

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

WALTER J. JOHNSON, MARSHALL M.
SCOTT, GERALD LERANTH, OLIVER J.
WALDSCHMIDT, ERNA BYRNE,
CHRISTINA PITTS, MILDRED
PIZZINO, JOHN P. SKOCIR,
HELEN RYZNAR, ANNABELLE
WOLTER, CHERRY ANN LE NOIR,
DORIS M. PIPER, LYNN M.
KOZLOWSKI, EDWARD L. BARLOW,
IRVING NICOLAI, AND ANN C. TEBO,

Complainants,

vs.

COUNTY OF MILWAUKEE, a body
Corporate; AMERICAN FEDERATION
OF STATE, COUNTY AND MUNICIPAL
EMPLOYEES, AFL-CIO; DISTRICT
COUNCIL 48, AMERICAN FEDERATION
OF STATE, COUNTY AND MUNICIPAL
EMPLOYEES, AFL-CIO, and JOSEPH
ROBISON, its Director; LOCAL 594,
AFSCME, affiliated with District
Council 48; LOCAL 645, AFSCME,
affiliated with District
Council 48; LOCAL 882, AFSCME,
affiliated with District Council 48;
LOCAL 1055, AFSCME, affiliated
with District Council 48;
LOCAL 1654, AFSCME, affiliated
with District Council 48; and
LOCAL 1656, AFSCME, affiliated
with District Council 48,

Respondents.

Case CLXI
No. 29581 MP-1322
Decision No. 19545-C

ORDER GRANTING MOTION FOR INDEFINITE POSTPONEMENT OF HEARING

The undersigned Examiner having, on February 7, 1983, issued the Initial Findings of Fact and Initial Conclusions of Law in the above-captioned matter; and the undersigned having at that time reserved ruling on Respondent Unions' Motion for Indefinite Postponement; and Complainants and Respondent Unions having filed further arguments concerning said Motion; and the Examiner being fully advised in the premises;

NOW, THEREFORE, it is

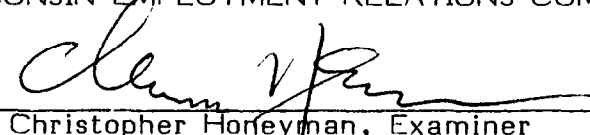
ORDERED

That the Motion for Indefinite Postponement of this matter is granted as it relates to a hearing.

Dated at Madison, Wisconsin this 13th day of April, 1983.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Christopher Horneyman, Examiner

No. 19545-C

MEMORANDUM ACCOMPANYING
ORDER GRANTING MOTION FOR INDEFINITE POSTPONEMENT OF HEARING

At a pre-hearing conference in this matter, the undersigned divided the proceeding into two stages, in accordance with Commission precedent in the two leading cases in this area of litigation, Browne v. Milwaukee Board of School Directors and Gerlemen v. Milwaukee Board of School Directors. At that time, Respondent Unions' Motion for Indefinite Postponement was denied with respect to the first stage of the proceeding and the undersigned reserved ruling with respect to the second stage. On February 7, 1983, after the facts necessary for Stage 1 of the proceeding were stipulated to, the undersigned issued the Initial Findings of Fact and Initial Conclusions of Law in this matter and requested the parties to argue, if they wished, concerning an indefinite postponement of the second stage of the case.

Respondent Unions subsequently renewed their Motion for Indefinite Postponement, arguing that the Browne case continues to be the leading case and that the Unions, some of whom are also involved in that case, have proceeded to design record-keeping systems to permit a determination of expenditures chargeable and not chargeable to the Browne Complainants under the Commission's first-stage decision in that case. Respondent Unions point out that litigation continues in that case and argue that the Commission's ultimate action on the arguments and facts still to be presented in Browne "will be substantially dispositive of the rights, remedies and obligations of the parties in this case as well".

Complainants contend that they will be prejudiced by further delay in this matter, and that Respondent Unions are in error in asserting that remaining issues in this proceeding will be resolved in the course of the second stage of Browne. Complainants argue that it appears that Browne may be settled by stipulation and that in this matter, by contrast, it is likely that the Examiner will have to hold a hearing to determine various matters of fact.

Having considered these arguments, the undersigned sees no purpose to proceeding to hearing at this time. It is apparent that the Commission's intent throughout the processing of these cases has been to treat Browne and Gerleman as the leading cases. Numerous questions of fact, law and procedure remain to be resolved in those cases. In a hearing conducted now in this matter there is a substantial likelihood that the necessary procedural rulings, which would inevitably address novel questions and problems, would be in opposition to policies later enunciated by the Commission in the other cases and thus prove a nullity. Browne and Gerleman may also resolve areas of fact and law which would otherwise have to be addressed in the hearing in this matter, perhaps in duplication to the leading cases. For these reasons, the undersigned is granting the Motion for Indefinite Postponement, as it relates to a hearing.

In certain cases of the same nature, 1/ but filed since this matter, the undersigned has elected not to divide those matters into two stages. As a result, a motion for discovery, which was granted only during the second-stage proceedings in Browne, has been granted already in those cases. Consistent with that ruling, the undersigned will entertain a motion for discovery, if Complainants wish to file same, while the hearing is postponed.

Dated at Madison, Wisconsin this 13th day of April, 1983.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By 
Christopher Horneyman, Examiner

1/ Joint School District No. 3, Hartland, et al.; Richfield Education Association; and Northwest United Educators, Decision No. 18577-B, 18578-B and 19307-B.