

In the Matter of AMERICAN WOOLEN COMPANY, NATIONAL & PROVIDENCE WORSTED MILL and TEXTILE WORKERS UNION OF AMERICA (CIO)

Case No. 1-R-1726.—Decided April 3, 1944

Mr. Spencer B. Montgomery, of Boston, Mass., for the Company.
Messrs. Joseph C. Novo and *Albert Clifton*, of Providence, R. I., for the CIO.

Messrs. Frank Sgambato and *George Sanford*, of Providence, R. I., for the AFL.

Mr. William Strong, 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 CIO, alleging that a question affecting commerce had arisen concerning the representation of employees of American Woolen Company, National & Providence Worsted Mill, Providence, Rhode Island, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before John W. Coddair, Jr., Trial Examiner. Said hearing was held at Providence, Rhode Island, on March 7, 1944. The Company, the CIO, and Federal Union, Local 22004, American Federation of Labor, herein called the AFL, 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. The AFL moved at the hearing for dismissal of the petition. The Trial Examiner reserved ruling for the Board. The motion is denied, for reasons stated more fully below.¹

¹ See Section III, *infra*.

55 N. L. R. B., No. 178.

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

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

American Woolen Company, a Massachusetts Corporation having its principal executive office in New York City, is engaged in the manufacture and sale of woolen fabrics, blankets, and yarns. The Company owns and operates 25 mills located in several States of the United States, and maintains offices in several cities. The National and Providence Mills, located at Providence, Rhode Island, are the only mills involved in this proceeding. All of the raw materials used at the mills here involved are shipped to them from points outside the State of Rhode Island, while almost all of the finished products are shipped to points outside that State. The sales of the Company exceeded \$150,000,000 during 1943.

The Company admits that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATIONS INVOLVED

Textile Workers Union of America, affiliated with the Congress of Industrial Organizations, and Federal Union, Local 22004, affiliated with the American Federation of Labor, are labor organizations admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

The Company has refused to grant recognition to the CIO, requested on November 29, 1943, as the exclusive bargaining representative of certain of the Company's employees, until the CIO has been certified by the Board in an appropriate unit.

The AFL urges that a contract between it and the Company constitutes a bar to this proceeding. The contract was executed on March 1, 1943, and extended until February 1, 1944, and for yearly terms thereafter until written notice of desired change or termination is given by either party sixty (60) days prior to the annual expiration date. Since the CIO notified the Company of its representation claims on November 29, 1943, the Company had due and timely notice, and the contract therefore does not constitute a bar to this proceeding.²

² The AFL also sought dismissal of the petition on the ground that it had filed unfair labor practice charges against the Company. The position of the AFL in this respect is without merit since the charges have been dismissed. See *Matter of American Woolen Company*, 1-C-2338.

A statement of a Board agent, introduced into evidence at the hearing, indicates that the CIO represents a substantial number of employees in the unit hereinafter found appropriate.³

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 substantial agreement with the apparent concurrence of the parties on the unit question, that all employees of the Company at its Providence, Rhode Island, mills, excluding executives, managers, submanagers, superintendents, assistant superintendents, foremen, overseers, assistant foremen, assistant overseers, plant-protection employees, office and clerical employees, watchmen, clerks engaged exclusively in clerical work for department heads 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 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 American Woolen Company, National & Providence Worsted Mills, Providence, Rhode Island, an election by secret ballot shall be conducted as early as pos-

³ The Field Examiner reported that the CIO submitted 183 authorization cards, 155 of which bore the names of persons appearing on the Company's pay roll of December 31, 1943, which contained the names of 635 employees in the alleged appropriate unit, and also submitted the dues records of an additional 110 employees, 98 of whom are on the afore-mentioned pay roll.

The AFL rests on its maintenance of membership contract with the Company as evincing its interest in the employees in question

sible, but not later than thirty (30) days from the date of this Direction, under the direction and supervision of the Regional Director for the First 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 they desire to be represented by Textile Workers Union of America, affiliated with the Congress of Industrial Organizations, or by Federal Union, Local 22004, affiliated with the American Federation of Labor, for the purposes of collective bargaining, or by neither.