

2. All the production employees at the Respondent's Spring Mills plant, excluding machinists, office and clerical employees, watchmen and guards, and supervisors as defined in the Act, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act.

3. International Ladies' Garment Workers' Union, Local 108, A. F. L., was on July 6, 1949, and all times material thereafter, the exclusive representative of all the employees in the aforesaid appropriate unit for the purposes of collective bargaining within the meaning of Section 9 (a) of the Act.

4. By refusing on July 15, 1949, and at all times thereafter to bargain collectively with International Ladies' Garment Workers' Union, Local 108, A. F. L., as the exclusive representative of its employees in the aforesaid appropriate unit, the Respondent has engaged in and is engaging in unfair labor practices within the meaning of Section 8 (a) (5) of the Act.

5. By discriminating in regard to the hire and tenure of employment of the employees named in Appendix A and thereby discouraging membership in International Ladies' Garment Workers' Union, Local 108, A. F. L., the Respondent has engaged in and is engaging in unfair labor practices within the meaning of Section 8 (a) (3) of the Act.

6. By interfering with, restraining, and coercing its employees in the exercise of the rights guaranteed in Section 7 of the Act, the Respondent has engaged in unfair labor practices within the meaning of Section 8 (a) (1) of the Act.

7. The aforesaid unfair labor practices are unfair labor practices affecting commerce within the meaning of Section 2 (6) and (7) of the Act.

[Recommended Order omitted from publication in this volume.]

ANGELICA HOSIERY MILLS, INC. *and* AMERICAN FEDERATION OF HOSIERY WORKERS. *Case No. 4-RM-83. August 23, 1951*

Decision and Direction of Election

Upon a petition duly filed under Section 9 (c) of the National Labor Relations Act, a hearing was held before Harold Kowal, hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.¹ The Union's request for oral argument is denied, inasmuch as the record and the briefs, in our opinion, adequately present the positions of the parties.

Upon the entire record in this case, the Board finds:

1. The Employer is engaged in commerce within the meaning of the Act.

¹ The Employer objected to the introduction into the record of various releases of The Bureau of Labor Statistics and The Bureau of Apprenticeship of the United States Department of Labor and references to the Dictionary of Occupational Titles, 2nd Ed., March 1949, published by the United States Employment Service. The Employer apparently contends that the use of such material in determining the unit appropriate for the purposes of collective bargaining, within the meaning of Section 9 of the Act, would violate its constitutional right to a fair hearing. We find no merit in this contention. *Inland Steel Company*, 77 NLRB 1, 2, footnote 4, affirmed 170 F. 2d 247 (C. A. 7, 1948), and cases cited therein; 6 Wigmore, Evidence, 1690, 7 Wigmore, Evidence, 1700 (d), (3rd Ed.). Accordingly, we affirm the hearing officer's ruling admitting such evidence into the record.

2. The labor organization involved claims to represent certain employees of the Employer.

3. A question affecting commerce exists concerning the representation of employees of the Employer within the meaning of Section 9 (c) (1) and Section 2 (6) and (7) of the Act.

4. The Union seeks a unit confined to those employees of the Employer classified as full-fashioned hosiery knitters, contending that such employees constitute a homogeneous craft group, entitled to representation separate and apart from the remaining employees at the Employer's plant.² The Employer denies that the knitters constitute a craft, and resists their separation for bargaining purposes from the remaining employees. It is the Employer's position that the interests of knitters and those of the other employees are closely interrelated and functionally interdependent, and that, in fact, the work performed by knitters at its plant is not essentially different from that performed by knitters in cases where we considered, and denied, unit contentions similar to those of the Union.³ Those cases, however, are not controlling, as we did not have before us there the comprehensive record of sworn testimony which we have here, disclosing in detail the precise facts as to the duties of knitters, the skills which they must possess and exercise to perform them, and the training required to obtain these skills.

The knitters, whom the Union seeks to represent, are the operators of the Employer's 6 full-fashioned hosiery knitting machines which appear to be of the type usually used in the industry. Four of these machines are 32 section, 60- and 54-gauge machines, of a new type, and 2 are 26 section, 51-gauge machines, of an older type. These machines, which are large and complicated, contain as many as 90,000 parts and cost between \$35,000 and \$42,000 each. Depending upon the number of sections to the machine, each machine automatically knits 32 or 26 flat pieces of fabric, each of which contains the welt, leg, foot, and toe of a stocking. The machines systematically reduce the number of rows of stitches at the various parts of the stocking to conform to the shape of the leg and foot. Knitters set up, thread, and operate the machines. During the course of knitting one set of stockings, a knitter may perform as many as 69 different operations. In addition, knitters must be capable of analyzing the numerous types of

² The remaining employees, generally referred to in the industry as auxiliary employees, are engaged in the operations of looping, seaming, examining, and mending. Looping is the operation by which the toe of a stocking is closed on a machine specially designed for that purpose. Seamers sew up the foot, ankle, seam, and welt of a stocking on a seaming machine, which operates much like an ordinary sewing machine. Examiners inspect hosiery by putting it over an expandable form, looking for defects; and menders make repairs of minor defects in stockings.

³ See, e. g. *Harms Hosiery Co., Inc.*, 91 NLRB 330; *Hudson Hosiery Company*, 77 NLRB 566; *Liberty Hosiery Mills, Inc.*, 75 NLRB 340; *Garden State Hosiery Co.*, 74 NLRB 318, 324 (knitters held not to be craftsmen).

defects in stocking fabric so that they can make such adjustment and minor repairs as are necessary or advise the fixer in the event that major repairs are necessary.⁴ Because of the number of minor adjustments required during the operation of a knitting machine, the skill of the knitter is of great importance in determining the quality of the fabric produced by a machine, and, in some cases, a thoroughly competent knitter is capable of improving upon the quality of the fabric produced. Knitters at the Employer's plant own and bring to work with them a tool kit for use in making such minor adjustments and repairs.⁵

It is undisputed that the work of competent knitters cannot be performed without special training of a kind different from that required in the case of auxiliary employees. There is a substantial conflict between the parties, however, on the question of how much training is required before a worker can qualify as a competent knitter. The Employer claims that knitters can be trained in a relatively short period of time. The Union contends that there is a well-established apprenticeship program in the industry designed to qualify knitters as competent workmen, and that, although the Employer does not have any training program, it does draw upon the training practices of the industry generally through its hiring policy. The record supports the Union's position. Thus, all of the Employer's knitters who appeared at the hearing as witnesses testified that they had served a 4-year apprenticeship at other plants before being classified as knitters. Moreover, at the time of the hearing, all of the Employer's knitters had had more than 15 years' experience at knitters' work. The inference that the Employer required such prior training as a condition of employment, which may appropriately be drawn from these facts, is supported by the inability of the Employer's witnesses to cite any instance in the employment history of the Employer in which a knitter had been hired with less than 5 years' experience at knitters' work.

The existence of a well-established apprenticeship or training program in the industry as a whole is likewise substantiated by the record. Thus, in addition to the testimony of the Employer's knitters that they had each served a 4-year apprenticeship, the Union

⁴ For example, a knitter must be able to determine which one of the 476 needles of the 14-inch needle head of a 51-gauge machine is out of line, and make adjustments as fine as 18 thousandths of an inch in the alignment of the needles. In addition to the adjustments and minor repairs generally made by knitters in the industry, knitters at the Employer's plant perform such operations as changing and telling sizes, adjusting snapper tension, straightening narrowing points, adjusting narrowing fingers, straightening picot points, adjusting picot bars, removing defective carriers and adjusting replacements, straightening welt hooks, removing and replacing sinkers, dividers, and knockout bits, and straightening needles in the hand and in the machine.

⁵ The tool kit contains a carrier threader, pick-up, carrier bender, butt puller, paint brush, scissors, screw drivers, pliers, and a wrench.

presented evidence that the occupation of a full-fashioned hosiery knitter is classified as an apprenticeable trade by the Bureau of Apprenticeship of the United States Department of Labor,⁶ and that the organization of knitters has been along the lines found only in the occupations which are recognized as apprenticeable trades. Thus, when the Union was established in 1914, it admitted to membership only knitters and their helpers. Although, since 1928, the Union has represented employees in the full-fashioned hosiery industry on an industrial basis, it has continued to require that persons admitted to membership as journeymen knitters must have served both a 4-year apprenticeship and a 2-month probationary period in the actual operation of a knitting machine. No comparable requirements exist in the case of auxiliary employees in the industry. Nor does it appear that the Employer's auxiliary employees need, or are required to have, any similar qualifying experience.⁷

This difference in the skills of the knitters and auxiliary employees is also reflected in the wide differences in the average hourly earnings of such employees. Thus, at the Employer's plant the average of the hourly earnings of knitters is approximately \$1.00 higher than the average hourly earnings of auxiliary employees.⁸ Moreover, a release of the Bureau of Labor Statistics of the United States Department of Labor, which was admitted into the record, shows that similar pay differentials exist throughout the industry.⁹ In this respect we note that whereas a knitter's pay may be appreciably affected by the type of machine to which he is assigned, an auxiliary employee generally obtains the highest earnings with a machine to which she has become accustomed. Consequently, auxiliary employees do not share with the knitters the desire to participate in the establishment of an equitable system of rules governing transfers between machines. Likewise, although auxiliary employees are paid on a piece-rate basis, as are the knitters, they do not attempt to make up time lost by a machine shutdown. On the other hand, knitters are permitted to make up lost time, and frequently do, by working on Sundays.

In addition to the foregoing facts reflecting the differences in the skills of the knitters and auxiliary employees, the record shows that

⁶ The National Apprenticeship Program, p. 13 (United States Department of Labor, Bureau of Apprenticeship, Washington, D. C., 1950).

⁷ In this respect we note that full-fashioned hosiery knitters are classified as skilled employees in the Dictionary of Occupational Titles, *supra*, p. 731, whereas auxiliary employees are classified as semi-skilled. The Board has previously found that knitters possess and utilize greater skills than do auxiliary employees. See, e. g. *Liberty Hosiery Mills, supra*; *Nebel Knitting Company*, 74 NLRB 310.

⁸ At the Employer's plant the average of the hourly earnings of the knitters is \$2.25, whereas the average hourly earnings of auxiliary employees is as follows: seamers—\$1.55; loopers—\$1.27; menders—\$1.25; and examiners—\$1.29.

⁹ Earnings in Full-Fashioned Hosiery Mills, October 1950 (Bureau of Labor Statistics, United States Department of Labor, February 20, 1951).

at the Employer's plant, as at other plants in the industry,¹⁰ there have been no transfers of employees from the knitting department to the auxiliary department. However, competent full-fashioned hosiery knitters are capable of transferring from plant to plant in the industry, even though such a transfer may involve a change in the type of machine operated or a change in the style of stocking knitted. Furthermore, the industry itself operates on the basis of separation of the various operations involved in the manufacture of full-fashioned hosiery. Thus, there are some mills which perform only knitting operations, some mills which perform only auxiliary operations, and some mills which perform only finishing operations.¹¹ This separation of operations is illustrated by the Employer's own plant. No finishing operations are performed at the Employer's plant, and, at the time of the hearing, although the knitting department was shut down by a strike of the knitters, auxiliary employees continued to work.

Moreover, the record reveals that, as is usual in the industry,¹² knitters perform all of their duties in a portion of the Employer's plant which is physically separated from that in which the remaining employees work. To prevent breakdowns in the operation of the knitting machines, the knitting department is air conditioned, whereas the auxiliary department is not. Knitters have separate rest room facilities,¹³ and, although there is one general bulletin board for the plant, notices are generally posted separately in the two departments. The time cards of the two departments are kept separately. Knitters work 48 hours per week on a three-shift basis and take no lunch period or rest period, whereas auxiliary employees work on only one shift of 40 hours per week, and have a regular lunch period and rest period each day. Because of the physical separation of the knitting department from the auxiliary department, and because of the difference in their hours of work, knitters seldom come in contact with auxiliary employees. With respect to the differences in hours of work, we note that, because auxiliary employees all work on the same shift, they do not share with knitting department employees the problem of arranging transfers to more desirable shifts.¹⁴

¹⁰ See, e. g., *Harms Hosiery Co., Inc.*, *supra*; *Liberty Hosiery Mills, Inc.*, *supra*; *Garden State Hosiery Co.*, *supra*; *Nebel Knitting Co.*, *supra*.

¹¹ Finishing operations consist of dyeing, stamping, pairing, boarding, and packing stockings for shipment.

¹² See, e. g., *Delaware Knitting Company*, 75 NLRB 205; *Nebel Knitting Company*, *supra*.

¹³ As is usual in the industry, the Employer's knitters are all men, whereas the Employer's auxiliary employees are all women.

¹⁴ In this respect, we note that knitting department employees in other plants frequently work on a two- or three-shift basis, whereas auxiliary employees usually work on only one shift. See e. g., *Chadbourn Hosiery Mills, Inc.*, 89 NLRB 1256; *Delaware Knitting Company*, *supra*; *Nebel Knitting Company*, *supra*.

Under all of the foregoing circumstances, it is clear that, whether or not the Employer's knitters constitute a true craft,¹⁵ they do constitute a homogeneous group of highly skilled employees, with interests separate and apart from those of other employees. Accordingly, we conclude that the knitters, who form a functionally distinct and clearly identifiable subdivision of the Employer's hosiery plant, may be separately represented.

Our decision here is consistent with those in numerous cases in which we have found less than plant-wide units to be appropriate, without necessarily finding, as our dissenting colleague suggests, that the employees who comprise such units are true craftsmen within the traditional sense of the term.¹⁶ Our power to establish such units is specifically supported by the language of Section 9 (b) of the Act, which provides that the Board shall decide in each case whether "the unit appropriate for the purposes of collective bargaining shall be the employer unit, craft unit, plant unit, or subdivision thereof." (Emphasis supplied.) If knitters must be craftsmen before the Board will establish them as a separate unit, as our dissenting colleagues apparently believe, then the words "subdivision thereof" must effectively be read out of Section 9 (b). Nor do we believe that a finding herein that full-fashioned hosiery knitters may constitute a unit appropriate for the purposes of collective bargaining in any way conflicts with the provision in Section 9 (c) (5) of the Act.¹⁷

On the basis of the record in this case, as summarized above, and entirely apart from the extent to which the Employer's employees have been organized,¹⁸ we find that full-fashioned hosiery knitters, such as the knitters employed at the Employer's plant, may constitute a unit appropriate for the purposes of collective bargaining. Accordingly, we find that all full-fashioned hosiery knitters employed at the Employer's Cumru Township, Pennsylvania, plant, excluding super-

¹⁵ A question we need not, and do not here resolve.

¹⁶ See, e. g., *Allied Stores of Ohio*, 90 NLRB 1868 (restaurant and cafeteria employees); *General Chemical Company*, 89 NLRB 1089 (powerhouse employees); *Edwin C. Barnes and Bros.*, 87 NLRB 317 (Ediphone servicemen); *Brown-Ely Co.*, 87 NLRB 27 (automotive mechanics); *Goldblatt Brothers, Inc.*, 86 NLRB 914 (window trimmer, inside decorators, and table top men); *Stern Brothers*, 81 NLRB 1386 (passenger elevator operators); *Johnson City Foundry & Machine Works, Inc.*, 75 NLRB 475 (foundry employees); *Weston Glass Company, Inc.*, 67 NLRB 1433 (skilled glassworkers); *B. F. Goodrich Company*, 67 NLRB 358 (instrument repairmen); *Norton Brothers and Morris*, 64 NLRB 710 (cutters in the garment industry).

¹⁷ Section 9 (c) (5) of the Act provides: "In determining whether a unit is appropriate . . . the extent to which the employees have organized shall not be controlling

¹⁸ We do not intend to indicate that the Board is not empowered to give some consideration to the extent of employee organization in determining the unit appropriate for the purposes of collective bargaining. See *Waldensian Hosiery Mills, Inc.*, 83 NLRB 742. However, in view of the number of reasons wholly unrelated to the extent of organization for establishing the unit hereinafter found appropriate, we find it unnecessary to consider what weight should be given to the extent of the Union's organization of the Employer's employees.

visors and all other employees, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act.

[Text of Direction of Election omitted from publication in this volume.]

MEMBER REYNOLDS, dissenting:

I cannot agree with the unit findings of my colleagues. In my view, the record in this case does not establish the existence of factors different from those in other cases where, since the amendment of the Act, we have repeatedly refused to grant units in this industry less than plant-wide in scope.¹⁹ Rather, I regard the present decision as an application of the holding in *Garden State Hosiery Co.*²⁰—a case arising under the Act prior to amendment. But, as this Board specifically noted in the *Hudson Hosiery Company* case,²¹ the *Garden State* decision is “inapplicable” at the present time, because it was “based largely on the factor of extent of organization”—a factor the amended Act specifically provides “shall not be controlling” to the determination of an appropriate unit.²² It is unquestionable that the facts in this case closely resemble those of the *Garden State* and the other cases cited *supra*, footnote 19.

Moreover, I am not persuaded that this record, viewed as a whole, and wholly apart from its similarity to the records in other cases in the industry, justifies the establishment of a separate unit for knitters. Although full-fashioned hosiery knitters are unquestionably skilled, it appears that the skill they exercise is no more than a production talent, greater than that of other employees in the industry, but not different in kind. This view is supported by the testimony of Employer witnesses that, as the Board has previously found, competent knitters can be trained in a period as short as 6 months.²³ Knitters do not produce a final product, but perform only one of the integrated operations involved in the production of full-fashioned hosiery. They work under the same immediate supervision as other employees. Knitters are, in fact, machine tenders, and the Union admits that, assuming the knitter is skilled and has been properly trained, the speed of the ma-

¹⁹ *Harms Hosiery Co., Inc.*, 91 NLRB 330; *Hudson Hosiery Company*, 77 NLRB 566; *Liberty Hosiery Mills, Inc.*, 75 NLRB 340; cf. *Delaware Knitting Company, Inc.*, 75 NLRB 205.

²⁰ 74 NLRB 318.

²¹ 77 NLRB at p. 568.

²² Section 9 (c) (5) of the Act.

²³ *Harms Hosiery Co., Inc.*, 91 NLRB, *supra*; *Liberty Hosiery Mills, Inc.*, 75 NLRB 340. In this respect I note that, on March 28, 1951, the Union and the Full-Fashioned Hosiery Manufacturers of America, Inc., a group of hosiery manufacturers, entered into an agreement covering the training of employees in which no provision was made as to the length of the training period required for knitters.

chine and the construction of the stocking control the speed of production. In previous decisions, the Board has held that, absent a showing of craft status, equally skilled employees were not entitled to representation in a separate unit.²⁴ Nor, in the absence of findings that full-fashioned hosiery knitters are craftsmen, do I regard it as significant that the Union has maintained an apprenticeship requirement for members classified as knitters. The Union has established no training program or prescribed course of study for apprentices, either as a matter of practice, or pursuant to any provision of the Union's constitution;²⁵ nor are apprentices required to undergo any examination other than a 2-month probationary period of operating a knitting machine. During this 2-month period, the apprentice's performance is checked by his employer and not by the Union. Moreover, the Union's apprenticeship requirements are enforced only at those plants where the Union has succeeded in negotiating an agreement with the employer, and the Union will accept as knitters employees so classified by nonunion employers even though they have not undergone the required apprenticeship. There is no training program at the Employer's plant. Finally, it appears that advancement from the position of apprentice to that of knitter depends both upon economic conditions in the industry and the availability of a knitting machine at the plant at which the apprentice is employed.

Furthermore, although the Union was organized in 1914 for the purpose of representing only knitters and apprentices, it appears that since 1928 it has organized and represented employees in the full-

²⁴ See, e. g., *Davis & Furber Machine Company*, 93 NLRB 372 (card setters); *The Halle Bros. Company*, 91 NLRB 100 (furniture finishers and piano finishers); *Brockway-Smith-Haigh-Lovell Co.*, 90 NLRB 928 (glazing room employees); *Montgomery Ward & Company*, 88 NLRB 615 (appliance repairmen); *New Haven Pulp & Board Company*, 87 NLRB 1053 (die makers and stonemen); *Saco-Moc Shoe Corp.*, 87 NLRB 402 (leather handsewers); *Gulf Oil Corporation*, 79 NLRB 1274 (automotive mechanics); *Winton Lumber Co.*, 79 NLRB 334 (equipment operators); *Phillip Morris & Co., Ltd.*, 79 NLRB 56 (adjusters and machine fixers in a tobacco plant); *Mandel Brothers, Inc.*, 77 NLRB 512 (men's alteration department employees); *O. E. Kearns & Sons*, 72 NLRB 153 (fixers in seamless hosiery mills).

²⁵ In this respect, Article XIV of the Union's constitution, which deals with apprentices, provides only as follows:

Section 1. (a) Apprentices shall be permitted to learn the knitting trade only upon the recommendation of the Branch Executive Board.

(b) No one shall be eligible to become a knitter apprentice who has passed his twenty-first (21st) birthday, except with the approval of the Branch where such job opportunity would occur, and provided further that in such instances it must be approved by the NEB [National Executive Board].

(c) No Branch shall give consent to allow apprentices to start at the trade while Union apprentices are out of work.

Section 2. (a) All apprentices must have at least four (4) years' dues receipts before they may be eligible as knitters.

(b) Upon completing a probationary period of two (2) months operating a machine, he shall be entered upon the books as a knitter and receive knitters' dues receipts.

(c) This shall not apply to any new members involved in strikes, lockouts, or discrimination.

Section 3. Helpers and apprentices shall be entitled to vote on all questions.

fashioned hosiery industry on an industrial basis. Of approximately 55 mills under contract with the Union and performing integrated operations such as those at the Employer's plant, the Union's expert witness was able to refer to only 2 at which the Union has contracts covering knitters only. In addition, the record reveals that negotiations between the Union and the organized industry before their impartial wage tribunal are conducted upon the basis of the total labor cost to the employers, and not upon the specific pay rates of knitters or other employees in the industry.

As stated above, I do not believe that the record justifies the establishment of a separate unit for knitters. On the contrary, because of the pattern of bargaining in the industry,²⁶ the Union's organizational practices,²⁷ the integration of the knitters' operations with those of other employees in the plant,²⁸ the absence of a formal apprenticeship training program,²⁹ the lack of any substantial distinction between knitters and other employees,³⁰ and because the skill of full-fashioned hosiery knitters appears to be only a production talent³¹ which can be acquired in a comparatively short time, I would find that the group of employees whom the Union seeks to represent do not constitute a unit appropriate for the purposes of collective bargaining on either a craft or any other basis.

²⁶ *Davis & Furber Machine Company, supra*; *Pacific Mills*, 53 NLRB 164.

²⁷ *Pacific Mills, supra*; cf. *Todd Shipyards Corporation*, 63 NLRB 526.

²⁸ *Saco-Moc Shoe Corp., supra*; *Liberty Hosiery Mills, Inc., supra*.

²⁹ *Davis & Furber Machine Company, supra*; *Gulf Oil Corporation*, 79 NLRB 1274.

³⁰ Footnote 19, *supra*.

³¹ *Davis & Furber Machine Company, supra*.

COURTLAND MANUFACTURING COMPANY *and* UNITED ELECTRICAL,
RADIO AND MACHINE WORKERS OF AMERICA (UE), PETITIONER

COURTLAND MANUFACTURING COMPANY *and* INTERNATIONAL BROTHER-
HOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN AND HELPERS OF
AMERICA, LOCAL 676, AFL, PETITIONER. *Cases Nos. 4-RC-1092*
and 4-RC-1141. August 23, 1951

Decision and Direction of Elections

Upon separate petitions duly filed, a consolidated hearing was held in the above cases before Harold X. Summers, hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.¹

¹ Amalgamated Local 77, Playthings, Jewelry and Novelty Workers International Union, CIO, hereafter called the Toy Workers, an Intervenor herein, moved to dismiss the petition in Case No. 4-RC-1092, in substance, on the grounds that (1) there is a contractual bar; (2) the unit sought is inappropriate; (3) the Petitioner, herein called the UE, has made