

THE CAUCUS

The F.M.C.S. Retiree Newsletter
By Friends of FMCS History Foundation

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November 2007

30th Anniversary: Labor Management Cooperation Act: An Insiders View by John Popular

"Once upon a time"...actually it was 1973. When I was recruited to Washington by Bill Usery to join the Office of Technical Services (OTS), I was charged with the responsibility to "jump start" the Preventive Mediation program. The Washington scenario looked like this. The National Commission on Productivity was pushing FMCS aside as NCOP ran a series of regional conferences on "Quality of Work Life", the media was infatuated with Japanese "Quality Circles", academia was touting their expertise in "socio-technical pilot programs" featuring labor management committees. FMCS was not a player.

That year Jerry Barrett and I met with the Union and Business Co-Chairmen of the Jamestown Area Labor Management Committee accompanied by Mayor Stan Lundine of Jamestown New York. They asked for help. While we pledged mediator support from the Buffalo field office, we told them FMCS had no discretionary money for area LMCs. It was a wake up call for FMCS to take a lead role in supporting area LMCs. Two years later, Director Jim Scarce approved OTS organizing the "1st Annual Conference of Area Labor Management Committees" which was attended by 60 people from a dozen such committees. Our keynote speakers were three freshmen congressmen from Western New York; Jack Kemp, John LaFalce and Stan Lundine.

Fast forward to 1977. We learned that Congressman Stan Lundine had enlisted the support of Senator Jacob Javits (R-NY) to co-sponsor the "Labor Management Cooperation Act". The text of the language specified that the Department of Labor and Department of Commerce would have responsibility for administering a "grant program" of seed money for "quality of worklife" programs as well as promoting the program. FMCS was again out of the loop. This was also the year that OTS was being dismantled and there was little interest in the pending legislation from the 9th floor. I called Congressman Lundine's office to

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get a one-on-one meeting with Stan. When I met with Congressman Lundine, I made three points: (1) If the Dept of Labor and Dept of Commerce have jurisdiction, there is nothing to prevent funding going to non-union "quality of worklife" programs. Such funding would be perceived as "anti-Union", (2) FMCS was an agency created by the Labor Management Relations Act of 1947, and the text of the law restricted our legal parameters to serving "employees through representatives of their own choice." In effect I pointed out that funding would be restricted to union-management relationships under the law, (3) FMCS was the logical choice since our field mediators were best suited to work with labor and business to help the development and/or provide resource support to area labor management committees. Our mutual goal was (1) to reverse the trend of bad labor relations being the alleged culprit leading to plant shut downs and (2) demonstrate that positive labor-management relations could lead to improved operational efficiency, investment and plant expansions, thus stabilizing manufacturing employment in the community.

Congressman Lundine requested my input on editing the text of the proposed legislation. I deleted the "soft" language of QWL and substituted words like "operational effectiveness", "improved labor management relationships" and "industrial retention". Three weeks later, we had a call from Don Zimmerman, a top staffer in Senator Javits office to set up a meeting. Staffers from both Javits and Lundines office met with us in the 7th floor conference room. Since the FMCS Legal Counsel had responsibility for Congressional Relations, Nancy Broff attended with Jerry and myself. We hammered out the language and it was agreed that FMCS would play the lead role in the grants program envisioned in the legislation. The legislation became an amendment to the Labor Management Relations Act of 1947, and was enacted in 1978. Congress did not authorize any funding appropriations for the FMCS grant program.

I left FMCS in 1978, and along with my consulting work, I organized the National Association of Area Labor Management Committees for the purpose of lobbying Congress to provide funding for the grants program. We worked closely with John Stepp at DOL and Peter Regner. NAALMC organized and coordinated the joint efforts of both labor and business representatives in lobbying Senators and Congressmen from their hometown constituencies. By 1981, Congress appropriated funding for the FMCS grants program (\$ 1 million). The next year NAALMC sold Director Kay McMurry on the idea of the National L-M Conference which started in 1982, and has continued as a high profile conference into the 21st century.

Did we "all live happily ever after"? The moral of the story: Labor-Management cooperation became national policy. FMCS became the U.S. Government official leader of the L-M initiative. Preventive mediation evolved from an "orphan" in 1973 to a highly significant role in the FMCS mission with widespread support and involvement of the mediation staff. Labor and management had a golden age of cooperation for over two decades of our history.

Remember Newspaper Labor Reporters?

In the 60s and 70s, all major and mid sized cities had one or more Labor reporter. Mediators knew them well as they tracked strikes and major negotiations. Those reporters and their news coverage began disappearing in the 80s and by the 90s only a few major papers staffed such a job. In the view of Nancy Cleeland, a ten year labor reporter for the L.A. Times, the decline has worsened. Ms. Cleeland, in explaining her reasons for leaving the Times, paints a sad picture. She writes:

“After 10 years, the decision (to leave) grew out of frustration with the paper's coverage of working people and organized labor, and a sad realization that the situation won't change anytime soon.

The Los Angeles region is defined by gaping income disparities and an enormous pool of low-wage immigrant workers, many of whom are pulled north by lousy, unstable jobs. It's also home to one of the most active and creative labor federations in the country. But you wouldn't know any of that from reading a typical issue of the L.A. Times. Increasingly anti-union in its editorial policy, and crime-focused in its news coverage, it ignores the economic discontent.

Rather than reverse those troubling trends, recent political leaders have done just the opposite. Enabled by a Milton Friedman-inspired belief in free markets and the idea that poverty is proof of personal failure, not systemic failure, federal trade

Doug Hammond, Retired, wrote: “Before I forget, the 9 dot, "outside the box" exercise was, I believe, introduced to us by Gordy Graham, then with the

and regulatory policies have consistently undermined workers. The inequities worsened under President George W. Bush, who wears his antipathy toward labor on his sleeve. But few alarms were sounded by the mainstream press, including the Los Angeles Times. In the easy vernacular of modern journalism, the Times and other newspapers routinely cast business and labor as powerful competitors whose rivalries occasionally flare up in strikes and organizing campaigns. But what I saw was that workers almost always lose. Now, like hundreds of other mid-career journalists who are walking away from media institutions across the country, I'm looking for other ways to tell the stories I care about.”

Comments on Nine Dots

In Spring 2007 Caucus, the Editor asked who introduced the Nine Dot Exercise to FMCS. These three responses came:

Commissioner **Gary Hattal**, Seattle, wrote: “I also still use the nine dots as a portion of my training in IBB when I talk about generating options and being creative. I also take it to another level and ask if one can connect the dots with just one line. If one changes the environment, completely, by folding the paper into pleats, or crushing it, all the dots can come together in a line or a point. It makes the argument that parties can work together by completely changing their environment and thus their orientation toward each other at a fundamental level.”

Pacific Institute, now Gordon Graham and Associates. I met Gordy in Seattle, and introduced him to FMCS and the labor community through the local IRRA chapter and our annual Collective Bargaining conference.”

David Tanzman, Retired, wrote: “As to the nine dots: Here is my memory at work. At an FMCS conference in the late 50s or early 60s, in Atlanta Georgia, a visiting professor from University of Chicago put on a program on how to think outside the box. The nine dots and the four, straight continuing lines, was the pony to prove his point that mediators should not get boxed in, as do the parties. Yours truly took the presentation and custom-made it to a labor-management setting, and to this day, I have great results in its usage in my classes. The UAW was so impressed with it that that they put it in their basic education program.”

(The Editor wrote in the May 2007 **Caucus** that he thought he knew who introduced the Nine Dot Exercise. The Editor, as a new mediator in 1964, saw **David Tanzman** use the Nine Dots.)

Happenings at FMCS

Remember in 1985 when mediator **Eileen Hoffman** gave birth to a daughter. Eileen was the first mediator to do so. Well Eileen’s daughter graduated from college in May 2007, Congratulations to both, and dad too.

Commissioner Bob Ditillo was honored with a Gold Award--the highest honor--by the Pittsburgh Federal Executive Board in the category of “Outstanding Service To The Public.” Bob was recognized for his accomplishments as a mediator and for his successful work in the area’s labor-management community. Congratulations to Bob.

DMS Pamela Gentry announced her retirement after 30 years with FMCS. Pam plans to write a self-help book on Surviving Divorce. (We’ll watch for your book and hope your health improves away from the DMS job stress.)

Vinny Watson announced his retirement with email to FMCS staff on June 1, 2007, after 27 years. He wrote that his mentor, Matt Miller, told him “This will be the best job you will ever have, don’t screw it up!” Vinny said he tried not to, and he passed that message on to all new mediators, but some did not listen. Vinny offered two final pieces of wisdom: 1) Learn to fake sincerity, it helps a lot. 2) Thank you to all his supervisors for being so creative in evaluating him.

Jeffrey Clark retired on September 2007, after 10 years in Seattle.

How about that:

Your editor, like many others at the time, thought that the Air Traffic Controllers strike in 1981 was foolish and that the outcome was predictable. Here is some new information: legal research, at that time, showed that no Federal striker had ever lost his/her job permanently.

Dynamic Adaptive Dispute Systems (DyADS)

The FMCS pilot program—known as Dynamic Adaptive Dispute Systems (DyADS)—was launched at the agency in June 2004.

Under DyADS, FMCS mediators work with employer and union representatives at pilot sites in a collaborative effort to facilitate the design of state-of-the-art dispute-resolution processes for individual workplaces. The result is a systematic approach targeting the needs of the organization and union.

FMCS has selected the Werner Institute for Negotiation and Dispute Resolution at the Creighton University School of Law in Omaha, NE to further refine and advance this FMCS pilot program. Former General Counsel **Arthur Pearlstein** heads the program at Creighton University.

In Memoriam

Pearl Smith died on September 5, 2007 in Marion, Kentucky, just weeks before her 99th birthday. In an earlier **Caucus**, Ms. Pearl's contributions to USCS and FMCS were reported in detail. From 1938 to 1947, she was secretary to the USCS Director. Beginning with Director Ching in 1947, she served as secretary to eight successive FMCS directors. She was a most impressive person. Her classy style and dignified presence are affectionately remembered by many.

Sally Swerbilov passed away on July 11, 2007 at age 80. An FMCS mediator from 1971 to 1995 stationed in the NYC metro area, she also served as a mediator for New Jersey's Public Employment Commission. Earlier she worked research and negotiation for AFSCME and as national representative of AFT.

Tom Curtie passed away after a five year serious illness on July 4, 2007. Tom joined FMCS in 1974, and retired in 1996. The majority of his career was spent as the only mediator in Salt Lake City.

James L. "Jidge" Macpherson (Obiuary written by Jim's daughters) Born in Butte, MT on Christmas Day, 1925. Died May 19, 2007, in Seattle. Jim is preceded in death by his loving wife, Lee and their son, Jay and is survived by his daughters, Sandra (Bill Arrendale) and Laura (John Miller and grandson, Lucien Miller). Jim's lively mind served him well in a long career as a federal labor mediator and arbitrator, in Chicago, Cleveland and finally Seattle, where he served as Regional Director of the FMCS from 1975 until his retirement. He had a wonderful sense of humor and a fondness for kids, animals, and a day at the horse races. He always made things fun, and we will forever miss him. Jim gallantly fought long against the ravages of Alzheimer's disease. There was no formal service, at Jim requested.

(Adopted from Douglas Martin's Obt: May 31, 2007) Sam Kagel, a mediator and arbitrator whose career settling labor disputes ranged from the rowdy San Francisco docks of the 1930s to the N.F.L. strike in 1982, died on May 21 in San Francisco. At age 98. Lawyer Kagel combined his mediating and arbitration skills into a technique he christened "med-arb." In a book he wrote with Kathy Kelly in 1990, The Anatomy of Mediation: What Makes It Work, he described the mediator as a third negotiator who is "neutral, but not neutered." In his book he also wrote a good mediator never mentions that he might have made a mistake. "A mediator has to know how to keep secrets!" John Kagel, who practiced arbitration with his dad, explained his dad's mediation skills thus: "It's

like a third baseman knowing by the crack of the bat exactly where the ball is going.”

Jim Scearce's wife, Jewell, passed away November 7, 2007 after 6 years suffering with Cancer. A memorial service is scheduled for 3:00 p.m. Saturday November 10th at Culley's Meadow Wood Funeral Home located at Riggins Road in Tallahassee, Florida. In lieu of flowers, Jim has requested donations to The Ovarian Cancer Research Fund, 14 Pennsylvania Plaza, Suite 1400, NY, NY 10122. For all those folks who met Jim's wife, she was truly a "jewell". We will all miss her. (From **John Popular**) Jim's address is: 3212 East Lakeshore Dr. Tallahassee, FL. 32312-2001.

Francis J. Andrews, 88, passed away on October 20, 2007. He was born October 3, 1919 in Bordentown, New Jersey. Frank retired after 36 years of service with the Federal Government. He served in several capacities with the Federal Mediation and Conciliation Service with the last 12 years as a Federal Mediator. (Obit provided by **C.J. Hedgepeth**, National Office, from the LexisNexis. Andrews does not appear in the FMCS Bio Book. Only his name appears in the USCS Bio Book. Any reader who knew Andrew please write.)

From the Editor

The Retirees celebrated the 60th Birthday of FMCS at their Florida Reunion in late April. The occasion was noted by an exhibit from the Friends archive, a supper with remarks and remembrances. And two papers on the 60th from the Friends and a commemorative coffee cups were given to everyone.

In October, your editor took materials from the Friends archive to display at an evening reception for mediators in town for a professional development seminar. Director Rosenfeld made very brief remarks and introduced four former directors: Bernie DeLury, Ken Moffett, Wayne Horvitz and John Wells.

At the LERA annual conference in January 2008, your editor will provide information on the FMCS 60th at a Poster Session. Three of his recent papers on FMCS history will be available as handouts.

Reactions to the Friends website have been positive to date. If you haven't looked at it yet, please do and then provide your reaction and suggestions. Expanding it would make more information easily available to readers, and also reduce the need for storage space and rent. Your thoughts on that are needed.

The IRS has required the Friends to create a Board of Directors. Lou Manchise and Ron Collotta have agreed to serve as Directors. Their willingness to serve and their long time support of the FMCS is greatly appreciated.

While the members of the FMCS Mediator Association were attending a Professional Development Conference in October, one of their officers, **Steve Fisher**, invited the Editor to speak at their meeting about the Friends of FMCS History. Then, happily, they voted to donate a \$1,000. to the Friends, and they sent a check, which is now in the Friends' bank account.

The last **Caucus** asked for help in finding missing mediator class photos. No help came. Certainly some reader has a copy of a missing class.

From the Field

Cliff Suggs wrote: "I am in the process of finishing a children's book (writing not reading), which I hope to have published soon. I have been encouraged to sell the story to one of the animation studios. Hey, maybe I have another career left in me at this late date." (Let's see: factory worker, union rep., mediator, Cornell ILRS faculty --- child story book writer makes sense.)

Bob Bennett, Ward Wilson and Dale Cline each wrote mentioning something about getting old. Imagine that! They also each wrote expressing appreciative for the **Caucus**. That is always welcome.

Doug Hammond wrote from Arizona where he sees his neighbor **Tom O'Brien** often. He also mentioned his arbitration work in Seattle, the two Pheonix mediators, **Ron Collotta and Dennis Teel**, getting him involved in the local IRRA, including the Presidency this year. Doug also mentioned seeing **Guy Parent**, a busy arbitrator in Arizona. He mentioned **Eileen Hoffman, Mike Nowakowski, Ron Sweet and John Stepp** as interns with him in 1975 who are still working, but he lost track of the others. (Any of the others from the 1975 class who read this, please write so Doug will know what you're doing.)

David Tanzman wrote that at age 88 he still occasionally mediates, arbitrates and conducts elections. He and his wife Lottie travel to see their family members who are spread from coast to coast. There are many of them: four children, 12 grandchildren, and eight great grandchildren.

Contributors Since the Last Caucus

Sincere thanks (not the kind Vinny mentioned) to the following for their contribution to the Friends:

David Tanzman, Bill Lewis, Ward Wilson, Scott Blake, Jack Buettner, Paul Chabot, Pete Cinquemani, Ron Collotta, Gary Eder, Steve Fischer, Josh Flax, Bill Gill, Gary Hattal, Eileen Hoffman, Mike Johaneson, Dale Johnson, Christel Jorgensen, Joe Kelleher, John Pinto, Kurt Saunders Tom Summers, Connie Weimer, Clif Suggs, Bob Bennett, Lou Manchise, Jo Curtie (Tom's widow), Nick Fidandis, Pat Hart, Tom O'Brien, Doug Hammond, Chuck Rehmus, Harrell Mays, Dale Cline, Tom Colosi, Leon Groves, Steve Loeffler, Jim Hermans, Jack Healy, Dick Deem, John Knight, Dave Hannan, Joel Schaffer, and FMCS Mediator Association.

PUT THESE DATES ON YOUR CALENDAR

APRIL 29, 30 AND MAY 1, 2008

THEY ARE THE DATES OF THE RETIREE REUNION,

IN DUNEDIN, FL. AT THE BEST WESTERN YACHT HARBOR INN

On the first two pages of this Caucus, John Popular explains the theme of the Reunion. Of course there will be the usual sunshine activities.

EMAILING THE CAUCUS

This Caucus and the May 2007 issue were sent by email and U.S. mail, but not without problems. So your help is needed. If you got two copies via email, write or call. If you got both an email and hard copy, write or call. If you got a hard copy but prefer an email version, email explaining. Over 100 of you are getting this my email, a big savings in postage and manual labor.

**The Caucus
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