

In the Matter of THE MEAD CORPORATION, SYLVA DIVISION and LOCAL
12866 & DISTRICT 50, UNITED MINE WORKERS OF AMERICA

Case No. 5-R-1587.—Decided August 5, 1944

Mr. F. S. Pope, of Chillicothe, Ohio, for the Company.

Mr. Fred L. Ruscoe, of Knoxville, Tenn., 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 Local 12866 & District 50, United Mine Workers of America, herein collectively called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of The Mead Corporation, Sylva Division, Sylva, North Carolina, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Sidney J. Barban, Trial Examiner. Said hearing was held at Sylva, North Carolina, on June 28, 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 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

The Mead Corporation is an Ohio corporation operating plants located in Virginia, Ohio, North Carolina, Tennessee, Pennsylvania, Massachusetts, and Michigan. We are concerned in the present proceeding with the operations of the Company located at Sylva, North Carolina, referred to hereinafter as the Sylva Division. The Sylva Division manufactures extracts and paper board. During 1943 the

Company purchased raw materials, consisting chiefly of wood, for use at its Sylva Division valued at approximately \$100,000, 50 percent of which was shipped to the Sylva Division from points outside the State of North Carolina. During the same period the Company manufactured at the Sylva Division finished products valued in excess of \$200,000, 90 percent of which was shipped to points outside the State of North Carolina.

The Company admits that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATIONS INVOLVED

Local 12866 & District 50, United Mine Workers of America, are labor organizations admitting to membership employees of the company.¹

III. THE QUESTION CONCERNING REPRESENTATION

The Company refuses to recognize the Union as the collective bargaining representative of certain of its employees until it is established by the Board that a majority of such employees desire to be represented by the Union.

A statement of a Field Examiner for the Board, introduced into evidence at the hearing, indicates that the Union represents a substantial number of employees in the unit hereinafter found appropriate.²

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

The Union seeks a unit composed of all the Company's maintenance and production employees at its Sylva Division, excluding clerical employees, timekeepers, assistant timekeepers, storekeepers, shipping clerks, assistant shipping clerks, wood procurement employees, wood measurer, mail boys, porters, construction employees, pensioners, chemists, administrative, professional, and technical employees, foremen, and supervisory employees with the right to hire or discharge. The Company agrees to the establishment of the foregoing unit, except that it contends that watchmen, assistant storekeeper, roll computing clerks, laboratory technicians, and wood measurer's assistant should also be excluded therefrom.

¹ Local 12866 is affiliated with District 50, United Mine Workers of America, and is the local more particularly concerned in this proceeding

² The Field Examiner reported that the Union submitted 211 designations, and that there were 215 employees in the proposed unit

Watchmen. The Company employs two full-time watchmen and one part-time watchman. These employees are neither militarized nor deputized, nor do they wear uniforms or carry arms. Their duties are performed under the supervision of the plant engineer. They are paid on an hourly basis and punch a time clock, as do the production and maintenance employees. In view of these facts, we are of the opinion that they may properly be included within the unit.

Laboratory employees. The Company employs five laboratory employees who perform their duties in the laboratory, which is located approximately 100 feet from the Company's mill. These employees obtain samples from the paper mill upon which they perform routine tests. They tabulate and chart the results of these tests. The tests and the data resulting therefrom are designed for operation control and supplying information required by the Company's customers. Four of the laboratory workers do routine testing and are hourly paid. The fifth employee is the direct assistant to the chemist in charge of the laboratory. She assists in the instruction of the other laboratory employees and has authority to make recommendations affecting their status. We shall exclude from the unit the assistant to the chemist on the ground that she is a supervisory employee. However, we shall include the other laboratory employees, since they appear upon the maintenance and production pay roll and are engaged in performing routine functions.

Roll computing clerks. The Company employs four persons in this category who perform their duties in an office located in the machine room of the plant where the paper is made, and, more specifically, between two machines which wind rolls of paper. These employees set the recording instruments attached to the winding machines, and record the readings when the roll is completed. They make certain that the machines are functioning properly; in the event a break in the roll occurs while the paper is being wound, they weigh the waste material that is cut off, and determine the amount of lineal footage to deduct from the roll. These employees are listed upon the same pay roll as production and maintenance employees, and they are required to work the same number of hours. We are of the opinion that their interests and working conditions are sufficiently similar to those of production and maintenance workers to warrant their inclusion within a unit composed of such employees.

Assistant storekeeper. The Company employs one employee in this category whose duties are to receive supplies in the storeroom located in the same building as the machine shop, pass on invoices, figure discounts, check fiscal inventories, and place supplies in their proper location. He also acts as timekeeper, issues supplies, and advises the

storekeeper with respect to the amount of supplies on hand. He is an hourly paid employee, performing both physical and clerical work. He also enjoys the same privileges and working conditions as production and maintenance employees. We are of the opinion that this employee should be included in the unit.

Wood measurer's assistant. The Company employs one person in this category. This employee is classified as a laborer, receiving a laborer's pay, and performing a general laborer's work for at least 2 days a week. In addition, he assists the wood measurer in the performance of the latter's duties. The parties agree that the wood measurer should be excluded from the unit, and the Company contends that his assistant should also be excluded. However, since this employee spends a substantial portion of his working time as a laborer, is classified by the Company as such, and is not a supervisory employee within the meaning of our customary definition, we are of the opinion that he may properly be included within the unit. We shall, therefore, include him.

Accordingly, we find that all the Company's production and maintenance employees at its Sylva Division, including watchmen, laboratory employees (except the assistant to the chemist), roll computing clerks, storekeeper's assistant, and wood measurer's assistant, but excluding clerical employees, timekeepers, assistant timekeepers, storekeeper, shipping clerks, assistant shipping clerks, wood procurement employees, wood measurer, mail boys, porters, construction employees, pensioners, chemists, assistant to the chemist in the laboratory, administrative, professional, and technical employees, foremen, and all other supervisory employees with authority to hire, promote, discharge, 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 Union contends that certain temporary employees recently laid off by the Company should be permitted to vote. However, the record is clear that these persons were employed on a temporary basis and that they will not be reemployed by the Company unless some permanent position becomes available in the near future. Thus, it is speculative whether these employees will again be engaged by the Company. In accordance with our customary policy, we shall not permit them to vote unless otherwise eligible. We shall direct that the employees of the Company eligible to vote in the election shall be those in the appro-

priate unit who were employed during the pay-roll period immediately preceding the date of this 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, as amended, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with The Mead Corporation, Sylva Division, Sylva, North Carolina, 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 Fifth 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 Local 12866 & District 50, United Mine Workers of America, for the purposes of collective bargaining.

CHAIRMAN MILLIS took no part in the consideration of the above Decision and Direction of Election.