

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

-----	:	Case II
	:	No. 17818 E-2843
	:	Decision No. 12764-A
	:	
In the Matter of the	:	Case III
Petitions of	:	No. 17819 E-2844
	:	Decision No. 12765-A
	:	
NATIONAL UNION OF HOSPITAL	:	Case IV
& HEALTH CARE EMPLOYEES, A	:	No. 17820 E-2845
DIVISION OF RWDSU, AFL-CIO	:	Decision No. 12766-A
	:	
Involving Certain	:	Case V
Employes of	:	No. 17821 E-2846
	:	Decision No. 12767-A
	:	
TRINITY MEMORIAL HOSPITAL	:	Case VI
OF CUDAHY, INC.	:	No. 17822 E-2847
	:	Decision No. 12768-A
	:	
-----	:	Case VII
	:	No. 17841 E-2849
	:	Decision No. 12769-A
	:	

ORDER DENYING MOTION

The Wisconsin Employment Relations Commission having on June 7, 1974 issued a Direction of Elections in the above entitled matters, and prior to the conduct of said elections the above named Employer having on July 5, 1974, filed a motion, together with a supporting affidavit, wherein it requested that the Commission either dismiss the petitions involved or extend the time for conducting the elections to September 15, 1974, on the basis that a Joint Conference Committee of the United States Congress has recommended to both the House and the Senate that the National Labor Relations Act be amended so as to remove non-profit hospitals from the exemption of coverage by said Act, and thus grant the National Labor Relations Board the right to exercise its jurisdiction over non-profit hospitals; and the Commission being fully advised in the premises and being satisfied that said motion be denied;

NOW, THEREFORE, it is

ORDERED

That the motion of the above named Employer to dismiss the petitions filed in the instant matters or to extend the time for conducting the elections to September 15, 1974, be, and the same hereby is, denied.

Given under our hands and seal at the City of Madison, Wisconsin, this 9th day of July, 1974.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Morris Steavney
Morris Steavney, Chairman

 Zel S. Rice II
Zel S. Rice II, Commissioner

 Howard S. Bellman
Howard S. Bellman, Commissioner

MEMORANDUM ACCOMPANYING ORDER DENYING MOTION

The Commission has issued a Direction of Elections involving six voting groups of employes of the instant Employer. The elections have not as yet been conducted, however the parties have been advised that the election has been scheduled for employes in one voting group for July 26, 1974, and that the remaining elections will be conducted on August 2, 1974. Formal notices of such elections are being prepared and will be forwarded to the parties in such time prior to the conduct of said elections as will afford the employes involved an opportunity to observe same.

On July 5, 1974, the Employer, by its Counsel, filed a motion with a supporting affidavit, wherein it requested the Commission to dismiss the petitions filed in the instant matter, or to extend the time for the conduct of the elections until at least September 15, 1974. In the affidavit supporting the motion, Counsel for the Employer states that the United States Congress is presently considering an amendment to the National Labor Relations Act which would remove the exemption of non-profit hospitals from the coverage of said Act and therefore grant the National Labor Relations Board the right to exercise its jurisdiction over said type of employer. In his affidavit, Counsel for the Employer claims that he is informed and believes that the recommendation of the Joint Conference Committee of the Congress will be acted upon favorably by both the Senate and the House, and that it will become law when signed by the President.

Counsel for the Employer, in his affidavit, further contends that if the motion is not granted the elections directed by the Commission will cause a proliferation of bargaining units; that substantial harm and damage will occur to the Employer should the elections be held; that a delay in the elections will result in no harm to any of the parties involved herein and to the contrary would allow more employes to participate in the elections after the vacation season; and that to allow the elections to proceed would result in unwarranted expenditure of the Commission's funds in an "exercise of futility" should the NLRB exercise its jurisdiction.

There is no question that at the present time the instant Employer is not covered by the NLRA and therefore it is not under the jurisdiction of the NLRB. The probability that Congress may remove non-profit hospitals from the exemption of coverage of the NLRA is not a basis for granting the motion. Until such time as the NLRA is amended so as to include non-profit hospitals in its coverage, and the non-profit hospitals involved meet whatever jurisdictional standards the NLRB may determine to establish for the exercise of its jurisdiction, this Commission will exercise its statutory jurisdiction over said employers and their employes, as well as the labor organizations claiming to, or representing said employes.

We do not agree with the contention that no harm will result to any of the parties involved. On the contrary we are of the opinion that while the elections are delayed, whether conducted by the Commission or by the NLRB, certain unrest will occur among the employes which may have an affect on the operation of the facility involved as well as the organizational activities of the employes. Also we see no basis for denying the employes their rights under the Wisconsin Employment Peace Act to participate in elections, even though the conduct thereof may cause expenditure to the Commission.

Nos. 12764-A 12767-A
12765-A 12768-A
12766-A 12769-A

We wish to comment on the attitude of the Employer's Counsel in this matter. During the course of the hearing on the petitions Counsel for the Employer as well as Counsel for the remaining parties had agreed as to the mechanics of the elections. They had agreed that the elections could be conducted on "every other Friday from May 10, 1974, between the hours of 6:30-8:00 and 2:00-4:30 at the Employer's Assembly Room". Counsel for the Employer has refused to furnish the Commission with a list of employes in each voting group. The Commission was subsequently telephonically advised by an associate of the Employer's Counsel that such a list would be forthcoming prior to the elections. On the same date on which the motion was filed, Counsel for the Employer telephonically advised the Commission's Elections Clerk that the Employer would not permit the balloting to be conducted on the Employer's premises, 1/ as previously agreed upon. The Commission intends to hold the elections and is presently making arrangements to find a suitable site for the conduct thereof.

Dated at Madison, Wisconsin, this 9th day of July, 1974.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By *Morris Slavney*
Morris Slavney, Chairman

Zel S. Rice II
Zel S. Rice II, Commissioner

Howard S. Bellman
Howard S. Bellman, Commissioner

1/ Contrary to Counsel's concern regarding expenditures by the Commission.