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In the Matter of Edward W. Sparrow  
Hospital, Lansing, Michigan and  
Building Service Employees International  
Union, Local 79, AFL-CIO

Michigan State University  
LABOR RELATIONS LIBRARY

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*Gabriel N. Alexander*  
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Findings and Recommendations  
of a Special Commission Pursuant to Act 176 P.A. 1939 as Amended

## I

This statutory Special Commission is composed of the three following disinterested persons designated by the Governor: Gabriel N. Alexander, Esquire, Chairman; Leo A. Farhat, Esquire; Lee C. Dramis, Esquire, Voting Members; and Non-Voting Members, Dr. Philip F. Lange, appointed by the Hospital; and Robert J. Diehl, Esquire, appointed by the Union.

## II

Upon due notice informal hearings were held at Lansing, Michigan, on December 8 and 11, 1965, March 15, 16, and April 8, 1966, at which the Hospital and the Union appeared by counsel. The Commission took testimony with respect to the issues in dispute. The hearing was transcribed.

## III

From the evidence submitted it appears that the parties are in dispute as to various provisions of a renewal collective agreement, their previous agreement having expired by its terms on or about September 12, 1965. The positions of the parties with respect to such provisions were recapitulated in memoranda submitted by them to the Commission after the hearings were closed. We now summarize those positions and state the recommendations of the Commission as voted either unanimously or by a majority of the Voting Members. In subsequent paragraphs we describe the reasoning of the Commission.

Sparrow Hospital; Edward W.

#### IV

##### A. General Wage Increase.

The UNION requests a general wage increase for all classifications in the unit of fifty (50) cents per hour in each year of a two year contract, retroactive to September 13, 1965 the expiration of the last contract.

The HOSPITAL makes no specific offer at this time. In a negotiating session on August 26, 1965 it offered an increase of five (5) cents per hour to all classifications in each year of a three year contract.

The COMMISSION recommends an increase of twenty (20) cents per hour upon the execution of the agreement, and a further increase of fifteen (15) cents per hour on the first anniversary of the agreement, predicated upon execution of a two year agreement effective on or before June 15, 1966 without retroactivity prior to that date.

##### B. Hospital and Medical Insurance.

The UNION requests that the Employer pay the full premium costs of the Blue Shield-Blue Cross insurance plan provided for by the agreement.

The HOSPITAL offers to pay four (4) dollars per month per employe towards the premium cost of such plan, or an increase of \$1.92 per month over its contribution (\$2.08) as provided in the expired agreement.

The COMMISSION recommends that the Hospital contribute \$6.00 per month per employe during the first year, and \$7.50 per month per employe during the second year of the new agreement, predicated on the execution of a new agreement effective June 15, 1966 without retroactivity prior to that date.

##### C. Union Security Provisions.

The UNION requests a union shop provision covering all present and future employes in the bargaining unit.

The HOSPITAL makes no specific offer with respect to union security.

The COMMISSION by majority vote recommends that the parties incorporate into their new agreement a modified union shop provision applicable to present members of the Union and all new employees, but excluding from its requirements present employees who are not members of the Union.

#### D. Seniority.

The UNION requests that the Commission recommend "seniority based entirely on job tenure."

The HOSPITAL proposes to incorporate into the agreement the following provisions which it asserts was tentatively agreed upon by the parties in their negotiations:

##### "Section I - SENIORITY DEFINED:

"Seniority is the amount of continuous employment within a classification in a department.

##### "Section II - RECOGNITION OF SENIORITY IN LAYOFFS AND VACATIONS:

"Where qualifications are equal, then seniority shall prevail as pertains to layoff. Seniority will also be recognized in the scheduling of vacations where it does not unduly interfere with the normal operation of the department.

##### "Section III - ACCRUAL OF SENIORITY:

"Seniority shall begin on the day of employment but shall not apply until the ninety (90) calendar day probationary period has been completed.

##### "Section IV - SENIORITY EARNED ONLY IN JOB CLASSIFICATION WITHIN EMPLOYEE'S DEPARTMENT:

"Seniority shall apply only in the job classification, and within the department where the employee is working.

##### "Section V - PERMANENT TRANSFERS:

"In matters affecting permanent transfers from

one department to another department within the bargaining unit, the following factors will be considered by the hospital in making such transfer:

- "(a) Seniority in the job classification within a given department;
- "(b) Skill, ability and qualifications of the senior employee;
- "(c) When the skill, ability and qualification factors are equal, departmental seniority shall control;
- "(d) Nothing herein shall prevent the hospital from hiring new employees in the event there is no employee available with the requisite qualifications of skill, ability and qualifications.

"An employee permanently transferred will retain his seniority in the classification in the department from which he was transferred for a period of ninety (90) days. If an employee is retransferred to his old classification in the department during this ninety (90) day period, he will return to his previous seniority status. If an employee is not retransferred, his seniority after ninety (90) days will date from his previous seniority status.

"Section VI - LOSS OF SENIORITY:

"Seniority shall be lost for the following reasons:

- "(a) Resignation
- "(b) Discharge
- "(c) Laid off for a period of one (1) year
- "(d) Voluntary quit."

The COMMISSION recommends that the foregoing seniority provisions proposed by the Hospital be adopted with the following modifications:

1. In Section II, omit "Where qualifications are equal," so as to read,

"Seniority shall prevail as pertains to layoff. Seniority shall prevail in the scheduling of vacations where it does not unduly interfere with the normal operation of the department."

2. In Section III, change "the ninety (90) calendar" to "a forty-five (45) actual working day," so as to read,

"Seniority shall begin on the day of employment but shall not apply until a forty-five (45) actual working day probationary period has been completed."

**E. No Strike Provision.**

The UNION makes no mention of this issue in its final memorandum.

The HOSPITAL proposes to include the identical provision set forth in the prior agreement, Article III.

The COMMISSION recommends adoption of the Hospital's proposal.

**V**

By way of explanation of our recommendations, the COMMISSION records the following observations:

**A. As to the General Wage Increases.**

A review of the wage classifications and rates now in force and effect demonstrates that the members of this bargaining unit are receiving what we would consider a sub-standard wage. At the beginning of the hearings the Union's position was that it was necessary to raise all wage classifications in the bargaining unit

ten (10) cents per hour each year for three years. After the hearing prior to the commencement of the second hearing the Union changed its position at which time they requested fifty (50) cents per hour retroactive to the date of expiration of the contract, which has been extended through the period of negotiation and hearings, and an additional fifty (50) cents the second year of a two year contract.

Testimony offered during the course of the hearing showed that wage scales by job classifications in just about all hospitals reviewed, except those operated by municipal corporations or state government, afforded employees earnings which are in today's economic climate, preposterously low. Indeed it was shown by the testimony of the Union, not controverted otherwise, that in most instances the earnings afforded to employees in the bargaining unit, were below the amounts given by welfare agencies to families of four on public relief. There was not, however, a wide contrast between the existing wage scales of private hospitals, including the Employer in the instant case, and those with whom the Union has negotiated contracts the past two or three years. The Commission observes that in at least one instance there had been absolutely no wage increase, where the Union had successfully negotiated a contract with the employer which includes a union shop clause. This Commission is not disposed to look upon the total lack of, or small contribution to, the economic well being of the employees as an item of bargaining or exchange, in return for the union shop. We recognize, however, that based upon the present number of employees a five (5) cent raise in the hourly wage of the employees of the bargaining unit would increase wage costs to Sparrow Hospital by an amount of \$40,000.00 per year. To recommend a wage increase based solely on the welfare or antipoverty considerations mentioned without taking into account the immediate impact of such increase on the Hospital, in our opinion, would not be reasonable. But we cannot ignore the strong thrust of the evidence that the Hospital's employees are underpaid. In balance we think it is reasonable and just that a new contract be negotiated between the Hospital and the Union for a two year period, and that wage classifications be increased across the board twenty (20) cents per hour for the first year and an additional fifteen (15) cents per hour the second year. This will increase wage costs to the Employer by an estimated amount of \$160,000.00 the first year, and \$120,000.00 the second year (offset somewhat by absence of increase since August 1965 when the previous contract expired). We think it is a proper step towards the ultimate goal which this Commission hopes will

be realized: that is, a fair prevailing wage classification to the employees of hospitals whether they be here or elsewhere.

During the course of the hearing, it was made to appear that Edward Sparrow Hospital has a high rate of turn-over of bargaining unit personnel. Many employees are temporary or part time; many are students; many in positions of transition and relocation. Under other circumstances the Union's demand for wage increases retroactive to expiration of the last agreement might be reasonable and just. But in this situation it is the judgement of the Commission that the benefits of any contract executed between the parties following the release of this recommendation not be applied retroactively to that extent. However, we do not think that prospective application should be delayed much beyond June 15, 1966, and we predicate our reasoning on a contract effective that date.

**B. As to Hospital and Medical Insurance:**

At the present time, the employees of the bargaining unit, in the event they wish to subscribe to group Blue Cross-Blue Shield insurance, are receiving a contribution on their premium in the amount of \$2.08. Nothing was revealed to the Commission during the entire course of the hearing about this matter except the statement that the Employer had offered to increase its contribution from \$2.08 to \$4.00 per month. The Union has demanded that the Employer pay the entire premium for hospital and medical coverage.

This Commission has been given few guide lines upon which to base its conclusions. Reference was made to one contract which was an exhibit in the hearing. Based upon our own personal experience as employers and an acknowledgement of the general trend of employer contribution to the health and medical coverage enjoyed by its employees and the Hospital's concession that an increase is in order, the Commission thinks it is just and reasonable that the Employer contribute to medical and hospitalization insurance to which the employee subscribes, in an amount of \$6.00 per month for the first year of the contract, and \$7.50 per month in the second year of the contract.

**C. As to the Union Security Provision.**

When the Commission's hearing began, the positions of the parties were: The Union was demanding a union shop clause,

and check off. The Hospital was willing to grant a check off clause substantially in the form demanded by the Union, but refused to agree to a union shop clause.

During the first day of hearing the Commission suggested, and the parties agreed, that an interim recommendation on this issue be given to the parties, and that they resume bargaining on the strength of it. At that time the Commission had cause to believe and hope that if this issue was resolved, other issues would be settled in negotiations.

Accordingly the Commission devoted the first session, December 8, 1965, to hearing evidence on this issue, and being advised by the parties that they had completed their presentation with respect to it, deliberated and issued to the parties an interim recommendation which stated in significant part,

"Having considered the evidence and deliberated, the special commission by unanimous vote of its voting members finds that it is reasonable and just, and recommends that the union's demand for union security provisions in the new agreement be granted to the following extent:

"A. A provision for the check-off of union dues should be included in the agreement substantially in the words of the company's proposed draft given to the union on or about August 26, 1965;

"B. A provision should be included in the agreement requiring that employees in the bargaining unit who as of the time of execution of such agreement are members of the union, shall, as a condition of employment, remain members of the union for the duration of the agreement."

The parties met in negotiations on Saturday, December 11, 1965 following a brief session with the Commission on that day but failed to reach agreement with respect to this issue or any other matters.

In face of that, the Commission resumed its hearings on March 15, 1966. The Union then insisted that it had not completed



its presentation on the union security issue, and submitted additional evidence on it which was received over the Hospital's objection that the Union's presentation had been completed.

The Union contends, correctly we think, that the interim recommendation issued by the Commission was not the written findings and recommendations which by Section 13b of the statute the Commission is required to report to the Governor, and that the Commission is free to deliberate further on all the issues before making its statutory recommendation and report.

Being free to consider the matter further, in our opinion, the questions are whether we should, and if we do, whether we should alter our view as to what the parties should agree to with respect to union security from that expressed in the interim recommendation.

The following extract from the transcript clearly reveals that the Commission was led to believe that the parties had completed their presentation on the issue,

"MR. ALEXANDER: All right. Well, I understand that counsel are agreed that the presentation, including these Exhibits just handed up, is all they desire to present to the Commission with respect to the Union Security issue..." R145.

Counsel for the Union did not differ or challenge that statement by the Chairman. Accordingly we think the Union would have no sound basis for complaint if the Commission declined to reconsider, or alter its opinion as expressed in the interim recommendation.

However, we believe that our statutory responsibility obligates us to exercise our best judgement in recommending to the Governor what we think in light of all the circumstances the parties ought to do to settle their dispute: with respect to this issue what, in the words of the statute, we finally deem to be "just and reasonable" with respect to union security.

A majority of the Commission believes that in the long run the parties should agree upon the maximum union security provisions permitted by present law and public policy. The majority is of the opinion that they and the entire community will benefit from a soundly administered labor-management relationship pursuant to their collective bargaining agreement, and we are aware of the

untoward results which may flow from anxiety on the part of the bargaining agent as to its very existence, created or acerbated by an ingrained anti-union philosophy which is, or at least has been, characteristic of many employers in this country, and seems to be characteristic of the Hospital Management.

But we sense that the Union is not the only party to this proceeding that is fearful of the future. The Hospital Management has also demonstrated anxiety, and there is evidence that some of the Hospital's employes may be suspicious of a future in which the Union will have a secure position. The Commission thinks all those anxieties can and should be allayed, but that the only certain way to allay them is for the Hospital and the Union to moderate their antipathies, and to strive for better understanding day by day, and little by little over the life of the new agreement. If that is done, we believe, the union security issue will resolve itself in course of time. The entire Commission thinks the parties would be well advised to compromise their present differences about union security, settle upon an intermediate step in the direction of a full union shop, and get down to the business of proving to each other that they are capable of, and intend to, develop a mature union-management relationship under law and their agreement.

The Commission is convinced by the record, including the behavior of the parties in the course of these proceedings, that up to this time there have been few if any demonstrations of an increasing maturity. We sense more rancor than trust, more criticism than harmony, more concern with self interest than objective appraisal of mutual problems - on the part of some representatives of both parties.

All voting members of the Commission believe that the union security issue should be settled by a compromise between the positions asserted at the outset of these proceedings. We are not now all agreed as to exactly what form that compromise should take. Our interim recommendation of a maintenance of membership clause was a compromise substantially in the form consistently ordered by the National War Labor Board in World War II. But that is only one form. The matter might also be compromised by another form of union security clause, commonly known as a "modified union shop" which has been used in more recent years. The extent of practical difference between adoption of either of those forms at Sparrow Hospital might be very little,

or quite substantial, depending on the extent to which present employees are already members of the Union, and the ability of the Union to enroll new employees. A majority of the Commission was and is of the opinion that the Union is in strong position in both those respects and that a modified union shop clause will not in practice create results greatly different from those which would be engendered by a maintenance of membership clause. The minority member takes the opposite view, as hereinafter explained.

The Commission's further deliberations on the union security issue, therefore, have only brought a majority of the Voting Members to the conclusion that it would be just and reasonable for the parties to agree on a "modified union shop" clause. Such a clause would require present members of the Union to maintain their membership, and require new employees to join the Union after a probationary period. It would not require present employees who are not members to join the Union. The probationary period, we think should be the same as the one recommended on the seniority issue, forty-five (45) days of actual employment exclusive of absences for any reason. We think it unwise to have one probationary period for seniority purposes, and another exempt period for operation of a union shop clause, and that forty-five (45) days of actual work is a reasonable period for customary employer scrutiny of a new employees desirability.

The reasoning of the minority voting member is substantially as follows: Evidence submitted at the hearing indicates that the Union has not heretofore provided adequate service to the bargaining unit and that currently its members do not represent a large majority, perhaps not even a bare majority of the employees in the unit. Before recommending a provision that would compel any non members to join the Union as a condition of employment the Commission ought to be convinced by evidence that the Union has earned it by providing adequate service to the employees in the unit, and by obtaining on a voluntary basis the membership of a substantial majority of them. A modified union shop clause would give to the Union an absolute right to have new employees join after a probationary period, and coupled with the large turnover of employment characteristic of the Hospital, would in course of time give it the membership of all employees in the unit without imposing on the Union any obligation to provide service to, or solicit voluntary memberships from the employees. A maintenance of membership clause is an adequate intermediate step towards stabilizing the Hospital-Union-employee relationship at this time, the minority believes, and

it would stimulate the Union to exert more effort on behalf of the employees and obtain their memberships on a voluntary basis, which in final analysis is the most satisfactory one.

D. As to Seniority.

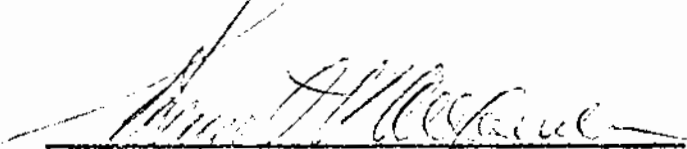
The differences between the parties are slight. The Hospital's proposal substantially meets the Union's request. We have recommended only minor modifications to eliminate consideration of ability on layoffs, which seldom occur in a hospital operation, and to shorten the probationary period to coincide with that recommended under the union security issue.

We believe that for layoff purposes seniority should be controlling regardless of relative ability. By way of contrast we agree with the Hospital's proposal that for transfer (including promotion) purposes, seniority should be governing only if relative ability is equal.

E. As to the No Strike Provision.

The Union has not seriously challenged inclusion of the Hospital's proposed clause. We think it fundamental that the Hospital should be guaranteed that work will not be interrupted during the life of the agreement.

Respectfully submitted,



Gabriel N. Alexander, Esquire  
Chairman

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Leo A. Farhat, Esquire  
Voting Member

Robert J. Diehl, Esquire  
Philip F. Lang M.D.  
Non-Voting Members

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Lee C. Dramis, Esquire  
Voting Member

JUN 3 1966