

In the Matter of ERWIN COTTON MILLS COMPANY *and* TEXTILE  
WORKERS' ORGANIZING COMMITTEE

In the Matter of ERWIN COTTON MILLS COMPANY *and* TEXTILE  
WORKERS' ORGANIZING COMMITTEE

In the Matter of ERWIN COTTON MILLS COMPANY *and* TEXTILE  
WORKERS' ORGANIZING COMMITTEE

*Cases Nos. R-552, R-553, and R-555.—Decided April 14, 1938*

*Textile Industry—Investigation of Representatives:* controversy concerning representation of employees: refusal by employer to recognize Union as exclusive representative—*Units Appropriate for Collective Bargaining:* separate units for all hourly and piece-rate production and maintenance employees, exclusive of supervisory and clerical employees and watchmen, in each of three cities where the Company has a plant or plants—*Representatives:* election conducted by Board in each unit—*Certification of Representatives:* upon majority vote for Union in each unit.

*Mr. Samuel M. Spencer, for the Board.*

*Fuller, Reade & Fuller, by Mr. Jones Fuller and Mr. Frank Fuller, of Durham, N. C., for the Company.*

*Mr. Seth P. Brewer, of Charlotte, N. C., for the Textile Workers' Organizing Committee.*

*Mr. Walter T. Nolte, of counsel to the Board.*

## DECISION

AND

## CERTIFICATION OF REPRESENTATIVES

### STATEMENT OF THE CASE

On November 24, 1937, Textile Workers' Organizing Committee, herein called the Union, filed with the Regional Director for the Fifth Region (Baltimore, Maryland) two petitions alleging that questions affecting commerce had arisen concerning the representation of employees of Erwin Cotton Mills Company, herein called the Company, and requesting investigations and certifications of representatives pursuant to Section 9 (c) of the National Labor Relations Act, 49 Stat. 449, herein called the Act. On December 15, 1937, the National Labor Relations Board, herein called the Board, acting pursuant to Section 9 (c) of the Act and Article III, Sections 3 and 10 (c) (2), of National Labor Relations Board Rules and Regulations—Series 1,

as amended, ordered an investigation and authorized the Regional Director to conduct it and to provide for an appropriate hearing upon due notice and ordered a consolidation of the two cases for the purpose of hearing.

On December 27, 1937, the Regional Director issued a notice of hearing, copies of which were duly served upon the Company and upon the Union. Pursuant to the notice, a hearing was held on January 10, 1938, at Durham, North Carolina, before McClellan Butt, the Trial Examiner duly designated by the Board. The Board and the Company, represented by counsel, and the Union, appearing by its Assistant Carolinas' Administrator, participated in the hearing. Full opportunity to be heard, to examine and to cross-examine witnesses, and to introduce evidence bearing on the issues was afforded all parties.

At the opening of the hearing the Union made known its intention of filing an additional petition raising a question concerning the representation of employees of the Company in two of its plants not covered by the two petitions filed on November 24, 1937. The Trial Examiner allowed the introduction of evidence concerning the two plants when the Board and the Company agreed to such procedure and stipulated that any order issued by the Board should include them. During the course of the hearing counsel for the Company accepted service of a petition covering these two plants dated January 10, 1938, and the Trial Examiner ordered its admission in evidence.<sup>1</sup> The Board has reviewed these rulings as well as all other rulings of the Trial Examiner and finds that no prejudicial errors were committed. The rulings are hereby affirmed.

After examining the record in the case, the Board concluded that questions affecting commerce had arisen concerning the representation of employees of the Company, and on the basis of such conclusion, and acting pursuant to Article III, Section 8, of said Rules and Regulations—Series 1, as amended, issued a Direction of Elections on January 26, 1938,<sup>2</sup> in which it found that all hourly and piece-rate production and maintenance employees of the Company, exclusive of supervisory and clerical employees and watchmen, at its plant numbers 1, 4, and 6, in Durham, North Carolina, constitute one unit, that such employees at its plant number 3, in Cooleemee, North Carolina, constitute a second unit, that such employees at its plant numbers 2 and 5, in Erwin, North Carolina, constitute a third unit, and that each unit is appropriate for the purposes of collective bargaining. For the purpose of expediting the election and thus insuring to the employees of the Company the full benefit of their

<sup>1</sup> Board Exhibit No. 2.

<sup>2</sup> 4 N. L. R. B. 1138.

right to collective bargaining as early as possible, the Board directed the elections without at the same time issuing a decision embodying complete findings of fact and conclusions of law.

Pursuant to the Direction, elections by secret ballot were conducted on February 9, 10, and 11, 1938. Full opportunity was accorded to all of the parties of this investigation to participate in the conduct of the secret ballots and to make challenges. On February 14, 1938, Bennet F. Schauffler, Regional Director for the Fifth Region (Baltimore, Maryland), acting pursuant to Article III, Section 9, of said Rules and Regulations—Series 1, as amended, issued his Intermediate Reports upon Secret Ballots, copies of which were duly served upon all parties to the proceeding. No exceptions to the Intermediate Reports have been filed by any of the parties.

As to the results of the secret ballots, the Regional Director reported as follows:

I. Unit one—Plants 1, 4, and 6, at Durham, North Carolina—Ballot conducted February 9, 1938

1. Total number eligible.....	1883
2. Total ballots cast.....	1715
3. Total number of blank ballots.....	0
4. Total number of void ballots.....	4
5. Total number of challenged votes.....	0
6. Total number of ballots cast for Textile Workers' Organizing Committee.....	1468
7. Total number of ballots cast against Textile Workers' Organizing Committee.....	243

II. Unit two—Plant 3, Cooleemee, North Carolina—Ballot conducted February 10, 1938

1. Total number eligible.....	1102
2. Total ballots cast.....	1005
3. Total number of blank ballots.....	0
4. Total number of void ballots.....	0
5. Total number of challenged votes.....	0
6. Total number of ballots cast for Textile Workers' Organizing Committee.....	786
7. Total number of ballots cast against Textile Workers' Organizing Committee.....	219

III. Unit three—Plants 2 and 5, Erwin, North Carolina—Ballot conducted February 11, 1938

1. Total number eligible.....	1910
2. Total ballots cast.....	1778
3. Total number of blank ballots.....	4
4. Total number of void ballots.....	3
5. Total number of challenged votes.....	0
6. Total number of ballots cast for Textile Workers' Organizing Committee.....	958
7. Total number of ballots cast against Textile Workers' Organizing Committee.....	813

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

### FINDINGS OF FACT

#### I. THE BUSINESS OF THE COMPANY

Erwin Cotton Mills Company is a North Carolina corporation engaged in the production of cotton textiles, such as sheets, flannel, denim, ticking, and covert cloth. Of the six plants involved in this proceeding, plants 1, 4, and 6 are located in Durham, North Carolina, plant 3 in Cooleemee, North Carolina, and plants 2 and 5 in Erwin, North Carolina.

Cotton, the chief raw material used in all of the Company's plants, is purchased in North Carolina and South Carolina and occasionally in Texas. Machinery used by the Company is manufactured in Maine and Massachusetts. Starch is purchased in Illinois.

The products from the three plants at Durham are sold in most of the principal cities of the United States and, to a limited extent, in Cuba. Approximately 95 per cent of these products are sold outside the State of North Carolina. Approximately 90 per cent of the products from the plant in Cooleemee are sold outside the State of North Carolina, principally in New York City and St. Louis, Missouri. The principal markets for the products of the two plants in Erwin are Baltimore, Maryland; Greensboro, North Carolina; and Columbia City, Indiana. Approximately 80 per cent of the products of these two plants are sold outside the State of North Carolina. The Company advertises the products of all of the plants in the Daily News Record, New York City, and sells such products through Joshua L. Bailey & Co., New York City.

The Company employs approximately 1,900 workers at the three plants in Durham, approximately 1,750 at the plant in Cooleemee, and approximately 1,940 at the two plants in Erwin. It is one of the largest producers of cotton textiles in the United States.

#### II. THE ORGANIZATION INVOLVED

Textile Workers' Organizing Committee is a labor organization affiliated with the Committee for Industrial Organization, admitting to its membership all hourly and piece-rate production and maintenance employees of the Company exclusive of supervisory and clerical employees and watchmen.

#### III. THE QUESTIONS CONCERNING REPRESENTATION

The Union claimed to represent a substantial majority of the employees of the Company in each of the three collective bargaining units claimed by it to be appropriate and asked that elections be held to establish its right to act as an exclusive representative.

In each of the petitions it was alleged by the Union that the Company had refused to recognize it as sole bargaining agency. The allegations were not challenged at the hearing.

We find that questions have arisen concerning representation of employees of the Company.

#### IV. THE EFFECT OF THE QUESTIONS CONCERNING REPRESENTATION UPON COMMERCE

We find that the questions concerning representation which have arisen, occurring in connection with the operations of the 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.

#### V. THE APPROPRIATE UNITS

In each of the three petitions the Union designated all hourly and piece-rate production and maintenance employees, exclusive of supervisory and clerical employees and watchmen, as constituting an appropriate bargaining unit. As previously indicated one petition covered plants 1, 4, and 6 in Durham, another covered plant 3 in Cooleemee, and the third covered plants 2 and 5 in Erwin. Claims were thereby entered for three separate and distinct collective bargaining units. The Company was silent throughout the hearing on the question of the appropriateness or inappropriateness of the units claimed by the Union.

We find that all hourly and piece-rate production and maintenance employees of the Company, exclusive of supervisory and clerical employees and watchmen, in plants 1, 4, and 6 at Durham, North Carolina, constitute one unit, that such employees in plant 3 at Cooleemee, North Carolina, constitute a second unit, that such employees in plants 2 and 5 at Erwin, North Carolina, constitute a third unit, that each unit is appropriate for the purposes of collective bargaining, and that such units will insure to employees of the Company the full benefit of their right to self-organization and to collective bargaining and otherwise effectuate the policies of the Act.

#### VI. THE DETERMINATION OF REPRESENTATIVES

The results of the ballot as set forth above indicate that the Union has been chosen by a majority of the employees in each unit as their representative for the purposes of collective bargaining.

We find that the Union has been designated and selected by a majority of the employees in each appropriate unit as their representative for the purposes of collective bargaining. It is, therefore, the

exclusive representative of all the employees in such units for the purposes of collective bargaining and we will so certify.

Upon the basis of the above findings of fact and upon the entire record in the case, the Board makes the following:

#### CONCLUSIONS OF LAW

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

2. All hourly and piece-rate production and maintenance employees of the Company, exclusive of supervisory and clerical employees and watchmen, in plants 1, 4, and 6 at Durham, North Carolina, constitute one unit, such employees in plant 3 at Cooleemee, North Carolina, constitute a second unit, such employees in plants 2 and 5 at Erwin, North Carolina, constitute a third unit, and each unit is appropriate for the purposes of collective bargaining, within the meaning of Section 9 (b) of the National Labor Relations Act.

3. Textile Workers' Organizing Committee is the exclusive representative of all the employees in such units for the purposes of collective bargaining within the meaning of Section 9 (a) 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 and selected by a majority of all hourly and piece-rate production and maintenance employees of Erwin Cotton Mills Company, exclusive of supervisory and clerical employees and watchmen, in its plants 1, 4, and 6 at Durham, North Carolina, by a majority of such employees in its plant 3 at Cooleemee, North Carolina, and by a majority of such employees in its plants 2 and 5 at Erwin, North Carolina, as their representative for the purposes of collective bargaining and that, pursuant to the provisions of Section 9 (a) of the Act, Textile Workers' Organizing Committee is the exclusive representative of all such employees for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, and other conditions of employment.