

In the Matter of **CORTLAND LINE COMPANY, INC. and UNITED STEEL-  
WORKERS OF AMERICA, C. I. O.**

*Case No. 3-R-643*

**SUPPLEMENTAL DECISION**

**AND**

**DIRECTION**

*January 10, 1944*

On October 14, 1943, the National Labor Relations Board, herein called the Board, issued its Decision and Direction of Election in this proceeding.<sup>1</sup> Pursuant to the Direction of Election, an election by secret ballot was conducted on November 4, 1943, under the direction and supervision of the Regional Director for the Third Region (Buffalo, New York). On November 16, 1943, the Regional Director, acting pursuant to Article III, Section 10, of National Labor Relations Board Rules and Regulations—Series 2, as amended, issued and duly served upon the parties his Election Report.

As to the balloting and the results the Regional Director reported as follows:

Approximate number of eligible voters.....	540
Total ballots cast.....	471
Total ballots challenged.....	14
Total void ballots.....	2
Total valid votes counted.....	455
Votes cast for United Steelworkers of America.....	222
Votes cast against United Steelworkers of America.....	233

In view of the fact that the counting of the challenged ballots was essential to determine the results of the election, the Regional Director investigated the validity of the 14 challenged ballots and reported his findings and recommendations with respect to each of them.

Four of these were cast by Edward Cherkas, F. Kearney, John Buttino, and Michael Celeste who were challenged on the ground that they were part-time employees employed regularly elsewhere. The Regional Director's investigation discloses that these persons are regularly employed part-time by the Company and spend from 15 to

<sup>1</sup> 52 N. L. R. B. 1370.

54 N. L. R. B., No. 68.

20 hours per week in production work similar in nature to the work performed by other production and maintenance employees. There is no indication that these part-time employees work on any different basis than full-time employees as to rates of pay, duties, or other conditions of employment. We find that the persons named above are properly included in the unit<sup>2</sup> and were, therefore, eligible to vote; their ballots are valid.

The ballots of Delbert Wilsey, John Shirley, Charles Allen, and Harry Carlson were challenged for reason that, in addition to the production duties, they act as part-time guards.<sup>3</sup> It appears that Wilsey and Shirley spend approximately 6 hours per week, Allen spends approximately 12 hours per week, and Carlson spends approximately 22 hours per week doing guard duty. However, Carlson spends approximately 39 hours per week in production work and the other three employees each spend approximately 48 hours per week in production work. Since it appears that these employees are engaged in full-time production work and consequently have interests in common with the other production and maintenance employees, and since there is apparently no guard unit now represented in which they could be included, we find them eligible and direct that their ballots be opened and counted.

The ballots of Agnes Cincotta, Sarah Covington, and Mary Peterson were challenged by the agent of the Board because their names did not appear on the eligibility list. The Regional Director's investigation reveals that these employees were employed in eligible categories but were absent from employment on account of illness during the pay-roll period directed by the Board to be used to determine eligibility. These employees were, therefore, entitled to vote, and we shall direct that their ballots be opened and counted.

The Company challenged the ballots of Helen Perfetti and Frances Stevens on the ground that they are supervisory employees. It appears that these employees had been employed as full-time foreladies during the summer months of 1943 when the Company maintained a third production shift. About the middle of September 1943, the third shift was discontinued and these employees returned to their former duties as regular production employees. Although on occasion they act as substitute foreladies, since this assumption of supervisory duties is casual and intermittent,<sup>4</sup> we are of the opinion that Perfetti and Stevens are properly part of the production unit, and for that reason, their ballots are hereby declared valid.

Since it appears that the counting of the ballots found valid above may determine the results of the election, we find it unnecessary to

<sup>2</sup> See *Matter of Wagner Folding Box Corporation*, 49 N. L. R. B. 346.

<sup>3</sup> Guards are excluded from the appropriate unit.

<sup>4</sup> See *Matter of Chicago Bridge & Iron Company*, 53 N. L. R. B. 1374.

make any determination with regard to the ballot cast by Michael Cerio at this time.

On November 21, 1943, United Steelworkers of America, affiliated with the C. I. O., filed its objections to the Conduct of the Ballot and the Election Report. On December 11, 1943, the Regional Director issued a Report on Objections. We have considered the objections and the Regional Director's Report thereon, and find that the objections raise no substantial or material issues with respect to the conduct of the ballot. The objections are hereby overruled.

### DIRECTION

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

**DIRECTED** that, as part of the investigation authorized by the Board to ascertain representatives for the purposes of collective bargaining with Cortland Line Company, Inc., Cortland, New York, the Regional Director for the Third Region shall, pursuant to the said Rules and Regulations and subject to Article III, Section 10, of said Rules and Regulations, within ten (10) days from the date of this Direction, open and count the challenged ballots of Edward Cherkas, F. Kearney, John Buttino, Michael Celeste, Delbert Wilsey, John Shirley, Charles Allen, Harry Carlson, Agnes Cincotta, Sarah Covington, Mary Peterson, Helen Perfetti, and Frances Stevens, and shall thereafter prepare and cause to be served upon the parties a Supplemental Election Report embodying his findings therein and his recommendations as to the result of the secret ballot.

**CHAIRMAN MILLIS** took no part in the consideration of the above Supplemental Decision and Direction.