

In the Matter of WRIGHT UNDERWEAR COMPANY, INC. and TEXTILE
WORKERS UNION OF AMERICA, CIO

Case No. 2-R-4758.—Decided October 21, 1944

Mr. Max J. Miller, of New York City, for the Company.

Mr. Jack Rubenstein, of New York City, for the CIO.

Messrs. Abraham Pincus and James P. Corbett, of New York City,
for the AFL.

Mr. Philip Licari, 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 Wright Underwear Company, Inc., Troy and Cohoes, New York, herein called the Company,¹ the National Labor Relations Board provided for an appropriate hearing upon due notice before David H. Werther, Trial Examiner. Said hearing was held at Troy, New York, on September 21, 1944. The Company, the CIO, and United Textile Workers of America, AFL, 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. Subsequent to the hearing, the parties stipulated to correct the record in certain respects. The stipulation is hereby approved and made part of the record. 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.

¹ At the hearing, the parties agreed to amend the petition and all other formal papers in this proceeding so that the name of the Company would read "Wright Underwear Company, Inc."

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

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Wright Underwear Company, Inc., a New York corporation, is engaged at its two plants, Troy and Cohoes, New York, in the manufacture of underwear. Both plants are involved in the instant proceeding. During the past 12 months, the Company purchased for its two plants raw materials valued in excess of \$500,000, of which approximately 90 percent was shipped from points outside the State of New York. During the same period, the Company sold products finished at its two plants valued in excess of \$1,000,000, of which 75 percent was shipped to points outside the State of New York.

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, is a labor organization admitting to membership employees of the Company.

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

III. THE QUESTION CONCERNING REPRESENTATION

On March 18, 1944, the CIO advised the Company that it represented a majority of the Company's employees at its Troy and Cohoes plants, and requested recognition as the exclusive bargaining agent of these employees. The Company refused to grant recognition to the CIO until it has been certified by the Board in an appropriate unit.

A statement of a Field Examiner for the Board, introduced into evidence at the hearing, indicates that the CIO represents a substantial number of employees in the unit hereinafter found appropriate.²

² The Field Examiner reported that the CIO submitted 169 authorization cards; that the names of 135 persons appearing on the cards were listed on the Company's pay roll of May 15, 1944, which contained the names of 305 employees in the alleged appropriate unit; and that 162 authorization cards were dated between February and May 1944, and 7 were undated. He also reported that the AFL submitted 33 authorization cards, all of which contained the names of persons listed in the above-mentioned pay roll, and that all the authorization cards were dated May 1944.

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

All parties agree that a unit of "all production and maintenance employees at the Company's plants in Troy and Cohoes, New York, including packers, shipping employees, inspectors, and watchmen, but excluding office employees, foremen and other supervisory employees is appropriate." The Company and the CIO, however, would exclude assistant foremen and the assistant forelady, whereas the AFL seeks their inclusion.

The Company operates one mill in Troy, known as the "Aetna" mill, and another in Cohoes, known as the "Mohawk" mill. Mohawk's operations are restricted to producing yarn which is further processed at Aetna. The mills are 1½ miles apart and are both under the supervision of one superintendent. All labor policies for both mills are centrally determined and working conditions are uniform.

The Company employs 7 assistant foreman and 1 assistant forelady at Aetna, and 1 assistant foreman at Mohawk. Under the supervision of their departmental foremen these employees direct the work of from 14 to 65 production employees. They also repair machinery and, whenever necessary, they substitute for absent employees. In the foremen's absence, these employees assume full authority in their respective departments. It appears that the assistant foreman as well as the assistant forelady can effectively recommend changes in the status of employees under their supervision. We shall exclude them.

We find, in substantial accordance with the agreement of the parties and the foregoing determination, that all production and maintenance employees engaged at the Company's Aetna and Mohawk mills, including inspectors, packers, watchmen and shipping employees, but excluding office employees, assistant foremen, the assistant forelady, foremen, 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.³

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 purpose of collective bargaining with Wright Underwear Company, Inc., Troy and Cohoes, New York, 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 Second 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 the 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 CIO—Textile Workers Union of America, or by AFL—United Textile Workers of America, for the purposes of collective bargaining, or by neither.

³ At the hearing, the CIO requested that, in the event an election were directed, it be conducted at a place other than on the Company's premises. The request was referred to the Board by the Trial Examiner. We perceive no persuasive reason for deviating from the Board's usual practice of leaving the selection of the place for conducting an election to the discretion of the Regional Director.

The requests of the CIO and the AFL to appear on the ballot as their names are set forth in the Direction of Election are hereby granted.