warehouses, who are responsible to the common owner, work out between them labor policies, wages, benefits, and personnel policies applicable to both warehouses. Merchandise for the warehouses is purchased in carload lots. Deliveries to the Employer's customers may be made from the warehouse most conveniently situated. Employees are commonly exchanged between the warehouses, as necessary. The two warehouses are presently absorbing between them employees and customers from a former branch operated by the Employer at Covington, Louisiana.

In view of the uniform and integrated operation of the two warehouses under common management, we find that the unit sought by the Petitioner, restricted to employees at the Bogalusa warehouse, is not appropriate.[9] Because the Petitioner has not made a sufficient showing of interest in the larger unit to justify an election, we will dismiss the petition.[10]

[The Board dismissed the petition filed in Case No. 15-RC-1004 by Teamsters Local Union No. 5, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, AFL.]

[Text of Direction of Elections omitted from publication in this volume.]

[9] Ross Lumber Company, 94 NLRB 636; Liebmann Breweries, Inc., 92 NLRB 1740

[10] For this reason we find it unnecessary to consider in this decision the placement of salesmen in the unit proposed by the Petitioner.

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F. W. WOOLWORTH COMPANY, Compton, California *and* VARIOUS EMPLOYEES OF F. W. WOOLWORTH COMPANY, 166 E. Compton Blvd., Compton, California, Petitioners *and* RETAIL CLERKS UNION, LOCAL NO. 324, AFL. Case No. 21-UD-13. December 31, 1953

## DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9 (e) (1) of the National Labor Relations Act, a hearing in this case was held before Irving Helbling, hearing officer. 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 National Labor Relations Act.

2. The labor organization involved claims to represent employees of the Employer.

3. On May 1, 1952, the Employer and the Union entered into a 2-year collective-bargaining contract expiring April 23, 1954, which contains a union-security provision in the nature

of maintenance of membership. The petition in this case was filed August 10, 1953, and seeks an election to rescind the Union's authority to make a union-security agreement. The Union contends that the petition was not properly supported by the requisite 30 percent of employees, a contention with which we do not agree for reasons set out in paragraph numbered 4 hereof.

We find that the petition in this case has been properly filed and complies in all respects with the provision of Section 9 (e) of the amended Act.[1]

4. The contract in question covers a storewide unit of employees and provides a limited form of union security, that is, employees not union members at the time of its execution are not required to become members. Specifically the contract provision is:

> Section 2. Union Membership. (a) All present employees covered by this agreement who are members of the Union or who become members of the Union shall remain members as a condition of continued employment.
>
> (b) The Employer may select and employ without restrictions; however, all new employees who are covered by this agreement shall become members of the Union within thirty-one (31) days from hiring in date and shall maintain membership in the Union, meeting lawful requirements.

Testimony at the hearing showed that 12 employees who were not members at the time of contract execution were not members at the time of hearing, and that 4 of these were among the 15 employees who signed the petition herein. The Employer's August 17, 1953, payroll contained the names of 42 employees in the storewide unit, in which unit the Union was originally certified as bargaining agent as the result of a consent election and in which unit it secured union-security authorization in September 1951. At the hearing the Union joined in a stipulation that this unit was "an" appropriate unit, but it would not stipulate that it was appropriate for the present deauthorization proceeding. The Union contends that the unit for deauthorization purposes is the unit in which the union-security provisions operate, not necessarily the collective-bargaining unit, and that employees not required by the union-security provisions of the contract to become union members should not participate in the deauthorization election. It also contends that employees not required to become members should not be permitted to constitute part of the requisite 30 percent or more who may file such a petition.

[1] Member Murdock, in accord with his dissent in Great Atlantic & Pacific Tea Company, 100 NLRB 1494, 1499, is of the firm opinion that Section 9 (e) (1) of the Act was not intended to provide for revocation of union-security provisions of a contract during its term, but considers himself bound by the majority position in that decision which has apparently now been adopted by Chairman Farmer and Member Rodgers.

The Employer contends that the statutory deauthorization provision, Section 9 (e) (1), requires that the election be directed among all employees in the bargaining unit as described in the contract.

Section 9 (e) (1) of the Act, since the 1951 revision of it which dropped the union-authorization provision,[2] reads as follows:

> Upon the filing with the Board, by 30 per centum or more of the employees in a bargaining unit covered by an agreement between their employer and a labor organization made pursuant to Section 8 (a) (3), of a petition alleging they desire that such authority be rescinded, the Board shall take a secret ballot of the employees in such unit and certify the results thereof to such labor organization and to the employer. (Emphasis supplied.)

The Board has not before considered a unit question of this sort in a union deauthorization case and the legislative history concerning the statutory provision throws no light upon the problem.

In union authorization cases--before the 1951 amendment--the Board repeatedly said that in most instances the unit appropriate for a union-authorization election would be coextensive with that appropriate for collective bargaining under Section 9 (a).[3] It made exceptions only in a case involving the impact on a multistate unit of one State's antiunion-shop law,[4] and in a Globe-type proceeding.[5] After careful consideration the Board believes that no analogy can be drawn from these exceptions to the case at hand. The statute in question, Section 9 (e) (1), is explicit in providing for an election in the contract unit. In the absence of convincing legislative history to the contrary, or an impediment similar to that in the Giant case,[6] we think this necessarily means an election among all employees in the bargaining unit as described in the contract, not just those required by the union-security clause to become union members.

The Union's contention concerning those entitled to initiate a deauthorization petition must be similarly answered. Section 9 (e) (1) defines the unit only once, both for petitioning and for balloting purposes. Clearly the 30 percent or more of employees who may make the request are employees from the

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[2] Public Law No. 189, 82nd Congress, 1st Sess., Sec. (c), Oct 22, 1951.

[3] See Furniture Firms of Duluth, 81 NLRB 1319; Kingsley Stamping Machine Co., 93 NLRB 1267, footnote 3; The Kroger Co., 95 NLRB 1513.

[4] Giant Food Shopping Center, Inc., 77 NLRB 791, 796.

[5] Manufacturers' Protective Development Association, 95 NLRB 1059; Member Murdock would not have made this exception as he deemed the employees polled separately mere accretions to the unit.

[6] Member Rodgers does not deem it necessary to decide at this time whether an exception should be made where there is an impediment respecting a State antiunion shop law similar to the one considered by the Board in the Giant case, (supra).

bargaining unit covered by the contract, not just those from the group obligated to become union members by reason of the contract.

We find that all employees of the Employer at its store at 166 E. Compton Boulevard, Compton, California, excluding the store manager, the assistant store manager, salesfloor supervisors, the personnel supervisor, the office supervisor, the stockroom supervisor, learners, seasonal employees, and supervisors as defined in the Act constitute a unit appropriate for the purposes of an election under Section 9 (e) (1) of the Act.

[Text of Direction of Election omitted from publication.]

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BULL INSULAR LINE, INC. ET AL. *and* INTERNATIONAL LONGSHOREMEN'S ASSOCIATION DISTRICT COUNCIL OF THE PORTS OF PUERTO RICO (ILA)[1] Petitioner

PUERTO RICO MARINE CORP. ET AL. *and* UNION DE TRABAJADORES DE ABORDO Y MUELLE DE PONCE INDEPENDIENTE, Petitioner

EASTERN SUGAR ASSOCIATES (A TRUST), Petitioner *and* LOCAL UNION NO. 1745, INTERNATIONAL LONGSHOREMEN'S ASSOCIATION (ILA)

PUERTO RICO DRY DOCK AND MARINE TERMINAL, INC.[2] *and* CONFEDERACION GENERAL DE TRABAJADORES DE PUERTO RICO (AUTENTICA), Petitioner

BULL INSULAR LINE, INC. ET AL. *and* UNION DE EMPLEADOS DE MUELLES DE PUERTO RICO, Petitioner

BULL INSULAR LINE, INC., Petitioner *and* INTERNATIONAL LONGSHOREMEN S ASSOCIATION DISTRICT COUNCIL OF PORTS OF P. R.

MENDEZ & CIA., INC. *and* UNION DE EMPLEADOS DE MUELLES DE PUERTO RICO, Petitioner

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[1] The Board officially notices that on September 23, 1953, the ILA was expelled from the American Federation of Labor. The ILA, as hereinafter appears, will therefore be designated as ILA only. The original order consolidating these cases included No. 24-RC-198. However, as the petitioner in that case, Union de Construccion Reparacion, Mantenimiento y Trabajos Portuarios de Punta Santiago, P. R. (Ind) was out of compliance, the petition was dismissed. Case No. 24-RC-200, Bull Insular Line and Union de Empleados de Muelles, was withdrawn and Nos. 24-RC-359 and 24-RM-12, as indicated herein, were added to the consolidated group.

[2] The present name of this Employer appears as amended at the hearing. It was formerly known as the Abarca Dry Dock Corporation.