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FOR MEDIATORS / FACT FINDERS

PUBLISHED BY THE NEW YORK STATE PUBLIC EMPLOYMENT RELATIONS BOARD

SEPTEMBER 1975
(Vol. 6, No. 9)

HAROLD NEWMAN'S CLOUDY CRYSTAL BALL

"Perfection of means and confusion of goals seem
- in my opinion - to characterize our age."

Albert Einstein, 1879-1955
"Out Of My Later Years"

"On the wall opposite my desk is a large map of New York State. It has a 'locator' which is quite superfluous. After eight years, the Conciliation staff can read an impasse request and almost always know the county and even the location within the county, of the city, town or school district where the impasse has occurred. At this writing there are twenty impasses which we deem 'critical' from eastern Suffolk to Erie. There are six teacher strikes and we may have eight more by next week. By mail and telegram and telephone there are urgent calls for 'superconciliation'. Staff mediators come in to the office, eyes puffed from lack of sleep after night-long conciliation sessions, to pick up the telephones and talk with panel and advocates in crisis spots from Riverhead to Niagara Falls; from Jamestown to Plattsburgh. This is a brutally difficult year.

"My articles in this publication are not as I would wish, the result of profound thought. I am probably incapable of making a great intellectual contribution to the theory and practice of the conciliation of labor disputes. But I write not from some cloister or monastic study, but empirically and pragmatically. I am an administrator, but also a mediator. (Like each of you on the panel, I have my war stories and like some, I bear scars.) I would refer you to an article I wrote in the February 1975 issue of this estimable publication. I cautioned then that we must be aware of the habit that public sector bargainers have of 'institutionalizing' procedures. Particularly in school districts, with the abolition of the legislative hearing, is there a danger of 'overservicing'. Despite the pressures described in my opening paragraph above, we are declining in some cases to provide post fact-finding conciliation. Yesterday, for example, Joel Douglas who had been conciliating after submission of his fact-finding report to a fairly large school district in the Catskills, found himself unable to attend a negotiation session. I was informed that if I did not have a conciliator there, there would be a strike today. 'Mirabile dictu', the parties met on their own and signed a two-year agreement. In a large city school district where two PERB staffers have been exhausting themselves trying to end a strike, and where a State Supreme Court Justice had ordered continuous talks, I pulled out the mediators on Thursday and told them to tell the judge that I believed that we were only providing an opportunity for two stubborn advocates to utilize meaningless negotiations to convince themselves and their constituents that they were doing something to end the strike, when fact, they were not. Talks with the mediators present will begin again on Sunday night. In the meantime, hopefully, the negotiators will have been forced to feel some pressure.

"In two other districts in the past several days, we have denied conciliation. One, in Monroe County, has a strike date ten days from now. (This is a district that goes to the brink annually.) Their bargaining history and the lack of pressure on the parties decided us to simply have somebody monitor the dispute by telephone rather than appear on the scene just yet. And in another district, in Steuben County, we know that all the outstanding issues are settled and that the present arguments are 'ad hominem'. The parties are apparently demanding a conciliator to point to the agreement which lays on the table. We have told them they are being denied conciliation service at this time and that we believe that they are in agreement and ought to draw up a memorandum. Our position in these two matters has so outraged one of the professional advocates involved, that he has asked FMCS, AAA and the State Mediation Board to supply a neutral. Each agency understands its jurisdiction and has declined service.

"Sometimes the parties will seek to make an end run around PERB when post fact-finding conciliation services have been denied. They will appeal to an individual panel member whom both chief negotiators know and ask him to take the case because they know that his outstanding talents and skills will produce an agreement. The temptation for the panel member may be so great that he may even consider doing it 'pro bono publico'. In almost every instance, happily, the panel member declines. Please refrain always from responding to such appeals. Advise the advocate always that he must contact PERB.

"If what I have described seems like a dangerous game of Russian roulette, I can plead only one defense. It is in the public interest and in the interest of the parties too, that the neutral agency preclude overdependence on procedures to settle labor disputes. Early in my tenure at PERB I learned that some advocates were skilled dissemblers. This is especially true when they wish to exploit procedural rather than substantive matters to their advantage. I was rather annoyed with them then. I am less so now. Mediators are not always able to be swathed in candor. During the recent unpleasantness between the New York City Board of Education and the United Federation of Teachers, a 'Times' reporter complained that he had difficulty quoting me because what I said was in language which would not get past his copy editor or else I spoke in parables. And so, I shall keep in mind the Scriptural admonition.* But from the panel we have no secrets at all."

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Walter Maggiolo puts out a quarterly newsletter devoted to FMCS retirees. In the July 1975 issue he wrote an editorial which supplements what I have written above.

ARE WE LOSING SIGHT OF BASIC VALUES?

"Recently there has been an abnormal amount of articles in industrial relations publications dealing with mediation (especially in the public sector), med-arb, expedited arbitration, advisory arbitration, fact finding, mediation with recommendations, final offer choice and the multi-shadings and variations of each of these techniques. Each article attempts to evaluate a particular or several approaches, and advocates the utilization of one or more of them.

"While most of the articles are of value to practitioners and add to the ever expanding literature on conflict resolution, we wonder if the authors have

*"And why beholdest thou the mote that is in thy brother's eye, but perceivest not the beam that is in thine own eye?", St. Luke - 6:41."