

In the Matter of TEXAS TEXTILE MILLS *and* TEXTILE WORKERS UNION  
OF AMERICA (C. I. O.)

*Case No. 16-R-710.—Decided November 18, 1943*

*Mr. Lindsay P. Walden*, of Fort Worth, Tex., and *Mr. A. R. Hardesty*, of Dallas, Tex., for the Union.

*Mr. Joseph W. Kulkis*, of counsel to the Board.

DECISION  
AND  
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition duly filed by Textile Workers Union of America (C. I. O.), herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Texas Textile Mills, McKinney, Texas, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Elmer P. Davis, Trial Examiner. Said hearing was held at McKinney, Texas, on October 14, 1943. Prior to the hearing the Company, which made no appearance at the hearing, filed with the Trial Examiner a letter in the nature of a motion for continuance. The Trial Examiner denied the motion. The ruling is hereby affirmed.<sup>1</sup> The Union appeared and participated; all parties were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues.<sup>2</sup> The Trial Examiner's rulings made at the hearing are free from

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<sup>1</sup> From the record, it appears that the Company received ample notice of hearing and that it could have been competently and adequately represented at the hearing had it so desired. We also note that since the date of the hearing, the Company has offered no further objection to the holding of the hearing in the absence of its representative.

<sup>2</sup> On November 3, 1943, a letter was received from the Company requesting that the letter and attached telegrams relative to the non-compliance of the Union's representatives with a statute of the State of Texas requiring registration of business agents of labor organizations, be admitted into the record. The request is hereby granted and the letter and telegrams are hereby made a part of the record. However, compliance or non-compliance with the statute referred to in the foregoing letter and telegrams is wholly irrelevant to the issues involved in this proceeding, since it is the labor organization, rather than the business agents thereof, that is here seeking designation as collective bargaining representative. The evidence therefore is irrelevant to the issue

prejudicial error and are hereby affirmed. The parties were afforded opportunity to file briefs with the Board.

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

### FINDINGS OF FACT

#### I. THE BUSINESS OF THE COMPANY

Texas Textile Mills is a Texas corporation operating plants in Dallas, McKinney, and Waco, Texas, where it is engaged in the manufacture, sale, and distribution of cotton cloth. During a 6-month period, the Company purchased approximately \$95,000 worth of dye materials, all of which was shipped to its plants from points outside the State of Texas. During the same period, the Company manufactured at its three plants 4,777,107 pounds of finished cloth, approximately 65 percent of which was shipped to points outside the State of Texas. The Company admits that it is engaged in commerce within the meaning of the National Labor Relations Act. The McKinney plant is the only plant involved in this proceeding.

#### II. THE ORGANIZATION INVOLVED

Textile Workers Union of America (C. I. O.) is a labor organization affiliated with the Congress of Industrial Organizations, admitting to membership employees of the Company.

#### III. THE QUESTION CONCERNING REPRESENTATION

In August 1943, the Union requested the Company to recognize it as the exclusive bargaining representative of the employees within an alleged appropriate unit. The Company refuses to accord the Union such recognition unless and until the Union is certified by the Board.

A statement of a Field Examiner of the Board, introduced into evidence at the hearing, indicates that the Union represents a substantial number of employees within the unit hereinafter found to be appropriate.<sup>3</sup>

We find that a question affecting commerce has arisen concerning the representation of employees of the Company within the meaning of Section 9 (c) and Section 2 (6) and (7) of the Act.

#### IV. THE APPROPRIATE UNIT

The Union seeks a unit composed of all production and maintenance employees, including fixers, electricians, and truck drivers at the Mc-

<sup>3</sup>The report of the Field Examiner shows that the Union submitted 300 authorization cards bearing apparently genuine signatures of 269 persons whose names appear on the September 4, 1943, pay roll of the Company, which contains the names of 381 persons within the alleged appropriate unit.

Kinney plant, but excluding clerical, office, and technical employees, timekeepers, shipping clerks, guards, overseers, and supervisory employees. The Company has at no time taken a position with respect thereto.

We find that all production and maintenance employees, including fixers, electricians, and truck drivers at the Company's McKinney plant, but excluding clerical, office and technical employees, timekeepers, shipping clerks, guards, overseers, and all other supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees or effectively recommend such action, constitute a unit appropriate for the purposes of collective bargaining, within the meaning of Section 9 (b) of the Act.

#### V. THE DETERMINATION OF REPRESENTATIVES

We shall direct that the question concerning representation which has arisen be resolved by means of an election by secret ballot among the employees in the appropriate unit who were employed during the pay-roll period immediately preceding the date of the Direction of Election herein, subject to the limitations and additions set forth in the Direction.

#### 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, and pursuant to Article III, Section 9, of National Labor Relations Board Rules and Regulations—Series 2, as amended, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with Texas Textile Mills, McKinney, Texas, an election by secret ballot shall be conducted as early as possible, but not later than thirty (30) days from the date of this Direction, under the direction and supervision of the Regional Director for the Sixteenth Region, acting in this matter as agent for the National Labor Relations Board, and subject to Article III, Sections 10 and 11, of said Rules and Regulations, among the employees in the unit found appropriate in Section IV, above, who were employed during the pay-roll period immediately preceding the date of this Direction, including employees who did not work during said pay-roll period because they were ill or on vacation or temporarily laid off, and including employees in the armed forces of the United States who present themselves in person at the polls, but excluding any persons who have since quit or been discharged for cause and have not been rehired or reinstated prior to the date of election, to determine whether or not they desire to be represented by Textile Workers Union of America (C. I. O.), for the purposes of collective bargaining.