

In the Matter of WOODSIDE COTTON MILLS COMPANY and TEXTILE  
WORKERS ORGANIZING COMMITTEE

Case No. R-729.—Decided June 16, 1938

*Cotton Textile Industry—Investigation of Representatives:* controversy concerning representation of employees: majority status disputed by employer—*Unit Appropriate for Collective Bargaining:* production and maintenance employees, excluding clerical and supervisory employees and watchmen—*Election Ordered*

*Mr. Marion A. Prowell*, for the Board.

*Mr. C. F. Haynsworth* and *Mr. C. F. Haynsworth, Jr.*, of Greenville, S. C., for the Company.

*Mr. Whitherspan Dodge*, of Greenville, S. C., for the T. W. O. C.

*Mr. S. G. Lippman*, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

On December 17, 1937, Textile Workers Organizing Committee, herein called the T. W. O. C., filed with the Regional Director for the Tenth Region (Atlanta, Georgia) a petition, and on April 6, 1938, an amended petition, alleging that a question affecting commerce had arisen concerning the representation of employees of Woodside Cotton Mills Company, Greenville, South 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 April 13, 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 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.

Thereafter, the Regional Director issued and duly served notice, amended notice and second amended notice of hearing upon the Com-

pany and the T. W. O. C. Pursuant to the second amended notice a hearing was held on May 9, 1938, at Greenville, South Carolina, before D. Lacy McBryde, the Trial Examiner duly designated by the Board. The Board, the Company, and the T. W. O. C. were represented by counsel and participated in the hearing. Full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues was afforded all parties. During the course of the hearing, the Trial Examiner made several rulings 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 South Carolina corporation engaged in the manufacture of cotton print cloth, operating three plants in Greenville County, South Carolina. This proceeding concerns only the main plant located in Greenville, South Carolina, known as the Greenville Plant.

In 1937 the Company used 8,623,677 pounds of cotton at its Greenville Plant. Approximately 18 per cent of this cotton came from sources outside the State of South Carolina. In addition, practically all of the Company's supplies came from outside the State of South Carolina. In 1937 the Company manufactured 8,844,845 pounds of cotton cloth at its Greenville Plant. The sale of this cloth is made through a New York commission house and practically all of the Company's finished cloth is shipped to points outside the State of South Carolina.

#### II. THE ORGANIZATION INVOLVED

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

#### III. THE QUESTION CONCERNING REPRESENTATION

About May 1937 the T. W. O. C. began organizing the Company's employees. On December 7, 1937, the T. W. O. C. sent a letter to the Company stating that it represented a substantial majority of the Company's Greenville Plant employees and requested a bargaining conference. The Company replied by letter, dated December 15,

1937, stating: "We are unable to agree with your claim that you represent a majority of the Woodside Cotton Mill employees for purposes of collective bargaining, and in such circumstances we wonder whether a conference would be worth while."

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

#### 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 T. W. O. C. claims that the Company's production and maintenance employees, excluding clerical and supervisory employees and watchmen, constitute a unit appropriate for the purposes of collective bargaining. The Company contends that watchmen should be included in the bargaining unit. The Company employs five watchmen at its Greenville Plant, some of whom fire furnaces in addition to their work as watchmen. The watchmen are eligible for membership in the T. W. O. C.

It has been our practice to exclude watchmen from a unit composed of production and maintenance employees where objection to their inclusion is raised by a participating labor organization.<sup>1</sup> Accordingly we shall exclude the watchmen from the bargaining unit.

We find that the production and maintenance employees of the Company's Greenville Plant, excluding clerical and supervisory employees and watchmen, constitute a unit appropriate for the purposes of collective bargaining and that said unit 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. DETERMINATION OF REPRESENTATIVES

The T. W. O. C. contends that it represents a majority of the Company's Greenville Plant employees in the appropriate bargaining

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<sup>1</sup> *Matter of Plankinton Packing Company and Packing House Workers Organizing Committee on Behalf of Local 681 of the United Packing House Workers of America*, 5 N. L. R. B. 813; *Matter of Simmons Company and Steel Workers Organizing Committee*, 6 N. L. R. B. 208.

unit. Elizabeth Hawes, an organizer for the T. W. O. C., however, admits that no check of its membership was ever made against the Company's pay roll. The T. W. O. C.'s application cards and the Company's pay roll were not introduced into evidence.

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

The parties agreed that the Company's pay roll for the week ending April 27, 1938, should be used in determining the list of eligible voters. Accordingly, all employees in the appropriate bargaining unit, whose names appear on the pay roll for the week ending April 27, 1938, shall be eligible to vote in the election.

The parties also agreed that the election should be held on a day when the mill is in operation<sup>2</sup> at the Woodside Grade School, which is in the vicinity of the mill, and that voting should take place from 11 a. m. to 8 p. m. This is a matter within the discretion of the Regional Director in his conduct of the election, but we see no objection to the holding of the election at the time and place agreed upon by the parties.

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

#### CONCLUSIONS OF LAW

1. A question affecting commerce has arisen concerning the representation of employees of Woodside Cotton Mills Company at its Greenville Plant, Greenville, South Carolina, 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 the Company's Greenville Plant, excluding clerical and supervisory 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

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<sup>2</sup> At the present time, the mill operates only on Monday and Tuesday, and is closed the balance of the week.

DIRECTED that, as a part of the investigation authorized by the Board to ascertain representatives for collective bargaining with Woodside Cotton Mills Company, Greenville, South Carolina, an election by secret ballot shall be conducted within fifteen (15) days from the date of this Direction, under the direction and supervision of the Regional Director for the Tenth Region, acting in this matter as the agent for the National Labor Relations Board, and subject to Article III, Section 9, of said Rules and Regulations, among the production and maintenance employees who were on the Company's pay roll for the week ending April 27, 1938, excluding clerical and supervisory employees and watchmen, and those who have since quit or been discharged for cause, to determine whether or not they desire to be represented by Textile Workers Organizing Committee for the purpose of collective bargaining.