

In the Matter of HIRAM SWANK'S SONS *and* CONGRESS OF INDUSTRIAL ORGANIZATIONS, LOCAL 1285

*Case No. 6-R-871*

SUPPLEMENTAL DECISION

AND

CERTIFICATION OF REPRESENTATIVES

*April 24, 1944*

On February 16, 1944, the National Labor Relations Board issued its Decision and Direction of Election in the above-entitled proceeding,<sup>1</sup> pursuant to which an election by secret ballot was conducted on March 14, 1944, under the direction and supervision of the Regional Director for the Sixth Region (Pittsburgh, Pennsylvania). At the conclusion of the election, a Tally of Ballots was furnished the parties in accordance with the Rules and Regulations of the Board. As to the balloting and its results, the Tally of Ballots shows as follows:

Approximate number of eligible voters.....	4
Valid votes counted.....	3
Votes cast for Congress of Industrial Organizations.....	2
Votes cast for United Brick & Clay Workers of America, AFL.....	1
Votes cast against participating unions.....	0
Challenged ballots.....	0
Void ballots.....	0

On March 21, 1944, United Brick & Clay Workers of America, Local No. 457, herein called the A. F. L., filed objections to the conduct of the election, alleging that the election was improperly conducted because the A. F. L. was not notified of the change in the election date.

On March 30, 1944, the Regional Director issued and duly served upon the parties his Report on Objections in which he found that the objections do not raise substantial or material issues with respect to the conduct of the election and recommended that the objections be overruled. No exceptions to the Regional Director's report have been filed by any of the parties within the time required therefor.

<sup>1</sup> 54 N. L. R. B. 1401 /

55 N. L. R. B., No. 279.

As to the objections, the Regional Director reported as follows: The election was originally scheduled to be held on March 13, 1944, from 3:15 p. m. to 3:30 p. m. at the "mine entrance, Lawrence Township, Clearfield County, Pennsylvania." Due to unforeseen circumstances, the Board's agent who was to conduct the election was unable to reach the Company's mine, which is situated in an isolated spot, at the appointed time. He, however, arrived at the mine at about 4:30 p. m. on March 13, 1944, but could not conduct the election that day, since the employees eligible to vote had quit work for the day. The Board's agent thereafter attempted to communicate with representatives of the Congress of Industrial Organizations, Local 1285, herein called the C. I. O., and representatives of the A. F. L. to offer to conduct the election on March 14, 1944. He was successful in communicating with representatives of the C. I. O. who accepted his offer, but he was unable to reach representatives of the A. F. L. On March 14, 1944, the Board agent returned to the mine and, upon contacting the four eligible employees, learned that they were prepared to exercise their right to vote; that C. A. Passmore, an eligible voter, was the A. F. L.'s designated observer; and that J. Archer Jury, an eligible voter, was the C. I. O.'s designated observer. Thereafter, on the same day and at about 9:30 a. m., the Board agent conducted the balloting in which all four eligible voters were given the opportunity to vote. The secrecy of the ballot was maintained, and the counting and tabulating of the balloting were fairly and accurately done, as attested to by the authorized observers.

Upon the basis of the facts reported by the Regional Director, we find, in accordance with the Regional Director's recommendations, that the objections filed by the A. F. L. do not raise substantial or material issues with respect to the conduct of the election, and they are hereby overruled.

### CERTIFICATION OF REPRESENTATIVES

By virtue of and pursuant to the power vested in the National Labor Relations Board by Section 9 (c) of the National Labor Relations Board Act, and pursuant to Article III, Sections 9 and 10, of National Labor Relations Board Rules and Regulations—Series 3,

IT IS HEREBY CERTIFIED that the Congress of Industrial Organizations, Local 1285, has been designated and selected by a majority of all employees at the No. 16 mine of Hiram Swank's Sons, Johnstown, Pennsylvania, excluding supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the

status of employees, or effectively recommend such action, as their representative for the purposes of collective bargaining, and that, pursuant to Section 9 (a) of the Act, the said organization is the exclusive representative of all such employees for the purposes of collective bargaining with respect to rates of pay, wages, hours of employment, and other conditions of employment.