As the Employer's operations fall short of the Board's minimum jurisdictional requirements, we shall dismiss the instant petition.

[The Board dismissed the petition.]

MEMBER PETERSON took no part in the consideration of the above Decision and Order.

CAMPBELL SOUP COMPANY *and* RALPH N. JONES, EDWARD R. SALATI, ALDO CIMINO, GEORGE S. SMITH, ARTHUR W. WOOD, WILLIAM R. MURPHY, TONY BASIL, CLAUDE MINOS, WILLIAM R. MURPHY, ROBERT J. GARTLAND, PETITIONERS *and* LOCAL 80-A, UNITED PACKINGHOUSE WORKERS OF AMERICA, CIO. *Cases Nos. 4-RD-121, 4-RD-122, 4-RD-123, 4-RD-124, 4-RD-125, 4-RD-126, 4-RD-127, 4-RD-128, 4-RD-129, and 4-RD-130. January 18, 1955*

Decision and Order

Upon petitions for decertification duly filed under Section 9 (c) of the National Labor Relations Act a consolidated hearing was held before William Naimark, 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 these cases, the Board finds:

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

2. The Petitioners, employees of the Employer, assert that the Union is no longer the representative, as defined in Section 9 (a) of the Act, of the employees designated in the petitions.

The Union is a labor organization currently recognized by the Employer as the exclusive bargaining representative of the employees designated in the petitions.

3. No questions affecting commerce exist 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 for the following reasons: [1]

The Petitioners in nine of the decertification petitions herein seek to sever from the established production and maintenance unit at the Employer's Camden, New Jersey, operation, which is represented by the Union, the following groups of employees who were unsuccessfully sought by the International Association of Machinists in an earlier certification proceeding decided in July 1954: [2] carpenters,

[1] In view of our decision herein, we find it unnecessary to determine issues relating to the status of the Union's contract as a bar to this proceeding.

[2] *Campbell Soup Company*, 109 NLRB 475.

painters, sheet metal workers, welders, electricians, pipefitters, oilers, concrete finishers, and scale repairmen. The tenth decertification petition requests an alternative group consisting of the nine preceding classifications.[3]

The petitioners take the position that the units requested herein may be decertified by severance from the established unit in accordance with the Board's present policy.

When first confronted with the problem of severing part of an established bargaining unit for decertification purposes, the Board held that it would apply the same principles of severance applicable to certification cases.[4] Pointing out that Congress had made no distinction between decertification and certification proceedings insofar as appropriate units were concerned, the Board exercised its discretion under Section 9 (b) of the Act to hold broadly that all units otherwise severable were severable on a decertification petition. The Board, however, recognized in these cases that nowhere in the Act was there any provision for the decertification of part of an existing bargaining unit.

The Board has reexamined these precedent cases. Upon reexamination the Board is of the opinion that the principle set forth in these cases was too broadly stated and does not take into account special circumstances applicable only to severance cases. Thus, the Board has held that severance of a group of craft employees for certification of another union will not be granted unless the petitioning union is the traditional representative of such employees.[5] Obviously a rule of this nature while applicable to certification cases cannot be applicable to decertification cases where the issue to be resolved does not involve representation in a separate unit. The Board has traditionally been reluctant to find units appropriate for severance in the face of established bargaining history on a broader basis. Severance of employees from such established units has been granted by the Board on the theory that the interests of specialized employees can better be served by representation in a separate rather than an all-inclusive bargaining unit. A decertification proceeding in a severance case does not result in separate representation. Mindful of the fact that Congress has made no provision for the decertification of part of a certified or recognized bargaining unit and in the absence of any statutory requirement or overriding policy considerations to the contrary, we find that the existing bargaining unit is the unit appropriate for the purposes of collective bargaining in these severance cases involv-

[3] See *Campbell Soup Company*, 4–RC–1901 (not reported in printed volume of Board Decisions and Orders), in which the Board dismissed a certification petition for a substantially similar group

[4] See, among others, *Illinois Bell Telephone Company*, 77 NLRB 1073 at 1076–1077; *Gabriel Steel Company*, 80 NLRB 1361 at 1362–1363

[5] *American Potash & Chemical Corporation*, 107 NLRB 1418

ing craft employees. To the extent that the cases cited herein are inconsistent with this decision they are hereby overruled. Accordingly, we shall dismiss the petitions.

[The Board dismissed the petitions.]

MEMBER PETERSON, concurring:

I agree with the decision here made, but deem it advisable to point out that Section 9 (c) (2) presents no obstacle. That section provides: "(2) In determining whether or not a question of representation affecting commerce exists, the same regulations and rules of decision shall apply irrespective of the identity of the persons filing the petition or the kind of relief sought. . . ." Early decisions involving decertification petitions contain language to the effect that this section requires the Board to apply the same principles of severance in decertification cases as in certification cases, and thus to conduct such elections in less than the contract unit if upon a certification petition it would hold the same unit appropriate and hence severable.[6] Upon close analysis, I am convinced no such result is required.

Section 9 (c) (2), as the legislative history plainly demonstrates, was intended to assure equality of treatment as between affiliated and unaffiliated unions.[7] It was directed at what the Congress thought was the disparate and discriminatory treatment accorded by the Board to independent unions, and nothing else. I find no warrant, either in the language of the section or in its history, for concluding, for example, that unit principles applicable in a situation where a craft group is seeking better collective representation should be regarded as equally pertinent when such a group seeks to establish for itself not better but no collective representation at all.

Congress provided for decertification petitions and elections because the Board's then rule, of not entertaining employee petitions looking toward the ouster of the certified or recognized representative, was looked upon as one-sided. As pointed out by the Senate Committee,[8] the provision here in question, Section 9 (c) (1), "would make it necessary for the Board to entertain petitions from employees irrespective of the kind of relief sought." The preceding sentences makes clear what "kind of relief" is meant, for the Committee refers to the fact that the Board's decisional policy allowed employees to oust an unwanted incumbent union only by designating some other

[6] See, e. g., *Illinois Bell Telephone Company*, 77 NLRB 1073 (professional employees); *American Smelting and Refining Co.*, 80 NLRB 68 (technical employees); *Cutter Laboratories*, 80 NLRB 213 (professional employees); *Gabriel Steel Company*, 80 NLRB 1361 (welders and burners); Fourteenth Annual Report, p. 42; Fifteenth Annual Report, p. 59; Sixteenth Annual Report, p. 120

[7] See Senate Report No. 105 on S. 1126, p. 3, 12 and 25 (1 Legis. Hist., p. 409, 418 and 431); House Conference Report No 510 on H. R. 3020, p. 48 (1 Legis. Hist., p. 552).

[8] Senate Report No. 105 on S. 1126, p. 10 (1 Legis. Hist., p. 416).

union, a practice which the Committee said placed "a premium upon raiding and jurisdictional rivalries."

It seems evident to me that the Petitioners here are attempting to do indirectly what they cannot do directly. Having failed to secure severance on the petitions of the IAM a few months ago, because of the *American Potash* rule, they now seek to accomplish the same result via the decertification route. To permit existing appropriate units to be fragmentized by such maneuvers would indeed lead to anomolous results, and effectively circumvent the limitations on severance recently established in the *American Potash* decision.

SPAULDING FIBRE CO., INC. *and* LOCAL 586, DISTRICT LODGE 76, INTERNATIONAL ASSOCIATION OF MACHINISTS, AFL, PETITIONER. *Case No. 3–RC–1449. January 18, 1955*

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 William G. McGee, 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 Act.

2. The Petitioner, and United Electrical, Radio and Machine Workers of America, Local 306, herein called the Intervenor, are labor organizations claiming to represent certain employees of the Employer.

3. The contention of the Intervenor as to the existence of a contract bar in this case is without merit, as it appears in any event that the petition, filed on August 20, 1954, preceded in point of time the effective date of the current contract on September 1, 1954. We find, accordingly, 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.

4. The Petitioner seeks to sever a unit of toolroom employees from the existing production and maintenance unit. In the alternative, the Petitioner requests a craft unit of all tool, die, or gauge makers and apprentices. The Employer and the Intervenor oppose the Petitioner's severance request on grounds that the unit sought is inappropriate.

The Employer is engaged in the manufacture of hard vulcanized fibre and laminated thermo-setting plastics in the form of sheets, rods, and tubes and parts fabricated therefrom. The Intervenor was certified by the Board in January 1944 as the collective-bargaining agent