

In the Matter of COLUMBIA AIRCRAFT CORPORATION and INTERNATIONAL UNION, UNITED AUTOMOBILE, AIRCRAFT AND AGRICULTURAL IMPLEMENT WORKERS OF AMERICA, (UAW-CIO)

Case No. 2-R-4677.—Decided May 31, 1944

Putney, Twombly, Hall & Skidmore, by Mr. Thomas Kerrigan, of New York City, for the Company.

Mr. Benjamin Rubenstein, of New York City, for the Union.

Mr. A. Sumner Lawrence, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition duly filed by International Union, United Automobile, Aircraft and Agricultural Implement Workers of America, (UAW-CIO), herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Columbia Aircraft Corporation, Long Island, New York, the National Labor Relations Board provided for an appropriate hearing upon due notice before John J. Cuneo, Trial Examiner. Said hearing was held at New York City on May 3 and 4, 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 the 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

Columbia Aircraft Corporation, a New York corporation, has its principal office and one plant at Valley Stream, Long Island, New York, where it is engaged in the manufacture of aircraft and aircraft

parts for the United States Navy. In addition to its Valley Stream plant, the Company also maintains and operates a similar plant at Franklin Square, Long Island, New York, together with a warehouse at Jamaica, New York, all of which are involved in the present proceeding, and are hereinafter referred to collectively as the Long Island plants. During the year ending April 11, 1944, the Company received for use at its Long Island plants, raw materials valued at approximately \$500,000, of which 50 percent was obtained from points outside the State of New York. During the same period, the Company manufactured and produced finished airplanes and parts valued in excess of \$1,000,000, all of which were delivered at its Long Island plants to the United States Government (Navy Department). Approximately 75 percent of such finished products was in turn shipped or transported by the United States Government to various points outside the State of New York and to foreign countries.

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

II. THE ORGANIZATION INVOLVED

International Union, United Automobile, Aircraft and 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 March 24, 1944, the Union, claiming majority representation, requested in writing that the Company recognize it as exclusive bargaining representative of the Company's employees. The Company declined to recognize the Union unless and until it had been certified by the Board.

A statement of a Field Examiner for the Board, introduced in evidence at the hearing, indicates that the Union represents a substantial number of employees in the unit hereinafter found appropriate.¹

We find that a question affecting commerce has arisen concerning the representation of the 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 claims an appropriate unit consisting of all production and maintenance employees of the Company employed at its Long

¹ The Field Examiner reported that the Union had submitted 668 designations all of which, consisting of 245 dated between October 1, 1943, and April 17, 1944, with 423 undated, bore the names of employees within the claimed appropriate unit containing approximately 1,608 employees.

Island plants, including tool crib employees, shipping and receiving employees, stock handlers, expeditors, dispatchers, dispatching clerks, inside truckers, chauffeurs, helpers, truck drivers, freighters, material handlers and packers, keymen, leadmen and inspectors, but excluding the chief inspector, all office employees, timekeepers, guards, plant-protection firemen, airport control operator, architect, all pilots, draftsman, aeronautical, design, electrical, material and processing, research and analytical, spare parts, industrial, methods, plant, radio and safety engineers; field service representatives, radio operator, time and motion study men and all foremen; assistant 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. The Company and the Union are generally agreed as to the appropriateness of the proposed unit. The sole contention between the parties concerns the classifications of leadmen and keymen. The Company contends that both leadmen and keymen should be excluded from the unit upon the ground that they exercise supervisory functions; the Union on the other hand, maintains that leadmen and keymen should be included in the unit upon the ground that such employees are merely experienced workers with no substantial supervisory duties. We shall consider leadmen and keymen in the order hereinabove referred to.

Leadmen. The Company employs approximately 100 leadmen, a few of whom are women. Leadmen are superior in rank to keymen and inferior to foremen and to the few assistant foremen in the larger departments.

The duties of leadmen include the passing of foremen's instructions to the keymen, or to the employees directly. Leadmen assign work, determine the necessity for additional help, and interview and give final approval in the hiring of applicants sent by the personnel department in response to requests of leadmen for additional help. Leadmen supervise an average of from 15 to 40 employees, including from 2 to 4 keymen. Leadmen spend less than half of their time in the performance of manual labor. While paid on an hourly basis, leadmen receive 20 to 30 cents more per hour than the employees whom they supervise and from 10 to 20 cents more per hour than the employees referred to as keymen. The majority of recommendations for rate increases are initiated by leadmen who fill out the required formal applications for rate increases and submit the same to the foremen, together with their recommendations which are followed in most instances by the foremen and higher management officials.²

² The evidence reveals that of the approximately 12,000 merit increases granted by the Company in the past year, over 90 percent was recommended by leadmen. The testimony also discloses that it is only rarely that the recommendations of leadmen are rejected by the other members of the Company's supervisory staff.

Conversely, leadmen can effectively prevent a request or recommendation by a keyman for an increase to an employee from being submitted to a higher supervisor. Leadmen also effectively make recommendations not only with respect to wage increases but also with respect to the hire, discharge, discipline and transfer of employees from one department to another. In addition thereto, the record discloses that leadmen are authorized to issue passes from the premises of the Company; that they are responsible for the preparation of vacation schedules; that they exercise discretion in the selection of employees for overtime work and are regarded by the employees as of supervisory rank. In view of the foregoing circumstances, we find that leadmen are supervisory employees within our customary definition.³ They will, accordingly, be excluded from the unit hereinafter found appropriate.

Keymen. The Company employs approximately 100 keymen, 10 of whom are women. These employees come under the immediate supervision of the leadmen. Their duties are to assist the leadman in instructing employees with regard to their work and in getting work started in their several departments. Keymen are hourly paid employees who by reason of their experience and skill are paid a slightly higher rate than is received by the ordinary production employees.⁴ While keymen on occasion consult with leadmen, keymen have few of the powers and little of the authority exercised by leadmen.⁵ Unlike leadmen, keymen do not make requests for additional help, do not interview applicants for positions, and do not give final approval to the employment of persons selected by the personnel department. Moreover, it appears that keymen do not schedule vacations and do not issue passes from the Company's premises, as do leadmen. Keymen spend the greater part of their time in the performance of manual labor of the same type as that performed by the production employees with whom they are associated and, so far as the record discloses, the relationship between keymen and the employees with whom they work is largely the relation which exists between a skilled worker and his helper or between an instructor and an inexperienced employee. Upon the basis of the entire record, we find that keymen have no substantial supervisory functions or duties.

³ See *Matter of Douglas Aircraft Co*, 50 N. L. R. B. 784, 787; *Matter of St. Louis Aircraft Corporation, Division of the St. Louis Car Company*, 52 N. L. R. B. 836, 843.

⁴ Although in some instances the rates of keymen are between 10 to 20 cents higher than that of production employees, in the great majority of cases there is a difference of only 5 cents an hour between the rate of an ordinary production employee and that of a keyman who has just been promoted to the classification of keyman from the rank and file of production employees.

⁵ At times wage increases are initiated by keymen but their authority in this regard is largely ineffective as compared with that of leadmen.

We shall, accordingly, include them within the unit hereinafter found appropriate for the purposes of collective bargaining.⁶

We find that all production and maintenance employees of Columbia Aircraft Corporation, employed at its plants at Valley Stream, Franklin Square, and Jamaica, Long Island, New York, including tool crib employees, shipping and receiving employees, stock handlers, expeditors, dispatchers, dispatching clerks, inside truckers, chauffeurs, helpers, truck drivers, freighters, material handlers, packers, keymen and inspectors, but excluding the chief inspector, assistant chief inspector, all office employees, timekeepers, guards, plant-protection firemen, airport control operator, architect, all pilots, draftsmen, aeronautical, design, electrical, material and processing, research and analytical, spare parts, industrial; methods, plant, radio and safety engineers; field service representatives, radio operator, time and motion study men and all foremen, assistant foremen, leadmen 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 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.

The Union requested that it appear on the ballot as International Union, United Automobile, Aircraft & Agricultural Implement Workers of America, Local 546 (UAW-CIO). The request is hereby granted.

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 Columbia Aircraft Corporation, Long Island, New York, 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 super-

⁶ See *Matter of Victor Chemicals Works*, 52 N. L. R. B. 194.

vision of the Regional Director for the Second 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 any 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, Aircraft & Agricultural Implement Workers of America, Local 546 (UAW-CIO) for the purposes of collective bargaining.

[*See infra*, 56 N. L. R. B. 1576 for Supplemental Decision and Second Direction of Election.]