

In the Matter of ADAMS-MILLIS CORPORATION, PLANT NUMBER 7, and  
AMERICAN FEDERATION OF HOSIERY WORKERS, C. I. O.

*Case No. 5-R-1877.—Decided August 14, 1945*

*Messrs. Kenneth M. Brim and Roy L. Morgan, of Greensboro, N. C., for the Company.*

*Mr. W. Cedric Stallings, of High Point, N. C., and Mr. H. G. B. King, of Chattanooga, Tenn., for the Union.*

*Miss Aida Casanas, of counsel to the Board.*

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by American Federation of Hosiery Workers, C I. O., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Adams-Millis Corporation, Plant Number 7, High Point, North Carolina, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Sidney J. Barban, Trial Examiner. Said hearing was held at High Point, North Carolina, on May 16, 1945. The Company, the Union, and United Textile Workers of America, A. F. of L.,<sup>1</sup> 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

Adams-Millis Corporation is a North Carolina corporation with its principal office in High Point, North Carolina. The Company op-

<sup>1</sup> After the hearing, the Intervenor, United Textile Workers of America, A. F. of L., requested that its name be eliminated from the ballot in any election directed in this proceeding. The request is hereby granted.

erates seven plants in North Carolina, four of which, including Plant Number 7, with which this proceeding is concerned, are located at High Point. This plant is engaged in the manufacture of ladies' full fashioned hosiery. During the year 1944 the Company purchased raw materials valued in excess of \$300,000, about 65 percent of which was shipped to the Company's Plant Number 7 from points outside the State of North Carolina. During the same period the Company produced finished products at its Plant Number 7 of a value in excess of \$2,000,000, approximately 85 percent of which was shipped to points outside the State of North Carolina.

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

## II. THE ORGANIZATION INVOLVED

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

## III. THE QUESTION CONCERNING REPRESENTATION

The Union, by letter dated March 14, 1945, requested recognition from the Company as collective bargaining representative of the Company's employees, and by letter dated March 20, 1945, the Company replied that it was not prepared to recognize the Union as collective bargaining agent.

A statement of a Board agent, introduced into evidence at the hearing, 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

There is no history of collective bargaining at the Company's Plant Number 7, which is the plant involved in this proceeding. This plant makes women's full-fashioned hosiery, whereas the Company's other three plants in High Point produce men's seamless half-hose. The manufacture of women's full-fashioned hosiery requires a high degree of skill; the manufacture of seamless hosiery does not require so much skill. For this reason there is no interchange of employees between Plant Number 7 and the other three plants, nor is there any inter-

<sup>2</sup>The Field Examiner reported that the Union submitted 175 authorization cards, all of which bore apparently genuine original signatures. These cards were dated in March and April 1945. There are approximately 324 employees in the appropriate unit.

change of raw materials or finished products among the four plants. All the parties agree that the operations of Plan Number 7 differ from the operations of the other three plants and that Plant Number 7 should be a separate bargaining unit. We so find.

The Union requests a unit of all production and maintenance employees at Plant Number 7, but excluding office and clerical employees, machinists, fixers, instructors, timekeepers, floorlady, and supervisory employees. Except as to the categories of timekeeper and fixer, the Company agrees that the unit so described is appropriate.<sup>3</sup> Controversy centers about the following employees, all of whom the Union would exclude and the Company would include:

*Store and samples girl:* This employee's principal duty is working up samples. She makes up samples at a table in the plant where she pulls out new styles as they come through, sews them together, and sends them to the Company's customers as the customers request them. Each afternoon this employee is occupied in a Company store located at the entrance to the building, where the Company sells stockings to its employees for cash or on credit, to be charged against their pay. When she is not occupied making up samples, this employee may be given work pairing stockings. She is hourly paid and is carried on the Finishing Department pay roll and is responsible to the superintendent of that department. Her average wage is lower than that of the pairers, who are on a piece rate.

The Union contends that this employee is a clerical worker and that she represents management in its personnel relations in that she clerks in the Company store. We find no merit in this contention. Since the employee in question works in close association with the production employees, under the jurisdiction of a production department, she will be included in the unit.<sup>4</sup>

*Timekeepers:* There are three timekeepers working for the Company. One of these girls is assigned to the Finishing Department and occupies an office which the Company refers to as the interview office. A second timekeeper is in the Greige-Goods Department on the third floor and the third one is located on the first floor in the Knitting Department in an office which the general foreman and assistant foreman occupy in part. The duties of all three timekeepers are identical. They record the hours of work, the production and the return of the defective stockings, utilizing time cards collected by the foremen and production slips turned in by another employee who collects finished work from the operators. The records compiled by the timekeepers, including records of defective work performed, are posted for the

<sup>3</sup>The Union and the Company likewise agree that foremen and assistant foremen, as well as the floorlady, are excluded as supervisory employees, and that the secretary to the general superintendent is excluded as a confidential and clerical employee.

<sup>4</sup> See *Matter of Harry Monaster & Bro*, 60 N. L. R. B. 979

information of the operators and the operators' pay is computed therefrom in the pay-roll office. All the timekeepers perform their duties exclusively at their desks. They are hourly paid and appear on the Production Department pay roll, and they are responsible to the foremen of the respective departments in which they work.

In accordance with our customary practice, we shall exclude the timekeepers.<sup>5</sup>

*Lot girl:* This employee is referred to in the record as a lot stock girl. She is given specifications by the foremen of the Finishing Department with regard to wrapping and boxes needed, and she is expected to send orders to the box factory, receive the boxes and wrapping, and inventory them. At the present, most of her time is spent working on a printing machine, printing labels on boxes. She shares a desk in the Finishing Department where she can write her reports. At most, she spends 3 hours a day at purely clerical work. The remaining part of her time is spent in acting as a utility employee cutting and printing labels and handling boxes. She was formerly a full-time printer. She is hourly paid and appears on the Finishing Department pay roll and is responsible to the foreman of that department.

The Union contends that the lot girl should be excluded as a clerical employee. In view of her work, which is primarily manual, and the fact that she is attached to a production department, we consider that she is a plant clerical employee. We shall, accordingly, include the lot girl in the unit.<sup>6</sup>

*Shipping clerks:* There are three persons working in the Company's Shipping Department who perform the ordinary duties of shipping employees. They put boxes in cartons, weigh and seal them, paste labels on the boxes, and deliver them to the truck. One of these persons keeps the record of shipments and at the end of the day takes the record to the Company's main office. These three employees are hourly paid, they appear on the Finishing Department pay roll, and their supervisor is the Finishing Department superintendent. These, too, are plant clerical employees. As such, we shall include them in the unit.

*Truck driver:* This employee brings yarn and stockings to Plant Number 7 from another of the Company's plants at Tyron, North Carolina, takes packages to the post office, brings shipments from the railroad station, hauls express packages and freight to and from the express office. During rush periods he works in the plant in the Finishing Department or carrying yarn about the plant. This truck driver

<sup>5</sup> See *Matter of Aluminum Forgings, Inc.*, 53 N. L. R. B. 1054; *Matter of The General Fireproofing Company*, 58 N. L. R. B. 1609; *Matter of Goodman Manufacturing Company*, 58 N. L. R. B. 531; and *Matter of Joseph Dyson & Sons, Inc.*, 60 N. L. R. B. 867.

<sup>6</sup> See *Matter of Shartle Brothers Machine Company*, 57 N. L. R. B. 1546; *Matter of The General Fireproofing Company*, *supra*; and *Matter of Goodman Manufacturing Company*, *supra*.

appears on the Finishing Department pay roll of Plant Number 7 and is responsible to the Finishing Department superintendent. He is hourly paid and is the only truck driver the Company employs.

As there is controversy regarding the truck driver and since the duties, interests, and conditions of employment of this employee are not altogether the same as those of the other employees in the plant, we shall exclude him from the unit.<sup>7</sup>

*Fixers:* The Company employs 3 fixers in its Knitting Department. Their function, in general, is that implied by their job title, namely, the maintenance and adjustment of the knitting machines operated by production employees in the department. They are hourly paid and their earnings are about the same as the earnings of the operators, who are paid on a piece-work basis. The 3 fixers in this plant have regular stations, and it appears that they are associated continuously with particular groups of operators, whom they aid and instruct and sometimes correct. The Knitting Department is located on 3 floors of the plant. The Company employs, on all 3 floors, approximately 100 knitters on the day shift and 60 on the night shift. A small group of these, about 5 on the day shift and 12 on the night shift, are located on the second floor. They are under the jurisdiction of a foreman who also supervises the knitters on the third floor, and who spends most of his time on the third floor. Two of the fixers in question rotate on the day and night shifts with this small group of knitters on the second floor. Thus, at that location, the fixer is frequently the only person present who is in a position to oversee the work directly. The fixer on the third floor rotates with an assistant foreman who is also a fixer. On that floor, on both the day and night shifts, a foreman is ordinarily present.

The Union contends, in opposition to the Company, that the fixers are supervisory employees and, as such, should be excluded from the unit. It also argues that, in full-fashioned, as distinguished from seamless, hosiery mills, this classification is customarily excluded from the production and maintenance unit. In this connection, the Union proved, by the uncontradicted testimony of W. Cedric Stallings, one of its international officials, that fixers are deemed to be excluded, as "employees engaged in any kind of managerial position or work," from the coverage of a certain multiple-employer contract between the Union and over 30 members of an association of full-fashioned hosiery manufacturers.<sup>8</sup> The Union does not admit to membership fixers in full-fashioned mills, considering them ineligible as supervisors.

<sup>7</sup> See *Matter of Kingan & Co., Incorporated*, 61 N L R B 1222, and *Matter of Wilson & Company, Inc*, 62 N. L. R. B 895, cf *Walter Jansen & Son*, 63 N L. R. B. 121.

<sup>8</sup> A copy of this contract was introduced into evidence at the hearing. For other data as to the coverage of this same contract, see *Matter of Mack, Judson, Vochringer Company of North Carolina, Inc*, 63 N L. R. B. 96. Stallings testified that the Union has other contracts, one of which is with an association of full-fashioned hosiery manufacturers in Pennsylvania, under which fixers are likewise excluded from the unit.

Considering all these facts, we are of the opinion that the fixers in question may properly be excluded from the unit. We are not convinced that they are supervisory employees within the meaning of our usual definition, although there is some persuasive evidence to that effect. However, in view of the absence of any bargaining history in this plant, the Union's unwillingness to represent the fixers, its consistent practice with respect to such employees, and the custom which apparently prevails in the full-fashioned hosiery industry, we see no reason to insist upon the inclusion of this distinct category of employees in the production and maintenance unit. We shall exclude the fixers.<sup>9</sup>

We find that all production and maintenance employees employed by the Company at its Plant Number 7, including the store and samples girl, the lot girl, and the shipping department employees, but excluding all office and clerical employees, timekeepers, fixers, the truck driver, the floorlady, foremen and assistant foremen, 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 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,<sup>10</sup> 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 Adams-Millis Corporation, Plant Number 7, High Point, North Carolina, an election

<sup>9</sup> See *Matter of Mock, Judson, Voehringer Company, supra*.

<sup>10</sup> The Union requested that the pay roll of May 11 be used to determine eligibility to vote in the election, because of the prospect that the Company would hire many new and unskilled employees as learners. However, since it appears that any such new employees would be hired on a permanent basis to perform production work while learning the trade, we see no reason to exclude them from participation in the election, by using the specified pay-roll date, or otherwise.

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, 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 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.