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FOR MEDIATORS / FACT FINDERS

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HAROLD NEWMAN'S CLOUDY CRYSTAL BALL. "In an article in the Arbitration Journal,* the AAA quarterly, last year, two members of our panel, David Lipsky of Cornell and John Drotning of the University of Buffalo, pointed out that 'whenever free and unlimited outside intervention is available to the parties in a labor dispute they tend to forego bargaining in anticipation of the third party's arrival and to condition their behavior on the expected impact it will have on the outside agent.' They point to the railroad industry as the classic example of this. That Messrs. Lipsky and Drotning are right is known to anybody closely involved with the Conciliation section of the PERB.

"In an article in the PERB News last year, I stated that the litmus test of the success of our efforts would not be the number of strikes that occur but the increasing reliance of the parties on their own abilities to come to agreement in collective bargaining without summoning outside assistance. In other words, a downward curve in requests for PERB conciliation would demonstrate success for the statute. Alas, this year the curve riseth and the number of cases for fact-finding is sharply higher than last year. I am convinced that it is too early in public sector bargaining to expect the parties not to press the panic button the first time one side says 40¢ and the other side says 42¢, but I am not convinced that we cannot make better efforts to insure that the mediation process is treated with greater respect. Fact-finding is, of course, frequently a political necessity for the parties but the failure to utilize mediation seriously is an abomination. I shall not again plow the familiar furrow of why it is that our Board has resisted the notion that the parties should share the cost of fact-finding. I have had on prior occasions in these columns thoroughly delineated the arguments for and against such a procedure. However, I insist there must be some effective way to make the parties recognize that they would do well to utilize mediation more effectively and that in their own self-interest, agreements achieved through the mediation process are far superior to those achieved through fact-finding.

"I have become increasingly uneasy that if the Taylor Law provided for five other procedures beyond mediation and fact-finding, the parties would utilize them and the total conciliation budget would exceed that of the State of Iowa. One is reminded of the succulent lines of Walter Savage Landor:

'The mountain sheep were sweeter
But the valley sheep were fatter
We therefore found it meeter
To carry off the latter.'

"Whatever variety of sheep we offer in school district disputes, it will be hastily barbecued and devoured, but the appetites remain unsatiated...."

* THE ARBITRATION JOURNAL, Vol. 26, No. 2, 1971.