

STATE OF NEW HAMPSHIRE

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES, AFL-CIO	:	
Complainant	:	
and	:	CASE NO. A-0468
CARROLL COUNTY, NEW HAMPSHIRE SHERIFF'S DEPARTMENT	:	DECISION NO. 81-18
Respondent	:	

APPEARANCES

Representing the Complainant, AFSCME:

James J. Barry, Jr., Esquire, Counsel
James Ford, AFSCME Representative
Joyce Anderson, Executive Director, AFSCME
Douglas W. Meader, AFSCME
David Broderick, Esquire

Representing the Respondent, Carroll County, Sheriff's Dept.

Alan Hall, Esquire, Counsel
Kenneth C. Smith, Sr., Representative, Carroll Cty., Dist. 3.
Donalda K. Howard, Representative, Carroll Cty., Dist. 1.
Kenneth J. MacDonald, Representative, Carroll Cty., Dist. 4.
Stephen Woodbury
Brenda Presby
Roy Larson, Sheriff

BACKGROUND

On March 23, 1981, the American Federation of State, County and Municipal Employees (AFSCME) filed unfair labor practice charges against the Carroll County Commissioners alleging several attempts at negotiating with the Sheriff and County Delegation Chairman, Kenneth Smith without success. Among other things, AFSCME alleged that the County attempted to interfere in the formation of the employee organization, basically, refusing to bargain in good faith.

The County Commissioners and the Carroll County Convention by its Counsel, Alan Hall, Esquire, took exception to the certification and order to negotiate which was issued early in 1980 on the basis that improper notice had been given to the Carroll County Commissioners and the County Delegation. Records indicated that all transactions concerning this particular case up to the point of hearing had been conducted between representatives of AFSCME and the Sheriff, Roy Larson.

The County Commissioners and the County Delegation by Counsel requested revocation of the certification which had been issued subsequent to the election on the basis that the Commission and not the Sheriff is the public employer.

Testimony at the April 23, 1981 hearing was taken from several witnesses who indicated that the Sheriff was elected by the citizens of the County and that he had complete and total autonomy over his department.

Further testimony indicated that the Chairman of the Commission learned of the dealings between the Sheriff and AFSCME when considering the budgetary process. Minutes of the Commission meetings on several occasions were introduced which indicated that the executive committee of the Carroll County Delegation did, in fact, have knowledge of certain activities taking place between AFSCME and the Sheriff's department.

The April 23, 1981 hearing was recessed in order to permit direct testimony by Sheriff Larson who was absent due to illness.

Hearing reconvened on May 28, 1981 at which time Sheriff Larson testified that he had discussed the potential negotiations with the County Delegation at the March 24, 1980 meeting at which time they asked to have a member of the Delegation present during negotiations. Testimony, however, did not indicate that Sheriff Larson pursued the discussions concerning the bargaining unit with the Delegation.

FINDINGS

-- On March 24, 1980, AFSCME, an affiliate of AFL-CIO, filed a petition for certification for certain members of the Sheriff's Department, including the deputies, dispatchers and bailiffs. The petition listed the Carroll County as the public employer and the address as the Carroll County Jail with the representative, Sheriff Roy Larson. Petition was supported by the required signature cards.

-- On March 25, 1980, PELRB forwarded a "Notice of Filing" to Sheriff Larson at the Carroll County Court House, Ossipee, N. H. setting forth procedures to be followed should exceptions be taken to the petition.

-- On April 16, 1980, PELRB was advised that a meeting had been held by AFSCME with Sheriff Larson, April 2, 1980, at which time the proposed bargaining unit had been discussed and agreed to and requesting an election as soon as possible.

-- On April 22, 1980, PELRB received the list of eligible voters who met the test of 273-A, totaling 19 eligible voters; information was supplied by Sheriff Larson.

-- Election was conducted by a representative of PELRB on May 6, 1980 at which time 18 of the eligible voters cast their secret ballot resulting in 13 votes for AFSCME and 4 votes for "No representative" and one voided ballot. As a result of the election, the certification of AFSCME as the exclusive representation of those employees of the Carroll County Sheriff's Department was issued along with the order to negotiate in accordance with RSA 273-A.

-- Attempts at establishing negotiation sessions were made in October of 1980, February and March of 1981. Some meetings have been held apparently resulting in little or no progress in the negotiations.

-- Notice of election, conduct of election, sample ballot, list of eligible voters, etc. issued by PELRB had been duly posted in the Deputy's room in the Court House for all parties of interest to see.

-- Local newspapers featured several articles relative to the union activities in the County and all agreed that they were aware of the activities.

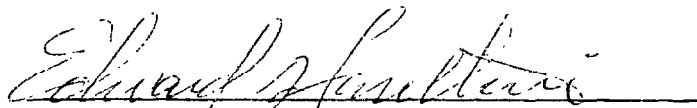
-- Objection to the union election and union activities was not raised until March 22, 1981 by the County Commissioners to Sheriff Larson even though certain members of the Delegation had been present on occasions when union activity discussions were held.

-- Three copies of the AFSCME petition were given to the sub-committee of the County Delegation and inquiry made of the County Attorney in March of 1980 relative to the authority under 273-A by the Sheriff, however, nothing was done and no action taken until 1981.

DECISION AND ORDER

After considering all of the testimony, arguments and exhibits, the Board finds as follows:

1. There has been substantial compliance with RSA 273-A and the Board's Rules and Regulations.
2. In addition to the Sheriff, the County Commissioners and the County Delegation had adequate notice of the petition, the election and subsequent certification of AFSCME as the exclusive representative.
3. The certification issued May 6, 1980 is valid.
4. The motion for revocation of the certification filed by the County is hereby dismissed.
5. The County is hereby ordered to negotiate in good faith with the exclusive representative.



EDWARD J. HASELTINE, Chairman
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

Signed this 31st day of July, 1981

By unanimous vote, Chairman Haseltine presiding, members Osman, Mayhew and Hilliard present and voting. Also present, Executive Director LeBrun.