

PROPERTY OF THE UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

**THIRTEENTH
ANNUAL REPORT
OF THE
NATIONAL LABOR
RELATIONS BOARD**

**FOR THE FISCAL YEAR
ENDED JUNE 30**

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chapter, a union not in compliance with section 9 (f), (g), and (h) of the act is barred from the ballot in all cases, except decertification cases, even though it may have properly intervened in the proceedings by virtue of a current contractual interest. A corollary rule is that neither a union thus excluded from the ballot nor any individual or organization deemed to be "fronting" for it, will be permitted to file objections to the election or exceptions to the regional director's report on objections or challenges.⁸⁵

The Board is keenly aware of its responsibility to the parties in representation cases and to the public for the maintenance of high standards governing the conduct of elections under its auspices. Its objective in each case is to insure that the secret ballot is held under conditions enabling employees to register a free and untrammelled choice for or against a bargaining representative. When a party in a representation case files timely objections,⁸⁶ the Board will set the election aside if its investigation reveals that there was any substantial defect or irregularity in the conduct of the balloting⁸⁷ or that the employees' freedom to express their true desires in the election was inhibited by "antecedent conduct or episodes which were both (1) coercive in character, and (2) so related to the election in time or otherwise as to have had a probable effect upon the employees' action at the polls."⁸⁸ On the other hand, the Board eschews the role of censor and declines to vacate elections because of activities in the nature of "campaign propaganda."⁸⁹

Unremedied unfair labor practices constituting coercion of employees are generally regarded by the Board as grounds for vacating an election,⁹⁰ but the converse is not always true. The Board has the power to set aside an election, in the exercise of its discretion, because of any conduct or circumstances militating against the employees' freedom of choice, even though the objectionable conduct in a particular case may not quite be an unfair labor practice subject to prevention in complaint proceedings. In such a case, the Board will occasionally set aside the election if it is convinced that there was serious interference with the employees' free exercise of their franchise; but, as the majority remarked in *Matter of General Shoe Corp.*, 77 N. L. R. B.

⁸⁵ See certification of representatives issued June 4, 1948, in *Matter of Norcal Packing Co.*, Case No. 20-R-2221 (Decision and Direction of Election at 76 N. L. R. B. 254); *Matter of Oppenheim Collins and Co., Inc.* (79 N. L. R. B., No. 59). However, a noncomplying union whose name appears on the ballot in a decertification election may file objections. See *Matter of Magnesium Casting Company* 77 N. L. R. B. 1143.

⁸⁶ Objections must be filed within 5 days after the tally of ballots has been furnished to the parties; but in the computation of this period, Sundays, legal holidays (but not half-holidays), and Saturdays on which the Board's offices are not open for business are excluded. See secs. 203.61 and 203.87 of the Rules and Regulations, Series 5, as amended August 18, 1948, and *Matter of Lafayette National Bank of Brooklyn, New York* (77 N. L. R. B. 1210).

⁸⁷ See *Matter of NAPA New York Warehouse, Inc.* (75 N. L. R. B. 1269) (failure of Board agent to challenge the ballots of voters as to whose probable ineligibility he had notice); *Matter of Knox Metal Products, Inc.* (75 N. L. R. B. 277). Compare *Matter of Wilson Athletic Goods* (76 N. L. R. B. 315).

⁸⁸ This test of substantial interference with an election, enunciated in *Matter of Maywood Hosiery Mills* (64 N. L. R. B. 146), in 1945, was reiterated by the Board in *Matter of NAPA New York Warehouse, Inc.*, footnote 87, *supra*.

⁸⁹ *Matter of Carrollton Furniture Manufacturing Company* (75 N. L. R. B. 710); *Matter of Stonewall Cotton Mills* (75 N. L. R. B. 762); *Matter of NAPA New York Warehouse*, footnote 87, *supra*.

⁹⁰ For this reason the Board ordinarily declines to conduct an election if unfair labor practice charges are pending or if unfair labor practices previously found by the Board have not yet been remedied, unless the charging party files a "waiver" agreeing not to rely upon the alleged or established violations of the act as a basis for subsequently attacking the results of the election. See Tenth Annual Report, pp. 26, 27; *Matter of Linde Air Products* (77 N. L. R. B. 1206). But charges finally disposed of by administrative dismissal present no obstacle to an election. *Matter of Dickson-Jenkins Manufacturing Co.* (76 N. L. R. B. 449).