BEFORE THE AGRICULTURAL LABOR RELATIONS BOARD

OF THE STATE OF CALIFORNIA

EUGENE ACOSTA, et al. {EMPLOYERS NEGOTIATING COMMITTEE) '	)	
Employer,	)	No. 75-RC-22-M
and	)	1 ALRB No. 1
WESTERN CONFERENCE OF TEAMSTERS, of the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, and LOCAL UNIONS 116, 186, 274, 542, 630, 865, 890, 898, and 1973,	)	
Union Joint Petitioner.	)	

We confront for the first time the task of determining the appropriateness of a proposed bargaining unit under the Agricultural Labor Relations Act (ALRA) . Labor Code §§ 1140 et seq. On September *2,* 1975, the Western Conference of Teamsters and certain affiliated locals (hereafter "Teamsters") filed with the regional office of the Agricultural Labor Relations Board in Salinas a petition under Labor Code section 1156.3 (a) seeking an election among approximately 6000 agricultural employees of some 156 individual agricultural employers, alleged to constitute a single "agricultural employer" within the meaning of the Act.

Both before and after the filing of the Teamster petition the United Farm Workers of America, AFL-CIO (hereafter "UFW") filed with the same regional office a number of petitions seeking elections among agricultural employees of various individual agricultural employers within the multi-employer unit requested in the Teamster petition. The regional director

determined that the unit sought by the Teamsters' petition was inappropriate, and accordingly, on September 9, 1975, issued a formal letter of dismissal. Finding the single-employer units sought by the UFW appropriate, the regional director directed that elections be conducted in those units.

On September 8, 1975, the Employers' Negotiating Committee (hereafter "Committee"), on behalf of the employers sought to be included in the proposed unit, filed a request for review of the announced dismissal of the Teamsters' petition pursuant to Labor Code section 1142(b). The Committee also requested that the ballots cast in any individual elections conducted within the proposed multi-employer unit be impounded pending determination by the Board of its request for review. In view of the serious unit determination question presented by the request for review, and the potential impact of a partial tally upon voters in the multi-employer unit in the event that an election were to be directed in that unit, the Board on September 8, 1975, ordered the ballots impounded and set the request for review for hearing by the full Board. On September 12, 1975, the Teamsters also filed a request for review of the dismissal of its petition.

The hearing was conducted September 16, 1975. Representatives of the Teamsters, the Committee, and the UFW as an affected party presented evidence and legal arguments on the issues involved, On the basis of the evidence, arguments and briefs submitted, the Board deliberated and, on September 17, 1975, issued an order sustaining the dismissal of the Teamsters' petition on the ground

that the unit sought by that petition was inappropriate, and directing that the ballots previously impounded be tallied forthwith. This opinion details the basis for that order.

I

The Teamsters' election petition is based in part on a collective bargaining agreement entered into July 16, 1975, between the committee and the Teamsters. Appendix- "A" of that agreement, incorporated in the petition as identification of the unit, lists 156 companies which have assertedly given their authorization to the Committee to represent them in the negotiation of the agreement and any supplement or addenda thereto. The list of employers covered by the agreement is not congruent with the membership of any employer association.

These companies are generally engaged in the growing of produce (fresh vegetables and melons) in various parts of California. Some of them operate in only one area of the state, others in a number of areas. Some grow only one commodity, others several. The agreement contains addenda which establish different wage rates for employees working on different commodities. For any one commodity, however, the wage rates are uniform for each covered employer throughout the state. The agreement also establishes uniform provisions with respect to working conditions and fringe benefits.

For some employers with state-wide operations it appears that there is a high degree of movement of workers from one area of the state to another as the harvest season changes. In the Oxnard area, there is evidence that employers covered by the

agreement utilize a common labor pool, and one employee testified is to his employment with several covered companies over a period of years. Otherwise, there is no evidence of interchange of employees among covered employers, nor is there evidence of common supervision, ownership or control.

The companies listed as parties to: the 1975 Teamster agreement signed powers of attorney granting the Committee authority "for the purpose of negotiating and handling grievances with the Union which gives reasonable proof that it represents the employees of the undersigned." Although there was testimony that the Teamsters signed up a majority of the employees of several of the employers who joined the alleged multi-employer unit for the first time in 1975, it is unclear whether there was a systematic check of Teamster majority status at all such employers.

The 1975 agreement is the outgrowth of a prior contract between the Teamsters and what was then called the "Area's Negotiating Committee." That prior agreement is dated January 6, 1973, and bears a term beginning January 1, 1973, and ending July 15, 1975. The 1973 agreement lists 120 employers as parties; 31 of them do not appear as parties to the 1975 agreement. Conversely, approximately 65 companies are parties to the 1975 agreement but did not previously participate in multi-employer bargaining.[1]

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[1]There has also been bargaining on a multi-employer basis between certain groups of employers within the proposed unit and the Teamsters union, covering workers other than, field workers. The employer composition of those units is not congruent with the unit sought here.

Prior to the 1973 agreement there was no history of bargaining on a multi-employer basis. Rather, a number of companies now sought to be included in the multitemployer unit were parties to individual. contracts with the Teamsters which were entered into in 1970 for a period of five years. The circumstances in which these contracts were negotiated are set forth in detail in the California Supreme Court's decision in Englund v. Chavez (1972) 8 Cal.3d 572, 576-82, and we take official notice of the factual findings therein. Briefly stated, it was the finding of the Court that at the time the contracts were negotiated and executed, neither the growers nor the Teamsters gave any consideration to whether the Teamsters represented a majority of the field workers to be covered by the contracts. In fact, the Court found, a substantial number and probably the majority of the field workers desired to be represented by the UFW. Based on that finding the Court held that the employers' conduct in recognizing a non-representative union constituted "interference" with the union within the meaning of Labor Code section 1117, on the basis of applicable National Labor Relations Board precedent.[2]

In the latter part of 1972, shortly before the decision in Englund, the Teamsters approached the companies which were

[2]On August 24, 1970, the United Farm Workers Organizing Committee (now UFW) , claiming to represent a majority of the field workers covered by the Teamster contracts, commenced a recognition strike which the growers claimed to be unlawful under the California Jurisdictional Strike Act. Labor Code §§ 1115 et sea. The Supreme Court, on the basis of the reasoning , summarized in the text, found that injunctions issued against the strike were improper .

parties *to* the individual 1970-1975 agreements and insisted that they bargain for a new agreement on a multi-employer basis. The reason, according to Mr. William Grami, a representative of the Teamsters* was that a multi-employer contract is a preferable form of dealing with employers that have common interests. The employers acceded to the Teamster request, though it resulted in a contract with substantially increased wage rates and other conditions more favorable to the workers than those provided in the individual contracts.[3]

The powers of attorney underlying the 1973 agreement gave authority to the common negotiating committee "for the purpose of bargaining collectively with the Union which gives reasonable proof that it represents the employees of the undersigned." It was understood that the agreement would not be effective as to any employer unless and until such proof was presented. According to Mr. Grami, beginning in the fall of 1972, the Teamsters obtained such proof in the form of dual authorization-dues deduction cards signed by a majority of each employer's workers. In a number of cases, Mr. Grami said, proof of majority status was not obtained until some time after execution of the agreement.

The 1973 agreement contained a union security clause which required union membership as a condition of employment beyond three days. As a general matter, if a worker did not sign the dual card by the end of that period he would be discharged at

[3]There were several arbitration and a substantial number of grievances under the 1973-1975 agreement.

the union's request. Mr. Grami testified, however, that in the latter part of 1972 the union had placed a moratorium on enforcement of the union security clause pending establishment of majority status with each employer. The evidence does not make clear whether or in what manner that moratorium was communicated to the workers.[4] There is evidence, however, that workers were promised back pay, based on the higher wages contained in the new agreement, when and if they signed.

II

Based on these facts, we are required to determine whether the multi-employer unit sought in this matter is appropriate under the new statute. Section 1148 of the Agricultural Labor Relations Act requires this Board to follow "applicable precedents of the National Labor Relations Act, as amended.[11] Relying on that provision, the Teamsters and Committee contend that under- National Labor Relations Act precedents, the 1973 and 1975 contracts constitute a controlling bargaining history requiring the Board to find the proposed unit appropriate under the Agricultural Labor Relations Act. The UFW argues, however, that the prior history is "tainted" by the alleged collusion between the employers and the Teamsters, who, the UFW contends, never represented the workers of the employers within this unit. Consequently, the UFW argues, National Labor Relations Act precedents require that prior bargaining history be disregarded,

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[4]One employee, who worked for several companies within the proposed unit, testified that at one company the foreman asked him to sign the card, stating that if he did not/sign, he was not "guaranteed of work."

and that only single-employer units be recognized.

In order to establish the framework for our consideration of these clashing contentions, we first briefly set forth the relevant National Labor Relations Act principles.[5] The National Labor Relations Act makes no explicit mention of multi-employer bargaining units. From an early date, however, the NLRB has construed the statutory language as- permitting certification or recognition of multi-employer units in certain cases, based primarily on bargaining history. The NLRB's position was given informal approval by the United States Supreme Court in NLRB v. Truck Drivers Local 449 (1957) 353 U.S. 87, 96, when it stated that Congress "intended to leave to the Board's specialized judgment the inevitable questions concerning multi-employer bargaining bound to arise in the future."

NLRB acceptance of a multi-employer bargaining unit carries with it two important consequences: (1) Neither an employer nor a union may effectively withdraw from a duly established multi-employer bargaining unit except upon written notice given prior to the date set by the contract for modification, or the agreed-upon date to begin the multi-employer negotiations. Retail Associates, Inc. (1958) 120 NLRB 388; (2) So long as the employers and the union continue bargaining on a multi-employer .basis, the employees are precluded from changing or decertifying

[5]We reserve for future consideration questions concerning what constitutes an "applicable precedent" under the NLRA, as that term is used in section 1148 of the Labor Code. Clearly, there are differences in statutory language and industrial context which may require different rules.

their bargaining representative except on the basis of an election conducted among all the employees of the unit. A non-incumbent union which seeks to challenge the incumbent's representative status must organize and campaign unit wide, and petition seeking an election in a smaller bargaining unit will be dismissed. Kirley Lumber Co. (1.971) 189 NLRB 13.0;. Kroger .Co. (196.4) 148 NLRB 569.

Because of these important consequences the NLRB does not lightly nor automatically impose a multi-employer bargaining unit over the objections of a party. It considers a single-employer unit presumptively appropriate, and, unless the employers are closely related in ownership and control, it recognizes a multi-employer unit only upon a history of collective bargaining on a multi-employer basis which it determines to be "controlling." E.g., Cab Operating Corp. (1965) 153 NLRB 878, 879-80; Bennett Stone Company (1962) 139 NLRB 1422, 1424; Chicago Metropolitan Home Builders Association (1957) 119 NLRB 1184.

'For a bargaining history to be controlling, it must clearly evidence the real consent of the participants to bind themselves to each other for bargaining purposes. The intent to be bound by group rather than individual action must be unequivocal. Kroger Co., supra; Morgan Linen Service, Inc. (1961) 131 NLRB 420; Arena-Norton, Inc. (1951) 93 NLRB 375. And it must be evidenced in advance of negotiations. Bull-Insular Lines,_ Inc. (1944) 56 NLRB 189.

> "A multi-employer unit may include only employers who have participated in and are bound by joint negotiations. The mere adoption of a group contract by an employer

> who has not participated in joint bargaining directly or through an agent, or has indicated his intention not to be bound by future group negotiations, is insufficient to permit his inclusion in a proposed multi-employer unit." National Labor Relations Board, 22nd Annual Report (1958) at 36-37

See also, Moveable Partitions, Inc. (1969) 175 NLRB 915; Texas Cartage Co. (1959) 122 NLRB 999.

Additionally, the history of multi-employer bargaining must be of sufficient duration; where there is only a limited history of bargaining on a multi-employer basis, single-employer units may be appropriate. E.g., Manufacturers Protective & Development Association (1951) 95 NLRB 1059. Thus, a one-year history may be considered too brief, particularly if there is a previous history of bargaining on a single-employer basis and a rival union has petitioned for a single-employer unit. U.S. Pillow Corp. (1962) 137 NLRB 584; Franklin Throwing Co. (1952) 101 NLRB 153.

Even where there is a history of multi-employer bargaining, the NLRB has declined to recognize a multi-employer unit "absent some indication that the employees in each of the constituent groups which, themselves, comprise natural and inherently appropriate bargaining units, have consented, expressly or otherwise, to be represented in common with, the employees of other employers, by a single bargaining agent." Pepsi Cola Bottling Co. (1944) 55 NLRB 1183, 1187. See also, Dancker & Sellew, Inc. (1963) 140 NLRB 824; Mohawk Business Machines (1956) 116 NLRB 248; Lamson Bros. Co. (1945) 59 NLRB 1561. In Lamson Bros. Co., supra, the Board declared, at 1572:

> Certainly a bargaining history which has evolved from contractual relationships executed and administered by representatives whom the employees purported to be affected have not either chosen or accepted by consent or acquiescence in the dealings on their behalf is not that type of history entitled to the weight usually accorded by the Board to past bargaining patterns as determinants in establishing appropriate units.

The NLRB will not give controlling weight to a contract between an employer and an unlawfully assisted union,[6] Pacific Telephone & Telegraph Co. (1948) 80 NLRB 107, nor to a contract which applies to members only. Wiscombe Painting & Sandblasting Co. (1972) 194 NLRB 907.

III

Before determining how such precedents are to be applied to the facts of this case, we first turn to the threshold question whether our statute permits the establishment of multi-employer units at all.

The only provision in the ALRA dealing explicitly with bargaining units is Labor Code section 1156.2, which provides:

> The bargaining unit shall be all the agricultural employees of an employer. If the agricultural employees of the employer are employed in two or more noncontiguous geographical areas, the Board shall determine the appropriate unit or units of agricultural employees in which a secret ballot election shall be conducted.

Other sections of the Act bear upon the issue. Labor Code section

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[6]For an employer to enter into an agreement with a union which does not in fact represent a majority' of employees in the bargaining unit constitutes unlawful assistance under the NLRA, even where the employer believes in good faith that the union has majority status. ILGWU v. NLRB (1961) 386 U.S. 731.

1140.4(c) provides that the term "agricultural employer" shall be liberally construed to include "any person acting directly or indirectly in the interest of an employer in relation to an "agricultural employee" as well as "any association of persons or cooperatives engaged in agriculture." Section 1140.4(d) defines "person" to include "one or more associations."

The NLRB has construed similar statutory provisions as permitting certification of multi-employer units. In Shipowners' Association of the Pacific Coast (1938) 7 NLRB 1002, the Board concluded that it had jurisdiction to approve such a unit because of its express authority to decide that the "employer unit" is appropriate for collective bargaining, and the inclusion within the definition of "employer" of "any person acting in the interest of an employer, directly or indirectly," and the definition of "person" as including "one or more associations."

Because of the almost identical statutory definitions in our statute, the NLRB's reasoning would seem persuasive. Additionally, the Legislature's inclusion of "any association of persons or cooperatives engaged in agriculture" within the definition of "employer" suggests a more explicit approval of multi-employer units than appears in the NLRA.

IV

Assuming that under some circumstances a multi-employer unit may be formed under the ALRA,[7] we do not think that such a

[7]There are differences between the ALRA and the NLRA which may have impact upon the circumstances in which multi-employer units may be formed or upon the legal consequences to be attached to their formation. We reserve consideration of that impact for future cases.

unit, is proper in this case. We have concluded that the bargaining history on which the Teamsters and the Committee rely as far from controlling.[8] Indeed, in several respects, it fails to meet the criteria established by NLRB precedents.

First, the bargaining history for many .of the employers in the alleged multi-employer unit is far too short, and the evidence of the Teamsters representational status too scant, to permit their inclusion in the multi-employer unit. Of the 156 signatories to the July, 1975, collective bargaining agreements, fully 65 were not parties to the 1973 contract. Such employers did not previously participate in multi-employer bargaining, and had a bargaining history of less than two months at the time the instant petition was filed. Such a history is insufficient in the face of rival petitions for single-employer units.

Additionally, as to these 65 newcomers, the record is uncertain as to the procedures followed to determine whether the Teamsters represented a majority of the employees. Indeed, it is unclear if the Teamsters submitted any proof of representational status at many of these employers. The 1975 contract was signed

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[8]Under the NLRA, a multi-employer unit may be appropriate, absent a history of bargaining on such a basis, where the employers are so interrelated in terms of ownership and control as to constitute a single "employer" within the meaning of the Act. •E.g., Senco, Inc. (1969) 177 NLRB 882. Those factors are not present here. Nor is there evidence of substantial interchange of workers among employers. See text at p. _*, supra. The Committee and the Teamsters point to a history of multi-employer bargaining between certain of the employers and-the Teamsters with respect to other groups of employees. It is clear under NLRA precedent, however, that a history of multi-employer bargaining for other employees on a basis not coextensive with the proposed unit is not controlling. E.g., Arden Farms (1957) 118 NLRD 117.

*slip opinion, p. 4

only a month before the new Act was to become effective, and under circumstances in which it was clear that the UFW would be making claims to represent many of the employees in question.[9] Thus, on the basis of their scanty bargaining history and the absence *of* evidence of Teamster majority status, we would be required[1] to honor petitions on a single-employer basis at 65 of the 156 employers within the proposed unit.

Even for the employers who have been part of the claimed unit since 1973, however, an important element of a valid multi-employer unit—an unequivocal advance commitment to be bound by the results of joint bargaining—appears to be missing or at least doubtful. Assuming that the powers of attorney giving the Area's Negotiating Committee authority to bargain were all executed before the negotiations commenced, [10]their effective date is uncertain. By their terms, these documents gave the Negotiating Committee authority to bargain collectively with "the Union which gives reasonable proof that it represents the employees of the undersigned." Each employer thus made his grant of authority to negotiate contingent on proof of the union's majority status— proof which, according to Mr. Grand., was often not forthcoming until after the contract had been signed.

Moreover, the powers of attorney do not unequivocally

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[9]Under the NLRA, recognition of one union in the face of a rival claim raising a real question concerning representation constitutes an unfair labor practice. Shea Chemical Corp. (1958) 121 NLRB 1027; Midwest Piping Co. (1945) 63 NLRB 1060.

[10] This fact is not clear from the evidence. The sole power of attorney introduced at the hearing was dated May 20, 1973, some four months after the contract was executed.

contemplate the establishment of a single multi-employer unit. By granting the Negotiating Committee authority to negotiate with whichever union made a showing of majority status at a particular ranch,[11/] the documents appear to contemplate the possibility that different unions might qualify to represent the field workers of the various employers. Such, an expectation contravenes the basic premise of a multi-employer-unit: that a group of employers have bound themselves to negotiate with one union representing the employees of all member-employers.[12]

The principal reason we cannot consider the prior bargaining history controlling, however, is that it is not possible for us to determine, in a manner consistent with the premises of the Act, whether a majority of the workers in the claimed unit consented or desired to be represented by the Teamsters. As we have previously discussed, such employee consent is a prerequisite to the creation of a valid multi-employer unit.

It appears from Englund v. Chavez, supra, that at the time of the 1970 contracts, the Teamsters were not the chosen representatives of the workers. In Englund, the Supreme Court stated:

> Although there is some dispute as to the precise number or percentage of field workers favoring either the Teamsters or UFWOC, it appears clear that by mid-August [1970] at least a substantial

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[11]However, the title of the power of attorney reads: "Agreement giving power of attorney to negotiating committees to collectively bargain with Teamsters Union."

[12]Obviously, two different labor organizations cannot exclusively represent the same employee unit at the same time. Bull-Insular (1945) 63 NLRB 154, 157.

> number, and probably a majority, of the applicable field workers desired to be represented by UFWOC rather than by the Teamsters. 8 Cal.3d at 579.

Whether this had changed by 1973, when the contract was renegotiated, is unclear. Mr. Grami testified that before the union security clause in the new contract was enforced at any employer within the unit, Teamster organizers obtained authorization cards from a majority of workers at the ranch. It is unclear, however, whether the 'fact that the union security clause was hot being enforced was explained to the workers. Additionally, there is evidence that the workers were promised back pay, based on the higher wages contained in the new agreement, when and if they signed. Finally, as we have noted earlier, the record does not demonstrate Teamster majority status with respect to the employers who executed powers of attorney for the first time in 1975.

These facts are illustrative of the difficulty inherent in attempting to determine representative status during the

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period preceding the effective date of the ALRA.[13] During that period California farm workers had no statutory procedure for selecting bargaining representatives through secret ballot elections, Englund v.Chavez, supra, 8. Ca.l..3d at..584. Cf. Labor. .Code §§ 1156-1159. Nor was there a mechanism for the filing of unfair labor practice charges to protest an agreement entered into between an employer and an allegedly unrepresentative union. Cf. Labor Code § 1153(f).

The ALRA attaches even greater significance to the secret ballot election procedure than does the NLRA. While the NLRA permits recognition on the basis of authorization cards or other proof of majority status, the ALRA makes it an unfair labor

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[13]We recognize that pre-Act bargaining history has been accorded significance by the NLRB. Shipowners' Association of the Pacific Coast, supra, 7 NLRB 1002; Admiar Rubber Co. (1938) 9 NLRB 407. However, in both cases there was substantial bargaining history on a multi-employer basis after the effective date of the statute. Additionally, the representational status of the unions involved had been clearly established by strikes which led to collective bargaining agreements between the union representing the strikers and the employer association. Here, by contrast, a strike was called in 1970 by the UFW, suggesting that, at least then, the UFW, not the Teamsters, enjoyed the support of the employees involved.

There was some evidence presented of Teamster strikes against various growers. Mr. Grami testified that the Teamsters shut down D'Arrigo Brothers Company for one and one-half days in 1973, when that company refused to recognize the Teamsters. Here, however, it appears that the crucial factor in the effectiveness of the strike was the fact that truck drivers, under a separate Teamster contract, refused to cross the picket line. Mr. Grami could not testify as to how many field workers participated in this strike.

There was also evidence of a Teamster, strike in July,. 1975, in the Santa Maria-Guadalupe area, which would include a small segment of the proposed unit. There are no details in the record indicating the effectiveness of this strike or the degree of participation by field workers.

practice for an employer to recognize, bargain with or sign a collective bargaining agreement with any labor organization not certified pursuant to secret ballot election under the Act. Labor Code § 1153(f) . It provides also that no collective bargaining agreement executed prior to the effective date of the statute should operate as a bar to a petition for an election. Labor Code § 1156.7(a) . Since it is clear that no secret ballot elections were held during the period in question, and since it is questionable whether the Teamsters enjoyed majority status as to each employer within the proposed unit, we cannot find prior bargaining history controlling.

Nothing we say here prevents a group of employers and a union which has been certified as bargaining representative for their employees in separate elections from agreeing among themselves to negotiate on a multi-employer basis. [14]We simply decline at this seminal stage of the new Act, to require a multi-employer unit based upon this kind of pre-statutory history. Given our responsibility of shaping and interpreting a new statute, we refuse to burden the future with the structures of the past.

Wholly apart from the defects in the prior bargaining history, we note other grounds for finding the proposed- unit inappropriate. First, were we to recognize the unit, we would

[14]Arguably such an agreement should be given effect, as under the NLRA, by precluding withdrawal from joint bargaining by either an individual employer or the union, except at an appropriate time. The question which concerns the Board, and as to which we express no opinion at this time, is whether, and if so, under what circumstances, such multi-employer bargaining should preclude employees from decertifying or changing their bargaining representative on an employer-by-employer basis.

disenfranchise all or nearly all the workers of some employers. The ALRA requires that elections be held only when the number of agricultural employees currently at work for the employer is not less than. 50 per cent of his peak agricultural employment. Labor Code §§ 1156.3(a)(1), 1156.4. It is undisputed that at the time of the hearing at least some, of the employers within the. claimed unit were, not at peak season, and had only a small number of employees at work. Had an election been ordered in the entire multi-employer unit, the employees of such employers would have been effectively disenfranchised because the bargaining agent for the entire unit would have been chosen at a time when few of those employees were working. Such a result would run counter to the policy of the Act "to encourage and protect the right of agricultural employees to full freedom of association, self-organization, and designation of representatives of their own choosing. . . . "[15] Labor Code § 1140.2.

Additionally, the record does not contain evidence from which it can be determined whether each of the constituent units sought to be included in the multi-employer unit is itself appropriate under the Act. The proposed unit includes employers with

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[15]We recognize that in some circumstances, such disenfranchisement of a discrete unit of workers may be inevitable. For example, an employer who had 500 acres of grapes adjoining 50 acres of peaches may find himself faced with an election petition at the peak of his grape season, when few peach workers are present. Because the bargaining unit is "all agricultural employees of an employer" (Labor Code section 1156.2), the choice of the grape pickers will bind all his employees, even the absent peach workers. We find that situation a far cry from the problem which would arise in the multi-employer unit, wherein a unit-wide election would disenfranchise all or substantially all-the workers of some employers.

employees working in non-contiguous geographical areas. Under such circumstances, the Board is to determine the appropriate unit. Labor Code § 1156.2. Recognizing both these problems, the Committee, suggested at. the hearing that we might cast the proposed multi-employer unit into smaller units along geographical lines, or that we might hold elections at different times within the unit Such a proposal simply illustrates the inappropriateness of the unit.[16]

For the reasons stated above, the decision of the regional director is sustained.

Roger M. Mahony, Chairman

LeRoy Chatfield

Joseph R. Grodin

Richard Johnson, Jr.

Joe C. Ortega

[16]The Committee and the Teamsters argue that the uniform wages, working conditions and fringe benefits established under the multi-employer agreement are of advantage to the workers and should not be disturbed. That argument, however, is best addressed to the workers themselves, who may take it into account in selecting their bargaining representative. See Bercut-Richards Packing Company (1946) 6.8 NLRB 605.