

reconciling

REMARKS OF WAYNE L. HORVITZ

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THE TITLE OF MY PRESENTATION TODAY IS:
"PUBLIC SECTOR DISPUTE RESOLUTION DURING
A PERIOD OF FISCAL STRINGENCY."

THAT'S AS GOOD A TITLE AS ANY FOR A
SUBJECT ABOUT WHICH FEW OF US IN THE DISPUTES
RESOLUTION BUSINESS KNOW VERY MUCH, EXCEPT
FOR THE FACT THAT WE DON'T KNOW VERY MUCH.
ALL OF US IN THIS SEAT-OF-THE-PANTS BUSINESS
ARE UNDERGOING--AND NECESSARILY SO, IN
VIEW OF THE LACK OF PRECEDENTS, TEXTBOOKS,
OR A GOOD SET OF CHICKEN ENTRAILS--ON-THE-JOB
TRAINING.

(MORE)

WE HAVE AMASSED ENOUGH OF A BODY OF EXPERIENCE--ALTHOUGH THAT BODY HAS GOTTEN SOME PRETTY GOOD BRUISES ON IT--TO RECOGNIZE THAT THE SAME RULES BY WHICH COLLECTIVE BARGAINING IS CARRIED OUT-- THAT'S THE WRONG CHOICE OF WORDS--CONDUCTED IN THE PRIVATE SECTOR ARE NOT APPLICABLE TO THE PUBLIC SECTOR. TO USE A GOOD CURRENT WASHINGTON PHRASE, THERE ARE TOO MANY VARIABLES NOT PRESENT IN THE PRIVATE SECTOR. SOME OF THESE VARIABLES, AND THIS IS A PARTIAL LIST, ARE BUDGETS, LEGISLATURES, CITY AND COUNTY COUNCILS, MAYORS, GOVERNORS, COUNTY EXECUTIVES, VOTERS, PARENTS, AND A LOT OF OTHERS.

(MORE)

BECAUSE WE ARE JUST NOW APPRECIATING THE EXTENT TO WHICH THESE VARIABLES IMPACT ON COLLECTIVE BARGAINING IN THE PUBLIC SECTOR AND MAKE IT A SEPARATE ENTITY WITH COMPLEXITIES ALL ITS OWN, DISPUTES RESOLUTION IN THE PUBLIC SECTOR HAS PROVED OFTENTIMES QUITE DIFFICULT.

RECOGNIZING THAT, IT TAKES NO GREAT WISDOM TO FORECAST THAT PUBLIC SECTOR DISPUTE RESOLUTION IN A PERIOD OF FISCAL STRINGENCY IS GOING TO BE EVEN MORE DIFFICULT.

[REDACTED]

[REDACTED]

[REDACTED]

(MORE)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

FISCAL STRINGENCY HAS BEEN, IS NOW,
AND WILL BE THE MANDATE UNDER WHICH PUBLIC
EMPLOYERS SET THEIR SPENDING PRIORITIES.
THAT MEANS FEWER PUBLIC EMPLOYEES JOBS --
OFTEN INVOLVING DRASTIC STAFF CUTBACKS--
LESS MONEY FOR PAY INCREASES, AND STINGIER
BENEFITS, ALL IN THE NAME, USUALLY, OF THE
NEED TO FIGHT INFLATION, OR MAKE GOVERNMENT
MORE EFFICIENT.

(MORE)

IT SHOULD NOT OCCASION GREAT SURPRISE
TO DISCOVER THAT THE PUBLIC EMPLOYEE READS
THIS AS AN ATTEMPT TO PUT THE BURDEN OF
FIGHTING INFLATION ON HIS BACK.

AND HE OR SHE RESENTS IT.

IN THE NOT-TOO-DISTANT PASS, PUBLIC
EMPLOYERS GENERALLY COULD TELL THE TROUPS
TO LUMP IT IF THEY DIDN'T LIKE THE WAYS
THINGS WERE.

BUT PUBLIC EMPLOYEES HAVE LONG SINCE
DISCOVERED UNIONS, THEY HAVE BEGUN TO UNDERSTAND
WHAT COLLECTIVE BARGAINING CAN DO FOR
THEM, AND THEY HAVE FOUND OUT THAT THE
WORLD WILL NOT COME TO AN END IF THEY
STRIKE, NO MATTER WHAT THE LAW MAY SAY.

(HOLD HOSTAGE)

(MORE)

AS THE RESENTMENT ON THE PART OF PUBLIC EMPLOYEES INCREASES, AS I BELIEVE IT WILL, THEN THE NUMBER OF STRIKES IS LIKELY TO INCREASE IN THE PUBLIC SECTOR.

~~ONE THING HAS BECOME INCREASINGLY~~
APPARENT, AND THAT IS THAT THE QUALITY OF PUBLIC SECTOR STRIKES HAS CHANGED. BY THAT I MEAN THAT THESE STRIKES HAVE BECOME MORE BITTER, THEY ARE LASTING LONGER, AND THEY ARE MORE COMPLEX. THEY ARE, AS A RESULT OF THIS CHANGE IN QUALITY, MORE DIFFICULT TO SETTLE. AND I THINK THE REASONS FOR THESE DEVELOPMENTS ARE RELATED DIRECTLY TO THE IMPACT OF FISCAL STRINGENCY.

(MORE)

PERIODICALLY, I MAKE THESE OBSERVATIONS IN OUR AGENCY'S BUDGET HEARINGS WITH THE EXAMINERS IN THE OFFICE OF MANAGEMENT AND BUDGET. IT MAKES THEM SOMEWHAT UNCOMFORTABLE WHEN I ALSO POINT OUT TO THEM THAT THE FEDERAL SECTOR IS NOT IMMUNE TO THESE PRESSURES, AND THAT IT WOULD NOT SURPRISE ME TO SEE A STRIKE OR SOME OTHER TYPE OF JOB ACTION IN THIS SECTOR IN THE NOT TOO DISTANT FUTURE.

(MORE)

I WOULD GUESS THAT THIS RESENTMENT WILL CONTINUE UNTIL PUBLIC EMPLOYEES-FEDERAL, STATE AND LOCAL--NO LONGER FEEL THEMSELVES SPOTLIGHTED AS SCAPEGOATS FOR THE INFLATION IMPACT ON PUBLIC ACTIVITY OR THE PUBLIC'S PERCEPTION OF WASTEFUL GOVERNMENT AND WHEN THERE ARE MECHANISMS FOR SOLVING THESE ECONOMIC GRIEVANCES PEACEFULLY.

SINCE MUCH OF THE RESENTMENT OF WHICH I SPEAK IS TIED TO INFLATION, AND INFLATION LOOKS AS THOUGH IT IS GOING TO BE WITH US FOR A CONSIDERABLE PERIOD AHEAD, I DON'T SEE ANY IMMEDIATE EASING OF THE PROBLEM.

(MORE)

-6-A-

THE BEST MECHANISM AVAILABLE FOR
EMPLOYEES TO HELP SOLVE THEIR ECONOMIC
GRIEVANCES IS COLLECTIVE BARGAINING.
BUT FOR A VARIETY OF REASONS WHICH I
WILL GO INTO DURING THE COURSE OF MY
REMARKS, COLLECTIVE BARGAINING IS
HAVING A TOUGH TIME IN THE PUBLIC SECTOR.

(MORE)

A MAJOR PROBLEM IS THAT BARGAINING IN THE PUBLIC SECTOR IS TERRIBLY FRAGMENTED. THERE ARE TOO MANY "PLAYERS" INVOLVED; THERE IS NO FOCAL POINT, AND OFTEN NO SINGLE CENTRAL DECISION POINT. OUR EXPERIENCE IS THAT THERE ARE TOO MANY "END RUNS" WHICH CAN BE MADE AROUND THE BARGAINING TABLE AND THOSE WHO OUGHT TO BE THE CHIEF NEGOTIATORS. IF THE NEGOTIATOR FOR THE CITY OR THE COUNTY OR THE SCHOOL BOARD SAYS NO, THERE'S THE POSSIBILITY OF REVERSING THIS BY AN END RUN TO THE CITY COUNCIL, THE MAYOR, THE STATE LEGISLATURE, THE GOVERNOR, OR A REFERENDUM THAT INVOLVES THE PUBLIC, OR A VARIETY OF OTHER WAYS.

(MORE)

MOST PUBLIC SECTOR EMPLOYEES HAVE A LONG HISTORY OF USING POLITICS--AND QUITE EFFECTIVELY--TO ACHIEVE THEIR GOALS. THEY ARE QUITE SKILLED IN THEIR DEALINGS WITH CITY COUNCILS, MAYORS, STATE LEGISLATORS-- AND EVEN THE PUBLIC. THE NEW YORK CITY POLICE ON MORE THAN ONE OCCASION PINNED BACK THE EARS OF THEN-MAJOR JOHN LINDSAY IN COLLECTIVE BARGAINING BATTLES, EVEN TO THE EXTENT OF GETTING THE CENTRAL POINT AT ISSUE INCLUDED ON THE BALLOT IN A REFERENDUM.

LET ME CITE TO YOU A RECENT EXAMPLE OF HOW FRAGMENTED AND HOW POLITICAL THE BARGAINING CAN GET.

(MORE)

EARLIER THIS YEAR, THE TEACHERS IN ST. LOUIS REPRESENTED BY THE AMERICAN FEDERATION OF TEACHERS WERE ON A STRIKE THAT HAD BEEN GOING ON FOR EIGHT WEEKS WHEN ONE OF OUR MEDIATORS FROM THE NATIONAL OFFICE GOT INTO IT. THE MAYOR OF ST. LOUIS HAD PUBLICLY PROCLAIMED THAT WHAT MANAGEMENT HAD TO OFFER WAS ALL OUT ON THE TABLE, AND THAT THERE WAS NO MORE MONEY AVAILABLE.

WHEN ED McMAHON ARRIVED, THE STRIKE WAS IN FRONT OF A JUDGE; THE SCHOOL BOARD WAS SEEKING AN INJUNCTION TO FORCE THE OPENING OF THE SCHOOLS. THE GOVERNOR OF THE STATE WAS TALKING OF USING THE NATIONAL GUARD TO BACK UP SUCH AN INJUNCTION.

(MORE)

AT THAT POINT JUST WHEN EVERYONE WAS PROCLAIMING THAT NO MONEY WAS AVAILABLE, THE GOVERNOR REACHED INTO A SCHOOL FUND THAT HAD BEEN SET UP FOR OTHER PURPOSES AND PRODUCED \$1.4 MILLION DOLLARS TO HELP MEET THE TEACHERS' DEMANDS. HOWEVER, THAT STILL WAS NOT ENOUGH. SO WHILE THE JUDGE KEPT THE INJUNCTION HEARINGS GOING FOR FIVE DAYS, A WIDE SELECTION OF INDIVIDUALS WENT TO WORK TO SEE IF OTHER SOLUTIONS COULD NOT BE DEvised.

WITHOUT GIVING AWAY ANY OF ED'S TRADE SECRETS, BECAUSE HE MIGHT WANT TO USE SOME OF THE MOVES HE CAME UP WITH IN ANOTHER SIMILAR SITUATION, WHAT FINALLY PROVED TO BE THE SOLUTION WAS THE OFFER OF \$800,000 DOLLARS BY A GROUP OF TOP ST. LOUIS BUSINESSMEN.

(MORE)

JIMMY DURANTE HAD A PHRASE THAT ACCURATELY DESCRIBED THIS SORT OF SITUATION: HE WOULD LOOK AT THE AUDIENCE, CLAP HIS HANDS DOWN TO HIS SIDE AND EXCLAIM: "THEM'S THE CONDITIONS THAT PREVAIL!"

WITH INFLATION RUNNING HIGH, AND THE AVERAGE CITIZEN DECIDING THAT HIS TAXES OUGHT TO BE CUT AND THAT LOCAL GOVERNMENT OUGHT TO BE PULLING IN ITS BELT, THE PUBLIC IS DECLARING ITSELF A PARTNER IN COLLECTIVE BARGAINING.

(MORE)

AND IT IS NOT SO SURE IT LIKES WHAT IT SEES. ROBERT DOHERTY, ASSOCIATE DEAN OF THE CORNELL SCHOOL OF INDUSTRIAL AND LABOR RELATIONS, PUT IT RATHER WELL, RECENTLY, IN SOME OBSERVATIONS ABOUT WHAT'S HAPPENING IN SCHOOLS: "IT ISN'T NECESSARY (FOR THE PUBLIC) TO BE PRECISE," HE SAID. "ALL THAT NEEDS TO BE SHOWN IS THAT COSTS ARE UP, ACHIEVEMENT IS DOWN, AND THESE THINGS BEGAN TO HAPPEN AT AN ACCELERATED PACE SOON AFTER TEACHERS BEGAN TO BARGAIN. BECAUSE THEY BELIEVE THAT COLLECTIVE BARGAINING INFLUENCES THE LEARNING ENVIRONMENT--AND THAT INFLUENCE CAN BE EITHER FOR THE BETTER OR FOR THE WORSE-- MANY PARENTS NOW WANT TO HAVE A SAY ABOUT THE TERMS OF THE BARGAINING CONTRACT. SOME BELIEVE THEY HAVE A RIGHT AND AN OBLIGATION TO PARTICIPATE IN SOME WAY OR OTHER IN THE MAKING OF THAT CONTRACT."

(MORE)

LET ME GIVE YOU AN EXAMPLE, FROM AN EXPERIENCE WE ARE STILL HAVING IN CLEVELAND, AS TO HOW DIRECT THAT PARTICIPATION CAN BE.

SOME TIME AFTER CLEVELAND SCHOOL TEACHERS BEGAN THE STRIKE THAT IS STILL GOING ON THERE, A GROUP OF WHAT ONE OF OUR MEDIATORS IN CLEVELAND CALLS "IRRITATED AND AGGRAVATED PARENTS" BEGAN TO PICKET THE SCHOOL BOARD, INSISTING THAT THE STRIKE BE SETTLED. WHEN THAT DIDN'T YIELD RESULTS, THEY BEGAN TO PICKET THE FMCS BUILDING, WHERE NEGOTIATIONS WERE BEING HELD.

(MORE)

WHAT OUR REGIONAL DIRECTOR, EDDIE O'BRIEN, DID IN RESPONSE TO THIS WAS TO MAKE A ROOM AVAILABLE TO REPRESENTATIVES OF THE PARENTS. OUR MEDIATORS MADE AVAILABLE TO THOSE REPRESENTATIVES WHAT INFORMATION THEY COULD, WITHIN THE BOUNDS OF THE BARGAINING STRICUTURES ON THEM, AND ARRANGED FOR THEM TO TALK TO THE PARTIES IF AND WHEN THOSE CONTACTS WERE NOT DISRUPTIVE.

NOW A LOCAL JUDGE HAS ENTERED THE PROCEEDINGS. TALKS BETWEEN THE PARTIES ARE BEING CONDUCTED IN HIS CHAMBERS, AND THE PARENTS ARE NO LONGER ON OUR PREMISES. BUT THEY HAVE MOVED BACK TO THE LOBBY OF THE SCHOOL BOARD, AND ARE KEEPING A ROUND-THE-CLOCK VIGIL THERE, COMPLETE WITH PILLOWS AND BLANKETS.

(MORE)

-12-c-

SHORT OF SOME GROUP OF PARENTS
ACTUALLY ENTERING THE BARGAINING ROOM
AND PULLING UP A CHAIR AT THE TABLE,
THAT'S PRETTY DIRECT PARTICIPATION.

(MORE)

I FIND IT SOMEWHAT OMINOUS THAT MR. DOHERTY FINDS THAT THE PUBLIC PERCEIVES THAT "BARGAINING TENDS TO MAKE REPRESENTATIVE GOVERNMENT LESS REPRESENTATIVE." IT IS EVEN MORE DEPRESSING TO ME TO CONCEDE THAT HIS OBSERVATION HAS THE RING OF VERACITY. SO DOES HIS ADDITIONAL OBSERVATIONS THAT "PUBLIC SECTOR BARGAINING INEVITABLY BRINGS WITH IT A DEGREE OF COOPERATION BETWEEN UNION AND EMPLOYER REPRESENTATIVES THAT BORDERS ON COLLUSION" IN THE PUBLIC PERCEPTION.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

(MORE)

[REDACTED]

[REDACTED]

[REDACTED]

THESE RAISE PROBLEMS THAT ARE
EXTREMELY DIFFICULT TO DEAL WITH. IF THE
PUBLIC PERCEIVES THAT COLLECTIVE BARGAINING
IN THE PUBLIC SECTOR DEALS IT OUT, THEN
YOU CAN BE SURE THAT COLLECTIVE BARGAINING
IN THE PUBLIC SECTOR IS GOING TO HAVE A
PRETTY SHORT LIFE.

AND TO THOSE OF US WHOSE FAITH IS
ROOTED IN THE BENEFITS COLLECTIVE BARGAINING
CAN BRING TO THE PUBLIC AS WELL AS THE
PARTIES, THAT IS DISTURBING TO CONTEMPLATE

~~CONFIDENTIAL~~

(MORE)

THIS IS MAKING DISPUTE CASES IN THE PUBLIC SECTOR HARD TO GET A HANDLE ON. WHAT WE ARE FINDING OUT IS THAT THE FIREFIGHTERS, THE POLICE AND THE HOSPITAL WORKERS ARE MAKING THE DECISION TO HAVE A STRIKE BEFORE ANYTHING HAPPENS IN THE MEDIATION PROCESS. WE'VE GOT TO DEVISE SOME WAY OF GETTING AT THOSE SITUATIONS BEFORE THAT HAPPENS, OR WE WILL BE IN FOR A LONG STRING OF STRIKES OF THE KIND WE HAVE ALREADY SEEN BY THE FIREFIGHTERS, POLICE, TEACHERS AND OTHERS.

THE MEDIATION SERVICE DOESN'T KNOW AS MUCH AS WE SHOULD ABOUT THE PUBLIC SECTOR AND HOW TO RESOLVE THOSE DISPUTES. SOME OF OUR EXPERIENCE IN THE PRIVATE SECTOR IS TRANSFERABLE, BUT NOT ALL.

WE ARE REMEDYING THAT BY MORE INTENSIVE TRAINING OF OUR MEDIATORS IN THE PUBLIC SECTOR. AND WE HAVE INCREASED OUR TRAINING OF MEDIATORS IN THE HANDLING OF DISPUTES IN THE FEDERAL SECTOR, WHERE WE HAVE A STATUTORY RESPONSIBILITY AS WELL.

BUT THERE IS A CONSIDERABLE NEED FOR TRAINING ON THE MANAGEMENT SIDE IN THE PUBLIC SECTOR TOO.

(MORE)

MANY OF OUR STATE, LOCAL AND FEDERAL
SECTOR MANAGERS ARE NEW TO LABOR-
MANAGEMENT RELATIONS AND THE REQUIREMENTS
OF THE COLLECTIVE BARGAINING PROCESS WHICH
IS PRESSING IN ON THEM. THIS LACK OF
EXPERTISE, AND IN SOME CASES THE
DISINCLINATION TO ACQUIRE IT, ADD TENSIONS
TO THE PROCESS WHICH TOO OFTEN ARE
TAKEN OUT IN CONFRONTATIONS.

(MORE)

ONE PROBLEM IS THAT THERE ARE STILL TOO MANY PUBLIC SECTOR MANAGERS WHO BELIEVE THAT UNIONS HAVE NO PLACE THERE. I WOULD HAVE THOUGHT THAT EXPERIENCE MIGHT HAVE DISABUSED MANY OF THESE PEOPLE OF THAT, BUT SOME NOTIONS DIE EXTREMELY HARD.

WITH THESE KINDS OF ATTITUDES AFFECTING THE CLIMATE, THERE IS LITTLE CHANCE FOR THE DEVELOPMENT OF A PRODUCTIVE COLLECTIVE BARGAINING RELATIONSHIP.

(MORE)

AND I AM NOT CERTAIN THAT MANY UNIONS ARE NOT AS SYMPATHETIC AS THEY OUGHT TO BE TO THE PROBLEMS OF PUBLIC MANAGEMENT IN TERMS OF THE POLITICAL PROCESSES WHICH GOVERN THEM. BUT I ALSO BELIEVE THAT PUBLIC MANAGEMENT DOESN'T HESITATE TO HIDE BEHIND THIS TO AVOID MAKING THE KINDS OF DECISIONS THEY SHOULD OR FACING THE PROBLEMS THEY SHOULD.

(MORE)

IT SEEMS TO ME THAT, WITH THE KINDS OF PROBLEMS WE SEE ARISING IN THE PUBLIC SECTOR, INVOLVING DECISIONS THAT CAN AFFECT HUNDREDS IF NOT THOUSANDS OF JOBS, THERE IS A GREAT DEAL OF ROOM FOR THE KINDS OF LABOR-MANAGEMENT COMMITTEES NOW BEING ESTABLISHED ON A MORE FREQUENT BASIS IN THE PRIVATE SECTOR AT THE PLANT, INDUSTRY, AND AREA-WIDE LEVELS TO HELP TACKLE MUTUAL PROBLEMS. ONE APPROACH OF THIS SORT IS BEING MADE UNDER LEGISLATION COVERING POLICEMEN AND FIREMEN IN THE STATE OF MASSACHUSETTS WITH THE HELP OF DR. JOHN DUNLOP, THE FORMER SECRETARY OF LABOR. I BELIEVE THIS WILL DEVELOP MANY CONSTRUCTIVE LESSONS FOR WIDER APPLICATION.

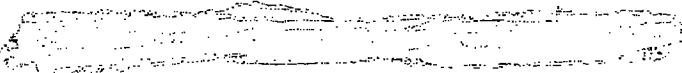
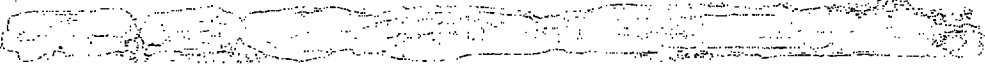
I ALSO THINK IT COULD BE QUITE USEFUL FOR ALL OF US WHO HAVE A ROLE AND RESPONSIBILITY IN THE PUBLIC SECTOR TO THINK ABOUT USING IMPARTIAL CHAIRMEN.

MY FRIEND ERIC SCHMERTZ HAS BEEN INTIMATELY INVOLVED IN THE DEVELOPMENT OF THIS CONCEPT.

A GOOD EXAMPLE OF THE USE OF CONTINUING CHAIRMAN IN A VARIETY OF KEY ROLES HAS BEEN THE NEW YORK CITY NURSING HOME INDUSTRY. THERE, THE FLEXIBILITY OF THE CHAIRMAN, SERVING AS FACTFINDER, MEDIATOR, ADVISORY ARBITRATOR AND ARBITRATOR WAS ESSENTIAL NOT ONLY IN BRINGING ABOUT A SETTLEMENT OF THE TRADITIONAL LABOR DISPUTES, BUT MORE IMAGINATIVELY AS THE MEANS OF RECONCILING A LONG STANDING ACRIMONIOUS RELATIONSHIP BETWEEN THE INDUSTRY AND THE STATE OF NEW YORK.

(MORE)

IT STARTED WITH THE APPOINTMENT OF MR. SCHMERTZ BY FMCS AS THE FACTFINDER IN THE CONTRACT NEGOTIATIONS BETWEEN LOCAL 144 AND THE NURSING HOME ASSOCIATION. THE ISSUES WERE NOT THEN READY FOR FACTFINDING. INSTEAD, WITH THE AGREEMENT OF THE PARTIES AND FMCS, WE TRANSFORMED THE APPOINTMENT INTO THAT OF A MEDIATOR. THEREAFTER, LENGTHY MEDIATION SESSIONS WERE HELD NOT JUST WITH THE INDUSTRY AND UNION, BUT ALSO WITH THE STATE. ON A DE FACTO BASIS, THE STATE, WHICH FIXES THE MEDICAID REIMBURSEMENT RATES CRITICAL TO THE ECONOMIC SURVIVAL OF THE INDUSTRY, WAS BROUGHT TO THE BARGAINING TABLE.



(MORE)

WITH THE CONFIDENCE OF THE PARTIES AND THE STATE, THE MEDIATOR WAS ABLE TO MAKE RECOMMENDATIONS FOR SETTLEMENT OF THE CONTRACT ISSUES; TO CONTINUE JURISDICTION AS ARBITRATOR FOR THE FORMAL AFFIRMATION OF THOSE RECOMMENDATIONS AND OTHER AGREED UPON ISSUES; TO SERVE AS ARBITRATOR SUBSEQUENTLY ON UNRESOLVED CONTRACT ISSUES WHICH COULD NOT BE SETTLED IN NEGOTIATIONS BUT WHICH STOOD IN THE WAY OF A STRIKE SETTLEMENT (IN THE MOST RECENT NEGOTIATIONS), THEREBY OBTAINING ANY REASON FOR A CONTINUATION OF THE STRIKE; AND PERHAPS MOST IMPORTANTLY TO SERVE AS THE CHAIRMAN OF A LABOR COST REVIEW PANEL TO MAKE BINDING RULINGS BETWEEN THE INDUSTRY AND THE STATE ON THE ADEQUACY OF MEDICAID REIMBURSEMENT RATES THROUGHOUT THE THREE YEARS OF THE COLLECTIVE AGREEMENT BETWEEN THE UNION AND THE INDUSTRY.

(MORE)

AS MR. SCHMERTZ DESCRIBES IT, "THE LATTER
ROLE, WHICH EXCEEDS THE TRADITIONAL WORK OF
A LABOR MEDIATOR/ARBITRATOR, WAS THE
CORNERSTONE OF THE STRIKE SETTLEMENT AND HAS
BEEN THE PRINCIPAL REASON WHY THE ECONOMIC
SETTLEMENT BETWEEN THE INDUSTRY AND THE
UNION CAN BE IMPLEMENTED. THE INDUSTRY HAD
TAKEN THE POSITION THAT IT COULD NOT AFFORD
TO PAY INCREASED WAGES AND BENEFITS UNLESS
THE STATE INCREASED THE REIMBURSEMENT RATES.
THE STATE'S POSITION WAS THAT THE INDUSTRY
HAD ENOUGH MONEY TO DO SO WITHOUT MEDICAID
RATE INCREASES. THIS DISPUTE MADE THE
SETTLEMENT OF THE LABOR CONTRACT IMPOSSIBLE.

(MORE)

"HENCE MY SUGGESTION FOR THE ESTABLISHMENT OF A LABOR COST REVIEW PANEL AS THE MECHANISM TO HEAR AND DECIDE REIMBURSEMENT QUESTIONS. BECAUSE OF MY OTHER ROLES IN THE LABOR DISPUTE, AND MY WILLINGNESS TO CONTINUE SERVING IN A VARIETY OF CAPACITIES, IT WAS ASKED TO ASSUME THE CHAIRMANSHIP OF THAT PANEL."

CLEARLY ALL THE FOREGOING COULD NOT HAVE BEEN ACHIEVED, NOR COULD IT CONTINUE AS IT HAS, UNLESS THE "NEUTRAL" INVOLVED IN THE DISPUTE WAS CAPABLE OF MOVING BACK AND FORTH INTO AND BETWEEN VARIOUS ROLES AS NEEDED, AND UNLESS THROUGH CONTINUITY OF SERVICE AND AN INTIMATE KNOWLEDGE OF THE INDUSTRY, THE PERSONALITIES AND THE POLITICAL RELATIONSHIPS, HE HAD ACQUIRED THE CONFIDENCE OF ALL CONCERNED.

(MORE)

IT IS THIS "UMBRELLA" TYPE OF "FULL SERVICE," IN WHATEVER CAPACITIES ARE REQUIRED, ON AN INSTITUTIONALIZED RATHER THAN AD HOC BASIS, THAT MR. SCHMERTZ HAS ADVOCATED AS A METHOD OF DEALING WITH PUBLIC SECTOR AND/OR QUASI-PUBLIC SECTOR LABOR DISPUTES WHICH INESCAPABLY INVOLVE THE GOVERNMENT AND ESSENTIAL GOVERNMENT SERVICES, PARTICULARLY WHERE THE STRIKE WEAPON IS UNLAWFUL OR UNACCEPTABLE.

MR. SCHMERTZ ALSO HAS BEEN SERVING FOR SOME TIME AS THE IMPARTIAL CHAIRMAN IN BARGAINING BETWEEN THE NEW YORK CITY ~~FIRE FIGHTERS~~ AND THE CITY.

(MORE)

AS HE DESCRIBED IN A LAW JOURNAL ARTICLE SOME TIME AGO, AS AN OUTGROWTH OF THE EARLY BARGAINING RELATIONSHIP BETWEEN THE FIRE FIGHTERS AND THE CITY, "IT BECAME APPARENT TO ALL CONCERNED THAT THE APPOINTMENT OF AN IMPARTIAL CHAIRMAN, FAMILIAR WITH THE OPERATIONS OF THE FIRE DEPARTMENT AND SENSITIVE TO THE SPECIAL CHARACTERISTICS OF THE RELATIONSHIP BETWEEN THE PARTIES, WOULD SIMPLIFY DISPUTES SETTLEMENT PROCEDURES AND FACILITATE THE PROMPT RESOLUTION OF CONTROVERSIES."

THE ACTION WAS NOT EXPECTED TO REMOVE ALL CONTROVERSY FROM THE BARGAINING RELATIONSHIP, MR. SCHMERTZ OBSERVES, "NOR DID IT DO SO."

(MORE)

HOWEVER, USE OF THE IMPARTIAL CHAIRMAN,
IN CONJUNCTION WITH OTHER DISPUTES-
SETTLING MECHANISMS AVAILABLE HAVE LED
MR. SCHMERTZ TO THE CONCLUSION THAT
"RATHER THAN OCCASIONAL DISRUPTIONS WHICH
CAN BE AND HAVE BEEN READILY CONTAINED AND
ADJUSTED, WE WOULD LIKELY HAVE FREQUENT
PROLONGED STRIKES WITH SERIOUS IMPLICATIONS
FOR THE SAFETY AND WELFARE OF THE PUBLIC."