

In the Matter of DOUGLAS AIRCRAFT COMPANY, INC. and LOCAL 1652, INTERNATIONAL ASSOCIATION OF MACHINISTS

In the Matter of DOUGLAS AIRCRAFT COMPANY, INC. and LOCAL B-134, INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS

In the Matter of DOUGLAS AIRCRAFT COMPANY, INC. and CARPENTERS DISTRICT COUNCIL OF CHICAGO, A. F. OF L.

In the Matter of DOUGLAS AIRCRAFT COMPANY, INC. and STEAMFITTERS PROTECTIVE ASSOCIATION, LOCAL 597, AFFILIATED WITH UNITED ASSOCIATION OF JOURNEYMEN, PLUMBERS & STEAM FITTERS OF U. S. AND CANADA, A. F. OF L.

Cases Nos. 13-R-1716, 13-R-1913, 13-R-1951 and 13-R-1965, respectively.—Decided November 6, 1943.

Mr. Lester Asher, for the Board.

Mr. John J. Balluff, of Park Ridge, Ill., for the Company.

Mr. J. W. Ramsey and *Mr. R. W. Riddle*, of Chicago, Ill., for the I. A. M.

Mr. Emory J. Smith, of Chicago, Ill., for the I. B. E. W. and the Carpenters.

Mr. Daniel D. Carmell and *Mr. Conrad Seipp*, of Chicago, Ill., for the Pipefitters.

Mr. Ben Meyers, of Chicago, Ill., for the C. I. O.

Mr. C. F. Parkinson, of Detroit, Mich., for the Association.

Mr. John Gavin, of Chicago, Ill., for the Operating Engineers.

Mr. William C. Baisinger, Jr., of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTIONS

STATEMENT OF THE CASE

Upon petitions duly filed by Local 1652, International Association of Machinists,¹ herein called the I. A. M., Local B-134, International

¹ At the date of the hearing, the I. A. M. was an unaffiliated labor organization. Thereafter, by action taken at the American Federation of Labor convention on October 7, 1943, the I. A. M. became affiliated with that organization. Pursuant to the request of the I. A. M., that the Board take judicial notice of this fact in connection with all matters coming before it or pending in which the I. A. M. has an interest, we hereinafter refer to the I. A. M. as an affiliate of the American Federation of Labor and hereby order all formal papers filed herein corrected.

Brotherhood of Electrical Workers, A. F. of L., herein called the I. B. E. W., Carpenters District Council of Chicago, A. F. of L., herein called the Carpenters, and Steamfitters Protective Association, Local 597, affiliated with United Association of Journeymen, Plumbers & Steam Fitters of U. S. and Canada, A. F. of L., herein called the Pipefitters, respectively, alleging that questions affecting commerce had arisen concerning the representation of employees of Douglas Aircraft Company, Inc., at Park Ridge, Illinois, the National Labor Relations Board consolidated the cases and provided for an appropriate hearing upon due notice before C. W. Whittemore, Trial Examiner. The hearing was held at Chicago, Illinois, on September 1, 2, and 3, 1943. The Company, the I. A. M., the I. B. E. W., the Carpenters, the Pipefitters, United Automobile, Aircraft and Agricultural Implement Workers of America (UAW-CIO), herein called the C. I. O., American Power Association, Independent, herein called the Association, and International Union of Operating Engineers, Local 399, A. F. of L., herein called the Operating Engineers, 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 reserved ruling upon the motions of the I. A. M. and the C. I. O. to dismiss all other petitions and the claims of intervenors requesting less than a plant-wide unit. For reasons appearing in Section IV, *infra*, we hereby deny said motions. The Pipefitters moved to dismiss the petition of the I. A. M. and the claim of the C. I. O. on the ground that only craft units are appropriate. The Trial Examiner also reserved ruling upon this motion for the Board. For reasons appearing in Section IV, *infra*, we hereby deny said motion. 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

Douglas Aircraft Company, Inc., is a Delaware corporation engaged in the manufacture of aircraft and aircraft parts, which operates a number of plants in several States of the United States. This proceeding concerns only its plant at Park Ridge, Illinois, known as the Chicago Plant. This plant is owned by the United States Government and operated by the Company under a cost-plus fixed fee contract. All employees at the Chicago Plant are employed by the Company. During the 3-month period ending May 31, 1943, raw materials amounting in value to more than \$1,000,000 were used at the Chicago Plant,

of which approximately 80 percent was shipped to the plant from points outside the State of Illinois. During the period from June 1943 through December 1943 the Company will deliver aircraft and aircraft parts amounting in value to over \$5,000,000 from its Chicago Plant to the United States Army Air Force for use throughout the world. The Company admits that at its Chicago Plant it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATIONS INVOLVED

Local 1652, International Association of Machinists, is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

Local B-134, International Brotherhood of Electrical Workers, is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

Carpenters District Council of Chicago, is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

Steamfitters Protective Association, Local 597, affiliated with United Association of Journeymen, Plumbers & Steam Fitters of United States and Canada, is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

United Automobile, Aircraft and Agricultural Implement Workers of America (UAW-CIO) is a labor organization affiliated with the Congress of Industrial Organizations, admitting to membership employees of the Company.

American Power Association, Independent, is an organization admitting to membership employees of the Company.

International Union of Operating Engineers, Local 399, is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

III. THE QUESTIONS CONCERNING REPRESENTATION

At the hearing the parties stipulated that prior to the hearing the I. A. M., the I. B. E. W., the Carpenters, and the Pipefitters had each requested the Company to recognize it as the exclusive bargaining representative of the employees within the unit which it claims to be appropriate, and that the Company refuses to accord such recognition to any of the above organizations unless and until it is certified by the Board. During the hearing similar requests were made by the C. I. O., the Association, and the Operating Engineers, but the Company likewise refused to recognize any of these organizations.

At the hearing the I. A. M., the I. B. E. W., the Carpenters, the Pipefitters, the C. I. O., and the Operating Engineers challenged the existence of the Association as a labor organization within the meaning of the Act. The record indicates that the American Power Association was formed in 1938 by Charles F. Parkinson, who until a few days before the hearing in this proceeding was the plant engineer of the Company's Chicago Plant. While holding this executive position with the Company, according to his testimony, he formed a Chicago branch of the American Power Association at the Company's Chicago Plant. This branch is designated in its constitution as the Douglas Aircraft Unit of the American Power Association, and admits to membership all employees of the Company in the Chicago Plant's power plant except the supervisor. Inasmuch as the Douglas Aircraft Unit of the American Power Association was admittedly conceived and organized by Parkinson at the time he held an executive position with the Company, it cannot be considered a bona fide representative of employees of the Company for the purposes of collective bargaining. Under the Act we cannot certify an organization as representative of employees for the purposes of collective bargaining when it is apparent that the organization is incapable of bargaining at arms length with the employer.² Accordingly, we hereby deny the claim of the American Power Association as to appropriate unit and shall not afford it a place on the ballot in any of the elections hereinafter directed among the employees of the Company.

A statement by the Regional Director supplemented by a statement made at the hearing by the Board's counsel shows that the I. A. M., and the C. I. O., together represent a substantial number of employees in the unit they contend is appropriate and that the I. B. E. W., the Carpenters, and the Pipefitters each represents a substantial number of employees in the unit it claims to be appropriate.³

² See *Matter of Phelps Dodge Corporation, United Verde Branch*, 6, N. L. R. B. 624; *Matter of New York Merchandise Company, Inc., et al*, 50 N. L. R. B. 41.

³ The following tabulation sets forth the statements of the Regional Director and the Board's attorney concerning the authorization evidence submitted by the participating labor organizations:

Unit requested	Number	I. A. M.	C. I. O.	I. B. E. W.	Carpenters	Steam fitters	Operating Engineers
Plant-wide Unit	100%	27.09%	21.67%				
Unit requested by I. B. E. W.	145	26	5	76			
Unit requested by Carpenters	122	26	6		78		
Unit requested by Pipefitters	107	12	10			24	3

At the hearing the Company, the I. A. M., the C. I. O., the Carpenters, the Pipefitters, and the I. B. E. W. stipulated that each of these labor organizations has made a sufficient showing of membership within the group which it alleges comprises an appropriate unit to give rise to a question concerning representation.

We find that questions affecting commerce have 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 DETERMINATION OF REPRESENTATIVES

In Case No. 13-R-1716, the I. A. M. and the C. I. O. seek a unit comprised of all employees at the Chicago Plant, including plant clerks and trainees in the plant, but excluding executives, administrative, technical and engineering department employees, guards, drivers employed in the transportation division, professional employees, office clerical employees, and supervisory employees above the classification of leadmen "C." The Company has no objection to this unit. In the manufacture of aircraft and aircraft parts, the Company operates its Chicago Plant on a departmental basis as an integrated manufacturing unit. In the main each of the craft unions herein involved seeks a unit comprised of the employees in the plant's maintenance department who are within its jurisdiction. Their respective contentions will be discussed below.

As to the unit proposed by the I. B. E. W.

In Case No. 13-R-1913 the I. B. E. W. requests a unit comprised of all electrical construction and maintenance employees, motor winders, electrical lubricators, electrical operators in the master substation, and radio operators in department 123 of the Chicago Plant, including trainees and helpers, but excluding clerical employees and supervisory employees above the classification of leadmen "A." This unit is comprised of approximately 145 employees, the majority of whom are assigned to the electrical maintenance department known as Department M-702. In this department are electricians and electrical maintenance employees, who are classified by the Company as "A," "B," and "C" electricians, depending upon their experience in the trade. The "B" electricians were formerly known as electrical oilers or lubricators, which is the term employed by the I. B. E. W. in its unit request. The Company has no classification called motor winders, but this work is done by various maintenance electricians in this department. Neither has the Company a classification specifically designated as electrical operators in the master substation, but electrical maintenance employees of Department M-702 are assigned to perform electrical maintenance work in the substation, or powerhouse, at various times. The powerhouse is a separate building from the assembly plant which houses the electrical maintenance department. Although the same electrician is usually assigned to the

powerhouse, he reports each morning to Department M-702. The radio operators whom the I. B. E. W. also desires to represent are employed in Department 123, known as the Flight Section. They are permanently assigned to Department 123 and are under the separate supervision of the chief test pilot.

In the absence of any history of collective bargaining among the Company's employees at the Chicago Plant, and in view of the fact that the maintenance electricians are a skilled, homogeneous, and functionally distinct group of employees, typically represented by craft organizations for the purposes of collective bargaining, we are of the opinion that these employees may appropriately form a separate bargaining unit if they so desire. It is also evident, on the other hand, that they might properly form a part of the broader production and maintenance unit advocated by the C. I. O. and the I. A. M. Our determination of the unit issue with respect to these employees will depend in part on the desires of the employees themselves, to be expressed in the election hereinafter directed. We shall exclude from the voting group the radio operators in Department 123, since their work is entirely unrelated to that of the other employees in the proposed unit.

There remains for consideration the question whether leadmen may properly be included in the voting group. A salaried supervisor and assistant supervisor are in charge of Department M-702. Under these supervisors are leadmen "A," "B," and "C," each of whom is an hourly paid employee. Leadmen "C" are working employees who are in charge of from 4 to 12 men. A leadman "C" receives orders from a leadman "B," who may have under him from 1 to 6 leadmen "C." The "B" leadman in turn receives instructions from an "A" leadman, who may have from 1 to 6 "B" leadmen under him. The "C" leadmen have no power to hire or discharge the employees under them, but being in intimate contact with groups of employees they make out employee analysis charts, which may be used by the "B" or "A" leadmen in making recommendations as to hiring or discharging of employees. An "A" leadman is required to spend approximately 30 percent of his time at his trade in an advisory capacity on the specific jobs; the "B" leadman must spend about 40 percent of his time in this capacity; while the "C" leadman works at his trade all of the time. The "A" leadmen delegate jobs to various "B" leadmen and are chosen because of their ability to handle men. The Company's plant engineer, who is in charge of the various maintenance departments throughout the plant, testified that he considered leadmen "A" and "B" to be supervisory employees who in other plants would be designated as foremen and assistant foremen. The various other

production and maintenance departments throughout the plant employ "A," "B," and "C" leadmen who exercise substantially the same authority as do the leadmen in the electrical maintenance department and, as noted above, the C. I. O., the I. A. M., and the Company agree that leadmen "A" and "B" should be excluded from the production and maintenance unit requested by the two last named labor organizations. On the basis of the above facts we conclude that leadmen "A" and "B" are supervisory employees while the leadmen "C" are not. Accordingly, we shall include leadmen "C" in the electrician's voting group, but shall exclude leadmen "A" and "B."

As to the unit proposed by the Carpenters

In Case No. 13-R-1951 the Carpenters requests a bargaining unit comprised of all carpenters and woodworkers employed in the Company's Chicago Plant, including trainees or apprentices, but excluding helpers, clerical employees, and supervisory employees above the classification of leadmen "A." This proposed unit includes approximately 106 maintenance carpenters in Department M-704 and 16 woodworkers in department 431 known as the Wood Shop. The Company lists its maintenance carpenters and painters under the same department since their work is inter-related. The Carpenters, however, does not desire to include the painters in the unit it seeks to establish. The woodworkers whom the Carpenters claims to represent are not maintenance carpenters but work in the production department known as the Wood Shop where they produce wooden parts for airplanes. The maintenance carpenters are employed in a service department as distinguished from a production department. The Carpenters submitted no evidence of representation with respect to the woodworkers. In view of the apparent disparity in the functions of these two groups of employees we are of the opinion that the unit proposed by the carpenters is inappropriate insofar as it includes the woodworkers in the Wood Shop.

For the same reasons as those which governed our decision as to the maintenance electricians, we are of the opinion that the maintenance carpenters may appropriately form a separate unit for the purposes of collective bargaining. On the other hand, the record indicates that the work of these employees is integrated with the general maintenance operations of the Chicago Plant, and that the interests of these employees to a considerable extent are aligned with those of other maintenance workers of the plant. We shall therefore base our determination of the unit issue with respect to this group, at least in part, upon the desires of the employees involved as expressed in the election hereinafter directed.

The Carpenters desire to include trainees but exclude helpers in the proposed unit. Trainee is the classification given to an inexperienced carpenter. After 16 weeks experience as a trainee the employee so classified may become a helper and after 2 months as a helper he may become a maintenance carpenter class "C." The record indicates that at least three trainees were employed in Department M-704 on or about the date of the hearing; however, the evidence is not clear with respect to whether this department employed any helpers at that time. It appears safe to assume that after 16 weeks these trainees will be reclassified as helpers. Since the Carpenters seeks to represent maintenance carpenter trainees and maintenance carpenters, there appears no valid reason for excluding the intermediate category of maintenance carpenter helpers, if any, from the voting group. Accordingly, we shall include both trainees and helpers, if any, in the voting group of maintenance carpenters. Since leadmen "A," "B," and "C" function in the same capacity in Department M-704 as they do in the electrical maintenance department, we shall include leadmen "C" in the voting group of maintenance carpenters but exclude leadmen "A" and "B" for the reasons set forth in our discussion of the electricians' unit.

As to the unit proposed by the Pipefitters.

In Case No. 13-R-1965 the Pipefitters contends that all maintenance pipefitters and plumbers and their helpers employed at the Chicago Plant, excluding clerical employees and supervisory employees above the classification of leadmen "A" constitute an appropriate bargaining unit.

There are approximately 107 employees in the unit sought by the Pipefitters. These employees are employed within the Company's department designated as Department 706, which is comprised of pipefitters, plumbers, repairmen, helpers, and sheet metal workers. The plumbers maintain equipment for utilities such as gas, air, water, steam, and sewers. The pipefitters work with the plumbers in such maintenance work. Repairmen make repairs on small air-operated tools. The sheet metal workers spend about 10 percent of their time working with the plumbers and their helpers, and the remainder of their time is spent at machines in Department 706 where they process material for the production departments and crafts other than plumbers and pipefitters. The Pipefitters would exclude the sheet metal workers from the craft unit which it claims is appropriate, since they are not eligible for membership in the Pipefitters' organization. Since the sheet metal workers spend the majority of their time performing work for production departments and crafts other than the pipefitters, we shall exclude them from the voting group. The Pipe-

fitters, like the Carpenters, desire to include all leadmen in its craft unit. The leadmen in this department exercise the same power and authority as do the leadmen in the various other production and maintenance departments. For reasons stated above in our discussion of the I. B. E. W.'s unit claim, we shall exclude leadmen "A" and "B" from the voting group herein, but shall include leadmen "C." We conclude that the maintenance pipefitters and plumbers and their helpers employed in the Chicago Plant's Department 706, excluding clerical employees, sheet metal workers, and leadmen "A" and "B," may function as a separate unit, or be included in the plant-wide production and maintenance unit sought by the I. A. M. and the C. I. O., and our determination of the unit issue with respect to such employees will depend, in part, upon the results of the elections hereinafter directed.

As to the unit proposed by the Operating Engineers

The Operating Engineers seeks a unit comprised of all assistant supervisors and stationary engineers "A" and "B" employed in the power plant of the Company's Chicago Plant. Since the Operating Engineers failed to submit any evidence to indicate that it represents any employees within this alleged unit, we shall not consider its claim.

Concluding findings

Aside from the question of the inclusion of electricians, carpenters, and pipefitters, the parties are in agreement as to the composition of the production and maintenance unit. We shall make no final determination respecting the appropriate unit or units pending the outcome of the elections hereinafter directed.

We shall direct that separate elections be held among (1) all electrical maintenance employees employed at the Company's Chicago Plant, including electrical maintenance employees employed in the master substation of the power plant, leadmen "C," and trainees and helpers, but excluding radio operators, clerical employees, and supervisory employees above the classification of leadmen "C," to determine whether they desire to be represented by the I. B. E. W., the I. A. M., the C. I. O., or none; (2) all maintenance carpenters, including trainees, helpers, and leadmen "C," but excluding woodworkers in department 431, clerical employees and supervisory employees above the classification of leadmen "C," to determine whether they desire to be represented by the Carpenters, the I. A. M., the C. I. O., or none; (3) all maintenance pipefitters and plumbers and their helpers, including leadmen "C," but excluding clerical employees, sheet metal workers, and supervisory employees above the

classification of leadmen "C," to determine whether they desire to be represented by the Pipefitters, the I. A. M., the C. I. O., or none; (4) the remaining production and maintenance employees, including leadmen "C," plant clerks, and trainees in the plant, but excluding executive, administrative, technical and engineering department employees, professional employees, office clerical employees, guards, drivers employed in the transportation division and supervisory employees above the classification of leadmen "C," to determine whether they desire to be represented by the I. A. M., the C. I. O., or neither.

We shall direct that the questions concerning representation which have arisen be resolved by means of elections by secret ballot among the employees in the voting groups above set forth, who were employed during the pay-roll period immediately preceding the date of the Direction of Elections herein, subject to the limitations and additions set forth in the Direction. Each labor organization requested that its name appear on the ballot as it is set forth in the Direction.

DIRECTION OF ELECTIONS

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 2, as amended, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with Douglas Aircraft Company, Inc., Park Ridge, Illinois, elections by secret ballot shall be conducted as early as possible, but not later than thirty (30) days from the date of this Direction of Elections, under the direction and supervision of the Regional Director for the Thirteenth 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 groups of employees described below who were employed by the Company at its plant in Park Ridge, Illinois, known as the Chicago Plant, during the pay-roll period immediately preceding the date of this Direction of Elections, 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 employees who have since quit or been discharged for cause and have not been rehired or reinstated prior to the election among:

(1) All electrical maintenance employees employed at the Company's Chicago Plant, including electrical maintenance employees employed in the master substation of the power plant, and leadmen "C," but excluding radio operators, clerical employees, and supervisory

employees above the classification of leadmen "C," to determine whether they desire to be represented by International Brotherhood of Electrical Workers, Local B-134, A. F. of L., International Association of Machinists, A. F. L., United Automobile, Aircraft and Agricultural Implement Workers of America (UAW-CIO), for the purposes of collective bargaining, or by none;

(2) All maintenance carpenters, including leadmen "C," trainees and helpers, but excluding woodworkers in department 431, clerical employees, and supervisory employees above the classification of leadmen "C," to determine whether they desire to be represented by Carpenters District Council of Chicago, A. F. of L., International Association of Machinists, A. F. L., United Automobile, Aircraft and Agricultural Implement Workers of America (UAW-CIO), for the purposes of collective bargaining, or by none;

(3) All pipefitters and plumbers and their helpers, including leadmen "C," but excluding clerical employees, sheet metal workers, and supervisory employees above the classification of leadmen "C," to determine whether they desire to be represented by United Association of Journeymen, Plumbers & Steam Fitters of the United States and Canada, Local 597, A. F. of L., International Association of Machinists, A. F. L., United Automobile, Aircraft and Agricultural Implement Workers of America (UAW-CIO), for the purposes of collective bargaining, or by none;

(4) The remaining production and maintenance employees, including leadmen "C," plant clerks, and trainees in the plant, but excluding executives, administrative, technical and engineering department employees, professional employees, office clerical employees, guards, drivers employed in the transportation division, and supervisory employees above the classification of leadmen "C," to determine whether they desire to be represented by International Association of Machinists, A. F. L., United Automobile, Aircraft and Agricultural Implement Workers of America (UAW-CIO), for the purposes of collective bargaining, or by neither.