

In the Matter of SWIFT SPINNING MILLS and TEXTILE WORKERS  
ORGANIZING COMMITTEE

*Case No. R-457.—Decided January 26, 1938*

*Cotton Textile Industry—Investigation of Representatives:* controversy concerning representation of employees: union claims to represent majority of employees but refuses to submit membership cards for comparison with Company pay roll; agreement to submit question of representation to Board for decisions—*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 Swift Spinning 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 27, 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 to 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, has a single manufacturing plant at Columbus, Georgia, and is engaged in the production of cotton yarn. In the year 1936 the Company used in its manufacturing processes 16,692 bales of cotton, which is the principal raw material used in such processes. The record does not definitely disclose the origin of the cotton, but the testimony indicates that the cotton comes from a number of the cotton-growing states. The Company uses annually about 4,000 tons of coal shipped by rail from Birmingham, Alabama.

The principal processes carried on by the Company are carding, drawing, and spinning. The Company manufactured 7,168,685 pounds of yarn in 1936. From 75 to 90 per cent of the output of the Company is sold outside Georgia to customers in eight or ten 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 mill production employees of the Company, excluding clerical and supervisory employees.

#### III. THE QUESTION CONCERNING REPRESENTATION

A Union representative wrote the Company on August 10, 1937, claiming that the Union represented a majority of the employees of the Company. The letter stated that the Union would not agree to a comparison of Union membership application cards with the Company pay roll jointly by representatives of the Company and the Union, but that the Union would agree to such a comparison by the Board or to a consent election for the purpose of determining

whether the Union represented a majority of the employees. The Company replied by a letter dated August 24, 1937, stating that the entire matter was one for decision by the Board.

In its petition the Union alleged that 425 persons within the appropriate unit were employed by the Company and that 271 of this number were included within its membership.

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.

At the hearing all parties seemed to agree that all the employees of the Company, exclusive of clerical and supervisory employees, constitute a unit appropriate for the purposes of collective bargaining.

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 or not the employees wish the Union to represent them.

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 Swift Spinning 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 Swift Spinning 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 Swift Spinning 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 purpose of collective bargaining.