

fere with the free flow of mail involving contractors hauling United States mail who received less than \$100,000 for their services were only matters for State concern, was unwarranted. The implicit assumption of the majority in the instant case that industrial disputes involving national defense contractors who receive less than \$100,000 for their material or services is also a matter for State rather than Federal concern, is similarly fallacious. Whatever argument for this approach in matters of private commerce, it is patently inapposite in the areas of transportation of United States mail and the national defense.

Accordingly, as the new standard is without foundation in fact and will, on the basis of our past experience, clearly injure the national defense effort through withdrawal of the Act's protection from areas particularly sensitive to industrial disputes, I must dissent from the jurisdictional standard announced herein.

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TUF-NUT GARMENT MANUFACTURING COMPANY *and* INTERNATIONAL LADIES' GARMENT WORKERS' UNION, LOCAL 386, AFL, PETITIONER *and* AMALGAMATED CLOTHING WORKERS OF AMERICA, CIO. *Case No. 32-RC-765. October 26, 1954*

### Supplemental Decision and Certification of Representatives

On August 26, 1954, pursuant to a Decision and Direction of Election issued by the Board on August 5, 1954, an election was conducted under the direction and supervision of the Regional Director for the Fifteenth Region, among the employees of the Employer in the unit found appropriate in the decision. At the conclusion of the election, the parties were furnished with a tally of ballots which shows that, of approximately 559 eligible voters, 282 were cast for the Intervenor, 105 for the Petitioner, 134 against any participating labor organization, 3 were challenged, and 2 were void.

On August 30, 1954, the Employer filed objections to conduct affecting the results of the election. In accordance with the Rules and Regulations of the Board, the Regional Director conducted an investigation of the objections and on September 20, 1954, the Regional Director issued and served upon the parties his report on objections, in which he found that the objections did not raise substantial and material issues with respect to the results of the election, and recommended that the objections be overruled and that the Intervenor be certified on the basis of the tally of ballots. The Employer, on September 28, 1954, filed exceptions to the Regional Director's report on objections.

The Employer contended in substance that the Intervenor exceeded the bounds of legitimate electioneering by passing out certain literature at the employees' entrance to the plant on the day of the election

in violation of instructions of the Board's agent. The Regional Director's investigation revealed that the Board's agent issued instructions to the parties as to their behavior at the polling place and within the period covered by the election, which took place between 8 a. m. and 12 noon; that there was no evidence of instructions prohibiting electioneering prior to the election; and that the CIO officials distributed to the employees at the employees' entrance to the plant, just prior to the election, a 3 x 5 card on which was printed an electioneering poem. He furthermore found that the CIO representatives were not in the vicinity of the polls during the polling period, and did not accost any of the employees on their way to and from the polls, a distance of 2½ blocks from the plant. The Regional Director concluded that the Intervenor did not thereby interfere with the election or with the free choice of the employees.

In its exceptions, the Employer argues that the Regional Director's report was erroneous because he failed to interview certain persons who were present when the oral election instructions were given by the Board agent. However, the Employer has offered no facts to rebut the Regional Director's conclusions nor has it notified the Board of the nature of the evidence it alleges the Regional Director failed to consider. Accordingly, we find the Employer's exceptions lacking in merit. We hereby adopt the Regional Director's recommendations and overrule the Employer's objections to the election.

As the tally of ballots shows, a majority of the ballots were cast for the Intervenor. We shall therefore certify it as the exclusive bargaining representative of all the employees in the appropriate unit.

[The Board certified Amalgamated Clothing Workers of America, CIO, as the designated collective-bargaining representative of the Employer's production and maintenance employees at the Employer's Little Rock, Arkansas, plant in the unit found to be appropriate.]

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BEN ROGERS, VICTOR J. ROGERS, DR. S. J. ROGERS AND DR. N. JAY ROGERS, PARTNERS D/B/A ROGERS BROS. WHOLESALERS *and* OPTICAL WORKERS UNION, LOCAL 24859, AFL

BEN ROGERS, VICTOR J. ROGERS, DR. S. J. ROGERS AND DR. N. JAY ROGERS, PARTNERS D/B/A ROGERS BROS. WHOLESALERS *and* OPTICAL WORKERS UNION, LOCAL 24859, AFL. *Cases Nos. 39-CA-279 and 39-RC-467. October 27, 1954*

### Decision and Order

On August 14, 1953, Trial Examiner William R. Ringer issued his Intermediate Report in the above-entitled proceeding, finding that