rials into baker's supplies. They also do cleaning, packing, and together with the truckdrivers load the trucks. On occasion an inside man may drive a truck. All of the employees have the same supervisor.

We find that the truckdrivers and helpers may be represented separately, or in an overall unit of all employees. Therefore, we shall direct self-determination elections among the following voting groups of employees at the Employer's establishment at Bronx, New York:

(1) All production and maintenance employees, excluding the truckdrivers and helpers, office clerical employees, and all supervisors as defined in the Act.

(2) All truckdrivers and helpers, excluding all other employees, office clerical employees, and all supervisors as defined in the Act.

If a majority of the employees in voting group (2) vote for the Intervenor, they will be taken to have indicated their desire to constitute a separate bargaining unit, and if a majority in voting group (1) vote for the Petitioner, the Regional Director is instructed to issue certifications of representatives to such labor organizations for such units, which the Board under such circumstances finds to be appropriate for purposes of collective bargaining. On the other hand, if a majority of the employees in the voting group (2) vote for the Petitioner, that group will appropriately be included in the production and maintenance unit, and their votes shall be pooled with those in voting group (1).[3] If a majority of employees in the pooled group select the Petitioner, the Regional Director is instructed to issue a certification of representatives to such labor organization for such unit, which under such circumstances the Board finds to be appropriate for purposes of collective bargaining.

[Text of Direction of Elections omitted from publication.]

[3] If the votes are pooled, they are to be tallied in the following manner: The votes for the Intervenor shall be counted as valid votes, but neither for nor against the Petitioner; all other votes are to accord their face value, whether for representation by the Petitioner or for no union.

MID-SOUTH PACKERS, INC. *and* AMALGAMATED MEAT CUTTERS AND BUTCHER WORKMEN OF NORTH AMERICA, AFL, AND INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN AND HELPERS OF AMERICA, LOCAL UNION 591, AFL, JOINT PETITIONERS.
Case No. 32-RC-763. October 28, 1954

Supplemental Decision, Order, and Second Direction of Election

Pursuant to a Decision and Direction of Election issued herein on July 29, 1954,[1] an election by secret ballot was conducted on August

[1] Not reported in printed volumes of Board Decisions and Orders.

12, 1954, under the direction and supervision of the Regional Director for the Fifteenth Region, among employees in the unit found appropriate by the Board. Following the election, a tally of ballots was furnished the parties. The tally shows that of the 143 votes cast in the election, 40 were for, and 91 votes were against, the Joint Petitioners, with 12 votes being challenged.

On August 16, 1954, the Joint Petitioners filed timely objections to conduct affecting the results of the election. The Regional Director investigated the objections and, on September 17, 1954, issued and duly served upon the parties a report on objections, in which he recommended that the election be set aside and a new election ordered. Within the proper time therefor, the Employer filed exceptions to the Regional Director's report.

For the reasons hereinafter stated, we agree with the Regional Director.

The Regional Director found that a speech concerning the election, and read from a prepared statement, was delivered by the Employer to his assembled employees on company time and property within the 24 hours preceding the election. Approximately 90 percent of the employees were in attendance. The Regional Director found further that the speech contravened the Board's rule announced in the *Peerless Plywood Company* case,[2] and, for this reason recommended that the election be set aside.[3]

The Employer, in its exceptions to the Regional Director's report on objections, does not deny that the speech concerned itself with the then forthcoming election. It asserts, however, that the speech was made "at a time when many of the employees had completed their day's work and were ready to leave or were leaving the plant for their homes," and further that any employees who worked after the time of the speech were working overtime. On these assertions, the Employer contends that the speech was not made on "company time," and did note violate the *Peerless Plywood* rule.

We note that the most that the Employer contends is that many of its employees had completed their work. This fact coupled with the Employer's admission that some employees did work after the speech, makes it clear to us that the Employer's campaign speech in this instance was made on "company time." Accordingly, we agree with the Regional Director that the Employer thereby violated the pro-

[2] 107 NLRB 427.

[3] The Regional Director also found that a letter distributed by the Employer immediately after the speech, setting forth the Employer's position on the union question, did not raise substantial and material issues affecting the results of the election. No exception was filed to this finding.

scription of the *Peerless Plywood* rule.[4] We shall therefore set aside the results of the August 12, 1954, election and direct a new election.

[The Board set aside the election of August 12, 1954.]

[Text of Second Direction of Election omitted from publication.]

MEMBER PETERSON took no part in the consideration of the above Supplemental Decision, Order, and Second Direction of Election.

[4] See, *Texas City Chemicals, Inc.*, 109 NLRB 115.

MONROE FEED STORE *and* AMERICAN FEDERATION OF GRAIN MILLERS, LOCAL 61, AFL. *Case No. 36-CA-434. October 29, 1954*

Decision and Order

On April 26, 1954, Trial Examiner Wallace E. Royster issued his Intermediate Report in the above-entitled proceeding, finding that the Respondent had engaged in and was engaging in certain unfair labor practices, and recommending that it cease and desist therefrom and take certain affirmative action, as set forth in the copy of the Intermediate Report attached hereto. Thereafter, the Respondent filed exceptions to the Intermediate Report and a supporting brief. The Respondent also requested oral argument. This request is denied as the record and brief, in our opinion, adequately present the issues and the positions of the parties.

The Board has reviewed the rulings of the Trial Examiner made at the hearing and finds that no prejudicial error was committed. The rulings are hereby affirmed. The Board has considered the Intermediate Report, the exceptions and brief, and the entire record in the case, and hereby adopts the findings, conclusions, and recommendations of the Trial Examiner.[1]

We find that the Respondent is engaged in commerce within the meaning of Section 2 (6) and (7) of the Act, and that it will effectuate the policies of the Act to assert jurisdiction.

Order

Upon the entire record in this case, and pursuant to Section 10 (c) of the National Labor Relations Act, the National Labor Relations Board hereby orders that the Respondent, Monroe Feed Store,

[1] We note and correct the finding in the Intermediate Report that Manager Giesy interrogated employee Jones concerning union activity in violation of Section 8 (a) (1), as there is no evidence in the record of such interrogation. Accordingly, this portion of the Intermediate Report is not adopted.