

In the Matter of CONSOLIDATED VULTEE AIRCRAFT CORPORATION (ALLENTOWN DIVISION)<sup>1</sup> and INTERNATIONAL ASSOCIATION OF MACHINISTS, A. F. OF L.

*Case No. 4-R-1307.—Decided March 13, 1944*

*Pruitt & Grealis*, by *Mr. John J. Grealis*, of Chicago, Ill., and *Mr. Mervin Marco*, of Allentown, Pa., for the Company.

*Mr. Stanley N. Lentz*, of Philadelphia, Pa., and *Messrs. O. H. Coffman* and *Paul Williams*, of Allentown, Pa., for the I. A. M.

*Mr. Maurice Sugar*, of Detroit, Mich., and *Leider, Witt and Cammer*, by *Mr. Harold I. Cammer*, of New York City, and *Messrs. William Gibson* and *George Scheitinger*, of Allentown, Pa., for the U. A. W.

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

DECISION  
AND  
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by International Association of Machinists, A. F. of L., herein called the I. A. M., alleging that a question affecting commerce has arisen concerning the representation of employees of Consolidated Vultee Aircraft Corporation (Allentown Division), herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Geoffrey J. Cuniff, Trial Examiner. Said hearing was held at Allentown, Pennsylvania, on January 31, 1944. The Company, the I. A. M., and International Union, United Automobile, Aircraft & Agricultural Implement Workers of America, (C. I. O.), herein called the U. A. W., appeared, participated, and were afforded full opportunity to be heard, to examine and cross-examine witnesses and to introduce evidence bearing upon the issues. At the hearing the Company moved for the dismissal of the petition upon the ground that the unit requested by the I. A. M. is inappropriate because the Company has

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<sup>1</sup> It was stipulated at the hearing that the correct name of the Company is that set forth in the above caption.

not yet employed a majority of its total anticipated complement of personnel at the plant in question. Decision thereon was reserved for the Board. For reasons appearing hereinafter the motion is hereby 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 Company is a Delaware corporation with its main office and plant at San Diego, California. It operates 12 divisions or plants in various parts of the United States. The plant in question here is known as the Allentown Division and is located at Allentown, Pennsylvania. In its various divisions the Company is engaged in the design, manufacture, development, and sale of aircraft, aircraft parts and accessories. The Company is one of the largest manufacturers of airboats in the United States, one of the largest contractors with the United States Army and Navy in connection with aircraft and operates one of the largest airplane manufacturing establishments in the United States. At the present time the Company, through its divisions, is engaged exclusively in the production of military and naval aircraft and all aircraft produced by the Company is sold to the United States Government through the United States Army or Navy to fill various supply contracts in existence between the Company and the United States Government. The plant operated at Allentown, Pennsylvania, is owned by the United States Government and is operated by the Company. During the past 12 months raw materials of approximately \$1,000,000 in value was purchased at and shipped from points outside Pennsylvania to the Allentown plant.

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

### II. THE ORGANIZATIONS INVOLVED

International Association of Machinists, affiliated with the American Federation of Labor, is a labor organization admitting to membership employees of the Company.

International Union, United Automobile, Aircraft & Agricultural Implement Workers 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

On or about November 10, 1943, the I. A. M., requested the Company for recognition as the exclusive bargaining representative of the employees within the alleged appropriate unit. The Company refused such recognition unless and until the I. A. M. was certified by the Board.

A statement of a Board agent, introduced into evidence at the Board hearing, indicates that the I. A. M. represents a substantial number of employees of the unit hereinafter found appropriate.<sup>2</sup>

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

## IV THE APPROPRIATE UNIT

The I. A. M. and the U. A. W. contend for a unit consisting of all production and maintenance employees of the Company at its Allentown plant, excluding foremen, supervisory employees, guards and watchmen, office and clerical employees, engineers, draftsmen, industrial relations department employees, medical department employees, cafeteria employees, outside expeditors, pay roll clerks, and planning employees. The Company, while in substantial agreement with the I. A. M. and U. A. W., contends that certain specific classifications of employees should be excluded from the bargaining unit.

*Classification of employees in dispute*

The I. A. M. and the U. A. W. contend for the inclusion and the Company for the exclusion of the following categories:

*Timekeepers*—The timekeepers are employees who keep records, for accounting purposes, as to the distribution of employees' working time which forms the basis for allocations of costs to various jobs. Since their duties appear to be entirely clerical we shall, in accordance with our usual practice, exclude the timekeepers.

*Inspectors*—The inspectors, some of whom are salaried and some hourly paid employees, check the various parts manufactured in the plant to determine whether or not the product is complete and in

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<sup>2</sup> A Field Examiner of the Board reported that the I. A. M. submitted 594 authorization cards. These authorizations were dated as follows: 3 in October and November 1942; 178 in October 1943; 339 in November 1943, 29 in December 1943, 17 in January 1944, and 28 were undated. The Field Examiner stated further that according to the pay roll for the period ending January 4, 1944, there were 1,045 employees in the unit alleged to be appropriate.

The Field Examiner also reported that the U. A. W. submitted 225 application for membership cards. These cards were dated as follows: 2 in January 1943; 1 in September 1943; 16 in October 1943, 1 in November 1943; 34 in December 1943; 174 in January 1944, and 27 were undated.

accordance with specifications. The Company contends that these employees work with blueprints which are confidential in nature and that hence inspectors should be excluded. So far as the record discloses the rejection of work by an inspector does not affect the job status of employees. It does not appear that the inspectors have any part in formulating the specifications or that they have authority to recommend disciplinary action in the event that their examination discloses defective work on the materials. Since none of the aspects of their work is sufficiently confidential to be fairly described as allied with management functions, we see nothing in the Company's contention to warrant us from departing from our ordinary practice and we shall accordingly, include the inspectors.

*Inside expeditors*—These employees follow the production process with a view toward facilitating the arrival of raw materials and parts at the various departments in time to prevent any delay in the production process. Production employees are at times transferred to work as inside expeditors. They receive approximately the same rate of pay as do ordinary production workers. We shall, in accordance with our usual practice include the inside expeditors.

*Checkers*—These employees keep records concerning the shipment and receipt of materials and parts forwarded to and received from subcontractors performing work for the Company. While they do no manual work they carry on their duties in the finished and raw stock stores department which are located in the plant. Their work is closely related to that of the production and maintenance employees. Nothing in the nature of their duties appears to be confidential in the sense that such duties may be classed as managerial. We shall include the checkers in the appropriate unit.

*Counters*—These employees spend the bulk of their time counting manufactured parts for inventory purposes. They do some manual labor in connection with the moving of such manufactured parts. The Company contends that their work is confidential and not related to the productive processes. The duties of these employees are similar to those of the checkers whom we have included. We shall include the counters in the appropriate unit.

*Shop clerical employees*.—These employees are located in so-called plant offices and keep production and stock records. Some of these employees have duties which take them into the operating departments and wear a regulation uniform as do the production and maintenance employees. The Company contends that the work of these employees is confidential and should result in their exclusion. The record fails to indicate that their work may fairly be described as managerial in nature. It appears that these employees have interests more in common with those of the production employees than with those in other

offices. We shall include shop clerical employees in the appropriate unit.

We find that all production and maintenance employees, including inspectors, checkers, counters, inside expeditors, and shop clerical employees, but excluding timekeepers, foremen, guards, watchmen, engineers, draftsmen, industrial relations department employees, medical department employees, office and clerical employees, outside expeditors, planning employees, pay-roll clerks, cafeteria employees, and all 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

The Company contends that no election should be directed at the present time because it contemplates a substantial increase in its personnel. The record discloses that the Company is presently employing 2,500 persons of whom there are approximately 1,000 employees engaged in production and maintenance activities. Mervin Marco, industrial relations director of the Company, testified that at the present time the Company is engaged in a so-called modification operation and in various experimental operations; that the Company is also "tooling up" and making ready for the production of a new type of aircraft and that such production is expected to reach its peak in May 1944, at which time the Company anticipates a total complement of about 1,400 production and maintenance employees, and a total complement of personnel of approximately 5,200 persons. There is presently employed a representative number of persons in all production and maintenance classifications. The Company argued that because of the existence of an alleged agreement between the War and Navy Departments and the parent organizations with which the I. A. M. and the U. A. W. are affiliated, whereby no affiliated labor organization would seek certification as exclusive bargaining representative until such time as there were employed in the appropriate unit a majority of the personnel expected to be employed therein the petition should be dismissed. It appears that the Company is presently employing a majority of the persons making up the ultimate anticipated complement of employees in the unit herein found appropriate. We find nothing inconsistent on this record either with the alleged agreement referred to by counsel for the Company or with our present practice in cases involving expanding units.

We shall direct that the question concerning representation which has arisen be resolved by an election by secret ballot among the em-

ployees 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 Consolidated Vultee Aircraft Corporation (Allentown Division), Allentown, 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 Fourth 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 they desire to be represented by International Association of Machinists, A. F. of L., or by International Union, United Automobile, Aircraft & Agricultural Implement Workers of America, C. I. O., for the purposes of collective bargaining, or by neither.

MR. JOHN M. HOUSTON took no part in the consideration of the above Decision and Direction of Election.