

to represent a unit including the design engineers, and we have found that a unit limited only to a segment of the related professional employees of this Employer would not be appropriate, we shall dismiss the petition herein.

[The Board dismissed the petition.]

Encino Shirt Company, Petitioner and Los Angeles Joint Board, Amalgamated Clothing Workers of America, AFL-CIO. Case No. 21-RM-398. May 21, 1957

SUPPLEMENTAL DECISION AND CERTIFICATION OF RESULTS OF ELECTION

Pursuant to a Decision and Direction of Election dated January 9, 1957,¹ an election by secret ballot was conducted on February 8, 1957, under the direction and supervision of the Regional Director for the Twenty-first Region among the employees in the unit found appropriate by the Board. Following the election, a tally of ballots was furnished the parties which shows that of 54 valid votes cast, 9 were cast for the Union, 45 were cast against the Union, 13 were challenged, and there were no void ballots. The challenged ballots were not determinative of the results of the election. On February 13, 1957, the Union filed timely objections to the election, a copy of which was served on the Employer.

Pursuant to Rules and Regulations of the Board, the Regional Director conducted an investigation of the objections and on April 2, 1957, issued his report on objections in which he recommended that the objections be overruled and that the results of the election be certified. Thereafter, the Union filed timely exceptions to the report.

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 Murdock and Jenkins].

The Objections

Objection No. 1: The first objection stated that foreladies were present in the plant while the election was being conducted. The investigation showed there were two foreladies in immediate charge of the employees. The Union produced no evidence that these foreladies were present anywhere in the vicinity of the polling place during the election. One of the foreladies stated in an affidavit that she was in the production area of the plant throughout the election. The other stated that she was not in the plant at all during the election.

¹ 117 NLRB 48.

117 NLRB No. 217.

The Union produced no contrary evidence. The Board agent was not advised by the Union that any supervisors were in the vicinity of the polling place and the union observer signed the certificate of conduct of the election. The Regional Director therefore found this objection without merit. In its exception, the Union stated that Forelady Rodgers left the plant when the election began but returned 15 minutes later and circulated among the employees in the lunchroom as they were waiting to vote. The polling took place in the cutting room which was separated from the lunchroom by a narrow doorway. As the union observer did not advise the Board agent of the presence of the supervisor in the vicinity of the polling place and no facts are alleged other than that the supervisor was present in the lunchroom, we find, in agreement with the Regional Director, that this objection is without merit.²

Objection No. 2: This objection claims that two antiunion employers were at the factory immediately prior to the election. The investigation shows that two neighboring clothing manufacturers were present in the Employer's plant on election day, but that they left prior to the election at the request of a union representative and that they did not return during the election. The Union's exceptions urge that the presence of these wellknown antiunion employers at the plant acted as a coercive factor. The Union also claimed that one of the employers went into the production department and conversed with various employees. As the exceptions failed to allege facts in support of their contention that these manufacturers electioneered in the plant, we adopt the Regional Director's recommendation that this objection be overruled.³

Objection No. 3: This objection refers to certain speeches made by company representatives prior to the election. The investigation revealed that speeches were made by company representatives but not within the Board's 24-hour rule. The Regional Director concluded that the speech contained remarks stating the legal position of the Employer and were privileged. The exceptions state that "for weeks prior to the election, she [company representative] carried on an antiunion campaign among the Mexican employees, warning them that the plant would shut down if they went into the union, and that they were better off without it." As the exceptions fail to allege sufficient facts in support of this contention, we adopt the Regional Director's recommendation that this objection is without merit.

Objection No. 4: This objection stated that pay increases were made to the employees in order to influence their vote. The investigation showed that 5 employees received wage increases in the month prior to the election, that of these 5, only 2 were on the eligibility list, that 2

² *Garner Aviation Service Corporation*, 114 NLRB 293, 295.

³ See *The Rackle Company of Texas*, 117 NLRB 462

others were hired after the eligibility date, that the 5th was an employee on strike in behalf of the Union, and that there was no evidence that the increases were granted other than in the normal course of business, or in order to affect the results of the election. Furthermore, of the 56 eligible voters all except 5 were on piece rates. There was no evidence of wage increases for piece-rate employees or any promises of such in that period. We agree with the Regional Director that this objection is without merit.⁴

As the Union has not secured a majority of the valid votes cast in the election, we shall certify the results thereof.

[The Board certified that a majority of the valid votes was not cast for Los Angeles Joint Board, Amalgamated Clothing Workers of America, AFL-CIO, and that said labor organization is not the exclusive representative of the employees in this unit.]

⁴ *Nudor Manufacturing Corporation*, 114 NLRB 944.

**Limestone Manufacturing Company and Textile Workers Union
of America, AFL-CIO. Case No. 11-CA-1000. May 22, 1957**

DECISION AND ORDER

On November 27, 1956, Trial Examiner Louis Libbin issued his Intermediate Report in the above-entitled proceeding, finding that the Respondent had engaged in certain unfair labor practices, and recommending that the Respondent cease and desist therefrom and take certain affirmative action as set forth in the Intermediate Report attached hereto. Thereafter, the Respondent filed exceptions to the Intermediate Report.

The Board¹ has reviewed the rulings made by the Trial Examiner 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 the entire record in this case and hereby adopts the findings, conclusions, and recommendations with the following additions.

1. On March 21, 1957, almost 4 months after the issuance of the Intermediate Report, the Respondent filed a motion for leave to introduce additional evidence alleging that Superintendent Roche, after reading the report, had recalled that a notice had been posted on the bulletin boards on the day following the incidents in question, which notice, in substance, warned the employees that the use of company

¹ 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 [Members Rodgers, Bean, and Jenkins]