

In the Matter of SWIFT MANUFACTURING COMPANY and TEXTILE
WORKERS ORGANIZING COMMITTEE

Case No. R-458.—Decided January 26, 1938

Cotton Textile Industry—Investigation of Representatives: controversy concerning representation of employees: union claimed to represent majority of employees but refused to submit membership cards for comparison with pay roll; agreement to submit question of representation to Board for decision—*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 Manufacturing Company, 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 and 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

Swift Manufacturing Company, a Georgia corporation, operates a single manufacturing plant at Columbus, Georgia, producing cotton goods. The principal raw material used is cotton, which the Company buys on the open market and some of which comes from Alabama. The Company consumed 21,408 bales of cotton in the year ending March 31, 1937. The Company uses annually from 5,500 to 6,000 tons of coal shipped from Alabama mines. Dyestuffs are obtained from the National Aniline & Chemical Company and the du Pont Company and shipped from distributing points at Charlotte, North Carolina, and elsewhere in the South.

The principal processes carried on by the Company are cleaning, carding, spinning, weaving, and finishing. The Company manufactured 9,096,749 pounds of goods during the year ending March 31, 1937. Approximately 90 per cent of the output of the Company is sold to customers outside of Georgia.

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

Union representatives, claiming to represent a majority of the Company's employees, had a conference with Company officials and attorneys on July 28, 1937, and discussed how the question of a majority might be settled to the satisfaction of the Company. The

Union representatives declared the Union would not submit its membership application cards to the Company for comparison with its pay roll, and no agreement was reached. Afterwards, the Union by letter dated August 9, 1937, stated that it would agree to a comparison by the Board of membership application cards of the Union and pay rolls of the Company or would agree to a consent election. The Company replied August 12, 1937, stating that the matter was one for decision by the Board.

In its petition the Union alleged that 950 persons within the appropriate unit were employed by the Company and that of this number 743 were included within its membership. At the hearing, the Union claimed that about 700 of the employees of the Company were members of the Union by the middle of July 1937.

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 employees of the Company, exclusive of clerical and supervisory employees, constitute a unit appropriate for the purposes of collective bargaining.

We find that all 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 Manufacturing Company, Columbus, Georgia, within the meaning of Section 9 (c) and Section 2 (6) and (7) of the National Labor Relations Act.

2. All 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, 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 Manufacturing Company, 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 employees of Swift Manufacturing Company 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.