

In the Matter of J. J. LITTLE & IVES COMPANY and BINDERY WOMEN'S  
UNION LOCAL NO. 43

*Case No. R-614.—Decided April 4, 1938*

*Book Printing and Bookbinding Industry—Investigation of Representatives:* controversy concerning representation of employes: rival organizations; refusal of employer to recognize either organization until question of representation is determined; prior consent election inconclusive—*Unit Appropriate for Collective Bargaining:* female bindery workers, excluding gold layers and office and clerical workers; male bindery workers and female gold layers excluded because of established custom in industry, rules of eligibility to membership in existing labor organization, and prior relations between employer and employees in instant case—*Election Ordered:* only name on ballot to be that of union which received the most votes at prior consent election.

*Mr. Christopher W. Hoey* and *Mr. Albert Ornstein*, for the Board.  
*Kaufman & Weitzner*, by *Mr. Milton S. Gould*, of New York City, for the Company.

*Mr. Henry Clifton, Jr.*, of New York City, for Local 43.

*Goldstein & Goldstein*, by *Mr. Lawrence Kovalsky*, of New York City, for Local 66 and the International.

*Mr. Spurgeon Avakian*, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

On November 29, 1937, Bindery Women's Union Local No. 43, herein called Local 43, filed with the Regional Director for the Second Region (New York City) a petition alleging that a question affecting commerce has arisen concerning the representation of employees of J. J. Little & Ives Company, New York City, herein called the Company, and requesting an investigation and certification of representatives pursuant to Section 9 (c) of the National Labor Relations Act, 49 Stat. 449, herein called the Act. On December 28, 1937, the National Labor Relations Board, herein called the Board, acting pursuant to Section 9 (c) of the Act and Article III, Section 3, of National Labor Relations Board Rules and Regulations—Series 1, as amended, ordered an investigation and authorized the Regional Director to conduct it and to provide for an appropriate hearing upon due notice.

On January 31, 1938, the Regional Director issued a notice of hearing, copies of which were duly served upon the Company, Local 43, and Bindery Women's Union Local 66, International Brotherhood of Bookbinders, herein called Local 66, a labor organization claiming to represent employees directly affected by the investigation. Amended notices of hearing were duly served upon the same parties on February 7, 1938, and February 25, 1938. Pursuant to the notices, a hearing was held on March 1, 1938, at New York City, before Paul Davier, the Trial Examiner duly designated by the Board. The Board, the Company, Local 43, Local 66, and International Brotherhood of Bookbinders, herein called the International, were represented by counsel and participated in the hearing. Full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues was afforded all parties. During the course of the hearing the Trial Examiner made several rulings on motions and on objections to the admission of evidence. The Board has reviewed the rulings of the Trial Examiner and finds that no prejudicial errors were committed. The rulings are hereby affirmed.

Upon the entire record in the case, the Board makes the following:

#### FINDINGS OF FACT

##### I. THE BUSINESS OF THE COMPANY

J. J. Little & Ives Company has its principal office and place of business in New York City. It is engaged in the business of printing and binding books. During 1937 the Company purchased about \$500,000 worth of raw materials, consisting mainly of paper, cloth, boards, glue, and ink, and sold about \$1,450,000 worth of finished products. More than 75 per cent of the raw materials were purchased outside the State of New York. About 35 per cent of the finished products were sold outside of New York, and approximately 50 per cent were sold in New York to purchasers who immediately shipped them to other States.

##### II. THE ORGANIZATIONS INVOLVED

Bindery Women's Union Local No. 43 is a labor organization admitting to its membership all female employees in the bindery department of the Company, excluding gold layers and office and clerical workers. It was organized in 1898 as a unit of the International Brotherhood of Bookbinders, but was expelled from that organization in 1931 and has since operated independently.

Bindery Women's Union Local 66, International Brotherhood of Bookbinders, is a labor organization affiliated with the American Federation of Labor. It admits to its membership all female em-

ployees in the bindery department of the Company, excluding gold layers and office and clerical workers. It was organized after the expulsion of Local 43 from the International in 1931.

### III. THE QUESTION CONCERNING REPRESENTATION

The organizing efforts of both Local 43 and Local 66 among the Company's female bindery employees commenced around May 1, 1937. Soon thereafter each union claimed to represent a majority of the female bindery workers and sought to bargain with the Company. The Company is willing to bargain with any union certified by the Board, but refuses to negotiate until such certification is made.

We find that a question has arisen concerning representation of employees of the Company.

### IV. THE EFFECT OF THE QUESTION CONCERNING REPRESENTATION UPON COMMERCE

We find that the question concerning representation which has arisen, occurring in connection with the operations of the Company described in Section I above, has a close, intimate, and substantial relation to trade, traffic, and commerce among the several States, and tends to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

### V. THE APPROPRIATE UNIT

There are two main departments in the Company's plant. One involves printing, the other, binding. This proceeding relates only to the bindery workers. On November 29, 1937, the date of the petition, the Company employed 182 bindery workers, of whom 105 were men and 77 were women. Three of the 77 women were gold layers. The petition alleges that the appropriate unit consists of all female bindery workers, excluding gold layers and office and clerical workers. Local 66 and the International contend that the appropriate unit includes all male and female bindery workers, and request that, should an election within such unit be ordered, the name of the International rather than of Local 66 be placed on the ballot.

On December 3, 1937, Local 43, Local 66, and the Company entered into an agreement for a secret election to be conducted by the Regional Director for the Second Region among the female bindery workers of the Company, excluding gold layers. The results of the consent election, which was held on December 7, 1937, are as follows:

Total eligible to vote.....	74
Total votes cast.....	71
For Local 43.....	33
For Local 66.....	35
For neither union.....	3

Since neither organization received a majority, negotiations for a run-off election were commenced, but a stalemate ensued when Local 66 and the International raised the contention that the run-off should not be limited to the unit originally used, but should include all bindery workers, male and female. The Board then proceeded to hold a hearing.

Although the International desires a unit composed of both men and women bindery workers, it has chartered separate locals for men and women. As noted above, the membership of Local 66 is limited to female bindery workers, excluding gold layers and office and clerical workers. On the other hand, Local 25 of the International admits to its membership only male bindery workers and female gold layers.<sup>1</sup> The International has, moreover, underwritten a contract between Local 25 and various employers, including the Company, which is limited to male bindery workers and female gold layers. The contract, which is for a term of 3 years, commencing on September 22, 1937, covers a large section of the bookbinding industry in New York City. Negotiations for the contract were carried on during the same period that Local 43 and Local 66 were attempting to negotiate a contract on behalf of the women. No contention was made by either Local 66 or the International, prior to the consent election of December 7, 1937, that the appropriate unit included both men and women. Miss Josephine Casey, the Local 66 representative who signed the consent election agreement, testified that at that time she considered the women alone an appropriate unit, but that since then she has concluded that the interests of the workers will be better served if the men and women act together. She admitted, however, that since the consent election of December 7, 1937, she had entered into a similar agreement with another employer for an election restricted to female bindery workers. This would seem to indicate that no general change in the established policy in the industry with respect to organization and bargaining is desired or contemplated.

Under the above circumstances, and in view of the showing in the record that it is an established custom in the bookbinding industry for men and women to be organized into separate unions and to act independently of each other, we believe that the unit contended for in the petition is the appropriate one. We find that the female bindery workers of the Company, excluding gold layers and office and clerical workers, constitute a unit appropriate for the purposes of collective bargaining and that said unit will insure to employees of the Company the full benefit of their right to self-organization and to collective bargaining and otherwise effectuate the policies of the Act.

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<sup>1</sup> The inclusion of female gold layers in Local 25 is due to the merger of a former union of gold layers with Local 25.

## VI. THE DETERMINATION OF REPRESENTATIVES

No attempt was made at the hearing by either Local 43 or Local 66 to show that it represented a majority of the employees of the Company within the appropriate unit. The consent election of December 7, 1937, was inconclusive because neither organization received a majority of the votes cast. We hold that an election by secret ballot is necessary to resolve the question concerning representation.

Though the consent election of December 7, 1937, was pursuant to an agreement between the parties rather than to an order of the Board, it was conducted by the Board's agents, in the same manner and under the same rules as elections ordered by the Board. The ballots were in the form usually required by the Board. The unit used in that election is the one we have found to be appropriate, and the date for determining eligibility to vote was December 1, 1937, the date to be used in the election ordered herein. No protest of any kind has been made as to the fairness, validity, or regularity of the election. We therefore consider the consent election of the same effect as one ordered by the Board and see no necessity for another election offering the employees the same choice. In accordance with our policy in cases where neither union receives a majority of the votes cast at the first election,<sup>2</sup> we will order a run-off election to determine whether or not the employees of the Company within the appropriate unit desire to be represented by Bindery Women's Union Local 66, International Brotherhood of Bookbinders, which is the organization receiving the most votes in the consent election of December 7, 1937.

A stipulation entered into at the hearing by the Company, Local 43, Local 66, and the International requests that, should an election be ordered by the Board, all employees of the Company within the appropriate unit on December 1, 1937, excluding those who have since quit or been discharged for cause, but including those who have only temporarily been laid off, be eligible to vote. We approve the stipulation and hold in accordance with it.

On the basis of the above findings of fact and upon the entire record in the proceeding, the Board makes the following:

## CONCLUSIONS OF LAW

1. A question affecting commerce has arisen concerning the representation of employees of J. J. Little & Ives Company, New York City, within the meaning of Section 9 (c) and Section 2 (6) and (7) of the National Labor Relations Act.

<sup>2</sup> See *Matter of Interlake Iron Corporation and Amalgamated Association of Iron, Steel, and Tin Workers of North America, Local No. 1657*, 4 N. L. R. B. 55

2. The female bindery workers of the Company, excluding gold layers and office and clerical workers, constitute a unit appropriate for the purposes of collective bargaining, within the meaning of Section 9 (b) of the National Labor Relations Act.

#### DIRECTION OF ELECTION

By virtue of and pursuant to the power vested in the National Labor Relations Board by Section 9 (c) of the National Labor Relations Act, 49 Stat. 449, and pursuant to Article III, Section 8, of National Labor Relations Board Rules and Regulations—Series 1, as amended, it is hereby

DIRECTED that, as a part of the investigation ordered by the Board to ascertain representatives for the purposes of collective bargaining with J. J. Little & Ives Company, New York City, an election by secret ballot be conducted within fifteen (15) days from the date of this Direction, under the direction and supervision of the Regional Director for the Second Region, acting in this matter as agent for the National Labor Relations Board and subject to Article II, Section 9, of said Rules and Regulations, among the female workers in the bindery department of the Company who were employees of the Company on December 1, 1937, excluding gold layers and office and clerical workers, and excluding those who have since quit or been discharged for cause, but including those who have only temporarily been laid off, to determine whether or not they desire to be represented by Bindery Women's Union Local 66, International Brotherhood of Bookbinders, affiliated with the American Federation of Labor.