

3. We find that 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. We find, in accordance with a stipulation of the parties, that the following employees of the Employer constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act: All production and maintenance employees of the Employer employed at its Yazoo City, Mississippi, plant, including plant clericals, truckdrivers, truck hostlers, messengers, janitors, and laboratory employees, but excluding all office clerical employees, field representatives, first aid nurses, engineers, assistant engineers, draftsmen, professional employees, guards, and supervisors as defined in the Act.

[Text of Direction of Election omitted from publication.]

CONE MILLS CORPORATION—EDNA PLANT *and* GEORGE T. TERRY,
PETITIONER *and* UNITED TEXTILE WORKERS OF AMERICA, A. F. L.

CONE MILLS CORPORATION—EDNA PLANT *and* TEXTILE WORKERS
UNION OF AMERICA, C. I. O., PETITIONER

CONE MILLS CORPORATION—WHITE OAK PLANT *and* JAMES KENNEDY,
PETITIONER *and* UNITED TEXTILE WORKERS OF AMERICA, A. F. L.
GREENSBORO-BURLINGTON JOINT BOARD

CONE MILLS CORPORATION—WHITE OAK PLANT *and* TEXTILE WORK-
ERS UNION OF AMERICA, C. I. O., PETITIONER

CONE MILLS CORPORATION—MINNEOLA PLANT *and* MERTON SIMPSON,
PETITIONER *and* UNITED TEXTILE WORKERS OF AMERICA, A. F. L.,
LOCAL 700

CONE MILLS CORPORATION—MINNEOLA PLANT *and* TEXTILE WORKERS
UNION OF AMERICA, C. I. O., PETITIONER

CONE MILLS CORPORATION—PRINT WORKS PLANT *and* VERNON L.
INGOLD, PETITIONER *and* UNITED TEXTILE WORKERS OF AMERICA,
A. F. L., LOCAL 259

CONE MILLS CORPORATION—PRINT WORKS PLANT *and* TEXTILE WORK-
ERS UNION OF AMERICA, C. I. O., PETITIONER

CONE MILLS CORPORATION—PROXIMITY PLANT *and* LLOYD C. KEN-
NEDY, PETITIONER *and* UNITED TEXTILE WORKERS OF AMERICA,
A. F. L., LOCAL 739

CONE MILLS CORPORATION—PROXIMITY PLANT *and* TEXTILE WORKERS
UNION OF AMERICA, C. I. O., PETITIONER

CONE MILLS CORPORATION—GRANITE PLANT *and* HUBERT ROSS INGOLD, PETITIONER *and* UNITED TEXTILE WORKERS OF AMERICA, A. F. L. LOCAL 1113

CONE MILLS CORPORATION—GRANITE PLANT *and* TEXTILE WORKERS UNION OF AMERICA, C. I. O., PETITIONER. *Cases Nos. 11-RD-47, 11-RC-623, 11-RD-48, 11-RC-629, 11-RD-49, 11-RC-630, 11-RD-50, 11-RC-631, 11-RD-51, 11-RC-632, 11-RD-52, and 11-RC-633. November 9, 1954*

Decision and Direction of Elections

Upon separate petitions duly filed under Section 9 (c) of the National Labor Relations Act, a consolidated hearing¹ was held before John M. Dyer, hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.²

Upon the entire record in this case, the Board finds:³

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

2. The labor organizations involved claim to represent certain employees of the Employer.

3. Questions affecting commerce exist 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.

The instant proceedings involve six North Carolina plants of the Employer known as the Edna, White Oak, Minneola, Print Works, Proximity, and Granite plants, respectively. The United Textile Workers of America, AFL, herein called the AFL, represents separate production and maintenance employees' units at each of the plants under separate contracts and pursuant to Board certifications. Separate decertification petitions affecting each of the plants were filed on April 30 and May 18, 1954. On May 3 and May 19, 1954, the Textile Workers Union of America, CIO, herein called the CIO, filed sep-

¹ As consolidation of hearings is a matter of administrative discretion, we find no merit in the contention that the proceedings herein were improperly consolidated. *Pacific Maritime Association*, 100 NLRB 1259, footnote 7.

² One Luther Carroll was permitted to intervene at the hearings as representative of the Greensboro-Burlington Joint Board, AFL, which represents the various local AFL unions. Carroll is an AFL signatory to the contracts and addendum clauses. The United Textile Workers of America, AFL, International representative, who was also permitted to intervene, excepts to Carroll's intervention on the ground that Carroll is no longer an AFL representative, an assertion which Carroll denies. We find that Carroll's intervention was proper under the circumstances, and did not prejudice the AFL International.

The United Textile Workers of America, AFL, herein called the AFL, challenged the decertification petitioners' showing of interest, and moved that the hearing be reopened for the purpose of taking evidence on fraudulent signatures, although admittedly it had no evidence of fraud. As there is no evidence of fraud, the motion is denied. Moreover the Board has repeatedly held that the showing of interest is a matter of administrative discretion, not litigable by the parties.

³ The requests of the Employer and Intervenor for oral argument are hereby denied, as the record and briefs adequately present the positions of the parties.

arate certification petitions with respect to each of these plants, seeking representation of the production and maintenance employees in each of these units. The parties agree that separate units of production and maintenance employees at each plant are appropriate. However, the Employer and the AFL urge their current contracts, which have varying expiration dates, as a bar to all the decertification and certification petitions.

The contract for the Proximity plant expired on October 1, 1954. The contract for the White Oak plant, which expires on December 1, 1954, has an October 1, 1954, automatic renewal date. The contract for Print Works plant has a November 1, 1954, expiration date, but no automatic renewal clause. The decertification petitions for each of the foregoing plants were filed on May 18, 1954, and the certification petitions affecting the same plants were filed on May 19, 1954. As the Proximity plant contract has expired, and as the October 1, 1954, automatic renewal date of the White Oak plant contract has passed, these contracts cannot serve to bar immediate elections at these plants.⁴ As the Print Works plant contract will expire within the next 30 days, that contract likewise cannot serve to bar an election at this time.⁵

We turn next to the contracts covering the Edna, Granite, and Minneola plants, respectively. The contract at the Edna plant expires March 1, 1955, and contains a January 1, 1955, automatic renewal date. The contract at the Granite plant expires January 1, 1955, and has no automatic renewal clause. The contract at the Minneola plant, expires February 1, 1955, and contains a December 1, 1954, automatic renewal date. In asserting that the contracts at these three plants do not bar the instant petitions, the decertification petitioners and the CIO rely on the following clause which was executed as an addendum⁶ to each of the contracts on the same day that the contracts were executed, and on action taken thereunder:

Elections

It is recognized that prior to the normal expiration date of the contract between the parties, as signed this day, the employees may desire to vote in a secret election on whether they want to continue the union and the contract until [applicable expiration date], or whether to discontinue the union as their bargaining agent. Accordingly, it is agreed that if at any time at least 50%

⁴ *Coca-Cola Bottling Works Company*, 93 NLRB 1414; *Anheuser-Busch, Inc.*, 102 NLRB 800, 803

⁵ *Affiliated Bakers Corp.*, 101 NLRB 1484, 1486

⁶ The Intervenor contends that these addenda are invalid because they were not, in all cases, signed by the same union signatories who signed the contracts. All the addenda were signed by Luther Carroll, business manager of the Greensboro-Burlington Joint Board, AFL, which is authorized to act on behalf of the various local unions, and at a time when Carroll was unquestionably authorized to act on behalf of both the Joint Board and the locals.

of the employees in the bargaining unit at this plant sign a petition for an election, then the contract will not be raised as a bar to an election by the National Labor Relations Board or by some mutually agreeable body. In the event such a petition is signed by 50% of the employees, the union agrees to cooperate in every way in securing a consent election at an early date and will abide by the results of the election.

Each of the decertification petitioners submitted special requests for an election from more than 50 percent of the employees in each unit.

The Employer and the AFL urge alternatively (1) that the quoted clause does not by its terms effectively waive the contracts as a bar to either decertification or certification proceedings, and (2) that even if the clause does by its terms render the contracts no bar to the decertification proceedings, the contracts nevertheless bar the certification proceedings.⁷

As we read the quoted clause, it provides in clear and unequivocal terms that the employees shall have the right to an election to determine whether the contracting union should no longer continue to serve as collective-bargaining representative. Under the circumstances, and as the contingency contemplated by the agreement of the parties has in fact arisen, in that more than 50 percent of the employees in each of the units have manifested their desire for an immediate election, we find that the contracts do not bar the decertification proceedings.⁸ Furthermore, as questions concerning representation have been raised by the decertification petitions, we find that the contracts likewise do not serve as a bar to the certification proceedings.⁹

The Employer and the Intervenor moved to dismiss the petitions on the additional ground that the contract bar issue is *res judicata* because of a prior dismissal of a petition involving the Granite plant. However, the condition contemplated in the above-described addendum clauses had not yet occurred and, in any event no contention was made based on such clauses at that time. We therefore find no merit in the motion to dismiss on this ground.¹⁰

⁷ The Employer and the AFL also contend that the individual card requests for an election signed by the employees do not meet the requirement of the contracts that a "petition" be signed by 50 percent of the employees. We find that the cards signed by over 50 percent of the employees clearly show an intent to take the course of action contemplated by the quoted clause in the contracts.

⁸ *Hidden Warehouse and Forwarding Company*, 80 NLRB 1587; *The American News Co., Inc.*, 102 NLRB 196.

⁹ See *Pantasote Company*, 103 NLRB 1271.

¹⁰ The Employer and the Intervenor also moved to dismiss the petitions on the further ground that there was collusion between the decertification petitioner and the petitioning union. The Board has held this contention to be irrelevant where, as here, the union involved is in full compliance with the filing requirements of Section 9 of the Act *Philadelphia Chewing Gum Corporation*, 107 NLRB 997; *Ketchum & Company, Inc.*, 95 NLRB 43, footnote 1.

4. The appropriate units:

In accordance with the agreement of the parties, we find that the following constitute units appropriate for purposes of collective bargaining within the meaning of Section 9 (b) of the Act:

(a) All production and maintenance employees at the Employer's Edna plant, Reidsville, North Carolina, excluding clerical or stenographic employees, second hands, timekeepers, loom stop checkers, yarn testers, supply room man, overseers, watchmen, executives, and all other supervisors as defined in the Act.

(b) All production and maintenance employees at the Employer's White Oak plant, Greensboro, North Carolina, excluding powerplant employees, electricians, production records clerks, supply clerks, trip boy, timekeepers, loom stop checkers, spinning end breakage checkers, laboratory employees, watchmen and guards, truckdrivers and mechanics, village upkeep employees, general construction employees, professional employees, foremen-fixers, and all other supervisors as defined in the Act.

(c) All production and maintenance employees at the Employer's Minneola plant, Gibsonville, North Carolina, excluding clerical employees, spinning breakage and weaving loom stop checkers, policemen, watchmen, foremen, and all other supervisors as defined in the Act.

(d) All production and maintenance employees at the Employer's Print Works plant, Greensboro, North Carolina, including factory clerical employees and truckdrivers, but excluding all machine printers (journeymen and apprentices) in the printing department, office clerical employees, watchmen and armed guards, laboratory employees (actual workmen are not considered laboratory employees when assigned to the chemical building), overseers, second hands, and all supervisors as defined in the Act.

(e) All production and maintenance employees at the Employer's Proximity plant, Greensboro, North Carolina, including plant clerical employees, second hands, and head loom fixers, but excluding office clerical employees, production records clerk, timekeepers, spinning end breakage and weaving loom stop checkers, head overhaulers, head spindle plumbers, laboratory employees, watchmen, village upkeep employees, truckdrivers and mechanics, electricians, supply room man, outside carpenters, powerplant employees, second hands, opener and picker room foremen and fixers, foremen, and all other supervisors as defined in the Act.

(f) All production and maintenance employees at the Employer's Granite plant, Haw River, North Carolina, excluding office clerical employees, watchmen, and supervisors as defined in the Act.

[Text of Direction of Elections omitted from publication.]