



# bulletin

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## HAROLD NEWMAN'S CLOUDY CRYSTAL BALL

"The Law is the true embodiment  
Of everything that's excellent.  
It has no kind of fault or flaw,  
And I, my Lords, embody the Law."

"Lord Chancellor's Song - Iolanthe"  
W. S. Gilbert (1836-1911)

Labor Day weekend is usually a lovely time of year in the Capital District. My thoughts, I will confess, are not of McGuire or Powderly or even of George Meany, they are on the garden. My labors on the lawn have triumphed over chickweed and dandelion, and most of the summer it has been green and lush. Rita Cruz Newman, whose maternal and paternal ancestors gardened in the widely different latitudes of Lancashire and Luzon has created a rainbow of garden colors. Marigold and petunia, impatiens and begonia, geranium and nasturtium, zinnia and bachelor button, aster and cosmos, and salvia splash in a score of hues. But the feast for eye and spirit that these provide are not to be enjoyed from the cool patio. A ceremony that compares with the rites of the flagellants in Mexico must take place beginning in the early afternoon of Labor Day and through a long night.

In the previous week, PERB's Director of Conciliation and his staff have made their final checks of the school districts in which there is a teacher strike scheduled for opening day.

"Why have Joe Doyle over there? We could use him in a more visible spot."

"Well, a strike looks certain. Joe might be there as well as anywhere else."

"Can we have Larry Hammer stay with that mess? He was the fact finder, remember."

"Yes, both sides trust him, he might as well stay."

"Maybe, both Ben and Ted, both of you guys ought to go to Utica. We'll never be able to head off that strike in Buffalo. But perhaps we can avoid having two big city school districts out."

And so the discussions go on. Who spoke last to which union or management rep. Is there a real possibility of a job action or can they settle by themselves? Has the conciliator shot his bolt in a particular district and can no longer be effective? Are both union and board representatives really going to refuse to move in that place in Suffolk?

On the Labor Day weekend the Director has his notes, his hopes and his anxieties. The telephone rings frequently on Saturday and Sunday but the important



calls will come on Monday. In the nature of bargaining and mediation, there almost always has to be a "crunch" as the countdown begins to opening day.

On Monday evening the Director of Conciliation bids farewell to his wife who is watching TV. He goes into his "study" at 9:00 P.M. armed with a tin of Jacob's biscuits, Wisconsin and Vermont cheese and a bottle of Madeira. Then, all night long on the telephone he discusses with neutrals and occasionally argues with advocates. He wonders as the night progresses why he did not retire upon reaching statutory eligibility this year. At 7:00 A.M. he will telephone the Chairman. This is a good year! We have only one strike!! Last year there were five on opening day. "Yes", the Chairman replies glumly, "we have only one. But that ONE is Buffalo - the second largest city and school district in the State. That's a bad one for us to have...." Rapture dissolves in a choking miasma of failure.

To the casual reader what I have described may seem like a curious exercise in masochism. I assure him it is not. The New York State PERB does not accept and has never accepted that strikes are inevitable and we, therefore, should relax and simply move to settle them later on. At this writing, half of the school children in Pennsylvania are not in class because their teachers are on the bricks. Year after year, Michigan and other states have had waves of teacher strikes. Last year we had a record 17. But even with that figure we did well in comparison with states with much smaller school populations. We believe, and the figures prove us right that extra effort in crisis situations produces results. The strike in Buffalo this year was to my mind inevitable due to circumstances we had best not discuss at this time. But 14 other school systems were scheduled for strike on opening day and all are either settled or at least temporarily defused. Panelists who included Herb Marx, Paul Kell, Joe Doyle, Larry Hammer, Ed Levin, Joel Douglas, Sam Ranhand, Evelyn Brand, Tom Newman, Ken De Kay, Phil Pitruzzello, Earl Zaidins and Max Doner from the nettle strike threat plucked the flower peace. Leon Applewhaite of our staff pulled off another of his all night miracles in Brookhaven/Comsewogue and two other staffers, Ben Westervelt and Ted Gerber, kept the City School District of Utica from going the way of Buffalo. The fact that the quest was hopeless did not keep Erwin Kelly and Eric Lawson from exhausting themselves in the effort to prevent a strike in Buffalo.

We do not strive so energetically to snuff out strike threats because the strike is illegal. Sanctions are not the conciliators' business. I think that we have convinced ourselves that the advent of a strike represents a failure of our impasse procedures and of ourselves as conciliators. I believe, too, that the vigor and dedication involved in the interventions that I have referred to demonstrates substantial ego - professional pride if you will - on the part of the conciliators. If any of the individuals I have referred to above had walked away from the scene with the picket signs distributed and the strike on, their fatigue notwithstanding, Macbeth would not have been needed to murder sleep.

In his study of mediation, William E. Simkin<sup>1</sup> listed 16 qualities that a mediator must have. The sixteenth and last is "sufficient personal drive and ego, qualified by willingness to be self-effacing". I would have listed that quality first. I do not pretend to know everything it takes to be an outstanding mediator.

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<sup>1</sup> Simkin, William E., Mediation and the Dynamics of Collective Bargaining. The Bureau of National Affairs, Inc., Washington D. C., 1971.



They come from all kinds of backgrounds and in many shapes and sizes. But nobody, whatever his education, training and experience, can be totally effective if his ego does not demand that he exhaust himself if necessary to push the parties to settlement. That our mediation staff and nearly all the panel have this kind of ego drive is a boon for the parties, the process and the commonweal.

Charles de Gaulle once wrote<sup>2</sup> "evangelical perfection cannot be conceived of without a strong dose of egoism...." Is not every mediator involved in an evangelical mission?

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Panel members appear to be itinerant philosophers, for example, Bhal Bhatt. He told the parties in a recent teacher dispute "let us find out first 'Where does the shoe pinch' so we can correct the situation and end the hurting rather than arguing endlessly whether or not shoes are good for mankind or if black shoes are superior to brown."

Eric W. Lawson, Sr. in another teacher dispute "a face saver in hand is worth a bush full of facts any day."

I also am reminded by Herbert L. Marx, Jr. of Secretary of Transportation Coleman's decision on the Concorde.

"For there is danger here, as in so many public controversies, that theories set forth as facts may persist even after the actual facts establish the contrary. I do not mean to suggest that emotion is entirely out of order.

Emotion, surely compassion, has a rightful place in great decisions as well as small. But uninformed emotion is not an appropriate basis for decision. We have a common obligation to seek out the facts and to explain them rationally and fairly."

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TEACHER CONTRACT NEGOTIATIONS. Analysis of 37 new teacher contracts indicates that Statewide the average base salary in teacher salary schedules is \$9,655. On average the base salary is up 3.7% and the salary schedules show a 3.5% increase, exclusive of increments. Increments average \$410 Statewide. Last year at this time analysis of 41 contracts indicated a Statewide average base salary of \$9,076. The Statewide base was up 6.4% last year and the average change in salary schedules was up 6.5% exclusive of increments which averaged \$418.

Upstate this year (28 districts) the base salary averages \$9,034, up 3.9% at the base and 3.7% on the schedule exclusive of increments. Increments average \$404 Upstate. Last year the average base Upstate was \$8,899, up 6.1% over the previous year at the base. The average change in the schedule was up 6.3% Upstate last year.

Downstate, 9 settlements this year indicate an average base salary of \$11,588, up 3.0% at the base and 3.1% on the schedule excluding increments. Increments Downstate, however, average \$555. The settlements Downstate show a lower percentage change than Upstate primarily because out of the small sample of 9 districts, 2 districts (Bayport-Blue Point and Jerico) had no change in their 1976-77 salary schedule. Excluding these 2 "zero" districts from the averages, the average increase

<sup>2</sup> De Gaulle, Charles, Le Fil de L'epee (The Edge of the Sword), Paris, 1934.