

security benefits, but who, according to the Employer, may forgo his social security benefits and accept full-time employment. If at the time of the election he is still working on the basis of earning no more than the maximum permitted in connection with his social security benefits, he shall be considered as excluded from the unit.<sup>5</sup> If he is working regularly, either full or part time and without regard to the above maximum, he shall be included.

We find that a unit of the following employees is appropriate for purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All employees of the Employer at its two hardware stores on Main Street, Taunton, Massachusetts, including office clerical employees, truckdrivers, and regular part-time employees, but excluding outside salesmen, retired employees working only the maximum permitted under social security, managers, and supervisors as defined in the Act.

[Text of Direction of Election omitted from publication.]

CHAIRMAN McCULLOCH took no part in the consideration of the above Decision and Direction of Election.

<sup>5</sup> See *Hoosier Desk Company*, 65 NLRB 785, 787.

**Allen, Lane & Scott; Casey & Andrews; Cuneo Eastern Press, Inc.; Edward Stern & Co., Inc. and Lithographic Service Company, Inc.;**<sup>1</sup> **Edward Stern & Co., Inc. and Local 14, Amalgamated Lithographers of America, AFL-CIO, Petitioner.** *Cases Nos. 4-RC-4522 and 4-RC-4523. May 23, 1962*

### DECISION AND DIRECTION OF ELECTIONS

Upon the petitions duly filed under Section 9(c) of the National Labor Relations Act, a consolidated hearing was held before Chester S. Montgomery, hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed. On April 5, 1962, the Board heard oral argument.

Upon the entire record in these cases, the briefs of the parties, and the oral argument, the Board finds:

1. The Employers are engaged in commerce within the meaning of the Act.

2. The labor organizations involved claim to represent certain employees of the Employers.<sup>2</sup>

<sup>1</sup> The Employer's name appears as amended at the hearing.

<sup>2</sup> International Printing Pressmen and Assistants Union of North America, AFL-CIO, and its Locals 4 and 11, International Photo Engravers Union, AFL-CIO, Local 7, and 137 NLRB No. 33.

3. Questions affecting commerce exist concerning the representation of employees of the Employers within the meaning of Section 9(c) (1) and Section 2(6) and (7) of the Act.

4. In the first petition, Case No. 4-RC-4522, the Lithographers seeks to sever a unit of lithographic production employees from a multiemployer bargaining group composed of 12 employers, including the 4 here involved.<sup>3</sup> Of the remaining eight, four have no lithographic employees and four already have contracts with the Petitioner covering their lithographic employees. Allen, Lane & Scott, Cuneo Eastern Press, Inc., and Edward Stern & Co., Inc., have a history of multiemployer bargaining for the employees involved herein with the intervening Pressmen. In view of this we find that the unit has been multiemployer in scope and that any severance granted should also be multiemployer in scope.<sup>4</sup>

Allen, Lane & Scott employs approximately 41 employees to operate its letterpress and offset presses. The employees engaged in lithographic work operate standard lithographic equipment and exercise the skills and duties common among lithographic employees. The company does its own lithographic preparatory work and employs about 13 men for this purpose. In addition, there are a number of other employees associated with the printing process. These include an ink mixer, quality control employee, proof press operator, artists, shippers, maintenance men, a janitor, and bindery employees. Some of these employees are currently unrepresented.

Cuneo Eastern Press, Inc., is a large commercial printer. It employs 27 men in the offset department, 19 of whom operate the presses. The remaining eight do the preparatory work for the offset presses. In addition, Cuneo employs a number of men to staff its letterpress department. The offset preparatory and press employees exercise the normal skills of those involved in these types of work.

Edward Stern & Co., Inc., employs about 74 men to operate its letterpress and offset presses. The offset press employees exercise traditional lithographic skills. In addition to these men, there are a number of others whose duties are functionally related to press work. They are the floorboys, paper stock handlers, maintenance men, janitor, utility worker, porter, clericals, and bindery employees.

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Building Service Employees International Union, Local #69, AFL-CIO, intervened on the basis of a contract interest and fully participated in the hearings.

Philadelphia Typographical Union, AFL-CIO, Local 2, affiliated with International Typographical Union, AFL-CIO, and Bookbinders and Bindery Women's Union, Local No 2 of Philadelphia, affiliated with International Brotherhood of Bookbinders, AFL-CIO, also intervened on the basis of a contract interest. They did not fully participate in the hearings and did not file briefs.

Allied Printing Employers' Association, a division of Printing Industries of Philadelphia, Inc., intervened on behalf of the employer group named in the consolidated petitions. The Association has served as the negotiating group for these employers for some time.

<sup>3</sup> At the hearing the Petitioner declared that it did not seek to represent any of the employees of Casey & Andrews. Since this company does not employ any lithographic employees, the petition is dismissed as to this Employer.

<sup>4</sup> *Printing Industry of Delaware*, 131 NLRB 1100.

We are urged by the Employers and Intervenors to reconsider our long-standing rules concerning unit determinations in the commercial printing industry. They contend that numerous technological developments have caused a shift in the pattern of the industry and resulted in a blending of printing techniques which have almost eradicated those features of lithography distinguishing it from other types of printing. In addition, these parties argue that the extent of plant integration and employee interchange in the Employers' operations render lithographic production units inappropriate. Further, they maintain that the traditional lithographic production unit is inappropriate because there is no community of interest among lithographic preparatory and press employees which warrants their inclusion in the same unit. Accordingly, the Employers and Intervenors move to dismiss the first petition on the ground that only an overall unit of letterpress and lithographic pressmen is appropriate.

Elaborating on the first point raised, the Employers and Intervenors note that since World War II most commercial printers have shifted from operating exclusively as letterpress shops to combined letterpress and lithographic printing plants. Along with this evolution they contend that there have been several technological developments which tend to eliminate the old distinctions between printing techniques to the extent that all printing processes have become so merged that they are quite similar. It is further argued that new processes and equipment are now being introduced which will completely erase the traditional distinctions.

The Board recognizes the technological advances which have taken place in recent years in the commercial printing industry. We are also aware of other impending technological changes which may alter the present character of the industry to an even greater degree. We do not, however, find on this record, that current progress in the industry has advanced to a degree where daily use of new techniques and machinery, like the dycril plate and Heidelberg press, has been instituted. We conclude, therefore, that the evidence does not warrant present reconsideration of the Board's long-standing rules concerning appropriate units in the commercial printing industry. We will, however, continue to scrutinize very closely the future course of this industry, and we will be prepared to reevaluate our unit policies upon a proper showing that technological advancements and the needs of the industry require it. In the state of this record, we find that a unit composed of the lithographic production employees at Allen, Lane & Scott and Cuneo Eastern Press, Inc., and the offset press employees at Edward Stern & Co., Inc., is appropriate and that it may be severed from the historical multiemployer unit.

In their briefs and oral arguments, the Employers and Intervenors have stressed the considerable amount of interchange of lithographic

and letterpress pressmen which regularly occurs at the plants involved. They claim that this interchange brings the Employers' operations within the *Pacific Press* doctrine<sup>5</sup> and makes only an overall unit of all pressmen appropriate. It is current Board policy to permit the establishment of separate lithographic production units, if the employees so desire, except where the standards of *Pacific Press* are met. The Employers' assertions were predicated upon a detailed analysis of the interchange only at Allen, Lane & Scott. However, the substantial interchange requirement of *Pacific Press* has not been satisfied thereby. Further, the Employers introduced no evidence to support their statements concerning interchange at Edward Stern & Co., Inc., and Cuneo Eastern Press, Inc. Such bare, unsubstantiated claims are an insufficient basis on which to find that the standards of *Pacific Press* have been fulfilled. Accordingly, we find that the evidence of interchange of employees at these Employers' operations constitutes no impediment to the establishment of a lithographic production unit.

The Employers and Intervenors next object to the Board's policy of combining lithographic preparatory and press employees in one unit. They argue that this practice violates the rules set forth in *American Potash & Chemical Corporation*.<sup>6</sup> This argument is based on an erroneous premise since the Board has not applied this doctrine to lithographic production units. The Board has held that a lithographic unit is neither a craft nor a departmental unit within the meaning of *American Potash*.<sup>7</sup> Rather, the Board has consistently granted severance of traditional lithographic units on the basis of the common interests and duties of lithographic employees.

There remains for determination the unit placement of the individual employees listed above. In accordance with our usual practice we shall exclude all those not predominantly engaged in the lithographic process.<sup>8</sup> Thus, in the three-employer unit we shall exclude the following employees at Allen, Lane & Scott: the quality control employee, the proof press operator, shippers, maintenance men, bindery employees, and the janitor. The ink mixer is unrepresented. He mixes ink for both the letterpress and offset presses. As the record does not disclose which activity he is primarily engaged in, we shall allow him to vote subject to challenge. There are a number of artists employed at Allen, Lane & Scott; however, there is no testimony describing their functions. Since we do not know whether they are creative artists or are engaged in lithographic production work we shall allow them to vote subject to challenge.<sup>9</sup>

<sup>5</sup> 66 NLRB 458. See also *Pacific Coast Association of Pulp and Paper Manufacturers*, 130 NLRB 1031.

<sup>6</sup> 107 NLRB 1418.

<sup>7</sup> *Shumate Inc.*, 131 NLRB 98, footnote 6.

<sup>8</sup> *Employing Printers of Peoria*, 130 NLRB 1511.

<sup>9</sup> *Pacific Coast Association of Pulp and Paper Manufacturers*, 121 NLRB 990.

For the reason stated above, we shall also exclude from the unit the following employees of Edward Stern & Co., Inc.: floorboys, paper stock handlers, maintenance men, clericals, bindery workers, the porter, the janitor, and the utility worker.

Accordingly, we find that the lithographic employees sought in the first petition may, if they so desire, constitute a separate appropriate unit. We shall not, however, make any final unit determination at this time, but shall first ascertain the desires of the employees in the elections hereinafter directed.

5. In the second petition, Case No. 4-RC-4523, the Lithographers seeks to represent a unit of lithographic preparatory employees composed of the employees of Lithographic Service Company, Inc., and Edward Stern & Co., Inc. The employees of these employers have bargained together as a multiemployer unit for 8 years.

Lithographic Service Company, Inc., does solely offset preparatory work. It employs about 20 men for this purpose. All employees doing this work are covered by the Photoengravers' contract, except two plate grainers, who are unrepresented.

Edward Stern & Co., Inc., has approximately 33 employees engaged in offset preparatory work. Despite some differences in two of the preparatory techniques used at Stern from those normally found in printing firms, the Board here finds that the men doing offset preparatory work and related functions are essentially engaged in lithographic preparatory work. In addition to these employees there are a number of others who are associated with the lithographic preparatory operations. They are the plate grainer, chemical mixer, artists, a proofreader, a messenger, and a clerical. As will be explained below, some of these employees are unrepresented and the rest are covered by contracts with other unions.

The Employers and Intervenors request the dismissal of the second petition on the ground that it encompasses an inappropriate unit in that it fails to include all the lithographic press and preparatory employees at Edward Stern & Co., Inc., in a single unit. The Employers and Intervenors rely on our finding in *National Cash Register Co.*<sup>10</sup> That case, however, involved a single plant of an employer in which there was no history of multiemployer bargaining. The Board has established different criteria where, as here, there is a history of collective bargaining in a multiemployer group. In such cases, the Board customarily sanctions the continuance of the previously existing unit.<sup>11</sup> In view of this, and on the record as a whole, we find appropriate for collective bargaining a unit consisting of the lithographic preparatory employees at Lithographic Service Company, Inc., and Edward Stern & Co., Inc.

<sup>10</sup> 119 NLRB 486.

<sup>11</sup> *Employing Printers of Peoria, supra; Printing Industry of Seattle, Inc.*, 116 NLRB 1883.

At Lithographic Service Company, Inc., there are two unrepresented plate grainers. It is not disputed that they are engaged in lithographic work and belong in the unit. We shall not grant these employees a separate election because to do so would perpetuate a unit which the Board would not certify because it failed to include all eligible employees. We shall include them.

At Edward Stern & Co., Inc., the unit problem concerns the plate grainer, the chemical mixer, and two artists. The plate grainer and chemical mixer are engaged in lithographic production work. At the time that this petition was filed, on February 28, 1961, these employees were purportedly covered by a contract with the intervening Building Service Employees Union. This contract was to be effective from March 1, 1959, to February 28, 1961. Thus if the contract is valid, the petition is barred because it was filed on the last day of the 60-day insulated period.<sup>12</sup> However, it appears that this contract was not signed by the Union and no evidence was introduced to prove that it was ever executed. Accordingly, under the Board's Rules it cannot constitute a bar to the present petition.<sup>13</sup> We shall include these employees in the unit.

The artists perform lettering, retouching, prepare mount ups, make layouts, correct damaged artwork furnished by customers, outline artwork finished, make blueprint dummies, assemble blueprints, and do similar work. They spend 80 percent of their time in lithographic production work. We find that this is not essentially creative work and, accordingly, we shall also include these employees in the unit. As in the first petition, we shall exclude the proofreader, messenger, and clerical since they are not predominantly engaged in lithographic work.

In view of the foregoing, we find that the lithographic preparatory employees sought in the second petition constitute an appropriate unit. Accordingly, we find that a unit consisting of the employees described below is appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act:

All offset preparatory employees at Lithographic Service Co., Inc., and Edward Stern & Co., Inc., excluding the proofreader, messenger, and clerical at Edward Stern & Co., Inc., and excluding all other employees, office clerical employees, guards, supervisors, and professional employees as defined in the Act.

We also direct that an election be conducted in a voting group of the employees sought in the first petition. We shall not, however, make any final unit determination at this time, but shall first ascertain the desires of these employees as expressed in the election hereinafter directed.

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<sup>12</sup> *Pacific Coast Association of Pulp and Paper Manufacturers, supra.*

<sup>13</sup> *Appalachian Shale Products Co.*, 121 NLRB 1160.

All lithographic production employees of Allen, Lane & Scott and Cuneo Eastern Press, Inc., and all offset press employees of Edward Stern & Co., Inc., excluding the quality control employees, the proof press operator, shippers, maintenance men, bindery employees, and the janitor at Allen, Lane & Scott; also excluding floorboys, paper stock handlers, maintenance men, clericals, bindery workers, the porter, the janitor, and the utility worker at Edward Stern & Co., Inc.; and excluding all other employees, office clerical employees, guards, supervisors, and professional employees as defined in the Act.

If a majority of the employees in the above-described voting group vote for the Petitioner, they will be taken to have indicated their desire to constitute a separate appropriate unit, and the Regional Director conducting the election herein is instructed to issue a certification of representatives to the Petitioner for the unit described above which the Board, in such circumstances, finds to be appropriate for purposes of collective bargaining. If a majority of the employees in said voting group do not vote for the Petitioner, they will be taken to have indicated their desire to remain a part of the unit now represented by the Intervenor, and the Regional Director will issue a certification of results of election to such effect.

[Text of Direction of Elections omitted from publication.]

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**Bernhard Altmann International Corporation and International Ladies' Garment Workers' Union, AFL-CIO.** *Case No. 23-CA-1275. May 23, 1962*

#### DECISION AND ORDER

On February 28, 1962, Trial Examiner John H. Dorsey issued his Intermediate Report in the above-entitled proceeding, finding that Respondent had not engaged in the unfair labor practices alleged in the complaint and recommending that the complaint be dismissed in its entirety, as set forth in the Intermediate Report attached hereto. Thereafter, the General Counsel and the Charging Party filed exceptions to the Intermediate Report, together with supporting briefs. The Respondent filed a reply brief in support of the Intermediate Report.

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 McCulloch and Members Rodgers and Fanning].

The Board has reviewed the rulings made by the Trial Examiner at the hearing and finds that no prejudicial error was committed. The rulings are hereby affirmed. The Board has considered the Intermediate Report, the exceptions and briefs, and the entire record in