

In the Matter of **NEWMARKET MANUFACTURING COMPANY and TEXTILE WORKERS UNION OF AMERICA, C. I. O.**

*Case No. 1-R-2227.—Decided February 17, 1945*

*Mr. Walter Gallant*, of Lowell, Mass., for the Company.

*Messrs. Michael Schoonjans and Hugh Brown*, of Lowell, Mass., for the Union.

*Mr. Louis Cokin*, of counsel to the Board.

DECISION  
AND  
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon 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 Newmarket Manufacturing Company, Lowell, Massachusetts, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before John W. Coddair, Jr., Trial Examiner. Said hearing was held at Lowell, Massachusetts, on January 29, 1945. The Company and the Union appeared, participated, and 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 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

Newmarket Manufacturing Company is a Massachusetts corporation operating a plant at Lowell, Massachusetts, where it is engaged in the manufacture of cloth. From November 13, 1944, to the date of the hearing, the Company purchased approximately \$400,000 worth of supplies, all of which was shipped to it from points outside the

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Commonwealth of Massachusetts. During the same period, the Company manufactured products valued at about \$800,000, all of which was shipped to points outside the Commonwealth of Massachusetts.

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 is a labor organization affiliated with the Congress of Industrial Organizations, admitting to membership employees of the company.

## III. THE QUESTION CONCERNING REPRESENTATION

On December 19, 1944, the Union requested the Company to recognize it as the exclusive bargaining representative of its employees. The Company refused this request until such time as the Union is certified by the Board.

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>1</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 urges that all production and maintenance employees of the Company, including watchmen in the maintenance department, but excluding executives, foremen, office and clerical employees, gate watchmen, second-hands and employees of higher rank, and employees in the research department, constitute an appropriate bargaining unit. The only controversy with respect to the unit concerns three loom fixers.

Although it is agreed that loom fixers generally should be included in the unit, the parties disagree with respect to three particular loom fixers. These three loom fixers make reports to the research department, said reports dealing solely with equipment rather than the quality or character of fixers' work. They are paid on an hourly basis, punch a time clock, and have no authority to hire, discharge, or make recommendations with respect thereto. We shall include them in the unit.

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<sup>1</sup> The report of the Field Examiner shows that the Union submitted 362 authorization cards. There are approximately 698 employees in the appropriate unit.

We find that all production and maintenance employees of the Company, including all loom fixers and watchmen in the maintenance department, but excluding office and clerical employees, research department employees, gate watchmen, foremen, second-hands and employees of higher rank, and 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 means of 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 Newmarket Manufacturing Company, Lowell, 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 any who have since quit or been discharged for cause and have not been rehired or reinstated prior to the date of 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.