

In the Matter of INDUSTRIAL COTTON MILLS COMPANY, INC. and
TEXTILE WORKERS UNION OF AMERICA

Case No. 10-R-1044.—Decided January 6, 1944

*Wilson & Wilson, by Mr. W. B. Wilson, of Rock Hill, S. C., for the
Company.*

Mr. James H. Fullerton, of Charlotte, N. C., for the Union.

Mr. Robert Silagi, 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, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Industrial Cotton Mills Company, Inc., herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Charles W. Schneider, Trial Examiner. Said hearing was held at Rock Hill, South Carolina, on November 24, 1943. The Company and 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. 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

Industrial Cotton Mills Company, Inc., a Virginia corporation, maintains its principal office and place of business in Rock Hill, South Carolina, where it is engaged in the manufacture, sale, and distribution of blue denims, osnaburgs, and other cotton materials. During 1942 the Company used, in the course of its business, raw materials valued at more than \$4,000,000, of which approximately 75 percent came from

sources outside the State of South Carolina. During that same period of time, finished products exceeding \$5,000,000 in value were shipped by the Company to States other than South Carolina. The Company employs in excess of 750 persons.

For the purposes of this proceeding the Company concedes that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATION INVOLVED

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

III. THE QUESTION CONCERNING REPRESENTATION

On or about October 4, 1943, a committee representing the Union conferred with the Company's president and notified him that the Union represented a majority of the Company's employees. According to the testimony of the committeemen, a request for union recognition was presented to the Company and was refused. The Company's witnesses deny that union recognition was a topic of discussion, stating that only a consent election agreement was mentioned. In view of the inconclusive answer to a request for recognition of the Union, which was admittedly made to the Company at a subsequent conference on November 10, 1943, and the refusal by the Company, during the course of the hearing, to recognize the Union as the exclusive bargaining representative of its employees, we find it unnecessary to resolve the conflict in testimony.

A statement of a Board agent, introduced into evidence at the hearing, indicates that the Union represents a substantial number of employees in the unit hereinafter found appropriate.¹

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 parties stipulate, and we find, that all production and maintenance employees of the Company, but excluding clerical and supervisory² employees, and any other supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in

¹The Regional Attorney reported that the Union submitted 325 authorization cards all of which bore apparently genuine original signatures; that the names of 237 persons appearing on the cards were listed on the Company's pay roll of November 12, 1943, which contained the names of 716 employees in the appropriate unit; and that the cards were variously dated between April and November 1943.

²This category includes overseers, second hands, and employees superior to them.

the status of employèes, 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

The Union urges that an eligibility date be used which is different from the one usually adopted by the Board. However, since it gives no reason for departing from our normal practice, 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 3, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with Industrial Cotton Mills Company, Inc., Rock Hill, South Carolina, 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 Tenth 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 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 for the purposes of collective bargaining.