



# bulletin

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## HAROLD NEWMAN'S CLOUDY CRYSTAL BALL

"Wer Fremde Sprache nicht Konnte, Weisst nicht sein Eigene."

Johann Wolfgang von Goethe

"Goethe's admonition that one who does not know other languages really does not know his own is one that I take seriously. I formerly had a fluent command of French and German but lack of use has diminished my ability to speak, or more accurately to think, in those languages. I have recently returned from several weeks in the Caribbean and after hearing the English spoken by citizens of Barbados, St. Thomas, St. Kitts, Trinidad and Tortuga, must confess that it was nearly as incomprehensible to me as Finnish, Magyar or my father-in-law's native Tagalog. Communication and the nuances of language are terribly important to the mediator. He must not only be able to communicate well, he must be able to hear. Behind the bluster and hyperbole of some advocates, there are words subtly inflected that the well-tuned mediator must hear to pick up important clues. Did someone say 'never' and then softly add 'unless'? Did someone utter the word 'if' or the word 'but' in the midst of a fiery denunciation of the other side? We must leap upon those words and recognize them for the signposts they are intended.

"I would add that the difference between the effective mediator and the less effective one is often that the former can utter unpleasant truths to the parties without making them feel that they are being unfairly treated or that their concerns are not understood. The most difficult time in any mediation arrives when it is necessary to tell the parties that positions held sacred must be abandoned. Up to that point we have been sympathetic yea, even empathetic to the concerns of each side, but now the advocates must be told that 'this is a moral position with us' is sheer nonsense. How does the effective mediator rend the veil and yet maintain trust and good relations with the parties? Part of the answer lies with the sort of rapport the mediator already has with the advocates. Part of the answer lies with the degree of experience and sophistication of the parties. Experienced bargainers past puberty can be told awful truths without too much shock. But caution my fellow mediators! When communicating with the less experienced and the less sophisticated, be guided by a tale once told me by an ancient wise man in a bazaar at Tabriz. 'Long ago, a Persian monarch summoned his favorite astrologer to examine the heavens and foretell what fate the stars predicted for his master. The astrologer came back to the King much troubled. 'Sire,' he said, 'first your family shall die and then you shall die.' The King was outraged by this dire prediction and ordered the astrologer broiled over a slow flame and then served 'en brochette' to the hungry houris in the harem. Another astrologer was summoned. He saw the same stars and said to the King, 'Sire, you shall outlive all your relatives.' He was loaded with titles, honors, estates and a special assortment of wives and concubines.'

"Now there are some mediators...."