

In the Matter of NORTHWEST PACKING Co. and CANNERY AND FOOD PROCESS WORKERS UNION, C. I. O.

In the Matter of NORTHWEST PACKING Co. and CANNERY WORKERS UNION, LOCAL 20707, A. F. L. and CANNERY AND FOOD PROCESS WORKERS UNION, PORTLAND AREA

*Cases Nos. 19-R-1598 and 19-RE-24, respectively*

## SUPPLEMENTAL DECISION

AND

## ORDER

*February 8, 1946*

On October 15, 1945, the National Labor Relations Board issued a Decision and Direction of Election in the above-entitled proceeding,<sup>1</sup> finding that certain designated employees of Northwest Packing Co., Portland, Oregon, herein called the Company, constituted an appropriate bargaining unit and directing that an election be held among them to determine whether they desired to be represented by Cannery and Food Process Workers Union, a labor organization affiliated with the Congress of Industrial Organizations, herein called the C. I. O., or by Cannery Workers Union, Local 20707, a labor organization affiliated with the American Federation of Labor, herein called the A. F. of L., for the purposes of collective bargaining, or by neither. Pursuant to the Direction of Election, and in accordance with the Rules and Regulations of the Board and a stipulation among the parties that the balloting should be conducted by mail, the Regional Director for the Nineteenth Region conducted the election and, on November 8, 1945, issued and served on the parties a Tally of Ballots, which discloses the result of the election as follows:

Approximate number of eligible voters.....	218
Void ballots.....	6
Votes cast for Cannery Workers Union, Local 20707, A. F. of L....	19
Votes cast for Cannery and Food Process Workers Union, C. I. O.....	21
Votes cast against participating labor organizations.....	0
Valid votes counted.....	40
Challenged ballots.....	0

<sup>1</sup> 64 N. L. R. B. 54.

65 N. L. R. B., No. 153.

On November 14, 1945, the A. F. of L. filed objections to the conduct of the election, (1) alleging in substance that the six ballots declared void by the Field Examiner who counted the ballots were in fact valid and should not have been declared void, and (2) urging that, due to the small percentage of votes cast by eligible employees, a representative vote was not cast in the election, the election should be set aside, and a new election held. On December 28, 1945, the Regional Director issued and duly served on the parties his Report on Objections. No exceptions to the Regional Director's report were received within the allotted time for filing exceptions.<sup>2</sup>

In his Report on Objections, the Regional Director considered the ballots declared void by the Field Examiner and found that, of the six ballots, two contained no signatures on the outside envelope, with the result that the ballots could not be identified as cast by an employee of the Company whose name appeared on the list of eligible voters; that two ballots had not been placed in the inside secret ballot envelope and that the partial opening of the outside envelope revealed the names of the voters; and that the inside secret ballot envelopes containing the remaining two ballots bore the names of the voters, with the result that the partial opening of the outside envelopes revealed their identity. The Regional Director recommended that the first two ballots be declared void by the Board for the reasons stated and that the four other ballots be declared valid and counted on the ground that the secrecy of the voter's identity could be preserved.

We agree that the Regional Director's findings that the first two challenged ballots described above should be declared void for the reasons stated, and we so find. We disagree with the Regional Director's finding with respect to the remaining challenged ballots. The secrecy of the ballot is essential in a Board-conducted election, and it may not be jeopardized. We believe that these four challenged ballots are too closely identified with the names of the voters concerned and that the ballots cannot be opened and adequate protection afforded to the secrecy of the ballots cast, which every employee voting is entitled to expect. We find that all six challenged ballots are void, and they will not be counted.

Out of 218 eligible employees, 40 employees cast valid ballots, of which the A. F. of L. received 19, and the C. I. O. received 21, votes. Finding that the balloting was conducted by mail in accordance with an agreement of all parties and that each eligible employee was mailed a ballot, the Regional Director concluded that a representative vote was

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<sup>2</sup> On January 11, 1946, the A. F. of L. mailed exceptions to the Report on Objections, and on January 15, 1946, further exceptions, reasserting in substance the objections of the A. F. of L. to the conduct of the election and recording exceptions to the Regional Director's conclusions and recommendations pertaining thereto.

cast in the election and recommended that the Board certify the C. I. O. as bargaining representative of the employees concerned.

The only purpose of an election is to resolve the majority issue and, if an election is fairly conducted and employees eligible to vote are freely permitted to do so, the results must be deemed conclusive, if the vote cast is a representative vote. What constitutes a representative vote in an election depends upon the circumstances of each case.<sup>3</sup> In the instant case, the Company's plant was shut down; the parties agreed to the conduct of the election by mail; and the Regional Director mailed a ballot to each eligible employee at his address on the Company's records. Approximately 18 percent of those eligible to vote responded by casting valid ballots. The election results show no decided preference among the voters for either labor organization. Under these circumstances, we believe that the votes cast are not representative of all employees in the appropriate unit, and we will not predicate a certification of representatives upon the results of this election. We will dismiss the petitions without prejudice to the filing of new petitions when it may appear that another election may be profitably held.

#### ORDER

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, as amended.

IT IS HEREBY ORDERED that the petitions for investigation and certification of representatives of employees of Northwest Packing Co., Portland Oregon, filed by Cannery and Food Process Workers Union, C. I. O., and Northwest Packing Co., respectively, be, and they hereby are, dismissed without prejudice.

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<sup>3</sup> See *Matter of Stiefel Construction Corporation*, Case No. 2-R-5676, 65 N. L. R. B. 925, and cases cited therein.