initiation fees uniformly required as a condition of acquiring or retaining membership, and by threatening to cause the Company so to discriminate, the Respondent Union, a labor organization, has engaged and is engaging in unfair labor practices within the meaning of Section 8 (b) (2) and (1) (A) of the Act.

2. These unfair labor practices affect commerce within the meaning of Section 2 (6) and (7) of the Act.

[Recommendations omitted from publication.]

APPENDIX

NOTICE TO ALL EMPLOYEES OF BRUNSWICK-BALKE-CALLENDER COMPANY AND TO ALL MEMBERS OF UNITED BROTHERHOOD OF CARPENTERS AND JOINERS OF AMERICA, MILLMEN'S LOCAL 824, AFL

Pursuant to the recommendations of a Trial Examiner of the National Labor Relations Board, and in order to effectuate the policies of the Labor Management Relations Act, we hereby give notice that:

WE WILL NOT cause or attempt or threaten to cause Brunswick-Balke-Callender Company to discharge or otherwise discriminate against any employee in respect to whom membership in our Union has been denied or terminated on some basis other than failure to tender the periodic dues and initiation fees uniformly required as a condition for acquiring or retaining membership; nor will we cause or attempt to cause such Company to discharge or otherwise discriminate against any employee in violation of Section 8 (a) (3) of the National Labor Relations Act.

WE WILL NOT in any like or related manner restrain or coerce employees of the above-named Company in the exercise of rights guaranteed in Section 7 of the Act.

WE WILL make Eugene Beauchamp whole for any loss of pay resulting from the discrimination against him.

WE WILL notify the Brunswick-Balke-Callender Company and Eugene Beauchamp, in writing, that we have no objection to its reinstating him to the position he occupied at the time of his discharge on September 15, 1954, and that we request that the Company do so.

UNITED BROTHERHOOD OF CARPENTERS AND JOINERS OF AMERICA, MILLMEN'S LOCAL 824, AFL,
Labor Organization.

Dated_____ By_____
(Representative) (Title)

This notice must remain posted for 60 days from the date hereof, and must not be altered, defaced, or covered by any other material.

Westinghouse Electric Corporation *and* Arthur L. Herman and B. George Budd, Petitioners *and* Local 456, International Union of Electrical, Radio & Machine Workers, AFL–CIO.[1] *Case No. 2–RD–296. February 23, 1956*

DECISION ON APPEAL

On September 30, 1955, the Petitioners filed a petition with the Regional Director for the Second Region, seeking to decertify the Union as the collective-bargaining representative of approximately 22 professional employees currently represented by the Union as part of a

[1] The AFL and CIO having merged since the initiation of this proceeding, we are amending the designation of the Union accordingly.

larger unit of office clerical, technical, and professional employees.[2] On November 2, 1955, the Regional Director dismissed the petition on the ground that the unit in which the Petitioners sought a decertification election was inappropriate.[3] Pursuant to the Board's Rules and Regulations, the Petitioner filed a timely appeal from the Regional Director's dismissal of the petition, asserting in substance that under Section 9 (b) (1) of the Act, the Board was required to direct a decertification election among the professional segment of a combined unit of professional and nonprofessional employees. Thereafter, the Union filed a statement in support of the dismissal of the petition. For the reasons set forth hereinafter, the Regional Director's dismissal of the petition is sustained.

OPINION

The issues presented by this appeal are whether the Board has discretionary authority to determine the appropriate unit in a decertification proceeding where the existing unit includes professional employees, and, if so, how that discretionary authority should be exercised. The Board's authority to determine the appropriate unit in a decertification proceeding, and the limits upon the exercise of that authority, are derived from Section 9 (a), (b), and (c) (1) of the Act, which provides in pertinent part:

> Sec. 9. (a) Representatives designated or selected for the purposes of collective bargaining by the majority of the employees in a unit appropriate for such purposes, shall be the exclusive representatives of all the employees in such unit for the purposes of collective bargaining. . . .
>
> (b) The Board shall decide in each case whether, in order to assure to employees the fullest freedom in exercising the rights guaranteed by this Act, the unit appropriate for the purposes of collective bargaining shall be the employer unit, craft unit, plant unit, or subdivision thereof: *Provided*, That the Board shall not (1) decide that any unit is appropriate for such purposes if such unit includes both professional employees and employees who are not professional employees unless a majority of such professional employees vote for inclusion in such unit. . . .
>
> (c) (1) Whenever a petition shall have been filed, in accordance with such regulations as may be prescribed by the Board—
>
> (A) by an employee or group of employees or any individual or labor organization acting in their behalf alleging that

[2] The Union was previously certified as the representative of the combined office clerical, technical, and professional unit, following the holding of a separate election among the professional employees designated in the petition. See *Westinghouse Electric Corporation*, 89 NLRB 8, 33–35

[3] The Regional Director's action was consistent with the Board's decision in *Great Falls Employers Council, Inc.*, 114 NLRB 370.

> a substantial number of employees . . . (ii) assert that the individual or labor organization, which has been certified or is being currently recognized by their employer as the bargaining representative, is no longer a representative as defined in section 9 (a) . . .
>
> * * * * * * *
>
> the Board shall investigate such petition and if it has reasonable cause to believe that a question of representation affecting commerce exists shall provide for an appropriate hearing upon due notice. . . . If the Board finds upon the record of such hearing that such a question of representation exists, it shall direct an election by secret ballot and shall certify the results thereof.

As the Board has previously pointed out, Section 9 (c) (1) (A) (ii) of the Act does not require the Board to conduct a decertification election on the basis of a petition which seeks to raise a question concerning representation with respect to only part of an existing unit.[4] Rather, as is clearly evident from the statutory language, that section of the Act was designed to provide a method for determining whether an existing unit of employees desire to continue their *current* representation, and the Board is required to conduct an election thereunder only when a question is raised concerning such current representation in the existing unit. Although the Board has, prior to its decision in *Campbell Soup Company*, *supra*, directed decertification elections in only a segment of an existing unit, such action was, as the Board clearly indicated in the *Illinois Bell Telephone Company* case, *supra*, the result of a policy determination and not of a statutory mandate.

Similarly, there is nothing in Section 9 (b) (1) which requires the Board to conduct an election on the basis of the petition filed in this case. That section does not require the Board under any and all circumstances to conduct an election, but only circumscribes the Board's discretion to determine the appropriate unit when an election is being sought in a unit including professional employees. Accordingly, as no such election is sought herein, there is no occasion to consider the provisions of Section 9 (b) (1) pertaining to the separate polling of professional employees.[5] We conclude, therefore, that no statutory mandate requires the Board to direct a decertification election in only a segment of an existing unit, even though the employees in that segment are professional employees.

Nor, in our opinion, are there are policy considerations which would warrant according the professional segment of an existing unit different treatment from that accorded either craft employees[6] or tech-

[4] E g., *Campbell Soup Company*, 111 NLRB 234, 235; *Illinois Bell Telephone Company*, 77 NLRB 1073, 1076.

[5] *Worden-Allen Company*, 99 NLRB 410, relied on by the Petitioners, is therefore inapposite.

[6] *Campbell Soup Company*, *supra*.

nical employees [7] who are part of a larger unit. As the Board pointed out in the *Campbell Soup* case, it has traditionally been reluctant to disturb an existing bargaining relationship in the absence of a statutory mandate or overriding policy considerations to the contrary.[8] The Board also pointed out in that case that, although the desirability of according specialized representation to specialized groups of employees is sufficient to warrant disrupting an existing relationship when separate representation is sought, such considerations are not operative in a decertification proceeding which does not result in separate *representation* for purposes of collective bargaining. Consequently, the Board there concluded that in a decertification proceeding no considerations of policy were sufficiently strong to warrant disrupting the existing bargaining relationship.

The considerations which the Board found controlling in the *Campbell Soup* case are equally applicable here, where the direction of an election which the Act does not require would not result in the separate *representation* of the specialized interests of the professional employees. Such a conclusion is, moreover, consistent with the expression of congressional concern that professional employees be accorded the right to select specialized representation of their specialized interests and the absence of any concern that they be accorded any right to disrupt an existing relationship solely for the purpose of being unrepresented.[9] We conclude, accordingly, contrary to the contention of the Petitioners, that in dismissing the petition herein, the Regional Director properly applied the principle of the *Campbell Soup* case.[10]

[7] *Standard Oil Company of California,* 113 NLRB 475.

[8] See, e g *American Dyewood Company,* 99 NLRB 78, for an instance in which the Board declined to disturb an existing bargaining relationship, even though the existing unit was one in which the Board could not have directed an election See also *American Potash & Chemical Corporation,* 107 NLRB 1418, 1422.

[9] See House Rpt No. 245 on H. R. 3020, 80th Cong., 1st Sess., p. 37; Senate Rpt. No. 105 on S. 1126, 80th Cong., 1st Sess , pp 11, 25; House Conf. Rpt. No. 510 on H. R. 3020, 80th Cong., 1st Sess., pp. 36, 47. See also remarks of Senator Taft, 93 Cong Rec. 3836, 6442, remarks of Senator Ellender, 93 Cong. Rec. 4143; extension of remarks of Senator Ball, 93 Cong. Rec App A2252.

[10] In view of the basis for our conclusion, the alleged substantial turnover among the professional employees in the unit is immaterial.

Curtiss Candy Company *and* United Packinghouse Workers of America, AFL–CIO, Petitioner. *Case No. 13–RC–4600. February 23, 1956*

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 Raymond A. Jacobson, hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.