

Interview date: May 4 2005

Subject: Melvin Osterman: Assistant Counsel to the Governor 1962-1965; Assistant to Governor for Employee Relations 1965-1972; and Director of Employee Relations 1972.

Osterman discusses his experiences with CSEA before Collective bargaining was enacted under The Taylor Law. He speaks about events of that time and how CSEA evolved as a union. Osterman was an assistant counsel to governor Nelson Rockefeller he then became director of the governors office of employee relations. Osterman worked on the first several rounds of negotiations with CSEA.

Osterman talks about the collective bargaining of the Public Sector in NYS. HE describes the state's recognition and the emergence of the Taylor Commission. Osterman explains that George Taylor headed the Taylor committee and only the most academically distinguished people were involved. Osterman along with Saul Corbin put together the Taylor Report, which then became the framework for what is now known as the Taylor Law. He also spoke about the dynamics between CSEA and AFSCME, then fierce rival unions. The rivalry and questions about representation rights prolonged the initial round of state collective bargaining.

Osterman explains that getting the collective bargaining law approved was only the beginning. They had to create strategies that would allow the collective bargaining to work. Four out of the five State units created were represented by CSEA; managers and had to be identified. He discusses the various people involved and their roles throughout the lengthy process. Overall he states that Taylor Law and collective bargaining contract both benefited the state because they brought order and allowed the state to have uniformity in its personnel policies.

Keywords:

PERB Proceedings

Collective Bargaining

Condon-Wadlin Act

Taylor Law

Taylor Committee

State Provisions

Public Employment Relations Board (PERB)

Dept. Mental Hygiene

National Labor Relations Act

AFSCME

AFL-CIO

Key People:

Abe Levine

Nelson Rockefeller

Mayor Wagner

George Taylor

Saul Corbin

Ted Wenzel

Frank Desharm

Jerry Lefkowitz

CSEA HISTORY PROJECT

MEL OSTERMAN INTERVIEW

5/4/05

INTERVIEWER: Please state your full name and what your connection was with CSEA?

MR. OSTERMAN: Melvin Osterman. I was an Assistant Counsel to the Governor from 1962 to '65. I was an Assist...Special Counsel to the Governor for Employee Relations from probably '65 to '72. In '7...and in that context I represented the State in the bargaining, in the PERB proceedings that set up the bargaining units. I did the first seven rounds of negotiations with CSEA on behalf of the State and in '72 I became Director of Employee Relations in the State and was the second director following Abe Levine and retired one day after I vested my pension in 1975.

INTERVIEWER: Great. I wonder if you can tell me when you first remember hearing about an organization called CSEA.

MR. OSTERMAN: Oh, it was around. Certainly in --

INTERVIEWER: We may not hear Steve's questions, so if you could sort of incorporate his question into your answer so it --

MR. OSTERMAN: Sure.

INTERVIEWER: -- it was around, say,  
you know, I think I first heard --

MR. OSTERMAN: Sure.

INTERVIEWER: -- about CSEA.

MR. OSTERMAN: Fair enough. I can  
handle that.

INTERVIEWER: Ed does the editing so  
he's very sensitive --

(Simultaneous conversations.)

MR. OSTERMAN: And when I was an  
Assistant Counsel in '62, it was -- CSEA was  
around but that was long before collective  
bargaining was -- anybody ever thought of. And  
although you knew about CSEA it really wasn't --  
it wasn't terribly a factor.

I -- I did a -- as an Assistant  
Counsel, one of the areas of responsibility I  
had was labor and one of the things I worked on  
was a -- an amendment to the Condon-Wadlin Act,  
which was the only public sector law that there  
was, which was a law that banned strikes, but  
that was a New York City phenomena. It -- it  
really wasn't an issue that particularly  
affected Albany.

As I remember CSEA, you would hear about CSEA because every couple of years the State was in a -- had a pattern then, I guess, of giving increases to its employees every two or three years and CSEA would come, essentially hat in hand, to the Director of the Budget. What can you do for us this year? And the Director of the Budget basically -- because the State cared about its work force and there was an -- there as an interest in maintaining a relatively competitive work force in terms of salaries in the private sector -- would on occasion deign to give an increase to CSEA. It was a very paternalistic process back then though, far different from what followed after the Taylor Law was enacted.

INTERVIEWER: Yeah. What do you remember of the dynamics of the relationship between CSEA and Governor Rockefeller?

MR. OSTERMAN: I think the -- it was an odd relationship, the relationship between CSEA and Rockefeller. There was some question as to where CSEA's head was at, did CSEA want to be a union, did it not want to be a union, was

it happy with the status quo although it was a -- it was a -- somewhat of a subservient relationship, it was the only game in town and there was this ambivalence between -- at least we perceived there was an ambivalence as to where CSEA wanted to go with this.

Certainly the unions in New York City were clamoring for collective bargaining. There were some in CSEA certainly back then who thought that was a good idea. There were others who basically said don't mess with somethin' that's workin' now. We're -- we're doin' fine now. Significant numbers of State employees belonged to CSEA. Certainly the insurance and the benefits were -- were substantial and good and there were those who basically said there's nothing very much to be gained from -- from participating in bargaining, which was somehow -- something nobody had ever done before and nobody exactly knew what it meant.

INTERVIEWER: How did the Taylor Law come about?

MR. OSTERMAN: I don't remember which strike it was. One of the things that -- one of

the things that I did, as I said before, was working on the Condon-Wadlin, and Condon-Wadlin, I was -- the assignment I was given was to make Condon-Wadlin effective because it had been ignored in a series of strikes time and time again in the City.

And one of the things that I did was to -- to draft an amendment which would let a citizen sue if, in fact, government did not move to enforce the -- the penalties of Condon-Wadlin and the first strike that occurred after that, which I think was a strike by 13 tugboat ferry captains down in the City, the State landed with its full majesty on the poor ferry captains and enforced the Condon-Wadlin Act against them.

But the next strike, I believe, was a strike of social workers in the City and, in fact, I had worked out a pretty good mechanism because Wagner started to move to enforce the law against -- this was now several thousand social workers, but all of a sudden the Legislature woke up and they said, gee, if we amended the law to make it effective we could amend the law to make it ineffective. So the



Legislature passed a law that basically said this -- the Condon-Wadlin Law doesn't apply to this strike, and indeed every strike thereafter, the Legislature passed a law saying, oh, but by the way, Condon-Wadlin does not apply to them.

And all during this period of time there is increasing pressure from the more traditional unions in New York City. Mayor Wagner issues an executive order providing for collective bargaining in the City. President Kennedy issues an Executive Order which looks like it's -- it's authorizing collective bargaining on the federal level. It was really more form than substance but it happened.

And that's -- the pressure is great at some point and one of 'em -- none of the -- it was Winnaker that worked for Nelson Rockefeller, but one of the things that -- that he believed in was that if he was gonna do something, he was gonna do it right. And he decided at some point we weren't going to fiddle around with collective bargaining.

If we were gonna do it, we would find out what would be necessary to make it work

right and he appointed what became the Taylor Committee headed by George Taylor in Pennsylvania with probably the most distinguished people that he had -- that you had in the country. People from Harvard and Yale and basically the most significant academics that you had to basically sit down and in three or four months I was -- Saul Corbin, who had been counseling the Governor, and I were counseling the Taylor Committee and in about three months we put together what became the Taylor Report and basically the framework for what became the Taylor Law a couple of years later.

One of the things that Rockefeller tended to do was to bring the best of all peop...the best people he could put together...the best people he could find together and see if they could reason together to come up with a product, and in the case of the Taylor Law it basically worked. We came up with a law that basically hasn't been changed very much over the course of -- of the next -- last 40 or 50 years.

INTERVIEWER: What -- what was CSEA's

role in getting the Taylor Law enacted and how significant was that?

MR. OSTERMAN: Probably -- I think CSEA was going through at this point its period of ambivalence at this stage. And really -- although we talked -- we talked to CSEA because part of the problem was that the people who were on the Taylor Committee, the academics, knew collective bargaining in the private sector but they didn't know a heck of a lot about -- about public sector collective bargaining, about the public sector generally.

And we did some time interviewing, I think, Ted Wenzel and some people from CSEA, but CSEA really I don't think was a substantial factor back -- back at that point in time. That obviously changed when the law was -- was enacted, but in the Taylor Committee I don't remember the CSEA being a major factor at that point.

INTERVIEWER: At that time was there collective bargaining for other public employees in --

MR. OSTERMAN: Similar --

INTERVIEWER: -- the other states?

MR. OSTERMAN: Similar -- no, not in the states. The City was -- was flirting with them, although the City -- because the City had thousands upon thousands of bargaining units, it was a very different kind of -- of bargaining than we were contemplating here because a much more -- on a much broader basis. You would have small bargaining units in the City, which in fact were -- were in the beginnings of collective bargaining.

On the federal level you could bargain but you could bargain about the color of the paint on the walls. You couldn't bargain about salaries, you couldn't bargain about health insurance, you couldn't bargain about anything that you really wanted to bargain about. And the other states were far behind us at this point in terms of -- there were -- there were stirrings in some of the states but not, you know, this is one where New York was far ahead of everybody else I think.

INTERVIEWER: When -- when the Taylor Law was enacted, I -- I assume that there was a

lot of opposition from organized labor because of the no strike provisions.

MR. OSTERMAN: Well, it -- it was very ambivalent because they were being given the opportunity to formally collective bargain. Yes, there was the no strike provisions but then those kind of provisions had been with us for 20 years before that when we went back to Governor Dewey's time. It was a mantra that you had to say, that you oppose the right to strike, but I'm not sure that, you know, it certainly -- it seems to me on balance the fact that you would be given the right to bargain for -- formally brought in and represent and collect dues from thousands upon thousands of employees far outweighed the fact that you -- that you might have to give up the right to strike. And frankly, many of the more mad unions would strike anyway. I mean it didn't make a heck of a lot of difference.

INTERVIEWER: What -- I mean what do you remember about that time in terms of CSEA becoming the representative of the people of the State, for the State workers? Did the

Association have a leg up because they had a long history, already had some presence?

MR. OSTERMAN: Well, when we had -- when we had -- there were discussions, which I wasn't directly privy to, between the Governor and CSEA at the time the law was enacted, that if the law was to be enacted we would seek as large bargaining units as we could. I'm not sure of the State's interest because it didn't want to go the route -- we really did not want to do what New York City was doing.

We knew that having thousands of bargaining units was gonna drive us crazy and -- and it would -- the State had a history of a -- of a 38-step salary schedule where everybody was basically ranked and treated the same way. We knew we didn't want to deviate from that. We knew we didn't want to have separate benefits because New York City is so -- New York State is so diverse, if you started to go down that road there'd be no stopping as to how small the bargaining units would be.

We also had the advantage of CSEA which was a large statewide organization that

already represented most of State employees, so our interest in having the fewest number of bargaining units coincided with CSEA's interest in letting -- continuing to represent all State employees and so when the law became enacted the discussions we had were basically will you recognize a separate bargaining unit for all State employees.

Now we carved out the State Police because police are different. We carved out the University because the State University is different, but with respect to what we call the general unit, that was going to have 200,000 State employees in one bargaining unit and that's that -- in that respect we were allied with CSEA because CSEA -- that served CSEA's interest just as much.

INTERVIEWER: But there were representation challenges to CSEA.

MR. OSTERMAN: There were, I believe, 50 different petitions filed before the Public Employment Relations Board by different unions seeking different structures. There were unions that -- in the private sector that struck that

searched for bargaining units by -- by State Department. There were some that started by occupational title, ward therapy aides in the Department of Mental Hygiene. There was a bargaining unit for them. Attorneys were a bargaining -- were sought to be a bargaining unit. Nurses were said to be a bargaining unit. New York City, people were -- they were geographically based bargaining units. Again, in total there was about 50.

INTERVIEWER: And how did that get sorted out?

MR. OSTERMAN: PERB held hearings over a period of about eight months. Each of the unions was given an opportunity to present its case. CSEA was given an opportunity to present its case. We were -- the State were given an opportunity to present a case. Nobody had ever been in a bargaining unit like this. The National Labor Relations Act followed a pattern of -- based on what the employees wanted would be the basis for determining a bargaining unit and that led to very small bargaining units.

We were trying to do something



different and so PERB before Jerry Lefkowitz, who was the hearing officer, we went eight months worth of hearing, and I remember taking the train from New York City, where I was living at the time, on a regular basis and basically we read textbooks on the way up because we didn't know what the hell we were doing and mak...basically making it up as we went along.

INTERVIEWER: Was there concern about the legitimacy of PERB -- I believe that there were some challenges as to -- some court challenges as to whether PERB would have the authority to -- to do this?

MR. OSTERMAN: The unions, again, were ambivalent about PERB. PERB was -- was put -- deliberately put in the Department of Civil Service. It was staffed by people who came out of the Department of Civil Service or the Labor Department. It -- it didn't have all the trappings of (inaudible) and so there was an ambivalence. But then on the other hand it was -- it was the name of the game and you had to go through them to get yourself a bargaining unit. If you didn't have PERB what were you

gonna have? The courts certainly weren't gonna be in a position to do anything like this.

And I think whatever real challenges that PERB had, you know, it met fairly well. Under Bob Hasby it was establishing some credibility with the unions and they -- I think it ultimately -- it ultimately did so. One of the things that it did was at the conclusion of the bargaining process when it basically rejected the position of the State and CSEA and came up with five bargaining units and basically -- Jerry Lefkowitz who was the hearing officer took the position that one bargaining unit was just too much to swallow. You had to have a blue collar unit, a clerical unit, a mental hygiene unit, a corrections unit, but somehow one unit was too much to swallow, and I remember how furious Al Marshall specifically, he was secretary to the Governor back then, was. I mean Jerry Lefkowitz that year was the only State employee who did not get a raise, and Al specifically said he was not gonna get a raise and I don't know how they did it exactly but Jerry Lefkowitz did not get a raise.

INTERVIEWER: And did it make sense?

MR. OSTERMAN: In the end -- in the end it made sense, and ultimately when you had the elections and CSEA won four out of five units, who cared? I mean it was -- it was the same thing as a -- as a general unit.

One of the things we had to do in the first round of bargaining, however, several rounds, was establishing some identity for each of the bargaining units so that you didn't deviate too far from the norm, but each bargaining unit would have its own special benefit characteristics that somehow made it stand out from its peers.

INTERVIEWER: The -- was that a -- was that a difficult time when you're trying to manage labor relations on the State side?

MR. OSTERMAN: Oh, it was horrendous.

INTERVIEWER: Did you basically have like a whole -- you know, a whole set of uncharted territory that you were trying to establish?

MR. OSTERMAN: Well, way back in that period of time the attendance rose, which

supposed to -- was supposed to provide uniformity for State employment generally. I think one of the things we discovered was that whatever we felt in the Governor's Office as being uniformity simply was a fiction. Each agency and each office within each agency went its own way and did its own thing and had its own benefits and there was this category of administrative leave that covered all sorts of -- of things and people got fully paid time off to do union business, people got all sorts of odds and ends, free rides, that nobody knew existed.

And on balance, one of the -- one of the wonderful things that the Taylor Law did in negotiations with CSEA was it really benefited the State because it gave us some kind of a handle to mechanically impose uniformity, so that there was in fact -- there was a book. You looked at a collective bargaining contract that said these were the benefits and if we learned at some point that there were -- a deviation from that, we had a mechanism to crack down on the agency that was -- that was deviating from

what we thought was the collective bargaining contracts requirements.

INTERVIEWER: So if I recall correctly, from what I've heard from others and read, there -- after the Taylor Law was enacted there was basically kind of a baseline negotiation that took place to establish the first contract but then there were some challenges over whether CSEA was going to be the bargaining unit and that took a little bit of time to sort out.

What -- what do you remember about those first couple of rounds of negotiations?

MR. OSTERMAN: Did anybody tell you about coalition negotiations? They were wonderful. While the proceeding was pending before the Public Employment Relations Board, some genius decided at some point that we needed to have interim negotiations, before there was a bargaining unit, and so the State conducted two simultaneous rounds of negotiations: One with CSEA in the general unit and one with the Coalition of AFSCME unions separately, wholly separate and distinct one from the other.

And one of the things that we had to be concerned about was that we had to keep the two ballgame -- the two ballgame sessions rolling at essentially the same rate of speed because I remember particularly one AFSCME negotiation that I will tell you about -- tell you about in just a moment -- where if we made an offer, there was somebody standing outside the door to take the offer and read it on television and somehow we got a leg up on CSEA because we got an offer before they got an offer.

So the -- the timing of this process -- so we kept the two unions, so the meeting -- basically they were competing for the State employees in the election, and they were trying to use this interim negotiations process as a way of establishing that they were tougher and better than anybody else in the negotiations process.

It was -- I mean, the idea that you thought that you could somehow negotiate with -- with two separate representatives at the same time for the same bunch of people was lunatic.

I remember at some point we finished -- we had negotiations with CSEA on a Friday and we finished negotiations. CSEA and the State agreed on the negotiations, but we didn't have a negotiating session with AFSCME until Monday morning and the issue was how do we keep it away from AFSCME that there was -- that there was a deal so that we could basically reach agreement at the same place and time with both of them.

And so Abe Levine, who was -- who was the Director of Employee Relations at that time, met with the AFSCME people at the Capitol on Saturday and Sunday and all of a sudden he decided he couldn't go to the bargaining session on Monday.

Mel, would you go to the bargaining session on Monday and cover for me and basically mark time, and I walk into this negotiating session, and there have to be 70 or 80 people sitting there and representing the unions and he stated that -- Jerry Trumble who was the union lawyer who had been representing them was Jerry Worth and Jerry Worth was the national president of AFSCME and he basically says -- starts off

the session by saying we hear you cut a deal with CSEA.

And I said, gee, I didn't know that. I know they're meeting at the Capitol now, but I don't know that they have a deal. I basically kept that tap dance on for probably two hours and then somebody at that point brings in a copy of the early edition of The Knickerbocker News, which was then being published -- still being published, and it says State settles with CSEA, and my credibility went to zero.

I mean not that -- that I -- I was doing a tap dance to begin with but ultimately it wound up, you know, it sort of deteriorated from there, and then basically what Abe said was -- but Abe was smart. He said basically, all right, you screwed me because you settled with CSEA first. Now you're gonna give me somethin' that CSEA didn't have, and so we had to concoct some trivial benefit but that he could trumpet as something he basically -- CSEA settled too soon and he, by holding out he got this additional benefit which was really not -- it was not terribly significant.



INTERVIEWER: Was this for a separate group of employees?

MR. OSTERMAN: This was for the exempt -- 30,000 people in the general unit.

INTERVIEWER: So which -- which was going to be the legitimate representative; that was what gonna be --

MR. OSTERMAN: This -- this was -- this was an interim arrangement until -- until the -- until an election.

INTERVIEWER: The idea -- the idea was basically that whichever -- whichever union was established would --

MR. OSTERMAN: No, this was gonna be the contract.

INTERVIEWER: Okay.

MR. OSTERMAN: That's why it had to be the same thing for both unions and this was for that year, which was '68 I think it was. Basically that this was going to be the contract for '68 and then in '69 when -- or whenever the next -- whenever the elections were, from then on we would -- we would bargain separately. But this was going to be the interim contract, so

State employees --

INTERVIEWER: Whichever ended up being the bargaining unit would have the -- would have the same --

MR. OSTERMAN: That was the starting point for the negotiations.

INTERVIEWER: -- set of parameters. Okay. Very, very interesting.

MR. OSTERMAN: And then when we did the real negotiations, if you will, after CSEA was -- was certified, we then decided that we weren't gonna negotiate separately in five units. We would take out the significant economic benefits, salary, health insurance, pensions which were then being bargained, and deal with those things on a coalition basis with all five unions, and then we would have separate units -- separate bargaining sessions on the units, things applicable to the administrative services unit, the security services unit and the like and those were -- I guess I did the coalition bargaining and I had assistant directors at that point who did the separate bargaining units.

INTERVIEWER: CSEA had professional staff and -- and legal representation in the negotiations but they would also bring to the table a large number of rank and file members. What was that process like and how did you contain or establish some of the parameters for who was going to come to the table?

MR. OSTERMAN: I remember one session there were 80 people representing the Union and they were -- getting control of that process was -- was very difficult. I remember one of the things, one of the more serious mistakes I made because I got beaten up about it, there was 80 people sitting around and I at some point accused whoever was representing CSEA of making speeches to the Peanut Gallery. Are our members members of the Peanut Gallery? Why do you demean our members?

And -- and ultimately I think, to the CSEA professional staff, the number of employees that you were dealing with on the bargaining team became as much of a problem as it was for the State. I mean you couldn't satisfy 80 people. They didn't -- it was -- it was -- it

was if you were the Peanut Gallery and -- and they didn't have any ownership interest because there were too many of them and I think both CSEA and we agreed that the number had to be reduced.

Now you -- since you were dealing with four CSEA units in the general unit you had an opportunity for bringing a lot of people to the bargaining table, but they didn't have to all come at the same time.

INTERVIEWER: Uh-huh.

MR. OSTERMAN: And, you know, this was something where the CSEA folk were learning just as we were learning. I mean, this was a shared process.

INTERVIEWER: Sure. You talked a little bit before about Al Marshall from the Governor's Office, I guess, being like a chief of staff there. How much -- how much leeway did you have in -- in doing these negotiations and how many parameters were set kind of before you would go in? What was the dynamics of --

MR. OSTERMAN: Well, there was -- there was something called the Governor's

Negotiating Committee which consisted of Ursula Posten, who was the Commissioner of Civil Service, Al --

(Lengthy blank space on tape.)

MR. OSTERMAN: (Continuing) and Norm Hirt, who was Director of the Budget, and basically they had -- each one of their people had -- I think each one of them had their own staff. Frank DeSharm came from Civil Service, Howard Rubin came from the Division of the Budget, and basically were looked with -- led with that committee in terms of getting authority to do things. The one who (inaudible) more than anyone else was Norm -- was Norm Hirt because that was money and Norm would set the parameters for doing that and -- on the other hand I don't think that it was a particular interest in disadvantaging CSEA or anybody else at that point.

There was a concern, however, about making the salaries competitive with -- with the private sector or comparable to the private sector and you'd have to (inaudible).

I remember in the second round of

negotiations one of the proposals that CSEA did was an increase in the State's mileage rate and I remember having to call John Corrigan who was a Deputy -- Deputy Secretary to the Governor -- Deputy Budget Director, a legendary person in the Division of the Budget. I had to call him at two o'clock in the morning because I wanted to give a quarter of a percent increase in the mileage rate and a quarter percent increase in the mileage rate was gonna cost \$18 million and he gave me such a hard time over a quarter of a percent and ultimately I got it but, I mean, we were finding out for the first time what these things cost, and pretty well with a huge perspective.

INTERVIEWER: Prior to this time though, I mean, State employees in particular, it wasn't necessarily competitive, State employment wasn't necessarily competitive with the private sector, and I think if you go back and look there was some significant improvements in both salary and benefits for State employees during that time.

MR. OSTERMAN: Part of the problem was

I think is we tended to treat everybody the same and we would create disparities. I think our clerical work force was generally paid pretty well compared to the -- to the -- the private sector. The people in the Department of Mental Hygiene were people who took care of the mentally ill. There was nobody to compare it with. I mean we -- so this was -- this was the name of the game at that point.

I think in the professional ranks there were some substantial shortfalls in -- in what we were paying compared to what the private sector was paying, but it was all over the lot. And one of the things we tried to do was to try to make some sense of -- of what we were doing. To see if we could somehow rationalize the State's pay structure and make us -- you know, we certainly wouldn't want to be first, but on the other hand we didn't want to lag too far behind.

INTERVIEWER: M-m h-m-m. Now during your tenure as Director of the Governor's Office of Employee Relations, I believe that there was an incident that CSEA refers to as the Easter

Sunday strike and I wonder if you could tell us about how that came about and what the result of it was.

MR. OSTERMAN: Oh, Lord. I'd frankly forgotten completely about it, but it -- it does give rise to a -- to a story. I don't know what caused the silly strike and I don't know what the frustration was. This was -- would have been '73, I guess. But all of a sudden, I mean CSEA had to prove its manhood for some reason and how they got into the strike I don't know exactly, but they did it at a time when it didn't make a hell of a lot of difference. I suspect that it probably would have been different if it was in negotiations and they decided at some point they were going to make a show of it and I remember, from the Governor's Office's point of view, oh my God, this thing that's happened, how do we make it stop? I mean, how do we give them the things that they need to call it off and how do we get this thing back on track.

I remember PERB appointed mediators and they appointed a fellow whose name at the



moment escapes me. All I remember is one of the mediators they appointed but none of the board members. (Inaudible) Goodman was one of the mediators and they met in the DeWitt Clinton Hotel and I was there, Michael Whiteman who is now my partner, who was then Counsel to the Governor was there, George -- oh dear, like I'm drawing a real blank and it bothers me -- was representing PERB and I remember his principal mediator skill was falling on his knees and weeping, saying stop this strike, and -- and, oh, and we were all -- Howard was just -- was just, oh my God.

Ultimately we worked out some kind of mechanism that somehow we ate some crow publicly and gave CSEA a -- and I think the strike just took place Saturday and Sunday and by Monday they came back to work and -- and the only places that were terribly affected were the mental hygiene facilities and the rest of the State workers never really participated and I think CSEA had an interest in the strike not going much beyond Monday morning because they didn't know whether anybody else would follow

them out. They got -- they got the therapy aides to go out, at least enough of them to suggest that there was a little strategy, but what was gonna happen on Monday morning, I don't think CSEA wanted to know any more than we wanted to know.

INTERVIEWER: Now, at that time the president of CSEA was -- was Ted Wenzel. What do you remember about his personality?

MR. OSTERMAN: Ted was aloof. Ted came from a simpler and nobler time and I don't think he had any heart, in particular, for the rough and tumble of collective bargaining. I think he was a good leader. I think he was a good manager, but I don't think his heart was deeply into -- into collective bargaining. There was a real dichotomy between -- and I think of Ted as the president of the Friends of the Bethlehem Public Library, not as a -- as a militant labor union leader. I think he did a good job. I think he was responsible. I remember when we were talking about the pension crisis, if you will, and the Kensey Commission back in '74, he took the -- took the lead in

understanding that we needed to do something about the cost of public employee pensions. They had gotten out of control and bringing his union around.

So he was very willing to cooperate in some kind of pension reform was -- he was a statesman in that respect but he was really more of a statesman -- he certainly did not get into the trenches. Nice guy, I mean, and a -- he was a good leader.

INTERVIEWER: Do you remember his predecessor, Feeley, John Feeley?

MR. OSTERMAN: Not really. I mean I knew -- I know the name and I think I met him, but not really, no.

INTERVIEWER: Okay.

MR. OSTERMAN: Before my time.

INTERVIEWER: Tell me about some of the other personalities that -- that you dealt with at CSEA in that time frame?

MR. OSTERMAN: Oh, Lord. Sol Bendet was out of control. I mean a wonderful man. You could see him being a wonderful grandfather, but he was crazy. He'd write obscenities and

scream, yell and I think he used to drive CSEA crazy as well as anybody else, as well as everybody else. He was a real militant at a time when CSEA didn't know how to be a good militancy very well.

Bob (inaudible) was with us there. A lot of the people were State -- State auditors were back there then. Jack Rice obviously was -- was one of the two or three most significant people in CSEA. I mean even though he was not a -- he was an outside lawyer, because this was a new area for CSEA. Jack took a leadership role in dealing with -- with -- in dealing with the State and most of my contacts were with Jack.

INTERVIEWER: How did Jack conduct himself representing the organization?

MR. OSTERMAN: Jack was a -- was a -- Jack didn't do any more than we would, but on the other hand he pretended he did and he did a good job. I mean he did a very good job representing the State. I mean -- did anybody talk to you about the original management confidential --

INTERVIEWER: No.

MR. OSTERMAN: Okay. Well, after we did our first round of bargaining it became clear that we needed a cadre of people that the State could rely on in collective bargaining; that somehow it was -- a part of it was an outcome of the strike. We needed to have identified a group of people that were ours, that somehow would not be influenced by the Union. They owed their allegiance to us and we came up with the rubrick of Management Confidential and we put in my partner, John Hanna, who was then counsel to the Office of Employee Relations. We didn't abuse Governor's -- Governor's Office of Employee Relations. We were the Office of Employee Relations because that was the name of the game at that point. We were the only ones that were around.

John (inaudible) we got a pass and then the issue was how many Management Confidential employees would there be. And Abe Levine -- Abe Levine started out saying there should be no more than 70 or 80, and the rest of

us basically said, no, that was nuts. You needed a much more substantial group of people. You know, there might in fact be only 70 or 80 significant decision makers, but for this purpose you needed a helluva lot more people than that.

And we went to CSEA and -- and tried to convince them that there sh...there had to be more -- there had to be some number of people and I remember spending a weekend at Jack Rice's place on Lake George. I think he was renting a place at Lake George and his family and my family got together and Jack and I worked out an arrangement that there would be something like 7000 people who would be designated as Managerial Confidential back then. But Jack had a political problem. He couldn't admit that these people were all being taken out of CSEA representation. He couldn't give up membership.

And so what -- what we agreed on was that there would be a PERB proceeding and we would petition for 7000 people -- well, we petitioned for 8000 on the theory we're gonna get 7000, but we petitioned 7000, and there's a

record at PERB that PERB had determined that these 7000 people were going to be Management Confidential. It never happened. It was all a fiction.

These people were just -- you know, this was a deal, but nobody could admit that then and --

INTERVIEWER: It was rubber stamping?

MR. OSTERMAN: I think PERB rubber stamped it. I think there was a (inaudible) deal of some sort, but not mentioned one and Mitch would put in his names and somehow -- seriously it did not consent formally, but there was an adjudication by PERB. They were being cooperative because they understood this had to be done too.

INTERVIEWER: Tell me about the -- the dynamic between CSEA and AFSCME in those early days.

MR. OSTERMAN: Oh, God. AFSCME had no use for CSEA at that point. The mantra of the private sessions we had with the AFSCME people at the time, how could you deal with CSEA? That's an insurance organization. They have no

spine. You know, they're not real union people. They're not the...they're not a real union, was a mantra that the -- that the AFSCME people used all the time. The amount of enmity that existed towards CSEA was extraordinary at that point in time. I think CSEA over the course of time has proved itself and I'm not -- I mean it never was terribly well justified, but certainly it was terribly well (inaudible).

Again, a lot of the AFSCME people had come out of the private sector, a lot of the AFSCME people had gone up in a time when labor relations in the private sector was a much more confrontational process than it is now, was then even, and they were much more blue collar variety, if you will, than the CSEA types were, and I think CSEA for the first time proved itself. It was a good union.

INTERVIEWER: Yes. Is it a difficult dynamic because if the CSEA was a nonaffiliated union, so you had these AFL-CIO unions kind of takin' shots periodically at -- trying to decertify. What did that --

MR. OSTERMAN: I think they made --



they were appalled at the outcome of the election. I mean, it really -- it became very clear that they did not understand the State work force because they were so absolutely sure that when the first round of elections took place the workers would rise up and smite CSEA; that somehow they would vote for militancy, they would vote for professionalism, for a history of bargaining. And they didn't deal with this company union and what -- the results were so overwhelming that I, you know, oh my God, you know, where did we go wrong?

And I think it slowed 'em down for a while and then, you know, I don't remember -- I don't remember a lot of raiding efforts at that point in time. There was some but not -- not a helluva lot.

INTERVIEWER: So once -- once CSEA was certified, pretty much they were established as the representative and that was --

MR. OSTERMAN: The results were overwhelming. I mean, it was just -- I mean it -- it did not suggest to the unions, to the private sector -- well, AFSCME, AFL-CIO

affiliated unions, that there was much of a future in going up against CSEA in elections with State workers.

INTERVIEWER: M-m-m. So, you guys, there's about ten minutes left on this tape, just so you know, depending on how many more questions --

INTERVIEWER: Sure.

INTERVIEWER: -- around why --

INTERVIEWER: Okay.

INTERVIEWER: Okay?

INTERVIEWER: Let me ask you this because I know a couple of folks have talked to us about Nelson Rockefeller actually coming into the negotiating sessions on occasion and interacting with some of the State work force. What do you remember about that?

MR. OSTERMAN: I don't remember that particular. I remember Nelson Rockefeller bringing people to him. There would be a couple sessions when Ted and some of the CSEA members would be asked to come and visit with the Governor, but I don't remember Nelson Rockefeller participating in bargaining.

Indeed, one of the -- one of the wonderful things of working for Nelson Rockefeller was he basically let you do your own thing and you knew whatever you did, he would support you. He might cut your legs off privately, but publicly he was gonna support you and I don't ever remember him really interfering in bargaining.

Indeed, the only time I ever remember him doing anything to limit what my authority was, there was an issue -- this would have been '73, '74, about the election in the mental hygiene unit, the ward therapy aide unit, and the issue was whether it was gonna be done by mail or whether it was gonna be done in person and I know CSEA wanted it to be done in person and I think -- yeah, this was always an issue of rating before.

This was an issue where the unions thought in -- the AFL-CIO unions thought that this was a place where they might have a chance and so they were urging a mail ballot with the theory that it would reach everybody, and the more people that you reached, the better chances that -- that the unions -- the traditional

unions would have.

And we took the position with -- it had to be an on-site election, the Office of Employee Relations, my office, and I got a call to come visit the Governor at the Mansion. And the Governor said, no, you're gonna take a position that it was gonna be a mail ballot. And I said, Governor, why?

Well, he'd gotten a phone call from George Meany, who was the president of the AFL-CIO, the night before, who said, Nelson, we're gonna do a mail ballot, and Rockefeller at that point still had aspirations of running for President and was not about to -- to take on George Meany on this kind of an issue. This was something he could give to Meany.

And I said, Governor, you know, I understand where you're coming from but it's wrong. And he said, well, they pay me to be Governor; they don't pay you. I understood that I had my assignment and I had (inaudible) a mail ballot and we had a mail ballot and CSEA still won.

INTERVIEWER: It's interesting because

CSEA was very well-established in an around the Capital at that time but it in many ways was very nonpolitical. Even in 1970 after, you know, working with Nelson Rockefeller and having the contract in place and really establishing them as the representative of the State employees, they didn't take a position in the gubernatorial election and, in fact, just had both candidates come and speak to the convention.

Was that a wise course of action?

MR. OSTERMAN: Probably back then it was. I don't think CSEA knew its own strength back then. It didn't have a long history of being partisan and I think there was a concern if it got to be too political it would be opening itself to reprisals at this point from, you know -- depending on if Hugh Carey wins if we'd been too much pro-Nelson Rockefeller, you know, would we have to pay for that. I think -- we didn't have the institution of collective bargaining, a collective bargaining representative as firmly established as we did back then and nobody was terribly secure with it

and I think CSEA probably made some sense in going slowly in that area.

INTERVIEWER: Now, what do you remember about Malcolm Wilson's relationship with CSEA?

MR. OSTERMAN: Malcolm was wonderful. One of the things that -- the Governor's Cabinet, if you will, immediate Cabinet, was -- Marshall was one-third, Lou Lefkowitz and Malcolm Wilson, and Lou was there because he was liberal and Malcolm was there because he was conservative. I mean he -- I mean I have heard him say he was to the right of the (inaudible) so he said it of himself.

And Malcolm was a good soldier and it was the exchange of views of all of 'em that led them to having some fairly good decision-making processes. Malcolm was close with CSEA and Malcolm had been an Assemblyman since the 194...1940, I think, or certainly the early forties, and knew everybody and if you wanted to know who's who in Cattaraugus County and you wanted to know who you needed to talk to in Cattaraugus County, Malcolm would know.

And Malcolm -- Malcolm worked with the CSEA folk and he (inaudible) them. On the other hand, he was one voice out of a bunch of voices and in this -- his voice was heard and listened to. That was important, but he was only one of a bunch of voices.

INTERVIEWER: Let me ask you one more question and that is why do you think CSEA has been able to survive for a hundred years?

MR. OSTERMAN: You're suggesting that CSEA is the same organization that existed for a hundred years and CSEA has been -- has shown an ability to -- to evolve. I think it was a very different organization when it was founded, when it -- when it got to be the thirties, forties and fifties it largely became an insurance benefit -- it became a benefit organization for State workers.

I don't think it was -- it certainly wasn't terribly militant back then, but it was the only game in town. I mean CSEA's willingness and ability to evolve over time and to assume the roles of the situations to -- basically made it survive, I mean, and grow to

what it is today, which is quite a bit different than the one made back in the early seventies. And, you know, it's a testament to the people who -- who belong to CSEA and who lead CSEA. You know, they've done a good job.

INTERVIEWER: Any major highlights that we missed?

MR. OSTERMAN: I tried to bring as much as I -- odds and ends stuff that I could.

INTERVIEWER: Yeah.

MR. OSTERMAN: And some of the stuff I bet you'd never heard of. That's why I was, you know -- the coalition negotiations were a nightmare. Oh, God, they were terrible.

(Laughter.)

INTERVIEWER: Okay. All right. That's wonderful. You know, I'd never heard that before. That is wild.

(Simultaneous conversation.)

(Whereupon, the interview of Mel Osterman was concluded.)



