

In the Matter of WALKER COUNTY HOSIERY MILLS and AMERICAN  
FEDERATION OF HOSIERY WORKERS

Case No. 10-R-1166.—Decided June 6, 1944

*Mr. Barry Wright*, of Rome, Georgia, for the Company.  
*Messrs. H. G. B. King* and *John J. McCoy*, of Chattanooga, Tenn.,  
for the Union.  
*Mrs. Margaret L. Fassig*, of counsel to the Board.

DECISION  
AND  
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by the American Federation of Hosiery Workers, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Walker County Hosiery Mills at LaFayette, Georgia, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before George S. Slyer, Trial Examiner. Said hearing was held at LaFayette, Georgia, on May 5, 1944. 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 an 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

Walker County Hosiery Mills is a Georgia corporation which is engaged in the manufacture of women's and children's seamless hosiery at its mills in LaFayette, Georgia. The Company's sales for the year 1943 amounted to approximately \$1,500,000, 95 percent of

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which represented goods delivered outside the State of Georgia; and approximately 75 percent of the yarn and other materials purchased by the Company was shipped to its mill from points outside the State of Georgia.

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

## II. THE ORGANIZATION INVOLVED

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

## III. THE QUESTION CONCERNING REPRESENTATION

The Company has refused to grant recognition to the Union as the exclusive bargaining representative of its employees until the Union has been certified by the Board in an appropriate unit.

By letter dated March 25, 1944, the Union advised the Company that it represented a majority of the Company's employees and requested a conference to negotiate a collective bargaining contract. The Company replied through its attorney that inasmuch as the Union on November 5, 1943, had lost an election which had been held pursuant to a consent election agreement, the Company declined to enter negotiations with the Union until such time as it is furnished with satisfactory and convincing evidence that the Union is authorized by a majority of its employees to act as their exclusive bargaining representative.

The Company contends that no determination of representation should be made at this time because the Union has but recently demonstrated its lack of majority by the election of November 5, 1943. As no collective bargaining representative of the employees was chosen as a result of that election, and as apparently a majority of the Company's employees in the appropriate unit have since indicated a desire for representation by the Union,<sup>1</sup> we believe the policies of the Act will best be effectuated by proceeding with a determination of representatives at this time.<sup>2</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.

<sup>1</sup> The Field Examiner reported that the Union submitted 205 cards, that the Company's pay roll of April 30, 1944, contained the names of 384 employees in the appropriate unit; and that the cards were dated: November 1943, 123; December 1943, 4, January 1944, 7; February 1944, 21; March 1944, 38; April 1944, 12.

<sup>2</sup> See *Matter of Hillside Fluorspar Mines (Keystone Mines)*, 52 N. L. R. B. 441, and cases cited therein.

## IV. THE APPROPRIATE UNIT

We find, substantially in accordance with an agreement of the parties, that all production and maintenance employees in the Company's mill at LaFayette, Georgia, but excluding clerical employees, guards and all supervisory employees with the 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.<sup>3</sup>

## 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 pay-roll period immediately preceding the date of the Direction of Election herein, subject to the limitations and additions set forth in the Direction.

The Company requests that the Board determine the time and place for conducting the election. It desires that the election be held on Company property during working hours, and the Union objects to the conduct of the election either on Company property or during working hours. The Board, however, has adopted the practice of leaving the selection of the time and place for elections held pursuant to its direction, to the discretion of the Regional Director, who is expected to make such selection with a view of serving the best interests of all parties involved in the proceeding. We see no reason here to depart from our usual practice in this respect. However, if the Company is of the opinion that the selection of the time and place for the election, when finally made by the Regional Director, is prejudicial, it may file a motion for reconsideration by the Board, setting forth its objection thereto.<sup>4</sup>

## 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 Walker County Hosiery Mills of LaFayette, Georgia, an election by secret ballot shall be conducted as early as possible, but not later than thirty (30) days

<sup>3</sup> This is the unit in which the consent election was held November 5, 1943.

<sup>4</sup> See *Matter of Carmo Shoe Manufacturing Co.*, 56 N. L. R. B. 509

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 American Federation of Hosiery Workers for the purposes of collective bargaining.