

In the Matter of MESTA MACHINE COMPANY and UNITED STEEL-  
WORKERS OF AMERICA (CIO)

*Case No. 6-R-903.—Decided February 25, 1944*

*Reed, Smith, Shaw & McClay*, by Messrs. *Nicholas Unkovic* and *W. D. Armour*, both of Pittsburgh, Pa., for the Company.

*Messrs. Philip M. Curran* and *Frank Burke*, both of Pittsburgh, Pa., for the Union.

*Mr. David V. Easton*, of counsel to the Board.

DECISION  
AND  
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by United Steelworkers of America (CIO), herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Mesta Machine Company, West Homestead, Pennsylvania, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before James A. Shaw, Trial Examiner. Said hearing was held at Pittsburgh, Pennsylvania, on February 4, 1944. The Company and the Union appeared, participated, and were afforded full opportunity to be heard, to examine and cross-examine witnesses and to introduce evidence bearing on the issues. The Trial Examiner's rulings made at the hearing are free from prejudicial error and are hereby affirmed. All parties were afforded an opportunity to file briefs with the Board.

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

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Mesta Machine Company, a Pennsylvania corporation with its principal office and place of business located in West Homestead, Pennsylvania, is engaged in the manufacture, sale, and distribution of ordnance materials for the United States Army, and rolling mill machinery for the Defense Plant Corporation, an instrumentality of the

United States Government, and for the steel industry in general throughout the United States. During the past 12-month period the value of the Company's purchases of raw materials used in its manufacturing processes and derived from points outside the State of Pennsylvania, was in excess of \$1,000,000. During the same period, the value of finished products of the Company sold and delivered to points outside the State of Pennsylvania, was in excess of \$1,000,000, and represented approximately one-half its total production. The Company admits that it is engaged in commerce within the meaning of the National Labor Relations Act.

#### II. THE ORGANIZATION INVOLVED

United Steelworkers of America is a labor organization affiliated with the Congress of Industrial Organizations, admitting to membership employees of the Company.

#### III. THE QUESTION CONCERNING REPRESENTATION

The Company has refused to grant recognition to the Union as the exclusive bargaining representative of its production and maintenance employees until the Union has been certified by the Board in an appropriate unit.

A statement of the Field Examiner, introduced into evidence at the hearing, indicated that the Union represents a substantial number of employees in the unit hereinafter found appropriate.<sup>1</sup>

We find that a question affecting commerce has arisen concerning the representation of employees of the Company within the meaning of Section 9 (c) and Section 2 (6) and (7) of the Act.

#### IV. THE APPROPRIATE UNIT

Substantially in accordance with an agreement of the parties made at the hearing, we find that all production and maintenance employees of the Company, including machinists, machinist apprentices, machinist helpers, roll turners, roll turner apprentices, roll shop helpers, fitters, fitter apprentices, fitter helpers, pattern makers, pattern maker apprentices, foundry molders, foundry coremakers, molder and coremaker apprentices, foundry helpers, chippers, forge shop crews, employees in the melting departments, crane operators, chairmen, laborers, service (Maintenance) employees, and timekeepers, but excluding plant-protection employees, office and clerical employees, and all supervisory employees with authority to hire, promote, discharge,

<sup>1</sup> The Field Examiner reported that the Union submitted 1941 designation cards; that a check of every tenth name upon the Company's pay roll of January 26, 1944, was made against said cards and indicated that 139 of the 415 names checked were found among said authorization cards. The Trial Examiner properly overruled the Company's objections to the introduction of this report into evidence. See *Matter of Hill Stores, Inc.*, 39 N. L. R. B. 874; *Matter of Atlas Powder Company*, 43 N. L. R. B. 757.

discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act.

#### V. THE DETERMINATION OF REPRESENTATIVES

We find that the question concerning representation which has arisen can best be resolved by an election by secret ballot. The Company contends that the Board should make provision in any such election for employees of the Company who are now in the armed services. We recognize that persons on military leave retain their status as employees of the Company, and those who come to the polls will be voted in accordance with our customary practice.<sup>2</sup> We shall direct that the employees of the Company eligible to vote in the election shall be those in the appropriate unit who were employed during the pay-roll period immediately preceding the date of the Direction of Election herein, subject to the limitations and additions set forth in the Direction.

#### 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 9, of National Labor Relations Board Rules and Regulations—Series 3, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with Mesta Machine Company, West Homestead, Pennsylvania, an election by secret ballot shall be conducted as early as possible, but not later than thirty (30) days from the date of this Direction, under the direction and supervision of the Regional Director for the Sixth Region, acting in this matter as agent for the National Labor Relations Board, and subject to Article III, Sections 10 and 11, of said Rules and Regulations, among the employees in the unit found appropriate in Section IV, above, who were employed during the pay-roll period immediately preceding the date of this Direction, including employees who did not work during said pay-roll period because they were ill or on vacation or temporarily laid off, and including employees in the armed forces of the United States who present themselves in person at the polls, but excluding those employees who have since quit or been discharged for cause and have not been rehired or reinstated prior to the date of the election, to determine whether or not they desire to be represented by United Steelworkers of America, affiliated with the Congress of Industrial Organizations, for the purposes of collective bargaining.

<sup>2</sup> Cf. *Matter of Wilson & Company, Inc.*, 37 N. L. R. B. 944.