

visors as defined in the Act, and all employees at the Employer's mill at Dinuba, California, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act.<sup>5</sup>

[Text of Direction of Election omitted from publication.]

<sup>5</sup> Petitioner would exclude truckdrivers. As the record indicates that a regular classification of truckdrivers does not exist, and that when truckdriving is done it is only occasionally and intermittently and that any qualified employee may do it, we shall make no unit determination for this category. Cities Service Refining Corp., 94 NLRB 1635.

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UNITY MANUFACTURING COMPANY, Petitioner *and* LOCAL 743, INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEUR, WAREHOUSEMEN & HELPER OF AMERICA, AFL. Case No. 13-RM-173. November 10, 1953

### SUPPLEMENTAL DECISION AND CERTIFICATION OF RESULTS OF ELECTION

Pursuant to a Decision and Direction of Election issued herein on August 5, 1953,<sup>1</sup> an election by secret ballot was conducted on August 26, 1953, under the direction and supervision of the Regional Director for the Thirteenth Region. At the conclusion of the election, a tally of ballots was issued and served upon the parties, in accordance with the Rules and Regulations of the Board. The tally shows that the Union failed to receive a majority of the valid ballots cast in the election.

On September 1, 1953, the Union filed objections to conduct affecting the results of the election. After an investigation, the Regional Director issued his report on objections, in which he recommended that the objections filed by the Union be overruled. Thereafter, the Union filed exceptions to the Regional Director's report, renewing, in substance, the contentions set forth in the objections.

Upon the entire record in the case, including the Union's objections, the Regional Director's report, and the Union's exceptions, the Board finds:

The facts, as detailed in the Regional Director's report, are undisputed. On August 21, 1953, 5 days before the election, the Employer distributed a handbill to employees urging them to vote "no" in the election. The statement in the handbill which is in issue here reads as follows: "Both the Labor Board and the Court said the Union was wrong in trying to force you to join." The Union contends that this statement incorrectly states the position of the National Labor Relations Board and, as a result, was highly prejudicial

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<sup>1</sup>Not reported in printed volumes of Board Decisions.

in the election campaign. The Union submitted no other evidence in support of its objections.

On June 5, 1953, the Union filed unfair labor practice charges against the Employer alleging, among other things, that the Union was the collective-bargaining representative of the majority of the production and maintenance employees of the Employer. On June 17, 1953, the Regional Director refused to issue a complaint on these charges, and on July 17, 1953, the General Counsel sustained the ruling of the Regional Director with respect to these charges. The statement complained of by the Union referred to this dismissal of the unfair labor practice charges.

It is apparent that the Employer's statement was no more than preelection propaganda, which the Union was privileged to answer if it so desired.<sup>2</sup> The Board does not normally undertake to police or censor propaganda used in the elections it conducts, but rather leaves to the good sense of the voters the appraisal of such matters, and to opposing parties the task of correcting inaccurate and untruthful statements.<sup>3</sup> We are of the opinion that the Employer's statement, while not strictly accurate, was not such as to influence employees improperly or prevent their exercise of a free choice, as the employees knew and could evaluate the source of the information, and the Union, which was adversely affected by the statement, appears to have had the knowledge and ample opportunity to correct any inaccuracy, but did not avail itself of the opportunity to do so. Accordingly, we find no merit in these objections and shall overrule them.

Upon the basis of the foregoing, we find that the exceptions of the Union raise no material or substantial issues. We therefore adopt the Regional Director's report and recommendations and, in accordance therewith, overrule the objections. As the tally shows that the Union did not win the election, we shall issue a certification of results of election to that effect.

[The Board certified that a majority of the valid ballots was not cast for Local 743, International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers of America, AFL, and that said labor organization is not the exclusive representative of the employees of the Employer, in the unit heretofore found appropriate.]

<sup>2</sup> Gray Drug Stores, Inc., 95 NLRB 171; Western Electric Company, Incorporated, 87 NLRB 183; Wiley Mfg. Inc., 93 NLRB 9.

<sup>3</sup> Trinity Steel Company, Inc., 97 NLRB 1486; Gray Drug Stores, Inc., supra.