

CSEA HISTORY PROJECT

NANCY E. HOFFMAN INTERVIEW

June 21, 2006

INTERVIEWER: This is Wednesday, July -- oh, I'm sorry -- Wednesday, June 21st, 2006. We are in Albany and we're speaking with Nancy Hoffman, who was the General Counsel for CSEA and, Nancy, I wonder if you would begin by telling us a little bit about when you remember first becoming aware of an organization called CSEA.

MS. HOFFMAN: Well, I'm sure that I became aware of it, if I hadn't previously, back in 1975 when I joined the Legal Department of NYSUT, New York State United Teachers, as a young attorney a couple of years out of law school, and I was with the NYSUT Legal Department for ten years in New York City.

But it's possible that I had some recollection or some knowledge of CSEA even before that because when I first got out of undergraduate school I went to work as a teacher in the high school I graduated from on Long Island and at that time the Teachers' Association down there was duly affiliated with AFT and NEA, NYSUT and NEA, and so I'm sure that I was aware of the unions at that time as a

result but clearly by the time I got to NYSUT in '75 I was aware of CSEA.

INTERVIEWER: Okay. So at that time then how did your awareness develop? What did you see CSEA doing and how did you --

MS. HOFFMAN: Well, as you obviously know, Steve, that was the first few years of the Taylor Law and also at the time that I got to NYSUT in the mid-seventies was the beginning of the first New York City fiscal crisis. I was in a great position time wise as a young lawyer to be a part of some great cases in litigation and strategies and the unions were working closely together, both the municipal unions in New York City but also on a statewide basis to help New York City stay off that -- stay out of the brink of bankruptcy.

So I was fortunate to be assigned to a lot of things that had to do with coalitions of unions, both the MLC down in New York City at the time, as well as on a statewide basis and CSEA was obviously actively involved in trying to help the City and trying to ensure that the union members who were affected by the contracts

that might have been abrogated or otherwise rendered null with the -- as a result of the fiscal crisis were not disregarded.

INTERVIEWER: You made an interesting point before about when you started out that was kind of the early days of the Taylor Law.

MS. HOFFMAN: M-m h-m-m.

INTERVIEWER: From a legal perspective what did that mean in terms of precedent, case law and pushing the envelope?

MS. HOFFMAN: Well, for me personally, and I think that my experience is pretty representative of the early years of the Taylor Law, it meant that groups of employees were still willing to strike, even though the Taylor Law itself which came into existence, as you know, at the very end of the sixties, barred public employees in New York State from striking.

But there were certainly -- in the teacher world and also in other public sector environments there were numerous strikes, and I had the distinction, I think, of being assigned to back in 1977 as a NYSUT attorney to the

longest teacher strike in New York State. It was the Lakeland teachers. They struck for 48 days, which meant they lost at that time 96 days of pay, the two-for-one penalty. The leadership actually went to jail for being in contempt of the court order barring them from striking, and I handled that contempt proceeding.

I learned then that you never wear a wool suit at a contempt proceeding because of the nervousness of it all. I actually have a little piece of paper that my colleague passed to me as I was profusely sweating saying, "Never wear wool to your first contempt proceeding," but there were a lot of issues around strike and around the Taylor penalties.

At that time there were dual penalties, a two-for-one loss of pay, two days pay for every day you're found to be on strike. That was an individual penalty. And then, of course, the unions had substantial financial penalties as well and then there was the penalty probation.

A public employee who was found to have been on strike was, regardless of their

tenure status, regardless of how long they had been on the job, whether they were permanent or not, and this was not just for teachers; this was for all public employees. They would be put on probation for a year as a consequence of having gone on strike, and that meant from a legal perspective that the employer could terminate them. They had no job protection.

As long as they weren't terminated for a prohibited reason, which would be some kind of discrimination based on race, religion, gender or something along those lines, they could be terminated, so it made the strike a much more difficult decision to make initially and rendered the people who led the strike and the others that followed very vulnerable.

So those issues, then the finan...the fiscal crisis issues, tested the parameters of collective bargaining agreements. You know, they are contracts in the law and contracts, if one party breaches or doesn't live up to their obligations, the other party generally can sue and that's not really different conceptually in a collective bargaining agreement than it is in

a private contract such as if you and I had a contract, except that in the public sector during the fiscal crisis there were cases and challenges to the New York City effort to defer wages and to do other things around contractual provisions, so there was a lot of quick testing of the law and the parameters of the law in New York State.

And, of course, we were very far ahead of the rest of the country in terms of having a public sector collective bargaining statute to begin with and still are in many, many regards.

And I think the third part of it was that, for me personally, that most of the -- there was a whole body of law that was built up around the fact that arbitration was substituted in collective bargaining for going to court, which would be the normal way that parties would solve their problems or attempt to, so that whole body of law about what is subject to arbitration and what an arbitrator can do and can't do, what's their authority, that was all developed at the time.

We had a very, very good Court of

Appeals in those early years when it comes to public employee rights. Charles Brietell (phonetic) was Chief Judge for a period of time; Sol Wachler, who wrote many, many of the decisions still cited today in this area of arbitration law and public employee contracts and things. They were very erudite, very articulate and they created a tremendous floor upon which law later developed, so I think those are probably the earlier ways in which the Taylor Law got its life, as we know it now, although perhaps some would argue now it's being dismantled in some regards, but --

INTERVIEWER: But with that sorting out do you think that that explains why we largely saw public employee strikes go away with some very rare exceptions? You know, the preceding 25 to 30 years?

MS. HOFFMAN: I think a combination of things. I think they were very costly to the union and to the individuals. I think -- we did it -- at a given point penalty probation was eliminated as a penalty from the -- through a legislative change which all the unions



obviously, CSEA, NYSUT, endorsed and were able because of their power and size to get through the Legislature so we just had the fines.

I mean the Lakeland teachers got paychecks that netted out to zero zero zero zero for a long time after that strike to pay back the money, but I think -- so I think the financial cost, I think the fact that labor relations is a collaborative, ongoing process like a marriage, and you have to "respect me in the morning." We have to learn to get along. We have to learn to communicate. It's not the traditional battle that happens in a legal context where we duke it out and then we never see each other again once our rights are resolved.

So I think it was about growing up, you know, a lot more understanding and sophistication on the union's part and I think that the employers, whether it's school districts, local governments or the State, they really went to school on the unions. The unions were way out ahead in terms of the understanding of the law, the testing of the law, and the

ability to kind of define the law in a favorable way.

And if you -- I mean the State is pretty monolithic in one sense, but if you look at school districts and the 62 or -3 counties in the State of New York and all the municipal subdivisions, they didn't have the collective resources that the unions have, so you'd have this town would have a case and the unions would come in, whether it was CSEA or NYSUT, you know, with all their resources and be able to push the envelope and the town attorney or the law firm that represented that town or that municipality, they didn't have that kind of resources.

So we kind of grew up together, learned together and went to school together in the seventies and probably the early eighties and concluded that striking was not an effective way to resolve most of our disputes.

INTERVIEWER: While we're on the subject would you talk a little bit about what the Triborough Amendment is and how that affects labor relations in --

MS. HOFFMAN: Yes, and it's a very

interesting piece of legislation that actually has its genesis in court decisions and there was a PERB case many years ago that took place in the context of the Triborough Bridge and Tunnel Authority in New York City and the MTA in which it was determined by PERB and sustained in the courts that during the gap between collective bargaining agreements the mandatory subjects of bargaining as they existed prior to the expiration of a collective bargaining agreement must be continued and the employer could not take away and change wages and other terms and conditions of employment.

And for a long time we lived with the Triborough Doctrine as a way of dealing with our issues while we were negotiating successor agreements to those that expired.

INTERVIEWER: Meaning that you were not going to lose the rights --

MS. HOFFMAN: The employees were not going to lose their rights and employers were going to be held accountable, basically, to -- at least to that standard. It didn't mean that you couldn't negotiate away those rights but the

employer couldn't unilaterally change the playing field while the unions were negotiating.

And then, as I say, that doctrine became a piece of legislation many years later and please don't ask me exactly when because I don't remember, but I think it was in the mid to late eighties and it became a legislative amendment so that there is actually an improper practice charge that can be filed now against an employer for changing terms and conditions during the period of time when a contract has expired and the employer and the unions are negotiating successor agreement.

The difference there being the breadth of that amendment in that it covers all terms and conditions as they were under the contract, not just what had previously been deemed as mandatory subjects and that's probably too much of a technical analysis but it's pretty good protection for the unions and it kind of -- it's the quid pro quo for not striking. We can't strike but you can't take the rug out from under us while we're trying to get our next agreement.

INTERVIEWER: So it basically creates an incentive for both sides to come to the table and reach agreement.

MS. HOFFMAN: Yes, it certainly helps that process, no question about it.

INTERVIEWER: Okay. Could -- let's get back now to your history. How --

MS. HOFFMAN: M-m h-m-m.

INTERVIEWER: How is it that you came to --

MS. HOFFMAN: CSEA?

INTERVIEWER: -- to be the General Counsel of CSEA?

MS. HOFFMAN: Well, it's an interesting road. I was in New York City and actually I'll just give you a little vignette that while I was with NYSUT, as you know, the PS&T Unit decertified from CSEA and became PEF. That was an 18-year struggle of that bargaining unit in its various incarnations to become independent and, in fact, in 1978 and 1979 they were successful.

And at that time as a NYSUT staff attorney I handled the PERB case in which -- it

was NYSUT and SEIU that had supported the PS&T Unit's effort to become independent of CSEA. So I handled the defense of that case and CSEA, our predecessors Jim Roemer and his firm, were challenging the results of that election. They were challenging the decertification of CSEA and the certification of the PS&T Unit, and it was actually a nine-week hearing before PERB up here in Albany.

So that was in '78-'79 and then subsequently a few years later I moved up to Albany. CSEA created its Legal Department as a decision of the delegates in the fall of '86. I was already in Albany and I was looking to move into something that would build on the experience I had already had as a NYSUT attorney. I had worked in a school district, I had worked for the US Government, I was working for the State government and so I had the background plus I had this fabulous training with NYSUT, this ten years of being a staff attorney in a very sophisticated legal department. I had a frame of reference for this job and the job became available as a result of

the falling out between my predecessor who shepherded the first 17 months of the Legal Department and the then president of CSEA, Joe McDermott.

So I read about it in the newspaper like we all did up here in Albany at that time, what was going on as a result of the falling out, and I applied for the job and I sent in my resume and my letter in roughly November, I believe it was, of 1988 and my background was unique in the fact that I had worked in so many levels of government; that I also worked in the New York City Corporation Counsel's Office in addition to the others I've said, and that I had this experience with NYSUT. And fortunately for me it jumped out and caught former President McDermott's attention.

INTERVIEWER: Okay. Well, with an ironic question then, you were uniquely qualified for the position but what kind of culture shock (laughter) did you go through when you got here?

MS. HOFFMAN: Well, CSEA is clearly unique. It is a very complex organization

because we have so many different constituencies that are not necessarily always marching in the same direction. I mean between local government and State government, just in the budget process alone, now we have private sector members, so we have a very complex organization.

Most of the people that I encountered here had been here for a very long time and when you come in as an outsider to an organization that has all that institutional history, you're "outsiderness" is even louder because you don't know the culture, you don't know the politics, you don't know if you're talking to a friendly person or not a friendly person.

The Legal Department came out of a political battle that I was not here to witness, so although I had a couple of friends who gave me a little background while I was -- after I had been appointed but before I actually came on board, I had a sense of some people and my predecessor was very helpful when she knew I had the job. She invited me to talk and we talked a little bit and she gave me some background, so I had a little frame of reference, but not any



real personal experience.

So I didn't know if I was talking to somebody, a political person or elected official, who had been for the in-house Legal Department or against it, you know, and that kind of stuff, so there was a lot of going through the -- the political minefield, and there was a kind of resistance to the outside person.

At that time I was the only woman in the Cabinet, which is, you know, the top managers, and that was a shock for some people, I think. In fact, I -- my first two months here we had the Nassau County de-cert in 1989. I came in January of '89. And the Westchester County de-cert followed in February of '89, and President McDermott suspended Rich Saluga (phonetic) and the Westchester County CSEA was its own corporation.

I mean we had some pretty big battles right from the get-go and I remember clearly sitting in the President's conference room on a Saturday with a strategy meeting and Steve Fantazzo (phonetic) was there from AFSCME and Larry Scanlon was still here and my Cabinet

colleagues and what were we gonna do with all this stuff and everything, and I remember lookin' around and goin', holy heck, what am I gettin' myself into, you know? It was really -- but it was also very exciting.

So I think the biggest shock was the complexity of the organization and therefore the numbers of people that you had to build relationships with, get a sense of, know what side of the fence, were they a McDermott person or a McGowan person, and that kind of stuff.

And then, you know, I had to build this Department because several of the people who were initially here, and it was very small at the time, but they got a little shaken up, I think, by what happened and they weren't sure as young attorneys whether they were going to have security here and they decided -- a couple of them, not all of them, 'cause a couple did stay on -- they decided to take the opportunity to find something else and move on so there's a lot of turmoil in the Legal Department, a lot of people saying that we would just be kind of a training ground for young lawyers and they'd all

leave, which didn't turn out to be true at all, so I had to deal with the day-to-day cases and all that kind of stuff and then try to figure out this big new world that I was in.

INTERVIEWER: Sure. That must have been very challenging to try to build a Legal Department, particularly when it was a very different model from what CSEA had done before --

MS. HOFFMAN: Right.

INTERVIEWER: -- and by retaining outside counsel, to largely do both labor relations work and its political action work, so you were coming into a whole new world.

MS. HOFFMAN: It was a whole new world. It was -- I had a good enough orientation to what it could be from my experience with NYSUT in certain respects, in many respects, but certainly not totally because NYSUT's a whole different model. They're not the collective bargaining agent. They are an affiliation or consolidation or federation, if you will, of independent teacher associations and teacher federations.

And whereas CSEA was a bargaining agent so -- and so much bigger, but I think that the other part of it that was really to my benefit was that I am a people person and so the people aspect of it was something that I really was able to embrace easily and the law part of it and, you know, the rest of it, I was able to obviously get through and to be successful at, but it was -- it would have been much more intimidating if I was not a gregarious person and I had actually worked with a couple of people in my positions in other organizations who were not as comfortable with people and saw how difficult that could be, so I was quite fortunate in that regard.

INTERVIEWER: Tell us a little bit about what the Legal Department does. How is it structured, what are the range of activities that you engage in.

MS. HOFFMAN: Okay. Well, we have some -- well, we provide a whole host of employment-related legal services and legal representation to those people who are in bargaining units in which CSEA is the collective

bargaining agent, and that includes things such as contract administration which means arbitrations, disciplines whether they're contractual or under the Civil Service Law or otherwise, Article 78s, court proceedings, challenging some action of the employer as being arbitrary and capricious or otherwise unlawful, federal court cases on discrimination and things along those lines, EEOC work, State Division of Human Rights work, the full panoply of employment-related litigation we do.

We also do all of the Labor Board work, whether it's Public Employment Relations Board or the NLRB, public sector, private sector, to get the representation rights and to hold the employers' feet to the fire when they violate those statutory rights.

Now we do that and -- we do all the Labor Board work and we do all the organization-wide work with the 12 -- now we have 12, originally there were 7 -- attorneys in the Legal Department that are CSEA staff, and we do that across the board regardless of where the cases are, plus we take any case that's a case

of first impression and new interpretation of the statute or situation, we'll do that in-house here.

With respect to the members' disciplines and some of the members' litigation, the Article 78 challenges, a violation of the Civil Service Law, something like that, we serve as the region attorney in Region 4 and we have on retainer to CSEA, using that word loosely because it's really a fee-for-service basis, we have other attorneys who used to work with Roemer and Featherstonaugh and this structure continued -- even though we have a Legal Department -- who are assigned by geography, by county, to do those kinds of cases for us. We approve the case and then we assign it to a regional attorney in Chautauqua or a regional attorney in Erie or a regional attorney on Long Island, and they do that case on a fee-for-service basis.

So that gives us another 20 to 25 attorneys besides the 12 of us to handle the size of CSEA and its litigation agenda. One of the things that's unique about CSEA is that

we provide lawyers for arbitrations, we provide lawyers for disciplines, whether it's a reprimand or a termination, and we provide lawyers for Labor Board cases and obviously for court cases.

NYSUT by comparison, and PEF to a large degree uses the NYSUT model, they do not provide lawyers for arbitrations or disciplines unless it's a termination or Labor Board work. Their labor relations staff does that, so CSEA has always provided attorneys for everything when it gets to a certain level and continues to do so and that separates us a lot from the other New York State public sector unions.

INTERVIEWER: Now, you must also have responsibilities for administrative legal work on behalf of the organization?

MS. HOFFMAN: Yes. There are two other parts in answering the question and thanks for getting me back there. Besides the cases that I indicated we also -- represent the union as the union in court work but we also have a lot of the internal governance responsibilities where we sit as legal liaison

to the Election Committee, legal liaison to or staff coordinator or whatever the title is to the Constitution By-Laws Committee.

We do some work for the -- with the Judicial Board. We sit with the Appeals Committee. We also now sit with the Charter Committee, so lawyers, myself included and a couple of our deputies and a couple staff attorneys, have these assignments in addition, to help the organization with these kinds of functions.

We also have specialty assignments with some departments. We have two lawyers who work with the Human Resources Department on our issues as an employer.

We have a couple lawyers who work with the Health and Safety Department. We have four or five lawyers who work with the Organizing Department as legal advisors to new organizing efforts long before there is actually a case, but just to help think through, how to use the law particularly in the private sector as a sword and how to deal with it when the employer is not being friendly to us, so we have that



whole role.

And then lastly we have a whole panoply of nonemployment-related for the most part legal service plans. We call it the legal service program and there are four major plans under that program that we have created in the past 17 1/2 years to give our members additional quality and accountable legal representation.

The first one that we created was the Workers' Comp/Social Security Disability Benefits Plan which provides any of our -- and these are member -- CSEA member-only benefits as opposed to the other kinds of cases, the employment-related cases where that's bargaining unit wide. If somebody comes to us even if they're not a member we will assess the case on the merits and go from there, but what I'm talking about now, the legal services program, that's just for CSEA members.

INTERVIEWER: And they're opt'd in at the members' discretion?

MS. HOFFMAN: Well, yes, they could choose to use these programs or they could choose to go "out-house" as I refer to other

lawyers.

So the Workers' Compensation/Social Security Disability Benefits Plan will provide lawyers in the instances where somebody is hurt or injured on the job or becomes ill as a result of the job or -- and/or is receiving Social Security Disability as a result of that, and it's a State-wide program and Fine, Olin and Anderman provides us with those services. They are experts in this area and always have been.

After that program -- the second program or plan that we created as a part of the legal services program was for personal legal things; for instance, you're buying a house or you're adopting a child or you're getting a divorce or any of those kind of things that come up, and we are -- offered the opportunity to our regional attorneys to become a part of that panel and then where we had need we filled in with other attorneys that we interviewed and who met certain criteria, and that is a program that has negotiated fees depending on where you are throughout the state because some -- it's interesting how it works in

the law.

You know, a closing in Buffalo might be twice as much as a closing in New York City based on the number of lawyers who are doing closings, but a divorce in New York City may be twice as much as it is in Buffalo, so we have this range that's negotiated by area so we provide that service.

And then we also provide personal injury, not related to the job, either a car accident, you get bit by a dog, some piece of equipment in your house blows up and singes your face or something like that, traditional personal injury, that is also another plan.

And then we have the plan that I'm most proud of, I think, the -- was originally called the Elder Law Plan and it dealt with both advanced directives, wills, powers of attorney, health care proxies, trusts, supplemental trusts if you have a disabled child or parents, something like that, and then the whole planning process to deal with Medicaid in case you're in that situation and an individual wants to or family wants to plan so that their assets don't

get dissipated in a way that -- inconsistent based on something happening in their family.

And these -- that plan is available to, as is the personal injury and the personal services, to our members plus members of their families, their dependents, their parents, their siblings, and those services are all available at seriously

discounted

fees from what those attorneys who serve on those respective panels would be charging to a stranger or the guy in the diner.

The reason I mention that the Elder Law Plan -- used to be called the Elder Law Plan, is because we found that a lot of younger people thought that you had to be old or close to retirement or already in a nursing home for that to be relevant to you and they didn't understand how important it is to have specifically the advance directive documents, your health care proxy, your living will and all that stuff, in place before anything happens.

They anticipate being conscious in the ambulance on the way to the hospital. It doesn't work that way generally so we kind of changed the focus and we call it "Taking Care of

Business, You, Your Life and Your Family," and that's so -- that was a way of trying to get more people to understand this program.

And for each of these programs we do trainings, we go to locals, to their -- including retiree locals, to their annual meeting, to their lunch, brown bag, whatever it takes, to get the word out and for people to understand these areas of the law so that they'll knowingly choose whether or not to use these services.

INTERVIEWER: What do CSEA members need to do about the range of legal services because obviously what you've laid out here is this very comprehensive, very sophisticated, but for the rank-and-file member what do they need to know about what legal service is available to them?

MS. HOFFMAN: Well, I think the thing for them to understand, for the member, is that on or off the job, if you have a legal problem you can come to your union and your union has quality lawyers who will take care of you, who are accountable to the union for their action or

inaction if you have a problem, who will -- where there is cost to you, you will pay a heck of a lot less than you will if you go through the phone book or through some other connection that you have. It's very -- it's a very seductive process because everybody knows a lawyer, everybody has a neighbor, in-law, a child, you know, something like that who's a lawyer, but not all lawyers are alike and not all lawyers specialize and so people will take cases and not have expertise and then you're really in trouble.

So I think the thing for the CSEA members to understand is that you have a problem that requires some legal attention you should call the union first, call the Legal Department first, and then if you don't like what you are offered after you go and find out and meet, interview lawyers, then go to your out-house lawyer.

I mean we can't force you to use the lawyers but we can tell you that we have only quality experts and that they are accountable to us, so if you have a problem with them along the

way, you let us know and you will hear from us and you will hear from the lawyer.

INTERVIEWER: Okay. You mentioned earlier one of your early trials by fire being a very complex situation involving a decertification and some complicated internal and external issues. What are some of the other cases or challenges that come to mind --

MS. HOFFMAN: Right.

INTERVIEWER: -- when you think back on your career here?

MS. HOFFMAN: Well, actually, the -- when I talked about that first couple months, those were two big -- those were our two biggest local -- bargaining units that were being decertified at the same time, and fortunately we prevailed in both instances.

But also early on we had the privilege of suing Mario Cuomo twice for trying to raid the Pension System in order to balance his budget. The first time we were the lead case. There were several unions on -- who had comparable cases. We worked together well with them, but the lead case was McDermott v Cuomo.

The second time that this happened, and we were suing George Pataki, McCall was helpful in -- or maybe that was the second time we were suing Cuomo. You know, I might be a little mistaken there, but we've done it three times and former Comptroller McCall was also instrumental in being a Plaintiff with us on one of those cases, and I remember being at a charity golf outing along with Larry Scanlon and Carl McCall called a meeting and so Larry and I came in off the golf course and went to this meeting in our golf outfits. That was another highlight that I remember, along with that Saturday morning meeting, and going, well, this is pretty cool, you know, (laughter) and we could just sit here and discuss the issues and be in our little golf outfits and then go back and celebrate the golf outing.

But that was -- those were very important pieces of litigation because in our State Constitution the Pension System is a matter of contract. Participation in the Pension System is a matter of contract and it cannot be violated by the State, and in both



instances or three instances the budget situation in the State was such that the executives, the Governors, were seeking to use that money in order to balance the budget, and the cases were successful in stopping them from doing that.

The other thing that I remember very -- was clearly with Governor Pataki. It was a while back and he was going to shut down State government at one time and we had, and you may remember this yourself because I believe you were in the Cabinet by then, we had some great plans about how we were going to handle that and we -- it was -- it was a bad situation but it just pulled the whole union together. It pulled across the State, the staff, the activists, the members.

We had a whole big -- every week we had a different event planned for what would happen and we -- obviously the Legal Department was ready with papers and everything to go into court and he did not shut down State government, and I'd like to think that he knew what was coming so he changed his mind and found a

different route to accomplish what he wanted to do.

There was the payless furlough, Thanksgiving Holiday case when we were -- also litigated that. Employees were put on an involuntary furlough and told to use their leave time as a way --

INTERVIEWER: That was Mario Cuomo too.

MS. HOFFMAN: So there've been some exciting -- from a legal perspective some exciting times that come out of the unfortunate economic situations for the State or for a municipality, but those things also serve to pull the players together, which is another benefit.

INTERVIEWER: Good. When you have a, you know, the things of suing over the Pension System --

MS. HOFFMAN: M-m h-m-m.

INTERVIEWER: -- and prevailing, what does that do in terms of CSEA's perceived and maybe real clout and ability to represent its members?

MS. HOFFMAN: Well, I think it reinforces the importance of, first of all, just being in a union, having the collective voice and the collective resources to take on the employer. I mean the public sector, that's the place where you get to vote on your boss and return your boss to his job or her job or kick them out of their job, and so that's an important perception.

But I think it's -- so collectively I think that gets reinforced, the importance of that, but I think it also is important for the union to be out in front of those issues and to take them on when it can in a very public way so that the community knows about it, in addition to the members knowing about it, and it reinforces and helps to support the union in being effective, not only across the bargaining table but also in the Legislature, both for budgetary reasons and also so much of our legislative agenda -- the Legislature's agenda each year has to do with worker rights and protections and safety and other things, so the more effective we are, the more support we get

from our members in doing the other things that they need to do, writing letters and coming to demonstrations and things like that, and these key cases help us to drive home that effectiveness.

And it didn't hurt that the judges in the Court of Appeals were part of that same Pension System. I mean it didn't get past the rest of us that, you know, they were in that position.

INTERVIEWER: So they grasped --

MS. HOFFMAN: They certainly understood the issues. Yes, they certainly understood the issues.

INTERVIEWER: Yeah. You mentioned that it was Joe McDermott who hired you --

MS. HOFFMAN: Yes, he did.

INTERVIEWER: -- to be here. Tell us a little bit about Joe McDermott, his style, his executive style, as president of CSEA.

MS. HOFFMAN: M-m-m. Okay. Well, Joe was an incredibly interesting person to work with, as is Danny, but for different reasons. Joe was very much a strategist, in my

experience, and he would also be two or three steps ahead of, in his mind, whatever was coming out of his mouth, is how I experienced him.

So he was challenging, both intellectually and otherwise, to be around and to deal with. He was in his -- when Joe became president, of course, he had had all that history being executive vice president under McGowan and region president for many years before that, so he was -- I won't say far along because that's a bad connotation but he was seasoned in his elected positions and a little older in his life.

So I think there was a big difference between the first term which is when I joined him and the second term 'cause he tended to stay closer to home in the second term and be more of an inside guy than he was the first term, but he was very challenging and I think he dealt with the management cabinet team that he had quite interestingly 'cause he -- he could take us on, there's no question about that, but he also liked the game of trying to outfox or to get us individually every now and then and, so it

was fun to be around him.

And Danny is -- Danny is a wonderful president but he's very different from, as you know, from Joe. He's out there with the members all the time. He's much less inclined or interested in being in here at meetings and stuff like that whereas Joe did not mind that, at least, and certainly did do a lot of that and probably did more of the work that Danny does out with the members, Joe probably did by phone as opposed to being out there as time went on.

And Danny is -- Danny is less hands-on as a CEO when you talk from the senior staff perspective. He tells us all the time: If I didn't think you were good at your job you wouldn't be here, so go and do your job and be sure I know what I need to know beforehand.

And Joe was a little bit more of a micro-manager. We used to tease him about checking out the parking lot to be sure that we were inside the lines and stuff like that and counting the paper clips.

INTERVIEWER: Certainly both of them never shied away from making some tough

decisions and certainly when you talk about things like suing the State of New York --

MS. HOFFMAN: Oh, yes.

INTERVIEWER: -- that's not a decision that you make lightly.

MS. HOFFMAN: Well, it's interesting. Neither of them shied away from making the difficult decisions nor were unwilling to have their name on those cases and those challenges.

And interestingly, you can't say that about the two Governors that have been in place during my time here as Counsel because we sued Cuomo 87 times and he didn't bat an eyelash. He just put his team forward and we did the cases.

The first time we sued Pataki, and it was on the -- on the pension issue, his second floor called our second floor and said, "What do you mean you're suing the Governor?"

And we said, "What do you mean, what do you mean we're suing the Governor? That's what we do."

"Oh, you can't sue the Governor."

And actually the person from the Legal Department who went over to serve the papers

initially got a lot of harassing from the people in the Governor's Office so it was like he didn't have a, I don't know, strong enough suit of armor or something like that, but they were very different in that regard.

Joe and Danny were very consistent. They'd take the fight on any time, any where, on behalf of the members.

INTERVIEWER: M-m h-m-m. You know, another area let me ask you about is the relationship from a legal point of view with AFSCME, because I would imagine that there are a lot of issues involving employee rights and you work hand and glove with the AFSCME Legal Department to litigate.

MS. HOFFMAN: Well, it's interesting that you say that because CSEA by virtue of our relationship to AFSCME is unique in that we have so many of our own resources and we are quite independent of AFSCME, so AFSCME has -- their General Counsels, Larry Weinberg and Jack Dempsey -- they have two Generals Counsel -- have always been there on the other end of the phone when I call for anything or when we need



something and they have always been very helpful, either as a sounding board or help me recreate some history if I don't know it, or something along those lines.

But we don't use, with one instance, with one exception, we don't use their Legal Department the way other AFSCME councils and subdivisions do because we have our own Legal Department but we do pair up and do, every year, the agency fee challenge case together. They present their case, we present our case and we work together on that and they have funded a couple of our cases and provided attorneys in a couple of instances.

The pay equity case in Nassau County years ago and right now we have a challenge to the agency fee procedures that is being brought on behalf of -- being brought by the right-to-work people on behalf of a couple of people out in Region 6, and AFSCME is in the case. We're in the case and AFSCME is picking up the tab and we're using the same attorneys who have specialized in this area before for AFSCME.

So they're -- they're always on the

other end of the phone, they're always very helpful to me, but it's not the kind of relationship where they're actually providing any direct services for us in the Legal Department.

INTERVIEWER: Okay. You know, you've talked about the development of the Legal Department and certainly that represents some dramatic transformation within CSEA, yet for many people that you're working for CSEA, on a day-to-day basis, there's a sense of kind of a rigidness and that are caught up in the way we always have operated --

MS. HOFFMAN: M-m h-m-m.

INTERVIEWER: -- as opposed to the way we might operate, yet I think if you look at, you know, what you talked about with the Legal Department and you look at some of the bigger picture on CSEA, one of the ways that we've succeeded over a hundred years is to change and evolve and adapt to new circumstances.

I wonder if you'd talk about your perspective on how that change occurs in the organization.

MS. HOFFMAN: It's interesting you use those words because when I was thinking about some of the possible things you might ask me, those were some of my own observations.

Going back to the Legal Department itself, I think that we were unique, we are unique, in that being the newest department of any considerable size and cabinet level, we didn't have and don't have a lot of the history which also includes a lot of the baggage.

So we don't look at problems from, well, we've always done it that way, all right? So we bring to the problem a fresh set of eyes and ears and a fresh analysis. In addition to being lawyers, we're very analytical from that perspective. Additionally, we have some very creative people in the Legal Department and we have some people who fundamentally understand that being in-house in a union is different than any other legal environment that you could work in because you have to fundamentally understand the business, much more so than any corporate legal department where they talk about understanding the business and partnering with the business

units.

In the union you have to fundamentally understand the business because your job is not to have the answers. Your job is to have questions. Where do you want to get to, Mr. President, or where do you want to get to LRS, or where do you want to get to, you know, whoever it is who's coming for help and we'll help you get there, hopefully within the confines of what's legal and allowable.

And if you want to go somewhere that isn't legal or allowable, you know, we'll kind of help you structure that but we're going to tell you that it's illegal. You know, I mean Danny's the first one to say that every labor leader should spend a night in jail. That's part of his job description.

So sometimes unions do operate a little bit on the edge but I think --

INTERVIEWER: The thing is the law may possibly be unjust.

MS. HOFFMAN: Oh, the law, absolutely. No question about it. I'm not suggesting they're criminals. I'm just suggesting that,

you know, sometimes you just have to do something that's consistent with your mission and the cause and then you have to deal with the consequences.

Strikes are the best example of labor leaders who go to jail because they're found in contempt of court for striking but -- so I think that we brought a fresh -- a fresh dialogue or we refreshed some of the dialogue with other departments as a result of us not being in that "We've always done it that way" kind of mentality, so I think that's the first part of it.

But the second part of it is that I think that the union itself, the rest of the union, the other departments and both the activists and elected people and the staff, have matured tremendously over the 17 years I've been here because we've had to think outside the box. We've had to become much more creative and allow the organization to evolve in a -- in a very different and very manifest way...

(End of Side A of Tape.)

MS. HOFFMAN: (Continuing) ...in order

to not only deal with the problems that we -- that are presented to us but to deal with what's happening in the world of work because the traditional work force is not there for the future and for the growth of unions. We have to find ways to be helpful and meaningful and effective for people who don't go to an office, for people who don't have a Civil Service hierarchy already figured out for them, and for a host of reasons we have to look at our structure differently. We have to look at our service differently. We have to look at everything we do differently.

So I think the combination of the circumstances requiring it of us and some personalities demanding it of us and a department that doesn't know how we used to do things and therefore says: Well, why do it that way when you could do it this way or the other way?

It has been like a critical -- the critical underpinnings to the union being able to move forward because inherently, and I think this is true in any union, there is a lot of

resistance to change. There's a -- when you have a political structure people like the way it is because they got where they got the way it is and maybe change means they won't be able to stay there or maybe it means that the accouterments of being there will be different, so there's a lot of resistance and there's that tension between elected people and staff and sometimes you have to set that aside and listen to what the staff has to say.

INTERVIEWER: Okay. How would you say CSEA is different or alike with other union -- compared to other unions that you might have encountered?

MS. HOFFMAN: I think our complexity sets us apart, sets us aside, no question about it. Our bigness, I mean PEF is a bargaining agent, we're a bargaining agent, but they have 50-, 60-, 70,000 people. We have 250-, -60, -70,000 people. Just the size, they have one employer, many manifestations of it, but primarily one employer. I know they have some little other employment relationships but primarily they're focused on State government.

Whereas we have, right now, more local government bargaining units than we've ever had before and represent more local government people than State people, so when I came here the State side was, you know, 110,000. Now the local government side is way above that and the State side is obviously less, so I think our complexity, I think our history, the fact that we have the history.

Our history tells us what happened. It kind of sometimes becomes an obstacle for the present and it clearly informs the future but in a way that's not as restrictive as it used to be. It used to be that that was a restrictive analysis because we couldn't break out of the box and I think now we look to it for guidance and for some kind of touch points, but it doesn't restrict us like it used to and it gives us actually a firmer foundation to break out of the box because we understand that it was -- that history is in those times and these are not those times.

So -- but I think our complexity is the biggest thing -- is the biggest challenge



and I think the biggest other thing that sets us apart from anyplace else is when all is said and done, our activists and our staff, they have the biggest hearts in the world and we always manage to do the right thing for the members 'cause that's the ultimate thing that we're all looking at.

INTERVIEWER: What are some of the toughest challenges you personally had to face while you've been here?

MS. HOFFMAN: Well, as a manager, people are really, really challenging. One of my staff that's been with me for most of my ride here, although she left the department and came back, said to me yesterday -- this is so fresh I have to just tell you this. This is early in the morning and she said to me in a conversation that was in front of a lot of people she said, "Nancy, you're really a mess."

And I said, "Excuse me. I don't understand what that means, you're a mess." I mean I didn't think I was a mess.

And she said, "Well, what I mean is you're a real challenge."

And I said, "Well, that's good. I like that. I'll accept that."

And then she refined it a little further and she said, "What I really mean is if you're gonna be around, if someone's gonna be around you, you have to come big or stay home," and I said I really like that.

People are very, very challenging to me and I have tried very hard to be as supportive, understanding, whatever their issues are, family, life, all that kind of stuff, as one can be and still get the job done and you're constantly pushed up against that. You give a little bit, they want a little more. You give a little bit, they want a little more. So issues of time and issues of how you show up, you know, not everybody's going to look like me and yet I want everybody to look like me in terms of their commitment and stuff like that.

So just finding out who I am so that I'm as supportive as I can be, so that's very challenging. Convincing the organization as to what it needs to do to keep good -- lawyers particularly, but a good Legal Department. It's

very competitive out there.

There are other unions very close by that have a better economic package, because they can afford to have one, than we do and yet we have been very, very successful in retaining good lawyers here and that's taken some creativity on my part and some understanding on the organization's part, both through the budget process and the personnel process and all that, so I think the whole people thing has been the most -- and then for me, obviously, and I told this to the lawyers when I first got here, we will be as successful as our relationships are.

You have to build relationships one by one and I think we have done that and we're known for getting back to you with answers and we're known for being accountable, so I think that's helped us. We have a voice now in the organization that, you know, we didn't have ten years ago. We certainly didn't have 17 years ago. We had to develop that voice.

INTERVIEWER: What are some of the best things you've encountered?

MS. HOFFMAN: People? (Laughter.)

The same people who push my buttons and challenge me. The same person who told me "you gotta come big or stay home" is one of my idols because I know that personal story and I just -- I'm just in awe of the challenges that people have in their lives and how they keep showing up and how they deal with them.

The challenges that we have collectively as an organization and how we keep showing up and how we managed through all of it to get the job done on behalf of the members, even though we don't necessarily see eye to eye, so I think -- I think the best and the worst has been the same thing. I won't say worst, but the most difficult and the most rewarding, exciting and empowering have been the people.

INTERVIEWER: How about some of the events over the course of those 17 years? Any that come to mind of being particularly inspiring or --

MS. HOFFMAN: Well, a hot day in December or a cold day in July, whenever that big, what was it --

INTERVIEWER: Hot day in February.

MS. HOFFMAN: Thank you. Hot day in February. That was awesome to see the whole green machine and CSEA walking down in front of the building. A couple of the staff get-togethers. I mean when you -- we work with 300-plus people and you don't appreciate that until we're all in the same place which doesn't happen that often and when it does it's very empowering.

There have been a couple of very tense moments for us in -- with the Legislature and kind of being in a situation where you're waiting at two or three in the morning to see if the agency fee bill is going to be extended or not, signed again or not, those kinds of things.

Obviously the pension cases were -- arguing that in the Court of Appeals was a personal moment of excitement as a lawyer and actually my husband was there and he was so impressed because he thought that Chief Judge Judith Kaye -- he thought she said "Hello, Nancy," and of course she didn't. She just said, "Hello, Ms. Hoffman," but the personal piece of it, you know, he was very impressed

with that.

And you know, there have been some highlights in terms of a particular case of just a member that I have handled myself and saving that person's job or giving them a graceful exit in a way that they can handle. It's very gratifying. It's very gratifying, so it doesn't have to be a big event to be a tremendously momentous recollection of actually having helped somebody to move their -- move forward in their life.

INTERVIEWER: True. You've largely answered this question, but I've asked it of everybody so I'll ask it again here. Why do you think CSEA has been able to survive and thrive for close to a hundred years?

MS. HOFFMAN: Well, I think it's -- I think it's because we do get the job done on behalf of the members but we do it with tremendous passion, tremendous integrity and in a very democratic way and I think that combination -- I think some other organizations might be successful, but they are not as open to participation by their membership. They might

be successful but they're clearly not -- they don't have the heart that we have and the passion that we have.

So I think -- and they're not as honest as we are. I mean we are as honest as the day is long. I don't care what anybody says. I have been in every one of those battles where our integrity or honesty has been called to question by somebody because "they know" -- they think they know or because they're just doing it for their own personal reasons and we have been aboveboard, been proven to be aboveboard every single time. We are as honest as the day is long. We have integrity in what we do and we care about what we do.

So I think that's a recipe for success, whether it's organizational or personal, and in a political environment which this is, it's hard to hold onto that integrity a lot of the times and to not -- to hold, to leave the openness of democracy and not shut it down with "my way's the better way" and "I know" and that kind of stuff.

And we don't do that. We resist that

and I think that's probably the reason for our ongoing success and others have come and gone and will continue to come and go.

INTERVIEWER: Well, Nancy Hoffman, thank you very much for taking the time to speak with us.

MS. HOFFMAN: Well, thank you. Appreciate it.

(Conclusion of interview of Nancy Hoffman.)



