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HAROLD NEWMAN'S CLOUDY CRYSTAL BALL

"How much better is it to get wisdom than gold!
Yea, to get understanding is rather to be chosen than silver."

Bible - Proverbs of Solomon 16:16

Now, in golden September is the time for us to cast a look backward. Ten years ago this month the Taylor Law became effective and the New York State PERB began its labors. Seven years ago, we began to write this column for the panels of mediators, arbitrators and fact finders. It has been our practice to begin each column with a suitable quotation. We shall on this anniversary print some quotations that seem to us to delineate what we on PERB's staff and panel have sought in the past decade to achieve.

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"How long soever it hath continued, if it be against reason,
it is of no force in law."

Sir Edward Coke (1552-1634) -
Institutes. Commentary upon Littleton

"There can be no question of holding forth on ethics. I have
seen people behave badly with great morality and I note every
day that integrity has no need of rules."

Albert Camus (1913-1960)
"The Myth of Sisyphus" -
Alfred A. Knopf & Co., New York 1955

We began our work in September of 1967 with the broad language of the statute to guide us with practically no other guidance than essentially private sector citations--from NLRB and the courts. The Board became embroiled almost immediately with the Governor's staff on the question of the number of State bargaining units to be established. The fledgling Board fought the matter to the Court of Appeals and won.

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"Neutral men are the devil's allies."

Edwin Hubbel Chapin (1814-1880)

The quote from Reverend Chapin is much milder than any of scores of observations made by advocates over the past 10 years about our work. Umpires are never popular and yet for those who care about score keeping on such matters--letters commending our work consistently run almost 20 to 1 over those which criticize and complain. More important, we have succeeded in inflicting the same amount of pain on union and management.

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"There are three kinds of lies: lies, damned lies, and statistics."

Benjamin Disraeli, Earl of Beaconsfield
(1804-1881)

PERB's Research staff under Tom Joyner are not prepared to confirm Disraeli's cynical comment. But we learned long ago, that statistics by themselves, have little meaning. We ourselves have written--"Fact finding is a misnomer. The neutral who has been dubbed 'fact finder' in a particular dispute discovers rather quickly after his arrival on the scene

that the parties are well acquainted with the 'facts'. Suppose the facts are that the college endowment is low because of a misbehaving stock market. Further that administration is finding that the cost of everything from fuel to heat campus buildings to lab materials has risen astronomically because of inflation. He also finds that the faculty is hurting badly at the supermarket and the gas station and everywhere else because of higher prices, and that they are the lowest-paid 4-year college faculty in the region. Student tuition was raised in each of the past 3 years, and yet the school is still in a very tight fiscal squeeze. After repeated attempts by teams representing faculty and administration both sides agree that further negotiations would be useless. If the fact finder's function were only to delineate the melancholy facts described, how would the dispute be resolved? Obviously, it wouldn't be."¹

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"The man who sees both sides of a question is a man who sees absolutely nothing."

Oscar Fingal O'Flahertie Wills Wilde
(1854-1900)

What can the mediator respond? Wilde should have been ashamed to make such a cynical statement. After all, Oscar Wilde himself wrote that a cynic is someone who knows the price of everything and the value of nothing.

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"I told him it was law logic - an artificial system of reasoning, exclusively used in courts of justice, but good for nothing anywhere else."

John Quincy Adams (1767-1848)
to Chief Justice Marshall.

PERB has extensive quasi-judicial functions. Deputy Chairman Jerry Lefkowitz and our Board have many serious and extended discussions on "law logic." I and others, have listened perplexed. As our brother Arthur wrote on the late Albert Einstein..."Within his study Einstein sits, and exercises of his wits. In the sky, God looks blue, completely stumped like me and you."

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"I don't have a free day for the next eight months. Let me show you my calendar."

Some PERB Arbitrators

"I never get any work from you. Don't you send my name out?"

Other PERB Arbitrators

We continue to be mystified on how it is that parties choose arbitrators.

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"Away with him! Away with him! He speaks Latin."

King Henry VI - Part II
Act IV - Scene VII

The end of Harold Newman.

¹Newman, Harold R., "Using Neutrals to Help Settle Impasses," Handbook of Faculty Bargaining, George W. Angell, Edward P. Kelley, Jr., and Associates, Jossey-Bass Publishers, 615 Montgomery Street, San Francisco, California, 1977.