Interview Date: July 24, 2001

Subject: Jerome "Jerry" Lefkowitz: Chairman, New York State Public Employment Relations Board (2007- Present); Deputy Counsel CSEA, Public Employment Relations Board (PERB) Member, Deputy Chairman of PERB, Deputy Commissioner of New York State Department of Labor, Assistant Attorney General

On July 24, 2001, CSEA conducted an interview with Jerome (Jerry) Lefkowtiz, distinguished public servant and former CSEA employee. Lefkowitz began his career in State government in the 1950s serving in a variety of capacities which included tenures at the Attorney General's Office, State Department of Labor and the Public Employment Relations Board (PERB). In addition, Lefkowitz also served as Deputy Counsel to CSEA for 14 years. Lefkowitz's career has been intricately involved in the crafting of New York State's Taylor Law, as well as its implementation. Lefkowitz's experiences were unique because as a State employee it provided him with great insight into CSEA's involvement as a partner in the process and how CSEA interacted and operated with State government. These insights and experiences would later be used be used in a different capacity, this time as an employee of CSEA. Lefkowitz interview chronicles the crucial role that he played in crafting and implementing the Taylor Law, as well as the significant role he played in establishing and realizing labor relations between CSEA and the State of New York over the course of the past forty years.

Lefkowitz begins his interview by recalling the post-world war II era years of labor relations, wage and price controls, and a raft of strikes which brought about the Taft-Hartley Law relating to the private sector. While at the same time, other laws governing public sector employees were passed in New York, Michigan and Wisconsin restricting the right to strike and imposing penalties on those who did. Lefkowitz discusses the geographic disparities that resulted in enforcement of the penalties imposed under New York's Condon-Wadlin Act and CSEA's efforts to amend the law.

Lefkowitz recounts the early years of legislative negotiations between the Rockefeller Administration and the Democratic Party and the significance of the transit worker strike in 1966, and how that strike forced a legislative response. Lefkowitz goes into detail about the orchestration of Rockefeller's Taylor Commission chaired by Professor George Taylor, of University of Pennsylvania – Wharton School, and the ensuing deliberations, which resulted in

him being asked to draft what would later become New York State's Taylor Law. Lefkowitz specifically mentions how CSEA was the only union supporting the Taylor Law at that time, and as a result that one of the few detailed instructions that he received that once PERB creates a unit, it would award that unit to the majority union as determined by dues check-off, etc. which he viewed as a reward to CSEA for its support. Lefkowitz recalls that initial efforts to pass this bill were defeated and that two years later, CSEA helped orchestrate a series of events and got articles published, that ultimately led to the passage of the Taylor Law. Lefkowitz remembers the evolution of the Public Employment Relations Board (PERB) and his direct involvement in preparing and crafting the decisions of PERB, subject to the Board's approval.

Lefkowitz shares his professional and personal relationships with former Presidents of CSEA, as well as members of the DeGraf- Foy law firm and other prominent political and public figures of that era. Lefkowitz details the State Legislature's role in determining what a mandatory subject of bargaining is. In doing so, Lefkowitz further states the Legislature's goal and desire, that the Civil Service Commission remain independent, and not under the thumb of the Gubernatorial Administration.

Lefkowitz addresses the role of binding arbitration and the effect that the Taylor Law had on not just arbitration, but on strikes. Lefkowitz highlights the role of good faith bargaining and not only how crucial it proves to be, but how easily resolved issues become when both or, all parties negotiate in good faith. Lefkowitz also credits CSEA's increased focus on professionalism, which was centered on creating member-centric labor relations. Lefkowitz talks about the establishment of the main bargaining units within the State in the early years of the Taylor Law and CSEA's clout in securing a majority of those employees, as its members.

Lefkowitz talks about the PERB's operation and the enormous amount of work that was required to create and establish the separate bargaining units; and how these units were the genesis of the bargaining unit system that is in place today. Lefkowitz also notes that there were an exceptionally voluminous amount of petitions and testimony contained in each of these PERB hearings, used to determine bargaining units. Further, Lefkowitz recalls the litigation that was involved in testing not only the Taylor Law but PERB's mandate.

Lefkowitz touches upon the early Taylor Law years, and how this led to an adversarial relationship among CSEA, AFSCME and SEIU. He discusses AFSCME's unsuccessfully attempts at raiding a variety of units from CSEA. Lastly, Lefkowitz briefly discusses how the Taylor Law not only created a process, but converted CSEA from an association that lobbied to a union that negotiated and forever changed public employee life in New York State.

Key Words:

AFL-CIO

American Federation of State and County Municipal Employees (AFSCME)

Arbitration

Condon-Wadlin Act

Contract strike

CSEA

Knickerbocker News

Labor Relations

Labor Relations Specialists

Local Government

Mediator

National Labor Relations Act

National Labor Relations Board

New York State Department of Labor

Organizing

Public Employment Relations Board (PERB)

Taylor Commission

Taylor Law

Transit Workers

University of Pennsylvania – Wharton School

Key People:

Al Marshall
Al Shanker
Archibald Cox
Arvis Chalmers
Bob Helsby
Dave Cole
Eli Rock
Franklin Delano Roosevelt
George Taylor
Gerald McEntee
Harry Albright
J. Earl Kelly
John Lindsay
Julius Sackman
Leon Davis
Robert Wagner, Jr.
Mel Osterman
Mike Quill
Nelson A. Rockefeller
Ray Corbett
Anthony Travia

FV: Please review your career and then we'll get into the specific questions.

JL: My name is Jerry Lefkowitz and I am now deputy counsel to CSEA. I've been that for 14 years. My immediate job prior to that, was as a member of the Public Employment Relations Board, PERB, for one year. Before that, I was the head of staff; the title is deputy chairman of PERB, but it was a staff position, for 19 years. For seven years before that, I was a deputy commissioner of the Department of Labor, State Department of Labor and also counsel to the State Department of Labor, in charge of legislation. For two and a half years before that, I was an assistant attorney general. I had some dealings with CSEA in the Labor Department and in connection with my work with PERB.

FV: Now, when it comes to the Taylor Law, you're the expert...

JL: Well, I drafted it.

FV: You drafted it. Now let's go back to where the story starts. Where does the Taylor Law story start?

JL: Well, I'll give you some pre-history. In 1947, after the war, there was a lot of pent up demand because we had had wage and price controls during the war years throughout the country. And there were a raft of strikes. The result of these strikes were, in the private sector, the Taft-Hartley Law, which came up with various changes in the National Labor Relations Act. And in the public sector, laws were passed in. New York, in Michigan and in Wisconsin, restricting by legislation, the right to strike and imposing specific penalties on employees who struck. Mind you, before that, strikes were illegal in the public sector tinder common law, but specific and very severe penalties were imposed by these new statutes. .In New York State, the statute was called the Condon-Wadlin Act. The Condon-Wadlin act said that if a public employee struck, he was fired immediately. He could be rehired, but on the condition that he could not get a raise for three years. This was a statute that was enforced with substantial regularity upstate and was never enforced in New York City. In New York City, some of the unions were too strong and the City decided that it might indeed provoke a further strike if they tried to impose it. It continued in this way through the late 40's the 50's. By the 1960's, there was a lot of dissatisfaction with the Condon-Wadlin Law. From

labor's point of view, it was too draconian, too terrible. Others, on the management side, especially from the New York City area, were saying it's terrible because it's not being enforced. And Joint Legislative Committee on Labor Management Affairs each and every year, starting in the late 1950s, would have proposals and would hold hearings on what to do about strikes by public employees and would come up with tentative proposals. I, at this time, was the counsel and Deputy Commissioner of the Labor Department and was following these events quite closely. Rockefeller became governor in the 1958 election and in 1963, he proposed legislation to amend the Condon-Wadlin Law and that amendment provided for no discharge and no freezing of salaries, but that employees who struck would be fined two days for each day of the strike. That bill was passed by the legislature as a two year experiment. That was as much as he could get.

The real politics of that was that the AFL-CIO, and remember CSEA was not a part of the AFL-CIO at that time, but the AFL-CIO, under the leadership of Ray Corbett was very active in the public sector in New York City, but it was not active upstate. It was not organizing public employees there. So it didn't care very much about what happened upstate. It cared very much about New York City and it was perfectly willing to live with the Condon-Wadlin Law, knowing that it was unenforceable in the city. They had a paper tiger that they could campaign against. It was good for political reasons and it didn't hurt their people, because it wasn't being enforced against them. So they didn't want to make it more enforceable. They would have like to have a law that permitted strikes, but, short of that, they didn't see any advantage of any amendment at all.

CSEA, which was active in organizing employees upstate, was very much concerned about the impact of the Condon-Wadlin Law, and wanted penalties that would not be so draconian. It didn't anticipate many strikes and there hadn't been very many strikes in those days, but each and every strike was a traumatic experience for the public because it wasn’t used to them. It was passed when the Democratic party, opposing Rockefeller, finally was prevailed upon to agree to it for a two-year trial period. At the end of that two-year period, there were proposals in 1955; there were four different bills before the legislature, each one designed to give some kind of bargaining rights to employees, two by Democrats, two by Republicans. One of these from the Republicans was the plan to make permanent this two-year statute. But nothing passed.

FV: Why did nothing pass?

JL: Because the Democrats and Republicans couldn't agree, and the Democrats controlled one house while the Republicans controlled the other.

That's '65. At the end of '65, there was a major labor dispute that came up every couple of years; the Transit Workers in New York City. And the transit workers, under Mike Quill, used to engage in a lot of dramatics. Often the last minute, they would come up with a settlement. They had a no-contract, no-work clause in their constitution and the contracts were over midnight, New Year's Eve. Typically, they would not have a contract on them so they'd stop the clock at midnight and reach a contract by 6 a.m., 9 a.m., or noon on New Year's Day. And that happened all the time. There had been one or two strikes but they were by independent groups like in the Motorman's Benevolent Association. The TWU never struck, they always reached and agreement. But it was always after keeping the public on tenterhooks so that the mayor and the transit authority could say “we were pressured into this even though it's going to cause us to have a fare increase, we had no choice,” and the people were relieved not to have a strike.

1966 was different. It was very different. Mayor Wagner had decided not to run again. He was rather unpopular in his last term of office and didn't think he could win and the Republicans put up a very good liberal candidate, John Lindsay, Mayor Lindsay, who got elected. Elections were over, but we had to settle the contract for the transit workers. This was a problem. Mayor Lindsay was saying, "I'm not the mayor now. I don't become the mayor until after New Year's. I can't negotiate with Mike Quill. I can't make an offer. Mayor Wagner is still the mayor throughout this time. It's his responsibility to negotiate." And in mid-December, he took a trip to somewhere in the Caribbean. Mayor Wagner was saying, "Look, if we reach an agreement, the likelihood is that we're going to have a fare increase. The fare increase is going to go into effect under Mayor Lindsay's term of office. He's going to bear the consequences of it; therefore, he should be at the table. It doesn't concern me, it’s for the future. I certainly shouldn't negotiate and impose something on him." And, he too went somewhere in the Caribbean. And there was no indication from the City how much money would be made available to the Transit Authority. As of Christmas, there was no offer on the table from the Transit Authority. They didn't know how much money they had, and how much would come from the city and how much would have to come from a fare increase. New Year's Eve came

and by that time, they were bargaining seriously, but they'd just started and they couldn't get it finished. They stopped the clock and extended negotiations about 12 more hours, and about noon the next day, there was a strike, and it was horrendous. It tied up New York City commercially to a fare-thee-well. It cost the City and its population and the State fortunes of money, millions upon millions of dollars each day. And the strike had lasted about two weeks at the time when I got a call from the Counsel to Governor Rockefeller. Would I come to the capital? I came and found that I was called to a meeting along with the counsel to the Civil Service Commission, and the counsel to an agency then existing called the Office of Local Government. They asked us, see what we could come up as legislation to resolve the underlying dispute that may help to get the employees back to work.

Well, I had been called on two years earlier to draft legislation for the governor's office for not-for-profit hospitals, and had come up with legislation that would give them the right to organize but no right to strike. It was proposed by the governor and resolved a strike in NYC–aborted a strike of hospital workers against Catholic hospitals. I thought that maybe this would work and proposed it. We discussed it among the three of us, and they went along with me. We reported it to the Governor's Counsel. He said, "Give me some time. I'm going to speak to the Governor." He came back 20 minutes later and said the Governor will go with this kind of legislation.

By then it was 2 a.m. "Can you get here by 9:30 tomorrow and draft the bill?", and I said yes. I got there at 9:30 in the morning and was told that the strike was over. It had settled on its own the previous night and they didn't need this legislation for that reason. The Governor was still interested in my proposal but said he wasn't going to pass it because it was suggested by Jerry Lefkowitz. He was going to call a group together of specialists, nationally-reputed specialists, and he did. It was the Taylor Commission, chaired by George Taylor, who was the University of Pennsylvania's Wharton School, a renowned arbitrator and mediator as well as an expert in labor relations. Its members were Professor Dunlop of Harvard, who was later Secretary of Labor; Dave Cole, a freelance arbitrator and mediator who was also part-time faculty member at Cornell ILR and Professors Harbison and Backy, one of Yale and one of Princeton–I don't remember which is which–all specialists in labor relations, and they were to deliberate and come up with suggestions. In a matter of two months, they had done so, and they proposed that employees be given a right to organize, a right to bargain but no right to strike, the creation of a public employment relations board to monitor

the system. It was different in a number of details from what I had proposed and was much more thought out than I had been able to do in a matter of two hours. Then I got a call from the Governor's, could I draft a bill to embody the Taylor Committee's specific proposals, which I did.

The bill was supported by the Governor's office; it was also supported by CSEA. It was opposed by local government because local government was perfectly willing to live with the Condon-Wadlin Act, except for maybe Yonkers and some places in Nassau County. The Condon-Wadlin Act wasn't being enforced, it was opposed by AFL-CIO because it was strongly opposed by AFSCME because it was active in New York City and to some extent in Rochester. So the lines were drawn and the bill was not passed. It was a one-house bill, passed by the Republican Senate and not by the Democratic Assembly.

Interestingly, one of the few detailed instructions I got in drafting the bill was that once PERB creates a unit, it shall award that unit to the majority union as determined by "dues checkoff or other evidences or by an election if necessary," as opposed to the NLRA, which says an election is always necessary. CSEA had dues checkoff for almost everybody. It was the only show in town except for in New York City. It was a majority and this in effect was a reward to CSEA because it was the only union supporting the Taylor Law. But, the bill did not pass.

Another year came and during the second year there were two interesting factors. First, there was a threat of a strike by New York City police and firefighters. The City inhabitants were frightened and they, in turn, put pressure on their legislators, who were the dominant group of the Democratic Party. They in turn were unsure about their commitment to AFSCME and the AFL-CIO in the face of their constituencies' concerns. Before that was resolved, there was another interesting event. AFSCME–and we're talking now about DC-50,which represented state employees. Its largest group was the Division of Employment, Unemployment insurance in the Department of Labor. It had a newspaper and it spoke to the Counsel to Assemblyman Travia, who was the Speaker of the Assembly and the dominant Democrat in the State, and it asked him if he would write some articles reporting on what's going on with the legislature for their newspaper. He did; he agreed to. And the next issue of the paper said that–something to the effect that AFSCME has retained,–let him remain nameless,-to write for that newspaper. The day this appeared was in the newspaper dated April 1, 1967. Arris Chalmers, a leading columnist of the then Knickerbocker News, the afternoon paper in Albany,

was walking by and saw a copy of this and started laughing and saying to himself “what a joke–CSEA must have done a parody of the AFSCME paper” and he thought nothing further of it. Later that day, he kept on seeing the paper in other places which were not sympathetic to CSEA and he began to take it seriously and made some inquiry, and found out, “oh, yes, we have indeed gotten Chalmers to write for us.” And he wrote a story that Mr. Doe is counsel to Travia and is on the payroll of AFSCME. Travia became thoroughly embarrassed by this and the effect was that he took his finger off the Taylor Law. He negotiated a compromise with the Governor's office, which limited the penalties for strikes, because this bill had provided penalties, not on the individuals who were striking-- for that the penalty would have been just misconduct-- but penalties against unions, a loss of dues checkoff, and fines for contempt of court if there is an injunction. So Travia got some limitations on the penalties, and the bill passed. AFSCME had a big rally in Madison Square Garden against the bill, calling it the “RAT” bill, “Rockefeller And Travia”. It was unavailing because the pressures in New York City and the Republican support upstate; it passed both houses and it became the law.

About three months later, I found myself appointed as the deputy chairman of the Public Employment Relations Board. The chairman was Bob Helsby, who was a magnificent administrator, but not a labor relations specialist. The other two members were part-time employees, and my job was essentially to advise Bob as to what we needed concerning structure, and remained for the next 19 years to write the decisions of the Board. For those 19 years, I wrote about 95% of the decisions of PERB, subject to the Board's approval of them, often rewriting them. Unless I was on vacation for a couple of weeks, all the decisions were mine. In that connection, I had to deal with CSEA very frequently. If there's anything you need more or want more about the period before the Taylor Law, I suggest you ask me, and then I can cover periods once the law was created.

FV: Right. What I'm interested in is the personalities and what they were like to work with. I mean, I don't know how close you got to Governor Rockefeller, but his people and the CSEA people and–who was the president of CSEA at the time?

JL: The president of CSEA was a Mr. Feeley. CSEA was a very effective lobby for public employees, but there had been no bargaining, or at least no formal bargaining. CSEA was really run by its attorneys and by a professional executive director. The director was Mr. Loehgran and the attorneys were from the firm of DeGraf-Foy. Harry Albright was the partner assigned to CSEA, very competent, and later selected by the

Governor to be a commissioner—I think Commissioner of Insurance, but I'm not positive. They would negotiate with the Governor's secretary, including compensation raises among other things. Based upon what their agreement was, the Governor would include it in his budget and it went to the legislature, but there was no contract or signed agreement. CSEA previously lobbied for Section 75, which is the provision of the civil service law that gave employees—at first only competitive employees—tenure after their probation and gave them hearing rights in the case of discipline, disciplinary charges.

In the late 1920's, there was a strong movement for civil service reform. Now civil service reform was very different from collective bargaining. The reform they were looking for was to have "scientific approach" to public employment. “We will see to it that people get the appropriate compensation based on our scientific analyses.” You would have groups of employees who would be classified as to what their jobs were, various classifications. A secretary I, a secretary II, a secretary III, as you get promoted. Nurse I, nurse II, nurse III; attorney, associate attorney, principal attorney, and all kinds of other jobs, classifications, and then decide which classifications are on the same level as others because of the level of their jobs. Then you would allocate the different classifications to salary grades, the money values of which would be determined by the legislature. This was the dream and hope of civil service reformers, and the chairman of the Civil Service Employee Association legislative committee was a man named J. Earl Kelly, a man of real integrity and real seriousness, and he drafted a proposed statute to create a bureau of Classification and Compensation for the Civil Service Department that would be charged with classifying employees and of allocating classification to salary grades; this was his proposal, a very sophisticated system based upon this scientific system. With CSEA's active support and lobbying, the bill passed in 1931, but it was vetoed by Governor FDR, who wasn't going to give away his control over compensation. The bill languished but was kept on being introduced and it was not passed again until either '36 or '37, I don't recall offhand, and was then signed by Governor Lehman. Governor Lehman then followed up by appointing J. Earl Kelly as the Director of the Division of Classification and Compensation, and he then became the czar of

this and did a–rigid rectitude, as often happens when you create legislation that is remedial, the original group is committed to this remedy, and they're very strict and careful about it, and there is little if any efforts and fewer successes intervening with the political process. I remember I was in the Labor Department; I had a–I was counsel to the Labor Department and had an assistant who was exceedingly good at doing some things that were not very complex, but he was so efficient that he could do more than two–well more than two times the amount of work that could be handled by somebody else, and I put in for reclassification of the grade–reclassification of the position to a higher level, and Kelly told me, no, you can't do that. This work he is doing calls for work of level X. If you want to promote him to more complex work, and if that means that we have to–you have to hire two people to do his work, so be it, but we are not going to distort the system because of individual quirks. That was his approach and he did a very good job of it, but it was a CSEA baby, the whole system of classification and compensation. By the way, this scientific system has been proposed more recently by the very unions who departed from it to go into an unscientific method of "whatever we can get at the table is what*we should have," because how can you decide that a first rate college professor is worth more or less than a second rate belly dancer. It's market value, and yet, about 15 years ago, there was a great deal of push from among other unions for using the scientific system to decide not equal pay for equal work, but comparable pay–equal pay for comparable work, to decide that two totally different jobs are comparable and, therefore, one job dominated by males and another job dominated by females should pay the same thing, which is really a throwback to this classification and compensation system, as distinguished from its matter of market value and pressure.

FV: Comparable worth. How do you determine? Is there a...?

JL: Well, it never passed.

FV: It can't be done?.

JL: I don't think it can't be done. Classification and compensation worked effectively. For a number of years, it was the only game in town, and there were standards. Are the standards fallible? Yes. Does collective bargaining result in injustices? Yes; there's no system that's perfect. If you get good people in it, you're going to minimize the mistakes, but there are two different systems. The so-called civil service scientific system is based on attempting to rationalize

compensation on some basis using the so-called scientific principles. Collective bargaining, on the other hand, which is based on market value and the bargaining strength of the organizations, their strength in the private sector and their ability to strike, their ability to make a threat of strike that is credible, or in the public sector, their ability to lobby and punish politicians at the polls. And it's these factors rather than so-called scientific determinations of equity of Civil Service theory that now prevails. If you can't organize, then you get a lot less, but so be it, as distinguished from saying, we're going to do what we think is the fair thing based upon our judgment, which is fallible.

FV: What happened to Kelly's commission or whatever it was?

JL: It is still in existence. Classification and allocation have been determined by the State Legislature not to be a mandatory subject of bargaining. You can't bargain about where a person is classified or what grade he's allocated to. However, you can bargain about how much salary that grade gets. Money is bargainable, but classification is not, and that is the essential compromise that has developed. The Taylor Law provides that in the event of a dispute in bargaining, it goes to the legislative body, which shall act as the arbitrator, in effect, and resolve the dispute. It is the legislative body of the government involved. There was a dispute in New York State, the New York State employees involving, I believe, AFSCME, and it had to do with allocation to grade, and PERB found that they were required to negotiate on this because allocations are money. The grade is money; they had to negotiate. The legislature was asked to resolve the impasse, and in its report, said, yes as to all other things, but said no as to allocation, because allocation is part of the civil service. The Civil Service Commission is, as the legislature knew, was created to be independent, was not under the thumb of the government and, therefore, it could not compel the Civil Service Commission to allocate to say particular grades. It was the Civil Service Commission’s task. That was its opinion. I remember being very upset at the time when the decision was handed down since I had written the PERB decision saying they should negotiate on it, but I have to confess it has not created any mischief. People have worked their way around it and, with good will on both sides, you can manage to resolve most problems. The ability to negotiate specific wages has, in effect, trumped allocation; there isn’t a case on that more than once every three or four, maybe five years.

FV: But if there is not, good faith on both sides, there's something missing from the equation, because you don't have binding arbitration.

JL: You don't have binding arbitration; that is correct. Interesting. The unions did not want binding arbitration at first. It was an article of faith among unions, that binding arbitration is bad. They had it during World War II with wage and price controls, but the private sector unions felt that arbitration would eventually suppress the right to strike. There were certain people, both Democrats and Republicans, who were in favor of arbitration as a technique of resolving disputes, but very few in the private sector. This attitude continued until well into the Taylor Law period. I remember–I told you about this strike in the New York City hospitals against the Catholic Charities. The bill that I drafted for that had binding arbitration because Leon Davis, the president of the union of the hospital workers wanted it very much. The bill was bitterly opposed by AFL-CIO and was being opposed by New York City because its mayor was beholden to AFL-CIO, which means the Democratic party wasn't supporting it, and then, as the strike was creating problems for Catholic hospitals in New York City, and for patient care, at the last minute, Mayor Wagner switched. I happened to be standing with Ray Corbett when he got news that the City was supporting the legislation, and I remember him becoming apoplectic. It's the beginning of the end because we're going to have arbitration.

Arbitration came into the Taylor Law first for firefighters. It was being pushed avidly by firefighters and police, and the attitude of the State Senate appeared to be–well, the Taylor Law says that nobody can strike; it's against the law, we have penalties for it. But for police and fire, we really mean it. It could be disastrous if we have a right to strike. I got a call in from the Senate staff saying, we're going to have an arbitration bill for the firefighters, only the firefighters because the firefighters were an AFL-CIO union and they had prevailed upon the AFL-CIO to consent to arbitration for firefighters. I drafted that bill, which passed, and then, two or three weeks later, a bill passed for police officers. Now that there was a precedent, they wanted to pass it for the police as well. But for nobody else.

As to strikes. After the Taylor Law passed, the number of strikes increased from four or five a year as existed before, to 20 to 25, I think the maximum was 32 strikes a year. That was to be expected. You have lots of people organizing for the first time. All these local government employees organizing and

Negotiating, creating much more potential for strikes. On top of which the government officials were negotiating for the first time. Public sector unions were negotiating for the first time, and neither were very sophisticated, so they were stumbling into strikes. A school board would get elected on a program of how they were going to save money for the taxpayer, and unions were electing their presidents on promises of how much they were going to increase compensation next year, and people began to take that election propaganda seriously, at least their constituencies did, and they were trapped into it. So we had, I think, a maximum of 32 strikes. I think that, in the last 20 years, we've never had more than three strikes, and we go through most years without a single strike, as the union and management people have become much more sophisticated, as has PERB, learning how to handle things better. And the system is obviously working reasonably well.

FV: Because there's good faith on both sides.

JL: There's good faith on both sides in most instances, and there are fewer mistakes. There's more sophistication. People don't get themselves boxed into political commitments as often as they did in the early stages, on either sides. Therefore, they can work out agreements more effectively. CSEA has become a much more professional organization in terms of its labor relations than it was when I started, and there is less competition among unions. CSEA is part of AFSCME now. They're not fighting for the right to represent employees. By now, NEA and UFT each have their own fiefedoms and they don't often raid each other. When you have raids, you tend to make excessive promises to the employees, and that commits you to positions that make it harder to back off. They promised this. We're going to go over to union Y instead of union X. But that doesn't happen very often now. On occasion, but people are more sophisticated, as; I say, so you don't have the number of strikes.

Let me tell you now about what happened after the Taylor Law passed. The Taylor Law passed in late April, 1967, to take effect September 1. I became an employee. of PERB in the middle of July and my first responsibility was to draft rules and procedures so we could get a running start. I was also going around with chairman Bob Helsby to speak to people in the NLRB and the State Labor Relations Board to get ideas of what the structure might be. By September 1, I had a draft of rules and procedures. I was advised on this by a committee I set up, consisting of four people; two professors from Cornell Law School and ILR; one professor of labor law from Columbia, and one person who had been an attorney for the Taylor Commission,

the Taylor Committee. We had come up with procedures.

The Board came into existence on September 1. It was hit by its first strike on September 2, a big strike in New York City by Al Shanker and UFT. That was a strike in which Shanker said, "I've gotten resignations from X thousand number of teachers. They're not striking; they're just resigning." The Board of Education said, "If they're resigning, hand us the resignations.We may accept them." He said, "Oh, no, I'm not going to hand you the resignations."

We appointed a fact finding commission. Archibald Cox and two other people whose names I don't recall at the moment got the thing resolved we then imposed the dues checkoff penalty on the union, which they went to court on constitutional grounds. It was upheld and PERB's credibility increased when it was able to stand up to the UFT, which had not been penalized in two or three previous strikes.

By the second week in September, we had held public hearings; the three Board members went on public hearings, one in New York City, one in Albany, one in Buffalo, on the draft rules; made some changes in them and, by the beginning of October, it promulgated them. After that, we got petitions.

Governor Rockefeller had, meanwhile, upon the advice of his secretary, Al Marshall at the time, said, "We recognize the existence of three units of State employees." The Taylor Law permits recognition and permits the employer to create units. We in PERB have said the employer can create units. If, within 30 days, anybody is unhappy with the units the employer created; he can file a petition with PERB and we at PERB will then determine whether it's a correct unit. So the governor had created one unit for the State Police, one unit for the faculty of the State University and a remaining unit for everybody else except managerial employees. In the single unit, the residual unit, the governor had recognized CSEA because CSEA had well over a majority of the people signed up as members. They probably had about 75% of them. CSEA was an effective lobby, but it was not a union, it was not providing across-the-board services, so its dues were relatively inexpensive. It was providing supplemental insurance to all people who belonged, and this was essentially the only game in town except in the Labor Department’s Division of Employment. The Governor recognized union in the State University for the faculty because a majority of people belonged to the faculty senate, a majority of the people also belonged to CSEA and almost 50% belonged to AAUP, the American Association of University Professors. Who do you recognize? He also didn't recognize union for the State

Police because a majority belonged to PBA, an even larger number belonged to CSEA, and a significant number belonged to AFSCME.

So the petitions came in and the focus was on the state unit, the CSEA unit. Among the 32, 33 petitions we had all kinds of proposals. For example, we had one petitioner sought to represent all the carpenters who work for New York State. Another said, “we represent all the skilled craftsmen that work for New York State, whatever their skills.” A third said, “we represent all the corrections officers that work for New York State, whatever their rank.” A fourth said, “we represent corrections officers, except superior officers; ie. only the initial, entry-level corrections officers who work for New York State.” Another one said, “we represent everybody who works for Ossining or Sing Sing correctional facility, three different configurations of corrections officers.” We had lots of other occupations. We had several department wide petitions. We represent the State Insurance Fund. We represent the nurses, the lawyers; we represent the employees of a state hospital located in Schenectady. Nobody knew what kind of structure was appropriate, but the assumption was that some of these would be approved and some would not.

As the people I hired were essentially neophytes, I held the hearings. The first day, I said we'll start with the corrections officers, the three different groups. I remember being in a fairly large hearing room with about two dozen corrections officers coming into the room to listen to what was going on, all with pistols, or revolvers. I was saying, “you don't come in here with revolvers. I'm not going to make any rulings if you do. You gotta check them at the door.” CSEA was represented by Harry Albright's assistant, a young man named Jack Rice, who was very competent. AFSCME, which was a claimant for one of the corrections officer groups, was represented by the counsel to 5037, AFSCME 5037, and the other groups of corrections officers were there. The state was represented by the attorney general, a very fine lawyer who specialized in real estate.

FV: What was his name?

JL: Julius Sackman. He was the author of a major textbook on real estate, on condemnation proceedings and such, but had no background in labor law. I asked him at the outset of the hearing to tell me who he claims to be managerial, because the recognition said: “everybody who's not managerial.” And Sackman started consulting with Jack Rice of CSEA because they're on the same side; the State recognized CSEA. After about 30 seconds, he said it is the superintendent of the Department of Corrections,

now commissioner, the assistant superintendents and counsel. I said, anybody else? They said no. I said, what about the wardens of the prisons? They said, wait a second and consulted with Jack Rice again. Then he said, no, the wardens are rank-and-file. Whereupon three dozen corrections officers burst out laughing and one person yelled out, "Hell, in a prison, the warden isn't rank and file, he isn't management; he's God."

In any event, by the third day of hearing, the state had a special labor counsel representing it. The same person, Mel Osterman, who had been a legal advisor to the Taylor committee and who had been an adviser to me on the drafting of the rules. It was very comforting. About three to six months later, the State had set up for a three-man committee negotiations consisting of: the Secretary to the Governor--to get input from the Governor's office--the Director of the Bureau of the Budget--for financial concerns--and the Chairman of the Civil Service Commission--for other issues. It was about six months later, I suppose, that they passed a statute creating an Office of Employee Relations, which was professionalized, and they appointed a chairman who didn't have much background in it but was a competent administrator. I guess that was Rockefeller's way of doing things. And their Counsel, there was the same Mel Osterman, who was a labor relations expert. That system worked very well because the administrative head could see to it that it hired competent staff, get the jobs needed, could negotiate with Budget and with Civil Service and all the other bureaucratic things that we labor relations specialists didn't know much about. And we could take care of our specialty.

The hearing lasted for about ten months, going into all thirty different petitions. Usually, it was very contentious. The attorneys for AFSCME and CSEA were particularly at each other's throats, objecting to every piece of each other's evidence, keeping me on my toes, but we were going through this and building a record.

Interestingly, on one occasion, I came into hearing. I don't remember which petition it was for, but both of them were there, plus whoever it was who was the attorney for the specific group whose petition was at issue; CSEA and AFSCME were contesting for everything. And I got a call. My wife called to say that my son fell off a swing and broke a bone in his foot. She told me to get to the hospital immediately because he's in the emergency room. So, I excused myself, and said, "I'm going to have to cancel this hearing." They said, "Let's go on without you. We'll run it like a deposition." In a deposition, the parties themselves put on evidence. If they have objections, they work it out themselves.

And if they can't, they put the objection on the record and a judge can rule after the fact. I would rule after the fact whether or not it should be considered. I said, "Fine, if that's what you want to do; so long as it's all on the record." I come back for the next day of hearing. I get the record and read it. Not a single objection. They worked out everything. They knew what was going to admissible or not, all along. It was all posturing for their clients. They couldn't posture because they're not making a show with no hearing officer there. If there was an objection, "You're right. I withdraw the question." Or "No, I want it because of such and such." "Okay, you're right." And that's the way it went. In fact, the hearing went so well, I kept on thinking I was a bottleneck causing all the problems.

FV: So, if you didn't show up, they were more efficient.

JL: Yeah, they were more efficient, absolutely. (laughs) In any event, we finished the hearing and the time came for briefs. AFSCME had brought in one witness, quite significant. Gerald McEntee, now the president of AFSCME, who was then the head of the Philadelphia counsel, testified about how it was done in Philadelphia, which was a system set up by the arbitrator Eli Rock, with large families of occupations. He testified that this would create stability. And I really impressed with it because I had read a couple of articles by Eli Rock on his system. But what could I do about it? I'm not getting a petition for those kinds of units, and didn't really give it much consideration.

As I read the briefs, the State, and to some extent CSEA, were concentrating on the disaster area that was New York City. In New York City, they had 450 units. They had a unit of two shoemakers in a prison. Mayor Wagner had hit upon the very good idea of giving every group who wanted a unit the unit they wanted. One, it was politically very sound, because why say no to people? And two, it was very effective for him because it was divide and conquer. Few groups would be large enough to accomplish anything. If they can't strike, they can't get anything. They certainly can't lobby effectively in very small units. But it was an administrative mess, and the briefs focused on that administrative mess, which New York City has since cleaned up by creating coalition bargaining. Levels of bargaining, certain things can only be bargained by the group of unions that represents the majority of employees in the department or the entire city.

So in effect, some small units and they still exist, but they can now negotiate on whether or not the windows should be left open or kept closed during the summer and/or winter time In effect they now function as committees of a union. But, at that time, it was a horrendous problem.

I began to realize that if I go ahead with picking and choosing among the petitions for units, I would find, for instance, that the nurses had proved their case, but the lawyers and the physical therapists had not proven their case. But if I gave the nurses a unit, I was also giving a blueprint to the lawyers and physical therapists and physicians and everybody else as to what you have to do to prove your case the next time around. If I decided that the operating engineers—by then the carpenters had joined with them--had proven their case which other unions had not, I'd be giving them all a blueprint. We were creating a situation in which everybody had a blueprint of how they get their own private unit. We would be down the road to New York City, with its administrative headaches.

The alternative was to reject all the petitions. I felt that a single unit was too amorphous a group for a community of interest. So I discussed this with Helsly. I said, I am going to try and come up with an Eli Rock system. It is not what anybody expects. It's not what I expected last week, but I've been thinking about it and I want to do that. I believe I've got enough evidence in the record because I've got enough to do anything. I've got a 6,000 page record of testimony. I've got about 20,000 pages of exhibits. I've got testimony about a unique classification compensation system by J. Earl Kelly. I've got testimony about how the state budget works and how compensation is handled by a single Director of the Budget. The record will support anything, but I don't know what I should do, and I'm going to speak to Tom Joyner, our Director of Research and come up with something. I have no idea if whatever I come up with will be right or wrong, but we'll get exceptions, appeals to the Board. The Board can then straighten out; will direct attention. The briefs will do what I said, tell you where I'm right or tell you where I'm wrong, and then you'll correct it. And if we need more testimony, you can remand the case to get it.

I came up with a proposal for six units. Unit 1, people involved in security services. These are people who are police types, or semi-police types, peace officers. They often deal with criminals and inmates. They have security issues for their own safety that are unique and different. Unit 2, blue-collar workers, all levels of blue-collar

workers. They are do manual labor. People doing manual labor have a unique concern; the back or other body parts give out at some stage. They have concerns about how long they can work, what safety protections they have, physical health matters, maybe early retirement or other things like that. Group 3, professionals and scientific workers. These are people who often job satisfaction and want to work beyond the normal retirement age. Their interest might be in State support for more education. A fourth group is institutional workers, other than prisons, hospitals, medical centers, old age homes and nursing homes. These are people with jobs that require some to be on duty for coverage 24 hours a day, 365 days a year. They have problems with shifts which creates a different set of interests. I also came up with a fifth group, seasonal workers, figuring that they may have problems concerning continuity if employment, and a sixth group of white-collar clerical workers. That is what I proposed, leaving it to the parties to shoot it down and propose alternatives.

CSEA was furious. CSEA wanted the one unit. It was concerned that somebody could beat them in some of these units. Maybe not, but how could it be sure? In one unit, nobody could come close. AFSCME was delighted with this proposal and the small groups were out of the picture. CSEA wrote a letter to the Governor telling the Governor that I should be fired for my proposal, and the secretary to the GOER wrote back a letter, tongue-in-cheek, I hope, saying, "We were thinking of that, but now that you went public in suggesting it, we can't do it." And CSEA is reported to have said to GOER, "Well, we're going to get rid of him; we're going to get him out of PERB one way or the other." And eventually, they did so by hiring me.

FV: Did they make any further efforts to get you fired?

JL: Not that I know. CSEA lobbied for my appointment to be a member of PERB when I retired from staff.

To get back to the State units, we had a series of court cases. PERB had issued an order telling the Governor not to negotiate with CSEA during the interim. The court reversed PERB, saying, "You have no authority in the statute to do that." There were efforts by CSEA to get an injunction against PERB's uniting decision, which substantially affirmed mine, saying that PERB was not authorized to reverse the Governor; that was rejected.

The first time we got into the Court of Appeals, the chief judge, Judge Fuld, announced from the bench

that he and two other members of the court were prepared to remove themselves because they were members of CSEA, not because it was their union, but because they liked the insurance. All three attorneys involved encouraged their participation. We had several decisions against PERB and other decisions confirming PERB as various PERB rulings were challenged. As the events dragged on AFSCME got upset and struck three or four institutions for developmentally disabled children, which was not very attractive to the public. Penalties were imposed on the union. As for the individual penalties, the State brought disciplinary charges against vast numbers of employees who went on strike and AFSCME hired some doctors to write medical excuses for all these people on an assembly line. Mel Osterman later showed me some of these excuses. There were a half a dozen or so men with sexually ambiguous names, like Marion for John Wayne, whose excuses were that they had had menstrual cramps. (laughs)

In any event, PERB issued its decision. It upheld five of my six proposed units, rejecting the seasonal employees unit, saying we don't know enough about it now and it's not an immediate issue. Most of the seasonal employees work during the summer so we'll face that problem at another time, perhaps on another record.

The other five units were deemed appropriate, but PERB still had to decide the precise dimensions of the units. What is a clerical employee? Who works in security services. A lot of things were ambiguous. Secondly, the question now came up, who is managerial? And by this time, the State wanted a large number of people out of all units. The Attorney General wanted all the Assistant Attorney Generals out. And so there were some additional hearings on specific things but, essentially, we worked with the State getting them to present their proposals for each of these unit’s positions and for which of the employees were managerial or confidential, and we found substantial agreement. There were relatively few on which there were disagreements, and we were able to mediate out many of these at the subsequent hearings. By the time we got this process finished it was early May. And we scheduled an election for each of the five units for sometime in early July. It was to be a mail ballot so the ballots had to be mailed out in mid-June. We would gather them and take them over to an armory with about 50 tables at which the ballots for each unit would be tallied on separate days through the week. We probably had 180,000 eligible voters among the five units.

CSEA moved to stay the election because it said until the courts decide the merits of PERB's five unit ruling, there shouldn't be an election because it would prejudice their rights. It was the week before Memorial Day, I think on Tuesday or Wednesday of that week, and I was walking on Washington Avenue in front of the Education Department building, and somebody found me there and said, "Jerry, go down to the Appellate Division. They want you about something." I went to the Appellate Division and the six judges who were on the Appellate Division were sitting in the library lounge. DeGraf, the head-of the DeGraf Foy firm which was representing CSEA was there too, and they greeted me by first name, very friendly like, and offered me a cup of coffee and some pastries. They want to talk to me and to DeGraf. I'd never addressed any judges of the Appellate Division by first name, and I'd never heard one address me by first name (laughs), but the Chief Judge said, "Jerry, you know that DeGraf has filed a motion for a stay. We don't want to grant the stay, but we have a serious problem. Would you prevail upon PERB to adjourn the election?" I said, "No, I can't do that." Well, for about an hour to an 'hour and a half, I suppose, they tried to flatter me, cajole me, persuade me, threaten me into doing it voluntarily. And I said, "Look, if you think this is so important, you can issue a stay." But they didn't want to be the ones to do this, and they probably knew as well as I did that eight months earlier, there had been a strike because PERB was taking too long in concluding this case, and they didn't want the responsibility for another strike.

By that time, the State didn't care about the units and wanted to get the case resolved. So the Chief Judge changed his tack and said, "Well, I guess what we're going to have to do is decide the case on the merits. But, Jerry, we're supposed to go on vacation tomorrow, and we've got plans to go on vacation and we're going to have to stay around an extra week for a hearing, and you're going to have to write a brief in three or four days for this. If that's what you want, we're going to do it. You be responsible for my wife being angry that I didn't take her to whereever." They asked me, when can you be available for an argument, and I said, "I'll argue it tomorrow." I knew the case. I knew the record backwards and forwards. DeGraf said, "No, I can't be ready that fast." Apparently, while Jack Rice was as familiar with the record as I was, law firm politics was such that DeGraf felt he had to try the case himself, so he had to get brought up to speed by Jack Rice. So it was agreed that as Memorial Day was Monday or Tuesday of the following week we would have arguments the following day, and we would each have to file a brief that morning.

I reported this to AFSCME because I knew they would want to intervene. AFSCME had a problem. They had tried to participate in the arguments prior appeals in this case without success. The court had said, "No, you can file a brief, but we won't let you argue—it's enough we have the State arguing, CSEA arguing and PERB arguing. You're taking PERB's side and PERB is competent to argue for itself." AFSCME wanted to argue, partially because it wanted to win and it thought it would help them do so and partially because it wanted to show their members that they were in court doing so. So, AFSCME came up with an idea. They would get a big name lawyer instead of Julie Topol,a very prominent lawyer arguing the case, whom the Appellate Division couldn't turn down. And they went to the firm Paul, Weis, Rifkin to Arthur Goldberg, former Supreme Court Justice, and ambassador to the UN, and they asked him if he would take the case. They would draft the brief for him and they would prepare him, but he would argue the case and he would get them access. Goldberg then told AFSCME that when he was being interviewed by the Senate for the Supreme Court, he had told it that he would never again be a labor lawyer. He had been a lawyer for the UAW and he said that he had promised the Senate that he would not return to the practice of labor law if he left the court, so he could not do it. As they were walking out, the AFSCME group passed Simon Rifkin's office and decided, "maybe?" They went in to speak to him and Rifkin agreed to take the case. He said, "You will write the brief and you will prepare me as much as you can. I will find out what the problems are and I will argue the case. My fee will be $25,000.", which in '69, was a lot more than it is now.

On the day of the argument, I had lunch with Simon Rifkin and with Julie Topol and Rifkin asked me if I minded him going first. I said, "No, by no means." And he proceeded to give the most brilliant court argument that I have ever heard, having nothing to do with the specifics of the case but exceedingly effective. He had discerned that the problem with the Appellate Division's decisions up until then is that they were very uncomfortable with the Taylor Law, and were finding ways to decide against it. Rifkin's argument was amazing. First of all, he began by taking the court into his confidence. He was a very highly reputed former Federal Court judge, lawyer, speechwriter for FDR, and he said, "We old timers," (note that I wasn't one of the old timers then) "We old timers are rather skeptical of statutes like the Taylor Law. We're comfortable with the common law, pure law. I want to address that concern. Back in

1935, when I was a relatively young man, and was on the legal staff of Senator Wagner, I was involved in the drafting of the Wagner Act. I, too, was concerned about statutory law and common law. What we did was to create in the National Labor Relations Act, a statute that was based on common law principles." And he spoke for fifteen minutes about the National Labor Relations Act, showing how the principles were all derived from common law. He made a very credible argument for that. He then said, "Of course, as you know, Mr. Lefkowitz will point out later, that these same principles are embodied in the Taylor Law."

When I got up to speak, I had a sympathetic audience and I gave the nuts and bolts of where there was evidence in the record for this and evidence in the record for that, and reported that due process procedures that we followed. We had started the argument at two o'clock and were out of there by three o'clock. By four-thirty, I'd gotten a call to come by to the court to pick up a copy of the decision. The decision affirmed PERB; it was largely a summary and partial rewrite of my brief, because I dealt with the legal issues. They didn’t quote from what Judge Rifkin had said, but he was incredible; hearing it was one of the real pleasures of a lawyer who likes excellent lawyering. He did what had to be done. And we had the decision by four-thirty. By five o'clock, CSEA had delivered its appeal to the Court of Appeals, which was waiting fir it. CSEA submitted its Appellate Division papers and both PERB and AFSCME did too. By six o'clock, it was filed and we were told to be there the following day at ten o'clock, to argue. But, as there was no stay on the election, we held it on schedule and had that election

The election had some interesting features. The real contest was the Institutional Services Unit. AFSCME had strong support in the institutions in New York City, and there were .a number of them, and it felt it had a good enough head start and that it could win that unit, which had 35,000 employees. And it put its major efforts into that unit. The campaign backfired on them. AFSCME's approach upstate was the same as its approach had been in New York City; very aggressive: The State is the enemy and the unions will save you. The New York City constituency was quite an aggressive constituency and somewhat radical.

Upstate, when you get to Comstock and other places in the Adirondacks, the Corrections Officers are among the highest paid people in the community. These were areas that were doing very poorly. Industry virtually didn't exist. There was farming and retailing, and the constituency was anything but radical. Furthermore, the organizers going into these upstate areas were largely from DC 37 and were predominantly black which together with their radical line of speech was not effective. CSEA won that unit handily.

But CSEA did lose the Corrections Officers. The corrections officers were more radical than the hospital workers, and it was a very close election. That was the first unit that AFSCME got.

Subsequently, AFSCME made two unsuccessful attempts at the professional unit. Its core group was the unemployment insurance people who were in the professional unit. In the third attempt, the unemployment insurance personnel had switched to SEIU, Service Employees Union, and they had been much more effective than AFSCME was in building support. At that point, PERB's rule for intervention was 10%, same as the NLRB; 30% for showing of interest for a petition, 10% to intervene. AFSCME intervened with 10%, their 10%, and in its campaign, campaigned only against SEIU. AFSCME's concern was that if SEIU should lose and CSEA should win; CSEA was not a member of AFL-CIO, so it could file again because it would not be barred by Article 20 of the AFL-CIO constitution, while if SEIU, won it would be foreclosed forever. And that worked. I don't know if the CSEA would have won anyhow, but, in any event, CSEA won this third time around and PERB promptly changed its rules to provide 30% for intervention as well as 30% for initial petition on the" theory that it doesn't want spoilers coming into an election. If you don't have a legitimate chance of winning, you don't belong in the election, to be a spoiler.

The next time around, SEIU was more clever. It reached an alliance with AFT. It said, the reason we didn't win was because we don't sound like a professional union and we running to represent professional employees. If AFT joins with us, we now have credentials, and they created the Public Employee Federation, which is a partnership of SEIU and AFT. They had a showing of interest and CSEA began to raised questions as to whether the showing of interest was fraudulent. The SEIU people involved were certainly suspect. PERB had had some problems with SEIU in a couple of other units, one where showing of interest was written in the same handwriting in a green pen for about 27 people or so, so it didn't consider fraud beyond them,

but its opposition was that if fraud is not clear on the face of the showing if interest, an election will cure suspected defects.

There were also complaints that the State Department of Labor was giving the unemployment insurance staff that were active in SEIU time off to campaign. PEF won the election and PERB had objections to the conduct of the election, the conduct effecting the election and PERB's staff decided to submit random samples of the showing of interest to a handwriting expert, who found no improprieties. PERB held a hearing on other things and we in PERB, the Board members and I, were pretty sure that SEIU had been given unfair advantages by the Industrial Commissioner, but it was not shown on the record. I cannot understand why. I conjecture that perhaps the State had told CSEA, “Look you don't go after the Industrial Commissioner because we don't want the embarrassment, but we will support you on the handwriting issue and you can win on that. I don't know if that's true. It could have been incompetence or the suspicions of fraud were unfounded. In any event, after the election went against CSEA, it affiliated with AFSCME, and AFSCME had an attorney assigned to the case to work with the CSEA attorney. The AFSCME attorney is somebody who I respected very much as a very good attorney. I would have thought that he would have examined the witnesses on this and proved the case. On the critical day, when the industrial commission's role was being examined by witnesses, he was at his son's graduation, and did not attend, and that may be, what happened, I don't know. In any event, PEF won the election and CSEA was then precluded from seeking that unit by Article 20. But CSEA is now be protected. There can be no more raiding from AFL-CIO unions.

FV: Let me get back to some names. Who is Ray Corbett?

JL: Corbett was the head of the State Federation of Labor, the AFL-CIO New York State branch.

FV: Who was Robert Helsby?

JL: Helsby, Robert Helsby. H-E-L-S-B-Y. He was the first Chair or Chairman of the State Public Employees Relations Board and for ten years, he was the Chairman and did an outstanding job.

FV: What are you most proud of in your CSEA career?

JL: In my CSEA career? I'm most proud of being able to give very prompt and effective answers to questions by field staff that and thereby make their jobs easier.

FV: Thinking back over the past and up to now, what would you say most disappointed you?

JL: I can't really put a finger on major disappointments because I don't think I have any. I think my work here has largely fulfilled my expectations. My disappointments slip out of memory very quickly.

FV: We talked before a little bit about binding arbitration. Do you see it happening for public employees, binding arbitration?

JL: Well, you have it for police and fire right now. You have occasionally a binding arbitration by consent, but very rarely. I don't see a major push for it. There was a bigger push for it about 20 years ago. The State and CSEA had agreed upon a last offer binding arbitration process for some parking issues negotiations, and there is some interest for sheriff's employees. But, I just don't see enough of a drive for it. Until people get behind it in a big way, I don't think anything is likely to happen. It could be that it will be extended to deputy sheriffs who are engaged in police-type work, you know, road patrols, deputy sheriffs and some other semi-police groups who do not have it now, but, even there, the push is not sufficient to really overcome the inertia.

FV: I guess people don't think there's a need for it.

JL: It could well be. And it's not enough to feel a need. One side can feel a need in a given situation. There's another side that would object to it for that same reason so that you have to establish a very strong justification to overcome the inertia.

FV: All right. Second to last question. What do you see as the most important event during your time of involvement with CSEA? From either side, or both sides.

JL: Well, I think the most important event was the creation of the Taylor Law itself. The Taylor Law created a process. It converted CSEA from an Association that lobbied, effectively,

but lobbied for benefits, to a union that negotiates for benefits, and the processes are quite different and have different results. I think that that's the dominant change.

FV: Finally, what lesson does CSEA's history hold for its future?

JL: Well, I think to particularize for CSEA would be very hard. I think the lessons it learned is that when it has members who are committed and willing to work, and staff that are committed and willing to work, and learn the processes that it have to work with, it can do a very good job and be very effective. And that the specific rules are less important than the willingness and ability to exploit the procedures that are available in order to get sufficient gains for the members and for the organization.

FV: All right. Now, if you have anything you want to say about CSEA for posterity, this is the chance to put it in the record.

JL: (laughs) No; I'll pass.

FV: Okay. You did a great job today and I want to thank very much.

JL: Okay.