

In the Matter of EAGLE-PHENIX MILLS and TEXTILE WORKERS
ORGANIZING COMMITTEE

Case No. R-456.—Decided January 18, 1938

Cotton Textile Industry—Investigation of Representatives: controversy concerning representation of employees: refusal by employer to recognize and bargain with union until question of representation is determined by Board—*Unit Appropriate for Collective Bargaining:* all employees, except clerical and supervisory; no controversy as to—*Election Ordered*

Mr. John T. Mahoney, for the Board.

Swift, Pease, Davidson & Swinson, by *Mr. J. Q. Davidson* and *Mr. W. Edward Swinson*, and *Battle & Smith*, by *Mr. Willis Battle*, all of Columbus, Ga., for the Company.

Dr. Witherspoon Dodge, of Columbus, Ga., for the Union.

Mr. Richard A. Perkins, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

On September 27, 1937, Textile Workers Organizing Committee, herein called the Union, filed with the Regional Director for the Tenth Region (Atlanta, Georgia) a petition alleging that a question affecting commerce had arisen concerning the representation of employees of Eagle-Phenix Mills, Columbus, Georgia, 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 October 27, 1937, 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 November 11, 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 November 26, 1937, at Columbus, Georgia, before Paul K. Hennessy, the Trial Examiner duly designated by the Board. The Board and

the Company were represented by counsel, and the Union by one of its officials, and all 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 motions and on objections to the admission of evidence. A brief was filed on behalf of the Company. 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, a Georgia corporation, operates a single manufacturing plant at Columbus, Georgia, devoted chiefly to the production of cotton goods, including flannel, crochet thread, ball thread, and rope. Cotton comprises approximately 99 per cent, in value, of the raw materials used. The Company buys all of its cotton in Columbus, Georgia, and hauls it to the mill by truck. The Company used 32,015 bales in the year ending August 31, 1937. The origin of the cotton is not disclosed by the record. The Company's president testified it might come from various states, depending on the season and the crop. The Company uses each month about 20 tons of coal shipped by rail from Alabama mines. Dyestuffs are obtained from the du Pont Company and are shipped to the mill from a du Pont branch in Charlotte, North Carolina.

The principal processes carried on at the mill are picking, carding, spinning, weaving, sanforizing, finishing, and dyeing. The Company manufactured 15,000,000 pounds of goods in the year ending August 31, 1937, and during this period sold 13,800,000 pounds. Approximately 90 per cent of the products sold by the Company are shipped outside of Georgia, principally to customers in New York City, Chicago, and Baltimore.

II. THE ORGANIZATION INVOLVED

Textile Workers Organizing Committee is a labor organization affiliated with the Committee for Industrial Organization, admitting to its membership all employees of the Company, excluding clerical and supervisory employees.

III. THE QUESTION CONCERNING REPRESENTATION

Union representatives sought and obtained a conference with Company officials on August 11, 1937, where the matter of Union recog-

dition was discussed. Witherspoon Dodge, a Union representative, expressed his belief that the Union had a majority of the Company's employees, but stated he would not verify his claim by exhibiting membership application cards to the Company. He suggested that the Company consent to an election or a comparison by the Board of the application cards and the Company's pay roll for the purpose of determining whether the Union represented a majority of the employees. Counsel for the Company replied that in his opinion "the mills should not undertake to determine a matter which the Act provides should be decided by the National Labor Relations Board after a hearing."

In its petition the Union alleged that 1,500 persons were employed by the Company and that of this number 1,062 were included within its membership. At the hearing, the Union claimed 1,200 employees of the Company were members of the Union.

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 Union claimed and the Company agreed that all the employees of the Company, except clerical and supervisory employees, constitute an appropriate bargaining unit.

We find that all the employees of the Company, excluding clerical and supervisory employees, 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. THE DETERMINATION OF REPRESENTATIVES

At the hearing the Union claimed to represent a majority of the employees in the appropriate unit, but offered no proof. We find that the question which has arisen concerning the representation of employees can best be resolved by holding an election by secret ballot to determine whether the employees wish the Union to represent them.

Those employees in the appropriate unit who were on the pay roll of the Company during the pay-roll period next preceding the filing of the petition herein shall be eligible to vote.

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

CONCLUSIONS OF LAW

1. A question affecting commerce has arisen concerning the representation of employees of Eagle-Phenix Mills, Columbus, Georgia, 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, excluding clerical and supervisory employees, 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, 49 Stat. 449, 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 part of the investigation authorized by the Board to ascertain representatives for collective bargaining with Eagle-Phenix Mills, Columbus, Georgia, 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 agent for the National Labor Relations Board, and subject to Article III, Section 9, of said Rules and Regulations—Series 1, as amended, among all the employees of Eagle-Phenix Mills who were employed by the Company during the pay-roll period next preceding September 27, 1937, excluding clerical and supervisory employees and those who quit or were discharged for cause between such date and the date of election, to determine whether or not they desire to be represented by Textile Workers Organizing Committee for the purposes of collective bargaining.