

President's Newsletter



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Office of the President
United Farm Workers of America, AFL-CIO
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COLLECTIVE BARGAINING

Caratan Election Sparks Debate on Decertification Rules

The collective bargaining process rewards both farm workers and growers by recognizing the fulfillment of workers' rights, stabilizing the farm labor work force and bringing peace and security to the industry. But the process can only succeed when both sides are committed to making it work.

The historic 1975 farm labor law has encouraged many growers to finally accept collective bargaining as a reality in agriculture and to deal with our union. But some growers, even after contracts are signed, never stop fighting the UFW and seizing upon every opportunity to try and defeat the union. Such is the case with M. Caratan, Inc.

Last May, amid much publicity, *Luis Caratan* led six other major Delano grape growers in signing UFW agreements. These Delano contracts were the first where the union made important concessions to the growers by giving up the traditional union hiring hall in return for contract guarantees that hiring would be fair and non-discriminatory and that labor contractors would not be used to hire workers.

At the signing ceremony, *Caratan* pledged to work with the union to bring peace and stability to the fields. It is now obvious that even as *Caratan* was signing the agreement, he had no intention of living up to his promises.

On September 1, *Caratan*, using a provision of the law that permits workers to vote to decertify or expel a union, forced the Agricultural Labor Relations Board to conduct a decertification election at his Delano ranch.

In a statement issued to the wire services on election day from La Paz by our press secretary, Brother *Marc Grossman*, we attacked the decertification drive as company-inspired, company-financed and company-perpetrated.

We noted in negotiations earlier this year the company would only agree to a one year contract. Now we know why, we stated. Even as he signed the contract last May, *Caratan* had a plan to throw the union out.

Caratan company foremen and supervisors applied direct pressure and intimidation on the workers to sign the

petition calling for the decertification election. Company officials threatened to fire workers unless they supported the effort to expel the UFW.

Caratan's manipulation of the decertification drive and the company's coercion of the farm workers is patently illegal and the union is filing charges against the company with the ALRB. The law clearly forbids a company from manipulating any type of election conducted among its workers.

ALRB Impounds Ballots

After the *Caratan* workers voted on September 1, ALRB agents, acting on orders from the five member Board in Sacramento, impounded the ballots before they were counted and stored them in the vault of a Delano Bank.

Usually, even if the election is bitterly contested, ballots from an ALRB election are publicly counted shortly after the voting ends and the results are announced.

The ALRB acted to impound the ballots because a serious legal question has arisen regarding whether the election itself was legal. The legal issue has its roots in the 1930's when the National Labor Relations Act was passed, granting collective bargaining rights to industrial workers. (Farm workers are excluded from that law).

In dealing with the questions of a decertification election, the original NLRA made no provision halting a decertification vote when there was an existing collective bargaining agreement. This meant an existing union contract would not prohibit a petition for a decertification election from being filed.

However, in 1958, the National Labor Relations Board—which, like the California ALRB, acts as the judicial, policy making arm of the law—decided that it would recognize an existing contract as a bar to filing a decertification election petition while the union agreement was in effect. This is called a "contract bar"—it means the contract acts as a bar to the filing of an election petition.

Election petitions can only be filed, the NLRB held, shortly before the expiration of a contract.

Limits on Filing Petitions

The NLRB found these limitations on the filing of a petition when an existing contract is running are necessary to protect the collective bargaining process and promote stability in labor

relations.

In 1962, the National Board specified that the period during which petitions for decertification could be filed were between 90 and 60 days before the existing contract expires, during a 30-day "open" period. In the case of a three year agreement, this means a petition for decertification can be filed only in the tenth month of the third year of a contract.

The NLRB has occasionally departed from this rule in cases of seasonal industries where it has allowed a petition for decertification to be filed before this 30-day "open" period. (Before the tenth month of the third year of a three year contract.) In these cases the season ends before the 30 day filing period would begin and no later season occurs prior to the end of the contract.

When the California Legislature enacted the Agricultural Labor Relations Act, it explicitly recognized the "contract bar" doctrine created by the decisions of the NLRB. Section 1156.7 of the law provides that a petition to decertify a union may be filed if it is accompanied by authorization cards or petitions signed by 30% or more of the workers at a ranch. At least 50% of the peak season workers must be employed before the petition is filed. The law further states that an election petition can only be filed "during the year preceding the expiration of a collective bargaining agreement which would otherwise bar the holding of an election."

UFW Legal Arguments

Even though this section of the ALRB appears to say that a decertification election petition may be filed at any time during the third year of a contract, the union's Legal Department is arguing that the rulings of the NLRB and the goal of preserving stability in labor relations limits the period during which the petition may be filed to the tail end of a three year contract's third year.

In the case of *Caratan*, the union contends it is ridiculous to have a decertification election only four months after the contract is signed (May to September). If *Caratan* can get away with it, every grower can attempt to do away with the union even after a legal contract is negotiated and signed. This would cause total chaos and insecurity in the agricultural industry.

After the ALRB impounded the ballots, it gave both sides until Sept. 15 to file legal arguments on the issue. We must now wait to see what the board decides.

Pacific Mushroom Strike Prompts Campbell Soup Boycott Threat

On August 26, the farm workers struck Pacific Mushroom Farms, the Pescadero, California-based subsidiary of Campbell's Soup Company, protesting the firm's refusal to bargain in

good faith. All of the company's 210 employees walked off their jobs in an unfair labor practice strike after eight months of fruitless negotiations.

In August, 1977, the workers voted 170 to 5 to be represented by the UFW in an election supervised by the Agricultural Labor Relations Board at the Santa Cruz County ranch. Bargaining began in January of this year. Talks broke down on August 23 after Pacific Mushroom had agreed to only a handful of minor contract items and declared an impasse on the rest.

The company has stubbornly refused workers contract language and economic demands that are identical to UFW agreements with Pacific Mushroom's competitors in the industry.

On August 22, the workers voted 189 to 1 to strike the company after receiving strike authorization from the UFW National Executive Board, and when the walk out began four days later, it was 100% effective.

On September 14 we issued a strongly worded telegram from our La Paz headquarters to Campbells Soup Company President *H.A. Schaub* in Camden, New Jersey. We do not know your company's intentions, we told *Schaub*. The farm workers are compelled to strike because his negotiators engaged in callous bad faith bargaining in deliberate violation of California law (the Agricultural Labor Relations Act.)

The United Farm Workers Union is prepared to mount a national boycott of Campbell's Soup Company and its products unless negotiators comply with their lawful duty by resuming negotiations in good faith, we said.

The Pacific Mushroom workers have shown remarkable unity and solidarity under strike leaders and Negotiating Committee members *Salvador Amezcua*, president, *Miguel A.G. Montesinos*, secretary, *Ramiro Guerrero*, *Jose A. Alvarez*, *Eduardo Perez* and *Pablo Camancho*.

UFW Member Shot at Patterson Farms Strike

A ranch committee member from Novitiate Winery supporting the UFW strike at Patterson Farms was shot and wounded earlier this month as the con-

troversy continues over an ALRB election held at the company on August 31.

Brother *Cristobal Gallego*, 60, who had been picketing with the Patterson Farm strikers, was shot in the shoulder by a scab on election day as he was getting out of his car in front of the Patterson home of a UFW member. The two youths who were later arrested and charged with the shooting had been drinking beer supplied by the grower on company property for several hours after the election took place. This is just one example of the deliberate campaign of violence and intimidation that the company is using to try and break the strike that started when negotiations broke down after almost a year and a half of bad faith bargaining on the part of the grower.

The UFW won an election at Patterson Farms on October 4, 1975 and was certified as the workers' bargaining agent in December, 1976. In March, 1977 negotiations began and broke down 17 months later when the workers realized that the company was refusing to bargain in good faith. A strike began on August 11, 1978.

As soon as the workers went out on strike, the company hired local teenage high school students to act as strikebreakers, even though its previous policy was against hiring minors. To further its efforts to break the workers' strike and defeat the UFW, a company-dominated union—the Patterson Farms Employee Association (PFEA)—petitioned the ALRB for an election on August 23, claiming that a majority of the workers at Patterson Farms wanted another election.

On August 31, the election was held with the following results: UFW-17, PFEA-3, no union-63. These results are very strange in light of the fact that just eight days before, the PFEA had filed 71 authorization cards with the ALRB for an election.

We know that the election on August 31 was fraudulent and that the company used the ALRB to illegally manipulate the law in an attempt to escape its obligations to bargain for a contract with the UFW. The Agricultural Labor Relations Act states that company-controlled unions are illegal.

We strongly object to the election and have filed charges against the company and objections to the vote with the ALRB. We have charged the company with firing a large number of union supporters since the original election in 1975, bad faith collective bargaining, harrassment of workers during and after the August 31 election, company domination of the PFEA, and hiring scabs for the sole purpose of voting against the union.

In our objections to the election, we are charging the board with not conducting an adequate investigation into the legitimacy of the PFEA, holding a pre-election conference without notifying the union and denying the union access rights under ALRB regulations.

LABOR

Victory for Retail Clerks

An 18 month strike by workers at 16 New Mexico based Winn-Dixie stores, along with a consumer boycott of Winn-Dixie, has forced the giant supermarket chain to sell their stores in New Mexico to another company.

Workers at a Winn-Dixie owned food chain in New Mexico walked out on strike to protest a massive company initiated decertification drive aimed at forcing the Retail Clerks and Meat Cutters unions out of the 20 stores where these unions held contracts.

In the settlement agreement that ended the 18 month strike, Winn-Dixie agreed to cover payments that the National Labor Relations Board ruled it owed the strikers. The strikers are being returned to their old jobs under an agreement with the new owners.

A boycott of Winn-Dixie and its affiliated stores (Kwik Chek, Foodways, and Buddies) was called as a result of the company's long standing record of labor law violations and unfair, illegal treatment of workers. On June 3 of this year, UFW Executive Board Member *Richard Chavez* spoke at a rally of the strikers and their supporters in Las Cruces, New Mexico and encouraged them to stay united in their strike and boycott effort (see Newsletter, July 31, 1978). The boycott, which was endorsed by the AFL-CIO at its 1977 convention, is still in effect.

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