3-year contracts compared with those who are not. Assuming that warm-air furnace and heating equipment manufacture is considered a separate industry for the purposes of applying our contract bar doctrine,[4] we find on these facts, and upon the entire record that the evidence introduced does not adequately establish that a substantial portion of the industry is covered by 3-year contracts within our contract-bar principles.[5] In these circumstances, we find that the contract herein is of unreasonable duration and cannot be a bar for longer than a period of 2 years, and that it is no bar to the instant petition.[6]

Accordingly, we find that a question affecting commerce exists concerning the representation of employees of the Employer within the meaning of Section 9 (c) (1) and Section 2 (6) and (7) of the Act.[7]

4. In accord with the stipulation of the parties, 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 Elyria, Ohio, warm-air furnace and heating equipment manufacturing plant, but excluding office clerical employees, watchmen, guards, professional employees, and supervisors as defined in the Act.

[Text of Direction of Election omitted from publication.]

[4] Cf. *Diamond Lumber Company*, 117 NLRB 135; *Royal Jet Incorporated*, 113 NLRB 1064.

[5] *Heintz Manufacturing Company*, 116 NLRB 183; *Royal Jet Incorporated, supra; Joseph Aronauer Incorporated*, 106 NLRB 1382; cf. *Thompson Wire Company*, 116 NLRB 1933; *Home Curtain Corp.*, 111 NLRB 336.

[6] *Central San Vicente Inc.*, 117 NLRB 397; *Diamond Lumber Company, supra; Round California Chain Corporation, Ltd.*, 64 NLRB 242; cf. *Home Curtain Corp.*, 111 NLRB 1253.

[7] In view of our determination herein, that the contract does not bar an election, we deem it unnecessary to consider the issue with respect to the compliance status of the Independent at the time it was certified on July 13, 1955, and when it executed its union-security contract on August 16, 1955.

Westinghouse Electric Corporation (Meter Plant) *and* International Union of Electrical, Radio and Machine Workers, AFL-CIO, Petitioner. *Case No. 11-RC-901. June 26, 1957*

DECISION AND CERTIFICATION OF RESULTS OF ELECTION

Pursuant to a stipulation for certification upon consent election, executed by the parties on December 8, 1956, an election by secret ballot was conducted on December 14, 1956, under the direction and supervision of the Regional Director for the Eleventh Region, among certain employees at the Employer's Raleigh, North Carolina, plant. At the conclusion of the election, the parties were furnished a tally of

ballots which showed that of approximately 676 eligible voters, 657 cast ballots, of which 195 were for, and 459 against, the Petitioner. Two ballots were challenged and one was declared void.

On December 21, 1956, the Petitioner timely filed objections to conduct affecting the results of the election. In accordance with the Rules and Regulations of the Board, the Regional Director conducted an investigation of the objections and, on March 7, 1957, issued and served on the parties his report on objections, a copy of which is attached hereto, in which he found that the Petitioner's objections did not raise substantial or material issues with respect to the conduct of the election or conduct affecting the results of the election, and recommended that the objections be overruled. Thereafter, the Petitioner timely filed exceptions to the Regional Director's report and a supporting brief, requesting a hearing on the objections.

The Board [1] has considered the Regional Director's report and the Petitioner's exceptions, and upon the entire record in this case finds:

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

2. The Petitioner is a labor organization claiming to represent certain employees of the Employer.

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

4. In agreement with the stipulation of the parties, 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 electrical equipment manufacturing plant in Raleigh, North Carolina, including quality control and shipping and receiving clerks, but excluding payroll clerks, production coordinators, foremen's clerks, office clerical employees, guards, professional employees, and supervisors as defined in the Act.

5. In its exceptions, the Petitioner contends that a hearing should be held on its objections because of: (1) coercive meetings conducted by the Employer; (2) threats, interrogation, and promises to the employees; and (3) the atmosphere at the plant at the time of the election.

(1) In its objections, the Petitioner generally alleges that the Employer interrogated employees systematically, and in its exceptions it also alleges that, a few days before the election, the Employer, as part of an antiunion campaign, adopted the device of having foremen

[1] Pursuant to the provisions of Section 3 (b) of the Act, the Board has delegated its powers in connection with this case to a three-member panel [Members Rodgers, Bean, and Jenkins].

interview all employees in groups of 2 or 3 in order to discuss the Employer's hostility towards the Petitioner. Except for these general allegations, no specific evidence in support thereof has been presented to the Board by the Petitioner, nor has the Regional Director's investigation revealed any evidence in support thereof. In these circumstances, and absent specific evidence to establish the allegations of either coercive employee meetings or systematic interrogation of employees, we find, in agreement with the Regional Director, no merit in this objection and exception.[2]

As to Petitioner's contentions (2) and (3), we find, in accord with the Regional Director, and for the reasons detailed in his report, that these objections and exceptions are without merit.[3]

Accordingly, as the Petitioner's objections and exceptions do not raise substantial and material issues affecting the results of the election, and in accord with the Regional Director's recommendation, we overrule them and deny the Petitioner's request for a hearing. As the Petitioner has failed to secure 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 International Union of Electrical, Radio and Machine Workers, AFL–CIO, and that said Petitioner is not the exclusive representative of the employees in the unit heretofore found appropriate.]

[2] *Encino Shirt Company*, 117 NLRB 1687; *Nash-Finch Company*, 117 NLRB 808; *Avon Products, Inc.*, 116 NLRB 1729. Further, we note that the issue as to the alleged coercive meetings was not specifically raised in the objections made prior to the Regional Director's investigation but was raised for the first time in the exceptions filed after the Regional Director's report had issued.

[3] *Nash-Finch Company, supra; The Juvenile Manufacturing Company, Inc.*, 117 NLRB 1513; *Barber Colman Company*, 116 NLRB 24, 26; *Merck & Co., Inc.*, 104 NLRB 891, 892.

REPORT ON OBJECTIONS

Pursuant to a stipulation for certification upon consent election, approved by the Regional Director on December 10, 1956, between the Westinghouse Electric Corporation (Meter Plant), hereinafter referred to as the Company, and the International Union of Electrical, Radio and Machine Workers, AFL–CIO, hereinafter referred to as the Union, an election by secret ballot was conducted under the supervision of the Regional Director for the Eleventh Region on December 14, 1956, with the following results:

Approximate number of eligible voters	676
Void ballots	1
Votes cast for Union	195
Votes cast against Union	459
Valid votes counted	654
Challenged ballots	2
Valid votes plus challenged ballots	656

Timely objections to the conduct affecting the results of the election were filed by the Union on December 21, 1956. The Union alleges, in effect, that the Company:

1. Threatened its employees with economic loss and placed them in fear of physical violence if the Union was successful.
2. Interrogated the employees systematically.
3. Granted wage increases to employees to dissuade them from supporting the Union.

4. Distributed written statements to the employees threatening to close the plant if the Union should win the election.
5. Showed a moving picture on December 11, "in order to inflame racial prejudice" against the Union.
6. Had union meetings spied upon and questioned employees about their attendance at these meetings.
7. Posted pictures which indicated that physical violence would take place if the Union won the election.
8. Misrepresented the conduct, purpose, and contracts of the Union and circulated statements known to be false and malicious.

The Regional Director has investigated the objections and reports as follows:

The stipulation for certification upon consent election was executed by the Union on December 7, 1956, and by the Company on December 8, 1956. It was approved by the Regional Director on December 10, 1956. In accordance with the Board's Decision in the *A & P* case [1] the Regional Director has not considered any incidents which occurred prior to December 7, 1956.

1. One employee stated under oath that during the early part of December, Methods Engineer Rupy told him, in effect, that if two employees were eligible for promotion and if one was for the Union and the other against, the one who was against the Union would get the promotion. Rupy denied under oath that he made such a statement.

The investigation disclosed that it is Rupy's job to devise methods for the performance of operations. He makes his recommendations to the departmental foreman. If Rupy and the foreman are in disagreement, Rupy may send his recommendation to the Supervisor of industrial engineering. Rupy has nothing to do with the setting of wage rates or job classifications. He does not supervise anyone. It is the opinion of the Regional Director that Rupy is not a supervisor or managerial employee, and that the remark if made is not attributable to management. It is therefore unnecessary to resolve the question of credibility raised by the conflicting statements.

Another employee stated under oath that on December 12, after her group had returned from seeing the motion picture, described below, Foreman Lothian asked them what they thought of it. A discussion of the merits of unionization followed. During this discussion Lothian is alleged to have said that if they (the employees) were not careful and the Union did not win the election, many of them would be out of jobs. Lothian denied under oath making any threats to any employees. He stated that it was common knowledge in the plant that he had been a member of a union at one time and as a result a number of employees asked him questions. He answered their question as best he could.

Of the group involved in the discussion two other persons were questioned under oath by an agent of the Regional Director. While recalling the occasion and the conversation neither stated that Lothian had made the remark attributed to him. In the opinion of the Regional Director it is unnecessary to resolve the question of credibility since the remark if made was isolated and not in itself sufficient to warrant setting aside an election among a group of this size. It is therefore recommended that the portion of objection 1 alleging threat of economic loss be overruled.

With regard to that part of the allegation concerning the threat of physical violence, the evidence discloses that on December 11 and 12, 1956, the Company showed its production and maintenance employees a motion picture of strike violence at its Sharon, Pennsylvania, plant, distributed magazines, one describing a strike at the Kohler Company, Kohler, Wisconsin, and the other a copy of the Redbook magazine for November 1956, and, on December 13, 1956, posted a montage composed of pictures showing scenes of strike violence.

The motion picture was shown to all the employees in groups of 50 to 60. It was a documentary of about 15 minutes' duration. According to the commentator the scenes were filmed at the main gate of the Company's Sharon plant on and after December 10, 1955, when the Company obtained a second injunction against the Union. The ensuing scenes showed that after the issuance of the December 10 injunction there was mass picketing, fights took place between the strikers and nonstrikers, nonstrikers and motor vehicles had difficulty getting through the picket line and rocks were thrown by individuals.

At the conclusion of the motion picture the employees were given copies of the November 1956 issue of the Redbook magazine and the April 1955 issue of the Kohler of Kohler News. The Redbook contained an article about the financial hard-

[1] *The Great Atlantic and Pacific Tea Company*, 101 NLRB 1118.

ships of a striker during the 1955–56 strike at the Company's Sharon, Pennsylvania, plant. The Kohler publication related the Kohler Company's version of the strike at its plant. There are stories and pictures of strike violence.

Beginning at midnight, December 12, the Company posted a montage, in conspicuous places around the plant, composed of pictures showing the results of strike violence at various Westinghouse plants. One of these pictures was of a man who was obviously beaten about the face and head. This picture had a caption to the effect that the man was only trying to go to work. There were also pictures of damaged automobiles and paint-splattered houses. There was a caption to the effect that these incidents could not happen in Raleigh if there was no union there. Near the montage were copies of newspaper clippings which related stories of strikes and strike violence. The montage and newspaper clippings were removed at midnight, December 13.

It is the opinion of the Regional Director that the foregoing falls within the purview of Section 8 (c) of the Act. It is therefore recommended that this part of the allegation be overruled.

2. Two of the employees stated under oath that Rupy and one of the other engineers asked them how they felt about the Union subsequent to December 7. As the engineers are professional and not managerial employees (see above), it is recommended that this allegation be overruled.

3. The investigation disclosed that the last plantwide increase was announced and put into effect some weeks before December 7. There is evidence that on about December 10 three employees were reclassified from labor grade 9 to 12. At the time the recipients were advised of the reclassifications there was no mention of the Union or the forthcoming election. According to the Company, the reclassifications were made in the regular course of business and the pendency of the petition had no influence on the decision to make the reclassifications.

In view of the fact that the evidence discloses that only 3 employees out of approximately 676 received reclassifications and that there was no reference to the Union or the forthcoming election when they were granted, the Regional Director does not believe the reclassifications were made to influence the outcome of the election. It is therefore recommended that this allegation be overruled.

4. The Union bases this allegation on the fact that the Company mailed to its employees a copy of an article appearing in The Monroe Enquirer on November 26, 1956. This article described the closing of a textile plant in South Carolina because a union had been certified. The investigation revealed that the article was mailed and received by the employees before December 7, 1956. It is therefore recommended that this allegation be overruled.[2]

5. There is no evidence that the motion picture shown to the employees had any reference to the racial issue. An agent of the Regional Director has seen the motion picture, in question, described in paragraph numbered 1, above, and he did not find anything in it that remotely "inflamed racial prejudice." It is therefore recommended that this allegation be overruled.

6. There is no evidence that there was surveillance of union meetings on and after December 7, 1956. There is testimony by one employee that on December 12 she was asked by Rupy whether she had attended a meeting on December 11. Rupy denies he questioned anyone in this connection. As the Regional Director does not believe that Rupy is a supervisory or managerial employee (see above), it is recommended that this allegation be overruled.

7. The posting of the large pictures alleged here is described in paragraph numbered 1, above. It is the opinion of the Regional Director that the posting of these pictures falls within the purview of Section 8 (c) of the Act. It is recommended therefore that this allegation be overruled.

8. There is evidence that during the speeches Plant Manager Babcock made to the employees before and after the showing of the motion picture on December 11 and 12 he described how a strike vote was taken at one of the Company's unionized plants substantially as follows: When the Westinghouse employees arrived to attend the meeting they found the seats occupied by railroad employees and job stewards. When the strike question was put the chairman would ask those in favor to stand. As the Westinghouse employees were already standing it was assumed they were voting in favor of a strike.

Evidence was presented that when the question of integration was raised during the December 11 and 12 meetings, Babcock told the employees that if the Union won the election promotions would be by seniority regardless of color. According to Babcock, he answered these questions by displaying articles appearing in various

[2] Footnote 1, *supra*.

issues of IUE–CIO and CIO News. These articles were to the effect that the Union and the CIO supported civil-rights education and legislation.

Evidence was presented that on December 11 Foreman Spencer told a group of his employees that he worked in a unionized plant and knew about unions. Among other things he stated that members of the Union who did not attend meetings were fined.

During the afternoon of December 13 there was posted on the bulletin board and circulated among the employees a communication, signed by Babcock, to the effect that it had come to the Company's attention that some employees had been threatened by the Union about the loss of their jobs, a $5,000 fine or a jail sentence if they had signed union cards and did not vote for the Union. The communication went on to say that no one had to vote for the Union even if the employee had signed a card, and asked any employee who received a threat or knew of anyone being threatened to report it to management.

In the opinion of the Regional Director, all of the foregoing constitutes the expression of views and opinions privileged by Section 8 (c) of the Act and/or permissible election propaganda, the wisdom or truth of which is for the employees, not the Board, to judge. The Regional Director therefore recommends that this objection be overruled.

In view of the facts set forth above, the Regional Director is of the opinion that the objections filed by the Union do not raise substantial or material issues with respect to the conduct of the election, or conduct affecting the results of the election, and therefore recommends to the Board that they be overruled.

Dryden Rubber Division of Sheller Manufacturing Company *and* United Rubber, Cork, Linoleum & Plastic Workers of America, AFL–CIO, Petitioner. *Case No. 18–RC–3097. June 27, 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 Clarence A. Meter, hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.[1]

The Petitioner questions the existence of any contract between the Intervenor and the Employer which may serve (1) as a showing of interest for purposes of intervention, (2) as evidence of the Intervenor's status as a labor organization, or (3) as a bar to an election of representatives at this time. The questions raised by the Petitioner relate to a prior proceeding[2] involving the same principals as are involved herein. In that case, Chemical Workers Union, Local 437, International Chemical Workers Union, AFL, petitioned for an election of representatives. The Petitioner herein intervened on the basis of its then existing contract with the Employer. During the course of the proceeding, Local 437's charter was revoked by its parent organization, which informed the Board of this fact and requested permission to withdraw the petition filed by Local 437. The Board denied the request, found that the revocation of the charter did not

[1] For the reasons discussed *infra*, we find that the hearing officer properly permitted Local 437, Chemical Workers Union, Independent, to intervene on the basis of its current existing contract with the Employer.

[2] Case No. 18–RC–2332, reported at 110 NLRB 1652.