of such a union as the Brotherhood of Carpenters and the number of years that the section of the Act with which we are here concerned has been in effect, it can be assumed that the union officials were well versed in the legal implications of its position and it follows as a clear possibility that the letter of the law has been observed by Respondents. Moreover, there is a distinct flavor in the entire record that the "thrust of the Union's pressure" upon Harvey "was aimed at persuading the Company through its management representatives, rather than through its employees," to live up to its collective-bargaining contract. Such being the case, I am not satisfied that the record, such as we have here, including hearsay and cryptic, ambiguous remarks, as a whole contains the substantial degree of proof which the statute requires to warrant the finding of an unfair labor practice within the meaning of Section 8 (a) (4) (A) of the Act. Cf. *Meyer Furnace Co. supra* and *Firchau Bros. Logging Company, supra,* 115 NLRB 711. Accordingly, I shall recommend that the complaint be dismissed.

Upon the basis of the foregoing findings of fact, and upon the entire record herein, I make the following:

CONCLUSIONS OF LAW

1. Local 1016, United Brotherhood of Carpenters & Joiners of America, AFL–CIO, and United Brotherhood of Carpenters & Joiners of America, AFL–CIO, are labor organizations within the meaning of Section 2 (5) of the Act.
2. Booher Lumber Co., Inc., is engaged in commerce within the meaning of Section 2 (6) and (7) of the Act.
3. The allegations of the complaint that Respondents have engaged in unfair labor practices within the meaning of Section 8 (b) (4) (A) of the Act have not been sustained.

[Recommendations omitted from publication.]

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## Wood & Smith Shoe Co. *and* United Shoe Workers of America, AFL–CIO, Petitioner. *Case No. 1–RC–4789. May 24, 1957*

### DECISION AND CERTIFICATION OF REPRESENTATIVES

Pursuant to a stipulation for certification upon consent election executed and approved on January 31, 1957, an election was conducted on February 21, 1957, under the direction and supervision of the Regional Director for the First Region, among certain employees of the Employer. Following the election a tally of ballots was furnished the parties. The tally shows that of approximately 325 eligible voters, 315 cast ballots, of which 188 were for the Petitioner, 126 for no union, and 1 ballot was void.

Thereafter, the Employer filed timely objections to conduct affecting the results of the election. The Regional Director investigated the matter and, on March 21, 1957, issued and duly served on the parties his report on objections in which he found that the objections did not raise material and substantial issues and recommended that they be dismissed. On April 1, 1957, the Employer filed exceptions to the Regional Director's 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].

Upon the entire record in this case, the Board makes the following findings:

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

2. The labor organization involved 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.

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 Auburn, Maine, plant, excluding office clerical employees, professional employees, guards, and supervisors as defined in the Act.[1]

5. The Regional Director's report on objections:

The Employer excepts to the report, claiming that the Regional Director erred in: (1) Failing to order an investigation and to hold a hearing on the Employer's objections; (2) finding that the evidence submitted by the Employer did not establish a *prima facie* case; and (3) finding that the Petitioner's circulars distributed prior to the election were permissible campaign propaganda.

The Board has consistently held that a party filing objections to an election is obligated to furnish evidence in support of such objections and that, unless such evidence is produced, the Regional Director is not required to pursue the investigation further.[2] In response to the Regional Director's request for evidence supporting the objections, which mainly alleged improper electioneering activities on the day of the election, the Employer furnished 2 affidavits and 3 union circulars.[3] The Employer's counsel stated that this material constituted all of the evidence supporting the objections and it was on this evidence that the Regional Director determined that the Employer had not presented a *prima facie* case.

[1] This is the unit agreed upon by the parties in the consent election stipulation

[2] *N. B. Liebman & Company, Inc.*, 112 NLRB 88

[3] The Employer's superintendent, Liberty, avers in his affidavit that, on the day of the election, the Petitioner's representatives accosted employees at the factory gate on their way to work and engaged in electioneering practices and distributed campaign literature and circulars The Employer's finishing room foreman, Shackford, in his affidavit avers that an employee believed to be an election observer for the Petitioner, who was not authorized to enter the finishing room, nevertheless, came into that room while the election was in progress and engaged in election campaigning The three circulars submitted contain statements concerning the Employer's "love letters" distributed during the campaign, the Petitioner's policies re dues and assessments and the money being paid to "union busting lawyers"

We find that the Regional Director properly found that the electioneering activities of the Petitioner's representatives on the day of the election do not constitute a basis for setting aside the election. Unions may circulate legitimate propaganda and engage in noncoercive electioneering at any time prior to the election,[4] which the Petitioner did here. Moreover, the alleged electioneering activity for the Petitioner by an employee, outside the polling area, during the time of the election does not constitute a basis for setting aside the election without an allegation and proof that such activity was coercive.[5]

As for the Petitioner's circulars distributed to the employees prior to the election, the Regional Director properly found that they do not contain any representations which the employees could not evaluate. They were permissible campaign propaganda which the Board will not police or censor.[6] Having, therefore, considered the Employer's objections, the Regional Director's report, the Employer's exceptions, and the entire record in this case, we hereby adopt the findings, conclusions, and recommendations of the Regional Director and find no basis for holding a hearing on the objections.

As the Petitioner received a majority of the valid votes cast in the election, we shall certify it as the exclusive bargaining representative of the employees in the appropriate unit.

[The Board certified the United Shoe Workers of America, AFL–CIO, as the designated collective-bargaining representative of the employees of the Wood & Smith Shoe Co., Auburn, Maine, in the unit hereinabove found appropriate.]

[4] *Peerless Plywood Company*, 107 NLRB 427, 430.
[5] *Emerson Electric Company*, 106 NLRB 149, 153.
[6] *Stewart-Warner Corporation*, 102 NLRB 1153; *Comfort Slipper Corporation*, 112 NLRB 183; *N. N. Hills Brass Co*, 114 NLRB 164.

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**The Sperry and Hutchinson Company**[1] ***and*** **Retail Clerks International Association, Local 201, AFL–CIO, Petitioner.** *Case No. 36–RC–1253. May 24, 1957*

## 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 Arthur J. Hedges, hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

[1] The Employer's name appears as corrected at the hearing.