

## Ming Cho Lee and Susie Medak

### A conversation with Ming Cho Lee and Susie Medak on negotiations between United Scenic Artists and the League of Resident Theatres

*In 1997, negotiations over renewal of the collective bargaining agreement between United Scenic Artists (USA) Local 829 and the League of Resident Theatres (LORT) had stalled. The 1992-1996 LORT-USA Agreement had expired, and both LORT and USA walked away from negotiations with no successor agreement. LORT continued to file contracts pursuant to the 1992-96 Agreement, although no agreement was actually in place.*

*Victoria Nolan, Professor (Adjunct) of Theater Management at Yale School of Drama, invited Ming Cho Lee and Susie Medak to her class—Managing the Production Process—to discuss the issues at stake in the negotiation. Lee is a noted, award-winning scenic designer and Yale School of Drama design faculty member who had played a central role in the history of the designers' relationship with USA; Medak is the managing director of Berkeley Repertory Theatre and a central figure in the LORT's negotiations.*

*The transcript of this session records a remarkably cordial relationship between the two groups and a frank discussion of the problems facing this negotiation and the designers' relationships to the theaters.*

**MING CHO LEE:** Before we get to talking about this specific contract negotiation between LORT and Local 829, I thought it would be worthwhile to explain to you the history of this very strange union. The United Scenic Artists Local 829 is part of the brotherhood of painters and allied trades of AFL-CIO. Which means that we belong to the house painting union. [LAUGHTER]

United Scenic Artists represents the set, costume, and lighting designers for Broadway, LORT, opera, dance, ballet, and also film, television and TV commercials—but not for designers on the West Coast. We also represent the allied trades—people who paint, make costumes, mold Styrofoam things and so on and so forth. So the union is very complex because it represents both designers who are working for fees—and who are working kind of

---

This conversation was recorded in a class conducted by Victoria Nolan, Professor (Adjunct) of Theater Management, and was edited by Art Priomprintr. This transcript was prepared as the basis for discussion rather than to illustrate either effective or ineffective handling of the situation described.

Copyright © 2010 by Yale University. All rights reserved. No part of this publication may be reproduced, stored in a retrieval system, used in a spreadsheet, or transmitted in any form or by any means—electronic, mechanical, photocopying, recording, or otherwise—without the permission of Yale University.

on our own—and scenic artists who work strictly for wages as labor in established scenic shops. As you can imagine, the interests and the working methods of those two groups are truly diverse. And their needs are very diverse. So the union is a very uncomfortable marriage.

Close to the 1980s, Local 829 went through a rather serious conflict. We had a business rep who knew very little about theater, and he went out to the West Coast and tried to force a union action there. At that time, LORT had a favored nations approach: everyone got the same fee no matter what the work. This business rep went to the Mark Taper Forum in Los Angeles and said, essentially, 'You are operating illegally as far as 829 is concerned. You are not meeting these, these, these, conditions,' and he pulled out a dinner theater contract—[LAUGHTER]—and told them that unless they met those conditions, there would be job actions. Whereupon, he wrote a letter to all of us designers and told us that these resident theaters were not living up to our 829 standards, and if they did not negotiate and meet those standards, we could not work for the LORT theaters.

The designers went berserk. We went and asked for a meeting at the executive board, and I remember that Tony Walton, myself, Doug Schmidt, Pat Collins—a hefty group of designers—said, 'What do you mean? First of all, this is the wrong contract for the resident theaters, and second, the resident theaters are the place that we call the home for our work. This is where we do our serious work. You want to call a job action, and you don't understand any of it?' We had a huge fight. The result was that the executive board backed down to some extent. From this, though, the designers decided that it was time to develop some sort of sympathetic contract and understanding between us and the LORT theaters, so that we had a formal understanding for certain practices. Most importantly, it would be negotiated by the

designers who actually worked at the LORT theaters. That was the beginning of this contract relationship with LORT.

Now, just as a side trip, we—and that included many of us: an enormous number of designers—made an attempt to either leave the union, or to have a union set up within the brotherhood that would be completely separate from the scenic artist area, so we would have our own business rep and so forth. The vote to split the union and did not work. We had about 300 folks. If we had added another 100 people, then we would have been able to do it, but many people decided not to vote. And so we ended up defeated, and in a way I'm just as glad, because if we were not defeated then I have a feeling that I would still be at the union office doing union work rather than here teaching! That would have just been a disaster. [LAUGHTER] But a lot of us designers were feeling despondent because we did a lot of work to write a new constitution and so forth, and some of the designers who had been for it simply did not vote.

Nevertheless, the designers imposed several conditions on the union when we went in to negotiate with LORT. One of them was that within the LORT contract, there could not be anything to do with the scenic artists. This of course did not make the scenic artist branch very happy, but we felt that the scenic artists' contract was too expensive for LORT, and that the conditions were so heavily based conditions for the commercial shops and the Metropolitan Opera and so forth, that we felt the LORT theaters would not be able to function with those kinds of conditions—it would simply kill those theaters. The executive board ultimately agreed with us, so the scenic artist issue has never been in the contract.

**SUSIE MEDAK:** Taking it from that uncomfortable internal history, the next step in our discussion today is how LORT and USA finally agreed to sit down at the table and

agreed to be collective bargaining partners. By preface, I would say that LORT as an association is, in general, an unwilling bride or groom. We are not eager to make commitments. We'd much rather engage in long-term, non-committal relationships! [LAUGHTER]

What makes this so complex is that this is not simply a marriage between a bride and a groom. There's that old adage that when you marry, you marry an entire family—I think that this is a concept that gets taken to an extreme when you enter a marriage with a collective bargaining partner. In this case, not only were we agreeing to marry all of the designers that we had had long, non-committal relationships with, but we also were agreeing to jump into bed with the union as a whole. And because of the nature and history of that particular union, it felt uncomfortably like a household in which the mother-in-law runs the marriage.

There was also recognition that we would be giving up some real autonomy. I'm sure you've all heard this in other management classes before, but it is always the prerogative of the management, of any association, to hang onto as many prerogatives as you can. Any time you enter into a collective bargaining agreement with any association, you're giving up some of those prerogatives, either willingly or unwillingly.

Over the years, the relationships between designers and artistic directors had become more important within our organizations. They became more important to the point where we could not ignore the obligation that we had to this group of people. The point at which we finally agreed to sit down across the negotiating table from the designers was an enormous step not to be taken lightly. At that point, people were still working with the designers. We had not had any work stoppages. We had never gotten to the point where anyone was saying, 'If you don't come

to the table, we will not work for you.' This was actually a relatively painless process, and I think that, on the part of the theaters, the act of sitting at the table was the most important part of that first negotiation. The recognition that we would treat the designers as collective bargaining partners—that we were prepared to give up our ability to negotiate a minimum rate on an individual basis—was a profound change for the theaters.

In addition to that, for many of the other theaters around the country, it was going to be a stretch for them to meet any minimum conditions. Within LORT, there are many categories of theaters that are based on size, audience capacity, back office staff, things like that, and in many cases, the size of the company determines their financial ability. So once again, to sit down at the table and agree to minimum conditions was not just a frightening idea for the smallest companies, it was also a scary idea for those that didn't see themselves in a growth phase.

The important thing that we felt was going to happen was that we would agree on basic conditions. The conditions were that: we would recognize that the designers—while they were not our employees—were a group of artists with whom we had an ongoing relationship, and to whom we were prepared to make some real commitment. We recognized that, both for their well-being and for the future of the theaters, we would establish some minimum terms and conditions under which any designer would be employed. We recognized that there would still be some people who would be employed by some theaters who would not be covered by the union, just because our smaller theaters would not be able to have those guarantees built in. But the assumption is that when a standard is in place, it raises the level for everyone. Finally, I think there was the assumption that in stepping into this relationship, we would be establishing a forum for ongoing discussion of

how growth would evolve, and a forum for the discussion of the designer's role within the industry.

Up until the last few years, I think that has worked very well. This has been, for the most part, a very good relationship. The interesting thing about where we are now, though, is that even though we are operating without a contract, we are still working together. I think that this a reflection of how the bride and groom have still been able to continue having a relationship, even if our mother-in-law is no longer an active member of the household. I don't necessarily think that's good, but it recognizes the strength of the bond between the designers and institutions in spite of these difficult times.

**LEE:** The whole advantage—and I'm going to put it very bluntly—of having the union contract is that we have pension and health care. Without it, the designers would not, on a very basic level, get any of those benefits, which would be a very big problem! If the contract broke down and we no longer dealt through the union, then the designers would have no means of contributing to the pension and welfare of the union. It has to be contributed through the employer—we can't contribute ourselves—so that means that we would be out of any healthcare insurance or guarantee.

### **DESIGN ASSISTANTS**

**JANE GREENWOOD:** Where this poses an even larger problem is for our assistants, which has not yet been mentioned here. From the designers' perspective, that is big part of this negotiation happening right now.

**LEE:** The theaters do not want to get involved with paying for the assistants. That means that the assistants are being paid for by the designers. But the designers are not in a position to pay pension, welfare,

unemployment insurance and all of that to the union because they are not employment organizations like the theaters. So the assistants working for the designers are completely out of any benefits that, as union members, they should have. It is a huge issue that the assistants belong to the union and the union cannot not represent them.

**VICTORIA NOLAN:** So Ming, just so that we all understand, you're saying that you employ an assistant who works with you, who belongs to the union?

**LEE:** Oh yes.

**NOLAN:** Are you being required to employ an assistant?

**LEE:** No, we just do it! And the union has nothing to do with it.

**GREENWOOD:** LORT theaters have been willing to give the designer a lump sum of money—which is an arbitrary amount—and the designer may use that money to pay any assistant of their choosing, however much they care to pay that assistant. LORT sort of assumes that that is going to take care of the assistant. Now, they always say that it is the assistant to the designer. I hear that all the time: 'Your assistant.' Well, quite frankly, the assistant is rarely 'my' assistant. The assistant is the assistant to the design of the costume for production, and invariably, they are helping with purchasing, with keeping money flowing backwards and forwards, with aiding and abetting all of the design elements of the production—for the theater. It's very important that that is understood!

**MEDAK:** Can I step back from this for a second!?! [LAUGHTER]

**LEE:** The point we are trying to make is that that money that is used to pay the assistant does not go through the union, and thus the

assistants—many of whom are also members of the union—do not get health, pension, and welfare benefits on that job.

**GREENWOOD:** There is an alternative method that some designers use. If a designer has a corporation set up to do their own business, then the money for the assistant can be taken and given to the designer's corporation, and then the corporation can in turn pay pension and welfare to the union on behalf of the assistant. I always say to the theater that the pension and welfare has to be included in that lump sum of money, so that I can afford to pay the assistant and to pay the pension and welfare. But that is all very tricky and it is always negotiated.

**MEDAK:** The issue of design assistants has been on the table for quite a long time, no question about it. And there are multiple reasons why LORT as an association has been unwilling to include design assistants in the collective bargaining unit, or to deal with them as employees on the side.

One of those reasons is that these are not our employees, in the sense that they are not employed by the theater—they are not accountable to the theater. Most importantly, we have no control over their work conditions, which has become an increasingly complex problem in this litigious day and age.

At Berkeley Rep, we recently instituted a policy where every single person who comes to work with us is required to spend a number of hours—and depending on what the job is, that number is more or less—in a safety training session. It is a mechanism by which we lower our workers comp payments. Two years ago, our workers comp claims went up by over 30%, and in order for us to bring those claims down, we have had to institute more control over the work conditions over which any of our employees are working.

What we have recognized is that we really don't want to take responsibility for a group of employees whose work conditions we have no control over, whose work hours we have no control over, and whose expectations for the work we have no control over.

Another reason is that this is a group of people whose salaries we have no control over. Our most senior designers are working with many excellent assistants, many of whom they pay on a rate that is sound, generous, and good and right. In many cases, they are paid more than many of the employees who work in our theaters. There is a discrepancy between what our internal employees are being paid and what our external employees are being paid, and we have no control over that external payment, which creates a problem for us.

Now, the issue of paying benefits to design assistants has recently been solved. Up until recently, there wasn't a way that we could pay those benefits without accepting them into the collective bargaining unit. But this summer, Patrick Harold from Helen Merrill's office actually came up with a payroll service that has solved that particular problem. So it is now possible for us as institutions to pay to a third party a fee that can be used for the payroll taxes and everything else for those assistants—that is a problem that has been solved.

The thing that made working through this particular issue more difficult was that this was not an issue that was originally put on the table during the contract negotiations. It was put on the table after the negotiations. If we are going to enter into a collective bargaining situation, we have to find a mechanism for doing that that allows the total package to be dealt with in a way that is responsible, that recognizes all of the various issues, and that brings all of the parties into the discussion at a point when they can make decisions. This was never something that was fully discussed at

the negotiating table, and when our discussions between LORT and the designers broke down, it was not because we weren't covering assistants—this was something that emerged later. And I think it's a recognition, once again, of the relationship that we've had over the years, that we've actually have been able to solve that problem in spite of the fact that there wasn't a contract in place.

### **EMPLOYER-EMPLOYEE AMBIGUITY**

**LEE:** Ever since I joined the union in 1955, we have been fighting this perception that designers are independent contractors. This is a very thorny problem. In many ways we do function as independent contractors. It all depends on how you interpret the labor law, which is very vague and it has lots of in and outs. But if we are deemed to be independent contractors, then we have no right to belong to the union, and to fix prices for our design fees. Then it becomes anti-trust. Which means that unemployment, health, pension—all of that stuff—goes right out window. That is where the designers and the mother-in-law are in an absolute tizzy as to how to deal with this problem.

The union has been trying to deal with it by calling the contract thing an Employer-Employee agreement, and using a concept called weekly additional compensation—which is really a royalty. But calling it a royalty makes us independent contractors, so we purposely call it weekly additional compensation.

I'm just throwing everything down on the table—you can sue the union tomorrow and that will be all my fault! [LAUGHTER] But I have a feeling that all of you who are going to be the future of the theater should face those problems and we deal with each other in some way that makes making theater possible.

**MEDAK:** This is not the only union where there is this confusion. Our contract with the directors and choreographers has the same exact issue in it. And for that matter, even our contract with Actors Equity Association raises some uncomfortable issues about legality as it relates to non-professionals and professionals, as they are called. I always say to people who want to go into this business that, if you can't live with ambiguity get out! [LAUGHTER] And I think that this is one of the reasons both sides have never taken legal action against one another. It's because we all know that it is better not to have clarity on this particular issue.

**LEE:** Whenever contract negotiations break down, this is the issue that hangs over the designers and our mother-in-law. At this point, we are working under a consent decree that essentially says that, yes, you are kind of an employee, you kind of function as not, but let's just keep going the way it is. And the way it is, it can be blown apart any minute. In the negotiations between 829 and the League of American Theaters and Producers—the Broadway theater owners and producers—this issue has begun to rear its ugly head. They are going to complain to the Labor Relations Board saying, 'You are not labor, you are independent contractors.' So I think this is a kind of a preamble to give you as much as one can about the background to what is happening here.

### **MINIMUMS, NOT MAXIMUMS**

**MEDAK:** In trying to create an agreement that suits the needs of 100-plus designers and 67-plus theaters, what we're trying to do is to establish minimum terms against which people can work, not maximums. At LORT, we are dealing with small theaters in Gainesville, Florida, companies with huge budgets like the Guthrie Theater in Minneapolis and Lincoln Center in New York City. We're dealing with companies that have resident designers,

companies that hire only out-of-town designers, we're dealing with companies who have resident assistants and companies that provide absolutely no support whatsoever, and in many cases don't even have their own shops. So collective bargaining also becomes quite complicated when we consider the many different types of people and theaters that are represented.

Part of what frames every negotiation is the desire that the minimum be low enough so they do not become the maximum. But with so many interests involved on both sides of the table, it can become hard to remember that we are negotiating for minimum conditions, not maximums.

**NOLAN:** LORT's relationship with its other unions also influences the situation with USA right now. Seven years ago, there was a breakthrough negotiation with the Society of Stage Directors and Choreographers (SSDC) that essentially doubled the minimums. That team did what they thought was right—they felt that the directors were being underpaid by the field, and the only way to address was to essentially double the fees. It was a huge, huge change, but what we also saw, instantly, was that there were no longer a range of fees being offered to directors. Directors were simply getting minimum. So whether you were a senior director or a director right out of school and getting your first gig, you were all getting the same amount of money because many of the theaters thought it was so high.

**MEDAK:** I think that it also meant, for some of us, was that we were unwilling to take risks on less-experienced directors.

**NOLAN:** That's also when we started to see resident directors hired into theaters, because it became cheaper for them to hire a director to be on staff, rather than to hire freelancers. I think there has been a feeling among the LORT managers that they uniformly recognize that

designers are underpaid, and that is a problem—there is not a quality of life available to designers if they want to design full time in the LORT theaters. But at the same time, the economic conditions of the theaters have made people very gun shy, and they all remember what happened with SSDC.

### **A DESIGNER'S EXPENSES**

**LEE:** I think that Vicki touched upon a very important issue, and what I feel is a very important also within that issue is that the current times for the non-profit theaters are lousy. And we all recognize that. I certainly recognize it. It breaks my heart that it's not going to get any better in a hurry.

But it is also very true that it is impossible for a designer to work for only for the LORT theaters to have any kind of respectable living—it simply is not possible. If you can bear with me, I'll explain the designers' expenses, which are not widely understood. We're thought of as a group of people upstairs making funny little things and sketches and so forth, but those funny little things cost money—money that designers do not get back, in the sense that all of that has just become part of the outlay that is expected to make the design possible.

And I'm going to say that, as a preamble, don't take what I'm going to give you as the standard. I don't squander money, but I am very careful in terms of what I do, and I like to present the directors with many options, and as clear as information as possible, and that all costs money. But everyone agrees that I am a very expensive designer! [LAUGHTER]

**MEDAK:** You are, trust me!! [LAUGHTER] But you are rational, too. You're not flagrantly outrageous.

**LEE:** I'm going to give you two instances—two productions. One was a very, very big production of a play called *Peer Gynt*. *Peer Gynt*

is a big production no matter how you do it. When we added it all together, I essentially had three assistants working all the time, even though the work was spread out among as many as five. I paid my assistants \$15 an hour. For the industry, this is not high—in fact, I’m starting to lose assistants because I don’t pay more than \$15 an hour. My assistant money on *Peer Gynt* came to \$23,343.75. Printing cost me \$1,173.03. Photocopying was \$132. Design supplies—all the brass, all the mack board, all the foam core, all the gator board, all the glue—was \$1,039.42. My fee was \$7,215. For the materials, they reimbursed me \$787, and printing was \$488. So my net loss on this production was \$15,384.

Then I did *Uncle Vanya* at Arena Stage, and there is just only so much you can do there in that theater in the round. They paid me—now my fee is high in terms of resident theater, most people get about half that, and a long-standing relationship with Arena Stage—\$9,500. I used 3 assistants, and 2 worked on it full time, came to \$7,335, and the printing was \$250, and Xerox only \$20. And I actually made \$1,894.16!

People don’t hire assistants all the time, but if you don’t hire assistants, you have to do all of the work on one show on your own, and very few can really do it on their own anymore. So then you’d have to do fewer shows. But what I’m saying is that while the expenses may not be so high, when you get to the fee in terms of what a designer gets, by the time you try to make a respectable living out of those fees, it is very, very hard. Hence this situation when you enter into the negotiations.

**MEDAK:** To put that in some context, something that has happened over the years is that we as theaters have come to expect more from our designers than we used to. Our directors, in particular, have become much more visually oriented. I know that 25 years ago, a color rendering was what was expected

of most designers, and most directors could read a floor plans. More and more, I find that our directors aren’t good at reading floor plans: they’re expecting full models, they’re expecting color models, and there is definitely more time that is being demanded of designers. More and more, they’re thinking of designers as active collaborators, and they are wanting more of their time. I have seen that our fees and our reimbursements have lagged way behind the recognition of that change in the working relationship.

On the other hand, the parallel to Ming’s spreadsheet there—which is great and is absolutely distressing—is that in our annual budgets, we assume we will pay set and costume designers somewhere between \$4,500 for a very small, two-person, modern dress show, and \$6,000 for a larger show, which surprisingly puts us at the top. In addition to that, we budget for \$1,000 in expense reimbursements. Very rarely are we asked for that full reimbursement. I can’t tell you why that is. But there seems to be an enormous range in terms of what people’s expenses are, so once again when we talk about what’s going to happen in the union contracts, we have to talk about what is minimum as opposed to what is the maximum, and hope that there is enough respectfulness and ability to make up the difference.

But the other thing that has altered the landscape a great deal is that with designers doing as much work as they are, and traveling as much as they are I know that the cost that doesn’t show up in any of this is the housing and travel costs. We are now spending more in travel and housing for designers than we are in fees. A few years ago, I tried an experiment where we tried to pay people significantly more, and found that no one was able to say no to other jobs. So we ended up paying more, but we were really unable to get a commitment from people to get more time and less travel. It simply wasn’t possible.

**NOLAN:** So, to make sure we all understand that—what will happen is that a designer will come out and to the visit, then fly to another theater to do work there, then come back, and so on and so forth. So it can get very expensive.

**MEDAK:** We'll spend \$5,000 on travel just like that. It happens that easily.

### **FEE STRUCTURE**

**MEDAK:** We should talk a bit about the fee structure for paying designers. When you look at the fee structure, you've also got to look at how these tie into the salary structure of the total organization. We look at a group of people and determine how they are responsible for a large number of people, for bringing in an enormous amount of income, or for spending an enormous amount of income.

When I look at what we pay our directors, I ask myself, if that person did five shows a year, does their salary fall within the range of what our senior staff is getting paid? And interestingly enough, it does, which says to me that there is something right about those fees.

There is a second group of people who are essential because they have very strong skills and very specific skills. They are our facilities manager, who is responsible for the whole physical plant, our box office manager who is responsible for a huge staff, our technical director, and the head of our annual fund. That is the tier where I tend to think our designers fall, relative to their responsibility for the production. I know that that may be an uncomfortable place for people to think about designers falling, but within the geography of the organization, that's where I put them. What I find is that our designers, even the best ones, are at the lowest end of that category compared to our production manager, our annual fund manager, and so on. They are not

at the highest, and that, for me is the problem that I have in terms of our organization.

Our actors fall within the next tier. And, our actors actually fall about right within the relative responsibilities of the organization as well.

Because the organization is not in a growth mode right now, if we bumped up those fees for the designers, it would throw a disproportionate amount of growth at those 21 fees, and it would take up one-third of the total, normal 3% growth in our budget. This year I'm expecting \$150,000 growth in a \$5.5 million organization. 70% of our operational budget is salaries. If everybody in that organization gets only a 3% raise, it's \$115,000 in growth. If we raise our designer salaries to bring them up to where they should be, that alone would take \$45,000, almost \$50,000. It doesn't take into account the fact that health insurance is going up, worker's comp is going up, the fact that our scene shop rent is going to be going up at a rate that is higher than 3% also. I think that what is always difficult in these discussions is that you can have absolutely the best of intentions, and if you don't have the money, it doesn't go very far.

**NOLAN:** I think that what the designers would rather hear us say is that we are going to re-conceive the entire process—that maybe there are some things we are doing that we don't need to do anymore. That you can't just look at the growth money, you have to take a look at the whole organization and say, 'There's something wrong with the way we are operating, and we have to turn it around somehow.' And I don't know where that is, but that's where it would be headed.

**MEDAK:** It's what we'd like to do, but this is where I have trouble, because once again, when we deal with a collective bargaining association, many of us are at the higher end in terms of what people are paying. We have

already changed our priorities relative to other companies. But should we be saying to a whole association: all of you must change your priorities—you must focus on this group of artists as opposed to another group?

**LEE:** I think Vicki actually points out something that is very, very important. When Susie places designers in that tier, the main problem is that the director does not have the expenses that the designer has. The director gathers books, but books are a small part of our expenses. So if you really want to talk about it, we are running a small business. No matter what you do, those expenses will not go away, and I am partly responsible for the fact that the directors do not read ground plans anymore. How can you know the world of the show unless the designer actually puts something there that everyone can look at, something that is meaningful? And this is why I think the designer has also become very much a dramaturge to the directors, and I think that's a position we love to be in. But I think what Vicki is saying is that perhaps it is now time to take a look at the whole way of running the operation.

I have to say that, whatever the consequences, I think the group that negotiated for the directors did something that is very truthful. I'm not saying that given the current state of affairs all of those problems can be solved, but I think that there be some kind of re-evaluation. Where are the places where one might need to make adjustments and so forth? I think for me, just to saying that to the designers will probably make them feel that they truly have a place in the theater. But if it's business as usual, then the relationship can get very tricky.

**MEDAK:** You're right, you're absolutely right.

### **COLLECTIVE BARGAINING AS A PROCESS**

**LEE:** If I may also say this, and this is something that I'm just going to throw out there, and perhaps no one will agree with me! I actually sat and participated in the collective bargaining negotiations that occurred in the late '60s and '70s. I found that they were the wrong kind of negotiating system for the theater. Collective bargaining systems are based on an adversarial approach. That is not how theater should work. The minute you are in an adversarial situation, theater is over! So how do we negotiate with each other without setting up an adversarial condition?

Collective bargaining sessions can be enormously interesting to sit in because you know that you have to make grand stands, you do this, you do that, you knock other people down, you go blah blah blah! All of this is important, but it gets down to all this minutiae, and as Susie says, it becomes a kind of mating dance. You spend three or four sessions on a mating dance, and it's very hard to clear away the cobwebs and say, 'OK, let's talk.'

**MEDAK:** I think that on the one hand we've agreed that it's a dreadful process. Labor negotiation is simply a dreadful process. However, I think that nobody has come up with a better process yet.

The other side of that, though, is that if you are absolutely clear about what it is you are after, the whole process can be very helpful. It is like a tea ceremony, where everything is ritualized. There's pounding on the table and things like that, but all of that is simply part of a choreographed moment that acts as an indicator to the other side, if they know how to read it.

What becomes difficult is when the individuals at the table start negotiate for themselves as opposed to for a spectrum of players. In this particular round of discussions, there has not

been a clear discussion about what the particular elements of that tea ceremony were. As a result of that, there has been no ability to bring closure on key issues. If new things are added after the committee has met, there is no ability to respond to that. If the structure of the ceremony of the negotiation is not respected, then we can't reach an agreement. And I hate the process, but so far we haven't come up with a better one.

**NOLAN:** It is a process that forces people to come together in the room. And right now, there is nothing bringing the managers and the designers together or continuing to work together.

**MEDAK:** And what's pissing me off about this—and Vicki knows I am in a minority within LORT—is that I actually feel that we should be in discussions anyway, even though we are at an impasse in the formal negotiations. People look at me and say, 'Well the designers are working, aren't they? Is anybody unhappy? Why are we pushing into this when the issues on the table are so irreconcilable at the moment?' And I have to admit, there is not a groundswell to push this. And there's not going to be a moment when LORT decides, 'You know, because you guys have just been taking it this the whole time, we've seen the

light and we'll give you more!' It just doesn't work that way! [LAUGHTER]

**LEE:** And the designers should probably say, 'We know you are in a terrible state of affairs, and we really have to very careful with what we're asking for so that we don't go and kill the thing and have no place to work!

You students sitting here should probably give some thought to a better way of approaching this other than collective bargaining. Perhaps in 2010, you guys might think of some way for all of us—directors, designers, technical people—to get together and do something other than this. Some sort of a gathering, or perhaps as a retreat, where it's hard to get out! [LAUGHTER] And some retreats are wonderful! [LAUGHTER]

My own feeling is that at this point, it may have to come from both sides—we may have to go to our mother-in-law and say, 'Hey let's go and have tea.' But in order to do that, we have to figure out which, in all of our problems, we can kind of sweep away into the bin, and which problems we need to face. We may not have any agreement among ourselves about for awhile. Some overture from both sides may be the first step.

## **EPILOGUE**

*In 1998, USA made demands for re-opening negotiations. LORT refused. In 2001, LORT agreed to go back to the table, which ultimately resulted in the 2002-05 LORT-USA Agreement.*