

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS BOARD

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KENOSHA TEACHERS UNION LOCAL 557,		:
	Complainant,	:
	vs.	:
CITY OF KENOSHA BOARD OF EDUCATION		:
and JOHN J. HOSMANEK,		:
	Respondents.	:
-----		:

Case V
No. 10108 MP-21
Decision No. 6986-C

Appearances:

Goldberg, Previant & Uelmen, Attorneys at Law, by Mr. Richard M. Goldberg; Mr. James Fitzpatrick, Executive Director, Wisconsin Federation of Teachers; Mr. John Wineland, President, Kenosha Teachers Union, on behalf of the Complainant.

Baker & Savage, Attorneys at Law, by Mr. K. Thomas Savage; and Mr. Harold R. Maurer, Superintendent of Schools, on behalf of the Respondents.

Quarles, Herriott & Clemons, Attorneys at Law, by Mr. James A. Urdan; and Mr. Gerald R. Euting, President, Kenosha Education Association, on behalf of Kenosha Education Association.

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

The above entitled matter having come on for hearing before the Wisconsin Employment Relations Board on March 16 and 17, 1965, at the Kenosha County Courthouse, Kenosha, Wisconsin, the full Board being present; and the Board having considered the testimony, arguments, and briefs of Counsel, and being fully advised in the premises, does hereby make and file the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. That Complainant, Kenosha Teachers Union, Local 557, affiliated with the American Federation of Teachers, AFL-CIO, hereinafter referred to as the KTU, is an organization existing for the purpose of representing teachers in conferences and

negotiations on matters pertaining to the conditions of their employment and has its offices at 5627 - 35th Avenue, Kenosha, Wisconsin.

2. That Respondent, City of Kenosha Board of Education, hereinafter referred to as the School Board, has its offices at 5515 Sheridan Road, Kenosha, Wisconsin, and it maintains and operates high schools, junior high schools, and grade schools in Kenosha, Wisconsin, and in that regard employes approximately 700 non-supervisory certificated teaching personnel.

3. That Kenosha Education Association, an affiliate of the Wisconsin Education Association and the National Education Association, hereinafter referred to as the KEA, is an organization existing for the purpose of representing teachers in conferences and negotiations on matters pertaining to the conditions of their employment, and has its offices at 6538 - 43rd Avenue, Kenosha, Wisconsin.

4. That for the past number of years the vast majority of the certificated teaching personnel in the employ of the School Board have been members of either the KTU or the KEA; that on behalf of their respective members said organizations, at least until the latter part of 1964, jointly engaged in conferences and negotiations with the School Board on salaries and other conditions of employment of said teaching personnel; that on or about April 29, 1964 the KTU and KEA jointly requested the School Board to commence negotiations to cover employment conditions for the 1965-1966 school year; that in said regard the KTU and KEA on June 3, 1964 jointly submitted a proposal to the School Board; that, thereafter, representatives of the KTU, KEA and the School Board, met in negotiations on September 1, 10, 28, October 5, 12, 21, 22, and 29, 1964; that at a regular meeting on October 29, 1964 the School

Board presented to the representatives of the KTU and the KEA its "final offer", which included salary increases to be implemented on January 1, 1965 and September 1, 1965, credits for prior teaching experience and, effective September 1, 1965, full payment for teachers absent on sick leave at the rate of ten days per year, cumulative to 100 days; that on October 30, 1964 said offer was the subject of an article in the Kenosha News, a local newspaper, where the terms of the salary schedule were revealed as were comments of representatives of the School Board, the KTU and the KEA; that during the latter part of October, 1964 and prior to October 29, 1964, a split developed between the KTU and KEA with respect to their positions on teachers' salaries for the coming year; that on November 1, 1964, at a special meeting of its membership, the KEA voted to accept the School Board's offer of October 29, and it so advised the School Board in writing on or before November 2, 1964; that, meanwhile the membership of the KTU rejected the School Board's offer and the latter was also so advised; and that on November 2, 1964 the School Board delivered to the presidents of the KTU and KEA a sufficient number of copies of the salary schedule contained in the October 29 School Board proposal for distribution to their respective memberships.

5. That on November 23, 1964, while the membership of both the KTU and KEA were considering the proposal of the School Board, the School Board, by its Superintendent, Harold R. Maurer, in accordance with a resolution adopted by the School Board on June 13, 1950, forbidding teacher organizations from using School Board property for organizational purposes, caused the following communication to be sent to the principal of each school:

"The use of any school facilities or equipment (mail boxes, telephones, duplicating equipment, etc.) and/or teacher time during a school day for the purpose of promotional activities (solicitation of teachers, distribution of materials, etc.) on the part of any teacher organization, or member thereof, is contrary to the established policy of the Board of Education and is, therefore, strictly prohibited.

Building Principals are held responsible for the enforcement of this regulation and are instructed to make certain that there is strict compliance with this established policy.

No exceptions whatsoever are to be permitted and any reported or suspected violations are to be made the subject of an immediate investigation."

6. That on November 30, 1964 the KEA filed a petition, pursuant to Sec. 111.70 of the Wisconsin Statutes, wherein it requested the Wisconsin Employment Relations Board, hereinafter referred to as the WERB, to conduct an election among the non-supervisory teachers in the employ of the School Board for the purpose of determining what, if any representation said teachers desired for the purpose of conferences and negotiations on salaries and other conditions of their employment with the School Board; that in said petition the KEA indicated that both it and the KTU claimed to represent said teachers; that, pursuant to a notice issued by it and served on the parties, the WERB conducted a hearing on said petition on December 10, 1964 at Kenosha, Wisconsin; and that, following said hearing, the WERB, on December 16, 1964 issued a Direction wherein it directed that an election be conducted among all regular full-time and regular part-time teaching personnel employed by the School Board, excluding all other employes, supervisors and administrators, for the purpose of determining whether a majority of said employes desired to be represented for the purposes above noted by either the KEA, the KTU, or neither of said organizations.

7. That, following a request of the KTU to clarify the School Board's memorandum of November 23, 1964 Superintendent

Maurer on December 15, 1964 issued the following with respect to the use of school facilities by teacher organizations:

"Board of Education Resolution Number 16 (June 13, 1950) specifically limits the use of school bulletin boards and office mail boxes to material related to the administrative and instructional programs and prohibits the use of these channels of communication to teacher groups for any organizational activities. Although not specifically mentioned in the Resolution, the use of other school facilities cited in the previous directive issued by this office would, by direct inference and implication, be similarly restricted.

The Board of Education meeting as a Committee of the Whole on Monday, December 14th, has agreed to a temporary relaxation of the regulation as it applies to the use of the office mail boxes in order to permit the limited use of this facility by the two teacher groups prior to the representative election which will be held early next year - limiting such usage to not more than three insertions by each organization between the present time and the date selected for the election. Under the terms of the governing Resolution, building principals may approve the posting of announcements directing attention to meetings of general interest scheduled by either group.

Board policies and directives concerned with the administration of policies are frequently subject to interpretation and in need of further clarification. "School Day", as referred to in the earlier directive issued by this office, is interpreted to refer to the period during which students are present at the school. The directive should not be construed as a denial of the right of teachers to communicate with each other or to discuss any pertinent issues affecting their interests during a school day at times other than the times when they are required to meet their customary assigned responsibilities. The Board had indicated that the policy-in the past as well as at the present-has been designed to restrict all activity on the part of school personnel that would in any way disrupt, detract from or interfere with the normal school program and thus adversely affect the interests of students.

There is no known substitute for common sense and the exercise of discretion and your own good judgment in the interpretation and application of Board policy in a matter of this character - either as stated or implied."

8. That on December 29, 1964, at a special meeting, where representatives of the KTU and KEA were given the opportunity to be heard on teacher salary negotiations, the School Board by

resolution amended the then current Teachers' Salary Schedule, with respect to non-supervisory teaching personnel, as follows:

"Section One: That Article II of the Teachers' Salary Schedule be and is herewith amended to provide for a minimum basic salary for baccalaureate degree teachers of \$5100 on a 4% Index Factor as of January 1, 1965 and a minimum basic salary of \$5200 on a 4-1/2% Index Factor to be effective as of September 1, 1965 -- non-degree teachers to receive a flat adjustment of \$100 in January 1965 and an additional flat adjustment of \$100 in September 1965. It is further provided that the increment span shall be reduced by two steps in all classifications as of September 1, 1965.

Section Two: That credit for prior experience for the 1965-1966 school year be granted new employees of this Board pursuant to the provisions of the schedule authorized by the Board and attached hereto. Credit granted for prior experience is not to exceed \$1400 for the 1965-1966 School Year.

Section Three: Effective September 1, 1965, full payment shall be allowed teachers absent on Sick Leave at the rate of ten days per year, cumulative to 100 days.

BE IT FURTHER RESOLVED that the general increases in the rates of compensation paid teachers, as provided for in Section One of this Resolution shall be construed as being effective on January 1, and September 1, 1965, and that the compensation allowance for prior experience credit and sick leave shall be construed as being effective as of September 1, 1965."

9. That the terms of said resolution were reported in the December 30th issue of the Kenosha News and in the December 31st issue of the Kenosha Labor, a newspaper published by various labor organizations in Kenosha.

10. That on December 30, 1964 the WERB forwarded copies of the formal election notice to the parties, wherein the details with regard to the election were announced, indicating that the balloting would be conducted on Wednesday, February 3, 1965 at the Kenosha Public Museum, between the hours of 11:30 A.M. to 1:30 P.M. and 3:15 P.M. to 8:00 P.M.; that in its forwarding letter the WERB, among other things, instructed that the sample ballot appearing on the notice should not be "reproduced in any form"; and that after receipt of said notices the Deputy Superintendent, on December 31,

1964 forwarded copies of said notice to the principals of the various schools and the memorandum accompanying said notices contained in part the following instructions:

"3. Under no circumstances will any administrative officer of the Board discuss any matter pertaining to the election or in any way interfere by action, suggestion or implication in any phase of this operation. In other words, it is absolutely necessary that administrative personnel remain completely neutral and take no part in any activity which might be construed as taking sides in the election. Further, questions asked should be referred to the Superintendent of Schools or the Deputy Superintendent of Schools.

4. Use of school facilities should be based on the directive of the Superintendent's Office, December 15, 1964, which you have posted. Any abuse or discussion of this directive should be referred to the Superintendent of Schools or the Deputy Superintendent of Schools, and no administrator or supervisor shall engage in any argument or discussion concerning the provisions of this directive."

11. That on January 12, 1965 the KTU, by letter from its president, addressed to the president of the School Board and to Superintendent Maurer, requested a liberalization of the regulations pertaining to campaigning by both teacher organizations in the scheduled representation election; that in said letter the KTU requested a meeting with representatives of both organizations for that purpose; that on January 25, 1965 the KTU sent a telegram to the WERB at Madison, wherein it requested the latter agency to arrange a debate between the KTU and the KEA prior to the representation election, suggesting that same could be conducted on February 1, 1965 during a previously established teachers' institute day; that a similar request was wired by the KTU to Superintendent Maurer on January 26, 1965; that on the latter date the WERB, by telegram, notified the president of the KTU that it would not arrange "any campaign activity in the coming election at Kenosha Board of Education"; and that on January 29, 1965 Superintendent Maurer, by letter, denied the KTU request,

as per a decision reached by the School Board members in a meeting on the previous evening; and that the campaign efforts of both the KTU and the KEA on the premises in the schools were limited to use of mail boxes and other facilities pursuant to the December 15, 1964 memorandum of the Superintendent.

12. That in January 1964 the Finance Director of the School Board discovered an error in the salary resolution adopted on December 29, 1964; that said error was brought to the attention of the School Board on January 28, 1965, which formally corrected the error on February 9, 1965; that, however, on February 2, 1965, the day before the WERB conducted election the School Board prepared and mimeographed additional copies of salary schedules, and on the same date delivered said notices to various schools for distribution to the teachers therein; and that a number of the teachers eligible to vote in the election did receive said notices on February 2, 1965; that, however, because of the distribution system in effect, a number of schools did not receive said schedules until after the representation election.

13. That, within the week prior to the election, the KEA distributed a reprint of the salary schedule adopted by the School Board and in said one-page document stated that "KEA Is Solely Responsible for These Salary Increases For You"; and that in the February, 1965 issue of the KEYNOTER, a four page paper published by the KEA, the KEA claimed sole credit of the January 1, 1965 implementation date for salary increases and for the preservation of the index salary plan; and that in said issue of the KEYNOTER the KEA reproduced the form of the sample ballot as contained in the WERB notices posted throughout the various schools.

14. That also prior to the election the KTU on January 4, 1965, in the KTU RAMBLER, a newsletter distributed to teachers in

the employ of the School Board, as part of its election campaign, claimed that the "KTU has been in the forefront of the battle this fall in teacher negotiations. Its determined efforts and leadership staved off an extended school year and school day."

15. That on January 29, 1965 Superintendent Maurer caused to be published and distributed to all teachers a "SPECIAL BULLETIN", consisting of one page, a reminder of the details with respect to the mechanics of the representation election and its purpose; and that said bulletin contained the following:

"All members of the staff who are eligible to vote are encouraged to exercise their right. It is obvious, we believe, that a decision of this character should involve the full and complete exercise of the voting privilege."

16. That annually for the past number of years, the School Board has designated one school day as Institute Day, when students are excused and teachers are required to attend a program of lectures and conferences, which are intended to be "education and inspirational"; that in said regard sometime in February, 1964 the committee for said program scheduled, in the 1964-1965 academic calendar year, Institute Day for February 1, 1965; and that on or about November 18, 1964 Principal Lester Grewenow, a member of said committee, began arrangements which resulted in engaging Dr. Carl Winters of Oak Park, Illinois as the principal speaker, and in December 1964, in an exchange of correspondence, Grewenow requested Dr. Winters to

"Please place some emphasis on teachers' responsibility for the whole range of individual difference in personality and socio-economic background as it pertains to the learning situation.

In view of your rich experience in dealing with juvenile problems, we are hopeful you could enlighten us with more effective ways of communicating with children with problems which affects the efficiency of their performance in the classroom."

17. That on February 1, 1965, approximately 10 minutes prior

to the opening of a faculty meeting on Institute Day, Principal Lyle Jacobson requested that all campaign material be removed from the meeting, knowing that the request applied to teacher Roger Andreoli, who was wearing a KTU button, approximately the size of a silver dollar, and blue ribbons attached, approximately five inches in length, imprinted with the words "ACTIVE PROFESSIONAL"; that thereupon, Andreoli removed the lapel button and its attached ribbons; that Dr. Winters did address the professional personnel in the employ of the School Board on Institute Day, and confined his remarks to subject matters other than collective negotiations or collective bargaining, although he did mention "your national association", and advised that if teachers were dissatisfied with their salaries and conditions of employment, they could "dig ditches"; and that said remarks were neither solicited nor authorized by any agent or supervisory personnel of the School Board, nor were they made in any connection with either the activities or purposes of either the KEA or the KTU, or with the scheduled representation election.

18. That on February 3, 1965, agents of the WERB conducted the representation election at the site and during the hours previously scheduled; that during the course of the balloting, and at approximately 4:50 P.M., Superintendent Maurer and Robert Loss, the Secretary and Business Manager of the School Board, at the close of their working day and on their way home, at the request of one of the WERB agents to meet Maurer, visited the polling area and introduced themselves to the WERB agent; that Maurer and Loss spent approximately five minutes in the building where the election was being conducted and they engaged in no conversations with any teacher relative to the balloting or any other phase of the election; and that the results of the election

were as follows:

1.	Eligible to Vote	700
2.	Ballots Cast	679
3.	Ballots Counted	679
4.	Ballots Cast for KTU.	309
5.	Ballots Cast for KEA.	364
6.	Ballots Cast for Neither Organization	6 .

19. That in the spring of 1964, while KEA was planning their activities for the 1964-65 school year, its officers noted that the Harvey Elementary School had no KEA Building Representative; that in that regard, in April 1964, Louis H. Bjorn, a KEA member and a teacher in said school, was asked by Miss Watts, a teacher and KEA member, to serve as such representative; that on such occasion Bjorn declined to accept the position; that prior to the close of the spring term, the President of the KEA, Gerald Euting, a non-supervisory teacher, without any further contact with Bjorn, included Bjorn's name on a list of KEA Building Representatives, which list was distributed to all KEA members, including Bernadette Tacki, the principal of Harvey Elementary School; that on two occasions prior to the close of the spring term, Bjorn advised Tacki that he did not desire to be the KEA representative; that upon the opening day of the 1964-65 school year, at a general faculty meeting of the teachers of the Harvey Elementary School, Principal Tacki, in reviewing various duty assignments to teachers, advised Bjorn that he was the KEA representative; that on said occasion, Bjorn again indicated that he did not desire the position; that, however, Bjorn served as a KEA representative until approximately February, 1965; and that Principal Tacki played no part in either the appointment or designation of Bjorn as the KEA Building Representative for the Harvey Elementary School, nor did she in any way coerce or intimidate Bjorn to accept or retain that position.

20. That, as has been the practice for the past number of years, Principal Tacki has made entries in the monthly calendars and plan books of the teachers of the Harvey Elementary School; that such entries included inserts calling the attention of the teachers to the dates of KEA meetings and events, of which Principal Tacki had been notified through KEA notices and publications; that such entries were made in September, 1964; and that Principal Tacki made no such entries of the KTU events, nor was she ever requested to do so.

21. That at a teacher meeting in September, 1964, at the Jefferson School, Lorn Matelski, the principal and a member of the KEA, introduced the KEA building representative to the teachers, and did not introduce the KTU representative, since he did not know the identity of such person, nor was he advised of same, if any.

22. That Charles Jacquith, principal of the Washington Junior High School and a member of the KEA, shortly prior to the conduct of the representation election, upon learning that as a principal, he would not be eligible to participate in the election, voiced dissatisfaction with respect to such a determination to five or six teachers, contending that he was a KEA member, and, therefore, should be eligible to vote; and that on said occasion, however, Jacquith did not make any threats against, or promises of benefits to, any teacher eligible to vote because of such determination.

23. That John Hosmanek, principal of Lance Junior High School and a member of the KEA, who was also named as a Respondent herein, while on some occasions may have demonstrated hostility toward traditional economic weapons utilized by labor organizations in seeking improvement in their wages, hours and conditions of employment, did not engage in any activity to encourage or discourage membership in either the KTU or KEA; that prior to the WERB election

three KEA meetings at Lance Junior High School, which may have been held in violation of the guide lines established by the School Board in the fall of 1964, were held without the knowledge or consent of Principal Hosmanek.

24. That Colin Spaight commenced his employment with the School Board in September, 1963 as a science teacher at Lance Junior High School; that in October, 1963, Spaight became a member of both the KEA and the KTU, and subsequently attended meetings of both organizations without taking any apparent active role in either; that on November 4, 1964, Spaight was among approximately 150 teachers who demonstrated outside the Administrative Building of the School Board in an apparent protest of the salary schedule adopted by the School Board, and that one week later, he also participated in a similar demonstration outside a school building; that both demonstrations were sponsored by the KTU; that on January 18, 1965, Spaight wore a KTU button while at school for approximately three hours, and removed it after he felt that the assistant principal looked at it disapprovingly; that on January 27, 1965, Spaight requested a transfer to another school, and on that occasion Hosmanek advised Spaight that he was considering recommending to the School Board that Spaight's teaching contract for the 1965-1966 school year not be renewed, and on that occasion Hosmanek discussed Spaight's alleged shortcomings with regard to his teaching and personal conduct; that on February 24, 1965, pursuant to the recommendations of Hosmanek, the School Board, by letter dated February 24, 1965, notified Spaight that he would not be offered a teaching contract for the coming school year; that Spaight's employment was terminated at the close of the 1964-65 school year; that the refusal of the School Board to renew Spaight's teaching contract was not motivated for the purpose of discouraging activity or membership in any employe organization, including the KTU, and

that the action by the School Board in this regard was based on Spaight's performance and behavior in relationship to his teaching position.

25. That neither the School Board, nor any of its agents or supervisory employes, including Superintendent Maurer, Secretary and Business Manager Loss, Principals Jacobson, Tacki, Matelski, Jacquith or Hosmanek, at any time material herein have committed any acts of interference, restraint or coercion with respect to non-supervisory teaching personnel in the employ of the School Board, with regard to their right, as individuals, to engage in, or not to engage in, any concerted activity in any employe organization of their choosing; and that neither the School Board, nor any of its agents or supervisory employes, have discriminated against any non-supervisory teaching personnel in its employ, including Colin Spaight, because of their membership in, or activity on behalf of, any employe organization of their choosing.

Upon the basis of the above and foregoing Findings of Fact, the Board makes the following

CONCLUSIONS OF LAW

1. In administering the provisions of Section 111.70 of the Wisconsin Statutes, the Wisconsin Employment Relations Board has jurisdiction to make and issue any order, which it deems necessary to enforce said provisions in effectuating the policies expressed therein, relating to any contract, or lack thereof, between teachers and their school board employers.

2. That the Respondent City of Kenosha Board of Education, its officers and agents, including Respondent John Hosmanek, principal of Lance Junior High School, has not committed any prohibited practices within the meaning of Section 111.70 (3) of the Wisconsin Statutes.

Upon the basis of the above and foregoing Findings of Fact and Conclusions of Law, the Board makes the following

ORDER

IT IS ORDERED, that the complaint filed in the above entitled matter be, and the same hereby is, dismissed.

Given under our hands and seal in the City of Madison, Wisconsin, this 25th day of February, 1966.

WISCONSIN EMPLOYMENT RELATIONS BOARD

By Morris Slavney /s/
Morris Slavney, Chairman

SEAL

Arvid Anderson /s/
Arvid Anderson, Commissioner

Zel S. Rice II /s/
Zel S. Rice II, Commissioner

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS BOARD

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In the Matter of the Petition of	:	
KENOSHA EDUCATION ASSOCIATION	:	Case I
Involving Employes of	:	No. 10015 ME-165
CITY OF KENOSHA BOARD OF EDUCATION,	:	Decision No. 6986-D
Kenosha, Wisconsin	:	
-----	:	

ORDER OVERRULING OBJECTIONS TO CONDUCT OF ELECTION

Kenosha Teachers Union, Local 557, affiliated with the American Federation of Teachers, AFL-CIO, having filed Objections to the conduct of the election conducted by the Wisconsin Employment Relations Board on February 3, 1965, in the above entitled matter, wherein said labor organization contended that prior to and during the conduct of the election, administrative and supervisory employes of the City of Kenosha Board of Education, and representatives of the Kenosha Education Association, had engaged in conduct affecting the results thereof; and hearing on said objections having been consolidated with a hearing on the complaint of prohibited practices filed by said labor organization, and hearing on both matters having been held at Kenosha, Wisconsin, on March 16 and 17, 1965, the entire Board being present; and the Board having considered the evidence and the briefs and arguments of Counsel, and being satisfied that the objections should not be sustained;

NOW, THEREFORE, it is

ORDERED

That the objections filed by the Kenosha Teachers Union, Local 557, be, and the same hereby are, denied.

Given under our hands and seal at the City of Madison, Wisconsin, this 25th day of February, 1966.

WISCONSIN EMPLOYMENT RELATIONS BOARD

By Morris Slavney /s/
Morris Slavney, Chairman

SEAL

Arvid Anderson /s/
Arvid Anderson, Commissioner

Zel S. Rice II /s/
Zel S. Rice II, Commissioner

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS BOARD

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KENOSHA TEACHERS UNION LOCAL 557,	:	
Complainant,	:	
vs.	:	Case V
	:	No. 10108 MP-21
	:	Decision No. 6986-C
CITY OF KENOSHA BOARD OF EDUCATION	:	
and JOHN J. HOSMANEK,	:	
Respondents.	:	
-----	:	
In the Matter of the Petition of	:	
KENOSHA EDUCATION ASSOCIATION	:	
Involving Employes of	:	Case I
	:	No. 10015 ME-165
	:	Decision No. 6986-D
CITY OF KENOSHA BOARD OF EDUCATION,	:	
Kenosha, Wisconsin	:	
-----	:	

MEMORANDUM ACCOMPANYING FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER, AND ALSO ACCOMPANYING ORDER OVERRULING OBJECTIONS TO CONDUCT OF ELECTION

The Pleadings

Following the election conducted by the Wisconsin Employment Relations Board on February 3, 1965, the KTU timely filed objections to the conduct thereof, wherein it alleged that the School Board, by its supervisory personnel, and the KEA interfered with the conduct of the election by:

1. The presence of the Superintendent and also the Business Manager at the polls during the balloting,
2. Unnamed principals coercing employes to discourage membership in the KTU,
3. Conducting a compulsory meeting for teachers on February 1, 1965 where a speaker interfered with the free choice of the employes and further by refusing to permit the two organizations involved in the election to debate issues at said meeting,

4. Adopting restrictive rules immediately prior to the election to interfere with free communication between teachers and their free choice in the election, and
5. Distributing the new teacher salary schedule immediately prior to the election.

In said objections the KTU alleged that "the voting itself was conducted under circumstances violative of Board rules" and further, that the KEA distributed duplicates of the official Wisconsin Employment Relations Board ballot in violation of specific Board instructions.

The Wisconsin Employment Relations Board, by notice to the parties, set hearing on said objections for March 3, 1965. However, prior to any further action by the Wisconsin Employment Relations Board, the KTU, on February 15, 1965 filed a complaint of prohibited practices with the Board, wherein it alleged that representatives of the School Board had committed prohibited practices within the meaning of Section 111.70 of the Wisconsin Statutes. The Board thereupon notified the parties, by a formal notice, that the complaint proceeding would also be heard on March 3, 1965. However, before the latter date, the School Board filed a motion that the complaint be made more definite and certain as to various allegations therein, and the consolidated hearing was postponed until March 16, 1965. In its amended complaint the KTU alleged that representatives of the School Board committed prohibited practices by their conduct alleged in the objections to the conduct of the election, and also, alleged the following additional acts as constituting prohibited practices:

1. The distribution of two documents on January 11 and 29, 1965, as interfering with the free choice of bargaining representative,

2. Specified activities of Principals Lyle Jacobson, Charles Jacquith, Lorn Metalski, John Hosmanek, Bernadette Tacki, and the Personnel Administrator, as interfering with employe rights, for the purpose of discouraging membership in the KTU, and
3. Activity of Principal Hosmanek concerning alleged unlawful discrimination involving teacher Colin Spaight.

In its answer the School Board denied that any of the activities of its supervisory personnel, as alleged by the KTU, constituted prohibited practices within the meaning of Section 111.70, and further, the School Board alleged that the Wisconsin Employment Relations Board has no jurisdiction "to make any order relative to any contract or lack of contract" between teachers and the School Board. A consolidated hearing on the objections and complaint was commenced on March 16, 1965, and at the outset thereof, the KEA was permitted to intervene, as an interested party, in both the election and complaint proceedings.

For the purposes of this Memorandum, the matters in issue are considered in three types of activity. First: The activities of the administrative personnel of the School Board with respect to those matters directly involving the election; secondly, the activities of the supervisory personnel, mainly principals, in their relationships with teachers, as possibly affecting their rights under Section 111.70; and, thirdly, with respect to the alleged discrimination against teacher Colin Spaight, by the non-renewal of his teaching contract.

Activities of Administrators

The KTU alleged that the School Board restrictions on teacher communications prior to the conduct of the election not only interfered with the conduct thereof, but also constituted prohibited

practices.

Rule on Use of Facilities

In December, 1964, the KTU, in a membership meeting, discussed the November 23, 1964 memorandum of Superintendent Maurer with respect to the use of school facilities or equipment. The KTU sent a letter to the School Board requesting a clarification of the memorandum for the reason that it seemed somewhat inconsistent with the School Board resolution adopted in June 30, 1950. The School Board met on December 8, 1964, and, among other things, discussed the KTU request for clarification. On December 15, 1964, the School Board issued a more detailed memorandum with respect to the use of school facilities as a channel of communication of teachers' groups for organizational activities. On January 12, 1965, the KTU requested a liberalization of the resolution. Such request was discussed by the School Board in its January 12, 1965 meeting, where its president advised that the "procedure set forth in the memorandum had received the informal approval of the WERB". The KTU availed itself of all three opportunities to use the school mail boxes. It contends that the School Board and its agents knowing that the KTU enjoyed only sparse allegiances in many of the schools, while KEA members were located at all schools, determined to prohibit in-school meetings so as to effectively prevent the KTU from access to schools where they had no membership. The evidence indicates that the "no-meetings-in-school-buildings" rule was of long standing and was applied consistently, irrespective of the organization.

We are not impressed by the KTU contention that the rule was applied in order to preserve its known minority position. It is the responsibility of teachers' organizations to reach the teachers

without assistance from the School Board.

The issue for our determination in this regard is not whether the rule involved was discriminatorily enforced, but rather, whether the rule and its consequences interfered with a free election and thus deprived the teachers of their statutory rights. The fact that the rule limited the lines of communications to teachers on school premises does not in itself result in an illegal rule. The test is dependent upon the area in which it applies and during the time it applies. We conclude that, in the application of its rule concerning the use of its mail boxes and facilities, the School Board did not intend to interfere with the organizational or membership rights of any teacher organization. We find said rule to have been reasonable and reasonably applied. While a municipal employer should not, and can not, validly monitor normal organizational activities of municipal employes, we consider the interpretation by the School Board with respect to the term "school day" to be reasonable, and thus the hours and facilities involved are reasonable areas of regulation by the municipal employer herein. The spirited rivalry between the two teacher organizations was well known to the School Board. It had a valid reason to believe that any relaxation of its rule might very well have an adverse affect on the educational function. Rules established by a municipal employer, in effectuation of its public function, which regulate, on a non-discriminatory basis, the activities of its employes and their representatives on employer's time and premises, and which may arguably limit the rights and protected activities of employes, as established in Section 111.70, Wisconsin Statutes, shall be presumed valid. Whether said rules constitute grounds for setting aside elections or constitute prohibited

practices, will depend on the facts in each case. The rights of the employees and their representatives must be balanced with the obligation and duties of the municipal employer. Those challenging the rules must establish that they were adopted for the purpose of affecting the employees' choice in a representation election, or for the purpose of interfering with the lawful organizational activity of the employees involved, and not primarily for the purpose of preventing the interruption of the normal duties of employees in carrying out the public function of the municipal employer.

We do not wish to infer that a municipal employer is required to adopt or apply any rules restricting the use of its facilities by employees in their organizational activities. Rules in this regard, if any, must be applied on a non-discriminatory basis to all employee organizations involved. Municipal employees should be given a reasonable opportunity to be fully informed of the issues and positions of the parties involved in an election, as well as the views, if any, expressed by the municipal employer or its agents. Permitting the use of the employer's premises on a reasonable basis for such communications ordinarily affords a greater opportunity for the employees to be adequately informed about matters affecting their free choice.

We do not deem the relaxation of the rules by the School Board as an admission that the rules were inherently restrictive of organizational activity, especially since the Wisconsin Employment Relations Board had suggested a relaxation of the rules, after the KTU had protested the rule to the Board, and the relaxation thereof was accomplished. The fact that the KTU and KEA had, for the past

number of years, and in the fall of 1964, jointly negotiated with the School Board influenced Wisconsin Employment Relations Board's suggestion to the School Board to relax its campaign rules.

Distribution of Documents

Prior to the election, and on January 1, 1965, Superintendent Maurer distributed to the teachers a one-page booklet entitled "The Dreadful Decalogue!" Such document contains the following introduction:

"The following ten commandments for complete misery, unhappiness, and failure have been suggested by the Rev. Christopher Raible of Milwaukee with the assurance that those who accept and follow these precepts will acquire a new understanding of what self-made misery can be like. For 'do it yourself dreariness' they are unexcelled!"

The ten commandments, listed by title, were as follows:

- (1) Thou Shalt Be Critical Of Everything.
- (2) Thou Shalt Seek The Impossible.
- (3) Thou Shalt Fill Thy Days And Thy Nights With Worry.
- (4) Thou Shalt Be Concerned Only With Thyself.
- (5) Thou Shalt Envy Thy Neighbor.
- (6) Thou Shalt Not Trust Other People.
- (7) Thou Shalt Not Commit Mistakes.
- (8) Thou Shalt Not Relax.
- (9) Thou Shalt Not Be Sentimental.
- (10) Thou Shalt Not Commit Thyself.

While each "commandment" contains additional comments, there is nothing therein which pertains, or even suggests a reference, to the activities of the teachers in the exercise of their rights expressed in Section 111.70.

On January 29, 1965, Superintendent Maurer caused a "Special Bulletin" to be distributed to the teachers within a few days prior to the election. The KTU contends that the distribution of this particular document was violative of the statute for the reason that the administrators of the School Board were aware that the majority of the teachers were KEA members, and the School Board's urging of a

heavy voter turnout would insure a KEA victory at the polls. The contents of the bulletin are innocent and impartial, and the motivation intended to be attributed to the School Board for its distribution was not established, nor can any unlawful conduct be inferred from any evidence produced during the course of the hearing affecting such document.

The KTU argues that the distribution of the newly adopted salary schedule, just shortly prior to the conduct of the election, also interfered with the employes' free choice of their bargaining representative. The thrust of the KTU's contention in this regard is that the distribution of the salary schedule shortly prior to the election, and after the KEA had publicized its claim that it was responsible for the increases, enhanced the prestige of the KEA. It also argued that the School Board, in adopting, on December 29, 1964, its own proposal of October 29, was actually adopting the KEA acceptance of the October 29 School Board offer, and thus the formal action favored and assisted the KEA. The announcement of the adopted salary schedule in the normal course of the business is not prejudicial, where it is not done so as to indicate a preference of any organization involved in a representation election. The conduct of the School Board in this regard cannot be considered as intended to indicate a preference for the KEA. The School Board proceedings with respect to its budget determinations were made in the normal course of their business, and at such time of the year when it is usually done. In addition, the distribution of the salary scale on February 1, 1965, loses its impact, if any, which the KTU would attribute to said distribution, for the reason that the salary schedule adopted by the School Board had been given publicity through a previous distribution, and from prominent stories appearing in both local

newspapers. The KTU had at least a one month period from the date on which the salary plan had been adopted by the School Board to "campaign" with respect to its participation in the negotiations which led to the School Board's adoption of the salary and conditions of employment for the coming school year. Absent the previous distribution of the salary schedule to the organizations and the publicity given to the schedule in the local newspapers, the Wisconsin Employment Relations Board would have considered the distribution of the salary schedule two days before the election as interference with the conduct thereof.

Institute Day

The KTU further alleged that the School Board conducted a compulsory meeting for teachers on February 1, 1965, where a speaker "interfered with the employes' free choice" and where the School Board refused to permit "the teachers to debate the issues" at such meeting. Similar Institute Days have been conducted annually by the School Board. Arrangements for the speakers were made months prior to the filing of the petition. There is no evidence to indicate, or from which a reasonable inference can be drawn, that with respect to the program the School Board, or the speaker, were concerned either with the KEA, or the KTU, or the scheduled representation election. The KTU witnesses attempted to establish that the speaker's remarks were fraught with insinuations against the militancy which the KTU contends must be identified with its organization. There is no evidence with respect to the speaker's reference to the teachers' "national association", or with respect to any conduct on the part of the School Board which might have determined the speaker's text, to support the KTU's contention.

The KTU contends that, in refusing to permit representatives

of the KTU to debate "issues" with the representatives of the KEA, the School Board restricted organizational activity for the purpose of preserving the status quo, i.e., the KEA majority. The refusal of the School Board to grant the KTU's request for a debate on Institute Day was proper when viewed in regard to the purpose of the program for the occasion, and was consistent with School Board policy with respect to the use of school facilities for organizational or campaign purposes.

Appearing at the Polls

During the conduct of the balloting, Superintendent Maurer and Business Manager Loss visited the polling areas for approximately five minutes. Superintendent Maurer, whose testimony was substantially corroborated by Loss, stated that he had not planned on appearing at the polls, and in that regard had assigned his secretary to serve as the School Board observer, in order to assist the Board agent in the conduct of the election. Both organizations had also designated observers who performed the same function. At about 1:30 p.m. on the date of the election, the secretary returned to Maurer's office and informed him that the Board agent in charge had expressed a desire to meet Maurer. After Maurer left the office in the company of Loss on his way home at approximately 4:45 p.m., he visited the building in which the polling was being conducted, which was a short distance from the School Board administrative building, to meet with the Wisconsin Employment Relations Board representative. This was accomplished in approximately five minutes. Loss recalled that they observed from five to ten teachers passing in the area. Neither Maurer nor Loss had any conversation with the teachers except a conversation with one teacher with respect to the weather. The presence of Maurer and Loss at the polls constituted

a normal courtesy extended to the Board agent, and in no way interfered with the rights of employes casting their ballots, nor with the conduct of the election.

Inquiries to Teacher Applicants

The KTU alleged that the School Board committed prohibited practices in that its Personnel Administrator, David Grant, inquired into union interests of teacher applicants. In his testimony, Grant stated that he interviews prospective teachers, and in doing so at times inquires concerning their membership in teacher organizations. Grant testified that the purpose of such line of questioning was to determine the applicant's ability to respond to questions put by Grant. He also admitted that questioning along this line may have occurred at Carthage College, Kenosha, in interviews after January 1, 1965, of prospective teachers. The teacher applications used by the School Board contain a request that the prospective teacher "List other professional or work experience, membership and elective positions in organization, interests and hobbies, or other additional information or comments which may reflect upon your candidacy." In the absence of any testimony to establish anti-KTU animus, we conclude that such interrogations by Grant, and the request for the information indicated in the application do not in themselves constitute illegal acts of interference or coercion. Our conclusion in this regard is not intended to sanction such inquiries as to membership in teacher organizations either orally, or in application forms. Whether or not such inquiries constitute a permissive or prohibited practice will depend upon the surrounding circumstances to determine the purpose and intent of soliciting answers to such inquiries.

Activities of Principals

The KTU alleged that the activities of various principals

resulted in acts which interfered, restrained and coerced the teachers in violation of Section 111.70, and in its objections to the conduct of the election it alleged that unnamed principals had coerced employes to discourage membership in the KTU. In December, 1964, the School Board caused a memorandum to be distributed to its administrative and supervisory personnel wherein they were instructed that "under no circumstances will any administrative officer of the School Board discuss any matters pertaining to the election" and that they were to "remain completely neutral and take no part in any activity which might be construed as taking sides in the election." The adoption of Section 111.70 of the Wisconsin Statutes, and the implementation of its provisions, requires a change from the former membership status and activity of a supervisor in an employe organization which exists for the purposes of conferences and negotiations with the municipal employer. The activities of supervisory employes of municipal employers, including principals in the employ of school boards, in encouraging or discouraging membership in an employe organization, may very well, without any knowledge by their superiors, subject the municipal employer to complaints of illegal activity and may constitute grounds for setting aside the results of an election.

As we stated in City of Milwaukee (Dec. No. 6960), "The active participation by supervisory employes in the affairs of an employe organization could result in impeding and defeating the primary purpose of the employe organization - that of representing municipal employes in conferences and negotiations concerning their wages, hours and conditions of employment"

Bernadette Tacki

The KTU contended that Tacki, a principal and KEA member, in

September, 1964, had announced at a teacher meeting that she was aware that certain teachers were not attending KEA meetings. During the course of the hearing, the KTU enlarged its allegations with respect to Tacki, by alleging that she had made entries in school calendars and lesson plan books with respect to KEA activities, and not KTU activities, thus favoring the KEA. Tacki testified that she supervises the preparation and distribution to the teachers in her school of a monthly calendar. For the past number of years the calendars have noted various events, including birthdays of teacher and staff members, religious and other holidays, school events, and PTA and KEA events. Every month the teachers submitted to Tacki their lesson plan books, wherein Tacki noted KEA events before returning them to each teacher. The KEA never requested Tacki to make such entries therein. KEA events had been called to Tacki's attention either through the building representative or through announcements and publications of the KEA. At no time has any representative of the KTU requested Tacki to enter KTU events in either the calendar or lesson plan books, although Tacki testified that she may have been aware of an "orientation" schedule distributed by the School Board which included a KTU event. Tacki denies announcing that she was aware that certain teachers were not attending KEA meetings, and there was no evidence introduced to support the KTU allegation in that regard. There was no persuasive evidence adduced to establish that Tacki had any illegal motive in making entries of KEA events and not making similar entries for the KTU.

The KTU introduced evidence in an attempt to establish that Tacki had either designated Louis Bjorn as the KEA building representative, or had required that he remain such representative. There was no proof adduced to establish that Tacki appointed Bjorn. On

the contrary, the evidence establishes that Bjorn was designated as the KEA representative by an officer thereof. Tacki learned of this appointment and so advised Bjorn. The fact that Bjorn retained such position after Tacki informed him that he was the KEA building representative does not establish that Tacki, either by direct order or by inference, intimidated or coerced Bjorn to hold that position. We conclude that the calendar and lesson plan book entries made by Tacki, and her statements to Bjorn that he was the KEA building representative are nonviolative of the statute.

Lorn Matelski

The complaint alleges that principal Matelski, at a teacher meeting in 1964, introduced an individual as the KEA representative and intentionally misstated that the KTU had no representative in the building. Matelski, in his testimony, admits knowing that some of the teachers at his school are KEA members, and that others are KTU members. He admitted that during a faculty meeting held at the commencement of the 1964-65 academic year, he introduced a teacher as a KEA representative, and that he introduced no one as the KTU representative. He denies that any KTU representative was made known to him. There was no evidence to refute his testimony, and absent same, the allegation with respect to Matelski fails.

Charles Jacquith

Jacquith, principal of the Washington Junior High School, was alleged to have committed acts of interference by advising teachers, prior to the election, that he was a KEA member, and that he did not understand why he should not be allowed to vote. Jacquith testified that on an unspecified date after he learned that he had been ruled ineligible to vote in the forthcoming election, had remarked to approximately six teachers that he was a KEA member, and

therefore felt that he should be eligible to vote. He further stated that he had to be careful with respect to his remarks so that he "wouldn't be accused of pressuring someone." Jacquith admitted that during October and November, 1964, he had served as chairman of the KEA publicity committee, but resigned therefrom on the announcement of the election. Jacquith's statement that he was a KEA member probably was no surprise to anyone, and the bare announcement of same and his claim to a right to vote cannot be considered coercive.

John Hosmanek

The record contains a great deal of evidence in regard to the attitudes and actions of principal Hosmanek of Lance Junior High School, some relating directly to specific allegations in the complaint and in the general allegation of the objections in regard to the conduct of principals. Other portions of this evidence are apparently intended as indications of Hosmanek's hostility towards unions, or at least to exclusive representation by the KTU.

The complaint alleges as violative the following: (1) Hosmanek suggested to teachers that they not attend KTU meetings, (2) He allowed the KEA to hold meetings in his school building, (3) On February 2, 1965 he told teacher Colin Richard Spaight that he was considering not recommending the renewal of Spaight's contract, (4) On February 9, 1965 Hosmanek directed Spaight to submit a letter of resignation, and (5) Hosmanek physically threatened Spaight and visited the latter's classes more frequently after the complaint was filed than previously.

There is no evidence to support the allegation that Hosmanek discouraged attendance at KTU meetings. Hosmanek testified that there was never a KEA meeting in his building. However, teacher Sharon Clancey testified that in September, 1964, she organized and

attended a KEA meeting in the Lance building at 3:30 p.m. after school hours, without the Principal's permission and in admitted violation of the rules prohibiting such activity. She was without knowledge as to whether Hosmanek was aware of the meeting.

Teacher Spaight testified that he attended a series of three KEA meetings at Lance. There is no elaboration in the record in regard to the nature of these meetings or the Principal's knowledge thereof. Both KTU President Wineland and Superintendent Maurer stated that it has been a long-standing School Board rule, not modified during the pre-election period, that teachers' organizations were not to use school buildings for their meetings.

The general prohibition against teacher organization meetings in school buildings had been non-discriminatorily practiced over a period of years. In regard to the meetings at Lance, the evidence is insufficient as a basis for finding a violation, because it lacks indications of knowledge on the part of Hosmanek.

In an attempt to establish a background that Hosmanek was hostile toward union organizations, Roger Towle testified that during the 1961-62 academic year he was a substitute teacher employed by the School Board, and that in the spring of 1962 he initiated efforts to gain an appointment as a full time teacher at Lance, which was then being staffed. In April, 1962, Towle was interviewed by Hosmanek in regard to his application. During the course of the interview, which was about the time of a teachers' strike in New York, according to Towle, Hosmanek asked for Towle's opinion of the strike situation. This stimulated approximately 20 minutes of discussion, most of which was admittedly done by Towle, of unionism among teachers. Hosmanek questioned teachers' right to strike and described doing so as unprofessional. Towle volunteered that he had

been a Teamsters' Union member in the past but was never asked concerning his affiliations by Hosmanek. Subsequently, Towle was also interviewed by a superior of Hosmanek, Doctor Cooley, without mention being made of union activities.

Hosmanek, when first examined, did not recall interviewing Towle and denied questioning anyone concerning union interests or teacher strikes, but in the course of a later examination he remembered that when considering Towle's application, he had no knowledge of Towle's union activities, but considered principally that Towle had a college degree and not a teaching certificate, but was issued only a special teaching license and that Towle's current principal would not recommend the transfer. It was Hosmanek's general policy and practice to follow principals' recommendations in addition to relying on interviews and credentials in staffing Lance. Towle was not granted the transfer but was asked to continue in his then current position. This incident is too remote to establish that Hosmanek in 1964 or 1965 interfered with the free choice of teachers in joining a teachers' organization.

John Andrews, a teacher on the staff of Lincoln School at the time, applied, during the spring of 1962, for transfer to the staff then being developed at Lance which was scheduled to open during the following fall. During the same period other Lincoln teachers similarly applied. Andrews testified that having learned that other applicants had been interviewed by Hosmanek, although he had not been, he inquired of various administrators and was told that they had approved his request for transfer and would, in turn, inquire of Hosmanek in this regard. Within a few days thereafter, the administrators informed Andrews that Hosmanek had "inferred" to them that Lincoln principal Donley was hindering the transfer.

Subsequently, Andrews and Hosmanek met accidentally in a store, and Hosmanek "inferred" that Donley was responsible for the situation. Andrews then directly questioned Miss Donley, who replied that she had approved the request sometime previous. When an interview did occur at a later date, Hosmanek stated that he was concerned about Donley's reports of Andrews' "organizational affiliation." "Miss Donley had told him that I was quite an organizer." Andrews denied engaging in such activities on behalf of the KTU and suggested that Donley probably was referring to his organizing physical education programs. During the same interview, according to Andrews, Hosmanek further "implied" that unions should not be in education; that union activities were unprofessional and that he was upset by the KTU's opposition to his proposed schedule at Lance. Andrews was granted the transfer and has taught at Lance continually ever since.

The schedule proposed by Hosmanek for Lance was a topic at a School Board meeting on about July 10, 1962. A delegation of KTU members was there to influence the terms of the schedule and object to the terms of the schedule as proposed by Principal Hosmanek, particularly in regard to the length of student lunch periods and the number of class periods per day. Following that part of the meeting when these matters were discussed, a number of people left the meeting room, including Hosmanek and KTU members Virginia Tenuta, Wineland and Carlson.

According to Carlson, Hosmanek, in a discussion outside of the hearing room, stated that the KTU's opposition was less than professional; that the unions were principally interested in striking; that he was not opposed to unions, but teachers should not belong to them. Virginia Tenuta's testimony indicates that it may have been

she that brought the discussion around to unionism by likening the proposed increase in daily class periods to a production-line speed-up.

Hosmanek recalls the discussion referred to but denies stating then, or at any other time, that it was unprofessional for teachers to join unions.

While Hosmanek's attitude toward the "unionism" of teachers as reflected in the 1962 incidents may be considered as being critical towards unions generally, the events involved are too remote to establish that such criticism continued and persisted within the year of the filing of the complaint herein. Furthermore, the fact that an agent of a municipal employer may not favor or prefer a particular organization as the representative of municipal employes does not in itself constitute a prohibited practice. There must be a manifestation of such an attitude which interferes, restrains or coerces the employes in their right to engage, or not to engage, in organizational activities, or which unlawfully encourages or discourages membership in a teacher organization.

Refusal to Renew Contract of Colin Spaight

The allegation of the KTU that Colin Spaight's teaching contract was not renewed solicited a response from the School Board and its answer that the Wisconsin Employment Relations Board has no jurisdiction to issue any order relating to contracts or lack thereof by the teachers and their School Board employers. The School Board neither in its oral arguments nor in its brief has cited any authority in support of its position in this regard.

While Sections 40.40 and 40.41 of the Wisconsin Statutes permit school boards to execute contracts for teaching employment with individual teachers and permits the renewal and the non-renewal of

same, there is no limitation in the Wisconsin Statutes on the right of the Wisconsin Employment Relations Board to enter an order relating to the employment or termination thereof of a teacher, remedying a prohibited practice engaged in by a school board employer which, in the Board's opinion, affects the employment or termination of any teacher. Where, as in this case, teachers' salaries, schedules, and other conditions of employment have been adopted by the municipal employer, after conferences and negotiations with the representatives of its employees the terms and conditions so established, at least in the employment of teachers, are reflected in individual contracts entered into between the school board employer and the teacher, an individual contract of employment executed by the teacher and his school board employer cannot, and does not, deprive a teacher, as a municipal employee, of the right to engage in self organization and to affiliate with labor or employer organizations of their choice or the right to be represented by same in conferences and negotiations with the municipal employer. If the Board were deprived of its power to enter an order to remedy a prohibited practice because the teacher was a party to an individual contract with a school board employer, it would in effect deprive teachers of the rights under Section 111.70, and such a limitation would, in effect, exclude teachers and school board employers from the coverage of Section 111.70. There is no such intent manifested in the statute. The Board has jurisdiction to determine issues relating to the execution, renewal or non-renewal of individual teaching contracts, where same is affected by Section 111.70 of the Wisconsin Statutes.

We have carefully reviewed the testimony and other evidence surrounding the decision of Hosmanek to recommend the non-renewal of

the teaching contract of Colin Spaight for the 1965-66 school year. We are satisfied that Hosmanek's recommendation and the determination by the School Board in the non-renewal of Spaight's teaching contract was not motivated by his concerted activity on behalf of either of the organizations, or the lack thereof, and therefore, we have concluded that such action did not constitute unlawful discrimination against Spaight nor was it intended to unlawfully interfere, restrain or coerce any of the teachers in the employ of the School Board.

Reproduction of the Ballot

Included in its objection to the conduct of the election the KTU alleged, as noted previously, that the voting itself was conducted under circumstances violative of the Board's rules. The only evidence adduced which might be connected with such an allegation is the visit to the polls by Superintendent Maurer and Business Manager Loss, and the fact that the KEA inserted a copy of the ballot to be used in the election in an issue of its official bulletin, the Keynoter. We have disposed of the visitation by Maurer and Loss and have determined that their presence at the polls was not violative of the rules. The sample ballot appearing in the Keynoter was not marked in any manner so as to indicate a vote for any organization. The Board, by its Chairman, on December 30, 1964, in a letter sent to the Superintendent and to the officers of the KTU and the KEA, which accompanied the notices sent to the parties, indicated that the sample ballot should not be reproduced in any form. Such a request was made so as to prevent the distribution of a marked ballot which would appear to be an official ballot of the Wisconsin Employment Relations Board. While it is obvious that the ballot appearing in the Keynoter was not the size of the ballot used by the Wisconsin Employment Relations Board in the election, we wish to admonish the

KEA for publishing what purported to be a copy of the sample ballot, contrary to the Wisconsin Employment Relations Board's instructions. There was no evidence adduced that any of the ballots appearing in the Keynoter were marked and distributed prior to the election. Under such circumstances, we do not determine such a reproduction to constitute conduct which, although contrary to Wisconsin Employment Relations Board instructions, interfered with the conduct of the election.

We have, therefore, dismissed the complaint in the prohibited practice proceeding, and we are overruling the objections to the conduct of the election, and have certified the results thereof.

Dated at Madison, Wisconsin, this 25th day of February, 1966.

WISCONSIN EMPLOYMENT RELATIONS BOARD

By Morris Slavney /s/
Morris Slavney, Chairman

Arvid Anderson /s/
Arvid Anderson, Commissioner

Zel S. Rice II /s/
Zel S. Rice II, Commissioner

NOW, THEREFORE, by virtue of and pursuant to the power vested in the Wisconsin Employment Relations Board by Section 111.70 of the Wisconsin Statutes;

IT IS HEREBY CERTIFIED that Kenosha Education Association has been selected by a majority of the eligible employees of City of Kenosha Board of Education, Kenosha, Wisconsin, who voted at said election in the collective bargaining unit consisting of all regular full-time and all regular part-time certificated teaching personnel employed by the City of Kenosha Board of Education, but excluding all other employes, supervisors and administrators, as their representative; and that pursuant to the provisions of Section 111.70, Wisconsin Statutes, said Organization is the exclusive collective bargaining representative of all such employes for the purposes of conferences and negotiations with the above named Municipal Employer, or its lawfully authorized representatives, on questions of salaries, hours and conditions of employment.

Given under our hands and seal at the City of Madison, Wisconsin, this 25th day of February, 1966.

WISCONSIN EMPLOYMENT RELATIONS BOARD

By Morris Slavney /s/
Morris Slavney, Chairman

SEAL

Arvid Anderson /s/
Arvid Anderson, Commissioner

Zel S. Rice II /s/
Zel S. Rice II, Commissioner