

In the Matter of HUDSON KNITTING MILLS, INC. and AMERICAN  
FEDERATION OF HOSIERY WORKERS (C. I. O.)

In the Matter of OAKHURST KNITTING COMPANY and AMERICAN  
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In the Matter of HUDSON HOSIERY COMPANY and AMERICAN FEDERATION  
OF HOSIERY WORKERS (C. I. O.)

*Cases Nos. 5-R-1508, 5-R-1537 and 5-R-1538 respectively.—Decided  
June 6, 1944*

*Mr. Whiteford S. Blakeney, of Charlotte N. C., for the Companies.  
Mr. H. G. B. King, of Chattanooga, Tenn., and Mr. Robert D.  
Beame, and Miss Adeline Stemp, of Charlotte, N. C., for the Union.  
Mr. William C. Baisinger, Jr., of counsel to the Board.*

DECISION  
AND  
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petitions and an amended petition duly filed by American Federation of Hosiery Workers (C. I. O.),<sup>1</sup> herein called the Union, alleging that questions affecting commerce had arisen concerning the representation of employees of Hudson Knitting Mills, Inc.,<sup>2</sup> Oakhurst Knitting Company, and Hudson Hosiery Company, Charlotte, North Carolina, herein collectively called the Companies, and individually referred to as Hudson Knitting, Oakhurst, and Hudson Hosiery, respectively, the National Labor Relations Board consolidated the cases and provided for an appropriate hearing upon due notice before Robert A. Levett, Trial Examiner. Said hearing was held at Charlotte, North Carolina, on April 27 and 28, 1944. The Companies and the Union appeared and participated. All parties were afforded full opportunity to be heard, to examine and cross-examine witnesses,

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<sup>1</sup> This is the correct designation of the Union, as amended without objection during the hearing.

<sup>2</sup> This is the correct designation of Hudson Knitting, as amended without objection during the hearing.

to introduce evidence bearing on the issues, and to file briefs with the Board.<sup>3</sup> At the hearing, the Companies moved to dismiss each of the petitions on the following grounds: (1) Hudson Knitting, the company involved in Case No. 5-R-1508, on the ground that it is not engaged in commerce within the meaning of the National Labor Relations Act, and therefore, is not subject to the jurisdiction of the Board; (2) Oakhurst, the company involved in Case No. 5-R-1537, on the same ground; and (3) Hudson Hosiery, the company involved in Case No. 5-R-1538, on the ground that the Union alleges in the petition it filed in that case that it represents 50 percent of the employees in the bargaining unit described therein, which allegation does not constitute a claim to represent a majority of these employees and therefore does not raise a question concerning representation. The Trial Examiner reserved ruling upon these motions for the Board. For reasons hereinafter stated, the motions are hereby denied. The Trial Examiner's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

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

#### FINDINGS OF FACTS

##### I. THE BUSINESS OF THE COMPANIES

Hudson Hosiery Company, a North Carolina corporation having its principal office and place of business in Charlotte, North Carolina, and maintaining a sales office in New York City, is engaged at plants located at Charlotte, North Carolina, in the manufacture and sale of women's hosiery. During the year 1943, Hudson Hosiery purchased raw materials, consisting chiefly of cotton and rayon, valued in excess of \$500,000, of which over 90 percent was shipped into Charlotte from points outside the State of North Carolina. During the same period, finished products manufactured consisted of ladies' hosiery valued in excess of \$1,000,000, of which over 90 percent was shipped to points outside the State of North Carolina.

Hudson Hosiery admits and we find that it is engaged in commerce within the meaning of the National Labor Relations Act.

Oakhurst Knitting Company, a North Carolina corporation is engaged at a plant at Charlotte, North Carolina, in knitting women's hosiery. Oakhurst devotes all of its operational facilities to knitting hosiery from raw materials owned by Hudson Hosiery. After the knitting process is completed, the stockings are returned to Hudson Hosiery for further processing. Oakhurst owns all of the machinery

<sup>3</sup> The Company requested an opportunity for oral argument before the Board. We perceive no necessity for oral argument in the instant proceedings. Accordingly, the request is hereby denied.

at its plant, having purchased it in 1942 from a manufacturer in Laconia, New Hampshire, at a cost of approximately \$140,000. Each year Oakhurst purchases approximately \$3,000 worth of knitting needles from the same machine manufacturer in Laconia, New Hampshire. Machine replacement parts are purchased from manufacturers in Reading, Pennsylvania.

Hudson Knitting Mills, Inc., also a North Carolina corporation, operates a plant located in the same building in Charlotte, North Carolina, occupied by Oakhurst at which it is engaged in knitting ladies' hosiery and, like Oakhurst, it receives all its raw materials from Hudson Hosiery and after completing the knitting process, returns the stockings to Hudson Hosiery for further processing. Hudson Knitting purchased its knitting machinery directly from a manufacturer in Reading, Pennsylvania. It purchases approximately \$10,000 worth of knitting needles each year from a manufacturer in Laconia, New Hampshire.

All the stock of Hudson Hosiery and Hudson Knitting is owned by M. E. Pierson, Fritz Seifart, and their immediate families. These same individuals also own substantially all the stock of Oakhurst. Fritz Seifart is president and treasurer of Hudson Hosiery, treasurer and secretary of Hudson Knitting, and president of Oakhurst. M. E. Pierson is president of Hudson Knitting, secretary of Hudson Hosiery, and treasurer and secretary of Oakhurst. The same individuals are the directors of all three companies. Hudson Knitting owns the building located on Monroe Road in Charlotte, North Carolina, which houses Oakhurst's plant and one of Hudson Hosiery's two plants, as well as its own operations. Hudson Hosiery and Oakhurst pay Hudson Knitting rent for the space they occupy in the Monroe Road building. Hudson Hosiery owns a building on Brevard Street, Charlotte, North Carolina, which houses a part of its operations. In view of the interlocking directorates of the Companies, the commingling of the products manufactured by each of the Companies, and since all of the Companies are owned and controlled by the same individuals, we find no merit in the contentions of Hudson Knitting and Oakhurst that they are not subject to the jurisdiction of the Board. Accordingly, we find that each of the Companies is engaged in commerce within the meaning of the National Labor Relations Act.<sup>4</sup>

## II. THE ORGANIZATION INVOLVED

American Federation of Hosiery Workers is a labor organization affiliated with the Congress of Industrial Organization, admitting to membership employees of the Company.

<sup>4</sup> See *Matter of Penokee Veneer Company, Splicewood Corporation, and the F. A. MacDonald Co.*, 51 N. L. R. B. 997.

## III. THE QUESTIONS CONCERNING REPRESENTATION

The parties stipulated at the hearing that, prior to filing its petitions in each of the cases here involved, the Union met with the Companies individually and requested recognition as the exclusive bargaining representative of the employees within an alleged appropriate bargaining unit, and that in each instance the Company involved refused to accord the Union the requested recognition on the ground that the bargaining unit sought was not appropriate.

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 in the unit hereinafter found to be appropriate.<sup>5</sup>

We find that questions affecting commerce have arisen concerning the representation of employees of the Companies, within the meaning of Section 9 (c) and Section 2 (6) and (7) of the Act.

## IV. THE APPROPRIATE UNIT

The Union seeks the establishment of three separate bargaining units comprised of (1) all production and maintenance employees of Hudson Knitting, including machine fixers or mechanics, but excluding firemen, cafeteria employees, nurses, painters, carpenters, electricians and their helpers, clerical and supervisory employees; (2) all production and maintenance employees of Oakhurst, excluding clerical and supervisory employees; and (3) all production and maintenance employees of Hudson Hosiery employed in the throwing, knitting, mending, looping, seaming, grey inspection, and pre-boarding departments in the Monroe Road building, including machine fixers or mechanics, but excluding firemen, painters, painters' helpers, carpenters, carpenters' helpers, nurses, cafeteria employees, truck drivers, clerical and supervisory employees, and all employees of Hudson Hosiery employed at the Brevard Street building. In the event the Board finds that the above-described units are individually inappropriate, the Union takes the alternative position that the three proposed units should be merged to form a single appropriate bargaining

<sup>5</sup> The Field Examiner's report is summarized in the following table:

Case No.	Company	Authoriza- tion cards submitted	Number of employees in alleged unit
5-R-1508	Hudson Knitting	141	240
5-R-1537	Oakhurst	23	25
5-R-1538	Hudson Hosiery	205	369

In view of the actual showing of representation made by the Union in Case No. 5-R-1538, we find no merit in the motion made by Hudson Hosiery seeking dismissal of the petition in that case.

unit. The Companies oppose both the primary and alternative positions asserted by the Union, contending that the appropriate unit should consist of all production and maintenance employees of all three Companies, including those employees of Hudson Hosiery working at the Brevard Street building, and excluding only clerical and supervisory employees.

### *The Companies' operations*

Hudson Hosiery, the parent corporation, was incorporated in 1925 and originally conducted all of its manufacturing operations in a building located on Brevard Street about 1 mile from the center of Charlotte, North Carolina. This building, which we shall hereinafter refer to as the Brevard Street plant, was erected in 1929 and was expanded in 1931 and 1933. It is a 2-story building which houses several manufacturing departments of Hudson Hosiery, namely, knitting, dye, box factory, final boarding, mending, finishing, stockroom, and shipping and receiving. The general offices for all three Companies are also located in this building. Hudson Hosiery also maintains a cafeteria in the building for the use of its employees. All employees working at the Brevard Street plant are on the pay roll of Hudson Hosiery. Hudson Knitting was organized and incorporated in 1934 by the two families which own Hudson Hosiery for the purpose of acquiring a 1-story building located on Monroe Road at a distance of approximately 4 miles from the Brevard Street plant. The Monroe Road plant, as we shall hereinafter refer to it, was expanded in 1936, 1937, and 1938, by the construction of 1-story additions. Oakhurst was organized and incorporated in 1941 for the purpose of increasing the production of Hudson Hosiery. Oakhurst is engaged exclusively in the knitting of seamless hosiery while Hudson Knitting and Hudson Hosiery knit only full-fashioned hosiery.

All of the manufacturing operations of Hudson Knitting and Oakhurst are housed in the Monroe Road plant. Hudson Knitting and Oakhurst employ approximately 233 and 22 persons, respectively. The Monroe Road plant houses the throwing, looping, seaming, grey inspection, pre-boarding, and maintenance departments of Hudson Hosiery. The latter company employs approximately 556 persons at the Brevard Street plant and 421 persons at the Monroe Road plant.

The manufacture of hosiery by the Companies proceeds substantially in the following manner: all raw materials are received by Hudson Hosiery at the Brevard Street plant and transported by truck to the Monroe Road plant where the initial process takes place in the throwing department of Hudson Hosiery. This operation results in the transformation of the raw materials into knitting yarn.

The yarn is then taken to another section of the building where it is delivered to Hudson Knitting and Oakhurst. These latter two companies apply the knitting process to completion, Hudson Knitting producing full-fashioned hosiery and Oakhurst, seamless hosiery. The unfinished stockings thus produced are returned to Hudson Hosiery for further processing in its looping, seaming, and inspection departments which are also located in the Monroe Road plant. All stockings are then taken to the Brevard Street plant for mending, dyeing, boarding, finishing, packing, and shipping. The finished hosiery is commingled and marketed by Hudson Hosiery under two labels, "Hudson" and "Oakhurst."

#### *Functional correlation of management*

In addition to their other official positions with the Companies, Fritz Seifart and M. E. Pierson, respectively, act as the Companies' sales manager and general factory manager. One person, R. W. Burns, is superintendent of knitting for each of the three companies. The Companies employ a single personnel manager. Each of the Companies contributes a part of the compensation paid these officials either directly or by means of inter-company price adjustments.

#### *Concluding findings*

In spite of the fact that each of the Companies is a separate legal entity, we are of the opinion that, because of their interlocking interests and functional correlation as a single manufacturing unit, Hudson Hosiery, Hudson Knitting, and Oakhurst constitute a single employer within the meaning of Section 2 (2) of the Act and that their employees, pooled, form the basis for the appropriate unit.

As previously noted, the Union desires to exclude all employees of Hudson Hosiery who are employed at the Brevard Street plant from the appropriate unit. It appears that the Union's reason for excluding the employees of the Brevard Street plant from its proposed unit is due to their apparent apathy to its organizational campaign which, while it has been quite successful at the Monroe Road plant, has not succeeded at the former plant. The record indicates that each of the various departments housed in the two plants conducts an independent operation in the over-all manufacturing process; that, with the exception of knitters, there is a marked difference between the function and skills of the employees working in the Monroe Road plant and those employed in the Brevard Street plant; and that there is no interchange of employees between the two plants other than an occasional shifting of production workers which is actually a transfer of surplus labor on a permanent basis. Fur-

thermore, there is no history of collective bargaining among the Companies' employees which may be considered in determining the appropriate unit. While we recognize the high degree of integration among the various operations conducted at the two plants, we are of the opinion that, in view of the foregoing facts, and since the Monroe Road plant is geographically apart from the Brevard Street plant, the employees of the Companies employed at the Monroe Road plant comprise a unit sufficiently identifiable for the purposes of collective bargaining. Nor do we perceive any valid reason why these employees should be denied the right to bargain collectively merely because the employees of Hudson Hosiery at the Brevard Street plant apparently do not desire a collective bargaining representative at this time.<sup>6</sup> Accordingly, we find that all production and maintenance employees of the Companies employed at the Monroe Road plant, except for certain named exclusions, constitute an appropriate bargaining unit.<sup>7</sup> Our finding herein with respect to the appropriate unit, however, does not preclude a later determination at another stage of self-organization that a more comprehensive unit is appropriate.

There remains for consideration the specific composition of the appropriate unit.

The Union desires to exclude from the appropriate unit firemen who operate the plant's steam boilers; cafeteria employees who work in the plant's cafeteria; nurses who administer first-aid to employees involved in minor accidents; carpenters, carpenters' helpers, painters, and painters' helpers who perform general maintenance carpentry and painting in the plant; and truck drivers who transport materials between the two plants.<sup>8</sup> The Union, asserting that it admits to membership only employees directly connected with the production of hosiery, claims that it has not tried to organize these employees of the Companies since they are not eligible to membership in the Union. Inasmuch as the Union has not attempted to organize these employees and since the majority of them are members of various crafts customarily represented by craft unions and the remainder perform functions unconnected with the manufacture of hosiery, we shall exclude the firemen, cafeteria employees, nurses, truck drivers, painters, painters' helpers, carpenters, and carpenters' helpers employed by the Company in the Monroe Road plant from the appropriate unit.

<sup>6</sup> See *Matter of M. B. Manufacturing Company, Inc.*, 53 N. L. R. B. 1029.

<sup>7</sup> See *Matter of Standard Overall Company (Jobbers Pants Co.)*, 53 N. L. R. B. 960, and cases cited therein.

<sup>8</sup> In its unit contention, the Union also specifically names electricians as an excluded classification; however, the record indicates that the Companies employ no electricians.

The parties agree that executives, superintendents, foremen, and foreladies employed by the Companies should be excluded from any appropriate unit as supervisory employees. We shall exclude them from the appropriate unit. We shall also, in accordance with the agreement of the parties, exclude clerical employees.

Upon the basis of the entire record in the case, and in accordance with the foregoing findings of fact, we find that all production and maintenance employees of the Companies who are regularly employed at the Monroe Road plant, Charlotte, North Carolina, including machine fixers or mechanics, but excluding firemen, carpenters, carpenters' helpers, painters, painters' helpers, truck drivers, nurses, cafeteria employees, clerical employees, executives, superintendents, foremen, foreladies, and any other supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employes, 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 questions concerning representation which have 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 Hudson Knitting Mills, Inc., Oakhurst Knitting Company, and Hudson Hosiery Company, Charlotte, North 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 Fifth Region, acting in this matter as agent for the National Labor Relations Board, and subject to Article III, Sections 10 and 11, and 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

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 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 (C. I. O.), for the purposes of collective bargaining.

MR. GERARD D. REILLY took no part in the consideration of the above Decision and Direction of Election.