

In the Matter of MEXIA TEXTILE MILLS, INC. and TEXTILE WORKERS  
UNION OF AMERICA, C. I. O.

*Case No. 16-R-994.—Decided October 25, 1944*

*Mr. John M. Scott, of Fort Worth, Tex., for the Company.*

*Mr. Herschiel E. Moore, of Dallas, Tex., for the Union.*

*Miss Ruth E. Bliefeld, 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, C. I. O., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of the Mexia Textile Mills, Inc., herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Earle Saunders, Trial Examiner. Said hearing was held at Mexia, Texas, on September 22, 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

The Mexia Textile Mills, Inc., was incorporated in the State of Texas. The Company is engaged at its mill at Mexia, Texas, in the manufacture of Single Filling Flat Duck, Drill, and Osnaburg. Between January 1 and July 1, 1944, inclusive, the Company's gross sales amounted to \$783,000. Approximately 80 percent of the amount

shown as the gross sales figure came from shipments in interstate commerce.

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

## II. THE ORGANIZATION INVOLVED

Textile Workers Union of America, affiliated with the Congress of Industrial Organizations, 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.

A statement of a Board agent, introduced into evidence at the hearing,<sup>1</sup> indicates that the Union represents a substantial number of employees in the unit hereinafter found appropriate.<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.

## IV. THE APPROPRIATE UNIT

The Union contends that the appropriate unit should consist of all production and maintenance employees, excluding second hands, supervisors, and clerical employees. The Company agrees with this contention, except that it contends that the two head fixers in the spinning room, and the two head fixers in the card room have the same supervisory powers as the second hands, and therefore that both the second hands and head fixers should be included, or all should be excluded.

There is a head fixer for each of the two shifts in the spinning and carding department. The record reveals that these employees have,

<sup>1</sup> The Company objected to the introduction of the Board's Exhibit 1-E, "Report on Investigation of Interest of Contending Labor Organizations," on the ground that no effort had been made to ascertain the genuineness of the signatures on the application-for-membership cards. The Trial Examiner overruled the objection, and the ruling is upheld. The purpose of the Report is to provide a reasonable safeguard against the indiscriminate institution of representation proceedings by labor organizations which might have little or no membership in the unit claimed to be appropriate. While its introduction into evidence does not signify that all the signatures on the application-for-membership cards are considered genuine, Board agents are, of course, careful to satisfy themselves by reasonable means that the cards are not spurious. See *Matter of Budd Wheel Company*, 52 N. L. R. B. 666.

<sup>2</sup> The Field Examiner reported that the Union submitted 99 application-for-membership cards, that the names of 55 persons appearing on the cards were listed on the Company's pay roll of July 22, 1944, which contained the names of 199 employees in the appropriate unit; and that 89 of the cards were dated July 1944 and 6 were undated.

in general, the same duties as second hands, may recommend hiring, and may discharge or suspend employees, subject to confirmation by the overseer. They make regular reports to the overseer, and keep the machines in the department in working order. The only apparent difference in the duties of the head fixers and those of the second hands is that the head fixers usually do the repair work on the machinery themselves, whereas the second hands direct or assist in such work. The Union contends that, unless the Company changes the head fixers' titles to second hands, they should be included in the unit. The Board is not, however, concerned with the title by which a Company chooses to designate an employee on its pay roll. Our unit determination is made on the basis of the duties with which the particular employee is charged. Since it appears that the four head fixers have authority to hire, promote, discharge, discipline, or otherwise effect changes in an employee's status they will be excluded from the unit, as supervisory employees.<sup>3</sup>

The Company employs two gate watchmen, who are deputized and armed. The Company and the Union agree that these men should be excluded from the appropriate unit. The gate watchmen will, therefore, be excluded.<sup>4</sup>

Certain of the regular firemen in the power plant act as watchmen when the two gatemen are not on duty. These men are not, however, deputized or armed, and their duties as watchmen do not preclude their inclusion in the unit. We shall include them.

The Company employs a carpenter for varying periods of time, when necessary. The parties agreed that the carpenter should be excluded from the unit, since he is a temporary and intermittent employee.<sup>5</sup> The carpenter will be excluded.

We find that all production and maintenance employees of the Company, excluding clerical employees, the carpenter in the spinning department, the regular gate watchmen, the second hands in the weaving department, the head fixers in the carding department, and the head fixers in the spinning department, and all or any 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 em-

<sup>3</sup> See *Matter of Douglas Aircraft Co., Inc.*, 50 N. L. R. B. 784.

<sup>4</sup> See *Matter of Armour Leather Co.*, 57 N. L. R. B. 705.

<sup>5</sup> See *Matter of Wagner Folding Box Co.*, 49 N. L. R. B. 346.

ployees 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 Mexia Textile Mills, Inc., Mexia, Texas, 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 Sixteenth 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 or not they desire to be represented by Textile Workers Union of America, C. I. O., for the purposes of collective bargaining.