

Williams & Marcus Co. and Amalgamated Lithographers of America, Local No. 14, AFL-CIO, Petitioner. *Case No. 4-RC-3380, March 27, 1958*

**SUPPLEMENTAL DECISION AND CERTIFICATION
OF REPRESENTATIVES**

Pursuant to a Decision and Direction of Election issued herein by the Board on October 23, 1957,¹ the Regional Director for the Fourth Region conducted an election by secret ballot on November 22, 1957, among the employees in the unit heretofore found appropriate. Upon the conclusion of the election, the parties were furnished with a tally of ballots. The tally showed that of the approximately 28 eligible voters, 27 cast ballots, of which 12 were for the Petitioner, 9 were against the Petitioner, and 6 were challenged.

As the challenged ballots were sufficient in number to affect the results of the election, the Regional Director investigated the challenges and thereafter, on February 4, 1958, issued and duly served on the parties a report and recommendations on challenged ballots in which he found that the challenges to the ballots of five individuals should be sustained and that the remaining challenge should be overruled but that this ballot should not be opened as it could not be decisive of the election. The Employer filed timely exceptions to the report.

The Board has considered the Regional Director's report, the exceptions, and the entire record in this case, and hereby adopts the findings and recommendations of the Regional Director.

The Petitioner challenged two employees, ink matcher Robert Fithian and inkmixer George Zouck, on the ground that their duties lie outside the lithographic production unit found appropriate by the Board. The Regional Director would sustain these challenges. The Employer excepts.

These employees service and mix and match ink for both the Employer's offset and letterpress operations. It appears that they constitute a department, are separately located and have duties and functions dissimilar to those of the lithographic production employees. As the unit herein was limited to lithographic production employees, we find that the inkmen should be excluded and shall sustain the challenges to their ballots.²

The Employer also excepts to the Regional Director's findings that William O'Keefe, Curtis McCummings, and Francis J. Trabacco were not employed in the lithography department. These employees have

¹ Not published.

² Cf. *Court Square Press, Inc.*, 92 NLRB 1516.

worked in the department when their own work was slow and have been encouraged to learn something about the lithographic process. However, prior to the election, all were assigned to, and spent the major portion of their time working in, the Employer's letterpress operations. Since the election, O'Keefe has become a lithographic platemaker but this fact has no bearing on his eligibility to vote in the election held herein. Accordingly, we shall sustain the challenges to these three ballots.

The Employer took no exception to the Regional Director's finding that the challenge to Irene Gutberlet's ballot should be overruled. However, it excepted to the Regional Director's recommendation that, because it could not affect the results of the election, her ballot should be left unopened. The Employer contends that all the ballots should be opened and counted and, therefore, her ballot could be decisive. In view of our decision with regard to the other challenges, we shall follow the Regional Director's recommendation and shall not open and count Gutberlet's ballot.

As we are sustaining the challenges to the ballots of five individuals and as the tally of ballots, therefore, shows that the Petitioner has received a majority of the valid votes cast in the election, we shall, in accordance with the recommendations of the Regional Director, certify the Petitioner as the collective-bargaining representative of the employees in the appropriate unit.

[The Board certified Amalgamated Lithographers of America, Local No. 14, AFL-CIO, as the collective-bargaining representative of all the lithographic production employees at the Employer's Primos, Pennsylvania, plant, in the unit heretofore found appropriate.]

MEMBERS RODGERS and FANNING took no part in the consideration of the above Supplemental Decision and Certification of Representatives.

Local Union No. 48, Sheet Metal Workers' International Association, AFL-CIO; T. E. Reid, Agent of Local Union No. 48, Sheet Metal Workers' International Association, AFL-CIO; Local Union No. 48, Sheet Metal Workers' International Association, AFL-CIO; T. E. Reid, Agent of Local Union No. 48, Sheet Metal Workers' International Association, AFL-CIO and Acousti Engineering of Alabama, Inc. Cases Nos. 10-CC-317, 10-CC-318, 10-CB-588, and 10-CB-591. March 28, 1958

DECISION AND ORDER

On October 29, 1957, Trial Examiner Herbert Silberman issued his Intermediate Report in the above-entitled proceeding, finding