

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of

AMALGAMATED MEAT CUTTERS AND ALLIED
FOOD WORKERS OF NORTH AMERICA,
AFFILIATED WITH AMALGAMATED MEAT
CUTTERS AND BUTCHER WORKMEN OF NORTH
AMERICA, LOCAL #444, AFL-CIO

For a Referendum on the Question
of an All-Union Agreement between

PACKERLAND PACKING COMPANY, INC.
Chippewa Falls, Wisconsin, Employer

and AMALGAMATED MEAT CUTTERS AND ALLIED
FOOD WORKERS OF NORTH AMERICA, AFFILIATED
WITH AMALGAMATED MEAT CUTTERS AND BUTCHER
WORKMEN OF NORTH AMERICA, LOCAL #444,
AFL-CIO, Union.

Case V
No. 16576 R-5458
Decision No. 11713-B

Appearances:

Mr. Robert C. Kelly, Attorney at Law, for the Petitioner.
Mr. James A. Gilker, Attorney at Law, for the Employer.

ORDER DETERMINING OBJECTIONS TO CONDUCT OF REFERENDUM,
DETERMINING CHALLENGED BALLOTS AND CERTIFICATION OF REFERENDUM

On March 6, 1973, Amalgamated Meat Cutters and Allied Food Workers of North America, affiliated with Amalgamated Meat Cutters and Butcher Workmen of North America, Local #444, AFL-CIO, filed a petition with the Wisconsin Employment Relations Commission requesting a referendum among certain employees of Packerland Packing Company, Inc., Chippewa Falls, Wisconsin; that, pursuant to notice, hearing on said petition was held on March 21, 1973, and thereafter and on March 22, 1973, the Commission directed a referendum to be conducted among all production and maintenance employees of said Employer, excluding all other employees, all yard employees, professional employees, guards and supervisors, who were employed by said Employer on March 17, 1973, for the purposes of determining whether the required number of such employees favor an "All-Union Agreement" between the Union and the Employer; that said referendum was conducted on April 18, 1973, and of 163 1/ employees claimed eligible to vote, 99 cast ballots, 3 of which were challenged; that of 96 valid ballots counted, 80 employees voted in favor of authorizing an "All-Union Agreement" between the parties while 16 voted against such authorization; that on April 24, 1973, the Union filed timely objections to the conduct of the referendum; that pursuant to notice, hearing on the objections was conducted on June 29, 1973, at Chippewa Falls, Wisconsin, before Hearing Officer Robert M. McCormick; and the Commission having considered the evidence and arguments of counsel, and being fully advised in the premises, makes and issues the following

1/
The tally sheet given to the parties following the balloting mistakenly totaled the number of employees claimed eligible to vote as being 164.

ORDER

IT IS ORDERED:

1. That certain of the objections to the conduct of the referendum with respect to the eligibility list be, and the same hereby are, sustained, and that, therefore, 159 employees are the number of employees claimed eligible to vote.

2. That the challenges by the Union to the ballots of John Felmlee and Charles Brady, on the contention that they are supervisory employees, and the Employer's challenge to the ballot of Randall Schoenberg, on the basis that Schoenberg had quit his employment before having joined the armed forces, need not be determined since, as set forth below, such challenged ballots will not affect the result of the referendum.

3. That the final tally of the result of the referendum is as follows:

1. Total number claimed eligible to vote	159
2. Total ballots cast	99
3. Total ballots challenged	3
4. Total valid ballots counted	96
5. Ballots cast in favor of an "All-Union Agreement"	80
6. Ballots cast against an "All-Union Agreement"	16

4. That since the challenged ballots do not affect the result of the referendum they shall remain sealed.


NOW, THEREFORE, by virtue of and pursuant to the power vested in the Wisconsin Employment Relations Commission by Section 111.06 of the Wisconsin Statutes;

IT IS HEREBY CERTIFIED that the required number of the eligible employees in the collective bargaining unit consisting of all production and maintenance employees employed by Packerland Packing Company, Inc., in the packing plant located at 925 West River Street, Chippewa Falls, Wisconsin, but excluding all other employees, all yard employees, professional employees, guards and supervisors, voted in favor of an "All-Union Agreement" between the Employer and the Union, and the Employer may, therefore, enter into such an agreement.

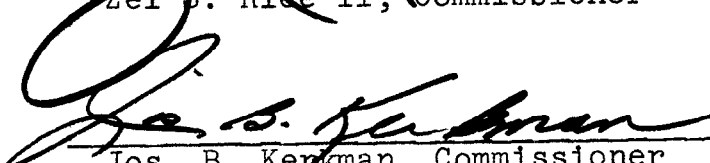
Given under our hands and seal at the
City of Madison, Wisconsin, this 27th
day of July, 1973.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Slattery, Chairman


Del B. Rice II, Commissioner


Jos. B. Kerkman, Commissioner

MEMORANDUM // COMPANYING
ORDER DETERMINING OBJECTIONS TO CONDUCT OF REFERENDUM,
DETERMINING CHALLENGED BALLOTS AND CERTIFICATION OF REFERENDUM

Following the conduct of the referendum herein the Union timely filed objections to the conduct of the referendum as follows:

- "1. At least two supervisors entered and loitered in the foreman's lunch room during the hours of 1:11 P.M. and 4:00 P.M.
2. Employees waiting in line to vote were told by their supervisor that they must return to their jobs at once.
3. Union alleges that the Company shortened the employees rest period.
4. The Company gave false and misleading information during the review of the eligibility list.
5. The Company did not advise and release the key Union observer until 12:55 P.M. thus delaying his arrival in the designated voting room until 1:04 P.M.
6. The Union was not given sufficient time to review the 198 names submitted by the Company as eligibles. Review started at 12:56 P.M.
7. The Company has three eligible names of employees in or entering military service. One of these employees was challenged by the Company.
8. Only two notices of the Referendum election were posted and those not until Monday afternoon, April 16, 1973.
9. The voting time was scheduled 1:00 P.M. to 4:00 P.M. and did not begin till after 1:11 P.M.
10. Union contends that not more than 158 voters were eligible."

Based on the evidence adduced during the hearing on the objections, the Commission has determined to first consider objections relating to the number of employees eligible to vote in the referendum.

The eligibility list presented by the Employer to the Commission for the purpose of the referendum originally contained the names of 197 "employees." The Commission's agent assigned to conduct the referendum, in a conference with observers of the parties, in reconciling the eligibility list some 15 minutes prior to the conduct of the balloting on April 18, 1973, deleted 13 names from the eligibility list on the basis that the individuals involved had, in fact, been hired after March 17, 1973, the eligibility date set forth in the Direction, as well as an additional 22 names for the reason that the individuals involved had terminated their employment prior to the conduct of the referendum. At the same time, the Commission's agent

with the acquiescence of the observers, added the name of an individual who was omitted from the original eligibility list. Thus, the reconciled eligibility list consists of 163 employees claimed eligible to vote.

During the course of the hearing on the objections, and specifically with reference to the number of employees claimed eligible to vote, evidence disclosed that of the 163 "employees" eligible to vote, included therein were the names of Lawrence Herrick, Brian Johnson, Gary Pope and Thomas Werlein. The evidence disclosed that said "employees" quit their employment on March 20, 1973, March 24, 1973, April 5, 1973, and March 23, 1973, respectively, all dates prior to the date on which the referendum was conducted. Therefore, the names of said individuals should have been stricken from the eligibility list, thus reducing the number of employees claimed eligible to vote to 159.

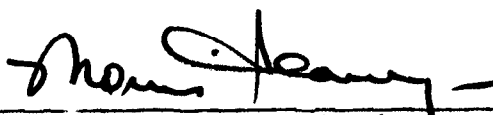
Since 80 of the 159 employees claimed eligible to vote cast ballots in favor of authorizing the "All-Union Agreement," it is unnecessary to determine the three challenged ballots, for assuming all three employees voted against such authorization, the number of votes favoring authorization of the "All-Union Agreement" would meet the statutory requirement that a majority of the employees eligible in the unit vote in favor of authorizing the "All-Union Agreement." More succinctly put, the evidence adduced at the hearing establishes that no more than 159 employees could be deemed eligible to vote as of the date of the referendum. If we were to sustain any of the challenges, the number of employees eligible to vote would also be reduced; however, the number of employees voting in favor of authorizing an "All-Union Agreement" would remain at 80 or possibly exceed that number, and, therefore, the required number of employees have voted in favor of authorizing the "All-Union Agreement."


The Commission deems it unnecessary to determine the remaining allegations in the objections with reference to the activity of the Employer and its agents prior to and during the conduct of the balloting, and further, its objections with respect to the release of the Union observer and the allegation of the delay in the starting time of the balloting.

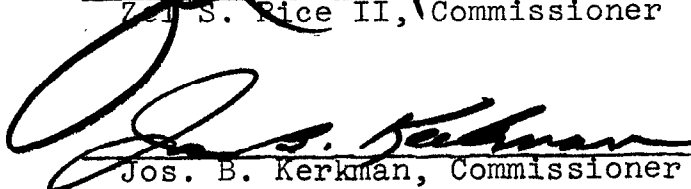
Dated at Madison, Wisconsin, this 27th day of July, 1973.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Slavney, Chairman


Zel S. Rice II, Commissioner


Jos. B. Kerkman, Commissioner