

In the Matter of GRANITE FINISHING WORKS OF PROXIMITY MFG.
COMPANY and TEXTILE WORKERS ORGANIZING COMMITTEE

Case No. R-691.—Decided May 21, 1938

Cotton Textile Industry—Investigation of Representatives: controversy concerning representation of employees—Unit Appropriate for Collective Bargaining: all employees, except supervisory and clerical employees and watchmen; no controversy as to—Election Ordered

Mr. Jacob Blum and Mr. Samuel W. Spencer, for the Board.
Mr. L. P. McLendon, of Greensboro, N. C., for the Company.
Mr. Frank J. Ward, of Burlington, N. C., for the Union.
Mr. Arnold R. Cutler, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

On December 15, 1937, Textile Workers Organizing Committee, herein called the Union, filed with the Regional Director for the Fifth Region (Baltimore, Maryland) a petition alleging that a question affecting commerce had arisen concerning the representation of employees of Granite Finishing Works of Proximity Mfg. Company, Hall River, North Carolina, herein called the Company, 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 February 18, 1938, the National Labor Relations Board, herein called the Board, acting pursuant to Section 9 (c) of the Act and Article III, Section 3, 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.

On March 5, 1938, 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 March 17, 1938, at Graham, North Carolina, a place other than that specified in the notice but at which all the parties were present and participated, before E. R. Strempele, the Trial Examiner duly designated by the Board.

The Board and the Company were represented by counsel, and the Union by a representative. 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 commencement of the hearing counsel for the Company made a motion, which was renewed at the close of the hearing, to dismiss the petition on the ground that it was prematurely filed since no question affecting commerce had arisen concerning the representation of employees of the Company at the Granite Finishing Works. The Trial Examiner reserved the determination of this motion for the Board. The motion is hereby denied. During the course of the hearing the Trial Examiner made several rulings on motions and on objections to the admission of evidence. The Board has reviewed the rulings of the Trial Examiner and finds that no prejudicial errors were committed. The rulings are hereby affirmed.

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

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

The Company is a corporation organized under the laws of the State of North Carolina and maintains its principal office at Greensboro, North Carolina. It operates several mills, only one of which, the Granite Finishing Works, at Hall River, North Carolina, is involved in this proceeding. The Granite Finishing Works is hereinafter referred to as the mill. The Company is engaged in the manufacture of corduroys at the mill.

The principal raw material used at the mill is unbleached and undyed cotton cloth known as grey goods, all of which is purchased in North Carolina. Other materials used at the mill are purchased from without the State, such as dyestuffs from New Jersey, starch from Iowa, dextrine from Illinois, and manufactured parts from Massachusetts.

The average production at the mill is 250,000 yards of finished cloth per month. The average value of its monthly production of finished goods is approximately \$100,000. Approximately 95 per cent of its finished products are shipped out of the State of North Carolina.

On March 2, 1938, the Company employed 134 employees at the mill, exclusive of supervisory and clerical employees and watchmen.

II. THE ORGANIZATION INVOLVED

Textile Workers Organizing Committee is a labor organization affiliated with the Committee for Industrial Organization, admitting

to membership all employees of the Company at the mill, exclusive of supervisory and clerical employees and watchmen.

III. THE QUESTION CONCERNING REPRESENTATION

On January 31, 1938, the Union sent a letter to the Company requesting a conference for the purpose of discussing an agreement relating to recognition of the Union, wages, hours, and other conditions of employment. The Company replied by letter that the proposed conference was useless in view of the fact that the petition herein had already been filed with the Regional Director.

We find that a question has arisen concerning the representation of employees of the Company at the mill.

IV. THE EFFECT OF THE QUESTION CONCERNING REPRESENTATION UPON COMMERCE

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

V. THE APPROPRIATE UNIT

The Union claims that all employees of the Company at the mill, excluding supervisory and clerical employees and watchmen, constitute a unit appropriate for the purposes of collective bargaining. The Company did not object to this unit and made no claim for a different unit.

We find that all the employees of the Company at the Granite Finishing Works mill, excluding supervisory and clerical employees and watchmen, constitute a unit appropriate for the purposes of collective bargaining and that said unit will insure to employees of the Company at the Granite Finishing Works mill the full benefit of their right to self-organization and collective bargaining and otherwise effectuate the policies of the Act.

VI. THE DETERMINATION OF REPRESENTATIVES

On March 2, 1938, there were 134 employees, exclusive of supervisory and clerical employees and watchmen, employed by the Company at the mill. Of these 134 employees the Union claimed to represent from 90 to 100. The Union supported its claim by the oral testimony of its representative. The Union neither gave the

names of its claimed members nor introduced into evidence membership or application cards.

We find that the question which has arisen concerning the representation of employees can best be resolved by the holding of an election by secret ballot.

The Union requested that, in the event that the Board directed an election, the Company's pay roll at the time of the filing of the petition be used in determining eligibility to vote. The Company made no objection. Accordingly, those eligible to vote shall be the employees in the appropriate unit who were employed during the pay-roll period immediately preceding December 15, 1937, the date of the filing of the petition, excluding those who have since quit or have been discharged for cause.

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. A question affecting commerce has arisen concerning the representation of employees of Proximity Mfg. Company at its Granite Finishing Works mill, Hall River, North Carolina, within the meaning of Section 9 (c) and Section 2 (6) and (7), of the National Labor Relations Act.

2. All the employees of the Company at its Granite Finishing Works mill, Hall River, North Carolina, exclusive of supervisory and clerical employees and watchmen, constitute a unit appropriate for the purposes of collective bargaining, within the meaning of Section 9 (b) of the National Labor Relations Act.

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

DIRECTED that, as a part of the investigation ordered by the Board to ascertain representatives for the purposes of collective bargaining with Proximity Mfg. Company, at its Granite Finishing Works mill, Hall River, North Carolina, an election by secret ballot shall be conducted within twenty (20) 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, Section 9, of said Rules and Regulations, among all the employees of Proximity Mfg.

Company at its Granite Finishing Works mill, Hall River, North Carolina, who were employed by the Company during the pay-roll period immediately preceding December 15, 1937, excluding supervisory and clerical employees and watchmen, and those who have since quit or have been discharged for cause, to determine whether or not they desire to be represented by Textile Workers Organizing Committee for the purposes of collective bargaining.

[SAME TITLE]

AMENDMENT TO DECISION AND DIRECTION OF ELECTION

June 2, 1938

On May 21, 1938, the National Labor Relations Board issued its Decision and Direction of Election in the above-entitled proceeding. In accordance with the transcript of the testimony, the Decision and Direction of Election referred to the Granite Finishing Works mill as located at Hall River, North Carolina. It appears that the designation of the location of the mill was incorrectly reported in the transcript by the stenographer, the mill being located at Haw River. Accordingly, the Board hereby amends its Decision and Direction of Election issued on May 21, 1938, by striking therefrom the words "Hall River," wherever they appear, and substituting therefor the words "Haw River."

[SAME TITLE]

CERTIFICATION OF REPRESENTATIVES

June 27, 1938

On May 21, 1938, the National Labor Relations Board, herein called the Board, issued a Decision and Direction of Election in the above-entitled case. On June 2, 1938, the Board issued an Amendment to Decision and Direction of Election. The Direction of Election, as amended, directed that an election by secret ballot be conducted within twenty (20) days from the date of the Direction among all the employees of Proximity Manufacturing Company at its Granite Finishing Works mill, Haw River, North Carolina, who were employed by the Company during the pay-roll period immediately preceding December 15, 1937, excluding supervisory and clerical employees and watchmen, and those who had since quit or had been discharged for cause, to determine whether or not they desired to be represented by Textile Workers Organizing Committee for the purpose of collective bargaining.

Pursuant to this Decision and Direction of Election, as amended, an election by secret ballot was conducted on June 9, 1938, at Haw River, North Carolina, under the direction and supervision of William M. Aicher, Acting Regional Director for the Fifth Region (Baltimore, Maryland). Full opportunity was accorded to all of the parties to this investigation to participate in the conduct of the secret ballot and to make challenges. On June 10, 1938, the said Acting Regional Director, acting pursuant to Article III, Section 9, of National Labor Relations Board Rules and Regulations—Series 1, as amended, issued and duly served upon the parties his Intermediate Report on the ballot. No objections or exceptions to the Intermediate Report have been filed by any of the parties.

As to the balloting and its results, the Acting Regional Director reported as follows:

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| Total employees eligible..... | 129 |
| Total number of ballots cast..... | 127 |
| Ballots cast for Textile Workers Organizing Committee..... | 71 |
| Ballots cast against Textile Workers Organizing Committee.. | 56 |
| Challenged ballots..... | 0 |
| Blank ballots..... | 0 |
| Void ballots..... | 0 |

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, Sections 8 and 9, 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 the employees of Proximity Manufacturing Company at its Granite Finishing Works mill, Haw River, North Carolina, excluding supervisory and clerical employees and watchmen, as their representative for the purposes of collective bargaining, and that, pursuant to 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 in respect to rates of pay, wages, hours of employment, and other conditions of employment.