

IN the Matter of CONSOLIDATED VULTEE AIRCRAFT CORPORATION, LOUISVILLE DIVISION and INTERNATIONAL BROTHERHOOD OF FIREMEN & OILERS, LOCAL #320, A. F. OF L.

*Case No. 9-R-1611.—Decided November 30, 1944*

*Mr. Thomas F. Vance*, of Louisville, Ky., for the Company.

*Mr. William E. Fredenberger*, of Louisville, Ky., for the Firemen.

*Mr. Harland D. Burcham*, of Louisville, Ky., for the UAW-CIO.

*Mr. Louis Cokin*, of counsel to the Board.

## DECISION

AND

## DIRECTION OF ELECTION

### STATEMENT OF THE CASE

Upon petition duly filed by International Brotherhood of Firemen & Oilers, Local #320, A. F. of L., herein called the Firemen, alleging that a question affecting commerce had arisen concerning the representation of employees of Consolidated Vultee Aircraft Corporation, Louisville Division, Louisville, Kentucky, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before R. N. Denham, Trial Examiner. Said hearing was held at Louisville, Kentucky, on November 3, 1944. At the commencement of the hearing the Trial Examiner granted a motion of International Union, United Automobile, Aircraft and Agricultural Implement Workers of America, C. I. O., herein called the UAW-CIO, to intervene. The Company, the Firemen, and the UAW-CIO, 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 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

Consolidated Vultee Aircraft Corporation is a Delaware corporation engaged in the design, manufacture, development and sale of air-  
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craft, aircraft parts and accessories. We are here concerned with its Louisville Division at Louisville, Kentucky. During 1943 raw materials valued at about \$1,000,000 were shipped to the Louisville Division from points outside the State of Kentucky. During the same period the Company shipped products from its Louisville Division valued in excess of \$1,000,000 to points outside the State of Kentucky.

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

## II. THE ORGANIZATIONS INVOLVED

International Brotherhood of Firemen & Oilers, Local #320, is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

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 September 16, 1944, the Firemen requested the Company to recognize it as the exclusive collective bargaining representative of the employees involved herein. The Company refused this request on the ground that the employees claimed were represented by the UAW-CIO.

A statement of a Field Examiner of the Board, introduced into evidence at the hearing, indicates that the Firemen represents a substantial number of employees in the unit hereinafter found to be appropriate.<sup>1</sup>

We find that a question affecting commerce has arisen concerning 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 Firemen contends that the boiler house employees at the Louisville plant of the Company, excluding supervisors, constitute an appropriate bargaining unit. The UAW-CIO contends that such a unit is inappropriate for the reason that the appropriate unit is plant wide. The Company takes no position with reference to the dispute.

During May 1944, the UAW-CIO filed a petition for certification as bargaining representative of the production and maintenance employees at the Louisville plant. A hearing was held on the petition

<sup>1</sup>The Field Examiner reported that the Firemen submitted six authorization cards. There are approximately six employees in the appropriate unit.

on August 11, 1944. The Firemen was not served with notice of the proceedings. On September 21, 1944, before an election was conducted, the Firemen filed its instant petition and notified the Board of its claim. The employees claimed by the Firemen were challenged at the election and their ballots impounded. On October 23, 1944, the Board issued a Supplemental Decision and Certification in the case filed by the UAW-CIO. The Board therein certified the UAW-CIO; but noted that the petition in the instant proceeding had been filed and temporarily exempted the employees involved herein from the certification.

It appears that at the time the original election was conducted among the production and maintenance employees, the Firemen maintained its identity as a labor organization in the plant, and that all the employees involved herein were members of it. In view of all the circumstances, we are of the opinion that the considerations are sufficiently balanced to make the desires of the boiler room employees themselves controlling in our determination of the type of unit through which they shall bargain.

Accordingly, we shall direct an election among the boiler room employees of the Company to determine whether they desire to be represented by the Firemen, or by the UAW-CIO, or by neither. If a majority of these employees chooses the Firemen, they shall constitute a separate unit for bargaining purposes; if a majority chooses the UAW-CIO, the petition will be dismissed and the boiler room employees will remain a part of the industrial unit.

#### V. THE DETERMINATION OF REPRESENTATIVES

We shall direct that the question concerning representation which has arisen be resolved by means of an election by secret ballot among the employees described in Section IV above, 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.

It appears that during the summer months the Company does not require the full services of three of its boiler room employees in the boiler room, and that such persons work a majority of the time from May to October in the maintenance of pipes, traps, radiators, etc. While so doing, they are under the supervision of a boiler room supervisory employee and receive the same rate of pay that they receive while working full time in the boiler room. It further appears that from November to May they spend their full time working in the boiler room. Accordingly, we find that such employees are eligible to vote in the election.

## 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, Louisville Division, Louisville, Kentucky, 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 Ninth 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 all boiler room employees in the Louisville plant of the Company 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 all supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, and any 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 the International Brotherhood of Firemen & Oilers, Local #320, A. F. of L., or by International Union, United Automobile, Aircraft and Agricultural Implement Workers of America, C. I. O., for the purposes of collective bargaining, or by neither.