

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of
WCCME, AFSCME, AFL-CIO
Involving Certain Employes of
JACKSON COUNTY

Case 21
No. 49239 ME-642
Decision No. 17828-F

Appearances:

Mr. Daniel R. Pfeifer, Staff Representative, Wisconsin Council 40, AFSCME,
AFL-CIO, Route 1, Sparta, Wisconsin 54656-0333, for AFSCME.

Mr. James Michael DeGracie, Corporation Counsel, 307 Main Street, Black River Falls,
Wisconsin 54615, for the County.

FINDINGS OF FACT, CONCLUSIONS OF LAW
AND ORDER CLARIFYING BARGAINING UNIT

On May 13, 1993, Wisconsin Council of County and Municipal Employees, AFSCME, AFL-CIO, filed with the Wisconsin Employment Relations Commission a Petition to Clarify Bargaining Unit, by which it sought the inclusion into a unit of Jackson County Courthouse employes of three positions, namely Register in Probate, Land Conservation/Conservation Aide and Land Conservation/Wildlife Damage Technician. The matter was held in abeyance while the parties attempted to settle the dispute voluntarily, which efforts proved unsuccessful as to the position of Register in Probate/Probate Registrar. Hearing in the matter was held before Examiner Stuart Levitan, a member of the Commission staff, on January 25, 1994, in Black River Falls, Wisconsin. A stenographic transcript was prepared by March 2, 1994. The County and the Union filed written briefs on March 21, 1994 and May 5, 1994, respectively. The parties were given until May 15, 1994, to request permission to file reply briefs; neither did so. The Commission, being fully advised in the premises, hereby makes and issues the following

FINDINGS OF FACT

1. Wisconsin Council of County and Municipal Employees, AFSCME, AFL-CIO, hereafter the Union, is a labor organization with offices at Route 1, Sparta, Wisconsin.

No. 17828-F

2. Jackson County, hereafter the County, is a municipal employer with offices at 307 Main Street, Black River Falls, Wisconsin.

3. The Union is the exclusive bargaining representative of a unit of County employees described in the parties' 1991-1994 contract as follows:

all regular full-time and regular part-time County Courthouse employees, excluding elected officials, supervisory, managerial, confidential, seasonal, temporary, casual and all other employees of the County.

4. Prior to January 23, 1991, the position of Register in Probate/Probate Registrar was included within the bargaining unit described in Finding of Fact 3. On January 23, 1991, Jackson County Circuit Court Judge Robert W. Radcliffe issued an Order Appointing Register in Probate/Probate Registrar, as follows:

**ORDER APPOINTING REGISTER IN PROBATE
PROBATE REGISTRAR**

The Circuit Court for Jackson County, Wisconsin, the Honorable Robert W. Radcliffe, Circuit Judge, pursuant to the inherent powers and authority vested in the Circuit Court by Section 2 of Article VII of the Constitution of the State of Wisconsin and pursuant to the provision of Section 851.71 Wisconsin Statutes, does hereby appoint R. Lynne Bruley, Register in Probate-Probate Registrar for Jackson County, Wisconsin.

It is ordered that the Register in Probate-Probate Registrar shall serve at the pleasure of the Court until discharged as provided by law.

It is further ordered that the Register in Probate-Probate Registrar shall perform the following duties and have the following responsibilities: assisting the court in administration of formal probate procedures, conducting informal probate procedures, performing administrative and clerical duties relating to probate procedures, being responsible for the origination, preparation and implementation of the budget for the office of the Register in Probate-Probate Judge; maintaining records and files in the office of the Circuit Court as prescribed in Section 851.72 Wisconsin Statutes; the Register in Probate shall have the powers, duties and

responsibilities as prescribed in Section 851.73 Wisconsin Statutes; and the Probate Registrar shall have the powers, duties and responsibilities as prescribed in Section 865.065 and Section 865.07 Wisconsin Statutes; the Register in Probate-Probate Registrar shall assist with formulating, determining and implementing policy as it pertains to the Register in Probate-Probate Registrar's office.

It is further ordered that the Register in Probate-Probate Registrar for Jackson County, Wisconsin, shall not be a member of the municipal employee's union.

This order shall be effective February 1, 1991.

Dated January 23, 1991, at Black River Falls, Wisconsin.

By the Court:

Robert W. Radcliffe /s/
Robert W. Radcliffe
Circuit Judge

Approved: 1/24/91

Peter G. Pappas /s/
Peter G. Pappas, Chief Judge
Seventh Judicial District

5. The incumbent Register in Probate/Probate Registrar is Kathy A. Powell. Effective December 14, 1992, the job description for her position read as follows:

REGISTER IN PROBATE/PROBATE REGISTRAR Updated
12/14/92

GENERAL STATEMENT OF DUTIES:

Assists the court in administration of formal probate procedures and conducts informal probate procedures. This is a paraprofessional position performing administrative and clerical duties relating to

probate procedures. The work is performed under the general supervision of the circuit court judge and in accordance with state laws and county regulations.

EXAMPLE OF WORK: (Illustrative Only)

- Schedules hearings, types and sends out notices and court calendars, and grants adjournment and time to pay on traffic fines in accordance with the judge's policies;
- Prepares and certifies documents concerning the administration of estates, probate wills, guardianship proceedings and conservatorship proceedings;
- Prepares probate calendar and maintains a record of all proceedings;
- Directs processing and approves all informal probate cases;
- Maintains records and prepares reports related to Probate Court matters;
- Serves the public on probate questions, furnishing information, assisting in procedures and filling requests as necessary;
- Examines wills and other documents for compliance with statutory requirements;
- Checks accounts filed by trustees, conservators and guardians;
- Collects money for filing fees, certified copies and other functions for the circuit court judge as needed;
- Enter all papers filed, hearings scheduled, etc., on computer;
- Does related work as required.

QUALIFICATIONS:

- Knowledge of office practices and procedures, terminology and equipment.
- Knowledge of basic bookkeeping and recordkeeping methods.
- Ability to type accurately;
- Ability to read and apply statutes and regulations relating to probate procedures.

TRAINING AND EXPERIENCE:

Graduation from high school or equivalent and some office experience, preferably with a legal office; post-high school course work in joint tenancies, estate tax or related fields and legal secretarial or paralegal experience are desirable; or any combination of training which provides the required knowledge, skills and abilities. Computer experience including experience with Wordperfect and Windows is essential.

6. Without any input from the Circuit Court judge, Powell submits a proposed budget for the Register in Probate/Probate Registrar office to the County Executive and the County Board. Her first budget request was for 1993 and was accompanied by the following letter:

September 1, 1992

Jackson County Board of Supervisors
Executive Committee
Courthouse
Black River Falls, WI 54615

RE: 1993 Budget request

Dear Executive Committee:

Please find attached my budget requests for 1993. The request reflects increases in salaries, fringe benefits, intervention, postage, dues and travel and Law Library. The other line items have remained the same as the 1991 budget.

The salary increase for the Register in Probate is based on figures from the Personnel Director and the part-time salary increase is for 15 days vacation, plus six days for educational seminars. The fringe benefit increases are based on the percentages provided by the County Clerk's office.

I am requesting a \$100 increase in postage, since the volume of mail this office produces has been steadily increasing.

I am asking for an increase in the intervention account because from

the way it looks now I already have an increase in the amount of WATTS reviews that will be needed for 1993.

I am asking for an increase in the dues and travel to cover the increase in the mileage rate to be paid.

The Law Library increase reflects increased postage costs for books. The budget goes for maintaining and updating the series of books we now have. We do not have any plans for ordering additional publications.

At this time I do not anticipate that I will be over-budget in transcripts and intervention costs for 1992. However, I have no control over these two items.

My projected revenue for 1992 is \$5,200 based on the average fees collected for 1992.

I do not anticipate going over budget for 1992, however, I anticipate that there will be line item transfers from line items that have gone over budget.

If you have any questions, please do not hesitate to contact me.

Very truly yours,

Kathy A. Powell
Register in Probate

Her 1993 proposed budget contained the following line items:

| | |
|-------------------------------|----------|
| Salaries | \$22,000 |
| Part-Time | \$ 1,900 |
| Social Security/County Share | \$ 1,482 |
| State Retirement/County Share | \$ 2,940 |
| Health Insurance/County Share | \$ 5,100 |
| Medicare/County Share | \$ 347 |
| Workman's Compensation | \$ 60 |
| Guardian Ad Litem Fees | \$ 9,500 |
| Transcript | \$ 6,000 |

| | | |
|--------------------------|----------|----------|
| Postage | \$ 1,450 | |
| Office Supplies/Printing | | \$ 1,500 |
| Publishing | | \$ 500 |
| Dues/Mileage/Travel | \$ 500 | |
| Equipment | | \$ 700 |
| Capital Equipment | | \$ 300 |
| Law Library | | \$ 6,200 |

The bulk of the line items within her proposed budget are non-discretionary, reflecting policy choices of others or mandatory entitlements. The payroll costs reflected in the first seven lines are established by the County unilateral pay plan and other costs over which Powell has no control. Guardian ad litem and transcript costs must be paid at whatever cost level is ultimately incurred. The postage, office supplies/printing, publishing, dues/mileage travel, equipment and capital equipment lines reflect managerial discretion, but thus far generally reflect the prior year's experience and expenditure level for office operations.

If Powell determines that she needs to make expenditures in a line where no funds remain, she submits a line item transfer request to the Executive and Finance Committee, which has the power to either approve or disapprove. All line items transfers, of any amount, must receive approval from the Executive and Finance Committee. Only department heads can submit requests for line item transfers. On January 8, 1993, Powell submitted a series of such requests, seeking to increase the publishing line by \$620 and reduce the transcripts line by a corresponding amount; to increase the intervention line by \$2,810, and decrease the transcript line by \$1,240 and the salaries line by \$1,570; and to increase the part-time salary line by \$152 and decrease the postage line by a corresponding amount. The Executive and Finance Committee approved these requests, as it has all other such requests. Powell makes such requests independent of any input from the Circuit Court Judge.

In 1993, Powell bought a fax machine and a calculator, for about \$150 and \$50, respectively out of her existing equipment budget. The fax purchase was prompted by the Circuit Judge's suggestion and the calculator replaced a broken calculator. All purchases over \$300 must be approved by the Executive and Finance Committee.

7. Powell's 1994 budget request was accompanied by the following letter:

September 9, 1993

Jackson County Board of Supervisors
 Courthouse
 Black River Falls, WI 54615

RE: Probate/Judge Account 10-5123 & Law Library Account 10-5125

Dear County Board Supervisors:

My budget request for 1994 reflects increases in the areas of salaries, fringe benefits, guardian, ad litem fees and Law Library. The salary increase is the 3% figure recommended by the Personnel office and the fringe benefit increases are based on the percentages provided by the County Clerk's office.

I am asking for an increase in the Guardian ad Litem line item by \$1,500. Jackson County currently has 65 individuals protectively placed which is an increase of 5 over 1992. Annual reviews are required for each of these 65 individuals. These reviews are conducted by guardian ad litem attorneys and the county is required to pay for these reviews. The guardian ad litem line item also includes costs for mental examinations for persons committed under Chapter 51 of the Wisconsin Statutes, for juveniles involved in CHIPS actions and for guardian ad litem appointments in cases where the parties are indigent. Also, a bill passed recently increasing guardian ad litem fees to \$70.00 per hour (up from \$60.00 per hour) effective July 1, 1994. This is a line item the Court has no control over.

Presently the Law Library has no more shelving space in which law books can be placed. The books are being stacked on the floor in the law library. Therefore, I am asking for an increase of \$1,000 to cover the cost of purchasing more shelving units for the law library and to cover the anticipated increase in postage and handling charges in maintaining our law library in 1994.

I will be over budget in my guardian ad litem account this year. Therefore, I am requesting that an additional \$1,500 be put into this line item. Again, this is a line item that the Court has no control over.

I do not anticipate going over budget in any of my other line items. However there may be line item transfers for line items that have gone over budget.

If you have any questions, please do not hesitate to contact me.

Very truly yours,

Kathy A. Powell
Register in Probate

Her 1994 proposed budget contained the following line items:

| | |
|-------------------------------|----------|
| Salaries | \$23,500 |
| Part-Time | \$ 1,900 |
| Social Security/County Share | \$ 1,575 |
| State Retirement/County Share | \$ 3,125 |
| Health Insurance/County Share | \$ 5,400 |
| Medicare/County Share | \$ 370 |
| Workmans Compensation | \$ 60 |
| Guardian Ad Litem Fees | \$11,000 |
| Transcript | \$ 6,000 |
| Postage | \$ 1,450 |
| Office Supplies/Printing | \$ 1,500 |
| Publishing | \$ 500 |
| Dues/Mileage/Travel | \$ 900 |
| Equipment | \$ 300 |
| Capital Equipment | \$ 000 |
| Law Library | \$ 7,200 |

As reflected in her September 9, 1993, letter, Powell sought an increase in Law Library funds from \$6,200 to \$7,200 primarily for added shelving so books would not need to be stacked on the floor. The County Board did not approve the \$1000 increase. Powell could, if she chose to, decide to spend \$1,000 on shelving, take the \$1,000 from some other budget line, and submit line item budget transfer requests or supplemental budget requests to hope to cover the \$1,000. Powell made no independent determination of what books to stock in the library for 1994, but merely budgeted for the updated costs for the subscriptions currently held.

Powell has the responsibility to seek payment of expert witness fees in mental commitment cases. If the party from whom payment is sought indicates an inability to pay, Powell has the authority to negotiate a payment plan or determine that the matter should be dropped. In divorce proceedings, the County may seek reimbursement for certain guardian ad litem costs; if parties are unable or unwilling to pay, Powell has the authority to direct the County Corporation Counsel to litigate in pursuit of such payments.

8. The incumbent Register in Probate/Probate Registrar does have sufficient authority to commit the employer's resources to be deemed a managerial employe.

Based upon the above and foregoing Findings of Fact, the Commission makes and issues the following

CONCLUSION OF LAW

The occupant of the position of Register in Probate/Probate Registrar is a managerial employe within the meaning of Sec. 111.70(1)(i), Stats., and therefore is not municipal employe within the meaning of Sec. 111.70(1)(i), Stats.

Based upon the above and foregoing Findings of Fact and Conclusion of Law, the Commission makes and issues the following

ORDER 1/

The occupant of the position of Register in Probate/Probate Registrar is hereby excluded from the collective bargaining unit described in Finding of Fact 3.

Given under our hands and seal at the City of Madison, Wisconsin, this 27th day of April, 1995.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By A. Henry Hempe /s/
A. Henry Hempe, Chairperson

William K. Strycker /s/
William K. Strycker, Commissioner

I dissent.

Herman Torosian /s/
Herman Torosian, Commissioner

1/ Pursuant to Sec. 227.48(2), Stats., the Commission hereby notifies the parties that a petition

for rehearing may be filed with the Commission by following the procedures set forth in Sec. 227.49 and that a petition for judicial review naming the Commission as Respondent, may be filed by following the procedures set forth in Sec. 227.53, Stats.

227.49 Petitions for rehearing in contested cases. (1) A petition for rehearing shall not be prerequisite for appeal or review. Any person aggrieved by a final order may, within 20 days after service of the order, file a written petition for rehearing which shall specify in detail the grounds for the relief sought and supporting authorities. An agency may order a rehearing on its own motion within 20 days after service of a final order. This subsection does not apply to s. 17.025(3)(e). No agency is required to conduct more than one rehearing based on a petition for rehearing filed under this subsection in any contested case.

(Footnote 1/ is continued on the next page.)

(Footnote 1/ continues from the previous page.)

227.53 Parties and proceedings for review. (1) Except as otherwise specifically provided by law, any person aggrieved by a decision specified in s. 227.52 shall be entitled to judicial review thereof as provided in this chapter.

(a) Proceedings for review shall be instituted by serving a petition therefore personally or by certified mail upon the agency or one of its officials, and filing the petition in the office of the clerk of the circuit court for the county where the judicial review proceedings are to be held. Unless a rehearing is requested under s. 227.49, petitions for review under this paragraph shall be served and filed within 30 days after the service of the decision of the agency upon all parties under s. 227.48. If a rehearing is requested under s. 227.49, any party desiring judicial review shall serve and file a petition for review within 30 days after service of the order finally disposing of the application for rehearing, or within 30 days after the final disposition by operation of law of any such application for rehearing.

The 30-day period for serving and filing a petition under this paragraph commences on the day after personal service or mailing of the decision by the agency. If the petitioner is a resident, the proceedings shall be held in the circuit court for the county where the petitioner resides, except that if the petitioner is an agency, the proceedings shall be in the circuit court for the county where the respondent resides and except as provided in ss. 77.59(6)(b), 182.70(6) and 182.71(5)(g). The proceedings shall be in the circuit court for Dane county if the petitioner is a nonresident. If all parties stipulate and the court to which the parties desire to transfer the proceedings agrees, the proceedings may be held in the county designated by the parties. If 2 or more petitions for review of the same decision are filed in different counties, the circuit judge for the county in which a petition for review of the

decision was first filed shall determine the venue for judicial review of the decision, and shall order transfer or consolidation where appropriate.

(b) The petition shall state the nature of the petitioner's interest, the facts showing that petitioner is a person aggrieved by the decision, and the grounds specified in s. 227.57 upon which petitioner contends that the decision should be reversed or modified.

...

(c) Copies of the petition shall be served, personally or by certified mail, or, when service is timely admitted in writing, by first class mail, not later than 30 days after the institution of the proceeding, upon all parties who appeared before the agency in the proceeding in which the order sought to be reviewed was made.

Note: For purposes of the above-noted statutory time-limits, the date of Commission service of this decision is the date it is placed in the mail (in this case the date appearing immediately above the signatures); the date of filing of a rehearing petition is the date of actual receipt by the Commission; and the service date of a judicial review petition is the date of actual receipt by the Court and placement in the mail to the Commission.

JACKSON COUNTY

MEMORANDUM ACCOMPANYING FINDINGS OF FACT,
CONCLUSION OF LAW AND ORDER CLARIFYING BARGAINING UNIT

POSITIONS OF THE PARTIES

In support of its position that the Register in Probate/Probate Registrar is a municipal employe, the Union asserts as follows:

The Union is not seeking to interfere with the court's power to appoint the Register, but only to exercise its own right to negotiate wages, hours and conditions of employment for the position, consistent with the Supreme Court's Iowa County decision.

The County's reliance on the Court of Appeals' Manitowoc County decision is misplaced, because the court found that subject Register was indeed a managerial employe based upon her specific duties. No such finding has been made in this case.

The subject Register, formerly included in the bargaining unit until being unilaterally removed by Judge Radcliffe, does not perform sufficient managerial duties to be excluded from the unit. The incumbent operates under the auspices of the judge and the judge has the ability to make final decisions regarding the operations of the office.

Financial operations of the office are tightly controlled and approved by the County's governing body. The incumbent's role in drafting a budget consists of taking the prior budget and making minor adjustments. The budget then must be approved by the standing committee, finance committee and full County Board. Reducing numbers to paper and submitting them fails to meet the test of submitting an original budget.

The purchases which the incumbent made were minimal, and at the direction of the judge. The incumbent can neither make line items transfers, nor make purchases of more than \$300, without prior committee approval.

Because the Register in Probate does not perform sufficient managerial duties to be excluded from the bargaining unit, the

position should be included therein.

In support of its position that the subject position should continue to be excluded from the bargaining unit as a managerial employe, the County asserts as follows:

The order from Judge Radcliffe, signed by Judge Papas, removing the position from the bargaining unit was a valid exercise of judicial authority. On the basis of precedent setting, binding court cases that are factually on point, the examiner should have found, and the Commission should find, that the Register in Probate position was been properly removed from the bargaining unit.

Further, the subject position is a managerial, rather than municipal, employe under MERA, specifically as to its authority to commit the employer's resources.

The incumbent prepares the budget without any assistance from the judge. She has discretion in determining its various line items, other than personnel costs. She makes the determination as to what supplies are needed, and budgets accordingly. She determines what seminars she will attend. She made the decision to purchase a fax machine and a calculator. She makes the determination when line-item transfers are necessary, which transfer is subject, as it is county-wide, to committee approval. Only department heads, like the Register, can submit requests for transfer; all department heads, like the Register, require committee approval for such transfer.

The incumbent determines how to seek reimbursement from a party for pay bills related to guardian ad litem or mental commitment matters. She has the authority to decide when to drop a matter due to lack of funds, when to establish a payment plan and when to seek legal enforcement.

Excluding certain areas such as wages and insurance, the incumbent has had sole discretionary authority to prepare an original budget and to commit the County's resources. She has exercised the discretionary power to determine the type and level of services to be provided and the manner and means by which those services will be delivered. Under the prevailing court decisions, the incumbent has met and passed the test for managerial employe.

Accordingly, because the position was properly removed from the

bargaining unit by judicial order, and because the incumbent exercises managerial authority, the Register in Probate/Probate Registrar must continue to be excluded from the bargaining unit.

DISCUSSION

Citing Manitowoc County v. Local 96A, 170 Wis. 2d 692 (1992), the County initially argues that we lack jurisdiction to overturn Judge Radcliffe's exclusion of the Register in Probate from the bargaining unit. We disagree.

As we read Manitowoc, the validity of a court order excluding the Register in Probate ultimately rests upon the validity of the Court's conclusion that the Register is a managerial employe. See, Manitowoc at 698. Thus, if Judge Radcliffe incorrectly concluded that the Register is a managerial employe, the Order would be invalid and we can properly return the position to the bargaining unit.

The County correctly places substantial emphasis on the binding published decisions of the Wisconsin Court of Appeals in Kewaunee County v. WERC, 141 Wis. 2d. 347 (1987) and Manitowoc which deal specifically with the question of whether the Register in Probate/Probate Registrar is a managerial employe who thus cannot be included in a bargaining unit.

These two decisions establish the following as the operative law in this case:

1. The question of whether a Register in Probate/Probate Registrar is or is not a managerial employe turns on the facts in the record as to the duties, responsibilities and powers of the individual in question. Kewaunee, at 353; Manitowoc, at 697-698.
2. Where the claim of managerial employe status is based upon an assertion that the employe's budgetary responsibilities give the employe effective authority to commit an employer's resources

. . .the employe must possess the discretionary power to determine the type and level of services to be provided and the manner and means by which those services will be delivered.

Formulating a budget, as opposed to merely submitting a budget, involves determining the

services required, the number of persons necessary to deliver those services, and the quantity and type of equipment and supplies required to provide those services. Consequently, to possess effective authority to commit an employer's resources, an employee preparing a budget must possess the authority to effectively recommend the amount and the manner in which funds will be expended in support of each of the services provided.
Kewaunee, at 355-356.

. . . budgetary duties involving the ministerial act of reducing numbers to paper and submitting them to the board fails to meet the test of submitting an original budget. This test focuses on the power to determine the manner and method by which the office discharges its responsibility. Submitting last year's budget if it reflects the affirmative decisions of the person preparing the budget is sufficient to meet this test. Submitting a budget that does not reflect the decisions of its preparer is not an original budget and fails this test.
Kewaunee, at 356.

Because the duties and responsibilities of the Register in Probate/Probate Registrar are statutorily established, an individual holding these positions has little discretion to exercise in the determination of the type and level of services to be provided. Thus, the focal point of analysis must be on the discretion exercised to determine the manner and means by which the services will be provided.

Here, the record evidence as to her budget preparation and administration establishes that Powell independently determines the manner and means by which her office will function. For instance, when administering her 1993 budget, Powell sought and obtained approval for increases in accounts for publishing, intervention, and part-time salaries and decreases in accounts for salaries, transcripts and postage. Under Kewaunee, the fact that her discretion is reflected by expenditure levels for the seemingly mundane matters of postage and office supplies and equipment ultimately does not detract from the independence of her authority. While her budget is reasonably small and thus far reflects a continuance of her predecessor's "manner and means" choices, we are

satisfied that she can make different choices if she wishes to have the office function in a different manner. Thus, while we share our colleagues' concerns as expressed in his dissent, under Kewaunee, her independent power and authority as to how her office will function (as also reflected by her attendance at department head meetings and her authority to submit line item budget transfer requests) warrants a conclusion that she is a managerial employe.

Thus, Powell is properly excluded from the bargaining unit.

Dated at Madison, Wisconsin this 27th day of April, 1995.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By A. Henry Hempe /s/
A. Henry Hempe, Chairperson

William K. Strycker /s/
William K. Strycker, Commissioner

JACKSON COUNTY

DISSENT OF COMMISSIONER TOROSIAN

I have carefully reviewed the language of Kewaunee and Manitowoc and the facts of this case. From my review, I am satisfied that the Court's decisions do not warrant conferring managerial status on the instant Register in Probate/Probate Registrar. I reach this conclusion because the discretion she exercises (as outlined and relied upon by the majority) regarding the manner and means by which the office will function does not entail managerial decisions of sufficient substance to warrant exclusion of the position from the bargaining unit.

Dated at Madison, Wisconsin this 27th day of April, 1995.

By Herman Torosian /s/
Herman Torosian, Commissioner