the unit or a refusal-to-bargain charge seeking to obtain a redetermination of the status of the employees involved.[13] One of the fundamental purposes of Congress in Section 9 (c) of the Act was to devise a method whereby the scope of the entire unit involved would be before the Board so that most, if not all, of the possible unit problems could be resolved at one time and a certification could issue which would be binding upon the parties. We do not think that Congress wished to place the Board in the position of dissipating its funds and energies in the capacity of arbitrator, mediator, or conciliator by providing a forum for parties to submit their questions on a piecemeal basis without any reasonable assurance that the Board's determination will thereby finally resolve even the specific problem presented by the parties.[14]

This is not a discretionary matter. It is a fundamental question of the existence of legal power. Being convinced that the Board has been acting beyond the scope of its delegated powers under the Act in making such determinations, we have no alternative but to discontinue doing so and to dismiss the petition forthwith.[15]

[The Board dismissed the petition.]

CHAIRMAN LEEDOM and MEMBER BEAN, dissenting:

We would in accordance with existing authority [16] process the instant petition as a motion for clarification of the unit and would decide this case on its merits.

[13] Advisory opinions have never been given by the Federal courts. 15 Corpus Juris 785. Story, Constitution (5th ed.) section 1571.

[14] See Section 4 (a) of the Act which provides in pertinent part, "Nothing in this Act shall be construed to authorize the Board to appoint individuals for the purpose of conciliation or mediation, . . ."

[15] To the extent that the cases cited in footnote 3, *supra*, and other similar decisions are inconsistent with our decision herein, they are hereby overruled.

[16] See footnote 3, *supra*.

Ohio Consolidated Telephone Company, Petitioner *and* Communications Workers of America, AFL-CIO. *Case No. 9-RM-143. June 27, 1957*

DECISION AND ORDER

Upon a petition duly filed under Section 9 (c) of the National Labor Relations Act, a hearing was held before Thomas M. Sheeran, 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 labor organization involved claims to represent certain employees of the Employer.

3. For a number of years the Employer has recognized the Union as the exclusive bargaining representative of a unit of all its employees, excluding guards, confidential employees, professional employees, and supervisors as defined in the Act, and such other employees who may be excluded from time to time by mutual agreement. The parties have had contractual relations on this basis without benefit of a Board certification. However, the Employer now would exclude from this unit the following classifications of employees upon the ground that they are supervisory within the meaning of Section 2 (11) of the Act: Head lineman, head switchman, service assistant, and head house serviceman. The Union contends that the aforementioned classifications are nonsupervisory and that they have been, and are now, properly a part of the overall unit which both parties agree is appropriate. The Employer concedes that the Union represents a majority of its employees including those holding the job titles in question. Neither party requests an election. Therefore, the sole issue which the parties are asking the Board to determine is as to the status of the head linemen, head switchmen, service assistants, and head house serviceman.

For the detailed reasons which we have given in the recent *Bell Telephone* case,[1] we find that the Board is without power to make the requested determination. Accordingly, we shall dismiss the petition forthwith.[2]

[The Board dismissed the petition.]

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

[1] *The Bell Telephone Company of Pennsylvania*, 118 NLRB 371.

[2] Although Chairman Leedom disagreed with the holding in the *Bell* case, footnote 1, *supra*, he now deems himself bound by the majority finding therein.

T. P. Taylor & Company, Inc.; T. P. Taylor Drugs, Inc.; and T. P. Taylor & Company of Indiana [1] *and* Retail Clerks Union Local No. 445, Retail Clerks International Association, AFL–CIO, Petitioner. *Case No. 9–RC–2963. June 27, 1957*

DECISION AND ORDER

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

[1] The name of the Employer appears as amended at the hearing.