect the idea of "covenant" with labor-management dynamics in the modern business corporation. Chapters 3–5 interpret God's relation with Israel in the Old Testament and the people of the New Testament from the vantage point of a generalized contingency perspective in organization theory in order to outline a basic model of covenant-building. Chapters 6–16 work through the past two hundred years of labor-management struggle in the U.S. to elaborate that model. My assumption is that if any of the three perspectives were left out, the link between Bible and contemporary business practice would be impoverished. Without the Bible, there would be no norm; without labor-management history, there would be nothing to apply it to; and without the theory, nothing to apply it with.

This triangular procedure merits critical scrutiny, which unfortunately McInerney does not provide. He begins in a promising way, by explaining the Biblical dynamics of covenanting and drawing the link with employee-management struggles

(216–217). And he scores one important criticism, which I will take up below. But his review largely ignores both my method and my results.¹ The three kinds of “flaws” he identifies and devotes the bulk of his critical comments to (217–222) seem mostly misdirected, if not based on misreadings.²

Regarding Two “Flaws” in Vocabulary and Interpretation

The first “flaw” he identifies includes errors of vocabulary. He finds my idea of covenant “imprecise,” and seems to equate it with the disposition of “lovingkindness” which the Bible attributes to God as a model of human mercifulness.³ So rendered, a covenant appears to him to be based on warm feeling. Now, why he settled upon the term “lovingkindness” is unclear. I use that term only in passing, while I devote a whole chapter to developing a precise description of covenanting: “Human relationships stray into the domain of covenant-making as the two parties encounter *durable* or *ineradicable* contingencies in each other, and seek to cope with them by making *enduring* commitments [in contrast to the finite contingencies and commitments of contracting].”⁴ This abstract definition directs attention to the basic, enduring elements in an economic relationship, rather than the mutable tangents of feeling.

When interpreting Biblical history through the lens afforded by a generalized contingency perspective, I abstract genuine cooperation as the norm and goal of functional interdependence in organizations. The theory has a dash of parsimony, in that the Biblical view assumes that genuine cooperation has to be fashioned out of the very contingencies that human actors present to each other. In essence, genuine cooperation rests upon two conditions: 1) that both sides share the goal of mutually enlarged freedom, and 2) that they exercise self-restraint in the edge of power they hold over each other.⁵ McInerney makes no reference to any of this normative theory, and as a result misses the basic argument of the book. These two conditions constitute the moral core of the covenant which has emerged, fitfully, between the two often antagonistic parties since the founding of the Republic. Tracing this struggle through chapters which alternate history and theoretical reflection, I assert both that such covenanting has happened, as a matter of historical fact, and that it ought to happen, as a matter of prescription.⁶ It would have been useful to have both sides of this argument appraised.

A second “flaw” he identifies concerns “dubious assumptions and methodologies,” beginning with my use of the Bible. He suggests I read God too anthropomorphically—too much like human beings in possessing attributes of intention and action. To be sure, as he points out, many Biblical scholars dismiss literal readings of the frankly anthropomorphic language of the Bible. But one can enter into the Biblical world without swallowing it literally. After all, we moderns and post-moderns do not dismiss the insights of a play or a novel as incredible or irrelevant because the characters in them were constructed by the playwright or novelist. In *Durable Goods* I have proposed a nonliteral but

disclosive reading of the Bible. What I distill from the Old and New Testaments is a drama which reveals the characters of the protagonists and antagonists. Even if the Biblical text has been “disenchanted” by modern scholarship, to use Max Weber’s term, it still reveals to us an authoritative view about who we are and how we act, as beings engaged in relations of problematic interdependence. Reinhold Niebuhr’s insights were persuasive to atheists and agnostics not because they demonstrated the existence of God, but because they demonstrated the centrality of will, spirit, and power in human political action. The quarried insights are valid independently of whether God “truly” is anthropomorphic, or even exists as a matter of scientifically established empirical fact.

Regarding a Third “Flaw”: The Unfairness of Strict Neutrality?

My aim here is not to dismiss McInerney as a critic. Clearly he finds something about *Durable Goods* morally troubling. This discomfort is evident when he discusses a second “dubious assumption.” Here he points to a deep problem within the text concerning how I use the norm of fairness. The problem cannot be evaded because I make fairness a central procedural norm. *Durable Goods* opens with a lengthy and strenuously argued chapter to the effect that a business-ethics approach to labor issues must be scrupulously fair to both sides. In chapter 2, I distinguish my approach from the bias evident in “ethical managerialists,” on the one side, and countervailing labor critics, on the other.

McInerney apparently is uncomfortable with fairness as strict neutrality. He asserts that I judge management and employees to deserve equal moral consideration because neither has played more dirty or clean than the other in the past, and because both possess equal power (218). So stated, these claims are misplaced. The “equal moral consideration” I have striven for does not simply attribute equal pox to both houses, nor does it rely upon the laughably elemental fact-to-value leap that he suggests. The actual reason I affirm “equal moral consideration” is that the strategies and tactics of both sides rest upon morally significant values: managerial prerogative on the one side, and worker self-representation on the other. In chapter 7, I claim that both of these goals enjoy firm moral grounding, in property rights and democratic values, respectively.

McInerney challenges this moral equivalence; he thinks that managerial prerogative deserves less consideration, apparently because management cannot point to the moral ballast of property rights as a basis for claiming its right to manage. While his argument is weak,⁷ I think he raises a knotty question for which I have no final answer: What counts, as an equivalent measure of moral deservingness for management and workers? After having gained some critical distance from the writing of the book, I will have to admit that my procedure of fairness-as-neutrality is less than a sufficient answer.

When the strategies and tactics reported in the historical chapters of *Durable Goods* are weighed in the balance, the aggregate impression is that management has been more destructive of covenantal relations than workers. (Perhaps my

selection of material is slanted; I welcome corrections to my retrieval of the historical record.) Consider recent history, which offers little comfort. During the tumultuous 1980s, it was management more than unions which resisted and rolled back the system of collective bargaining which historically was vital to the development of covenantal relations. In the jargon of my theory, management strategy and tactics recurrently have expressed a more impoverished notion of freedom and a weaker sense of self-restraint than those of workers. More tersely put, managerial prerogative is winning, big time. The best that can be said is that contemporary management strategy toward the collective self-representation by workers is deeply schizoid, alternating between warm cooperation and inveterate opposition. Should a covenantal ethic therefore join labor advocates like McInerney and regard management's moral claim as less significant than that of labor, and so justify the primacy of law over covenant, force over cooperation (219)? Or should a covenantal ethic continue to insist on fairness as neutrality?

I will try to answer these difficult questions by responding to McInerney's third category of criticism. He states that *Durable Goods* offers "utopian aspirations" which vitiate its theoretical and practical value (220–221). Here McInerney reverts to his suspicion that my idea of covenanting involves little more than the cultivation of "lovingkindness," or a mutual good feeling void of any substantive challenge to the inequities produced by the market system. If that were the case, I could understand why labor would be better off with the legal coercion he recommends rather than with a covenantal ethic. But my use of the term "lovingkindness" is strictly incidental. More central to my argument is the idea of "industrial-strength love." Such love is visible in the risky gestures of self-binding which the parties deploy as a means to induce each other to cooperate.⁸ It fulfills the second, "self-restraint" condition of covenanting mentioned earlier. While McInerney espouses the compulsion of the law (219), I argue that industrial-strength love provides a distinctively covenantal remedy for abuses of managerial prerogative.

Industrial-strength love is needed because the power of the law, while necessary, is not enough. The 1935 Wagner Act and all the federal institutions of coercion and mediation it brought into effect have been and remain indispensable for protecting the right of workers to organize. But a management bent on asserting and defending its right to manage will always find a way to circumvent the spirit if not the letter of the law—illustrating Biblical realism in all its unsentimental truth. What the law can accomplish in the way of genuine cooperation is woefully limited. Rather than turning to legal remedies, a covenantal approach focuses on the actions taken by the management and workers, in all their mutual antagonism. It focuses on how to nourish the capacity to cooperate. It prescribes an escalator of ongoing gestures through which the parties bind themselves, as a means of inducing each other to cooperate. In particular, it emphasizes intentional strategies and tactics which recognize the moral validity of the opponent's principle of action (here principally managerial prerogative), while resisting the excesses which happen when the opponent absolutizes its

principle of action. Managerial prerogative has moral weight, but only in tension with the moral weight of employee self-representation—and vice-versa. For this reason, I continue to regard managerial prerogative and worker self-representation as equivalent measures of moral deservingness; I'm reluctant to give up fairness as neutrality.

But I have to admit that the actual struggle has a way of calling the ideal into question. Chapter 16 of *Durable Goods* focuses on the Caterpillar case, in which management and unions during the 1980s admirably overcame decades of conflict to build a vibrant partnership, only to founder when a new management team pulled the plug on the program. Risky efforts to cooperate were simply shattered. My covenantal approach finds ample grounds for condemning the deliberate destruction of cooperation by management, even while recognizing that the unions (principally the UAW) contributed by trespassing upon decision-making that management regarded as its prerogative. But that judgment is of less interest than the pragmatic question: what is to be done? From a covenantal perspective, there is no remedy but to try and try again, by using tactics which embody respect for the value central to the action of one's opponent. McInerney dismisses my covenantal approach as recommending nothing more than "good faith," but what else is there to do, if the goal is to bring about willing cooperation as an independent value? Even if workers could claim pure moral right, legal redress would not help them; management can't be forced into genuine cooperation. Indeed, legal coercion simply would have aggravated each party's sense of grievance. Law is necessary to set boundaries, and boundaries make covenants possible. Beyond that, legal coercion has value only in its raw effectiveness in crushing anti-covenantal behaviors, rather than any potency in building up cooperation.

A covenantal ethic honors the striving of management and workers who continue to seek cooperation, even when their opposite numbers deliberately destroy cooperation, as at Caterpillar. This mediating stance will please neither the extremes of ethical managerialism nor labor criticism—nor even me, since it still leaves unanswered a basic question: are there any conditions under which either management or employees might forfeit the moral leverage conferred by their favored principle of action? The issue here may seem arcane, since it has to do with moral legitimacy, rather than actual legal power. But the issue is important since, as the Biblical realism reminds us, both sides will endeavor mightily to cloak their strategies and tactics with a mantle of moral rectitude, no matter how wrong-headed they may seem from outside.

A Concluding Pro-Biblical Postscript

The core idea of a covenantal ethic is that cooperation ought to be built between management and unionized employees through carefully reciprocated gestures pointed toward a shared goal of enlarged freedom, and characterized by mutual self-restraint. Could such an ethic be proposed without reference to

the Bible? Of course! One doesn't have to be a Christian to understand the power of the human will and spirit, for good and for ill. So, then, why not abandon a religious framework for a rhetorically powerful secular translation? McInerney suggests this course of action; "a secular approach may be far more palatable to a much wider audience" (222). Such "marketing considerations" no doubt stem in part from his claim that the Bible is "of questionable utility for normative ethics."

The idea of translating the Bible into secular rhetorical equivalents long has tempted religious ethicists; the possibility of reaching a larger audience is a potent lure. But overall, McInerney's dismissal of religious moral reasoning is premature. The cultural power of the Bible and contemporary religious communities to shape moral belief and action, even in organizational settings, likely will long outlast any secular translations of its insights (has anyone observed Chick-fil-A recently?). Indeed, it is quite possible that the influence of the Bible will outlast the very form of the modern corporation.

The task for a religiously minded business ethicist, then, is less to translate Biblical insights into secularese than to absorb, and even be grasped by, their power. We are returned to the basic question for our guild, as to whether a distinctively religious normative theory is possible. Can religious theory be good theory, as measured by methodological norms such as precision, parsimony, solid reasoning and logical coherence? Here *Durable Goods*, as the first Biblically informed theory of labor-management relations, sharpens the question: Is there any inherent reason why a religious normative theory might not meet such "performance standards"? The answer appears to be: We don't know, yet. McInerney focused his essay on the moral adequacy of my proposed covenantal ethic, and raised a worthy issue. I only wish that he had focused at least part of his review on this further, professional domain of inquiry, for that would open up the question of whether the Bible and religious traditions, with all their power to define morally legitimate business practice, might be integrated into the discourse of the Society for Business Ethics.

Notes

¹ The problem may due in part to a very selective reading, as indicated by his footnotes, both of the history *Durable Goods* recounts, and of the theory it develops. The historical side includes chapters 4, 6, 8, 11, 13, and 14. Almost half of his footnotes refer to the Biblical chapter (chapter 4); he also refers once or twice to chapters 11 and 13. The theory-developing side of the book includes chapters 1, 3, 5, 7, 9, 10, 12, 15, 16, and 17. He devotes six footnotes to two pages within chapter 7, and makes passing references to some of the other chapters (chapters 5, 12, 16, 17). With the exception of his comments on chapter 7, he simply does not engage the arguments these chapters make.

² For example, one important theme of his argument is that I simply "assume the moral grounds of the free-market economy," and so lack a standpoint from which to criticize the injustices of the globalizing economy (220–221). Given the independent value my theory

places upon cooperation (which directly contradicts the individualism enshrined by free-market ideology) and worker self-representation (set in deliberate and permanent tension with management prerogative), I find the charge misplaced, at best. Another criticism seems based upon a misreading. He asserts that I have erroneously inferred support for property rights from a 1987 United Churches of Christ statement. My point was more modest; all I was reporting was the smidgen of legitimation implied by the absence of a condemnation, as the text of mine he quotes demonstrates. The UCC presses for economic democracy, by which it means increased avenues for participation in economic decisions. With the exception of one phrase ("In a modern economy, participation might include worker, community or public ownership"), it makes no reference to changing, qualifying, or abandoning property rights.

³ McInerney, 218. See his recurring discomfort with the term "lovingkindness" at the top of 217 and 218–219.

⁴ Herman, 38–9. Chapter 3 is devoted to developing a definition of covenanting in industrial settings.

⁵ Herman, chapters 5 and 9.

⁶ A distinctive feature of religious moral argumentation is that it often connects fact and value in a visceral way, typically by claiming that what already exists, as a glimmering of what is good and right, also serves as the norm for what ought to be. For further discussion, see Herman, "From the Truly Real to Spiritual Wisdom: Religious Perspectives on Business Practice," in Herman (ed.), *Spiritual Goods: Faith Traditions and the Practice of Business* (Bowling Green, Ohio: Philosophy Documentation Center, 2001): 17–29.

⁷ So I infer when he attacks the idea that management enjoys the "benefit of certain moral positions," specifically property rights (217), and then reluctantly grants the point (218) for the sake of pursuing his argument that the weaker position of labor provides a moral warrant for coercive legal tactics: "... law seems the better alternative." (219) If I have understood his original argument correctly, McInerney objects that I have wrongly attributed the property rights legally vested by stockholders in the corporate board, to management as its agent, and therefore that managerial prerogative does not enjoy moral standing based on property rights (217–218). I would counter that the property rights enjoyed by stockholders and the board form an important part of the moral, to say nothing of legal, basis of the right to manage, even if the moral value which supports property rights is more utilitarian than deontological—more based on the aggregate wealth created than the protection of agents against trespass.

⁸ Herman, 108–110.