IN THE MATTER OF AN ARBITRATION BETWEEN:

THE BEAUTIFUL PLAINS SCHOOL DIVISION NO. 31
(hereinafter called "the Division")
- and -

THE BEAUTIFUL PLAINS TEACHERS ASSOCIATION NO. 31
OF THE MANITOBA TEACHERS ASSOCIATION
(hereinafter called "the Association)

This matter involves a grievance by the Association. The grievance was dated September, 1979. The nominee of the Division was Mr. Glen Williams, Barrister, of Brandon. The nominee of the Association was Mr. R.Penner, Q.C. of Winnipeg. Jack M. Chapman, Q.C. was appointed by the parties to act as Chairman. The hearings, by agreement of the parties were initially held at Winnipeg on April 21, 1980.

Mr. R. Good of Fillmore & Riley appeared as Counsel for the Division along with Ms. Marilyn McGonigal as Counsel for Manitoba Association of School Trustees. Mr. Cooper of MAST also appeared. Mr. D. Booth of Allen and Booth appeared as Counsel for the Association. Mr. A. Asper of the Manitoba Teachers Society also appeared.

At the commencement of the hearing the Parties confirmed that they took no objection to the jurisdiction of the Board to hear the matter, or its composition and granted the Board such additional time as it might require to come to its decision.

The parties entered into a Collective Agreement on the 21st day of August, 1979. By virtue of Article 2.01 the agreement was to come into force and take effect on the first day of January, 1979, and to remain in force for at least one year from that date.

The Grievance is dated September 10, 1979 and is as follows:

> "We hereby give notice of our desire to grieve the unilateral action of the Division in changing the method of payment of salary particularly for the months of July and August, 1979 by effecting a holdback out of the retroactive pay to which teachers were entitled and a portion of which was paid on September 13, 1979.
>
> The details of our grievance is of course the fact that each year, we have been paid one-twelfth of the annual salary less proper deductions on each pay day, which of course is in accordance with the collective agreements past and present. This included the payment for July and August. For some reasons, you have determined that the payments for July and August, 1979 should be less than one-twelfth. As a result, each teacher received something less than their entitlement although the amount varies depending on the salary to which the individual teachers are entitled.
>
> Please therefore advise when representatives of our Association may meet with your officials to negotiate this dispute pursuant to Article 16 of the Collective Agreement."

The Grievance was filed before us as Exhibit 4.

The parties filed an Agreed Statement of Facts with the Board as Exhibit 1. This statement is reproduced as Appendix "A" hereto.

It is clear from a reading of the Grievance and of Exhibit 1 that the issue before us relates to Article 7 of the agreement i.e. Payment of Salary. It was agreed by the parties that the words "Effective September l, 1975" had been omitted from the beginning of 7.01. Accordingly Article 7 should read as follows:

"Article 7: Payment of Salary

7.01 "Effective September 1, 1975 Teachers shall be paid on a 12 month basis, and shall receive cheques dated the last day of July and August covering that portion of their salary.

7.02 Payment shall be on the last teaching Friday of each month except for the months of December and June, when payment shall be made on the last teaching day.

7.03 If a teacher's contract shall be terminated as provided therein, the final salary payment shall be so adjusted that the teacher shall receive for the part of the year taught, such fraction of the salary for the whole year as the number of days taught is of two hundred day."

At the hearing the Division sought to have introduced as evidence certain documents relating to the negotiations of the 1979 agreement. It was agreed by all parties that such extrinsic evidence was not usually admitted unless to explain some ambiguity in the agreement. The Association vigorously objected to the Board accepting this evidence.

The Board was referred to a number of authorities relating to the admissibility of extrinsic evidence. There was no question by the Board as to the admissibility of the evidence if there was any ambiguity. However, at that stage of the proceedings the Board had not heard sufficient evidence to make any such ruling and the Board finally ordered that the evidence be filed with it for identification on the following basis:

(a) The Board's decision to consider it would be based on whether or not the Board found any ambiguity in the agreement.

(b) The basic duty of the Board was to rely on the terms of the agreement, unless there was an ambiguity.

(c) The ambiguity could be latent or patent, but if there was no ambiguity then the extrinsic evidence would not be considered by the Board.

(d) The ambiguity could arise from either or both of the amount of the salary or the pay periods.

It is clear from the evidence of the parties that the particular question before us did not arise until the fall of 1979. As noted earlier the new Collective Agreement was signed in August of 1979. In September of 1979 the Division sent out the retroactive pay due under the 1979 agreement to each teacher and enclosed a letter of explanation with the cheque. This letter was entered as Exhibit 2 and reads as follows:

September 14, 1979
Dear Staff Member:

(a) This cheque represents the retro pay owing you for the period Jan. 1 to Aug. 31, 1979.

(b) Please note that July & August salary is based on the hold-back from the Fall and Spring Term.

(c) Income tax of 25% has been deducted from the gross amount.

(d) Interest has been calculated using a factor of .0233 x the Gross Metro Pay less Income tax. This equals approximately 8% on the unpaid monthly balance owing you. This was approved by your Local Executive.

(e) If you have any questions please contact this office.

C. H. Hanson
Secretary-Treasurer

Item (b) of Exhibit 2 above, in effect provided that the salary for the July and August payment should be computed on the basis of the 1978 scale as it was really payment for part of the previous fall and spring term. In essence the position of the Division is that the salary, although paid in 12 payments, is based on a 10 month teaching term, being September to December in one year, and January to June in the following year. As a result of this computation the individual teachers received slightly less than if the computations had continued to be based on the method used since at least 1975. I therefore have some difficulty in seeing the relevance of material filed relating to what transpired prior to 1975.

For example, a teacher earning $18,491 on the salary grid for 1979 would be entitled to have received payments for January to August of 8/12ths of $18,491 or $12,328. Because of the lateness of the settlement the teacher would have already received during the school year 8/12ths of the salary scale for 1978 which was $17,137 or $11,424. The teacher would then have received an extra gross retroactive payment of the difference between what they were entitled to on the 1979 scale, and what they had received pending settlement.

The new position taken by the Division is that the salary for January to June 1979 would be based on the new scale but that the salary for July and August related to an alleged "holdback" for the part of the term in the previous year and therefore should be based on the previous scale. This would result in a lesser payment to the teacher.

The amounts due the teachers might vary dependent on adjustments for grid movements, interest, deductions and other similar items.

It is difficult to see the rationale for the Division's new method of paying the retroactive pay.

Article 3.01 clearly and unequivocally relates to 1979 and reads as follows:

"Article 3: <u>Basic Salary</u>

3.01 Salary Schedule

Effective January 1, 1979, the basic minimums, maximums and increments per annum shall be paid to a teacher according to the following salary schedule:"

It is clear from the above that the parties in accordance with their right and duty under the Public Schools Act entered into a Collective Agreement relating to the salaries to be paid in 1979. I cannot see any need to be concerned with 1978 or previous years. 7.01 (supra) (which does relate back to 1975) clearly specifies that the July and August cheques relate to "that portion of their salary". I believe that the reference is clearly and unequivocally to the salary as set forth in the current agreement, in this case the one for 1979.

Argument was advanced that the agreement must be ambiguous in that a teacher whose contract was terminated might receive, pursuant to clause 7.03, a lesser salary than a teacher whose contract was not terminated, for teaching during an equivalent period of time. In my opinion this fact does not of itself create any ambiguity - either patent or latent. A multitude of agreements contemplate different results in the event of terminations, deaths, retirements or other similar events. The parties have agreed on the clauses and their meaning appears clear. The agreement in very simple language sets forth an annual salary effective January 1st. It does so in such a way that it is clear that all teachers with the same qualifications and the same years of experience yet the same salary There is no ambiguity, either latent or patent, here.

One of the clauses of the same general article determines a method of calculating salary in the event of severance. That clause may or may not produce different results in its operation. The simple fact that the clause may produce different results does not necessarily mean that there is an ambiguity as different sets of circumstances may apply.

I do not think the clauses contradict each other, nor in my opinion are they repugnant. They simply refer to payments to be made under different circumstances. Accordingly there is no ambiguity whatsoever on the face of the agreement and there is accordingly no basis for admitting or considering the extrinsic evidence.

Considerable reference was made to the Form 6 contract which must be signed when a teacher first joins a division. The terms of this statutory contract are capable of being varied and were in fact varied to considerable extents by the subsequent Collective Agreement. For example, Section 6 of the Form 6 contract contemplates same being varied as to the amounts of salaries and the times for payment of same, as such variations may be determined by the Board and of which variations the teacher has the right of both notice and conference. Obviously the variations had been made by the parties through collective bargaining. The Association conferred and negotiated and agreed with the Division on behalf of the teachers, and the collective agreement covered many working conditions which are substantial extensions of many of the items set forth in the Form 6 contract.

The relevant portions of Article 6 of Form 6 read as follows:

"6. This agreement shall be deemed to continue in force, and to be renewed from year to year, with such variations as to the time of payment and the amount of salary as may be provided by the by-baws, resolutions, or schedules, of the district from time to time in force (of which variations the teacher must be notified forthwith, and concerning which he or she

shall have the right of conference with the board of trustees of the district), unless and until terminated by one of the following methods."

The underlining has been added for emphasis.

To accept the position of the Division that the minimum terms of the Form 6 contract are incapable of being varied would be to negate the entire collective bargaining process. Certainly the intent of the Legislature in permitting, fostering, and encouraging collective bargaining was to permit the parties to negotiate and finalize additional benefits, rights and duties as a supplement to the minimum conditions set forth in the Form 6 contract.

In view of all of the above I therefore hold that the Grievance be allowed and that the retroactive pay be paid to the teachers based solely on the salaries to be paid to them in accordance with the 1979 agreement and that the payments for July and August of 1979 be in accordance with that agreement.

I wish to thank all of the parties for their very able and thorough arguments and presentations. I also regret, and apologize for the delay in publishing this award.

The nominees of each party shall submit their accounts to me and my fees shall be added. Each of the parties shall be responsible for one half of the costs.

DATED at Winnipeg, Manitoba, this 21st day of July A.D. 1980.

Jack Chapman
Chairman

I do not concur in the above award and am attaching reasons.

DATED at Brandon, Manitoba, this 6th day of August, A.D. 1980.

Glen Williams
Nominee of the Division

I do concur in the above award and am not attaching reasons.

DATED at Winnipeg, Manitoba, this 8th day of August, A.D. 1980.

R. Penner
Nominee of the Association

APPENDIX "A" - PROPOSED AGREED STATEMENT OF FACTS

A. Documents to be filed by agreement:

1. Memo of September 14, 1979 to all. Fencers from C.H. Hanson, Secretary Treasurer of Beautiful Plains School Division.

2. Actual calculation of retroactive pay for 1979 for teacher, Brian Harley,

with explanation thereof.

3. Grievance letter - September l9, 1979 from Beautiful Plains Teachers' Association to the School Division.

4. Methods of payment (Method I requested by teachers, and Method II requested by School Division)

5. Sample calculations under two methods of payment

6. Letter of October 16, 1979 with notice of nominee.

7. Letter of October 30, 1979 with notice of nominee.

8. Extracts from Collective Agreements 1971 to 1979 inclusive.

9. 1978 Collective Agreement.

10. 1979 Collective Agreement

11. contracts of Employment of G. Harley and/or Bennet.

12. four examples of pay calculation in the 1971-72 school year (Berniece Wallace, Robert Hobbs, Elizabeth Sneeshv, Vi McFarlane).

B. Facts Agreed Upon:

1. Until 1972 the School Division paid all teachers their annual salary in ten consecutive monthly payments during the ten teaching months - September to June.

2. In 1972 the Division and the teachers negotiated an agreement with an option for the teachers to be paid their annual salary on a ten or twelve month basis.

3. In 1975 the teachers and the School Division agreed to remove the option and the 1975 Collective Agreement provided that, "Effective September 1, 1975, teachers shall be paid on a 12 month basis and shall receive cheques dated the last day of July and August covering that portion of their salary". From that time until the dispute giving rise to this arbitration developed, the teachers were paid their annual salary on a 12 month basis in accordance with Method I .

4. Because the 1979 Collective Agreement was not signed until August 21, 1979 and it provided for an increase in the teachers' salary, there was a retroactive payment due all the teachers.

5. All teachers who were paid on a 12 month basis since 1971 including retroactive pay, were paid in accordance with Method I.

6. It was not until the School Division issued cheques to pay the teachers their retroactive increase for 1979 that the Division calculated pay for July and August using Method II.

7. The School Division initially paid out one-twelfth for July and August, 1979 at the then existing annual rate (1978) rate. The two cheques dated July 31 and August 31, 1979 were given to each teacher on June 30, 1979.

8. The Division explained the calculation by the remarks, "Please note that July and August salaries based on the holdback for the fall and spring term".

9. The teachers filed the grievance outlined in the letter of September 19, 1979, and proceeded under Article 16 of the Collective Agreement to attempt to negotiate their differences. When it became apparent at a meeting of October 5, 1979, that negotiations would not succeed, they referred the grievance to arbitration by the letter of October 16, 1979.

DATED the 21st day of April 1980.

Allen Booth

Per: Mr. D. Booth
Solicitors for the Beautiful Plains Division Association No. 31 of the Manitoba Teachers' Society

Fillmore & Riley

Per: Mr. R. Good
Solicitor for the Beautiful Plains School Division No. 31

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DISSENTING AWARD

MR. GLEN T. WILLIAMS

IN THE MATTER OF:

AN ARBITRATION BETWEEN:

THE BEAUTIFUL PLAINS SCHOOL DIVISION NO. 31
(hereinafter called "the Division"),

- and -

THE BEAUTIFUL PLAINS TEACHERS' ASSOCIATION NO. 31 OF THE MANITOBA TEACHERS' SOCIETY,
(hereinafter called "the Association").

The writer has now had an opportunity to review the material presented in this arbitration, the agreed statement of facts, and the cases submitted by counsel.

The question in this arbitration is an interpretation of Article 7 - "Payment of Salary", which under the proposed agreed statement of facts comes under item 8 - "Extracts from Collective Agreements, 1971 to 1979 inclusive". It is the writer's understanding that the 1979 agreement should have had the wording, at

the beginning of Article 7.01, "effective September 1, 1975" it being agreed by the parties that this was omitted by typographical error.

Counsel for both parties placed argument before the Board as to whether or not any evidence as to intention, (or other extrinsic evidence), should be allowed to interpret that clause; the arguments being based upon whether or not the clause was "ambiguous".

Firstly, I feel it incumbent upon the Board of Arbitration to deal with the Preliminary argument with regard to extrinsic evidence.

Extrinsic evidence has always been admitted, both under the English common law and Canadian law, where an ambiguity was apparent. Ambiguity meant either a "patent" ambiguity or a "latent" ambiguity; the former effectively being an ambiguity obvious from a simple reading of the instrument, or on the face of the instrument, and the latter being an ambiguity arising from the attempted application of the clause or clauses in question.

Admittedly, under clause 7, most people would not find any patent ambiguity contained therein. This, in the writer's view, is the result of most people not working through the mathematical computations required under clause 7, and, as a result, dismissing the fact there may be an ambiguity. It is, however, the writer's view; (he being totally familiar with payments in school divisions); that an obvious ambiguity exists. In order to ascertain this obvious ambiguity; it is, of course, necessary to understand and be cognizant with collective agreements to some extent. That is, collective agreements must be understood as propounding the theory that two people qualified under a salary clause, (clause 3.01 of the agreement), for exactly the same salary during the period of the agreement must be paid exactly the same amount. Any other conclusion is not possible, for then the word "collective" in collective bargaining is meaningless.

However, should the determining body, (the Board of Arbitration), determine that a simple reading of the clause does not produce a patent ambiguity, there is no doubt, in the writer's mind, that a latent ambiguity exists. That is to say, if the Board of Arbitration; having once been advised of the application, particularly of clauses 7.01 and 7.03 of the agreement; finds an obvious difference, then this hidden differential is an obvious latent ambiguity.

Disregarding in total all of the arguments presented above, the Board of Arbitration was given copies and referred to the case of "re Canadian National Railways and Canadian Pacific Ltd. (1978) 95 D.L.R.(3d) 242", a case which we agree with, and it becomes obvious on a perusal of that report that the law in Canada with regard to presentation of extrinsic evidence exceeds just consideration of patent or latent ambiguities. I quote from pages 261 and 262 of that judgment:

> "The Chambers Judge discusses cases dealing with the admissibility of evidence of subsequent conduct as an aid in the construction of an agreement. Those cases refer to 'ambiguity', both patent and latent; 'doubt', both as to meaning and as to application; 'uncertainty' and 'difficulty of construction'. These words, like most words, have no fixity of meaning but carry their freight as expressions of legal concepts through the words to which they are hitched and the tracks on which they are made to run. Thus when Locke, J., in Turvey and Mercer v. Lauder (1956), 4 D.L.R. (2d) 225, says that the construction which the parties have placed upon an agreement may, if there is doubt or ambiguity as to its terms, be looked at as an aid to construction, he is not to be taken as differentiating between doubt and ambiguity, on the one hand, as permitting the use of that type of extrinsic evidence, and uncertainty or difficulty of

construction, on the other hand, as not permitting the use of that type of extrinsic evidence. Similarly, as pointed out by Gale, C.J.O., in Leitch Gold Mines Ltd. et al.v. Texas Gulf Sulphur Co. (Inc.) et al. (1969), 3 D.L.R.(3d) 161,[1969] 1 O.R. 469, the term 'latent ambiguity' has been applied in cases of doubtful meaning or application where the doubt is apparent. The words 'latent ambiguity' - or even the word 'ambiguity' -do not necessarily carry the same meaning in a judgment discussing the admissibility of extrinsic evidence as they would in formal logic. It is my opinion that the key to the admissibility of evidence of subsequent conduct does not lie in a finding of 'ambiguity' as opposed to 'difficulty of construction or 'doubt' or 'uncertainty'.

In Canada, the rule with respect to subsequent conduct is that if, after considering the agreement itself, including the particular words used in their immediate context and in the context of the agreement as a whole, there remain two reasonable alternative interpretations, then certain additional evidence may be both admitted and taken to have legal relevance if that additional evidence will help to determine which of the two reasonable alternative interpretations is the correct one. It certainly makes no difference to the law in this respect if the continuing existence of two reasonable alternative interpretations after an examination of the agreement as a whole is described as doubt or as ambiguity or as uncertainty or as difficulty of construction."

"In the case of evidence of subsequent conduct the evidence is likely to be most cogent where the parties to the agreement are individuals, the acts considered are the acts of both parties, the acts can relate only to the agreement, the acts are intentional and the acts are consistent only with one of the alternative interpretations. Where the parties to the agreement are corporations and the acts are the acts of employees of the corporations, then evidence of subsequent conduct is much less likely to carry weight. In no case is it necessary that weight be given to evidence of subsequent conduct. In some cases it may be most misleading to do so and it is to this danger that allusions are made throughout the recent English cases, particularly L. Schuler A.G. v. Wickman Machine Tool Sales Ltd;, [1974] A.C. 235,[1973] 2 Al1 E.R.39, and James Miller & Partners Ltd. v. Witworth Street Estates (Manchester) Ltd., [1970] A.C. 583, [1970] 1 All E.R. 796. In England the risks have been considered sufficiently grave that the possibility of illumination from the use of subsequent conduct has been ruled out. In Canada, they have not, but those risks must be carefully assessed in each individual case before determining to give weight to subsequent conduct."

It is the writer's view that the evidence as to payment that has been made and the method of payment used in 1979 must, absolutely, be considered and a decision made by this Board of Arbitration as to which of the alternative interpretations presented by the parties to this arbitration should be accepted as the true and correct interpretation. It is the writer's view, referring to page 263 of the judgment, that this evidence has to be admitted due to the difficulty of construction and a decision made by the Board of Arbitration considering the evidence presented.

I quote as follows:

"There is, however, in my opinion, a lack of precision in the statement of the arbitrators that for purposes relevant to the admissibility of evidence of subsequent conduct, ambiguity and difficulty of construction are two different things. If those words are applied to the later stage in the interpretation of an agreement where an examination of the words in their context and an examination of the agreement as a whole have left two reasonable alternative interpretations, then either description, ambiguity or difficulty of construction, is appropriate to describe the existence of the two reasonable alternative interpretations. In that sense the statement that ambiguity and difficulty of construction are two different things could be said to be an error. It is on that error that the Chambers Judge relied in finding error of law on the face of the record. The error itself, if it is one, arises from a misquotation by Mr. Tysoe of what was said by Lord Wilberforce in L. Schuler A.G. v. Wickman Machine Tool Sales Ltd., supra, at p.261. The actual words used are:

> 'And evidence may be admitted of surrounding circumstances or in order to explain technical expressions or to identify the subject matter of an agreement: or (an overlapping exception), to resolve a latent ambiguity. But ambiguity in this context is not to be equated with difficulty of construction, even difficulty to a point where judicial opinion as to meaning has differed. This is, I venture to think, elementary law.'"

In addition to the above judgment, we were presented with photostatic copies of pages 126-129 of the book "Canadian and Labour Arbitration". Referring to page 128, where the book refers to the case of "Leitch Gold Mines Ltd. v. Texas Sulphur Co.", it is noted in an excerpt from that case, at the middle of the page, that the term "latent ambiguity" seems now to be applied generally to all cases of doubtful meaning or application. There is little doubt that there is doubtful meaning or application in the case before the Arbitration Board and this, again, leads to consideration of the evidence presented before the Board.

We should now refer to specific exhibits presented in the arbitration hearing. Exhibits 14,1S,16 and 17 definitively outline the ambiguity or difficulty of interpretation that exists. Firstly, referring to Article 7.03, it is to be noted that upon termination salary payment is adjusted so that a teacher receives for the part of the year (or the whole year) taught such fraction of the salary for the whole year as the number of days taught is of 200 days. This, of course, conforms with clause 8 of Form 6 (The Teachers' Employment Agreement with the Board); the agreement that every teacher must sign upon employment with the Board. Let us refer to Exhibit 15, and assume that Mr. Hobbs was hired in September of 1971 and terminated at the end of June 1972, in accordance with his contract. His salary would necessarily be computed on the basis of having taught effectively 200 days and he would, as a consequence, receive the total sum of $11,880.00. However, assuming Bernice Wallace was hired on at exactly the same time; (that is, September of 1971); and she continued to work for the 1972-73 school year, and she was paid on a twelve-month basis, in accordance with the contract; if she were paid 4/12ths of the 1971 salary schedule and 8/12ths of the 1972 salary schedule, she would be paid $11,916.66. The difference of $36.66 flies in the face of the collective agreement since both teachers were equally qualified and worked the same school terms. If the latter teacher had been paid in accordance with the school-board calculations which are outlined on Exhibit 5, teacher Wallace's payment would have been exactly the same as teacher Hobbs'. In the writer's view, attempting to interpret two payment clauses to provide a different result for equally qualified teachers is irrational and ambiguous.

Undoubtedly, an ambiguity exists where two clauses in the agreement regarding salary for equally qualified teachers can be interpreted to pay one a larger salary than the other. Even in default of an

ambiguity, at the very least, there are two interpretations and extrinsic evidence must be accepted to resolve them. The resolution must conform to the computation put forward by the school board at Beautiful Plains. They cannot pay more than that based on a ten-month computation, both by virtue of Article 7.03 and by virtue of the teachers' employment contract and the regulations under The Public Schools Act. The interpretation of Article 7.01 must, therefore, conform to the interpretation of 7.03.

It should be noted that the teacher has not lost the money under the present year's contract. In order to properly present this point, the following example is given of a teacher at step 3, in class 5, in 1978 and 1979, (both for the teacher terminating on June 30, 1979, and the teacher continuing on with the division). It will be noted from this example that the two teachers are paid exactly the same for the '78-79 school year and the teacher who remains on staff, as a result of payment in the following summer terms has earned and been paid the 1979-scheduled salary of $18,491.00.

EXAMPLE

Teacher - Step 3, Class 5 - 1978 - $17,373.00

Teacher - Step 3, Class 5 - 1979 - $18,491.00

Teacher A - Hired September, 1978; Resigned June 30, 1979

4 months 1978	$17,373.00 / 10 = $ 1,737.30 x 4 = $6,949.20	
(Based on 200 days)		
Brought forward:		$ 6,949.20
6 months 1979	$18,491.00 / 10 = $1,849.10 x 6 = $11,094.60	$11,094.60
(Based on 200 days)		
		$18,043.80

Teacher B - Hired September, 1978; Does not resign for 79/80

12 months Basis of payment

	$17,373.00 / 12 = $1,447.75 x 4 = $5,791.00	$5,791.00
	$18,491.00 / 12 = $1,540.91 x 6 = $9,245.46	$9,245.46
Fall - $17,373 x .0666		$ 1,158.20
Spring - $18,491 x .1000		$ 1,849.10
		$18,043.76

Total 1980 Salary

Summer 1981 - $18,492. X .0666 =	$1,232.73
	$ 1,849.10

Fall 1980 - 4 x $1,540.91 =	$9,245.46	
	$6,163.64	
		$18,490.93

It must, therefore, be concluded that the interpretation placed-upon the article in question by the Board of Beautiful Plains School Division is correct.

ADDITION TO THE DISSENTING AWARD

The writer, after perusal of the majority award in this matter, must add the following:

Firstly, I strongly disagree with the majority opinion, using Clause 3.01 as a basis for stating there is no ambiguity. Clause 3.01 states "effective January 1, 1979", which in the writer's view does not detract from the calculations set forth earlier in his award.

Secondly, the majority award, in stating that a multitude of agreements contemplate different results in the event of terminations, deaths, retirements, or other similar events, again, does not detract from the writer's dissent. It is the writer's opinion that other agreements, of course, cannot be looked at. Nonetheless, in any collective agreement the writer has looked at, there may be different results in those events, but they always result from specific clauses in the agreement and are specifically put forth. Nowhere has the writer ever seen an agreement where basic salary was different for employees employed in the same job; (ignoring such things, of course, as increments).

Thirdly, the majority award states that the fact that a teacher's terminating v. one remaining in the division, in producing different results, does not necessarily mean there is an ambiguity as different sets of circumstances may apply. The fact is, there are no different circumstances. Both teachers work the same school year. They should, therefore, beyond any doubt, be paid the same.

There is no doubt, therefore, that ambiguity exists and the Board must consider all the evidence to interpret the ambiguities and arrive at a logical conclusion. It is the writer's opinion that, of course, the only logical conclusion is that of the School Board.

The writer would also wish to thank all the parties for their very able and thorough arguments and presentations in this matter.

All of which is respectfully submitted.

Glen T. Williams, Nominee of the Division.