



THE SIGNS SAY IT ALL — This was the scene as CSEA counted ratification ballots on May 8 in Albany. The process, open to the news media throughout, took more than 12 hours of intense work to complete.

(PHOTOS BY JOSEPH SCHUYLER)



VERIFYING ELIGIBILITY of over 40,000 union members who cast ballots took several hours. Lorraine Krup, Institutional team member from Region V, carefully checks eligibility of member against a master list.

For more on the May 8 ratification, turn to pages 6 and 7.

RATIFICATION BALLOTS tumble onto counting table from a mail bag picked up earlier the same day from the Post Office, where all ballots were held until counted. Timothy Drew, left, a member of the Administrative negotiating team from Region IV, and Louis Mannellino, of the Operational Unit team from Region I, assist CSEA Collective Bargaining Specialist Nels Carlson, right.

Public SECTOR

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Membership ratifies new state contracts

ALBANY — Civil Service Employees Assn. members have approved new 3-year contracts between CSEA and the State of New York covering 107,000 state employees in the Institutional Services, Administrative Services and Operational Services bargaining units. The contracts are effective retroactive to last April 1.

Members in all three units approved the new pacts, with the collective total being 23,697 in favor and 17,089 opposed. The ratification ballots were counted on May 8 in Albany. The ballots originally were to have been counted April 27, but CSEA President William L. McGowan ordered the counting postponed so as not to influence in any way a job action then in progress by members of AFSCME Council 82 against the State over contract difficulties. Council 82, a brother union of CSEA's in AFSCME, had requested the delay in counting of CSEA's ratification ballots

pending a resolution of their own contract situation, Mr. McGowan said.

The new contracts, which President McGowan calls "by far the richest ever negotiated by CSEA," provide a 7% salary increase effective April 1, and minimum increases of 3.5% and a maximum increase of 7% each of the last two years of the contracts. Actual increases for the second and third years will depend on a cost-of-living adjustment provided for in the agreements. The potential compounded increases including cost-of-living adjustment total nearly 23 per cent over the three-year agreement.

The new contracts contain scores of major changes and improvement over the previous agreements, including a major restructuring of health insurance benefits and the establishment of a benefit trust fund to be ad-

ministered by the union.

With acceptance of the contracts, the State Department of Audit and Control will begin the necessary preparation to provide for the initial increase retroactive to April 1. The exact payroll period when employees will receive the retroactive increase will be announced as soon as preparations are complete.

And shortly, President McGowan is expected to formally notify the State that the union seeks to reopen negotiations relative to the mileage allowance contained in the contracts just approved. The new pacts raise the mileage allowance from 15 to 17 cents a mile, but McGowan says the cost of gasoline is escalating so rapidly that the rate is already insufficient. He wants to talk about raising the rate to 23 cents a mile. A reopener on mileage is contained in the new contracts.



FACES in the crowd

A periodic series about activist members who, often without fanfare and public recognition, contribute to the success of CSEA.

GEORGE CALOUMENO of Department of Labor CSEA Local 350 takes time out from lobbying for agency shop legislation last week to visit with his friend, Lieutenant Governor Mario Cuomo, in Cuomo's Capital office. George was active in Cuomo's campaigns going back to the unsuccessful drive for the Democratic nomination for New York City mayor in 1977.



CSEA CHIEF LOBBYIST JAMES FEATHERSTONHAUGH, right, confers with Region II legislative and political action chairman George Caloumeno on the current State Legislature session.

Caloumeno active in Metro Region II

NEW YORK CITY — George Caloumeno is certainly one of the most active Civil Service Employees Assn. members in Metropolitan Region II. And it didn't take long for George to become an activist, for within four months after he started working for the Department of Labor in 1973, he was serving as shop steward of his office.

Since then, he has taken on a wide variety of union-related jobs. Caloumeno is currently the grievance chairman for the more than 4,000 persons represented by CSEA in the Department of Labor Local 350. Additionally, he is newsletter editor for Local 350; Region II Legislative and Political

Action chairman; Region II Grievance Chairman, and a very active member of the CSEA Statewide Legislative and Political Action Committee.

Shortly after becoming shop steward of his office in 1973, his good work was quickly noticed and he was appointed one of four grievance representatives for Local 350.

As a grievance rep, Caloumeno said he devoted about 90 percent of his work time to handling grievances, disciplinaries, etc.

In 1977, he was appointed grievance chairman of the Local. Almost all his work time is devoted to union work, he said.



Caloumeno was recommended for the statewide Legislative and Political Action Committee in 1978; and CSEA President William L. McGowan appointed him.

Most recently, he was appointed Region II legislative and political action director.

Caloumeno became involved in Mario Cuomo's unsuccessful primary election campaign for the Democratic Party nomination for New York City mayor in 1977. He campaigned for Cuomo in the Greek community of Astoria, where Caloumeno lives. During the campaign he became friendly with

Cuomo, who was since elected lieutenant governor.

Caloumeno also has worked in the 1978 campaigns of Queens Assemblyman John Lopresto and former Assembly Speaker Stanley Steingut, both endorsed by CSEA.

More recently, his political activities have included lobbying agency shop legislation with New York City legislators as part of CSEA's lobbying effort.

His union background started in the late 1960s as a member of an International Ladies Garment Workers Union local in New York City. He was a member of their negotiating committee.

Municipal training program seeking members

ALBANY — The Municipal Service Division of the State Department of Civil Service has announced that it is now forming the next class of trainees for the Municipal Personnel Technician Trainee Program. The one-year program will begin next

January 1, and the Civil Service Department has invited officials of counties, cities and towns from throughout New York State to enroll individuals in the training program.

Eighty-one personnel professionals from local governments have com-

pleted the program over the past six years, according to Thomas G. Pillsworth, Director of the Municipal Service Division.

The course is described as follows:

Intensive training provided in all major aspects of a public personnel

administration, emphasis on laws, classification, examination and appointment procedure, bolstered by live work assignments.

Training may be tailored to meet particular needs of the locality.

Training staff is selected from experienced practitioners in public and private employment.

No cost to local government for newly created Personnel Technician positions for the first six months while the Trainee is assigned to training and work in Albany. Salary and fringe benefit costs to be provided by employer for second six months and beyond (beginning approximately 7/1/80).

Selection of Trainee by local government employer from eligible list resulting from a competitive written examination and a qualifying oral test.

Trainee slots are limited. Priority is: first, by level of need; second, by timeliness of request; third, by availability of resources. NOTE: The program is funded by a Federal IPA Grant.

For more detailed information, write or call: Your Local Civil Service Agency or Mr. Thomas G. Pillsworth, Director; Municipal Service Division, The State Office Building Campus, Albany, New York 12239. Phone: (518) 457-4482 or 4490.

Nassau holding election next week

By Bill Butler

MINEOLA — Elections of officers for Nassau County CSEA Local 830, the largest local with CSEA, delayed one week because of uncertainty of the effect of the decision to delay state elections, gets under way with the mailing of ballots May 24.

Local President Nick Abbatiello, Doris Kasner of the Nassau County Medical Center Unit, and Edward Logan, the current Local Second Vice President, are in nomination for the presidency.

Also on the ballot are:

For first vice president: Gus Nielsen and Carlo Pugliese.

For second vice president: Pat D'Alessio and Haward Quann.

For third vice president: Alex Bozza and Rita Wallace.

For fourth vice president: Anthony Giannetti and Edward Ochenkoski.

For fifth vice president: Ruth Braverman and Kenneth Darby.

For Recording Secretary: Mary Calfapietra and Esther Phillips.

For treasurer: Sam Piscitelli and Martin Gannon.

For corresponding secretary: Alice Heaphy, Alice Groody and Trudy Schwind.

For Financial Secretary: Louis Corte, David Flaumenbaum and James Mattei.

For sergeant-at-arms: Dudley Kinsley and Thomas Gargiulo.

For representative on County

Executive Committee: Irving Flaumenbaum, Nicholas Abbatiello, Kenneth Cadieux and Carlo Pugliese.

For delegate (21 positions open): Nicholas Abbatiello, Ruth Braverman, Kenneth Cadieux, Mary Calfapietra, Kenneth Darby, Nicholas Dellisanti, Molly Falk, Anthony Giannetti, Doris Kasner, Dudley Kinsley, James Mattei, Edward Ochenkoski, Sam Piscitelli, Thelma Powell, Carlo Pugliese, Carmine Santoli, Trudy Schwind, Rita Wallace, John Aloisio, Robert Campbell, David Flaumenbaum, Thomas Gargiulo, Esther Phillips, Haward Quann, Thomas Stapleton and Jean Wichmann.

Ballots must be returned by June 8, and are to be counted June 9.



CONGRATULATIONS — Town of North Hempstead CSEA Unit President Eddie Ochenkoski, center, offers congratulations on the occasion of retirement of town highway workers at a recent dinner held in their honor. Town Supervisor Michael J. Tully, third from left, also

was on hand for the occasion. From left are Frank Calabro, Peter Vario, Supervisor Tully, Unit President Ochenkoski, Felix Bialobrezski, Pat Giugliano, and Joe Dattila.

Initiative and referendum

State AFL blasts Proposition 13

New York State AFL-CIO President Raymond Corbett has warned that the adoption of initiative and referendum in New York could lead to sharp polarization of the electorate and disruption of a stable government.

"Direct or indirect initiative is an invasion of the normal legislative procedures and would severely restrict or eliminate such accepted lawmaking procedures as public hearings and formal debate," Corbett said in a statement.

"Today's issues are highly complex and it is neither fair nor reasonable to ask the voters to spend the time and

energy necessary to make informed decisions on all of them," he said.

Corbett said the most recent example of this oversimplification was California's Proposition 13. "Voters there approved a 57 percent reduction in property taxes, but were unaware of the long range negative impact on essential governmental services," he said.

Under a bill sponsored by Assemblyman Robert Wertz (R-Smithtown), citizens' groups would be able to put an issue before the electorate by securing 150 sponsors and the signature on petitions of five percent of those who voted in the most recent gubernatorial election.

"This would permit small interest

groups to promote passage of a law or proposition to their own benefit simply by concentrating their organizational strength and propaganda on a single issue," Corbett declared.

In addition, Corbett asserted that the initiative procedure is "totally unnecessary", noting that studies on the subject have found no evidence to support the claim that initiative relieves voter frustration or resolves conflicts between competing interests.

"The resolution of conflicts is the function of our elected representatives," Corbett said. "It should not be put into the hands of the special interest groups."

Raise in Cohoes

COHOES — A three-year contract for non-teaching employees in the Cohoes School District guarantees a seven percent across the board raise, plus increments, in each year.

According to James Cooney, field representative in the Capital Region of the Civil Service Employees Assn., the contract also contains improvements in retirement benefits, longevity payments, health insurance, procedures for filing grievances, discipline and discharge matters.

Uniform snag

WARDS ISLAND — Although a contractor was supposed to provide masons, tinsmiths and workshop personnell at the Manhattan Psychiatric Center on Wards Island with new uniforms, the contractor actually provided old, used and worn uniforms, according to officials of CSEA Local 413 at the facility.

So, according to Local 413 Vice President Ismael Lopez and union member and delegate Mohamed Hussein, the union put pressure on management to correct the situation. Lopez and Hussein said the old uniforms "not only were the wrong size, but looked like they came from the Salvation Army." Management eventually agreed, and the union spokesmen have announced that a new contract for uniforms has been hired.



NEW UNION OFFICERS — With more than 1,600 members, the Social Services Department CSEA Unit of Nassau County is one of the largest units within CSEA. Haward S. Quann, second from right, was recently installed as the new unit president. He succeeds Fred Jor-

don, left. On hand for the recent installation ceremony also were Nassau County CSEA Local President Nick Abbatiello, second from left, and Commissioner of Social Services Joseph A. D'Elia, right.

Kent worker gets back pay

FISHKILL — A CSEA member employed by the Town of Kent, in Putnam County, has won an arbitrator's award giving him the Highway Foreman's pay to which he had been entitled for the past year and a half.

Benjamin Cimino, a motor equipment operator for the Town since 1974, was appointed highway foreman in September, 1976, but his appointment was never made official because of the failure of the town to do the necessary paperwork on the matter. When the town tried to demote him in January, 1978, he had already served 16 months in the new position.

CSEA took his case to arbitration, noting that the town, under its contract with the union, had only 6 months to demote Mr. Cimino if it felt he was not doing a good job in the foreman position. But, by the admission of all involved in the case, Mr. Cimino performed in an exemplary manner during his tenure as foreman. Arthur Grae, the CSEA Region III attorney who represented Mr. Cimino in his hearing before Arbitrator Dr. Joel M. Douglas, claimed that the demotion in January, 1978, was therefore a unilateral, arbitrary, and capricious act on the part of the town.

Dr. Douglas agreed with the union, and awarded Mr. Cimino the difference in pay between that of a motor equipment operator and that of a highway foreman, retroactive to Jan. 3, 1978.

"The union will continue to monitor this award, to make sure that it is being complied with in its entirety," said CSEA field representative Larry Scanlon.

Vote now in Suffolk

HAUPPAUGE — Ballots were scheduled to go into the mail by May 8 for the election of officers for Suffolk County CSEA Local 852, topped by a four-way race for the presidency.

The ballot lists, in this order: Robert McCambridge, former Local president James Corbin, incumbent President Bill Lewis and Ben Boczkowski.

The ballot order, drawn by lot by the Elections Committee, gave the first two spots to independent candidates running alone, the third to the incumbent's "Lewis Team" slate and the last to a ticket led by Boczkowski.

Other candidates are:

For executive vice president: John Desmond and Robert Kolterman.

For first vice president: Nicholas Marrano and Frank Kost.

For second vice president: Al Stein, James Farrell and Dorothy Goetz.

For third vice president: Katherine Sexton and Ken Horsford.

For fourth vice president: John Novo and Richard Protosow.

For treasurer: Catherine Green and Dorothy Victoria.

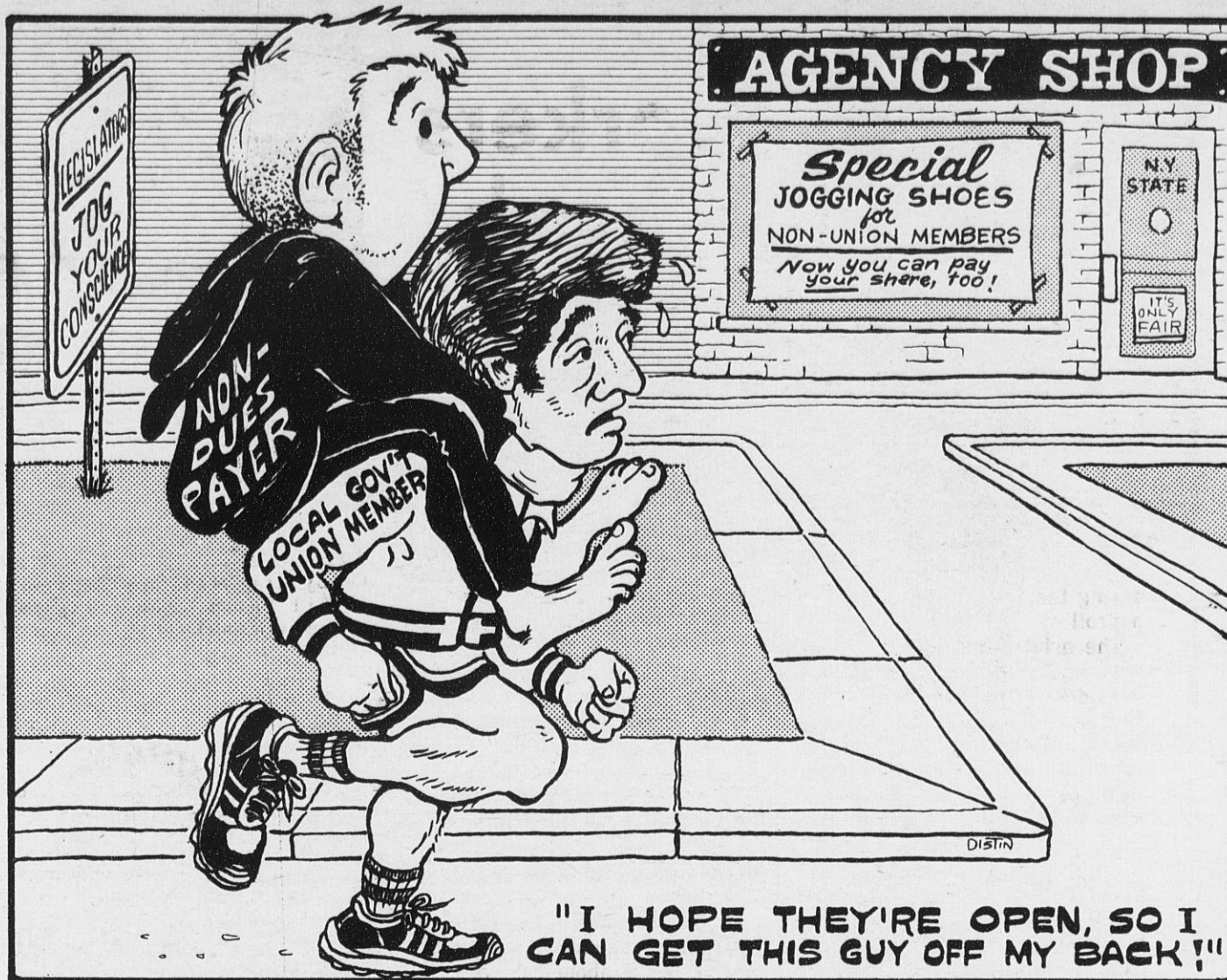
For recording secretary: Robert Maletta and John Fleischman.

For corresponding secretary: Barbara Rotunno, unopposed.

For executive representative: Sid Grossman, Edwin Garcia and James Corbin.

For sergeant-at-arms: Charles DeMartino and George Kuyava.

The chairperson of the Elections Committee, Aileen Ronayne, announced that ballots must be returned with a postmark by midnight May 23 and will be counted May 25. Any member who does not receive a ballot in the mail may secure an alternate ballot by calling 842-3396 evenings or 348-4124 days.



Directory of Regional Offices

REGION 1 — Long Island Region (516) 691-1170

Irving Flaumenbaum, President
Ed Cleary, Regional Director

REGION 2 — Metro Region (212) 962-3090

Solomon Bendet, President
George Bispham, Regional Director

REGION 3 — Southern Region (914) 896-8180

James Lennon, President
Thomas Luposello, Regional Director

REGION 4 — Capital Region (518) 489-5424

Joseph McDermott, President
John Corcoran, Regional Director

REGION 5 — Central Region (315) 422-2319

James Moore, President
Frank Martello, Regional Director

REGION 6 — Western Region (716) 634-3540

Robert Lattimer, President
Lee Frank, Regional Director

Ad campaign in Saratoga Co.

SARATOGA SPRINGS — Saratoga County CSEA Local 846 will sponsor a two-week long radio advertising campaign this week and next over Station WKAJ in Saratoga. The image building campaign will utilize CSEA public image commercials used earlier this year as part of the union's statewide advertising campaign, with a tag line added to identify the sponsor as Local 846, according to William McTygue, CSEA's Board of Directors representative from Saratoga County.

The idea to conduct the campaign on the local level came from a letter the local received from CSEA headquarters which offered locals the opportunity to use the commercials from the statewide campaign, he said.

The Local 846 Executive Board approved the campaign in April, and Local President John Miller and McTygue worked with the CSEA Communications Office to set up the campaign, McTygue said.

Blood needed in Nassau County

MINEOLA — A serious shortage of blood in Nassau County has prompted Nassau County CSEA Local 830 President Nicholas Abbatiello to remind members of the times and places for donating blood.

For additional information, contact Carl Pugliese, 535-4707; or Dudley Kinsley, 535-4902. The schedule follows.

Date	Place	Town
May 25	A. Holly Patterson Home	Uniondale
May 31	Plainview Complex	Plainview
June 7	Nassau Community College	Garden City
July 2	N.C. Correctional Center	East Meadow
July 9	Mineola Complex	Mineola
August 9	Judicial Conference	Mineola
August 25	A. Holly Patterson Home	Uniondale
September 5	Hicksville Garage	Hicksville
September 12	Social Service Department	Mineola
October 9	Mineola Complex	Mineola
November 27	A. Holly Patterson Home	Uniondale
December 20	Judicial Conference	Mineola

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Union victory

'Axed' workers win jobs back

By Jack Murphy

ORANGETOWN — In a major victory for employees of the Town of Orangetown, Rockland County, an arbitrator has ruled that the dismissal of two employees violated the collective bargaining agreement between CSEA and the town and ordered their reinstatement with restitution for lost wages and restoration of leave credits that would have accrued during the time they were off the payroll.

The arbitrator's decision was a welcome one for John Mauro, President of both the Orangetown Unit and Rockland County Local 844.

"It was our contention all along that the contract would prevail," he said adding "I think the whole situation boils down to one thing — for good, harmonious labor-management relations, we should sit down and talk before any action takes place. Unfortunately that's usually not the case, especially in Orangetown where there's been more litigation than the rest of the local (844) combined."

James Lennon, president of CSEA Region III, said he was extremely pleased with the outcome of the Orangetown case. "The people working on this case, the union officials, the lawyers, the people involved — they all did a fantastic job and I am extremely gratified by what they've accomplished."

"The outcome of this case shows that good people and a good organization working together can make sure that justice prevails."

Regional Director Thomas Luposello rapped the town's governing body.

"Once again," he said, "an arbitration decision bears out the extremely negative position the Town of Orangetown has always taken. The resolution of this situation, on many occasions, was presented by

John (Mauro) to the board, but, as so often has been the case, arbitration was required before the rights of the union members were reinforced."

The recently settled case originated last November when the Orangetown Town Board adopted a controversial reorganization plan. CSEA at that time took no stand on the reorganization because possible effect on town employees had not been determined.

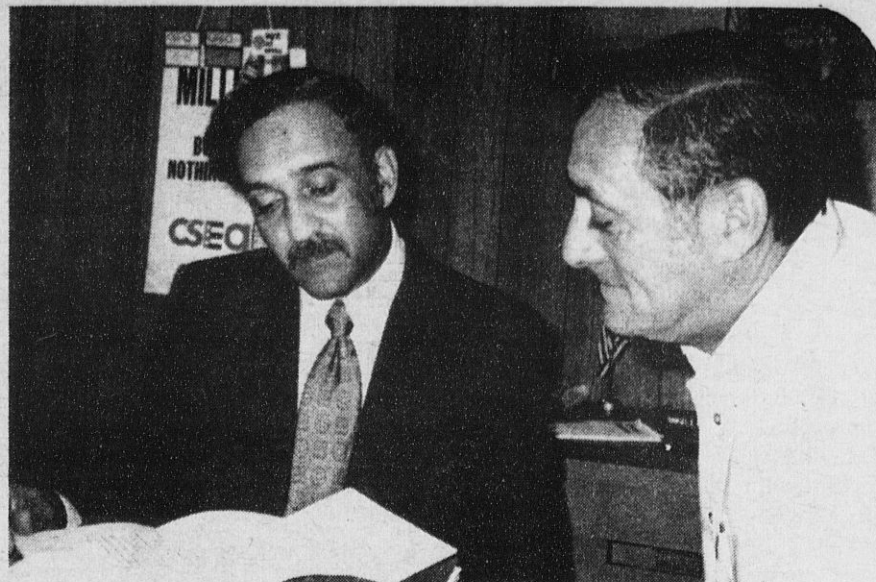
On Jan. 4, 1979, however, the effect became very clear. On that day town Supervisor Joseph V. Colello mailed letters of dismissal to five full-time town employees — three assistant building inspectors, one stenographer and one chemist. All filed individual grievances based on the illegality of the supervisor's action. The grievance action was denied by Supervisor Colello.

In the meantime an Article 78 proceeding against the town was begun, but at about the same time conflicting cost data cast doubt on whether a savings would result from the firing of the chemist and that termination was withdrawn.

The four remaining fired employees maintained in the Article 78 proceeding that Supervisor Colello lacked the authority to fire them. Rockland County Supreme Court Justice Theodore A. Kelly agreed and ruled that the authority to terminate the jobs rests with the town board for the three assistant building inspectors and with the Commissioner of Public Works in the case of the stenographer.

Both the board and the Commissioner of Public Works subsequently effected the terminations, rendering the court decision moot.

Before the case went to arbitration, two more of the fired employees dropped out of the case. One of the assistant building inspectors was under compulsory



SHARING THE GOOD NEWS — John Mauro, right, President of Rockland County Local 844 and the Orangetown unit, goes over a favorable arbitrator's ruling with Thomas Luposello, Regional Director of CSEA Region III. The ruling ordered reinstatement of two Orangetown employees fired in violation of the Collective Bargaining Agreement.



JAMES LENNON — "... good people and a good organization working together can make sure that justice prevails."

retirement regulations as of Feb. 28. As a result of a second stage grievance, he was maintained on the payroll past the Feb. 9 termination date to the end of the month when he retired.

A second assistant building inspector withdrew his grievance

when he accepted a new assignment in the town assessor's office.

From the beginning CSEA maintained that the firings were a violation of the collective bargaining agreement entered into with the town.

"The contract language," said Mauro, "is specific:

"Seniority shall be the determining factor in lay-off, i.e. all substitutes, all temporary, all part-time, all provisional and all probationary employees shall be laid off before any permanent employees, and if additional layoffs are necessary, the last permanent employee hired shall be the first employee laid off."

The arbitrator, Louis Yagoda, concurred and ruled in his arbitration statement "The removal of Marilyn O'Brien from her stenographer position in the Department of Public works and of James Porter from his position of Building Inspector were in violation of the Collective Bargaining Agreement between the two parties."

Mauro, in discussing the entire proceedings said "Our attorney, Marty Cornell, has done a tremendous job on this."



THE COALITION CSEA BARGAINING TEAM for Judicial Districts 3 through 8 met recently to discuss a contract reopener on wages, health insurance and other issues. Seated left to right are: Ken Hoffman, president of CSEA Local 333; CSEA Collective Bargaining Specialist Manny Vitale; CSEA Collective Bargaining Specialist Pat Monachino; Nancy Roark, member of the CSEA Board of Directors and president of Local 334; Chester Cook, of the 7th Judicial District; Jerry Goetz, of the 5th Judicial District; and George Schmidt, of the 6th Judicial District. Missing from the photo are two other CSEA negotiating team members: Elizabeth Kohl, president of Local 335; and William Johnson, of the 8th Judicial District.



Above, SOME OF THE 40,000-PLUS BALLOTS are stacked in front of Genevieve Clark, a member of the union's Institutional Unit negotiating team. Members of the bargaining teams assisted in the verification and counting of the ballots last week.

ROSE MARCINKOWSKI, an Administrative Unit negotiating team member from CSEA Region III.



Below, VERIFYING OF ELIGIBILITY consisted of checking names and social security numbers on outside of return envelopes against a master list prior to later step of opening ballots for counting. Here, Dorothy King, left, of Region II, and Alice Pope, right, of Region I, verify envelopes. Both are members of the Institutional Unit negotiating team.



Left, SOMETHING AMUSES Lorraine Krup, of Region V and William Chacona of Region I as they sort through ballot envelopes. Both are on the union's Institutional Unit team.



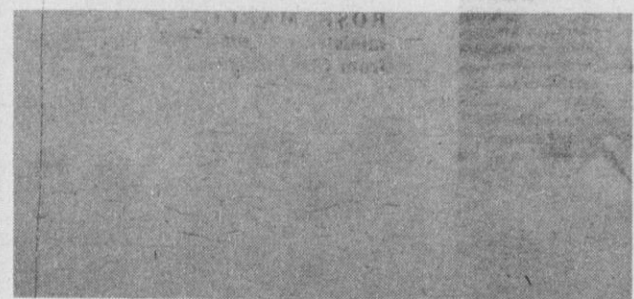
Right, BILL KRIVYANK, an Institutional team member from Region V, appears to have some usual assistance in overseeing the sorting of table for ballots.



SORTING ENVELOPES ALPHABETICALLY are Alex Hogg, left, and Paul Gangloff, both Institutional team members from Region III.



Left, ADELE BORAKOVE takes a brief break during verification process, which took many hours to complete. She is an Administrative team member from Region II.



Below, DISCUSSING THE COUNT are CSEA Executive Director Joseph Dolan, CSEA Board member Greg Szurnicki from Region I, and Genevieve Clark, Institutional team member from Region VI.



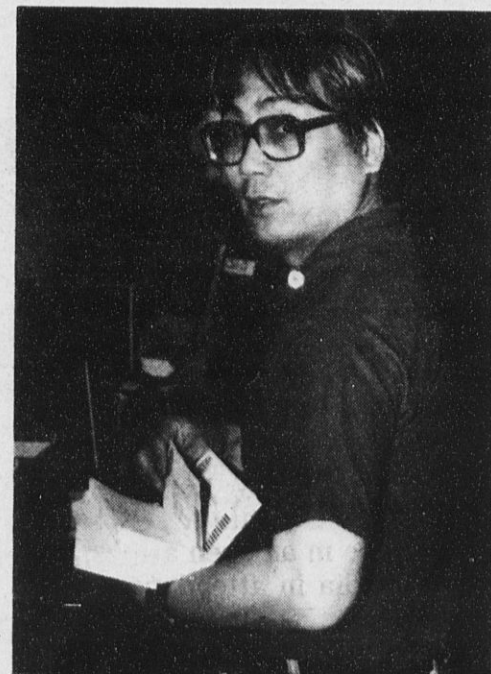
Above, AT THE BEGINNING, Loretta Rodwell, Administrative team member from Region V, found time to laugh. But at the end, several hours later and well into the evening, everyone was weary and exhausted from count ordeal.

Official results

ALBANY — Members in all three bargaining units approved the new three-year agreements between CSEA and the State. Following is the official results of ratification, voting by units:

	YES	NO
Institutional Unit	9,176	4,589
Administrative Unit	9,083	7,990
Operational Unit	5,438	4,510
TOTAL	23,697	17,089

Right, JOSE SAMPSON, who participated in bargaining as member of Institutional Unit team from Region IV, assists in counting of ratification ballots.



Contracting out

Local 830 claiming foul

MINEOLA — Nassau County appears to be illegally contracting out at the expense of CSEA-represented jobs.

Nassau County CSEA Local 830 has filed an improper employer practice through CSEA Regional Attorney Richard Gaba against the county, Local 830 President Nicholas Abbatiello said. The Public Employment Relations Board (PERB) will rule on the union's charge.

The office of Nassau County Executive Francis T. Purcell said that two contracts were awarded as pilot projects, including:

- Triple "A" Maintenance Corp. of Syosset is handling the maintenance at the Family Court Building in Westbury.

- Polygraph Security Systems, Inc., of Farmingdale is handling security at the county's Inwood Community Center in Lawrence.

Abbatiello said the county used attrition to reduce the number of employees throughout the county and then consolidated the CSEA members in some work sites to leave entire buildings without union members in the effected jobs.

CSEA Attorney Richard Burstein, in Albany, explained that contracting out for positions represented by a union is a violation of the Taylor Law.

He said that in 1977, in the Saratoga Springs school bus drivers case, PERB ruled that such contracting out is a matter for negotiations between unions and public employers.

That PERB decision in favor of CSEA has been appealed. Burstein said the Appellate Division is expected to support the PERB ruling.

Nassau County has based its right to contract out on a 1977 Court of Appeals decision supporting Westchester County.

Burstein said the Westchester decision does not apply to Nassau because:

- Prior to the summer of 1977, PERB did not have the authority to require management and unions to negotiate in good faith. With the passage of the PERB Powers Law that year, PERB was given the authority to rule as it did in the Saratoga Springs case.

- The Westchester case occurred before the PERB Powers Law and was based on a constitutional issue rather than the legal reality which now exists.

Abbatiello, when speaking before the Nassau County Board of Supervisors, said: "I can only conclude that the real intent of contracting out is an attempt at union busting by management, by removing dedicated civil servants that CSEA represents."

He also said: "There is a myth that private industry is always better than public service. They are in it for profit. Government is here for service."

PUBLIC EMPLOYEES... Where Would You Be Without Them?

Ballot count all day operation

PHOTOS BY JOSEPH SCHUYLER

When the Civil Service Employees Assn. counted ratification ballots from members in the three state bargaining units last week, the union used an open, but very elaborate, process that preserved the integrity and credibility of the balloting and the union itself at a crucial time.

CSEA President William L. McGowan recognized the importance of maintaining credibility and accuracy in connection with the ballot count. At the height of the Council 82 job action, he had decided to postpone the count scheduled for April 27 so as not to interfere in any way with the Council 82 situation. That action drew added attention to CSEA's eventual ratification count.

The verifying and counting of ballots last week began at 9 a.m. and was finally completed late in the evening. Every single one of the more than 40,000 valid ballots received were individually verified against a master list for eligibility. The process was long, but done in an open atmosphere with the news media in attendance.

The adjacent photos illustrate some of the day-long activities.

Members show support

COUNCIL 82 SAYS THANKS — When CSEA members held a demonstration to show moral support of Council 82 people engaging in a job action, the showing of support also included contributions of food and cash for Council 82 members and their families. In response, a member of Council 82 put this sign near the huge pile of food items. It says it all.

CIRCLE THESE DATES — These are the revised key dates for CSEA's 1979 election of statewide officers and members of the State Executive Committee. See adjacent Election Timetable for appropriate information relative to circled dates. The Public Sector will run the Timetable periodically for the convenience of the membership.

MAY						
SUN	MON	TUE	WED	THU	FRI	SAT
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

JUNE						
SUN	MON	TUE	WED	THU	FRI	SAT
				1	2	
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

JULY						
SUN	MON	TUE	WED	THU	FRI	SAT
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

AUGUST						
SUN	MON	TUE	WED	THU	FRI	SAT
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

SEPTEMBER						
SUN	MON	TUE	WED	THU	FRI	SAT
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29



Fund review approved

HAUPPAUGE — The trustees of the CSEA/Suffolk County Welfare Fund voted on April 25 to start an immediate review of its records, according to union trustee William Lewis.

The review will be conducted by the fund's accountant and its attorney, he said.

Lewis, president of Suffolk County CSEA Local 852 who recently became a fund trustee, had called for an audit of the books to "clear the air" after a former trustee, County Legislator

John Foley called for the County district attorney to investigate the fund.

The trustees also agreed to cooperate with the District Attorney's Office, which will conduct an investigation, Lewis said.

The fund is provided with \$225 for each of the County's 6,500 employees. Local 852 members receive optical, dental, drug, hearing and legal benefits, he said.

He said the fund is administered by eight trustees, divided between the County and the Local.

Elections Timetable

Statewide Officers and State Executive Committee

The following dates are to be used as a guideline for the 1979 CSEA Election. To the extent possible, each date will be complied with unless intervening circumstances beyond the control of CSEA make compliance with the exact date impractical.

May 14—Selection of Nominating Committee

May 21—Meeting of Nominating Committee to Elect Chairperson

June 8—Report of Nominating Committee

June 22—Deadline for Declination of Nomination

July 9—Final day for Nominations to Fill Declinations

July 9—Final day for Petitions to be Filed

July 13—Request to each candidate for spelling of name as it will appear on Ballot. To be sent by certified mail, return receipt requested. Deadline for changes is July 20, 1979

July 13—Drawing for Position on Ballot — 10:30 a.m., CSEA Headquarters Conference Room. Candidates (or proxies) may attend as observers

July 13—Mailing of printed copies of Rules and Regulations for the Election to all candidates and local presidents

July 25—Publication of Names of all candidates in the Official CSEA Newspaper

August 6—Ballots delivered to Post Office for Mailing

August 16—Replacement ballots may be requested as of this date if Original Ballot has not been delivered

August 30—Return of ballots — 6:00 p.m. Deadline

August 31—Ballots to be removed from envelopes to prepare for counting. Ballots which cannot be machine-counted will be counted manually during this period

September 7—Return of Replacement Ballots — 6:00 p.m. Deadline

September 7—Ballots to be Counted. Candidates to be notified by telegram by September 11

September 7—Official Results Announced

September 17—End of Protest Period (10 days after Official Results are announced)

NOTE: Those eligible to vote shall be dues paying members in good standing as of June 15, 1979

County hospital future in doubt

WHITE PLAINS — The future of approximately 800 employees of the Westchester County Medical Center will be the topic of a requested meeting between CSEA and the County after the Westchester County Executive, Alfred DelBello, issued a press release strongly suggesting the County get out of the hospital business.

According to Westchester County CSEA Unit Business Agent Carmine DiBattista, the union wants to find out exactly what the county executive has in mind before the union decides what actions to take. DiBattista said a May 4 news release by DelBello stated, "The time is right for the county to clearly set forth its intentions with respect to the medical center." In the release, the county executive asked the county's Board of Legislators for a policy regarding the medical center, DiBattista said, and the executive suggested that the county get out of the hospital business. DiBattista said the news release asked for a policy for "the orderly transfer of the medical center" from the county.

The Medical Center, located in Valhalla, lost approximately \$14 million last year, the county executive reported.



LOBBYING INTENSIFIES as the Legislative session grows shorter, and with final action still pending on most bills of special interest to CSEA, the union lobby effort has picked up accordingly. CSEA anticipates one of its most successful years by the time the Legislature finally adjourns. The highly successful CSEA lobbying effort is largely the responsibility of, in the photo at left, CSEA Attys. James Featherstonhaugh and Stephen Wiley, and in photo at right, Bernard Ryan, CSEA's Director of Legislative and Political Action, shown talking over issues with Carmine DiBattista, a member of the union's statewide Legislative and Political Action Committee.



CSEA program bills

All bills on this status report are supported by CSEA

Week of May 7, 1979

CSEA Program Bill Number Summary of Provisions	Bill Number, Sponsors	Status	CSEA Program Bill Number, Summary of Provisions	Bill Number, Sponsors	Status
P-79-1, Agency Shop—Agency shop would become permanent and mandatory.	A-6748 Barbaro S-4458 Rules	Governmental Employees Comm. Civil Service Comm.	P-79-16, Office of Court Administration—Unified Court System employees would be transferred to the State payroll as of April 1, 1977, and would receive permanent status in their competitive class if they have performed the duties of their positions for one year prior to the effective date of this law.	A-6194 Connor S-4142 Rolison	Governmental Employees Comm. Civil Service Comm.
P-79-2, OSHA—Minimum health and safety standards for public employees would be established.	A-6619 Weprin, DelToro, Marchiselli, et al S-Pending	Labor Comm.	P-79-17, Employee Indemnification—Additional instance in which public employees should be indemnified from suit by the employer for acts which arise in the course of performing their duties.	A-5963 Greco S-2766 Schermerhorn	Governmental Employees Comm. Judiciary
P-79-3, Two-for-One—The fine for striking would be reduced from two day's pay for each day struck to one day's pay for each day struck.	A-4169 Connor, Greco, Barbaro S-4457 Rules	Governmental Employees Comm. Civil Service Comm.	P-79-18, Sheriff's Reopener—Approximately eight employees of the Sullivan County Sheriff's Department would be allowed to choose the provisions of the Retirement and Social Security Law (optional 20-year retirement).	A-Pending S-Pending	
P-79-4, Injunctive Notice—Unions and employees would be required to receive notice and have an opportunity to be heard before a temporary restraining order could be issued against a strike.	A-4167 Barbaro, Greco, Johnson, et al S-4452 Rules	Governmental Employees Comm. Civil Service Comm.	P-79-19, State University Unclassified Service—The power to remove State University employees from classified service would be returned to the Civil Service Commission from the State University Chancellor.	A-3836 M. Miller S-3754 Cook	Governmental Employees Comm. Civil Service Comm.
P-79-5, Presumption of Arbitrability—The presumption of arbitrability for contract grievances would be restored.	A-4168 Connor, Johnson, Marchiselli, et al S-4451 Rules	Governmental Employees Comm. Civil Service Comm.	P-79-20, University of Buffalo Buy-Back—State employees working at the University of Buffalo before it was acquired by the State would be allowed to purchase retirement credits for the time they were employed by the University.	A-7559 Rules S-4928 Volker	Governmental Employees Comm. Civil Service Comm.
P-79-6, Limited Right to Strike—Strike would be redefined to mean a work stoppage that threatens irreparable injury to the public health, safety and welfare.	A-6423 Barbaro S-7588 Rules	Governmental Employees Comm.	P-79-21 (a), Veterans Buy-Back—World War II veterans would be allowed to purchase up to three years of credit toward retirement.	A-Pending S-Pending	
P-79-7, 1979 Contract—The provisions of the CSEA-State contract would be implemented.	A-Pending S-Pending		P-79-21 (b), Veterans Buy-Back—Korean War veterans would be allowed to purchase up to three years credit toward retirement.	A-Pending S-Pending	
P-79-8, Triborough—A public employer would be required to continue an expired contract until a new agreement is reached.	A-4165 Greco, et al S-4454 Rules	Governmental Employees Comm. Civil Service Comm.	P-79-22, Sanitarians—Sanitarians working for public and private employers would be certified by the Department of Education.	A-Pending S-Pending	
P-79-9, Redefine Daily Rate of Pay—Strikers assessed a two-for-one penalty would be fined based on net take-home pay, not on gross pay.	A-4171 Connor, Finneran, Nine S-4456 Rules	Governmental Employees Comm. Civil Service Comm.	P-79-23, Suffolk County Retirement—The Suffolk County contract allowing investigators to elect 20-year retirement would be implemented.	A-4204 Hochbrueckner S-3079 Johnson, Lack, Trunzo	Governmental Employees Comm. Passed
P-79-10, Alternative Disciplinary Procedures—Unions, including subdivision employers, would be allowed to negotiate disciplinary procedures.	A-4166 DelToro, Greco, Finneran, Barbaro, et al S-4453 Rules	Governmental Employees Comm. Civil Service Comm.	P-79-24, Pension Advisory Board—Power to invest pension funds would be vested in a board of trustees with meaningful public employee representation.	A-Pending S-Pending	
P-79-11, Retirees Death Benefit—State employees who retired before Sept. 30, 1966, would be eligible for a \$2,000 death benefit.	A-4416 Greco S-3221 Flynn	Governmental Employees Comm. Civil Service Comm.	P-79-25, Correction Officers—Correction officers employed by Westchester County would be eligible to elect participation in a 20-year retirement plan.	A-Pending S-Pending	
P-79-12, Permanent Cost of Living—Starting in 1980, retirees would receive an increase in the retirement allowance based on increases in the cost of living for the previous year.	A-6618 Rules S-4158 Rules	Governmental Employees Comm. Civil Service Comm.	P-79-26, Showing of Interest—The procedure for verifying a showing of interest in a representation determination would be changed.	A-Pending S-Pending	
P-79-13, Extension of Supplementation—Pension supplementation would include those who retired before April 1, 1969, would be extended to those who retired before Jan. 1, 1972, and would increase supplements to reflect increases in the cost of living.	A-4509 Barbaro S-3361 Flynn	Governmental Employees Comm. Civil Service Comm.	P-79-27, Court Employees Contract—The collective bargaining agreement for employees of the Unified Court System be implemented.	A-1773 McCabe, et al S-1304 Barclay, et al	Passed Passed (Ch. 4, Laws of 1979)
P-79-14, Education Law Parity—The financial advantage school districts receive when contracting out for student transportation would be eliminated.	A-4877 Orazio S-3441 Donovan, et al	Ways & Means Comm. Vote expected	P-79-28, Employer Improper Practice—An employee organization would not be determined to be guilty of violating the no-strike provision when the strike was caused, in whole or in part, by an improper employer practice.	A-4170 Greco, Barbaro, Lentol, et al S-4455 Rules	Governmental Employees Comm. Civil Service Comm.
P-79-15, Division of Youth Transfer—Division of Youth employees transferred to a non-profit corporation would not lose benefits of State service.	A-2519 Budget S-1719 Budget	Ways & Means Comm. Finance Comm.			

A-Assembly

S-Senate

STATE OPEN COMPETITIVE JOB CALENDAR

FILING ENDS MAY 21, 1979

Supervisor for Traffic Signal Operators, Assistant	\$14,075	No. 27-902
Traffic Signal Coordinator	\$20,366	No. 27-903
Bridge Maintenance Supervisor I	\$12,041	No. 25-004
Bridge Maintenance Supervisor II	\$14,242	No. 25-005
Bridge Operator	\$10,201	No. 24-995
Bridge Repair Supervisor I	\$11,250	No. 24-996
Bridge Repair Supervisor II	\$12,583	No. 25-006
Computer Programmer/Analyst		
Trainee I	\$10,624	No. 25-008
Computer Systems Analyst Trainee I	\$10,624	No. 25-009
Computer Systems Analyst, Assoc.	\$18,301	No. 25-012
Field Representative (Div. of Human Rights)	\$14,850	No. 24-984
Field Representative (Div. of Human Rights-Spanish Speaking)	\$14,850	No. 24-984
Senior Field Representative (Div. of Human Rights)	\$17,365	No. 24-985
Human Rights Field Representative Trainee I	\$10,624	No. 24-983
Human Rights Field Representative Trainee I (Spanish Speaking)	\$10,624	No. 983
Institution Retail Store Manager I	\$ 9,481	No. 24-762
Institution Retail Store Manager II	\$11,250	No. 24-763
Manpower Programs Coordinator	\$11,250	No. 25-015
Manpower Programs Contract Specialist	\$11,250	No. 25-013
Nurse Anesthetist-Roswell Park Memorial Hospital	\$14,850	No. 20-999
School Lunch Representative	\$10,024	No. 24-993
School Lunch Representative, Senior	\$12,583	No. 24-994
Substance Abuse Accounts Auditor II	\$14,075	No. 25-002
Substance Abuse Accounts Auditor III	\$18,301	No. 25-003
Manpower Programs Contract Specialist, Senior	\$14,075	No. 25-014
Deputy Director for Treatment Services (Psychiatric Center)	\$34,312	No. 27-881
Deputy Director for Treatment Services (Developmental Center)	\$34,312	No. 27-892
Deputy Director of Treatment Services (Children's Psychiatric Center)	\$34,312	No. 27-891
Deputy Director of Development Center	\$42,796	No. 27-882
Deputy Director of Children's Psychiatric Center	\$42,796	No. 27-883
Deputy Director of Psychiatric Center	\$42,796	No. 27-884
Assoc. Mechanical Construction Engineer	\$22,623	No. 27-925
Health Systems Management Provider Group Coordinator	\$22,623	No. 27-933
Home Dialysis Nurse	\$13,304	No. 27-910
Home Dialysis Nurse, Senior	\$15,624	No. 27-911
Laboratory Equipment Designer, Senior	\$14,850	No. 27-932
Nuclear Power Generation Planner V	\$31,638	No. 27-920
Real Estate Appraiser (Mass Appraisal Systems) Trainee I	\$10,024	No. 27-914
Trainee II	\$10,624	No. 27-915
Assistant	\$11,250	No. 27-916
Real Property Information System Specialist, Trainee I	\$10,024	No. 27-917
Trainee II	\$10,624	No. 27-918
Real Property Information System Specialist	\$11,250	No. 27-919
Teachers II, III, IV (Various Specialties)	\$11,904	No. 27-950 to No. 27-969
Supervising Veterinarian	\$15,624	No. 27-930
Youth Facility Director I	\$19,288	No. 27-923
Youth Facility Director II	\$21,450	No. 27-924
Youth Facility Director III	\$23,829	No. 27-909

FILING ENDS JUNE 4, 1979

Clinical Physician III	\$38,171	No. 27-929
Medical Specialist III	\$40,374	No. 27-928
Chief of Service—Mental Health	\$40,374	No. 27-926
Chief of Service—Mental Retardation and Developmental Disabilities	\$40,374	No. 27-927

FILING ENDS JUNE 25, 1979

Recreation Therapist	\$11,250	No. 27-765
Recreation Therapist (Spanish Sp.)	\$11,250	No. 27-765
Recreation Therapist (Art)	\$11,250	No. 27-898
Recreation Therapist (Dance)	\$11,250	No. 27-899
Recreation Therapist (Music)	\$11,250	No. 27-900

You can also contact your local Manpower Services Office for examination information.

OPEN CONTINUOUS STATE JOB CALENDAR

Title	Salary	Exam No.
Pharmacist (salary varies with location)	\$14,388-\$15,562	20-129
Assistant Sanitary Engineer	\$16,040	20-122
Senior Sanitary Engineer	\$18,301	20-123
Clinical Physician I	\$27,942	20-118
Clinical Physician II	\$31,055	20-119
Assistant Clinical Physician	\$25,161	20-117
Attorney	\$14,850	20-113
Assistant Attorney	\$12,397	20-113
Attorney Trainee	\$11,723	20-113
Junior Engineer	\$12,890	20-109
(Bachelor's Degree)		
Junior Engineer	\$13,876	20-109
(Master's Degree)		
Dental Hygienist	\$8,950	20-107
Licensed Practical Nurse	\$8,051	20-106
Nutrition Services Consultant	\$13,404	20-139
Stationary Engineer	\$10,042	20-100
Senior Stationary Engineer	\$11,250	20-101
Occupational Therapy Assistant I	\$9,029	20-174
Occupational Therapy Assistant I (Spanish Speaking)	\$9,029	20-174
Vocational Rehabilitation Counselor	\$14,142	20-140
Vocational Rehabilitation Counselor Trainee	\$11,983	20-140
Medical Record Technician	\$9,481	20-143
Histology Technician	\$8,051	20-170
Professional Positions in Auditing and Accounting	\$11,250	20-200
Computer Programmer	\$11,250	20-220
Computer Programmer (Scientific)	\$11,250	20-222
Senior Programmer	\$14,075	20-221
Senior Computer Programmer (Scientific)	\$14,075	20-223
Mobility Instructor	\$11,904	20-224
Instructor of the Blind	\$11,250	20-225
Health Services Nurse (salary varies with location)	\$11,250-\$12,025	20-226
Senior Heating and Ventilating Engineer	\$18,301	20-227
Senior Sanitary Engineer (Design)	\$18,301	20-228
Senior Building Electrical Engineer	\$18,301	20-229
Senior Building Structural Engineer	\$18,301	20-230
Senior Mechanical Construction Engineer	\$18,301	20-231
Senior Plumbing Engineer	\$18,301	20-232
Assistant Stationary Engineer	\$7,616	20-303
Electroencephalograph Technician	\$7,616	20-308
Radiologic Technologist (salary varies with location)	\$8,454-\$10,369	20-334
Medical Record Administrator	\$11,904	20-348
Food Service Worker I	\$6,456	20-352
Mental Hygiene Therapy Aide Trainee	\$7,204	20-394
Mental Hygiene Therapy Aide Trainee (Spanish Speaking)	\$7,204	20-394
Associate Actuary (Casualty)	\$18,369	20-416
Principal Actuary (Casualty)	\$22,364	20-417
Supervising Actuary (Casualty)	\$26,516	20-418
Assistant Actuary	\$10,714	20-556
Nurse I	\$10,624	20-584
Nurse II	\$11,904	20-585
Nurse II (Psychiatric)	\$11,904	20-586
Nurse II (Rehabilitation)	\$11,904	20-587
Medical Specialist II	\$33,705	20-840
Medical Specialist I	\$27,942	20-841
Psychiatrist I	\$27,942	20-842
Psychiatrist II	\$33,705	20-843
Social Services Management Trainee	\$10,824	20-875
Social Services Management Specialist	\$11,450	20-875
Social Services Management Trainee (Spanish Speaking)	\$10,824	20-876
Social Services Management Specialist (Spanish Speaking)	\$11,450	20-876
Industrial Training Supervisor (salary varies depending on specialty)	\$10,624-\$12,583	20-877
Physical Therapist	\$11,337	20-880
Physical Therapist (Spanish Speaking)	\$11,337	20-880
Senior Physical Therapist	\$12,670	20-881
Senior Physical Therapist (Spanish Speaking)	\$12,670	20-881
Speech Pathologist	\$12,670	20-883
Audiologist	\$12,670	20-882
Assistant Speech Pathologist	\$11,337	20-884
Assistant Audiologist	\$11,337	20-885
Dietician Trainee	\$10,624	20-888
Dietician	\$11,250	20-887
Supervising Dietician	\$13,304	20-886
Stenographer	\$6,650	20-890
Typist	\$6,071	20-891
Senior Occupational Therapist	\$12,670	20-894
Senior Occupational Therapist (Spanish Speaking)	\$12,670	20-894
Occupational Therapist	\$11,337	20-895
Occupational Therapist (Spanish Speaking)	\$11,337	20-895

You may contact the following offices of the New York State Department of Civil Service for announcements, applications, and other details concerning examinations for the positions listed above.
State Office Building Campus, First Floor, Building I, Albany, New York 12239 (518) 457-6216.
2 World Trade Center, 55th Floor, New York City 10047 (212) 488-4248.
Suite 750, Genesee Building, West Genesee Street, Buffalo, New York 14202 (716) 842-4260.

IP settled

MAMARONECK — An improper practice charge against the Mamaroneck Union Free School District has been settled, allowing collective bargaining between CSEA and the district for a new contract to get underway.

At issue in the improper practice charge was a decision by the board to schedule bargaining sessions in an arbitrary way rather than mutually with the union.

CSEA counsel Arthur Grae met with district representatives and arranged a 4:15 starting time for negotiations which means at least three of the five members of the negotiating team will be working at that time and will be paid.

LETTERS to the Editor

Editor, The Public Sector:

I read your "Letters to the Editor" column in a recent Public Sector newspaper.

I agree that it is unfair for everyone who failed the stenography portion of the test be given a second chance to take the test. This places those who passed the first time at a great disadvantage. It is also unfair that those who already passed

have to wait until these people take the test over again.

I think a great injustice has been done to these people and would like you to know that I support your feelings in this matter.

Alvera Elefante
Stenographer
Program Evaluation
Pilgrim Psychiatric Center
West Brentwood

Cornell hosts labor institute

ALBANY — The University/College Labor Education Association, in cooperation with the Education Department of the AFL-CIO and the Coalition of Labor Union Women, is sponsoring its fourth annual Northeast Region Summer Institute at Cornell University, Aug. 5-10, 1979.

The \$110 fee for the event includes tuition, room and board, and all materials.

For further information, write to Rochelle Semel, NYSSLIR, Cornell Univ., 3 East 43rd St., New York City, N.Y. 10036.

Legal briefs

DUTY OF FAIR REPRESENTATION

A federal court has dismissed a complaint that the Union failed in its duty of fair representation in settling plaintiff's disciplinary grievance. While one set of disciplinary charges were pending arbitration, plaintiff was suspended again, grieved the suspension and the Union settled the grievance for approximately half the period of suspension imposed by the employer. Thereafter, a third suspension was levied on plaintiff, was grieved and again settled for approximately half of the proposed penalty. After this, the first grievance was finally decided by an arbitrator in plaintiff's favor. Plaintiff claimed that this was proof the Union did not represent him fairly in the two grievances which were settled.

The court found that the proof established the Union thoroughly considered the merits of each case and fairly arrived at a decision that the terms of settlement were the best deal which could be gotten for plaintiff. Also noted was the established principle that the Union is not required to arbitrate every grievance.

Melendy v. U.S. Postal Service and National Association of Letter Carriers, AFL-CIO (USCA 7th Circuit)

EMPLOYEE TERMINATION—FAIR REPRESENTATION AND PRIOR ADMINISTRATIVE DETERMINATION

Plaintiff was discharged from her employment as a Nurse's Aide with defendant nursing home. She brought suit naming the nursing home and her Union as defendants. The Union had declined, after a request by plaintiff, to initiate arbitration proceedings challenging her dismissal. This decision was made after plaintiff admitted to the Union representative that the allegations in the notice of discipline were true. One of the charges involved falsifying medical records. The contract provided that this was a specific ground constituting just cause for immediate discharge. The court stated that an employee has no absolute right to have every grievance taken to arbitration, and ruled that the union had not acted arbitrarily or in bad faith.

In another aspect of the case, the nursing home sought to have plaintiff's cause of action dismissed on the ground that a finding by an unemployment insurance referee denying plaintiff benefits was *collateral estoppel* on the issue of plaintiff's wrongful discharge. The court disagreed, basing its decision on the fact that plaintiff had not been represented by counsel at the unemployment hearing and therefore did not have a full and fair opportunity to contest the issue, this being one of the necessary elements of the *collateral estoppel* doctrine.

"Legal Briefs" is a periodic column about Civil Service Law and legal matters of interest to public employees. Material is compiled and edited by the Albany law firm of Roemer and Featherstonhaugh, counsel to the Civil Service Employees Association.

Divinsky v. Esikoff (NYLJ, pg. 16 (Sup. Ct., Queens Co.))

DISCIPLINARY ARBITRATION — EXCESSIVE ABSENTEEISM

The grievant was served with a notice of discipline, notifying her that the State intended to dismiss her for misconduct and incompetence by reason of her excessive periods of absenteeism. At the hearing, the parties stipulated that all the alleged absences referred to in the notice of discipline were for legitimate medical reasons. The sole issue for the arbitrator to determine was whether absences for legitimate medical reasons, deemed excessive in number by the State, constitutes incompetence or misconduct under Article 33 of the State contract.

In his opinion, the arbitrator discussed Sections 72 and 73 of the Civil Service Law. Section 72 establishes a procedure under which an employee deemed to have a disability may be required to take an involuntary leave of absence. Although these sections specifically use the phrase "mentally fit", the arbitrator held that the statutes may not be limited solely to mental disabilities. It was found that there was no evidence of "disability" under Section 72 in this case, since grievant had submitted to a medical examination revealing that she had no disability preventing her from fulfilling the duties of her position.

The arbitrator held that the taking of sick leave for legitimate medical reasons is not an act of "misconduct", since the latter assumes the willful commission of some prohibited act by the employee. However, a reverse finding was made as to whether such conduct constitutes "incompetence". The arbitrator held that if an employee is deemed unfit or unsuitable to do certain work because he or she is unable to maintain a satisfactory attendance record on account of legitimate medical reasons, that this employee could be considered "incompetent" to perform his work under Article 33 of the State contract.

However, it was clearly held by the arbitrator that Article 33 must be viewed as covering medical situations not encompassed under Section 72 of the Civil Service Law. In other words, the State must first follow the

procedure under Section 72 in cases of this sort, before it may prefer disciplinary charges under the contract.

In the instant case, the arbitrator held that the proposed penalty of dismissal was excessive, and that a suspension or fine would be pointless under these facts. Therefore, the following penalty was ordered: Grievant should be given a medical exam by the Employee Health Service and be examined by her own physician; the results of the examinations should be reviewed by a designated State physician and the grievant's private physician; if the findings justify action under Section 72 of the Civil Service Law, then the State may take such action; if the findings do not justify such Section 72 action, then grievant shall be informed that any medical absence in excess of two consecutive days will require a medical certificate.

Matter of CSEA, Inc. (Kirkham) and State of New York (Dept. of Education) (Case No. 1567 0190 78)

DISCIPLINARY ARBITRATION — CONFIDENTIAL RECORDS AND HEARSAY EVIDENCE

In this patient abuse arbitration from Manhattan Psychiatric Center, a preliminary skirmish between the parties involved testimony offered by the State of facility patients. The union requested a copy of the hospital records for any patient who would testify for the purpose of questioning competency. OMH declined, and ultimately the union obtained a subpoena signed by a Supreme Court Justice requiring disclosure of these records pursuant to Section 33.13 of the Mental Hygiene Law. OMH still refused to provide the records, and the arbitrator ruled that no patient testimony would be heard on the ground that grievant had a constitutional right to confront and cross-examine prosecution witnesses.

As a result of this, the only testimony in the record was the hearsay of staff employees, admitted over the objection of the Union. In deciding the case, the arbitrator invoked the "residuum rule" that an administrative determination cannot rest solely on hearsay evidence, and therefore found that the State had not proven the charges.

Matter CSEA, Inc. (Alphonso Bell) and State of New York (Office of Mental Health) (Case No. 1267 0382 78)

Calendar of EVENTS

MAY

- 16 — Buffalo Local 003, monthly delegate's meeting, 5:30 p.m., M&T Plaza Suite. Michael Carroll, Administrator of Member Group Insurance Programs, will discuss health and dental insurance programs.
- 21 — Region IV Business Meeting, 5:30 p.m., Mario's, Troy.
- 24-26 — CSEA Armory Committee meeting and elections, Long Island.
- 28-30 — NYC Local 010 workshop, Concord Hotel, Kiamasha Lake.

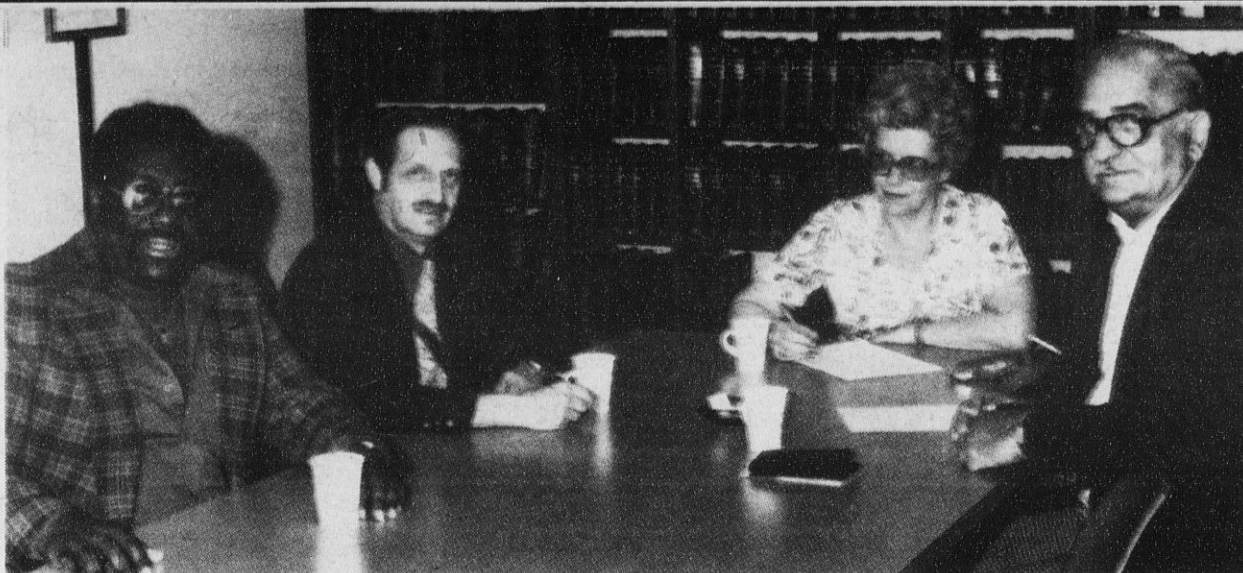
JUNE

- 8 — Capital District CSEA Armories meeting, dinner, election. Gunderland Range.
- 13-15 — County Workshop, Kutcher's Country Club, Monticello.
- 15-17 — Region V Spring Workshop, Holiday Inn, Watertown.
- 23 — Saratoga County Local 846 installation dinner, 6:30 p.m., Elks Club, Saratoga Springs.

JULY

- 20-22 — Region IV Summer Workshop, Sagamore Hotel, Lake George.

THE FEASIBILITY OF STATE WORKSHOP COMMITTEE met May 9 in Albany to make preparations for the 1979 State Division Workshop. Committee chairman June Boyle, SUNY Buffalo CSEA Local 602, said the workshop will be in July and August and four sites are being checked by the committee. She said the committee will meet May 24 in Albany to make its recommendation to the State Executive Committee. Among those attending the meeting were, from left, Jimmy Gamble, Department of Environmental Conservation Local 655; Nicholas Cimino, Department of Transportation Local 505; Ms. Boyle; and Al Varacchi, SUNY Stony Brook Local 614.



Judicial reclassification plan soon

ALBANY — A long-awaited plan will soon be implemented reclassifying all 10,000 employees of the state's 12 Judicial Districts to the salary schedule of the Unified Court System.

CSEA, which represents 5,500 of those employees in districts 3 through 10, called a meeting with New York State Chief Administrative Judge Herbert Evans recently, and was told that the judge agrees with the union's position that the plan should be put into effect as soon as possible. Judge

Evans revealed that he has already reviewed the plan and made modifications on it.

"Our people are suffering from financial hardships every minute that the implementation of the plan is delayed," CSEA President Bill McGowan told Judge Evans.

A state law which took effect April 1, 1977 mandated that all city and county court employees be allocated to the state Office of Court Ad-

ministration (OCA) salary schedule, which is higher than that of the local jurisdictions. The preliminary plan for that reallocation was released in 1978. But several other unions got an injunction challenging the authority of then-Chief Administrative Judge Richard Bartlett to sign the plan. In January of this year, the Court of Appeals ruled he did have that authority — but he was replaced on March 1 by Judge Evans.

CSEA, whose judiciary members

stand to gain thousands of dollars in back pay from the plan, kept after the OCA to put the plan into effect. At the meeting in Albany on May 3, the union has been assured that shortly, all judiciary employees will be on the 1978 OCA schedule, complete with increased salaries retroactive to April 1, 1977.

"Judge Evans told us he is in the process of finalizing the plan with Chief Judge Lawrence Cooke," Mr. McGowan said. "We're glad this reallocation is finally going into effect, since it benefits thousands of employees under 11 different CSEA contracts statewide."

Also taking part in the Albany meeting were CSEA Collective Bargaining Specialists Manny Vitale and Pat Monachino; CSEA attorney Steve Wiley; and CSEA Executive Director Joseph Dolan. Other topics of discussion included the CSEA bill in the state legislature that would give permanent status to all provisional OCA employees who now hold competitive titles. Between 65% and 75% of all OCA employees are in this category, the union estimates.

PERB to rule on Suffolk Co. strike charge

HAUPPAUGE — CSEA expects a favorable ruling from the Public Employment Relations Board (PERB) regarding charges by Suffolk County that Suffolk County CSEA Local 852 condoned and participated in an illegal strike in 1978.

The optimism was voiced by Local 852 and CSEA attorney Marge Karowe following a hearing by Edward Levin of PERB on the charge on April 30.

An unfavorable ruling by PERB would bring a temporary removal of dues checkoff against the 9,000-member local.

Karowe explained that in August 1978, approximately 30 corrections officers at the County Jail in Riverhead, refused to work overtime. The officers, represented by Local 852, had been working considerable amounts of overtime, including double shifts.

Ms. Karowe said the refusal to

work overtime does constitute a strike under the law.

However, it was explained that the action by the corrections officers was "a wildcat" and Local 852 had nothing to do with it. Ms. Karowe said Local 852 attempted to prevent the action by the officers.

In other administrative procedures associated with the action, CSEA is involved in hearings regarding two-for-one penalties assessed against some of the officers.

Westchester deputy sheriffs win arbitration

By Jack Murphy

WHITE PLAINS — Two Westchester County Deputy Sheriffs will be paid for overtime worked three and four years ago, thanks to an arbitrator's decision that not only upheld the validity of their claims but declared a statutory time bar for filing grievances was not as rigid as Westchester County claimed.

Both deputies, Robert Cantrell and Thomas Dickson, worked uncompensated overtime while assigned as investigators in the county's Sex Crime Unit. Cantrell was assigned to the unit from June 16, 1975 to Feb. 9, 1976 while Dickson had the assignment from Feb. 9, 1976 to Nov. 1, 1976.

Cantrell's claims for overtime were paid until July 1975 when budgetary problems halted cash payments for overtime. He was, however, told to continue to put in his overtime claims and that he would be provided compensatory time when transferred back to the courts division. Dickson, who replaced Cantrell on the Sex Crime

Unit, said he was advised at the outset that he should put in his claims for overtime and that he would be given compensatory time at a later date.

When Cantrell returned to the courts division he found his time records and overtime claims had not been forwarded from the Sex Crimes Unit. He was unsuccessful in getting his records until March 28, 1978. He immediately filed his grievance.

When Dickson found out about Cantrell's difficulty in getting his time records, he checked and found his overtime records were also unavailable. After a number of efforts to locate the records, he too, filed a grievance dated Aug. 17, 1978.

Westchester County maintained that the grievances were not arbitrable because they were not filed within the 30-day period specified in the county's contract with CSEA. The arbitrator, in examining the difficulties both deputies encountered in obtaining their work records observed "A

close examination of the circumstances of the instant grievances leads to the inescapable conclusion that this untimeliness is more apparent than real."

In his ruling he said that both deputies did file grievances in a timely fashion once they discovered they had a grievance.

In regard to compensation, Westchester County argued that both deputies were working at Grade IX in their assignments and the contract clearly said that they were obligated to be provided with cash payments for their overtime work.

Counsel representing the county further maintained that "persons who have been party to violating the contract (in this case the two deputies who agreed to work overtime for compensatory time in lieu of cash payment) divest themselves of claims under it."

The arbitrator, Matthew A. Kelly, noted that under most circumstances this argument would be "compelling and controlling." He then, however, cited long-

established and mutually acceptable practices in a number of Westchester County agencies "including the Sheriff's Department" of providing compensatory time in lieu of cash payments "especially as funding for special projects wind down and there are serious budget limitations."

He then ruled that the county had violated the contract in failing to provide the deputies with overtime benefits accrued while employed in the Sex Crime Units. He ordered the county to pay both men for the overtime they worked on that special project.

CSEA Region III president Jame J. Lennon said the decision was both important and a just one. "Our people had a right to be compensated for the work they did and this decision by the arbitrator proves that their claims were just."

CSEA was represented by Arthur Grae of Grae and Rose in White Plains.