contention, that the recent amendment does not make the contract, otherwise lawful, unlawful for purposes of contract bar.[3]

The Petitioner also contends that the following clause, article 5 of the current contract, discriminates against nonunion employees:

> It is agreed that the *Union* employees will be paid straight time pay for the following legal holidays: . . . providing *the* employee works every day of the scheduled work week excepting the holiday. It is further agreed that *any* employee required to work on any of said holidays shall be paid at the rate of time and one-half his regular rate for all the hours worked in addition to the holiday pay, and double time for all work performed on Sunday. (Emphasis added.)

While the reference to "Union employees" in this paragraph raises some doubt as to its legality, testimony on the record that the use of this phrase was a scrivenor's error is uncontradicted; and this testimony is further supported by the fact that the record affirmatively reveals that holiday benefits have been granted to all employees, regardless of union affiliation. We therefore find no merit in this additional contention of the Petitioner.[4]

Accordingly, we find that this contract is a bar to a determination of representatives at this time, and we shall dismiss the petition.

Order

IT IS HEREBY ORDERED that the petition filed herein be, and it hereby is, dismissed.

[3] "An interpretation which makes the contract or agreement lawful will be preferred over one which would make it unlawful." Williston on Contracts, revised edition, Section 620.

[4] Cf. *Decker Clothes, Inc.*, 83 NLRB 484.

AL LAMAN MOTORS, INC. *and* UNITED AUTOMOBILE WORKERS, FEDERAL LABOR UNION No. 18671, AFL, PETITIONER. *Case No. 8–RC–1489. March 18, 1952*

Decision and Order

Upon a petition duly filed under Section 9 (c) of the National Labor Relations Act, a hearing was held before Philip Fusco, hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

Pursuant to the provisions of Section 3 (b) of the Act, the Board has delegated its powers in connection with this case to a three-member panel [Chairman Herzog and Members Houston and Styles].

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 employees of the Employer.

3. The Intervenor and the Employer contend that their contract, which expires on April 30, 1952, constitutes a bar to the instant proceeding. As this contract will expire in less than a month, we find that it is not a bar.[1] We find, however, that no 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 for the following reasons:

The Petitioner seeks to represent the body repair mechanics employed by the Employer. The Employer and the Intervenor contend that these employees, together with the other employees of the Employer, are an unseverable part of a multiemployer unit currently represented by the Intervenor.

The Employer, an automobile dealer and repair shop, had originally performed no body repair work, but subcontracted such work to the Brooklyn Body Shop. In 1945 the Employer purchased the entire stock of the Brooklyn Body Shop. The Employer operated this shop as a separate corporation under contract with the Petitioner. Such a contract was in effect when the Employer, in September 1951, dissolved the Brooklyn Body Shop as a separate corporation, combined its facilities under one roof with its automobile sales and repair operations, and informed the employees of the Brooklyn Body Shop that they were dismissed but might apply to the Employer for new employment. All the former employees of the Brooklyn Body Shop made application and were employed by the Employer. Since then, they have constituted the body repair department of the Employer under the supervision of the former manager of the Brooklyn Body Shop.

At the time of the dissolution of the Brooklyn Body Shop, the Employer was signatory to a collective bargaining contract with the Petitioner which covered "auto mechanics, body repairmen and/or painters and trimmers." This contract had been negotiated by R. E. Burrows on behalf of 35 Cleveland automobile dealers of whom the Employer was one. Burrows has represented substantially this same group of Cleveland automobile dealers in negotiations with the Petitioner since 1938. The Employer has been a member of this group since it began operation of its automobile shop in 1944. Burrows receives annually from each member of the group an individual authorization to negotiate on its behalf. Burrows is empowered to and does

[1] In view of this finding, we shall not pass upon the other contract bar contentions raised by the parties.

appoint an advisory committee, to whom he submits proposed contracts for approval. After the advisory committee has approved a contract, it is submitted to other members of the group, who individually sign these contracts. With one exception, all contracts negotiated by Burrows and approved by the advisory committee have been signed by all members of the group. Under all the circumstances, we find that the Employer has demonstrated a desire to be bound by group rather than by individual action.[2] We further find that the employees sought by the Petitioner, having become an integral part of the Employer's working force, are an unseverable part of a multiemployer unit. As the Petitioner has disclaimed any interest in a unit other than the one set forth in its petition, and as we have found such a unit to be inappropriate, we shall dismiss the petition.

Order

IT IS HEREBY ORDERED that the petition herein be, and it hereby is, dismissed.

[2] *Bellingham Automobile Dealers Association*, 90 NLRB 374.

PHELPS DODGE CORPORATION, NEW CORNELIA BRANCH *and* UNITED STEELWORKERS OF AMERICA, CIO,[1] PETITIONER

PHELPS DODGE CORPORATION, NEW CORNELIA BRANCH *and* INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, LOCAL NO. B-523, AFL,[2] PETITIONER. *Cases Nos. 21-RC-2144, 21-RC-2195, 21-RC-2196, 21-RC-2197, 21-RC-2198, 21-RC-2199, and 21-RC-2160. March 18, 1952*

Decision, Order, and Direction of Elections

Upon separate petitions duly filed, a consolidated hearing[3] was held before Ben Grodsky, hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.[4]

[1] Herein called the Steelworkers.

[2] Herein called the Electrical Workers.

[3] The above-captioned cases were consolidated for purposes of hearing by an order of the Regional Director, dated November 7, 1951.

[4] The hearing officer referred to the Board the Steelworkers' request to withdraw its petition in Case No. 21-RC-2144, because the same units therein requested are more specifically described in its Cases Nos. 21-RC-2195 through 2199. We shall grant the request of the Steelworkers and permit withdrawal of the petition in Case No. 21-RC-2144.

Also referred to the Board for disposition were the motions of the Employer to dismiss the petitions in Cases Nos. 21-RC-2195, 21-RC-2196, and 21-RC-2160, and the motions of the Intervenors to dismiss all of the petitions herein. These motions are discussed in paragraphs numbered 3 and 4, below.

At the hearing, a representative of the painters employed at the New Cornelia branch stated that the painters signed the Steelworkers' authorizations at a time when they