on union activities to his employees on company time and property may well destroy the laboratory atmosphere which the Board must maintain in its election proceedings, if he denies a union's request for a similar forum.[2]

Accordingly, we shall adopt the Regional Director's finding that the Employer interfered with the employees' freedom of choice in the selection of a bargaining representative, and shall order that the election of July 24, 1952, be set aside. Further, we shall direct the Regional Director to conduct a new election at such time as he deems appropriate.

Order

IT IS HEREBY ORDERED that the election of July 24, 1952, be, and it hereby is, set aside.

IT IS FURTHER ORDERED that this proceeding be remanded to the Regional Director for the Eleventh Region for the purposes of conducting a new election at such times as he deems the circumstances permit a free choice of a bargaining representative.

[2] *The Muter Company*, 101 NLRB 287; *John Irving Stores of Chicago, Inc., et al.*, 101 NLRB 82; *Onondaga Pottery Company*, 100 NLRB 1143; *The Hills Brothers Company*, 100 NLRB 964; *Metropolitan Auto Parts, Incorporated*, 99 NLRB 401.

AFFILIATED BAKERS CORP. *and* LOCAL 262, UNITED BAKERY, CONFECTIONERY, CANNERY, PACKING AND FOOD SERVICE WORKERS OF NEW JERSEY, RWDSU, CIO, PETITIONER. *Case No. 2–RC–5214. December 29, 1952*

Decision and Direction of Election

Upon a petition duly filed under Section 9 (c) of the National Labor Relations Act, a hearing was held before Max Dauber, hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

Pursuant to the provisions of Section 3 (b) of the Act, the Board has delegated its powers in connection with this case to a three-member panel [Chairman Herzog and Members Houston and Murdock].

Upon the entire record in this case, the Board finds:

1. The Employer is engaged in commerce within the meaning of the Act.

2. The labor organizations involved claim to represent employees of the Employer.

3. The Petitioner filed its petition with the Board on October 1, 1952. The Intervenor, Local 84, Bakers & Confectionery Workers International Union, AFL, and the Employer assert that this peti-

tion is barred by a contract previously entered into between them on September 1, 1952, to remain in effect until August 31, 1953. The Petitioner, however, contends that this contract is a premature extension of a preexisting contract of which the terminal date was February 1, 1953.

The Employer, which operates a plant in Newark, New Jersey, is engaged in the baking and distribution of cheese cake. During its busy season it employs from 35 to 48 persons.[1] Having been certified by the Board as a result of a consent election in December 1949 for a unit of production and maintenance employees, the Intervenor shortly afterwards concluded a contract with the Employer to terminate February 1, 1951. This was followed by a second contract which ran from February 1, 1951, to February 1, 1952. After some unproductive negotiations for a third contract, the Intervenor wrote the Employer on February 25, 1952, offering:

> We will extend the contract for another year with the provision that we meet in the month of August, 1952 prior to your company's resuming baking for the season, and, if we do not come to a successful conclusion, that the extension is null and void and that the Union would have a right to strike.

To this the Employer replied on March 3, 1952:

> We wish to . . . express appreciation for extending our present contract for another year; with the understanding that we will negotiate provisions during the month of August 1952, for the balance of the contract.

As contemplated in this correspondence, negotiations took place the following August. These led to the execution of the September 1, 1952, contract, alleged as a bar. This contract is identical with the preceding agreement in all respects except wage rates and the terminal date, which was extended to August 31, 1953.

We believe that the exchange of correspondence in effect extended the second contract for a period of 1 year, namely, from February 1, 1952, to February 1, 1953. It is true that this February 1952–53 contract also provided for midterm negotiations and for cancellation of the contract if those negotiations failed. But this condition did not occur. It follows that the February 1952–53 contract was a bar on September 1, 1952, when it was extended midway in its term by the contract entered into on that date. This being so, the extension was premature;[2] and the terminal date of the February 1952–53 contract

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[1] Production begins in September and continues through March each year. During the off-season only several maintenance employees and an office staff remain at work.

[2] *Cushman Sons, Inc.*, 88 NLRB 121, 122–123.

remained the significant terminal date for bar purposes.[3] Because this date will arrive in less than 2 months from the date of this decision, no bar exists to a present determination of representatives.[4]

4. Pursuant to agreement of the parties, we find that the following employees constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act:

All production and maintenance employees at the Employer's Newark, New Jersey, plant, including receiving and shipping employees, but excluding drivers, office clericals, guards, watchmen, professional employees, and supervisors as defined in the Act.

[Text of Direction of Election omitted from publication in this volume.]

[3] *Republic Steel Corp.*, 84 NLRB 483.

[4] *John Deere Plow Works*, 94 NLRB 1286. In view of our decision herein that the September 1, 1952, contract is a premature extension, we find it unnecessary to consider the Petitioner's other grounds of attack upon that contract's effectiveness for bar purposes.

JOSEPH E. COTE, D/B/A J. E. COTE, AND BROOK FARM FOODS, INC., AND EDOUARD COTE *and* BAKERY & SALES DRIVERS & HELPERS LOCAL UNION NO. 686, INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN & HELPERS OF AMERICA, A. F. OF L. *Case No. 1–CA–1015. December 30, 1952*

Decision and Order

On March 14, 1952, Trial Examiner Stephen S. Bean issued his Intermediate Report in the above-entitled proceeding, finding that the Respondents J. E. Cote and Brook Farm Foods, Inc., had engaged in and were engaging in certain unfair labor practices in violation of Section 8 (a) (1), (3), and (5) of the Act, and recommending that they jointly and severally cease and desist therefrom and take certain affirmative action, as set forth in the copy of the Intermediate Report attached hereto. The Trial Examiner further found that the Respondent Edouard Cote had not engaged in unfair labor practices and recommended that the complaint be dismissed as to him. Thereafter, the Respondents J. E. Cote and Brook Farm Foods, Inc., filed exceptions to the Intermediate Report and a supporting brief; and the General Counsel and the Union filed exceptions to the Intermediate Report, the former filing a memorandum in support of his exceptions.

The Board [1] has reviewed the rulings of the Trial Examiner at the

[1] Pursuant to the provisions of Section 3 (b) of the National Labor Relations Act, the Board has delegated its powers in connection with this case to a three-member panel [Chairman Herzog and Members Murdock and Peterson].