

In the Matter of ROLLING MILL DIVISION OF THE MILLER COMPANY  
and UNITED AUTOMOBILE WORKERS OF AMERICA, AMERICAN FEDER-  
ATION OF LABOR

*Case No. 1-R-1929.—Decided August 15, 1944*

*Stoddard, Persky & Eagen*, by *Mr. Samuel A. Persky*, of New Haven, Conn., for the Company.

*Mr. Henry J. Burke*, of Meriden, Conn., for the Union.

*Mr. Bernard Goldberg*, of counsel to the Board.

DECISION  
AND  
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by United Automobile Workers of America, American Federation of Labor, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Rolling Mill Division of The Miller Company, Meriden, Connecticut, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Samuel G. Zack, Trial Examiner. Said hearing was held at Meriden, Connecticut, on June 30, 1944. The Company and the Union appeared and participated. All parties 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

The Miller Company is a Connecticut corporation which in peacetime was engaged in the manufacture of electric lighting fixtures and kerosene lamps at its plant in Meriden, Connecticut. At the present

time, all of its facilities are being devoted to the manufacture of a variety of products for the armed forces. During the 6-month period ending April 30, 1944, the Company purchased raw materials for use in its manufacturing processes valued at approximately \$490,000, of which more than 85 percent was bought in States other than the State of Connecticut. During the same period, the Company's sales of products from its Rolling Mill Division were valued at approximately \$1,100,000, of which about 75 percent was made to purchasers located outside the State of Connecticut.

We find that the Company is engaged in commerce within the meaning of the National Labor Relations Act.

## II. THE ORGANIZATION INVOLVED

United Automobile Workers of America, affiliated with the American Federation of Labor, is a labor organization 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 any of its employees until the Union has been certified by the Board in an appropriate unit.

A statement of a Board agent, introduced into evidence at the hearing, indicates 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

The Union seeks a unit comprising all employees in the Rolling Mill Division, excluding part-time employees, high school boys, office and clerical employees, executives, foremen, and superintendents.

<sup>1</sup> The Field Examiner reported that the Union submitted 73 application for membership cards; that 21 of the cards were dated in May 1944 and 52 were undated; and that there were 90 employees in the unit petitioned for.

The Company contends that the Union has not proved that it represents a majority of the employees in the Rolling Mill Division and therefore is not entitled to an election. The point is not well taken. The purpose of the election is to decide the Union's claim to majority representation, and to be entitled to such an election under the Board's well-established procedure, the Union need only submit *prima facie* evidence indicating that it represents a substantial number of employees in the Rolling Mill Division; this the Union has done. See *Matter of H. G. Hill Stores, Inc., Warehouse*, 39 N. L. R. B. 874; *Matter of Atlas Powder Company, Zapon Division*, 43 N. L. R. B. 757; *Matter of The Regina Corporation*, 57 N. L. R. B. 4.

The Company contends that a plant-wide unit is appropriate. There is no dispute between the parties with respect to the inclusion or exclusion of any of the above-named categories of employees.

The Rolling Mill Division, one of four operational divisions of the Company, is housed in a separate building attached to one of the main buildings of the plant. It manufactures copper, zinc, and tin alloy strips and coils, 99 percent of which at the present time is being sold to other companies. Prior to the war, between 85 and 90 percent was thus sold, with the balance of 10 or 15 percent used by the Company in the manufacture of its lighting fixtures and other products. The work in the Rolling Mill Division differs from that performed in other divisions of the plant and there is little interchange of employees between that division and the rest of the plant. While production workers in other divisions are paid on a piece-work basis, the employees in the Rolling Mill Division are hourly paid and have, in addition, a bonus incentive system. This method of payment for employees in the Rolling Mill Division is that generally prevailing in other rolling mills in the area. It is also to be noted that many of the Company's peacetime competitors in the lighting fixture business do not have rolling mill divisions, but instead purchase the alloy metals they require from rolling mills devoted exclusively to that type of work. There is no bargaining history in the plant. The Union has limited its organizational activities to employees in the Rolling Mill Division because the remainder of the Company's employees come within the jurisdiction of another affiliated union, the International Brotherhood of Electrical Workers. In view of the foregoing facts, we are of the opinion that a unit confined to employees of the Rolling Mill Division is appropriate.

We find that all employees of the Rolling Mill Division of the Company, excluding part-time employees, high school students, office and clerical employees, executives, foremen, superintendents, 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 shall direct that the question concerning representation which has arisen be resolved by an election by secret ballot among the employees in the appropriate unit who were employed during the payroll period immediately preceding the date of the Direction of Elec-

tion herein, subject to the limitations and additions set forth in the Direction.<sup>2</sup>

### 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 Rolling Mill Division of The Miller Company, Meriden, Connecticut, 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 First 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 Automobile Workers of America, affiliated with the American Federation of Labor, for the purposes of collective bargaining.

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

---

<sup>2</sup> The Union's request that it appear on the ballot as United Automobile Workers, A. F. of L., is hereby granted.