

In the Matter of WHITTIER MILLS COMPANY *and* TEXTILE WORKERS
ORGANIZING COMMITTEE

In the Matter of SILVER LAKE COMPANY *and* TEXTILE WORKERS
ORGANIZING COMMITTEE

Cases Nos. R-238 and R-233

Cotton Textile Industry—Investigation of Representatives: controversy concerning representation of employees; failure of negotiations for recognition of union as exclusive representative; substantial doubt as to majority status—*Unit Appropriate for Collective Bargaining:* production and maintenance employees of two separate companies; interchange of workers between companies; history of bargaining relations between employer and employees—*Election Ordered—Certification of Representatives.*

Mr. Walter G. Cooper, Jr., for the Board.

Weekes & Candler, by *Mr. John Wesley Weekes* and *Mr. Murphy Candler, Jr.*, of Decatur, Ga., for Whittier Mills Company and Silver Lake Company.

Mr. Frank A. Constangy, of Atlanta, Ga., for Textile Workers Organizing Committee.

Mr. Abraham L. Kaminstein, of counsel to the Board.

DIRECTION OF ELECTION

August 25, 1937

The National Labor Relations Board, having found that questions affecting commerce have arisen concerning the representation of employees of Whittier Mills Company, Chattahoochee, Georgia, and of employees of Silver Lake Company, Chattahoochee, Georgia, and that the production and maintenance employees of Whittier Mills Company and Silver Lake Company, exclusive of clerical and supervisory employees, constitute a single unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the National Labor Relations Act, 49 Stat. 449, and acting pursuant to the power vested in the National Labor Relations Board by Section 9 (c) of said Act, and pursuant to Article III, Section 8 of National Labor Relations Board Rules and Regulations—Series 1, as amended, hereby

DIRECTS that, as part of the investigation authorized by the Board to ascertain representatives for the purposes of collective bargaining with Whittier Mills Company and Silver Lake Company, an election by secret ballot shall be conducted within a period of ten (10) days after the date of this Direction of Election, under the direction and supervision of the Regional Director for the Tenth Region, acting in this matter as the agent of the National Labor Relations Board and subject to Article III, Section 9 of said Rules and Regulations—Series 1, as amended, among the production and maintenance employees of Whittier Mills Company and Silver Lake Company, exclusive of clerical and supervisory employees, on the pay roll of Whittier Mills Company and Silver Lake Company for the week ending on July 17, 1937, to determine whether they desire to be represented by Textile Workers Organizing Committee for the purposes of collective bargaining.

MR. EDWIN S. SMITH took no part in the consideration of the above Direction of Election.

[SAME TITLES]

AMENDMENT TO DIRECTION OF ELECTION

September 2, 1937

On August 25, 1937, the National Labor Relations Board, herein called the Board, issued a Direction of Election in the above-entitled cases, the election to be held within ten (10) days from the date of the Direction. Thereafter the Board was advised that the Companies have temporarily ceased production, but that they would resume normal operations on September 7, 1937.

All of the parties having agreed to a postponement of the election until such resumption of normal operations, and having also stipulated that all employees working at any time during the month of July 1937, shall be eligible to vote in said election, but that employees whose employment has permanently terminated since July 31, 1937, shall not be eligible to vote in said election, we hereby amend the Direction of Election issued on August 25, 1937, by striking therefrom the words "within ten (10) days from the date of this Direction," and substituting therefor the words, "within twenty (20) days from the date of this Direction," and also by striking therefrom the words "on the pay roll of Whittier Mills Company and Silver Lake Company for the week ending on July 17, 1937," and substituting therefor the words "who have worked at Whittier Mills Company and Silver Lake Company at any time during the month

of July 1937, exclusive of those whose employment has permanently terminated since July 31, 1937.”

MR. EDWIN S. SMITH took no part in the consideration of the above Amendment to Direction of Election.

[SAME TITLES]

DECISION
AND
CERTIFICATION OF REPRESENTATIVES

October 25, 1937

STATEMENT OF THE CASE

Textile Workers Organizing Committee, herein called the Union, filed a petition on July 9, 1937, and an amended petition on July 16, 1937, with the Regional Director for the Tenth Region (Atlanta, Georgia) alleging that a question affecting commerce had arisen concerning the representation of employees of Whittier Mills Company, Chattahoochee, Georgia, and requesting an investigation and certification of representatives pursuant to Section 9 (c) of the National Labor Relations Act, 49 Stat. 449, herein called the Act. On July 17, 1937, the Union filed a similar petition with respect to Silver Lake Company, Chattahoochee, Georgia. On July 20, 1937, the National Labor Relations Board, herein called the Board, acting pursuant to Article III, Section 3 of National Labor Relations Board Rules and Regulations—Series 1, as amended, ordered the Regional Director to conduct an investigation and provide for an appropriate hearing in the case involving Whittier Mills Company, and on July 31, 1937, made a similar order in the case involving Silver Lake Company.

Pursuant to notice of hearing duly served upon all parties, and upon the southern representative of the American Federation of Labor, a hearing was held in Atlanta, Georgia, on August 9 and 10, 1937, on both cases, before William H. Griffin, the Trial Examiner duly assigned by the Board. The Board, Whittier Mills Company, Silver Lake Company, and the Union were represented by counsel and participated in the hearing, but the American Federation of Labor did not appear, and took no part in the hearing. During the hearing and after evidence had been adduced in the case of Whittier Mills Company, a motion was made by the Board's attorney and granted, that the cases of Whittier Mills Company and Silver Lake Company be consolidated for the purposes of the hearing, and for convenience in taking testimony. All parties agreed

that the testimony already taken in the case of Whittier Mills Company be considered, in so far as it was relevant to the Silver Lake Company case, as part of that case. The Board has considered each case on its individual merits. Full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing upon the issues was afforded all parties.

Objections to the introduction of evidence were made during the course of the hearing by counsel for the respective parties. The Board has reviewed the rulings of the Trial Examiner on motions and objections directed to the issues raised by the petitions and finds that no prejudicial errors were committed. The rulings are hereby affirmed.

After examining the record in this matter, the Board concluded that questions affecting commerce had arisen concerning the representation of employees of Whittier Mills Company and of Silver Lake Company, and on the basis of such conclusion, and acting pursuant to Article III, Section 8 of National Labor Relations Board Rules and Regulations—Series 1, as amended, issued a Direction of Election on August 25, 1937, in which it found that the production and maintenance employees of Whittier Mills Company and Silver Lake Company, exclusive of clerical and supervisory employees, constitute a single unit appropriate for the purposes of collective bargaining. The Board also designated the Regional Director for the Twenty-First Region as its agent to conduct the election among the employees in the appropriate unit of Whittier Mills Company and Silver Lake Company, herein collectively called the Companies, on the pay rolls for the week ending on July 17, 1937. Merely for the purpose of expediting the election and thus to insure to the employees of the Companies the full benefit of their right to collective bargaining as soon as possible, the Board directed the election without at the same time issuing a decision embodying complete findings of fact and conclusions of law. Thereafter the Board was advised that the Companies had temporarily ceased production, but that they would resume normal operations on September 7, 1937. The parties agreed to a postponement of the election until such resumption of normal operations, and also stipulated that all employees working at any time during the month of July 1937, with the exception of Vel Cole, Emmett Daniel, Charley Dobson, O. E. Dobson, and Harrison Daniel were to be eligible to vote in said election. On September 2, 1937, the Board issued an Amendment to Direction of Election, which ordered that the election be postponed and that those eligible to vote should be all employees within the appropriate unit who had worked at Whittier Mills Company and Silver Lake Company at any time during the month of July 1937, exclusive of those whose employment had permanently terminated since July 31, 1937.

On September 4, 1937, Whittier Mills Company and Silver Lake Company filed exceptions and petitions for review of the order directing an election, on the ground that the order contained no fact-finding report on the hearing, and that no statement of facts had been issued upon which the conclusion that questions affecting commerce had arisen could be based. On September 8, 1937, the Board issued an order denying the petition for review.

Pursuant to the Board's Direction of Election, and Amendment to Direction of Election, an election by secret ballot was conducted by the Regional Director on September 10, 1937, among the employees of Whittier Mills Company and Silver Lake Company constituting the bargaining unit found appropriate by the Board. Thereafter, the Regional Director issued and duly served upon the parties to the proceeding the Intermediate Report upon the secret ballot. No exceptions to the Intermediate Report have been filed by any of the parties.

As to the results of the secret ballot, the Regional Director reported the following:

Total number eligible.....	963
Total ballots cast.....	814
Total votes for the Textile Workers Organizing Committee.....	452
Total votes against the Textile Workers Organizing Committee.....	335
Total votes challenged.....	27

Upon the entire record in the case the Board makes the following:

FINDINGS OF FACT

I. THE COMPANIES AND THEIR BUSINESS

A. *Whittier Mills Company*

Whittier Mills Company, herein called Whittier, is a Georgia corporation engaged in the manufacture of yarn specialties, twines, hose, belt duck, and cotton worsteds. Its plant is located at Chattahoochee, Georgia. The number of production and maintenance workers employed ranges from approximately 850 to 950.

The principal raw materials used by Whittier are cotton and waste materials. The waste materials are composed of card strips and combers. Whittier also uses wool in the form of yarn, dyes, and bleaching materials.

For the year ending June 30, 1937, Whittier used 6,030,000 pounds of cotton, and 2,520,000 pounds of waste materials. Cotton is purchased from dealers in Georgia and North Carolina. In certain cases, Whittier definitely specifies its desire for western cotton. Over ten per cent of the cotton is ordered from dealers doing business in states other than Georgia, and delivered by them by means of rail and truck, from outside the State. Most of the cotton used by Whittier is purchased from Georgia dealers, but some of this cotton

comes from other states. This is illustrated by the testimony of C. S. Ruff, manager of the Atlanta office of Anderson-Clayton Company, from whom Whittier buys ten per cent of its cotton. Ruff testified that his firm sold Whittier 324 square bales during the period mentioned above. Of this amount 200 bales had been shipped directly to Whittier from Houston, Texas, by rail, and the remaining 124 bales had come to Whittier from Anderson-Clayton's warehouse in Atlanta. Four bales of the 124 contained eastern-grown cotton, and the remainder contained cotton grown in Texas or Oklahoma.¹ When these bales had been shipped from Texas or Oklahoma, some had been designated for Whittier, and some had not; as a general rule, they had been designated for Whittier.

At least 22 per cent of the waste materials come by shipment from dealers outside of Georgia. All of the wool yarn used by Whittier comes from Massachusetts.

Most of the products of Whittier are manufactured on order. For the year ending June 30, 1937, Whittier shipped 5,600,000 pounds, as follows: approximately 16 per cent to Silver Lake Company; 11 per cent to a local mill; ² 16 per cent to wrapping and twine jobbers; 46 per cent (hose cord and duck) to rubber manufacturers. The remaining ten per cent of the products consisted of three per cent as cotton worsted goods, and seven per cent as mop yarn and single yarn.

The proportion of the products shipped outside the State is as follows: all of the hose cord and duck produced; three-fourths of the cotton-worsted goods; 90 per cent of the mop yarn and single yarn; and 90 per cent of the twine.

B. *Silver Lake Company*

Silver Lake Company, herein called Silver Lake, is a Georgia corporation. Its plant is located in the same building with the plant of Whittier. Silver Lake manufactures sash cord, cord for mail bags, trolley cords, and cord for use in train cars. It employs approximately 55 production and maintenance workers.

All the raw materials used by Silver Lake, with the exception of sizing, are obtained from Whittier. The chief raw materials are cotton and waste yarn. All of the manufacturing done by Silver Lake is on order, and its market is nation-wide, 98 per cent of its products being shipped to destinations outside the State of Georgia.

A majority of the stock of both Whittier and Silver Lake is owned by the same persons; and a majority of the stockholders live in Massachusetts. The three directors of Silver Lake, James J. Scott, Butler Ames, and Ames Stevens, are also included among the directors of

¹ Board's Exhibit No. 28.

² Scottdale Mills, Scottdale, Georgia.

Whittier. James J. Scott is the manager and treasurer of the Companies as well as being the general manager of Scottdale Mills, and the president of Georgia Duck & Cordage Mill. Miriam Duncan is the secretary of the Companies, and has charge of their records.

Up to two and a half years ago, the Companies maintained sales offices in Boston and elsewhere. These offices have now been abandoned, and the Boston office has been taken over by J. P. Stevens Company, commission merchants, of New York. The present selling arrangements with this firm are the same for both Companies. While there is no written agreement, the New York firm sells all of the products of the Companies, except those portions sold to Silver Lake and Scottdale Mills. J. P. Stevens Company secures orders for the Companies, submits the specifications, and arranges for payment. Bills of lading show Whittier as the consignor in some cases, and J. P. Stevens Company in the remainder.

II. THE ORGANIZATION INVOLVED

Chattahoochee Local Union No. 1886, United Textile Workers of America, herein called Local 1886, was organized in 1933. The same local admitted the employees of both Companies. In April 1937, pursuant to the action of its international organization, Local 1886 became affiliated with Textile Workers Organizing Committee, the Union, and the Committee for Industrial Organization. The Union admits to membership all production and maintenance workers employed by the Companies, and excludes supervisory and clerical employees.

III. THE QUESTIONS CONCERNING REPRESENTATION

Local 1886 first negotiated with the management of the Companies early in 1934. In September 1934 a strike occurred, during which neither of the Companies operated. Eventually Local 1886 filed a complaint with the Textile Labor Relations Board.³

In November 1935 there was a change of management and a change in labor policies as well. Several men discharged by the former management, presumably for union activity, were taken back. Local 1886 was recognized and dealt with as the representative of its own members.

During May 1937 the Textile Workers Organizing Committee began negotiations with the Companies, and presented a tentative agreement to J. J. Scott, the general manager. Scott informed the Union that he desired to make sure that it represented a majority. The Union thereupon furnished him with a list of its members. Negotiations were proceeding when Scott called the attention of the

³ *Matter of Whittier Mills Company, Chattahoochee, Georgia, and Chattahoochee Local Union No. 1886, United Textile Workers of America, Case No. 34, decided April 2, 1935.*

Union's representatives to the fact that the American Federation of Labor had served notice upon him claiming that they represented a majority of the employees. The Union thereupon agreed to an election to demonstrate its majority.

A consent election was arranged with the names of both unions on the ballot. A few days before the date upon which this election was scheduled to be held, the American Federation of Labor withdrew its name from the ballot, over the protest of the Union. Subsequently, the management declined to participate in a consent election. The parties stipulated that a controversy had arisen over the question of whether the Union represents a majority of the employees.

IV. THE APPROPRIATE UNIT

The Union claims, as constituting the appropriate unit, all the production and maintenance employees of both Companies, excluding clerical and supervisory employees. In so far as the management is concerned, it deals with the employees of both Companies as if they belonged to one company. If no work can be found for an employee reporting to one he is sent to the other. Thus, an employee may not know for which company he will work before reporting. An employee working for Silver Lake, and then for Whittier, still retains the Silver Lake number on the pay roll. On pay day, employees of both Companies form a single line and are paid from the same window and at the same time.

The Companies have agreed that both plants may be considered as a single unit for the purposes of collective bargaining. The same local of the Union represents employees of both Companies. It would appear that negotiations have always proceeded upon the assumption that employees of both Companies were to be treated similarly. Any other arrangement would prove difficult and impracticable in view of the proximity of the two plants, and the interchange of workers between them. The Board finds that a single bargaining unit including employees of the Companies will be most conducive to effective collective bargaining.

The Union does not admit clerical workers, and we will follow our usual rule in excluding such workers from the appropriate unit when none of the unions involved wish to bargain for them. We find that in order to insure to employees of Whittier Mills Company and Silver Lake Company the full benefit of their right to self-organization and to collective bargaining, and otherwise to effectuate the policies of the National Labor Relations Act, all of the production and maintenance workers, excepting clerical and supervisory employees, of Whittier Mills Company and Silver Lake Company, constitute a single unit appropriate for the purposes of collective bargaining.

V. THE EFFECT OF THE QUESTIONS OF REPRESENTATION ON COMMERCE

Nothing was shipped from the plants of the Companies during the 1934 strike; and neither of the mills operated. The present difficulties have caused some tension due to the delay in negotiations.

We find that the questions concerning representation which have arisen, occurring in connection with the operations of Whittier Mills Company and Silver Lake Company described in Section I above, have a close, intimate and substantial relation to trade, traffic, and commerce among the several States, and tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

CONCLUSIONS OF LAW

Upon the basis of the foregoing findings of fact, and upon the entire record in the proceeding, the Board makes the following conclusions of law:

1. Questions affecting commerce have arisen concerning the representation of employees of Whittier Mills Company and Silver Lake Company, within the meaning of Section 9 (c) and Section 2 (6) and (7) of the National Labor Relations Act.

2. The production and maintenance employees of Whittier Mills Company and Silver Lake Company, exclusive of clerical and supervisory employees, constitute a single unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the National Labor Relations Act.

CERTIFICATION OF REPRESENTATIVES

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 8 of National Labor Relations Board Rules and Regulations—Series 1, as amended,

IT IS HEREBY CERTIFIED that Textile Workers Organizing Committee has been designated by a majority of the production and maintenance employees of Whittier Mills Company and Silver Lake Company, Chattahoochee, Georgia, exclusive of clerical and supervisory employees, as their representative for the purposes of collective bargaining with Whittier Mills Company and Silver Lake Company, or either of them, and that, pursuant to the provisions of Section 9 (a) of the National Labor Relations Act, Textile Workers Organizing Committee is the exclusive representative of all such employees for the purposes of collective bargaining with Whittier Mills Company and Silver Lake Company, or either of them, in respect to rates of pay, wages, hours of employment, and other conditions of employment.