

In the Matter of CONSOLIDATED VULTEE AIRCRAFT CORPORATION and  
INTERNATIONAL UNION, UNITED AUTOMOBILE, AIRCRAFT & AGRICUL-  
TURAL IMPLEMENT WORKERS OF AMERICA (CIO), LOCAL 904

*Case No. 21-R-2433.—Decided October 14, 1944*

*Mr. Frederick C. Bryan*, of San Diego, Calif., for the Company.  
*Messrs. Katz, Gallagher & Margolis*, by *Mr. Milton S. Tyre*, of Los  
Angeles, Calif., for the Union.

*Mr. David V. Easton*, of counsel to the Board.

## DECISION

AND

## DIRECTION OF ELECTION

### STATEMENT OF THE CASE

Upon a petition duly filed by International Union, United Automobile, Aircraft & Agricultural Implement Workers of America (CIO), Local 904, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Consolidated Vultee Aircraft Corporation, Downey, California, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before George H. O'Brien, Trial Examiner. Said hearing was held at Los Angeles, California, on September 11, 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. During the course of the hearing, the Company made a motion to dismiss the petition herein. The Trial Examiner referred this motion to the Board. For reasons herein-after stated in Section IV, *infra*, the 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.

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Upon the entire record in the case, the Board makes the following:

### FINDINGS OF FACT

#### I. THE BUSINESS OF THE COMPANY

Consolidated Vultee Aircraft Corporation, a Delaware corporation, is engaged in the design, manufacture, development, and sale of aircraft, aircraft parts and accessories, and in the delivery of aircraft to the United States Government. The Company operates 11 divisions located in various States of the United States. During a period of 10 months, beginning December 1, 1942, the Company purchased material, supplies, and equipment amounting in value to more than \$100,000,000, of which more than 50 percent was obtained from points outside the State of California. During the same period the Company sold products amounting in value to more than \$200,000,000. At the present time the Company is engaged exclusively in the manufacture of military aircraft, and its sales are made to the United States Government.

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

#### II. THE ORGANIZATION INVOLVED

International Union, United Automobile, Aircraft & Agricultural Implement Workers of America, Local 904, is a labor organization affiliated with the Congress of Industrial Organizations, 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 inspectors and tool proofers.

A statement of a Field Examiner for the Board, 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, currently representing the production and maintenance employees of the Company,<sup>2</sup> seeks to add to the unit which it represents

<sup>1</sup> The Field Examiner reported that the Union submitted 143 designations, of which 93 bore the names of persons appearing upon a company pay roll which contained 225 names in the alleged appropriate unit.

<sup>2</sup> This unit was established by the Board in *Matter of Vultee Aircraft, Inc.*, 24 N. L. R. B. 1189, and inspectors were excluded therefrom by stipulation of the parties.

all inspectors, including tool proofers, exclusive of supervisors. As an alternative, it seeks to represent these employees as a separate unit. The Company contends that inspectors exercise managerial functions, and should, therefore, not be represented for the purposes of collective bargaining. However, if overruled in this contention, the Company further contends that such employees should be represented in a unit separate from the production and maintenance unit.

The record indicates substantial similarity between the working conditions of inspectors and tool proofers and of production and maintenance employees, and that many of the present inspectors are employees who have been transferred from other production classifications. While the Company urges that the inspectors have final authority with respect to the acceptance or rejection of tools, we are not persuaded that such power raises them to the stature of managerial employees.<sup>3</sup> In a prior case involving another division of the Company,<sup>4</sup> the Board stated that:

. . . [inspectors'] authority to accept or reject work is insufficient to raise their stature to that of supervisory employees. Inasmuch as it is evident that . . . inspectors are skilled employees possessing considerable technical knowledge and that their interests in matters of collective bargaining are somewhat different from those of the production and maintenance employees . . . their inclusion in the production and maintenance unit is open to some question. Nevertheless, we are of the opinion that they are not supervisory employees and that their interests are not allied with those of management.

and found that such employees constituted a separate and distinct appropriate unit. We are of the opinion that the reasons which impelled our finding that inspectors constituted a separate appropriate unit in that case are controlling here also.

Accordingly, we find that all inspectors and tool proofers of the Company at its Downey, California, plant, excluding supervisors 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 pay-roll

<sup>3</sup> The Union argues that inspectors do not have this authority.

<sup>4</sup> *Matter of Consolidated Vultee Aircraft Corporation, Fort Worth Division*, 55 N. L. R. B. 577.

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 Consolidated Vultee Aircraft Corporation, Downey, California, 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 Twenty-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 International Union, United Automobile, Aircraft & Agricultural Implement Workers of America, Local 904, affiliated with the Congress of Industrial Organizations, for the purposes of collective bargaining.

MR. GERARD D. REILLY took no part in the consideration of the above Decision and Direction of Election.