STATE BOARD OF EDUCATION

STATE OF GEORGIA

WILLIAM T. OWEN,	:	
Appellant,	:	
vs.	:	CASE NO. 1978-10
LONG COUNTY BOARD OF EDUCATION,	:	
Appellee.	:	

O R D E R

THE STATE BOARD OF EDUCATION, after due consideration of the record submitted herein and the report of the Hearing Officer, a copy of which is attached hereto, and after vote in open meeting,

DETERMINES AND ORDERS, that the Findings of Fact and Conclusions of Law of the Hearing Officer are made the Findings of Fact and Conclusions of Law of the State Board of Education and by reference are incorporated herein, and

DETERMINES AND ORDERS, that the decision of the Long County Board of Education herein appealed from, be, and it is hereby reversed.

Mr. Stembridge did not participate. Mrs. Kjorlaug, Mr. Vann, and Mr. Latham dissented.

Mr. Vann attaches his dissent.

This 30th day of August, 1978.

THOMAS K. VANN, JR.
Vice Chairman for Appeals

I dissent from the Findings of Fact and Conclusions of Law of the Hearing Officer and reversal in the matter of William T. Owen v. Long County Board of Education, Case No. 1978-10, before the State Board of Education. In my opinion the evidence was sufficient under the "any evidence" rule, which this Board must apply, to sustain the Findings of Fact of the Local Board and the Conclusions thereon by the Local Board. Ransum v. Chattooga County Board of Education, 144 Ga. Appeals, 783; 242 S.E. 2d 374 (1978).

The record before this Board is voluminous. The record does not reflect that the hearing before the Local Board was conducted in an impartial, unfair, biased or prejudiced manner.

On April 12, 1977, appellant was notified in writing that the Local Board had decided not to renew his contract as principal for the 1977-78 school year. Four days later, on April 16, 1977, the Local Board employed a new principal for the 1977-78 school year. Appellant made his request for a list of reasons and for a hearing on April 19, 1977. A written list of reasons was given to appellant on May 20, 1977, and the hearing was scheduled and the Local Board conducted a hearing on June 6, 7, and 9, 1977. From these facts the Hearing Officer concludes that the Local Board is not an impartial tribunal and could not render an impartial decision and should have permitted another tribunal to hold the hearing. Although the Fair Dismissal Act, Georgia Code Chapter 32-21C, provides

that the Local Board may designate a tribunal to hold the hearing and submit its findings and recommendations to the Board for its decision thereon, the only body authorized by any law of the State of Georgia to make a decision based upon the facts out of a hearing held by either the tribunal or the Local Board is the Local Board. Nowhere in the report of the Hearing Officer, nor in the record, in my opinion, is a charge made that the hearing itself was not conducted in a fair, impartial, unbiased and unprejudiced manner. The complaint is that the decision resulting from said hearing could not be rendered impartially by the Local Board. In my opinion the action taken by the Local Board in contracting with another person after advising the appellant as provided by law of the decision not to renew his contract in and of itself does not render the Local Board an impartial tribunal. Furthermore, the issue of impartiality is raised for the first time on this appeal and it is too late. A charge of bias, prejudice or impartiality on the part of one or more of the members of the School Board should be raised at the hearing before the Board, and resolved by the Board, and subject to review on appeal. Appellant should not be permitted to raise this issue for the first time before the State Board of Education. And even if a showing of the School Board's prejudice against a dismissed employee is made, the School Board is still the only public body authorized by law to make a decision on the facts

whether they are developed at a hearing before the Local Board or before a tribunal appointed by the Local Board. See 68 Am. Jur. 2d, School, Section 193, 198.

I concur in reversing the decision of the Local Board to dismiss the appeal on motion of the Local Board.

August 30, 1978.

Thomas K. Vann, Jr.
Member