WESTINGHOUSE ELECTRIC CORPORATION *and* THE INTERNATIONAL UNION OF OPERATING ENGINEERS, A. F. L., LOCAL 89,[1] PETITIONER

WESTINGHOUSE ELECTRIC CORPORATION *and* DISTRICT LODGE NO. 52, INTERNATIONAL ASSOCIATION OF MACHINISTS, A. F. L.,[2] PETITIONER

WESTINGHOUSE ELECTRIC CORPORATION *and* THE INTERNATIONAL UNION OF ELECTRICAL, RADIO AND MACHINE WORKERS, C. I. O.,[3] PETITIONER

WESTINGHOUSE ELECTRIC CORPORATION *and* DISTRICT LODGE NO. 52, INTERNATIONAL ASSOCIATION OF MACHINISTS, A. F. L., PETITIONER.
Cases Nos. 9–RC–2126, 9–RC–2141, 9–RC–2142, and 9–RC–2149. October 13, 1954

Supplemental Decision and Certifications of Representatives

On May 26, 1954, pursuant to a Board Decision and Direction of Elections,[4] elections by secret ballot were conducted under the direction and supervision of the Regional Director for the Ninth Region among employees in the voting groups therein established. At the conclusion of the elections, the parties were furnished tallies of ballots which disclosed the results of the elections to be as follows:

	Group (b)	Group (c)	Group (d)	Total Groups (b), (c), and (d)	Group (a)
Votes cast for IUE–CIO	38	74	663	775	0
Votes cast for IAM–AFL	26	4	18	48	----------
Votes cast for IBEW–AFL	2	73	281	356	----------
Votes cast for Local 89, Operating Engineers, AFL	----------	----------	----------	----------	15
Votes cast against participating labor organizations	0	1	12	13	0
Valid votes counted	66	152	974	1,192	15
Challenged ballots	0	0	1	1	0
Valid votes counted plus challenged ballots	66	152	975	1,193	15

Thereafter, the IAM filed timely objections to conduct affecting the results of the elections. After an investigation, the Regional Director on June 22, 1954, issued a report on objections in which he recommended that the objections be overruled and that the IUE be certified as bargaining representative for the pooled production and maintenance unit (i. e., voting groups (b), (c), and (d)) and that the Operating Engineers be certified as bargaining representative for the pow-

[1] Hereinafter referred to as the Operating Engineers
[2] Hereinafter referred to as the IAM
[3] Hereinafter referred to as the IUE
[4] 108 NLRB 556. On May 3, 1954, the Board issued its order amending the Decision and Direction of Elections to accord the IAM a place on the ballot in an additional unit and to specify the method of tabulating the ballots in various voting groups.

erhouse employees (i. e., voting group (a)). The IAM filed timely exceptions to this report.

The IAM objected to the conduct of the elections on the ground that a letter sent by the Employer to its employees on May 20, 1954, coerced the maintenance employees (voting group (c)) to vote against the IAM and for another union by threatening these employees with protracted litigation in place of collective bargaining if the IAM won the election for group (c).[5] In the letter the Employer reiterated the position it had taken both at the hearing and in its motion for reconsideration[6] of the original Decision herein that a separate unit of maintenance employees was inappropriate. It stated further that: (1) It would not bargain with the IAM if that union were selected to represent the maintenance employees separately, because it was only by such a refusal that it could obtain court review of the Board's unit finding; (2) it took this position reluctantly in view of the year or two delay in bargaining for maintenance employees a Board-to-court proceeding would entail; (3) it had no objection to the IAM as such but only to the unit the IAM was seeking; and finally (4), in view of the prospective protracted litigation an IAM victory in the maintenance unit would entail, it hoped the IAM would not win.

The IAM contends that in view of the contents of the letter the elections should be set aside. We find, however, in agreement with the Regional Director, that the letter of May 20 did not constitute interference with the election as it was merely an expression of the Employer's legal position such as we have recently held not to be improper.[7] Furthermore, we do not agree with the IAM's contention that the election should be set aside because the letter in effect expressed a preference for one union over another, for we find, in accord with Board precedent, that such an expression of preference does not warrant our setting aside the election.[8] Accordingly, we find no merit in the IAM's objections and they are hereby dismissed.

As the tallies of ballots show that a majority of valid votes in the powerhouse unit (group (a)) were cast for the Operating Engineers and that a majority of valid votes in the pooled production and maintenance unit (groups (b), (c), and (d)) were cast for the IUE, the Board will certify these unions as the representatives of the employees in their respective units, which it hereby finds to be appropriate for purposes of collective bargaining within the meaning of Section 9 (b) of the Act.

[The Board certified International Union of Operating Engineers, AFL, Local 89, as the designated collective-bargaining representa-

[5] The IAM alone sought to represent the maintenance employees in a separate unit.

[6] Filed with the Board on May 3, 1954. On May 17, the Board issued its order denying the motion.

[7] *Esquire, Inc.*, 107 NLRB 1238, *National Furniture Manufacturing Company, Inc.*, 106 NLRB 1300

[8] *Stewart-Warner Corporation*, 102 NLRB 1153

tive of the employees of the Employer in the powerhouse unit in Case No. 9–RC–2126, and International Union of Electrical, Radio, and Machine Workers, CIO, in the production and maintenance unit in Cases Nos. 9–RC–2141, 2142, and 2149.]

MEMBER MURDOCK took no part in the consideration of the above Supplemental Decision and Certifications of Representatives.

TRAYLOR ENGINEERING & MANUFACTURING COMPANY *and* PATTERN MAKERS LEAGUE OF NORTH AMERICA, EASTON ASSOCIATION, PETITIONER. *Case No. 4–RC–2461. October 13, 1954*

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 William Naimark, hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

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 certain employees of the Employer.

3. The Intervenor, United Steelworkers of America, CIO, which has been the certified bargaining representative of the production and maintenance employees, including the employees sought herein, asserted at the hearing that its current contract was a bar to an election among the employees sought by the Petitioner. The Petitioner contends that its petition, filed August 2, 1954, is timely.

The recently expired contract of the Intervenor was dated August 4, 1952, and was effective until August 31, 1954. It is this contract that the Intervenor claims as a bar. The contract contained no automatic renewal clause, but did provide that 60 days prior to August 31, 1954, the parties should meet for the purpose of negotiating a new agreement. Such new agreement had been reached, effective August 31, 1954, and terminating October 31, 1957, but had not been signed as of the date of the hearing, August 27, 1954.

We find no merit to the claim of the Intervenor. The 1952 agreement is no bar as it expired on August 31, 1954, and the new agreement is no bar as the petition was filed before August 31, 1954, the effective date of the contract, which was never executed.

Accordingly, we find that a question affecting commerce exists concerning the representation of employees of the Employer within the meaning of Section 9 (c) (1) and Section 2 (6) and (7) of the Act.