

STATE OF CALIFORNIA  
AGRICULTURAL LABOR RELATIONS BOARD

|  |   |               |
|--|---|---------------|
| PHELAN AND TAYLOR PRODUCE                    | ) |               |
|  | ) |               |
| Employer,                                    | ) | No. 75-RC-4-M |
|  | ) |               |
| and  | ) | 2 ALRB No. 22 |
|  | ) |               |
| UNITED FARM WORKERS OF AMERICA,<br>AFL-CIO   | ) |               |
|  | ) |               |
| Petitioner,                                  | ) |               |
|  | ) |               |
| and  | ) |               |
|  | ) |               |
| WESTERN CONFERENCE OF TEAMSTERS<br>LOCAL 865 | ) |               |
|  | ) |               |
| Intervener.                                  | ) |               |
|  | ) |               |

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Local 865 of the Western Conference of Teamsters ("Teamsters") received the majority of votes cast in an election conducted among the employer's agricultural employees on September 10, 1975.<sup>1/</sup> The United Farm Workers of America, AFL-CIO ( " U F W " ) , the petitioner, objects to our certification of the results of the election because six days before the election, a Teamster organizer assaulted and injured UFW organizers while organizers from both unions were campaigning for the votes of the workers. We overturn the election.<sup>2/</sup>

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<sup>1/</sup> The tally showed 50 votes for the Teamsters, 24 for the UFW and 1 for no union. There were nine unresolved challenges.

<sup>2/</sup> Because of our disposition of this case, we do not decide the validity of the UFW's other objections, nor do we consider the objections filed by the Teamsters to the exclusion of packing shed workers from the bargaining unit.

The evidence is uncontradicted. Early in the morning of September 4, 1975, two days after the UFW filed a Petition for Certification, two UFW organizers, Manuel Echavarria and Paulino Pacheco went to a celery field to talk to workers. Pacheco, age 55, who is one of the head organizers for the UFW in Santa Maria, and Echavarria, were accompanied by David Romes, a graduate student in Sociology at the University of California in Santa Barbara. The organizers talked to some workers who were in the field about the election and announced a meeting.

Five or ten minutes after the UFW organizers arrived, three Teamster organizers came to the field. One of the Teamster organizers was Arturo de la Garza.<sup>3/</sup> The Teamster organizers were wearing Teamster buttons and jackets. As soon as they arrived, de la Garza proceeded to verbally abuse Pacheco. He got no response. He then proceeded to strike Pacheco with his hands and kicked him in the face and shins. Pacheco moved away. Manuel Echavarria attempted to take photographs, but another Teamster organizer aimed a blow at the camera and instead hit Echavarria on the left side of his face. Neither of the UFW organizers offered any resistance. Some workers yelled at the Teamsters who then headed toward their car and left. The workers had celery knives in their hands. Edwin Taylor, the employer and his son, John Taylor, were near the area at the time, but did not see the fight. More than 25

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<sup>3/</sup>De la Garza appeared at the hearing on the UFW's objections as a representative of the Teamsters. He was present during the testimony of UFW organizer Manuel Echavarria and other confirming testimony where his actions were described, but he did not testify.

workers were present and did see the fight. Some workers criticized the UFW organizers for taking the physical abuse without fighting back. Pacheco and Echavarria reported the incident to the local sheriff and were treated at the Santa Maria Hospital.

On the day before the election, a group of UFW organizers, including Billy Echavarria and law student David Gibbs, gathered outside the company office where the preelection conference was taking place. Eight Teamster organizers, including Arturo de la Garza, approached and started talking. Six employees who were on the sidelines remained in their cars and watched throughout. After a while, David Gibbs left and returned with two priests. The Teamsters surrounded the priests and some of the others. One started making insulting remarks to the priests and acted as if he was going to jab one of the priests. Other Teamsters joined in making loud remarks. As the tension escalated, a Teamster told a UFW organizer that he "better put that camera away if you know what's good for you." One of the UFW organizers, fearing an increase in tension, went to get the sheriff, and the gathering dispersed.

Labor Code Section 1152 states in part that "employees shall have the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing." The access regulation, 8 Cal. Admin. Code § 20900 implements this section by granting union organizers an opportunity to organize at the work place. The right to organize is meaningless if organizers are not

protected from violence by representatives of rival parties who also have the right and opportunity to campaign for the votes of the workers.

Violence or threats of violence by representatives of the parties, is objectionable for several reasons. The acts may improperly influence an employee to vote for the party associated with the violence out of fear of retaliation. Representatives of the other parties, including other unions, may be deterred from campaigning for fear of the safety of their representatives or fear that the employees and others may unwillingly get involved in a dangerous or threatening scene. Violent acts may provoke retaliation by counterviolence.

If we condone violent acts in the course of election campaign, not only do we risk having an election in an atmosphere not conducive to free choice, but the integrity of the Board's election processes will be impaired.

In this case, a representative of the Teamsters committed unprovoked violence in the presence of workers. We have concluded that in order to insure that the employees have an opportunity to express their choice of a bargaining agent free of intimidation, and in order to deter future threats and attacks upon persons involved in election campaigns, we must set aside the election.

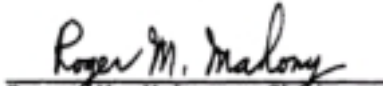
The National Labor Relations Board has set aside elections where physical attacks and threats of physical attacks on organizers and on employees contributed to an atmosphere that was not conducive to the expression of a free and untrammelled


choice of a bargaining representative. Gabriel Co. Automotive Division, 137 NLRB No. 130 (1962) (adherents of one union threatened officials of another union with assault and death); Bloomington Bros., Inc., 87 NLRB No. 144 (1949) (union organizers threatened and attacked employees who were distributing leaflets of rival union); Poinsett Lumber & Manufacturing Co., 116 NLRB No. 251 (1956) (active union members threatened employees who refused to sign union card with physical attack and loss of employment); New York Shipping Association, 108 NLRB No. 32 (1954).

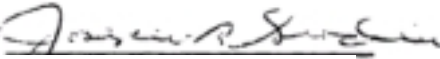
Like the NLRB, we will set aside elections where we are satisfied that acts by representatives of the parties or their adherents interfere with an atmosphere conducive to the free and uncoerced selection of a bargaining representative. This is such a case.

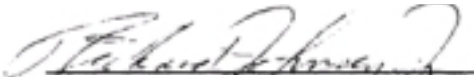
The election is set aside.

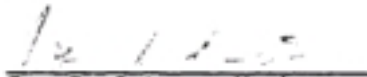
Dated: January 29, 1976

  
Roger M. Mahony, Chairman

  
LeRoy Chatfield, Member

  
Joseph R. Grodin, Member

  
Richard Johnsen, Jr., Member

  
Joe C. Ortega, Member