

STATE OF OHIO
STATE EMPLOYMENT RELATIONS BOARD

In the Matter of
Ohio Education Association/Ashtabula
Area City School Service Personnel
Petitioner

Case Nos. 84-UU-05-1113
84-UR-05-1114

v.
The Ohio Association of Public School
Employees
and
The Ashtabula Area City School Board
of Education

OPINION

Respondents

Day, Chairman:

This case presents a novel fact pattern. The relevant facts are these: before the effective date of R.C. 4117 (April 1, 1985) the Common Pleas Court for Ashtabula County ordered arbitration to resolve representation claims between the Public Employees Division of the Ohio Conference of Teamsters (PED) and the Ohio Association of Public School Employees (OAPSE). On March 28, 1984, the arbitrator ordered an election. The election was held May 9, 1984. OAPSE was the winner.

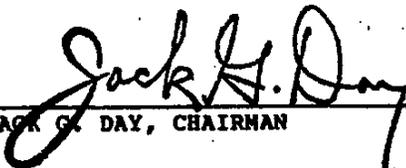
On May 15, 1984, the Ohio Education Association (OEA) challenged the election procedure in the subject unfair labor practice charges - one against the Ashtabula Area City School Board of Education (Board of Education) and one against OAPSE.

The essence of the charges was that both employer and union unfair labor practices had arisen or would arise from a bargaining relationship between the Board of Education and OAPSE. This was so, it was claimed, because the election took place after the effective date of R.C. 4117 and was not conducted by the State Employment Relations Board (SERB).

This contention is without merit. The election followed a concatenation of circumstances which neither charged party could control. These circumstances began under judicial auspice before SERB came into existence. The parties were compelled actors in the election. That it occurred after April 1, 1984 was not a consequence they could either resist or control. Accordingly, neither party can be charged with unfair conduct. Moreover, the conclusion in this case is not precedential. For the facts are unique. It is virtually a certainty that they will never recur.

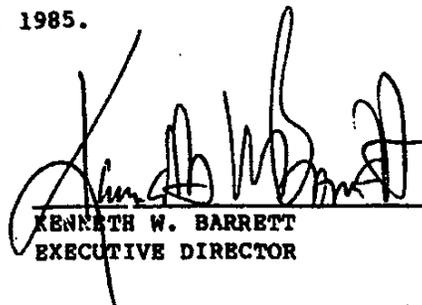
The charges are dismissed.

Vice Chairman Sheehan and Member Fix concur.



JACK G. DAY, CHAIRMAN

I hereby certify that this document was filed and a copy served upon each party on this 14 day of March, 1985.



KENNETH W. BARRETT
EXECUTIVE DIRECTOR