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FOR MEDIATORS / FACT FINDERS

PUBLISHED BY THE NEW YORK STATE PUBLIC EMPLOYMENT RELATIONS BOARD

FEBRUARY 1976
(Vol. 7, No. 2)

HAROLD NEWMAN'S CLOUDY CRYSTAL BALL

"After quashing a magistrate's order for a 12-stone Great Dane to be destroyed because it was dangerous, Judge Robert Lybery yesterday gave it a friendly pat at Bedford Crown Court. The dog bit the judge's hand twice-and the judge was taken to hospital for treatment."

(NEW STATESMAN, London, England)
January 9, 1976

"The people, Sir, are a great Beast."

Alexander Hamilton, 1755-1804

I have not offered the first quote above because I wish to demonstrate canine ingratitude. It simply reminds me that I have frequently been bitten when I have held out my hand to those who thunder that there must be more public involvement in public sector bargaining. The advocates of more public involvement tend to be wroth with me because I state that it is a consummation devoutly to be wished - but I don't know how. "Tell me," I say. Then they bite me.

Ed Kelly, the labor affairs editor of the "Buffalo Evening News" who is one of the best labor reporters in the State, quotes an angry citizen, "What do you mean, public sector bargaining?" "The public has nothing to do with the bargaining. The public's only role is to stand helplessly by with its pocketbook open, ready to cough up the price of settlements." And J. Edmund Kelly adds, "An oversimplification, surely, but symptomatic of the mounting frustration eating away at large numbers of citizens who see themselves going down for the third and last time in a boiling sea of rising prices, higher taxes and strikes, or threats of strikes, by public workers. So it's readily understandable why more attention is now being given to discussions of what - if any - role the public itself should play in collective bargaining between its school boards and governments on the one hand, and the unions representing the boards' and governments' and therefore public's employees on the other."¹

Ed Kelly mentions some proposals which have been made. There is the suggestion that the public accept or reject public sector agreements at the ballot box. I read an article in a learned journal last year suggesting precisely that.² I have some small problem with the vision of taxpayers voting to raise their levies yet higher in this bitter time. Another suggestion is to hold a public hearing

¹ "More Public Involvement in Bargaining Urged" - Buffalo Evening News, January 17, 1976.

² Foegen, J. H., "Public Sector Strike-Prevention, Let the Taxpayer Decide." Journal of Collective Negotiations in the Public Sector, Vol. 3 - No. 3, Summer 1974.

on the proposals of both employer and union before bargaining begins. I cannot believe that that proposal came from anyone who has had an hour's exposure to negotiations in either the public or private sectors. (There is a variation of this in suggesting that PERB hold public hearings when a strike is in progress or a strike appears to loom. The public hearing in Orchard Park last year certainly helped end the strike. But the public hearing in Nyack a few nights later proved a futile exercise. Nevertheless, we shall continue to hold such hearings in strike or threatening situations if it appears that the public meeting would be useful.)

Yet, another idea is for an ombudsman to be present at negotiations to act as the protector of the public interest. Splendid! But who is this wise and saintly ombudsman to be? The first definition of "public" in my dictionary is "of, pertaining to, or affecting the people as a whole or the community, state, or nation".... The ombudsman's public includes the taxpayers, parents, students and teachers. Even the Admirable Crichton would be troubled with such a responsibility.

The Taylor Committee saw fact finding as the process with which to get the community involved.³ Our Board has ruled that where the issue is raised as to whether a fact-finding hearing is private or public, this issue will be determined by the fact-finding board after consultation with the parties. The basic criterion to be used by the fact-finding board in making this determination will be whether or not in their judgement a public or private fact-finding hearing will better serve a useful and constructive purpose in the overall dispute settlement process. But in any event, upon the issuance of the fact-finding report and recommendations they are made public within five days. I have been distressed that fact-finding reports sent to the media every day by the conscientious Muriel Gibbons get very little exposure most of the time. Further, I cannot recall any letters from interested citizens on fact-finding reports except when a strike has occurred.

Thanks to the Institute for Responsive Education whose motto is FRATERNUS-AMOR-MANETO, I have learned about some interesting and innovative experiments in community involvement in teacher bargaining.⁴ "In 1972, Philadelphia's Board of Education invited a group of parents to participate in the teacher negotiations. The parents were given the option of joining either the union or the board team of negotiators. After joining the board's team for the first bargaining session, the parent group chose to disassociate itself and serve as an independent third party at the bargaining table. The board's chief negotiator then "disinvited" them from future sessions. In Detroit, community representatives are kept informed of negotiations by the superintendent's staff. This indirect involvement would seem only to frustrate the community representatives and to place them in an adversary role with the teachers. In Chicago, the central board of education opened bargaining sessions to the public. After an initial enthusiastic response, most community members stopped attending formal bargaining sessions. Two explanations have been offered for this loss of interest: the community was

³ Final Report, Governor's Committee on Public Employee Relations, p. 37.

⁴ Sarason, S. et al., The Community at the Bargaining Table, Boston: Institute for Responsive Education, 1975, p. 29.

invited only as observers, and the meetings were often long and tiring. Toledo, Ohio teachers invite the community to assist in formulating demands. (But no further role for them.) In Fairfax County, Virginia, final ratification of the teachers' contract is postponed for six months while the community is informed and given an opportunity to react." (Were I mischievous, I would seriously propose this last to the parties in a certain county near New York City.)

Admittedly, what has been described either failed of its purpose or lacks much meaning. But the effort was made and we in New York with the cooperation of unions and governments might explore what we can do. The pundits have observed frequently of late that there is a lack of trust in government now and this with regard to public sector negotiations has been compounded by our economic ills. It would seem to everyone's advantage to attempt to reduce public mistrust and maximize community knowledge without injuring the bargaining process.

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TRAINING SEMINARS. PERB will be holding three one-day training workshops for panel members early in March and we're looking forward to sharing experiences with you on the impasse procedures for police and fire disputes. The first will be at the Holiday Inn, 911 Brooks Avenue, Rochester on March 1; the second at the Holiday Inn, 1614 Central Avenue, Albany, on March 9, and the final session at the Holiday Inn, Tarrytown Road, Elmsford, March 12. There's still time to register for one of them. Please contact Muriel Gibbons.

The program will be as follows:

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| 9:30 a.m. | Introductory Remarks Harold Newman |
| 9:40 a.m. | Arbitration Procedures Ronald Kurach |
| 10:15 a.m. | Coffee Break |
| 10:30 a.m. | Legal Experience To Date Martin Barr |
| 11:45-12 Noon | Statistical Report Thomas Joyner |
| 12:30 p.m. | Lunch - Dr. Robert D. Helsby |
| 2:00 p.m. | Scope of Bargaining Jerome Lefkowitz |
| 3:00 p.m. | Criteria - What Do They Mean? Harold Newman Erwin Kelly Robert Doherty |
| 4:00 p.m. | Adjournment |

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REMINDER. All panel members who have retired under the New York State Employees' Retirement System and anticipate their earnings to be under \$2,500 for the calendar year 1976 should inform the Retirement System that they wish to be employed under Section 212 of the Retirement and Social Security Law. Those retirees who anticipate earning over \$2,500 should contact Erwin Kelly at PERB.