

covered that there were 2 more ballots cast than there were voters' names checked off on the eligibility list, indicating either that some voter or voters had been permitted to cast more than 1 ballot, an election irregularity, or that the Board agent in charge of the election had permitted 2 employees to vote and had given them ballots without having ascertained whether their names had been checked off the eligibility list as required by Board rule.

Together these irregularities present a picture of election rule laxity which the Board should not countenance. Otherwise we undermine the very rules which we have established to insure fair elections and which we are committed to uphold and enforce.

Moreover, the record does not resolve the doubts caused by the incident of the 2 extra ballots. Despite the intensive investigation conducted by the Regional Director, not a single person, employee or otherwise, could be found who had seen the 2 employees, who claimed that they had voted without having had their names checked off in the voting area during the election. Furthermore, this becomes very significant in the light of the fact that employees went to the polls by departments and yet neither of these individuals was seen at the polls by fellow department employees with whom they were undoubtedly acquainted.⁸

For the above reasons we are unable to place our stamp of approval on this beclouded election. Accordingly, we would set the election aside and order a second election.

⁸ Although Member Rodgers joined with Member Murdock in the *Holmes and Barnes, Ltd.* case, in which Chairman Leedom dissented, he finds this case, relied upon by the majority, to be clearly distinguishable on its facts. In the cited case, the voter who claimed to have voted without having had his name checked off, was seen by fellow employees in the polling place, in line, waiting to cast his ballot.

**Albert Trostel Packings, Ltd., Petitioner and District No. 68,
International Association of Machinists, AFL-CIO. Case No.
13-RM-253. March 26, 1956**

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 Frances P. Dom, hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

Pursuant to the provisions of Section 3 (b) of the National Labor Relations Act, the Board has delegated its powers in connection with this case to a three-member panel [Chairman Leedom and Members Peterson and Bean].

Upon the entire record in this case, the Board finds:

1. The Employer is engaged in commerce within the meaning of the National Labor Relations Act.

2. The labor organization named below claims to represent certain employees of the Employer.

3. A question affecting commerce exists concerning the representation of certain employees of the Employer, within the meaning of Section 9 (c) (1) and Section 2 (6) and (7) of the Act.¹

4. 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 Lake Geneva, Wisconsin, plant, including shop-clerical employees, but excluding office, office clerical employees, foremen, laboratory technicians, sales trainees, professional employees, guards, and supervisors as defined in the Act.²

[Text of Direction of Election omitted from publication.]

¹ In its brief filed with the Board, the Union contends that the petition should be dismissed on the ground that it was filed during the 60-day notice posting period provided in a settlement between the Union and the Employer in Case No. 13-CA-2068. The Union alleges that this agreement, in settling charges of violations of Section 8 (a) (1) and (5) of the Act, required the Employer to bargain with the Union in good faith. The Board's records disclose that in Case No. 13-CA-2068, on September 26, 1955, the Union filed charges of violations by the Employer of Section 8 (a) (1) and (5) and that an agreement settling these charges was approved by the Regional Director on November 16, 1955, less than a month before the instant petition was filed. This agreement required that the Employer post certain notices, but did not require that it bargain with the Union. Under these circumstances, we find no conflict between the petition and the settlement agreement.

The Union contends, however, that insufficient time has elapsed to dissipate the effect of the Employer's unfair labor practices, and to permit a free election. However, the Board's records show that the Employer has complied fully with the terms of the settlement agreement and that the unfair labor practice case was closed on January 18, 1956. Under these circumstances, we find no merit in the Union's contention. Cf. *Sears Roebuck & Company*, 112 NLRB 559, footnote 2

² The unit finding conforms to the stipulation of the parties.

Drico Industrial Corporation and Textile Workers' Union of America, AFL-CIO. Case No. 2-CA-4427. March 27, 1956

DECISION AND ORDER

On December 2, 1955, Trial Examiner Herbert Silberman, issued his Intermediate Report in the above-entitled proceeding, finding that the Employer had engaged in and was engaging in certain unfair labor practices and recommended that the Respondent 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.