STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

ROCK COUNTY COURTHOUSE AND RELATED EMPLOYEES UNION, LOCAL 2489, AFSCME, AFL-CIO, Complainant, vs. ROCK COUNTY, Respondent.	Case 235 No. 40824 MP-2114 Decision No. 25610-C

Appearances:
Mr. Thomas Larsen, Staff Representative, Wisconsin Council #40, AFSCME, AFL-CIO, 1722 St. Lawrence Avenue, Beloit, Wisconsin 53511, and Lawton & Cates, S.C., by Mr. Richard V. Graylow, 214 West Mifflin Street, Madison, Wisconsin 53703-2594, on behalf of the Complainant.
Mr. Thomas A. Schroeder, Corporation Counsel, 51 South Main Street, Janesville, Wisconsin 53545, appearing on behalf of the Respondent.

ORDER AFFIRMING EXAMINER'S FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

Examiner Mary Jo Schiavoni having on December 1, 1988 issued Findings of Fact, Conclusions of Law and Order with accompanying Memorandum in the above matter wherein she concluded that Rock County had violated its obligation under Sec. 111.70(3)(a)5, Stats. to implement a valid final and binding arbitration award but wherein she further concluded that: (1) the County's conduct did not constitute a refusal to bargain within the meaning of Sec. 111.70(3)(a)4, Stats., and (2) that she would not exercise the Commission's jurisdiction over the allegation that the County had violated the parties' collective bargaining agreement and thus Sec. 111.70(3)(a)5, Stats.; and the Examiner having on December 13, 1988 issued an Order correcting an inadvertent error in her December 1, 1988 decision; and the County having on December 22, 1988 timely filed a petition with the Wisconsin Employment Relations Commission seeking review of the Examiner's decision 1/; and the parties thereafter having filed written argument in support of and in opposition to the petition, the last of which was received on April 6, 1989; and the Commission having considered the record and the parties' arguments, makes and issues the following

ORDER 2/

1/ Accompanying the petition was a Motion to Consider Newly Discovered Evidence which sought inclusion in the record of certain documents relating to Grievance 81-7 which was ultimately arbitrated by Arbitrator McGilligan in April, 1982. The Union had no objection to the inclusion of these documents in the record and they are hereby received as County Exhibit 6. The affidavit of the Corporation Counsel attached to the Motion also asserts that, contrary to the text of the Chatman Award, to the best of his recollection, the Union did not argue before Chatman that the Department Head's settlement of the grievance was determinative. As such potential testimony clearly could have been elicited at the hearing before the Examiner, we find that there is no "good cause" under ERB. 10.19 to reopen the record as to the Corporation Counsel's recollection.

2/ 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.

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

(Footnote 2/ continued on page 3)

That the Findings of Fact, Conclusions of Law and Order issued by Examiner Schiavoni in the above matter are hereby affirmed.

Given under our hands and seal at the city of Madison, Wisconsin this 30th day of March, 1990.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Herman Torosian /s/
Herman Torosian, Commissioner

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

I concur.

A. Henry Hempe /s/
A. Henry Hempe, Chairman

2/ continued

> the decision by the agency. If the petitioner is a residents' 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.
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> (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.
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> . . .
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> (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.

MEMORANDUM ACCOMPANYING ORDER AFFIRMING
EXAMINER'S FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

BACKGROUND:

The County's petition for review seeks reversal of the Examiner's conclusion that the County is obligated to comply with an Award issued by Arbitrator Donald G. Chatman. The Examiner's Findings of Fact 5-8 recite the following:

> 5. That on or about September 1, 1987, Beverly Thomas, (sic) a Deputy Register of Deeds and bargaining unit employe represented by the Union, filed a grievance in accordance with the terms of her collective bargaining agreement over her placement in Pay Range 3; that Thompson's position was historically classified in Pay Range 3 along with those of Deputy County Clerk and County Treasurer; that in 1981, the County's Board of Supervisors changed the title, job specification and pay range of the Deputy Treasurer to Pay Range 1 while the other two positions remained unchanged; that Thompson shortly, after said change in 1981 had filed a prior grievance alleging that she was working out of classification and that her position was still identical in duties, skill and experience to that of Deputy Treasurer, which grievance was denied by an arbitrator; that Thompson's most recent 1987 grievance alleging unilateral changes in pay parity was processed through the first three (3) steps of the grievance procedure and ultimately appealed to arbitration.
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> 6. That at the second step, Thompson's supervisor and department head, the Register of Deeds Esther Gage, granted her grievance; that Gage previously submitted budget requests for Thompson's reclassification to Pay Range 1 for three previous budgets which requests were denied by the County's administrator and the County Board each time that they were submitted; and that, notwithstanding Gage's granting of the grievance, it was appealed to the third step and beyond.
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> 7. That in accordance with the provisions of this collective bargaining agreement, the grievance was submitted to final and binding arbitration; that Arbitrator Donald G. Chatman was selected to hear the dispute; that hearing was held on or about February 9, 1988, in which both parties were given full opportunity to present their evidence, testimony and argument, to present witnesses and engage in their examination and cross-examination; and that witnesses were sworn, and that said hearing was conducted pursuant to Chapter 788, Stats.
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> 8. That on or about March 18, 1988, Arbitrator Chatman issued his Award in which he held, in pertinent part, as follows:

"The Employer has argued and presented evidence that the County Administrator has determined that the pay schedule of the Deputy Register of Deeds was a matter of negotiation within the labor agreement The Employer presents evidence that the; Register of Deeds has recommended a position schedule increase for the Deputy Register of Deeds for every budget and the issue has been on the table for negotiation more than once (County Exhibits 3, 4, 5). On all these occasions, the Union has negotiated a satisfactory labor agreement without impasse, and without including the upgrade of the Deputy Register of Deeds. The Employer's argument that the Union should not prevail in an arbitration proceeding to acquire benefits it chose not to pursue in negotiation is given great merit. In fact, this arbitrator would consider this argument to be the determining factor of this case if the Employer had not unilaterally intervened at an earlier stage of the dispute.

The Labor Agreement between the parties ARTICLE I AGREEMENT MANAGEMENT RIGHTS; Section 1.01:

> the management of Rock County and the discretion of the workforce is vested exclusively in the Employer to be exercised through the Department Head.

The Register of Deeds is an official department head and an agent of Rock County. In this capacity, the Register of Deeds duly heard Step 1 of the Grievance, and agreed with the grievant (union Exhibit 5). This Arbitrator's reading of the labor agreement does not show any point where a department head's decision on a grievance is subject to review by other department heads, administrators, or legislators, particularly if the department head agrees with the grievant. Thus, the County's Personnel Director reversed a department head's decision with the consent of the County Administrator. This Arbitrator could find no Labor Agreement provision permitting this action, nor was any evidence or testimony presented that would demonstrate that the Employer had this unilateral right. The grievance apparently was settled at Step 1.

The Employer raised one other issue before

> this proceeding. No Employer representative (sic) was alleged to be present at Steps 1, 2 or 3 of the Grievance. The Employer maintained that the department heads at these stages were acting in the capacity of hearing officers without an employer interest. This allegation is unsupportable. The County Personnel Manager, in direct testimony, stated he reversed the Register of Deeds' decision upon conference with the County Administrator, whereby they determined that the position upgrade was a collective bargaining matter. This testimony indicates the Employer had representation prior to the arbitration hearing. The grievance of Beverly Thompson is sustained."

that as a remedy, he ordered Thompson's placement "in the Pay Range Classification 1 commencing on the first work day of the County's next annual budget period after September 4, 1987"; that he also ordered that the grievant "shall be placed on the alphabetical step in which her years of service to the Employer would qualify her to normally hold" and that she "receive all the benefits of Pay Range Classification 1, upon her continued satisfactory performance of present position duties or until the Labor Agreement between the parties determines some other pay status".

POSITIONS OF THE PARTIES:

The County:

The County initially argues that it is not obligated to implement the Chatman Award because the Award did not find a violation of contract but nonetheless increased the compensation for a bargaining unit position. While it concedes that under the parties' agreement a department head has the authority to resolve a grievance, the County argues that such resolution can only occur in the context of a finding that a specific portion of the agreement has been violated. Here, the County contends that no contract violation was found by the Department Head. Thus, the County argues that the Department Head in question lacked authority to resolve the grievance in a manner which merely granted a wage increase to the unit employe and that Chatman therefore lacked authority to confirm the Department Head's action in his Award. The County asserts that to allow a department head to unilaterally grant the wage increase to an employe would be inconsistent with collective bargaining under the Municipal Employment Relations Act and constitute a unilateral revision of the compensation levels arrived at pursuant to the collective bargaining process. The County urges the Commission to conclude that the Examiner misapplied Milwaukee County vs. Milwaukee County District Council 48, AFSCME, AFL-CIO, 109 Wis.2d 14 (1980) when rejected these County arguments.

The County further asserts that Chatman exceeded his authority because his Award constitutes an amendment or modification of the labor agreement, contrary to Sec. 9.06 thereof, in that it reallocates a position into a different pay range. The County contends that Chatman was only empowered to determine whether Secs. 14.04, 14.05 and 16.04 of the parties' agreement had been violated. As he found no violation of these Sections, the County argues

that he lacked authority to issue an award upholding the Department Head's decision. The County contends that the issue of the Department Head's authority was not submitted to Chatman. Thus, the County argues his decision is a perverse misconstruction of the contract and results in illegal action which violates public policy.

Lastly, the County asserts that the Chatman Award not only amends the parties' contractual agreement but allows the Union to secure a pay increase which it had unsuccessfully sought at the bargaining table. The County also notes that the Union's conduct herein is inconsistent with the Union's asserted belief that the Department Head had settled the grievance. The County asserts that had the Union reasonably held that belief, the Union would not have proceeded to the arbitration stage of the parties' grievance/arbitration procedure. Given the foregoing, the County asks that the Commission overturn the Examiner's decision.

The Union:

The Union urges the Commission to affirm the Examiners conclusion that the County's refusal to implement the Chatman Award is violative of Sec. 111.70(3)(a)5, Stats. The union argues that the County is simply trying to obtain from the Commission what it was unable to achieve via arbitration: the reversal of a supervisor's resolution of a grievance. The Union asserts that if the County is worried about the resolution of grievances by department heads, the County can bargain to change the existing grievance procedure. The Union notes that it raised the issue of the Department Head's action to Arbitrator Chatman and that the County did not then make any waiver/estoppel arguments before the Arbitrator based upon the Union's decision to proceed to arbitration despite the Department Head's "settlement". Contrary to the County's arguments, the Union asserts that Chatman did not decide that the employe deserved a pay increase but rather concluded that the County was bound by the settlement of a grievance reached with the Department Head. The Union asserts that the Arbitrator did not exceed the scope of his contractual power by making such a determination.

Given the foregoing, the Union urges the Commission to affirm the Examiner.

DISCUSSION:

As the Examiner correctly held, our role in this proceeding is limited to a determination of whether the disputed Chatman Award comports with Sec. 788.10, Stats. 3/ Here, the focus of the County's arguments centers upon contentions that the Chatman Award runs afoul of Sec. 788.10(d), Stats.

3/ Sec. 788.10, Stats., provides that an arbitration award is not enforceable:

(a)Where the award was procured by corruption, fraud or undue means;
(b)Where there was evident partiality or corruption on the part of the arbitrators, or either of them;
(c)Where the arbitrators were guilty of misconduct in refusing to postpone the hearing, upon sufficient cause shown, or in refusing to hear evidence pertinent and material to the controversy; or of any other misbehavior by which the rights of any party have been prejudiced;
(d)Where the arbitrators exceeded their powers, or so imperfectly executed them that a mutual, final and definite award upon the subject matter submitted was not made.

Because we concur with the Examiner's conclusion that the Chatman Award draws its essence from the contract, was not in excess of his authority and was not in violation of the law, we have affirmed the Examiner's determination that the County's refusal to implement the Chatman Award violates Sec. 111.70(3)(a)5 and 1, Stats.

In the arbitration proceeding before Chatman, one of the arguments advanced by the Union was that the Thompson grievance should be sustained because a contractually designated and empowered agent of the County, the Department Head, sustained the grievance. (See pages 3 and 4 of the Chatman Award.) Chatman found this Union argument to be persuasive upon review of the parties' contract. 4/ (See pages 9 and 10 of the Chatman Award.) In essence, Chatman concluded that even though the Thompson grievance was otherwise lacking in merit, the parties' grievance procedure had functioned in a manner which produced a binding settlement between the parties. (i.e., the granting of the relief sought in the Thompson grievance.) Section 9.06 of the parties' contract expressly authorizes the arbitrator to "interpret the provisions of the Agreement" and Chatman did just that when he concluded that the contract should be interpreted as authorizing the Department Head to settle grievances on behalf of the County. Clearly, his Award draws its essence from the contract and was consistent with the authority granted to him by the parties under Sec. 9.06.

The County argues that the Award is violative of law because the result is inconsistent with the collective bargaining statutes and the County's ability to delegate its authority. We disagree. Collective bargaining between the parties produced the contract language upon which Chatman based his Award. Collective bargaining under the Municipal Employment Relations Act allows the County to reach agreements with labor organizations which delegate to certain individuals the County's authority to settle grievances. Here, Chatman reviewed Articles I and IV and concluded: that the County had bargained an agreement which granted such settlement authority to department heads; that the Department Head in question had settled the grievance; 5/ and that the settlement was binding upon the County. Such an award is not violative of law, and is consistent with the County's statutory and constitutional authority. 6/

4/ While the County argues that County Exhibit 6 demonstrates the Union knew a department head could not act in a manner which bound the County as to the appropriate pay level to be received by Thompson, the Exhibit in question was not presented to Chatman. As it is the record before Chatman regarding department head authority which is relevant as to the validity of his Award, the Exhibit in question does not warrant reversal of the Examiner. Indeed, even if this evidence had been before Chatman, and even if he nonetheless had reached the same conclusion as he did herein, such a result would not be a basis for vacating his award or concluding that the County was not obligated to implement same. As properly noted by the Examiner in City of Oshkosh v. Oshkosh Public Library Clerical and Maintenance Employs, Wis.2d 95 (1980), our Supreme Court reaffirmed that mere errors in judgement as to law or fact do not provide the basis for interfering with an arbitration award.

5/ To some extent, the County argues that a grievance can't be "settled" unless some contractual violation is acknowledged to exist. A review of the contract language in question establishes no precondition to settlements. Thus, even assuming, as the Union does not, that the Department Head did not at least implicitly find that one of the contractual provisions recited in the grievance was violated, the absence of any such finding in the Chatman Award clearly does not provide a basis for overturning same.

6/ The County contends, in part, that the Chatman Award authorizes department heads to grant unilateral wage increases or presumably decreases in contravention of the parties' collective bargaining obligations. However, as the Examiner aptly noted:

Characterizing said award as requiring the implementation of "private wage

Given the foregoing, we have affirmed the Examiner.

Dated at Madison, Wisconsin this 30th day of March, 1990.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Herman Torosian /s/
Herman Torosian, Commissioner

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

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negotiations", it argues that ordering enforcement is forcing the County to operate outside of the statutorily-mandated bargaining procedure. By advancing said argument, the County misunderstands the grievance process when it assumes that the department head as a representative of the County would be operating on a unilateral basis. Section 9.03 of the agreement expressly authorizes the department head to act on behalf of the County. Moreover, the individual grievant was participating in the contractually-mandated grievance process with the concurrence and support of the Union. Contrary to the assertions of the County, neither the grievant nor the department head was acting outside of the collective bargaining process but rather they were operating within the framework established by the collective bargaining process, the grievance procedure. Where, as here, the Union has been a party throughout the grievance procedure as well as the arbitration process and it is the Union which seeks enforcement of the award, the County cannot successfully argue that acceptance of such an award under the circumstances will result in a violation of Secs. 111.70(3)(a)2, 4 or 5; thus, the argument is rejected.

Concurring opinion of Chairman Hempe

I concur in the result reached by the majority with the hope that we have not transmuted the deference properly owed to an arbitration award into a doctrine of absolute sanctity.

I concur notwithstanding my concern that an apparent factual misperception of the arbitrator may have significantly contributed to his result 7/ -- a result neither I, nor, I gather, the majority would have reached.

At worst, I regard the foci of this concern as errors of judgment. Given "(t)he strong policy favoring arbitration as a method of settling disputes under collective bargaining agreements. . .", 8/ mere errors of judgment as to law or fact are an insufficient basis for supervisory interference with an arbitrator's decision. 9/

The County argues that the arbitrator exceeded his authority. Indisputably, another arbitrator denied two substantively identical grievances in an earlier case. 10/ (For that matter, a third arbitrator denied another substantively identical grievance in an award issued some ten days prior to that issued by Arbitrator Chatman. 11/ Normally, an arbitrator's award becomes a lawfully integrated, binding part of the labor contract. 12/ Thus, for an arbitrator to ignore the precedential force of a prior award could be a basis on which to conclude that the arbitrator exceeded his authority. In the instant matter, however, the pivotal hinge on which swung the arbitrator's result was his interpretation of a procedural point, not the substantive issue raised by the grievance. It was the substantive issue for which there existed past precedent, not the procedural one on which Chatman ruled.

7/ Following the relief granted by the department head to the grievant, the union appealed the grievance to Step 3 where the County Personnel Director promptly reversed the department head's action. But the arbitrator was unable to see ". . .any point (in the labor agreement) where a department head's decision on a grievance is subject to review by other department heads, administrators, or legislators, particularly if the department head agrees with the grievant." Thus, the Step 3 reversal was viewed as unauthorized because the arbitrator ". . .could find no Labor Agreement provision permitting this action, nor was any evidence or testimony presented that would demonstrate that the Employer had this unilateral right." This latter observation strongly suggests the arbitrator's mistaken notion that the employer initiated the Step 3 review. That, of course, is incorrect.

8/ Milwaukee Professional Firefighters Local 215 v. Milwaukee, 78 Wis.2d 1, 21, 253 N.W.2d 481 (1976).

9/ Jt. School District No. 10 v. Jefferson Ed. Assoc., 78 Wis.2d 94, 117, 253 N.W.2d 536 (1977); Scherrer Constr. Co. v. Burlington Memorial Hospital, 64 Wis.2d 720, 729, 221 N.W.2d 855 (1974).

10/ Rock County and Rock County Employees Local 2489, AFSCME, AFL-CIO (McGilligan, 1982)

11/ Rock County and Rock Country Employees Local 2489, AFSCME, AFL-CIO (Johnson, 1989)

12/ Elkouri, F. and Elkouri, E.A. (1952), How Arbitration Works, Washington, BNA Books; 4th Ed., 1985, p. 425. An exception to this rule, of course, is that a prior award of an arbitrator who has exceeded his jurisdiction is deprived of what would otherwise be precedential force. W.R. Grace & Co. v. Rubber Workers Local 759, 103 S.Ct. 2177, 113 LRRM 2641, 2644 (1983).

The County additionally contends that the procedural issue which ultimately emerged as determinative of the award was neither defined as an issue of the case, nor argued to the arbitrator by either side. In effect, the County complains that it was blindsided by the arbitrator. While the arbitrator's opinion seeks to credit the Union with raising what turned out to be the decisive issue, the County's attorney in this proceeding has filed an affidavit to the contrary. 13/ This extraordinary action, coupled with the obvious circumstantial fact that neither party defined any issue of the grievance to include the question of whether the grievance had ended with the department head's acquiescence to the grievant, are some indication that there may be an additional issue (not argued by the parties) arising under Sec. 788.11(1)(b), Stats., as to whether the arbitrator awarded a matter not submitted to him. Inasmuch as this matter is not squarely before us, however, it should not, in fairness, be decided in this proceeding. Moreover, I am not sure that we have adequate facts on this point for us to make an informed judgment thereon. Although remanding the matter back to the examiner for the taking of further evidence on the issue is an available option, given the lengthy, tortured history of this case, it is not an inviting one.

Finally, the County argues that the arbitrator's award is contrary to the public policy of this state in favor of collective bargaining.

While it is clear that the arbitrator's interpretation may have created a mischievous two-edged sword capable of inflicting damage to each side, 14/ on balance I am not convinced that it will be wielded by either side in a reckless, irresponsible or illegal fashion to the detriment of collective bargaining. Should this prophecy prove to be inaccurate, appropriate relief can then be fashioned, as necessary. In the meantime, the parties are free -- indeed, may feel a mutual need -- to engage in collective bargaining for damage control purposes.

Dated at Madison, Wisconsin this 30th day of March, 1990.

By A. Henry Hempe /s/

13/ Paragraph 9 of affidavit sworn to and signed by Rock County Corporation Counsel Thomas A. Schroeder reads as follows: "To the best of my knowledge and recollection, the fact that the department head had granted the grievance at, Step 2 was mentioned merely as a historical fact at the February 9, 1988 hearing and was never argued at that time as determinative of the grievance."

14/ E.g., the Rock County/Local 2489 Labor Agreement contains a lay-off provision which enables a more senior, qualified employe to avoid lay-off by bumping a more junior employe in the same or lower pay range or classification. If this were to occur -- and the more junior employe filed a grievance challenging the bump, under the Chatman doctrine (now a binding part of the parties' agreement) if the department head concurred with the rein-statement relief demanded by the more junior employe, the matter would be ended as to the more junior employe, notwithstanding the apparent adulteration of the principle of seniority.

A. Henry Hempe, Chairman 15/

15/ Prior to any participation by me in this case, the following letter was sent to each party, as well as each party's respective lawyers:

Re: Rock County
Case 235 No. 40824 MP-2114

Gentlemen:

In accordance with the Code of Judicial Ethics Rule SCR 60.03 to which adherence by administrative agency decisionmakers has been endorsed by the Wisconsin Supreme Court (Guthrie v. WERC, 111 Wis.2d 447, 457-8 (1983)), be advised of the following:

1. From July 1965 through May 1972, I was employed by Rock County as Assistant District Attorney (July 1965 February 1967), and County Corporation Counsel (February 1967 - May 1972).

2. Following entry into private practice of law in 1972, I represented the Association of Mental Health Specialists in its collective bargaining and contract administration relationships with Rock County for several years.

Notwithstanding the above, I believe I am fully capable of rendering an impartial derision as to the petition for review of Examiner Schiavoni's decision.

This letter is for disclosure purposes only, and no statement by the parties in response is required or sought. Indeed, it is highly likely that this information is already known to each of you in even greater detail than I have set forth. However, in the event any party wishes to state a position with regard to the foregoing, I would appreciate the same being submitted, in writing, within ten days from the date of this letter.

Yours faithfully,

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

/s/
A. Henry Hempe
Chairman

There was no response to this letter.