

In the Matter of FULTON BAG & COTTON MILLS and TEXTILE WORKERS  
UNION OF AMERICA, CIO

*Case No. 16-R-758.—Decided November 25, 1943*

*Swift, Pease, Davidson, Swinson & Chapman*, by *Mr. W. Edward Swinson*, of Columbus, Ga., for the Company.

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

*Miss Olive N. Barton*, of counsel to the Board.

DECISION  
AND  
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by Textile Workers Union of America, CIO, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Fulton Bag & Cotton Mills, Dallas, Texas, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Bliss Daffan, Trial Examiner. Said hearing was held at Dallas, Texas, on October 28, 1943. The Company and the Union appeared, participated, and were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues. At the hearing, the Company moved to dismiss the petition herein. This motion was referred to the Board. For reasons appearing hereinafter, the motion is denied. The Trial Examiner's rulings made at the hearing are free from prejudicial error and are hereby affirmed. All 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

Fulton Bag & Cotton Mills, a Georgia corporation, has its principal office and place of business at Atlanta, Georgia, and operates five other manufacturing plants. The only one concerned here is the Dallas,

Texas, branch, where it manufactures various types of bags from sheeting, osnaburg, burlap, and paper and also reclaims and renovates used bags. The value of raw materials, including used bags and supplies, purchased by the Company during the 6 months preceding October 28, 1943, at the Dallas branch was in excess of \$100,000; more than 75 percent of this material was shipped from points outside the State of Texas. The Company, at the same branch, during approximately the same period, sold finished products, valued in excess of \$125,000, of which about 10 percent was shipped to points outside the State of Texas.

We find that the Company is engaged in commerce within the meaning of the National Labor Relations Act.

#### II. THE ORGANIZATION INVOLVED

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

#### III. THE QUESTION CONCERNING REPRESENTATION

On October 8, 1943, the Union, claiming to represent a majority, addressed a letter to the Company, and likewise made an oral request by telephone, asking it to enter into collective bargaining relations on behalf of certain production and maintenance employees. The Company doubting that the Union actually represented a majority, did not answer the letter.

A statement of the Field Examiner, introduced in evidence at the hearing, indicates that the Union represents a substantial number of employees within the unit herein found appropriate.<sup>1</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

We find, in accordance with the stipulation of the parties, that all production and maintenance employees in and around the Dallas plant

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<sup>1</sup> The Field Examiner reported that the Union submitted 112 authorization cards, of which 107 carry apparently genuine original signatures corresponding with names on the Company's pay roll of October 8, 1943, which pay roll contains the names of 158 persons within the alleged appropriate unit at the Dallas branch. Two of the cards are undated and the others are dated in September and October 1943.

At the close of the hearing, the Company moved to dismiss the petition on the ground that the Union had failed to show a sufficient interest to justify the Board's ordering an election, since, as the Company urged, employees in the armed forces should be added to the pay roll of October 8, 1943, as eligible to participate in the election, and should be considered in connection with the Field Examiner's report. The motion is hereby denied. In accordance with our usual policy, only those members of the armed forces who appear personally at the polls will be allowed to vote, as provided in the Direction of Election herein.

excluding office and clerical employees, foremen, and all other supervisory employees<sup>2</sup> 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 an election by secret ballot among the employees in the appropriate unit who were employed during the payroll 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 Fulton Bag & Cotton Mills, Dallas, 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 payroll period immediately preceding the date of this Direction, including employees who did not work during said payroll 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 those employees who have since quit or been discharged for cause and have not been rehired or reinstated prior to the date of the election, to determine whether or not they desire to be represented by Textile Workers Union of America, affiliated with the Congress of Industrial Organizations, for the purposes of collective bargaining.

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<sup>2</sup> The parties stipulate that the supervisors to be excluded from the unit are all foremen or other persons holding positions higher than that of foreman.