

In the Matter of AMERICAN WOOLEN COMPANY (WEBSTER MILLS) and
UNITED TEXTILE WORKERS OF AMERICA (AFL)

Case No. 1-R-1797.—Decided July 25, 1944

Messrs. Spencer B. Montgomery and Clare V. Stanton, both of Boston, Mass., for the Company.

Messrs. William F. Bowen and Harold Williams, both of Lawrence, Mass., for the A. F. L.

Mr. Isadore Katz, of New York City, for the C. I. O.

Mr. David V. Easton, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by United Textile Workers of America (AFL), herein called the A. F. L.,¹ alleging that a question affecting commerce had arisen concerning the representation of employees of American Woolen Company (Webster Mills), Webster, Massachusetts, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Leo J. Halloran, Trial Examiner. Said hearing was held at Boston, Massachusetts, on April 6, 1944. The Company, the A. F. L., and Textile Workers Union of America, affiliated with the CIO, herein called the C. I. O., appeared, participated, and were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues. Toward the close of the hearing the C. I. O. moved for dismissal of the petition. The Trial Examiner referred this motion to the Board. For reasons hereinafter set forth, the motion is denied. The Trial Examiner's rulings made at the hearing are free from prejudicial error and are hereby affirmed. On

¹ The name of the A. F. L. appears on its petition and in the formal papers of this proceeding as "Federation of Woolen and Worsted Workers of America, affiliated with United Textile Workers of America (AFL)." Pursuant to a joint motion filed subsequent to the hearing by Federation of Woolen Workers of America, and by United Textile Workers of America, the name of the A. F. L. has been amended to appear in the caption and body of this decision simply as "United Textile Workers of America (AFL)."

May 1, 1944, the parties to this proceeding executed a stipulation which is hereby made part of the record in this case. 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

American Woolen Company, a Massachusetts corporation with its principal executive office located in New York City, is engaged in the manufacture and sale of woolen fabrics, blankets, and yarn. The Company owns and operates 25 mills located in 7 States of the United States, and maintains offices in 7 States. We are concerned herein with the operations of the Company at its Webster Mills, located at Webster, Massachusetts. Substantially all of the raw materials used at the Webster Mills are shipped thereto from points outside the Commonwealth of Massachusetts, and substantially all of the finished products of said Mills are shipped to points located outside the Commonwealth of Massachusetts. During the year 1943, sales of the Company exceeded \$150,000,000 in value.

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

II. THE ORGANIZATIONS INVOLVED

United Textile Workers of America is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

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

III. THE QUESTION CONCERNING REPRESENTATION

On or about February 2, 1944, the A. F. L. orally sought recognition from the Company as the exclusive bargaining representative of its production and maintenance employees at the Webster Mills. The Company refused to grant such recognition on the ground that the request was a matter for the Board to pass upon.

On February 22, 1943, the Company and the C. I. O. executed a collective bargaining agreement which provided, *inter alia*, for a 1-year term commencing from the date of execution, and for yearly renewals thereafter in the absence of notice of termination given by one party to the other 60 days prior to any termination date. On December 1, 1943, the C. I. O. addressed a letter to the Company requesting a meeting for the purpose of discussing changes in the

existing contract. On December 7, 1943, the Company replied that it could not meet with the C. I. O. until after the Christmas holidays. On January 19, 1944, representatives of the Company and the C. I. O. met, and the C. I. O. presented its request for changes in the current agreement, which the Company refused to grant. Thereafter, the C. I. O. submitted the proposed modifications to the National War Labor Board. The modifications proposed by the C. I. O. included changes in the wage structure and the maintenance-of-membership clauses, a request for a second shift bonus, for group insurance, for the establishment of a minimum wage of 65 cents per hour, and for an enlargement of the vacation clause.

The C. I. O. contends that these proposed changes were merely demands for modifications of an existing contract, that no notice of termination of the contract was given, and that the contract was renewed prior to the presentation of the representation claim of the A. F. L. and therefore constitutes a bar to a current determination of representatives. We do not agree. The proposed modifications were substantial. Upon refusal of the Company to accede to its demands the C. I. O. caused the dispute to be certified to the National War Labor Board for the express purpose of having that agency rewrite the contract so as to include the proposed changes. Moreover, the C. I. O. originally gave notice of its desire to alter the contract prior to the operative date of the automatic renewal clause. In these circumstances, we are of the opinion that the C. I. O.'s letter of December 1, 1943, was a notice of termination of the existing contract and a request for the execution of a new one. We conclude, consequently, that the contract of February 22, 1943, does not preclude a present determination of representatives.²

A statement of the Board Field Examiner, introduced into evidence at the hearing, indicates that the A. F. L. 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

Substantially in accordance with an agreement of the parties made at the hearing, we find that all employees of the Company at its Web-

² *Matter of Chapman Valve Mfg. Co.*, 40 N. L. R. B. 800.

³ The Field Examiner reported that the A. F. L. submitted 180 application cards, of which 165 contained the names of persons appearing on the Company's pay roll of February 13, 1944. The record discloses that there are approximately 792 employees in the unit alleged to be appropriate. We find this showing to be substantial in view of the maintenance-of-membership clause contained in the contract of February 22, 1943, between the Company and the C. I. O. The C. I. O. relies upon this contract for the establishment of its interest.

ster Mills, excluding plant-protection employees, office and clerical employees, watchmen, clerks engaged exclusively in clerical work, executives, managers, submanagers, superintendents, assistant superintendents, foremen, overseers, assistant foremen, assistant overseers, 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 pay-roll 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, as amended, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with American Woolen Company (Webster Mills), Webster, Massachusetts, 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 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 United Textile Workers of America (AFL), or by Textile Workers Union of America, affiliated with the CIO, for the purposes of collective bargaining, or by neither.