

HAROLD R. NEWMAN: An Affectionate Recollection of a Towering Influence

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A retrospective on PERB's board members tends to invite the conferral of symbolic titles upon many of these historic figures. Plainly, none of them can lay claim to being the "Father" of the Taylor Law. There is a reason no one calls it the "Public Employees Fair Employment Act" and as such, George Taylor's eponymous statute means that paternity is his and his alone. Bob Helsby, a proud Navy veteran of both World War II and the Korean War would have frowned upon being known as anything but Captain of the good ship PERB, and steer it he did, often through turbulent political waters. Sage, Solon, Savant or Scholar? Over the years, PERB's Boards have been blessed with many whose legal acumen qualifies for one of those appellations. While certainly Joe Crowley and Ida Klaus immediately come to mind, I don't think anyone could dispute that PERB's Solomon was Jerry Lefkowitz, given the indispensable role he played in writing, developing and administering the Taylor Law both as Deputy Chair and Chair.

So where does this leave Harold Newman? While I'm hesitant to use the term, given what it has unfortunately come to signify, I believe that Harold Newman was undisputedly...the Godfather. Now I'm certain that more than a few of you are chuckling, or worse, at the mention of that moniker. But let's remember that before Mario Puzo, Francis Ford Coppola and Marlon Brando rebranded it into someone who makes an offer you can't refuse, "godfather" was, and certainly still is – at least in certain religious circles – a title of veneration signifying an individual who mentors, supports, inspires, advises and provides overall spiritual guidance. And to my mind, no one fulfilled that role for PERB and the labor relations community at large quite like Harold did. It is not simply a coincidence that he regularly referred to the title of "Director of Conciliation" – one that I held, and which he held prior to becoming Chair – as "very much a spiritual title." Rather, it defined how he approached that position, an approach he continued to take as Chair. Neutrals, he often said, "were doing the work of the Lord."

This is not to say that Harold and Don Corleone did not share at least one important character trait. Without question, both had an unmistakable "presence" that was invaluable for lending credence and especially, persuasion, to their respective messages. Like the Don, Harold, as the saying goes, tended to suck the air out of whatever room he entered. Quite simply, he had "the look," even if it was nothing like Brando's. Harold was a tall man. How tall no one really knew since he was considerably stoop-shouldered. Scrap the sad, dour eyes for ones with a twinkle and Harold could have been a stand-in for Abe Vigoda's Tessio in the alluded-to movie trilogy. He had a long and large head that was hairless save for a handful of silvery strands above the temples. He could have been a character actor in any British series from Downton Abbey to Fawlty Towers. Harold's appearance alone conveyed authority. He always had the look of the éminence grise. In fact, on the occasion of his 80th birthday, I remember telling

him, “Harold, you’re positively ageless. When you were 40, you also looked 80.” To his credit, and unlike the Don, Harold allowed me to see another day.

But presence is where any similarity ends. Harold was, first and foremost, a teacher. If Harold wanted to teach someone or some group a lesson, he would do it not with a fusillade of bullets, but with a carefully crafted or chosen story, quotation or turn of a phrase. He read insatiably, and both drew and imparted lessons from every form of literature, from drama to historical and religious treatises to comedy and the raunchiest limerick. Yet remarkably, Harold lacked any formal education beyond New York City’s Erasmus Hall high school. Dave Lipsky, longtime Dean of Cornell University’s School of Industrial and Labor Relations, hit the nail on the head when he said of Harold: “Even though he never had a college education, he truly was an intellectual.”¹ Harold often mentioned to me that the year-long sabbatical PERB granted him to serve as a Visiting Lecturer at Cornell ILR was perhaps the most rewarding of his career. Dave reminded me that during that time and beyond, many people insisted on referring to him as “Dr. Newman,” which never failed to amuse Harold. A story Dave relates is instructive:

“Harold was very well read, and I remember mentioning to him that I had enjoyed a novel by William Boyd about Africa. Not surprisingly, Harold was not only familiar with Boyd but had read two or three of his novels. He then proceeded to discuss other Anglo-Americans who had written novels about Africa, including Graham Greene. He was a learned man and inspired me to read books I otherwise would have ignored.”

Nowhere was Harold’s love of, and effective, stylish use of literature as a teaching vehicle more evident than in the so-called “Redheads,”² which were bulletins published by PERB exclusively for the members of its mediation and fact-finding panels. These were important to Harold, as they enabled him to directly convey to panel members that, like staff members, they were part of the PERB family. Each Redhead led off with a column entitled “Harold Newman’s Cloudy Crystal Ball,” in which Harold typically would use a quotation³ – some well-known, some quite obscure, some self-authored – as the lede for instructive observations and advice pertaining to a conciliation issue that was proving irksome to him that particular month. I will take the liberty of providing passages

¹ *Remembering Harold Newman (7/24/2008)*. Retrieved from: www.ilr.cornell.edu/news/remembering-harold-newman

² So named due to the color of their mastheads.

³ PERB Chair John Wirenius has done us all a great public service by putting many of these quotations and Redheads online, but you’ll need to do some worthwhile digging to access them. Go to PERB’s website, perb.ny.gov, click on “The Taylor Law’s 50th Anniversary” and then on “Newman Quotes.” More important, if you then click on the particular author’s name, you will be taken to the Cloudy Crystal Ball article in which Harold used that quote.

from a few of these here, because they are so illustrative of what Harold was all about.

Here's Harold, on the tendency of some fact finders to use what he deemed "cold water shock therapy," i.e. "making preposterous recommendations" to "shake up" a party unwilling to make meaningful movement:

"Fact-finders please take very cautious heed,
the parties take seriously what they read!"

- Harold Newman

"It should be clearly understood...that the fact-finder...is NOT a behavioral psychologist. If he is, his talents should be offered not to PERB but to the Department of Mental Hygiene. If a fact-finding report is heavily and deliberately weighted to one side without valid basis in data and testimony, the recommendations will nevertheless be carried like a holy banner by the party which gets favored treatment....My staff and I are now struggling with the dual burden of calming the outraged group and trying to persuade the favored one that the fact-finding recommendations which they clutch to their bosoms are as meaningful as the Treaty of Tilsit (1811)."⁴

On the newly passed public sector bargaining law in Indiana, after having addressed a conference in that State:

"Lead me from the unreal to the real."

- Brihadaranayaka Upanishad

"My uneasiness with the Indiana law is that it seeks by statute to forbid governments to go into 'deficit financing' as a result of labor agreements. I must confess that I queried our Hoosier friends very closely as to the meaning of this. As heating oil rises sharply in cost and the school board hasn't the money in the till to heat the schoolrooms, are the kids in Kokomo to grasp their primers with icy fingers? If gasoline continues to rise astronomically in cost, are the buses to remain in the barn and toddlers in Terre Haute to trudge five miles through snow and cold to the schoolroom? Lumber is approaching the price of gold. No more school building in South Bend even if the high school is falling apart? I do not think that that is what Indiana intends. Only labor costs are to be held down. I predict they'll discover this won't work."⁵

⁴ *PERB Bulletin for Mediators/Fact Finders* (hereinafter "*PERB Bulletin*"), Vol. 3 No. 7 (10/1972). While Harold got the year wrong (it was 1807), the substance was correct in that by 1811 Napoleon's treaty with Prussia and Russia was essentially dead.

⁵ *PERB Bulletin*, Vol. 4 No. 11 (11/1973).

And finally, on one of the keys to being an effective mediator:

“Wer Fremde Sprachen nicht Konnte, Weisst nicht sein Eigene.”
- Johann Wolfgang von Goethe

“Goethe’s admonition that one who doesn’t know other languages really does not know his own is one that I take seriously....Communication and the nuances of language are terribly important to the mediator. He⁶ 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....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 parties without making them feel that they are being unfairly treated or that their concerns are not understood....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....”⁷

Harold took his passion for effective communication – both talking and listening – with him out in the field on mediation cases. Ted Gerber, one of PERB’s staff mediators at the time, recalled working a teacher’s strike with Harold where the school board seemed hell-bent on destroying the union. Ted said the union had been out for over three weeks, and rather than offering an olive branch, “was looking to rub their face in the dirt.” After a lengthy overture

⁶ It was the early 70’s when the masculine form for the universal pronoun was still in vogue. While it would be somewhat overstating the case to call Harold a great champion of women’s issues, he had the greatest regard and respect for women in the profession, particularly pioneers like Jean McKelvey, Alice Grant, Eva Robins and Ida Klaus among others, and shared a close friendship with many of them. Harold also spearheaded a training program designed specifically to increase the representation of minorities and women on PERB’s mediation, fact-finding and arbitration panels.

⁷ *PERB Bulletin*, Vol. 5 No. 2 (2/1974).

by Harold to the Board seemed to be going nowhere, he stopped, looked around the room, and admonished: “You need to remember...the blood of the martyrs was the seed of the church!” Ted said that statement stopped the board in its tracks, and got it thinking about what the long-term effect would be on the school district if they did not embrace a way to allow the union to return to work without eviscerating them.

Another former PERB staff mediator, Eric Lawson Jr., related a story about Harold’s skill at the other side of effective communication, namely listening and empathy. Eric related that Harold once joined him on a mediation involving a rural school district. Now bear in mind that Harold was a New York City boy through and through,⁸ and his erudition notwithstanding, would not have known a cow’s rump from its brisket. As Eric told it:

“After leaving Harold for a few minutes to confer with the union representative, I returned to find him closeted in conversation with the president of the school board. They were in deep conversation about the challenges of bovine mastitis – yes, inflammation of the mammary gland and udder– for sure an issue in the farming community but a topic I was surprised to learn that Harold claimed a deep curiosity about!”

And yet Harold’s intellect, while giant, did have a substantial limitation: under left-brain/right-brain theory, Harold was entirely right-brained. Suffice to say, Harold would be baseball’s Bart Giamatti, not its Bill James. To say that he was not mathematically or mechanically inclined is like saying Congress is not particularly collaborative. Harold’s attitude toward numbers was plainly on display in one of the Redheads:

“The field has been seized by statisticians and mathematicians who by some hideous alchemy twist negotiation, arbitration, mediation and fact-finding into a series of exercises in differential and integral calculus. The language of the articles (which are always interspersed by graphs) is usually that of Econometrics. Nobody...should even abide a word like ‘econometrics’....

I must ask myself after reading those learned professors who have turned labor relations into a behavioral science rigidified into statistical formulae whether they have ever mediated a strike? Or have they sat as arbitrators in discipline cases? If there is any statement which I feel comfortable at uttering ‘ex cathedra’, it is that the human component is the

⁸ Paul Curry, another of PERB’s staff mediators when Harold was Director of Conciliation (and later my Assistant Director) told me a great story in this regard. He noted that Bob Helsby, PERB’s Chair at the time, had to “pull out all the stops to convince Harold to leave his beloved Gotham for Albany.” According to Paul, Bob told Harold: “Harold, you have to accept this Director of Conciliation post! I know how you feel about New York City. But imagine the pain Colleen (Bob’s wife) and I endured when we had to leave Oswego!”

most important in either contract negotiation or contract administration. But I am afraid dear colleagues, that you will search frequently in vain in the learned journals and magazines for anything that speaks of or communicates to – human beings....”

The field belongs to union, management and the impartial and not to the calculator and the computer. I am not suggesting that like the Luddites we proceed to smash the machines, but that we use peaceful pen to write meaningful articles for our profession.”⁹

Marty Scheinman, who was a student of Harold’s during his stint at Cornell, and is now in the pantheon of New York State neutrals, fondly recalled the tale of Harold’s first exposure to a teacher salary guide during negotiations. After being handed the elaborate numerical grid, his high regard for the same was displayed when he took it with him to a bathroom stall in an effort to decipher it. Needless to say, it rapidly found its way into the school’s wastewater system. Similarly, Ted Gerber recalled a case in which a complex proposal for ending a strike was offered by one of the parties. Ted told Harold they had to sit down and closely analyze the cost or savings attached to each aspect of the offer. Harold’s reaction: “Child, don’t bother me with the details.”¹⁰

One might wonder how Harold was able to excel in a field where dollars and cents and percentages and differentials dominate the action. The answer is that his right-brain was intuitive and thoughtful enough to recognize his left-brain’s limitations. So Harold would surround himself in virtually every case with PERB staff mediators, who were eminently capable of handling what he deemed to be arithmetic minutiae. This was brilliant, because it also helped solve his other left-brain limitation, namely the mechanical one. For Harold, a power tool or even kitchen appliance was as challenging as nanoscience. So you can imagine the tragedy that was waiting to happen had Harold – who lacked a driver’s license before coming to Albany – attempted to drive an automobile to one of his cases. As convincingly put by Paul Curry, PERB’s mediator to the North Country:

“If I had been given the choice to drive “shotgun” with Harold or take a tour in Vietnam with the First Marine Division for twelve months, I would have easily chosen the leathernecks. Far better to have long periods of boredom punctuated by occasional terror, than endless periods of unpunctuated terror.”

⁹ *PERB Bulletin*, Vol. 5 No. 6 (6/1974).

¹⁰ “Child” was a term Harold frequently used when speaking with anyone on staff or panel who was, or appeared to be, younger than he was, and given his ever-widened appearance, that was just about everyone. It was never, however, used to patronize or disparage. It was always a term of endearment, not condescension. Harold and his indomitable wife Rita were childless, and Harold basically adopted his staff and many of the panel members as surrogate children.

This arrangement between Harold and his staff worked to perfection. To again use a baseball analogy, staff constituted the set-up men, absolutely necessary to put the case into a position where, Harold – the closer – could come in and sew up the deal. To do this, Harold only needed words, and, as already described, he not only had those in abundance, but he used them to cajole, humor, empathize and persuade with all the brilliance, strength, elegance and assuredness of Mariano Rivera with a baseball. The arrangement certainly helped him attain a national reputation as a mediator, and he went on to resolve scores of disputes, including the bitter and much-publicized 1975 strike against the New York City Board of Education by Albert Shanker’s United Federation of Teachers. And the arrangement also afforded him yet additional opportunities to teach, as all the staff mediators I spoke with attested to the great lessons and insights he offered regarding human behavior and the negotiations process – along with jokes, political commentary and historical perspective – during long car rides both to and from mediation assignments.

The close relationship Harold nurtured with both his staff and panel members was hardly surprising; forging better interpersonal and group relationships was his *raison d’être*. As an Army Air Force Corporal during World War II, he was an early champion of integration within the military service; as a Master Sergeant in Germany, he established a rehabilitation program for former concentration camp prisoners. On his return to civilian life, Harold joined the Employment Division of the State Labor Department, where he devised training programs enabling minority youth in New York City’s Bedford-Stuyvesant and Williamsburg-Greenpoint neighborhoods to develop white-collar office skills.

Harold believed sound relationships were built not just on communication, but also loyalty. He was fiercely loyal to his staff and panel “family.” Marty Scheinman related this story about the first case he was ever assigned by PERB:

“I was a kid. It was a Friday and I was excited that whole weekend. On Monday, the office phone rang and it was Harold. He said the 12 or 15 women working lunchrooms in the Mount Markham school district went on strike! I had lost my first case before I had even made my first phone call to schedule a meeting with the parties! Robert Helsby, PERB’s Chairman, wanted Harold to replace me with someone experienced, but Harold said “No...the case is yours but you have to go up there now.” When I called him back to tell him the strike was settled, Harold said, “that’s the last time the Chairman will ever doubt my judgment.” He told me he was proud of me. That that was the greatest compliment I ever received.”¹¹

When Governor Carey named Harold to succeed Bob Helsby as Chair, a vacancy opened for his Director of Conciliation position. Harold wanted his loyal Assistant Director, Erwin Kelly to succeed him. But “Kel,” as the saying goes,

¹¹ It therefore is not surprising that the conference room within the Martin and Laurie Scheinman Institute for Conflict Resolution at Cornell ILR is named after Harold, as is one at Marty’s own private neutral practice.

was someone as pure as the driven snow, someone Harold always referred to as “saintly.”¹² So when Kel refused, on principle, to make the expected call for support to his local political committeeperson, Harold got on the phone, pretended to be Kel, and covered the required base for him! And as I can personally attest, when Kel retired as Director, and Harold wanted the then Assistant Director – me – to succeed him, he swiftly squashed an attempt by one of PERB’s major clients to use political influence to place its own favored candidate into the position.

Virtually this entire article has dealt with Harold as Director of Conciliation, rather than his tenure as Chair. This was not unintended, since to my mind, it was where he made his greatest contribution to PERB and the labor community. Harold liked being in the midst of the struggle, not just because he enjoyed the action, but also because it lent him great credibility when writing or orating on the conciliation process. After being named Chair, he stated in his final Redhead:

“We shall continue our professional and personal contact with panel without this column....We shall continue the work that is, we believe, very meaningful, socially-useful, and capable always of providing stimulation and satisfaction to heart and mind. But we shall miss the conciliation battles on the firing line...

“Farewell the tranquil mind; farewell content!

Farewell the plumed troop and the big wars that make
ambition virtue!”

- William Shakespeare (1564-1616)
Othello Act III, Scene III

As Chair, the new battleground for Harold would be in PERB’s courtroom and boardroom. While it cannot be said that this put Harold out of his element – the law, after all, is a field dominated by words – bandying about legal phrases like *sui generis* (Eric Lawson reminded me that this was Harold’s favorite, and one he used liberally) was not quite the same as conversing with a farmer about mastitis or with Albert Shanker about the New York City fiscal crisis. Moreover, Harold was surrounded by a bevy of fine legal minds far better equipped to deal with issues like representation and scope of negotiations questions: Jerry Lefkowitz, Ida Klaus, PERB Counsel Marty Barr and a host of other attorneys within the agency.

Yet Harold certainly was able to bring practical, “how it will actually play out there” advice to the Board’s deliberations, and made at least one other significant contribution during his years at the Board’s helm: enhancement of the Board’s standing as a credible, neutral agency. Harold was a well-known and beloved figure in both labor and management circles, and as such, PERB’s reputation as perhaps the nation’s leading full-service public sector labor relations agency was easily preserved, as was acceptance of the Board’s expertise and decision-making among its clientele. The title of Chair gave Harold

¹² *PERB Bulletin*, Vol. 8 No. 10 (11/1977).

the ability to write and address an even wider audience, which in turn served to burnish the agency's image. As Chair, he exercised a major influence on the evolution of public sector collective bargaining both in New York State and throughout the nation, providing guidance to fledgling labor boards in Connecticut, Ohio, Vermont and at the federal level. Harold's sharp wit, incisiveness and delivery made him one of the most sought-after speakers in the labor relations and public administration communities, lecturing throughout the U.S., and in Canada, Europe, and Latin America. I greatly regret that I am unable to pass along to you the story Harold would sometimes relate to an audience after being introduced during a speaking engagement, not only because it's my favorite and the one I best remember, but also because it so humorously captures his passion for appropriate word usage. But alas, I am confident that in this more "enlightened" day and age, it simply would not pass muster with the PC police. Mind you, Harold was never profane, sexist or off-color from a public platform, his penchant for a lusty limerick during the privacy of a car ride notwithstanding. Wordsmith that he was, however, the double entendre was something dear to his heart. So while the story will not grace this page, should you find me at the Taylor Law's 50th Anniversary Conference in Albany this coming May (and perhaps as an added incentive for you to attend), it is likely that with but minor coercion I will pass on to you the "sordid" tale!

I began my service at PERB in the Office of Counsel. Even before coming to the agency, I had been advised to "stay close" to a man named Harold Newman, since speculation was that he would eventually become Chair. This did not prove difficult, of course, since I was young, fresh meat for him to mentor. Barely two years into the job, a burgeoning caseload for hearing officers meant that we in Counsel's Office were occasionally borrowed to serve in that function. I received a case in which the claim was that dispatcher functions within a County that were traditionally performed by police officers had been impermissibly transferred to civilian personnel. After issuing my decision in the matter, I received the following memorandum from Chairman Newman:

"Equal at least to our concern for correct interpretation of the statute and soundly reasoned decision-making, should be a respect for the English language. In the above captioned case you have repeatedly made reference to *civilianization*. I doubt that perusal of any dictionary published in the English-speaking world would enable the researcher to discover that word. Indeed, it is not a word – it is an abomination. For myself, I care less about how decisions are finally arrived at, than that they be written in English which offends neither the eye nor the senses."

I was shocked. The topics of unit work, subcontracting and the like were then at the peak of controversy in the labor community and I had heard the term "civilianization" used on numerous occasions. Was it not a real word? After looking it up, I typed the following memorandum back to the Chair:

“I am in receipt of your memorandum concerning my use of the word ‘civilianization’ in a hearing officer’s decision. I am overwhelmed by the constructive criticism you have offered in that memo, and impressed by the painstaking research that must have gone into its composition. Perhaps it should be made available to all agency employees – together with the attached copy of page 413 of Webster’s Third New International Dictionary, which, for your information, rests prominently on a stand approximately 40 feet from your desk. Until the dictionary is “Newmanized,” I’ll stick with Webster.

P.S. Crow under glass will be promptly served at 6:00 pm. Touché.”

Before sending this blatant piece of insubordination off to the front office, I showed it to a few colleagues, who questioned why job security was not higher on my list of life priorities. Yet even as a mere plebe, I had already learned that Harold appreciated people who spoke their minds and offered a challenge. Time and time again I heard him remind his staff that they were “neutrals – not neuters.” So, thinking that in some strange way it would even further ingratiate me with the great man, off it went. His reply was swift:

“CROW: When prepared with truffles, *marrons glaces*, and a dash of basil, is delicious.

I shall enjoy the Crow, although I shall eat most humbly and quietly – like a Carmelite.”

That was Harold. Relishing the battle even in defeat, but making sure to take the time to teach a lesson, in this case, the importance of remaining humble even when victory is especially sweet. I have retained those memoranda to this day, as they provide a striking reminder of one of the many lessons Harold taught me, along with so many others in our labor relations community. For that, we thank you...godfather.