You may remember the I.U.E. strike against Westinghouse Electric that lasted *156* days. It was estimated that each employee lost about $1,700 in wages. The newspapers reported stonings, dynamiting, mass picketing, rioting, and a pitched battle between policemen and 2,000 strikers.

In September 1960, as I wrote you, the I.U.E. struck the General Electric Company. Employees in 55 plants lost wages for 24 days.

In my letter dated September 5 I gave you the names of 46 companies where the I.U.E. had called employees out on strike—and since then I found more. I won't repeat them here, but it is painfully clear that the I.U.E. strike record is something to worry about—including their strike history of violence, rioting and beatings.

Ask yourself if you want to face the loss of wages and the risk of possible violence on the decision of just a few dissatisfied employees. I am not saying that you *will* have a strike. But there is only one way to make sure that you can't *possibly* have a strike—that is by voting "*NO*."

Monsanto Chemical Company[1] ***and*** **Ernest L. Plymale, Petitioner *and* Glass Bottle Blowers Association of the United States and Canada, AFL–CIO, and its Local No. 229.** *Case No. 13–UD–67. May 20, 1964*

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9(e)(1) of the National Labor Relations Act, a hearing was held before Hearing Officer Hymen Bear. The Hearing Officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

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

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. In October 1963, the Union and the Employer entered into a 3-year collective-bargaining agreement which is effective until Octo-

[1] The Employer's name appears as amended at the hearing. The Employer is a successor to Plax Company, in which name certification issued in Case No. 13–RC–9316.

ber 13, 1966.[2] The petition for union deauthorization was filed on November 1, 1963.

Initially, the Union contends that, because Section 9(e)(1) speaks of rescinding a union's authority to make an agreement "pursuant to Section 8(a)(3)," and as Section 8(a)(3) applies only to union-shop agreements, the Board should not entertain the petition herein, since there exists no agreement between the parties made pursuant to Section 8(a)(3). We find no merit in this contention. The parties have an agency-shop agreement. The Board has held that Section 8(a)(3) pertains not only to union-shop agreements, but also to all other forms of union security which are lawful under the Act.[3] We therefore find that the petition which seeks to rescind the Union's authority to make an agency-shop agreement comes within the scope of Section 9(e)(1).

Secondly, the Union asks the Board to overrule its decision in *Southern Press*, 121 NLRB 1080. It argues that, to conduct a deauthorization election within a year following a representation election, is contrary to Section 9(e)(2) of the Act. We do not agree. In *Southern Press* the Board reaffirmed its long-standing position that the limitations of Section 9(e) refer only to elections held pursuant to Section 9(e) within the prior 12 months, and do not refer to representation elections held pursuant to Section 9(c) of the Act. We see no reason to depart from that policy which, in our opinion, is consistent with congressional intent.

4. We find that all hourly production and maintenance employees at the Employer's Ligonier, Indiana, plant, excluding office and plant clerical employees, lead women, professional employees, technicians, draftsmen, administrative employees, and supervisory employees as defined in the Act, constitute a unit appropriate for the purposes of an election under Section 9(e)(1) of the Act.

5. The Union urges us to hold that an affirmative deauthorization vote will not immediately render the agency-shop clause in its contract nugatory, and that the only effect of such vote will be to deprive

[2] Article 3, section 4, of that agreement contains, *inter alia*, the following provisions:

A. No employee shall be required to become a member of the union as a condition of employment. Each employee shall have the right to join, not join or maintain or drop his membership in the union. No employee shall be discriminated against on account of his membership or non-membership in the Union.

B. All employees who do not become members of the Union after thirty-one (31) calendar days of employment, shall as a condition of continuing employment, pay to the Union each month an amount of money equal to that paid by other employees in the bargaining unit who are members of the Union, which amount shall be limited to an amount of money equal to the Union's regular and usual initiation fees and its regular and usual dues. For present employees who do not choose to become members of the Union, such payments shall commence thirty-one (31) calendar days following the date of execution of this agreement.

[3] See *Public Service Company of Colorado*, 89 NLRB 418, and *American Seating Company*, 98 NLRB 800. The Board's position in those cases was cited with approval by the United States Supreme Court in *N.L.R.B.* v. *General Motors Corporation*, 373 U.S. 734. It should also be noted that, although Indiana is a "right-to-work" State, and holds union-shop agreements to be unlawful, it recognizes the validity of agency-shop agreements.

the Union of authority to make future agreements containing such provisions. We have carefully reviewed the *Andor Company* and *A. & P.* decisions,[4] and are convinced that the reasons advanced in those decisions for giving immediate effect to an affirmative deauthorization vote are sound. Accordingly, if the employees in this proceeding cast an affirmative deauthorization vote, it shall be taken to mean that the effectiveness of the agency-shop provisions in the contract between the Union and the Employer shall be suspended immediately upon certification to the Union and the Employer of the results of the election.

[Text of Direction of Election omitted from publication.]

MEMBER BROWN, dissenting in part:

Contract-bar principles have evolved out of the Board's continuing efforts in effectuating congressional policy in terms of industrial reality.[5] The object of these principles has been to avoid the certain instability which would have resulted had the Board taken a course of single-minded literalness in administering the representation provisions of the Act. Legislative history, as the courts have observed, indicates congressional approval of the Board's exercise of discretion in this area.[6] My colleagues rely upon *Great Atlantic & Pacific Tea Company*, issued by a divided Board in 1952. So far as appears from the majority opinion in that proceeding, no attempt was made there to interpret pertinent statutory provisions in a manner which takes into account the realities of collective bargaining and which, therefore, might promote expressed legislative purpose. I believe that, as in conventional representation proceedings, the Board is similarly obliged in deauthorization situations to establish appropriate filing periods which are meaningfully adapted to viable labor relations under the Act. Unlike my colleagues, I would do so here.

[4] *Andor Company, Inc.*, 119 NLRB 925; *Great Atlantic & Pacific Tea Company*, 100 NLRB 1494.

[5] See, for example, *Deluxe Metal Furniture Company*, 121 NLRB 995; *General Cable Corporation*, 139 NLRB 1123.

[6] E.g., *N.L.R.B.* v. *Marcus Trucking Company, Inc.*, 286 F. 2d 583, 593 (C.A. 2); *Local 1545, United Brotherhood of Carpenters, etc. (Pilgrim Furniture)* v. *Vincent*, 286 F. 2d 127, 131 (C.A. 2). Cf. *Ray Brooks* v. *N.L.R.B.*, 348 U.S. 96, 98–104.

W. A. Stevens d/b/a W. A. Stevens & Son *and* John Williams.
Case No. 9–CA–2972. May 20, 1964

DECISION AND ORDER

On March 5, 1964, Trial Examiner Frederick U. Reel issued his Decision in the above-entitled proceeding, finding that the Respondent