employees with a substantial interest in the wages, hours, and conditions of employment in the unit.

The Employer excepted to this recommendation, contending, in effect, that these employees are ineligible to vote in the election because they do not have a substantial "interest in the Employer's operation." We find no merit in these exceptions. Like the Regional Director, we find that the test of eligibility to vote in an election is whether the employees in question are regular part-time employees with a substantial interest in the wages, hours, and conditions of employment in the unit. We are satisfied that this test has been met in this case. Accordingly, we adopt the recommendations of the Regional Director to overrule the challenges to the ballots of Truelson, Cooper, and Katz.[4]

Inasmuch as the ballots of Truelson, Cooper, and Katz may be determinative of the results of the election, we shall direct that they be opened and counted.

[The Board directed that the Regional Director for the Twenty-first Region shall, pursuant to the Rules and Regulations of the Board, within ten (10) days from the date of this Direction, open and count the ballots of H. V. Truelson, R. V. Cooper, and M. Katz and serve upon the parties a supplemental tally of ballots.]

Member Beeson took no part in the consideration of the above Supplemental Decision and Direction.

[4] Cutter Laboratories, 98 NLRB 414; Van Schaak Co., 95 NLRB 1028; Worden-Allen Co., 99 NLRB 410; and Evening News Publishing Co., 93 NLRB 1355.

MERIDIAN PLASTICS, INC., Petitioner *and* UNITED STEELWORKERS OF AMERICA, CIO.[1] Case No. 8-RM-100. April 9, 1954

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9 (c) of the National Labor Relations Act, a hearing was held before Paul Weingarten, hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.[2]

[1] Appearing on behalf of its Local 4607; the Local's collective-bargaining contract with the Employer expired on October 15, 1953.

[2] The hearing officer referred to the Board the Union's motion to stay the hearing in this case based upon the pendency before the Board of charges in two unfair labor practice proceedings involving the Employer and the Union. Subsequent to the hearing, the Union, in its brief, requested that further proceedings herein be stayed pending final disposition of the said unfair labor practice charges. The Board's records show that at the time of the hearing the Regional Director had dismissed both of the charges and that the General

Upon the entire record in this case, the Board finds:

1. The Union contends, contrary to the Employer, that the Employer has not established that its business operations warrant assertion of the Board's jurisdiction in this proceeding. At the hearing herein, the Employer's president, J. E. Wolfe, testified that the Company annually makes sales outside the State of Ohio in excess of $375,000. Upon cross-examination by the Union, Wolfe testified more specifically that its out-of-State sales for each month in 1953 were in excess of $40,000. The Union then requested Wolfe to reveal the Company's precise monthly and annual out-of-State sales in 1953, whereupon Wolfe repeated the figures, "in excess of $40,000." Thereafter the hearing officer granted the Union's request for a subpena duces tecum which sought, among other things, production of the Company's records disclosing its sales and production figures for 1953. The Employer moved to quash the portions of the subpena seeking the sales and production information, and the hearing officer granted the motion. The hearing officer then denied the Union's motion to strike Wolfe's testimony on the Company's out-of-State sales.

The Union now requests that this case be remanded for further hearing on the ground that its rights under the Act, the Board's Rules and Regulations, and constitutional due process, have been denied, because it has been deprived of the right to obtain information which it contends is necessary to litigate fully the issues raised on the Employer's operations as they affect interstate commerce.

Under the circumstances present here, we believe that the hearing officer, in limiting the Union's cross-examination of Wolfe, acted properly because he was keeping cross-examination within reasonable bounds. We believe that he also acted properly in quashing the subpena as requested by the Employer, inasmuch as the Union in no way impugned Wolfe's testimony through independent evidence and because we do not believe that the Union has an unlimited right to examine the Employer's records indiscriminately for the mere purpose of seeking evidence which might tend to impugn an Employer witness. Furthermore, we have taken judicial notice of a prior representation proceeding in which the Board asserted its jurisdiction over the operations of this Employer and, pursuant to which, this very Union was certified for a unit of the Employer's production and maintenance employees.[3] We find therefore, that the Employer is engaged in commerce within the meaning of the Act.

Counsel thereafter sustained the Regional Director's dismissals on March 4, 1954. In these circumstances, we hereby affirm the hearing officer's rulings in refusing to stay the hearing and we also deny the Union's request that this proceeding now be stayed. See Dumont Electric Corporation, 97 NLRB 94, 95.

[3] Meridian Plastics, Inc., Case No. 8-RC-1213, issued May 18, 1951 (not reported in printed volumes of Board Decisions).

2. United Steelworkers of America, CIO, and its Local 4607, are labor organizations and claim to represent the employees of the Employer here involved.

3. The Union was certified as the representative of the Employer's production and maintenance employees on June 19, 1951. In October 1952, the Employer entered into a collective-bargaining agreement with the Union's Local 4607, which agreement expired on October 15, 1953. Upon the parties' failure to reach agreement on a new contract, the Union called a strike on October 19, 1953. At the time the strike started there were 47 employees in the unit covered by the contract. The strike was terminated on December 31, 1953. From October 19, 1953, to January 4, 1954, the Employer hired 14 permanent replacements, and 6 former strikers returned to work. From January 4 to the date of the hearing, the Employer returned 4 additional former strikers to jobs. Inasmuch as the 14 replacements constitute more than a majority of the Employer's present complement of production and maintenance employees, the Employer questions the Union's right to represent its employees.

Upon these facts, and the record as a whole, we find that a question affecting commerce exists concerning the representation of employees of the Employer within the meaning of Section 9 (c) (1) (B) and Section 2 (6) and (7) of the Act.

4. We find that the unit certified by the Board in 1951 and as described in the parties' recently expired contract--all production and maintenance employees at the Employer's Byesville, Ohio, plant, excluding office clerical employees, professional employees, guards, and supervisors as defined in the Act--is appropriate for collective-bargaining purposes within the meaning of Section 9 (b) of the Act.

5. The Union contends, contrary to the Employer, that all former strikers who have not been recalled are eligible to vote, or should be allowed to vote subject to challenge. As noted above, unfair labor practice charges filed by the Union against the Employer have been dismissed; 14 of the former strikers have been permanently replaced; and 10 of the former strikers have been returned to jobs. The record shows further that the Company has sold or leased indefinitely 1 of the machines it operated at the time the strike started, eliminating 10 jobs formerly filled by strikers; that, after the strike started, the Company subcontracted its packing operations and will continue to do so in the future, eliminating another 13 jobs; and that the Company does not anticipate increasing its work force in the foreseeable future.[4] Thus it is clear

[4] The Union also contends that the above-noted quashing of portions of the subpena duces tecum and the limitation of its cross-examination of Wolfe have deprived the Union of the opportunity to show that the Employer, in fact, contemplates increasing its employee complement in the foreseeable future. We find no merit in this contention for the reasons given above in denying the Union's request for remand to take further evidence on the Employer's operations as they affect interstate commerce.

that the former strikers, not recalled, have been permanently replaced or that their jobs have been abolished. Accordingly, we find that the former strikers who have not been reemployed are not entitled to reinstatement and are ineligible to vote in the election.[5]

[Text of Direction of Election omitted from publication.]

Member Beeson took no part in the consideration of the above Decision and Direction of Election.

[5] E. J. Kelley Company, et al., 98 NLRB 486, 488.

PITTSBURGH STEAMSHIP DIVISION OF UNITED STATES STEEL CORPORATION *and* UNITED STEELWORKERS OF AMERICA, CIO, Petitioner. Case No. 8-RC-2039. April 9 1954

SUPPLEMENTAL DECISION AND CERTIFICATION OF REPRESENTATIVES

Pursuant to a Decision and Direction of Election issued by the Board herein on October 9, 1953,[1] an election by secret ballot was conducted, between October 30 and November 10, 1953, under the supervision and direction of the Regional Director for the Eighth Region, among the employees in the unit found appropriate by the Board. Thereafter, a tally of ballots was furnished the parties. The tally shows that of approximately 1,337 eligible voters, 1,309 cast ballots, of which 700 were for the Petitioner, 92 were for the Intervenor,[2] 501 were against both participating labor organizations, 5 were void, and 11 were challenged.

On November 16, 1953, the Intervenor filed timely objections to the conduct of the election. The Regional Director investigated the objections and issued a report on objections, on January 29, 1954, recommending that the objections be overruled.[3] On February 23, 1954, the Intervenor filed exceptions to the Regional Director's report.

The Board has considered the Regional Director's report, the Intervenor's exceptions, and the entire record in the case, and finds that the objections do not raise substantial or material issues with respect to the election. Accordingly, they are hereby overruled.

[1] 106 NLRB 1248.

[2] Seafarers' International Union of North America, Great Lakes District, AFL.

[3] On February 1, 1954, the Intervenor requested the Regional Director to answer certain interrogatories and to request the Employer to answer certain other interrogatories. On February 15, 1954, the Regional Director declined these requests, and on February 19, 1954, the Intervenor appealed to the Board from the Regional Director's ruling. The appeal is hereby denied, as the Board's Rules and Regulations, as amended, do not provide for the use of interrogatories in a proceeding of this nature.