signed the certification on conduct of election Accordingly, the Regional Director found that the Petitioner's designation did not confuse the eligibles and that all eligibles were given full opportunity to cast ballots for whichever union they wished

The Board has held in prior schism cases that the use of the same numerical designation by two competing locals would not confuse the voters in an election [2] The instant case differs from prior cases only in that here it is the seceding local which is objecting rather than the original local As to the language used on the ballots, the Regional Director has broad discretion in determining the method by which an election shall be conducted and the Board generally intercedes only when there is an abuse of such discretion [3] There is no evidence indicating that the Regional Director acted arbitrarily or capriciously in having the ballots in English rather than Spanish, or that the problem was in fact raised prior to the election The designated observers certified that the election was fairly conducted and there is no indication that the voters were unduly rushed or handicapped in casting their ballots

Accordingly, we agree with the Regional Director's conclusion that the Petitioner's objections raise no substantial and material issues with respect to the election and, following his recommendation, we hereby overrule them As the tally of ballots shows that a majority of the valid votes have been cast for Local 492, Bakery & Confectionery Workers International Union of America, we shall certify it as the collective-bargaining representative in the appropriate unit

[The Board certified Local 492, Bakery and Confectionery Workers International Union of America, as the collective-bargaining representative of the employees of the Employer in the unit found appropriate]

[2] See, e g , *International Harvester Company, East Moline Works,* 108 NLRB 600, 605 , *Radio Corporation of America,* 89 NLRB 699, 701

[3] *Manchester Knitted Fashions, Inc ,* 108 NLRB 1366

Paula Shoe Co., Inc. *and* **Union de Trabajadores de Muelles y Ramas Anexas de Ponce, P. R., Local 1903, UTM–IBL–AFL–CIO, Petitioner.** *Case No 24–RC–1090 August 27, 1958*

DECISION AND CERTIFICATION OF REPRESENTATIVES

On May 27, 1958, pursuant to a stipulation for certification upon consent election, an election by secret ballot was conducted under the direction and supervision of the Regional Director for the Twenty-fourth Region among the employees in the agreed appro-

priate unit Following the election, the Regional Director served on the parties a tally of ballots which showed that of approximately 139 eligible voters, 122 cast ballots, of which 69 were cast for the Petitioner, 51 were cast against the Petitioner, and 2 were challenged There was one void ballot The challenged ballots were insufficient in number to affect the results of the election

On June 3, 1958, the Employer filed timely objections to conduct affecting the results of the election In accordance with the Rules and Regulations of the Board, the Regional Director caused an investigation to be made of the objections, and on June 26, 1958, issued his report and recommendation on objections to election in which he recommended that the objections be overruled On July 7, 1958, the Employer filed exceptions to the report and a brief in support thereof

The Board [1] has reviewed the stipulation of the parties, the objections, the Regional Director's report and recommendation on objections to election, and the Employer's exceptions and brief Upon the entire record in this case, the Board makes the following findings of fact

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 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 purposes of collective bargaining within the meaning of Section 9 (b) of the Act All production and maintenance employees employed by the Employer at its Ponce, Puerto Rico, shoe factory, excluding office and clerical employees, instructors, administrative, executive and professional personnel, watchmen, guards, and supervisors as defined in the Act

5 The Employer objected to the election on three grounds First, it alleged that the Petitioner, on May 6 and 20, distributed among the employees handbills which represented that the Regional Director had postponed the election from its originally scheduled date because of the Employer's improper actions, and that the Petitioner had withdrawn charges filed against the Employer because the Employer had admitted its guilt with respect thereto, and that such statements were made for the purpose of showing that the Board favored the Petitioner in the election, were false, and were not subject to evaluation by the employees because they were within the peculiar knowledge of

[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 [Chairman Leedom and Members Rodgers and Fanning]

the Petitioner. The Regional Director's report finds that the handbills were part of a battle of words waged by the Petitioner and the Employer prior to the election. The Employer also circulated handbills to the employees on May 5, 19, and 23. In them it accused the Petitioner of filing groundless charges against it and refusing to waive them in order to block the election. The Petitioner's handbills sought to justify its filing, and later withdrawing, of the charges. Both parties were fully informed of the facts, and of the Regional Director's disposition of the charges and his reasons therefor. We find, in agreement with the Regional Director, that even if the Petitioner's statements were untrue and made for the purpose alleged, they were not based on facts within the special knowledge of the Petitioner. On the contrary, the Employer was in a position to, and did, completely refute the statements and their implications before the election was held on May 27. We therefore find that the employees were able to evaluate the alleged misstatements made by the Petitioner prior to the election,[2] and, as recommended by the Regional Director, we overrule this objection.

Secondly, the Employer objected to the Petitioner's distribution among the employees on the day before the election of a handbill reproducing substantial parts of the Board's official notice of election and official sample ballot allegedly marked so as to imply that the Board favored the Petitioner. The handbill is approximately the size of, and similar to, the right half of the Board's official notice. It bears the same title, "Notice of Election," and contains the same information as that portion of the Board's notice and sample ballot, with the following exceptions: It omits all reference to the United States Government, the Board, and Board agents, the words "Official Sample Ballot," the paragraph explaining the purpose of the ballot, and the word "Sample"; it changes the position of the name of the Employer; it adds a paragraph from the left-hand side of the Board's official notice, and a cross in the "Yes" box with the notation below, "Vote this way"; and it is followed by campaign propaganda. Under these circumstances, particularly the omission from the handbill of any reference to the Government, the Board, or the Board's agents, and the omission of the words, "Official Sample Ballot," we find, as did the Regional Director, that the handbill did not purport to be a copy of the Board's official notice and ballot. It therefore did not fall within the proscription of *Allied Electric Products, Inc.*,[3] as alleged by the Employer. Accordingly, we find that the second objection is without merit, and we overrule it.

Finally, the Employer objected to a statement at the bottom of the Petitioner's handbill discussed above, "If you want to avoid that the

[2] See *Allis-Chalmers Manufacturing Co*, 117 NLRB 744.
[3] 109 NLRB 1270. Cf. *Stratford Furniture Corporation, et al.*, 116 NLRB 1721, 1723.

Jew Sandler continue to mistreat you, vote for UTM," as designed to incite racial and religious prejudice against its plant manager and thus impair a free choice by the employees in the election The report shows that this statement was the only reference to this issue made in the course of the preelection campaign The Board has previously indicated that while it does not condone appeals to prejudice, the mere mention of a racial or religious issue is not grounds for setting aside an election [4] We therefore find, in agreement with the Regional Director, that under the circumstances of this case there is no merit in this objection, and we overrule it

As we have overruled the Employer's objections to the election, and as the tally of ballots shows that the Petitioner received a majority of the ballots cast, we shall certify the Petitioner as the collective-bargaining representative of the employees in the appropriate unit

[The Board certified Union de Trabajadores de Muelles y Ramas Anexas de Ponce, P R, Local 1903, UTM–IBL–AFL–CIO, as the collective-bargaining representative of the employees of the Employer]

[4] *Chock Full O' Nuts,* 120 NLRB 1296, *Sharnay Hosiery Mills, Inc*, 120 NLRB 750

Clifton Deangulo, Business Representative, Local Union No. 98, Sheet Metal Workers' International Association, AFL–CIO *and* York Corporation

Local Union No. 98, Sheet Metal Workers' International Association, AFL–CIO *and* York Corporation. *Cases Nos 9–CC–124 and 9–CC–125 August 28, 1958*

DECISION AND ORDER

On February 10, 1958, Trial Examiner George A Downing, issued his Intermediate Report in the above-entitled proceeding, finding that the Respondents had engaged in and were engaging in certain unfair labor practices and recommending that Respondents cease and desist therefrom and take certain affirmative action, as set forth in the copy of the Intermediate Report attached hereto The Trial Examiner also found that the Respondents had not engaged in certain other alleged unfair labor practices and recommended that the complaint be dismissed with respect thereto. Thereafter, the Charging Party filed timely exceptions to the Intermediate Report and a supporting brief The Respondents filed a memorandum in support of the Intermediate Report and Recommended Order