

STATE OF RHODE ISLAND

BEFORE THE STATE LABOR RELATIONS BOARD

In the MATTER of	X	
CITY OF PROVIDENCE, RHODE ISLAND	X	
	X	
Employer	X	
- and -	X	
LABORERS' INTERNATIONAL UNION OF NORTH AMERICA,	X	CASE NO.:
ON BEHALF OF LOCAL UNION 1033	X	EE-1751
	X	
Petitioner	X	
- and -	X	
RHODE ISLAND PUBLIC EMPLOYEES, COUNCIL 70,	X	
AFSCME, AFL-CIO	X	
	X	
Intervenor	X	
	X	

D E C I S I O N

and

O R D E R

STATEMENT OF THE CASE

On February 9, 1968, the Employer, the City of Providence, and the Unions, the Rhode Island Public Employees, Council 70, AFSCME, AFL-CIO and the Laborers' International Union of North America, AFL-CIO, executed an agreement for a consent election to be conducted among all employees employed by the City of Providence, excluding office and clerical employees, supervisory personnel, professional and technical employees, teachers, policemen, firemen, and school custodians on March 8, 1968.

On the day of the election, the Board issued and served its Report Upon Secret Ballot, which showed that of 810 ballots cast, 416 votes were in favor or representation by the Laborers' International Union; 154 ballots cast for Rhode Island Public Employees; 211 ballots for no Unions; and 9 ballots were challenged.

On March 14, 1968, the Rhode Island Public Employees, Council 70, AFSCME, filed objections to the election pursuant to Section 11 of the Board's General Rules Regulations.

On March 20, 1968, the Laborers' International Union, AFL-CIO, filed a Motion to Dismiss the Rhode Island Public Employees, Council 70, AFSCME's objections to the election.

A hearing to determine the merits of the objections was duly held on April 11, 1968 before the Rhode Island State Labor Relations Board. Briefs were filed by both parties.

Upon consideration of the entire record and the briefs, the Board renders the following decision.

THE OBJECTIONS

1. The intimidation and threats of the employees physical well being upon the job premises.
2. The intimidation and threats to the employees free choice by preventing the free entrance to the polling place by the act of physically stopping the employees' vehicles.
3. The violation of the administrative rules of the State Labor Relations Board by distributing literature at and around the polling place within the hours of voting.
4. The violation of the State Labor Relations Board Administrative rules politicizing within the 24 hours prior to the election by means of posting or causing to have posted throughout the polling area, large signs on trees urging the support and vote of Local 1033.
5. The picketing of the Commissioner of Public Works Dept. on March 7, 1968 and other acts and statements implying Company Unionism on the part of this protestor.

OBJECTION NO. 1

There was no testimony or evidence presented on Objection No. 1.

OBJECTION NO. 2

Mr. Peter F. Barchi, a Providence City employee, testified that he was stopped at the gates, which are outside the 200' mark, by people blocking passage in the roadway, and given a marked ballot indicating a vote for Local 1033. (This ballot was marked Exhibit No. 1 and placed into evidence.) Mr. Barchi was also asked if this stoppage influenced his voting in any respect. He replied that it did not, nor did it prevent him from going into Roger Williams Park, or from going to the voting polls.

We find the evidence insufficient to sustain this portion of the objection, nor is there any showing that such threats, if made, influenced the employees in casting their votes at the election.

Accordingly, we shall overrule this objection.

OBJECTION NO. 3

Both Unions were advised that literature could be distributed within the twenty-four hour limit and that they could electioneer beyond the 200' mark.

The administrative rules of the State Labor Relations Board, pertaining to distribution of literature at and around the polling place within the hours of voting, were not violated. Therefore, we shall overrule this objection.

OBJECTION NO. 4

Mr. Ronald J. Gizzarelli, employed as an International Organizer for the State County and Municipal Employees, testified that he took photographs of the said violations.

The first slide showed a Volkswagon Truck with a sign attached thereto with the words, "March 8, Vote 278." In the same photograph another sign was held by two men stating "March 8, Vote 278." There were other vehicles with signs and

markings and men holding signs which were not distinguishable by any Members of the Board.

The Board found that the second photograph showed a man holding a sign near the center of the road but the markings on the sign were not distinguishable to any Members of the Board.

Mr. Rene Berthiaume, International Representative for the Rhode Island Public Employees, testified that he was familiar with the 200' rule. Mr. Berthiaume could not state that any of the alleged violations took place within the 200' mark.

Mr. Arthur E. Coia, International Representative for the Laborers' International Union of North America, testified that the vehicles from his Local and Local 278 were parked outside the 200' mark.

Mr. Arthur A. Coia, Business Manager for the Laborers' International Union of North America, testified that the vehicles with signs on them for Local 1033 were 240' from the polling place.

The bulk of the evidence developed at the hearing concerned Local 1033's electioneering during the election and whether it occurred within 200' of the polling place. The evidence is clear, and needs not be restated in detail here, that Local 1033 did engaged in electioneering beyond the 200' mark. Such electioneering was lawful, did not violate the Board's rules governing the conduct of the election, and would not be material unless it occurred within 200' of the entrance to the building in which the election is being conducted.

One of the purposes of this rule of the Board is to create a neutral area within which voters should be free from approach by any party. The area surrounding the gates provided such a neutral area prior to the time the voters entered the

building in which the election was being held. All electioneering by the Unions stopped 200' from the voting area.

Although the evidence adduced by the Rhode Island Public Employees at the post election hearing indicates that several instances of electioneering took place within 200' of the polling place, during the election no one ever complained to the Board's agents or policemen stationed in the area and that electioneering was taking place within the prohibited area. Members from both Unions were intermingling outside the 200' mark throughout the polling hours. There was no evidence to substantiate the charges of posting of large signs, urging the support and vote of Local 1033, throughout the polling area and on trees within the 24 hours prior to the election. The Board finds that the photographs were taken in an area beyond the 200' mark.

We find that, for practical purposes, the gate was beyond the 200' mark from the entrance of the building where the election was being held, and that electioneering, near the entrance gate, was not in violation of the Board's rules.

There being no evidence that any electioneering occurred within the 200' mark, or disbursement of literature within the 200' mark, we shall overrule this objection.

OBJECTION NO. 5

There was no testimony or evidence presented on Objection No. 5.

FINDINGS OF FACT

1. The City of Providence is a municipal corporation duly organized under the laws of Rhode Island. The City of Providence conducts no interstate business and makes no sales to points outside of Rhode Island. Said City qualifies as an employer and has its offices and principal place of business at City Hall, Providence, Rhode Island and was a participant in the election held by the Rhode Island State Labor Relations Board on March 8, 1968.

2. The Rhode Island Public Employees, Council 70, AFSCME, AFL-CIO is a labor organization within the meaning of the provisions of the State Labor Relations Act, as amended, and was a participant in the election held by the Rhode Island State Labor Relations Board on March 8, 1968.

3. The Laborers' International Union of North America, AFL-CIO is a labor organization within the meaning of the provisions of the State Labor Relations Act, as amended, and was a participant in the election held by the Rhode Island State Labor Relations Board on March 8, 1968.

4. There were no threats, intimidations, or acts of physical stoppage of vehicles to prevent employees from free entrance to the polling area.

5. There was insufficient evidence to sustain the Rhode Island Public Employees' objection that employees were influenced in the casting of their ballots.

6. The Administrative rules of the State Labor Relations Board, pertaining to distribution of literature at and around the polling place within the hours of voting, were not violated.

7. All electioneering by the Unions stopped 200' from the voting area.

8. There were no complaints of the election to the Labor Relations Board by any of the parties

9. There were no complaints made to the police by any of the parties or by any of the employees.

10. Members from both Unions were intermingling outside the 200' mark throughout the polling hours,

11. There was no evidence to substantiate the charges of posting of large signs, urging the support and vote of Local 1033, throughout the polling area and on trees within the 24 hours prior to the election.

12. The Board finds that the photographs were taken in an area beyond the 200' mark.

13. The gate was beyond the 200' mark from the entrance of the building where the election was being held and that electioneering, near the entrance gate, was not in violation of the Board's rules.

CONCLUSIONS

The City of Providence is a municipal corporation duly organized under the laws of Rhode Island. The City of Providence conducts no interstate business and makes no sales to points outside of Rhode Island. Said City qualifies as an employer and has its offices and principal place of business at City Hall, Providence, Rhode Island.

The Rhode Island Public Employees, Council 70, AFSCME, AFL-CIO is a labor organization within the meaning of the provisions of the State Labor Relations Act, as amended.

The Laborers' International Union of North America, AFL-CIO is a labor organization within the meaning of the provisions of the State Labor Relations Act, as amended.

The evidence and testimony presented before the State Labor Relations Board did not substantiate any of the five alleged violations to the election or election procedures as directed.

The evidence from the testimony submitted, with the exception of one witness, Mr. Barchi, was from rival members of both unions charging the other with threats and intimidations.

The only independent witness, Mr. Barchi, a City employee, testified to the effect that he was not intimidated or threatened in any manner by Local 1033.

The moving party should sustain its support by substantial evidence of its charges.

The evidence and testimony presented to the Board did not substantiate any of the alleged violations to the election or the election procedure as directed by the Labor Relations Board

and the Report Upon Secret Ballot and Fairness of Election submitted by the State Labor Relations Board after the election were in due order.

The Labor Relations Board has overruled all of the Rhode Island Public Employees' objections to the election, and the Laborers' International Union of North America has received a clear majority of the votes cast in the election, a certification will issue.

O R D E R

AND

CERTIFICATION OF REPRESENTATIVE

By virtue of and pursuant to the power vested in the Rhode Island State Labor Relations Board by the Rhode Island State Labor Relations Act, it is hereby

ORDERED, that the election objections filed herein by the Rhode Island Public Employees, Council 70, AFSCME, AFL-CIO on March 14, 1968, to the election conducted on March 8, 1968, be, and the same hereby are, overruled; and it is hereby

CERTIFIED, that Laborers' International Union of North America, AFL-CIO, has been designated and selected as representative for the purposes of collective bargaining by a majority of all employees employed by the City of Providence, excluding office and clerical employees, supervisory personnel, professional and technical employees, teachers, policemen, firemen, and school custodians, and that pursuant to the provisions of 28-7-16, (1) of the Rhode Island State Labor Relations Act, said Union is the exclusive representative of all such employees for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment and other conditions of employment.

RHODE ISLAND STATE LABOR RELATIONS BOARD

Harry T. Brot
CHAIRMAN

Armand E. Reitz
MEMBER

Samuel J. Aguard
MEMBER

DATED: PROVIDENCE, R. I.
May 27, 1968

TO: Raymond Coia, Esq.
Daniel Coyne
Vincent Piccirilli, Esq.
Arthur Coia
Lawrence McGarry
Ronald Rosenberg, Esq.