

In the Matter of INTERNATIONAL FREIGHTING CORP., et al. (MALSTON COMPANY, INC.) and INTERNATIONAL SEAMEN'S UNION OF AMERICA

Case No. R-159

SUPPLEMENTAL DECISION

AND

CERTIFICATION OF REPRESENTATIVES

March 30, 1938

On September 17, 1937, the National Labor Relations Board, herein called the Board, issued a Decision and Direction of Elections in the above-entitled case.¹ On November 10, 1937, the Board issued an Amendment to Decision and Direction of Elections.² The Direction of Elections, as amended, directed that elections by secret ballot be conducted among the unlicensed seamen, except wireless and radio operators, chief electricians on electrically driven ships, and junior engineers who hold licenses, employed on all type of craft operated in or out of Atlantic and Gulf ports, except craft operated in harbors only, by several named companies, including Malston Company, Inc., New York City.

Pursuant to the Decision and Direction of Elections, as amended, an election by secret ballot has been conducted under the direction and supervision of Elinore Morehouse Herrick, the Regional Director for the Second Region (New York City), among the eligible employees of Malston Company, Inc. On February 10, 1938, the said Regional Director, acting pursuant to Article III, Section 9, of National Labor Relations Board Rules and Regulations—Series 1, as amended, issued and duly served upon the parties an Intermediate Report on the election.

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

Total number eligible to vote.....	173
Total number of ballots cast.....	163
Total number of votes in favor of International Seamen's Union of America, or its successor, affiliated with the American Federation of Labor.....	3
Total number of votes in favor of National Maritime Union of America, affiliated with the Committee for Industrial Organization.....	153
Total number of votes in favor of neither organization.....	5
Total number of blank ballots.....	0
Total number of void ballots.....	2
Total number of challenged ballots.....	0

¹ 3 N L R B 692.

² 4 N L R B 111.

On February 23, 1938, a representative of the American Federation of Labor Seamen's Union, successor to International Seamen's Union of America, filed a protest concerning the conduct of the election in this line. The Board has investigated the protest, even though it was not filed within the 5-day period required by Article III, Section 9, of National Labor Relations Board Rules and Regulations—Series 1, as amended. The protest alleged that at the time of counting the ballots it was discovered that the seal on the box containing the ballots cast on the S. S. *Mevania* was torn and, further, that none of the boxes containing the ballots cast on the vessels of this line were properly sealed; that protests were made at the time of the counting of the ballots but were disallowed by the agent of the Board in charge.

Investigation reveals that no protests were made at the time of counting the ballots, except as to the condition of the box containing the ballots of the S. S. *Mevania*. The portion of the protest concerning the ballot boxes other than the one used on the S. S. *Mevania* can be properly disallowed for this reason, since good faith on the part of persons protesting elections requires that protests be made promptly at the time irregularities are disclosed. The Board's investigation reveals in any event, however, that these boxes, with the exception of the one containing the ballots of the S. S. *Mevania*, were adequately sealed. The seal of the ballot box of the S. S. *Mevania* was broken by a slit about one and three-fourths inches long. It was of such nature and length that ballots could not have been taken from the box although, conceivably, additional ballots might have been put into the box. The Board has been informed by the Regional Director for the Second Region that the number of persons who were checked on the crew lists at the time of balloting as having received a ballot for the purpose of voting are as follows:

Name of Vessel :	Number Checked as Having Received a Ballot
Hoxbar	22
Dillwyn	24
Durango	24
Halsey	25
Hugoton	25
Imlay	20
Mevania	23
Total	163

Since the total number checked as having voted agrees exactly with the total number of ballots found in these boxes at the time they were opened, it is apparent that no additional ballots could have been put into the ballot box used on the S. S. *Mevania*. The protest is, accordingly, found to be without merit.

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 Act, 49 Stat. 449, and pursuant to Article III, Sections 8 and 9, of National Labor Relations Board Rules and Regulations—Series 1, as amended,

IT IS HEREBY CERTIFIED that National Maritime Union of America, affiliated with the Committee for Industrial Organization, has been designated and selected by a majority of the unlicensed seamen, except wireless and radio operators, chief electricians on electrically driven ships, and junior engineers who hold licenses, employed on all type of craft operated in or out of Atlantic and Gulf ports, except craft operated in harbors only, by Malston Company, Inc., New York City, as their representative for the purposes of collective bargaining, and that, pursuant to Section 9 (a) of the Act, National Maritime Union of America, affiliated with the Committee for Industrial Organization, is the exclusive representative of all such employees for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, and other conditions of employment.

MR. EDWIN S. SMITH took no part in the consideration of the above Supplemental Decision and Certification of Representatives.