

a schism which warrants the holding of an election despite a contract existing between the local and the employer.³ Accordingly, for this reason we find that the contract between the Employer and the Intervenor, UE, does not bar the instant proceeding.⁴

4. The parties stipulate and we find that the following employees of the Employer 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 plants in Sidney, Ohio, including truckdrivers and group leaders, but excluding office and clerical employees, nurses, draftsmen, designing engineers, development engineers, timekeepers, shipping and receiving clerks, watchmen, superintendents, general foremen, foremen, assistant foremen, chief inspectors, chief of stock control, and all other supervisors as defined in the Act.

[Text of Direction of Election omitted from publication.]

³ *A. C. Lawrence Leather Company*, 108 NLRB 546; *General Electric Apparatus & Service Shop*, 110 NLRB 1054.

⁴ Member Rodgers concurs in the direction of election herein, but finds it unnecessary to decide whether there has been a schism. Instead, he would refuse to recognize the contract of the Intervenor as a bar for reasons of broad public policy. Local 776's parent organization, the UE, was expelled from the Congress of Industrial Organizations because of Communist domination. Under these circumstances, the availability of the Board's processes to the Intervenor would not, in Member Rodgers' opinion, effectuate the policies of the Act nor properly serve the interests of national security.

JEWETT & SHERMAN CO., PETITIONER *and* WAREHOUSE EMPLOYEES
LOCAL UNION NO. 570, INTERNATIONAL BROTHERHOOD OF TEAMSTERS,
CHAUFFEURS, WAREHOUSEMEN AND HELPERS OF AMERICA, AFL.
Case No. 5-RM-268. February 7, 1955

Supplemental Decision and Certification of Results of Election

Pursuant to a Decision and Direction of Election issued herein on November 8, 1954,¹ an election by secret ballot was conducted herein on November 16, 1954, under the direction and supervision of the Regional Director for the Fifth Region, among the employees in the unit found appropriate by the Board. At the conclusion of the election, the parties were furnished with a tally of ballots. The tally showed that of approximately 102 eligible voters, 91 valid ballots were counted, of which 33 were for the Union and 58 against. In addition, 9 ballots were challenged.

On November 22, 1954, the Union filed objections to conduct affecting the results of the election. The Regional Director investigated the objections and on December 8, 1954, issued his report on objections in

¹ 110 NLRB 806.

111 NLRB No. 80.

which he recommended that the objections be overruled and that a certification of results of election be issued.

The Union objected to the election on the ground that, on the day prior to the election, the Employer addressed the employees on company time and property calling upon them to vote against the Union, and that this was in violation of the Board's rules. The Regional Director found that, although the speech in question was delivered November 15, 1954, between the hours of 8 a. m. and 8:15 a. m. on the day prior to the election, it was in fact made more than 24 hours before the scheduled start of the election on November 16 at 9:30 a. m. The Regional Director therefore found that the speech did not come in conflict with the applicable rule as laid down by the Board in the *Peerless Plywood* case.² He concluded that the Union's objections raised no substantial and material issues. Although in agreement with the principle of the *Peerless Plywood* rule, the Union, in excepting to the Regional Director's recommendations, argues, in effect, that the Employer's speech made on the day prior to the day of the election, violated the "spirit of the law" even though it was made before the beginning of the proscribed 24-hour period.

When the Board established the *Peerless Plywood* rule, it indicated that implicit in the rule was its judgment that noncoercive speeches made prior to the proscribed period will not interfere with the free election as sufficient time was allowed for the effect of the speeches to be neutralized by the impact of other media of employee persuasion.³ In view of this judgment, we find no merit in the Union's contention that there exist equitable considerations which warrant a departure from the rule. Accordingly, we find that, as the Employer's speech was made more than 24 hours prior to the scheduled time of the election herein, such speech did not interfere with the election and that the Union's objections therefore do not raise substantial and material issues with respect to the election. We therefore adopt the Regional Director's recommendations that the Union's objections be overruled and that a certification of results of election issue.

As the Union failed to receive a majority of the valid ballots cast, we shall certify the results of the election.

[The Board certified that a majority of the valid ballots was not cast for Warehouse Employees Local Union No. 570, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, AFL, and that said labor organization is not the exclusive representative of the Employer's employees in the appropriate unit.]

² *Peerless Plywood Company*, 107 NLRB 427.

³ Indeed, the Board explicitly stated that the rule "does [not] prohibit an employer from making (without granting the union an opportunity to reply) campaign speeches on company time prior to the 24-hour period . . ."