

In the Matter of THE MEAD CORPORATION and DISTRICT 50, UNITED
MINE WORKERS OF AMERICA

Case No. 10-R-1273.—Decided October 31, 1944

Kelly, Penn & Hunter, by *Mr. E. G. Hunter*, of Kingsport, Tenn.,
for the Company.

Messrs. J. Carl Bunch and H. B. Moore, both of Kingsport, Tenn.,
for the Union.

Mr. Harry Nathanson, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by District 50, United Mine Workers of America, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of The Mead Corporation, Kingsport, Tennessee, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Melton Boyd, Trial Examiner. Said hearing was held at Kingsport, Tennessee, on October 9, 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.

At the hearing the Company moved to dismiss the petition, and the Trial Examiner referred the motion to the Board for determination. For reasons hereinafter stated, this motion is denied. 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 Mead Corporation is an Ohio corporation with its principal offices in Chillicothe, Ohio. It is engaged in a number of operations among which is the Kingsport Division. It is with this Division that

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we are concerned herein. The Kingsport Division is engaged in the manufacture of paper and soda pulp for paper manufacture. Its annual purchases are in excess of \$1,500,000, of which approximately 90 percent is shipped to it from points outside the State of Tennessee. The total value of its products finished annually is in excess of \$6,000,000, of which approximately 93 percent is shipped by it to points outside the State of Tennessee. A part of its products is sold as supplies to various divisions of the Federal Government.

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

II. THE ORGANIZATION INVOLVED

District 50, United Mine Workers of America, 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 certain of its employees until the Union has been certified by the Board in an appropriate unit.

On May 21, and December 17, 1943, consent elections were held among the Company's employees at the Kingsport Division in substantially the same unit hereinafter found appropriate. The Union, the only participant, lost both elections.

The company contends that no election should be held at this time and that the petition should be dismissed because of the short time which has elapsed since the two prior elections and because of the fact that frequent organizational drives and elections tend to interfere with production. The Union submitted new evidence of a substantial representation among the Company's employees consisting of at least 410 applications for membership dated since the last consent election.¹ Our experience negates the Company's second contention. In view of the foregoing, we are of the opinion that the contentions of the Company are without merit.²

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.³

¹ See footnote 3, *infra*

² *Matter of Owens-Corning Fiberglas Corporation*, 58 N L R B 704; *Matter of Wagner Electric Corporation*, 53 N L R B 543; *Matter of Brown Shoe Company*, 55 N L R B 1411

³ The Field Examiner reported that the Union submitted 575 application-for-membership cards, of which 410 bore apparently genuine original signatures of persons appearing on the Company's pay roll for the week ending August 26, 1944; that all 410 cards were dated after the last consent election, and that said pay roll contained the names of 783 employees within the alleged appropriate unit

At the hearing the Trial Examiner reported that the Union submitted 67 additional applications, 65 of which were dated September 1944 and 2 October 1944.

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 desires a unit consisting of all production and maintenance employees of the Kingsport Division, including steam, electric and water plant employees, wood yard employees, and inspection department employees, but excluding watchmen, guards, passenger car chauffeurs, hospital, restaurant, laboratory, engineering and technical employees, wood procurement department employees, sales service department employees, administrative, clerical, and supervisory employees. The Company agrees that the unit sought is appropriate, but contends that the inspection department employees should be excluded on the ground that they are, in fact, part of the sales service department.

The Company employs approximately 16 employees in the inspection department, which is, as the Company asserts, a part of the sales service department, and is comprised of inspectors and sample carriers. The inspection department is, in effect, a quality control department. The duties of the inspectors are to record and conduct routine tests, both mechanically and chemically, on the finished products, whereas the duty of the sample carriers is to deliver samples from the production department to the inspection department. These employees are hourly paid workers receiving wages within the range of production employees. They punch a time clock and have no supervisory authority or special training. Ten of these employees signed applications for membership in the Union. The Company acknowledges that substantially the same classifications of workers were included by the Board in a unit of production and maintenance employees at the Company's Sylva Division.⁴ We are of the opinion that inspection department employees properly may be included within the unit.

We find that all production and maintenance employees of the Company's Kingsport Division, including inspectors and sample carriers in the sales service department, steam, electric and water plant employees and wood yard employees, but excluding watchmen, guards, passenger car chauffeurs, hospital, restaurant, laboratory, engineering and technical employees, wood procurement department employees, sales department employees (except for inspectors and sample carriers), administrative and clerical employees, and all supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend

⁴ *Matter of Mead Corporation, Sylva Division*, 57 N L R B 1090 In that case testers and carriers were employed in the "laboratory," but were engaged in operations comparable to those of inspectors and carriers in the sales service department in this case.

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 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, 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, Kingsport, Tennessee, 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 Tenth 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 District 50, United Mine Workers of America, for the purposes of collective bargaining.