

In the Matter of DOUGLAS AIRCRAFT COMPANY, INC. and INTERNATIONAL UNION OF OPERATING ENGINEERS, LOCAL No. 235, AFL

In the Matter of DOUGLAS AIRCRAFT COMPANY, INC., LONG BEACH PLANT and UNITED AUTOMOBILE, AIRCRAFT & AGRICULTURAL IMPLEMENT WORKERS OF AMERICA (UAW-CIO)

In the Matter of DOUGLAS AIRCRAFT COMPANY, INC., LONG BEACH PLANT and GENERAL TRUCK DRIVERS LOCAL UNION No. 692, AFL

Cases Nos. 21-R-1984, 21-R-2025 and 21-R-2115, respectively.—
Decided December 27, 1943

Mr. Harry W. Elliott, of Los Angeles, Calif., for the Company.

Katz, Gallagher & Margolis, by Messrs. *Charles J. Katz* and *Leo Gallagher*, both of Los Angeles, Calif., for the U. A. W.

Shibley, Wanzer & Litwin, by Messrs. *Charles S. Litwin*, of Long Beach, Calif., and *Mr. M. McDonnell*, of Wilmington, Calif., for the Engineers.

Mr. Alvin Roberts, of Long Beach, Calif., for the Teamsters.

Mr. Clifton A. Hix, of Los Angeles, Calif., for the I. A. M.

Messrs. *Al Slater* and *Jack Grant*, both of Los Angeles, Calif., for the I. B. E. W.

Mr. Don T. Ketchum, of Los Angeles, Calif., for the Welders.

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

DECISION

DIRECTION OF ELECTIONS

AND

ORDER

STATEMENT OF THE CASE

Upon amended petitions duly filed by International Union of Operating Engineers, Local 235, AFL, herein called Engineers, and General Truck Drivers, Local Union No. 692, AFL, herein called the Teamsters, and upon a second amended petition duly filed by United Automobile, Aircraft & Agricultural Implement Workers of America (UAW-CIO), herein called the U. A. W., alleging that a

question affecting commerce had arisen concerning the representation of employees of Douglas Aircraft Company, Inc., Long Beach Plant, Long Beach, California, herein called the Company, the National Labor Relations Board consolidated the cases and provided for an appropriate hearing upon due notice before Maurice J. Nicoson, Trial Examiner. Said hearing was held at Los Angeles, California, on November 2, 3, and 4, 1943. The Company, the Engineers, the U. A. W., the Teamsters, International Association of Machinists, Aeronautical Lodge #1577, affiliated with the American Federation of Labor, herein called the I. A. M., International Brotherhood of Electrical Workers, Local B-11, affiliated with the American Federation of Labor, herein called the I. B. E. W., and International Union, United Aircraft Welders of America, herein called the Welders, 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 an opportunity to file briefs with the Board.

Subsequent to the hearing, the Teamsters requested permission to withdraw its petition. On November 23, 1943, the Board granted the Teamsters' request by issuing an order serving Case No. 21-R-2115 from Cases Nos. 21-R-1984 and 21-R-2025, and closing said case.

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., a Delaware corporation with its principal place of business located at Santa Monica, California, is engaged in the manufacture of aircraft. In the course and conduct of its business, the Company operates several plants in the State of California and in other States of the United States. We are concerned herein with that plant of the Company located at Long Beach, California, designated as the Long Beach plant. The Company purchases raw materials valued at approximately \$70,000,000 per annum for use at its California plants; approximately 95 percent of these materials are purchased from sources located outside the State of California. The Company produces aircraft and aircraft parts at its California plants, valued at more than \$180,000,000 per annum, nearly all of which is produced for delivery to points outside the State of California. The Company admits that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATIONS INVOLVED

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.

International Union of Operating Engineers, Local No. 235, General Truck Drivers, Local Union No. 692, International Association of Machinists, Aeronautical Lodge #1577, and International Brotherhood of Electrical Workers, Local B-11, are labor organizations affiliated with the American Federation of Labor, admitting to membership employees of the Company.

International Union, United Aircraft Welders of America, is an unaffiliated labor organization, admitting to membership employees of the Company.

III. THE QUESTIONS CONCERNING REPRESENTATION

The Company refuses to recognize any of the labor organizations involved herein, with the exception of the Welders,¹ because of their conflicting claims to representation, and insists upon certification by the Board before entering upon any bargaining relationship.

Statements of the Field Examiner and the Trial Examiner, introduced into evidence at the hearing, indicate that the Engineers, the U. A. W., and the I. B. E. W. each represents a substantial number of employees in the units which each contends is appropriate.²

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

The U. A. W. seeks a unit comprised of all full-time, hourly paid production and maintenance employees of the Company, including

¹ The Company and the Welders have previously executed a contract in which the Welders is recognized as the collective bargaining agent of employees not concerned in this proceeding

² The reports of the Field Examiner and the Trial Examiner, taking into consideration only designations bearing apparently genuine original signatures and containing the names appearing upon the Company's pay roll of August 15, 1943, may be summarized as follows: The Engineers represents approximately 31.4 percent of the employees in the unit which it seeks, the U. A. W. represents approximately 28.7 percent of the employees in the unit which it seeks, the I. B. E. W. represents approximately 28.3 percent of the employees in the unit which it seeks, and the I. A. M. represents approximately 5.2 percent of the employees in the unit which it seeks. While we cannot find that the representation of the I. A. M. is substantial, we shall accord it a place upon the ballots in the voting groups hereinafter designated since it has made some showing of membership and inasmuch as elections are to be conducted therein in any event. See *Matter of Remington-Rand, Inc.*, 40 N. L. R. B. 1100.

spot, flash, and seam welders,³ but excluding supervisory employees above the classification of leadmen, departmental and plant clerical employees, timekeepers, time and motion study employees, truck transportation employees (external transportation department), oxy-acetylene welders, oxyhydrogen welders, electric arc welders, gas flame cutters, and beginner welders,⁴ administrative employees, confidential employees, plant protection employees, safety department employees, employees located at "feeder" plants, schools, and detached warehouses, and tool liaison men. The I. A. M. agrees generally with the foregoing unit, but would include therein all departmental and plant clerical employees, timekeepers, safety department employees, plant protection employees, and tool liaison men.⁵ The Company takes a neutral position with respect to the foregoing unit except with regard to "feeder" plant employees, whom it desires to include. It indicated, however, that it favored a unit comprised of as many classifications as feasible; thus, it would favor the inclusion within the unit of departmental and plant clerical employees, timekeepers, and employees in schools and detached warehouses, but in keeping with current Board policy, would favor the exclusion of plant protection employees. In the main, each of the craft unions herein involved seeks a unit coextensive with the employees of the Company who fall within its jurisdiction.⁶ Their respective contentions will be discussed below.

The unit proposed by the Engineers

The Engineers requests a unit comprised of all operators of overhead electric cranes, fork trucks, truck cranes, and slueing cranes, and all employees of the Company engaged as crane riggers. Both the I. A. M. and the U. A. W. oppose the request of the Engineers, contending that these employees properly belong within an industrial unit.

The record indicates that most of these employees, comprised of approximately 78 individuals, are under the jurisdiction of the internal transportation department of the Company; the remainder are at-

³ These employees are not included within the unit already represented by the Welders, and the Welders does not claim jurisdiction over them.

⁴ These welders and cutters comprise the classifications of employees already represented for the purposes of collective bargaining by the Welders under a collective bargaining agreement with the Company. As hereinabove indicated, no question exists with regard to them.

⁵ Both at the hearing and in its brief, the I. A. M. stated that it did not seriously urge the inclusion of plant protection and safety department employees within the industrial unit because of the current policy of the Board. (See *Matter of Dravo Corporation*, 52 N. L. R. B. 322; *Matter of The Brown Paper Mill Company, Inc.*, 45 N. L. R. B. 1227; *Matter of Mahoning Mining Company*, 41 N. L. R. B. 497). We shall, in keeping with the foregoing policy, exclude both classifications of employees from any voting unit herein designated.

⁶ The I. B. E. W., however, confines its unit solely to maintenance employees. Cf. *Matter of General Motors Corporation, Fischer Cleveland Aircraft Division, Plant No. 2*, 52 N. L. R. B. 1291, as amended.

tached to other departments. On occasion, all are assigned to different departments where they perform work under the direction and supervision of the departmental supervisors, with the occasional assistance of departmental employees. A study of the airplane manufacturing industry indicates that the employees sought by the Engineers are customarily included within an industrial unit, and have not been accorded the status of a skilled craft.⁷ Moreover, the Board has found on several occasions that these employees do not form a sufficiently skilled group to constitute a craft unit.⁸ Nor does the evidence presented herein convince us that these employees constitute an otherwise sufficiently homogeneous group to warrant their separation from the industrial unit.⁹ Under these circumstances, we are of the opinion that the interests of these employees can best be served by including them within the industrial unit. We shall, therefore, dismiss the petition of the Engineers.

The unit proposed by the I. B. E. W.

The I. B. E. W. seeks to represent a unit comprised of all employees of the Company engaged in its electrical maintenance and electrical construction departments, including employees engaged in electrical work at the "feeder" plants hereinafter discussed. Both the U. A. W. and the I. A. M. oppose any separation of these employees from the industrial unit, the U. A. W. pointing out that such a unit has not been granted in any of the airframe plants in the Southern California area. However, we have found that these employees are a skilled, homogeneous, and identifiable group which, in the absence of any contrary history of collective bargaining may properly constitute a separate appropriate unit.¹⁰ On the other hand, it is evident that these employees might appropriately form part of the broader industrial unit advocated by the U. A. W. and the I. A. M.¹¹ Accordingly, our determination of the unit issue with respect to these employees will depend in part upon the desires of the employees themselves to be expressed in the election hereinafter directed.

⁷ The record indicates that the employees engaged in classifications sought by the Engineers have never been represented as a craft in any of the Southern California airframe manufacturing plants, and a thorough examination of past Board decisions involving the aircraft industry indicates no instance wherein such employees have been found to constitute a skilled craft group.

⁸ *Matter of Laclede Steel Company*, 49 N. L. R. B. 1116, and cases cited therein.

⁹ Cf. *Matter of American Locomotive Company*, 45 N. L. R. B. 1239.

¹⁰ *Matter of Douglas Aircraft Company, Inc.*, 50 N. L. R. B. 784; *Matter of Douglas Aircraft Company, Inc.*, 52 N. L. R. B. 781.

¹¹ *Matter of Douglas Aircraft Company, Inc.*, 53 N. L. R. B. 486; *Matter of Laister-Kauffmann Aircraft Corporation*, 52 N. L. R. B. 155. In this connection, we note that the American Federation of Labor specifically reserves to the I. B. E. W. jurisdiction over these classifications of employees, while reserving to the I. A. M. jurisdiction over the remaining types of employees in the aircraft industry. See I. A. M. Exh. 1.

There remains for consideration the question whether or not electricians employed at the "feeder" plants may properly be included within the voting group. The record indicates that the Company employs maintenance electricians at only two of its "feeder" plants, and that the remaining "feeder" plants are served by electricians operating out of the Long Beach plant. For reasons hereinafter discussed we shall exclude from this voting group all electricians permanently assigned to the "feeder" plants.

Inclusion or exclusion of miscellaneous groups

Aside from the question of the inclusion of the units sought by the Engineers and the I. B. E. W. the following classifications within the industrial unit are in dispute:

Departmental and plant clericals: As hereinbefore indicated, the U. A. W. would exclude these employees from the industrial unit, whereas the I. A. M. seeks to include them; the Company, while remaining neutral, tends toward the inclusion of these employees. It was pointed out at the hearing and in its brief by the U. A. W. that these classifications of employees have been differentiated from the production and maintenance workers under a wage stabilization plan concurred in by the I. A. M., the U. A. W., and various aircraft manufacturers in the Southern California area. However, such an agreement, while indicative of the trend in the industry in this section of the Nation with respect to wage matters, does not necessarily indicate the propriety of their exclusion from the industrial unit. The record discloses that these employees work within the plant itself and, in some instances, under the same department heads as the production and maintenance workers; it further appears that many of them are stationed and perform their duties on the production line itself. We have recently held in a similar proceeding involving another division of the Company herein that departmental and clerical employees have a close functional relationship to the production and maintenance workers, and that they might properly be included within a unit of such employees.¹² The evidence presented in the instant proceeding confirms our previous finding. Accordingly, we shall include departmental and plant clerical employees within the unit.¹³

Timekeepers: These employees perform the duties usual to this classification. The U. A. W. advanced the same reason for the exclusion of these employees as it did for the departmental and plant clericals, whereas the I. A. M. seeks to include them within the unit. However, we have frequently found that, as differentiated from ordinary

¹² *Matter of Douglas Aircraft Company, Inc. (El Segundo Division)*, 49 N. L. R. B. 819.

¹³ This classification includes, among others, such employees as file clerks, department clerks, general clerks, typists, stenographers, accounting clerks, stock clerks, stock chasers, project men, and follow-up men.

plant clericals, timekeepers perform duties which, although not disqualifying them from representation for the purposes of collective bargaining, are not sufficiently akin to those performed by production and maintenance employees to warrant their inclusion within a unit of such employees.¹⁴ Accordingly, we shall exclude them.¹⁵

Tool liaison employees: These employees, originally production and maintenance workers, act in a liaison capacity between the engineering, tool designing, and tool fabrication departments. Their duties require that they act in a close functional relationship with production employees in that they must examine, observe, and experiment with the tools used by the production workers, and also be in close contact with them. These duties are largely performed directly on the production line, their observations and suggestions being reported to the tool designing and tool fabrication departments for the purpose of bettering the tools used by the production workers. The qualifications for these positions appear to be little greater than those required of the ordinary production employee; furthermore, the record indicates that in the event these positions are eliminated, the tool liaison employees will be returned, if retained by the Company, to their former positions as ordinary production or maintenance workers. Under these circumstances, we shall include tool liaison employees within the unit of production and maintenance employees.

"Feeder" plant employees: As of the time of the hearing, the Company operated seven "feeder" plants, all of which are located within a radius of 61 miles from the main plant at Long Beach. It contends that the employees engaged therein are properly included within the industrial unit. Both the I. A. M. and the U. A. W. oppose the inclusion of these employees on the ground that (a) neither labor organization knew of the existence of these plants, and had never attempted to organize them, and (b) the character of the labor employed at these plants is such that it does not lend itself readily to the principles of collective bargaining.

The record indicates that the "feeder" plants, all of which were comparatively recently organized, are operated as separate departments of the Company; that they were set up for the purpose of providing additional facilities for the production of airplanes; and that they were situated so as to more readily tap sources of labor not available to the Long Beach plant. The employees engaged at the "feeder" plants, with the exception of those employed at the Elsinore, California, plant, work 4-hour shifts, as compared to the employees at the main plant and the Elsinore plant who put in 8-hour working shifts.

¹⁴ *Matter of General Motors Corporation, Eastern Aircraft, Trenton Division*, 51 N. L. R. B. 366. *Matter of General Motors Corporation (Eastern Aircraft Division, Baltimore Plant)*, 52 N. L. R. B. 954

¹⁵ *Matter of Consolidated Aircraft Corporation*, 47 N. L. R. B. 30.

The "feeder" plants do not appear to be permanent additions to the main plant, and their number may be increased or decreased in accordance with the necessities of business. Each of them has its separate supervisory hierarchy, although final responsibility rests in the main plant. Many of the employees engaged at the "feeder" plants hold full-time positions elsewhere and contribute to the war effort by working the short shift. The record further indicates that in the event that the "feeder" plants are no longer needed, the work performed therein would be transferred back to the main plant. As they are presently constituted, however, each of the "feeder" plants forms a separate and distinct entity. Under these circumstances, and in view of the fact that none of the labor organizations involved herein have extended their organizing efforts to employees in such "feeder" plants, we are of the opinion that the employees engaged therein should not now be included within the same unit or units as the Long Beach employees. We shall, therefore, exclude all employees engaged at "feeder" plants from the voting groups in which elections are hereinafter directed.

Warehouse and school employees: The Company maintains, in conjunction with its operations at Long Beach, several detached warehouses. Both the U. A. W. and the I. A. M. agree that the employees engaged therein should be excluded from the industrial unit, whereas the Company is inclined toward the position that they should be included. The record indicates that these employees, thus far unorganized, have little contact with the production and maintenance workers at the main plant. Under these circumstances, we shall exclude them from the industrial unit.¹⁶

Several employees of the Company are being trained in publicly owned schools under State-paid instructors. After the completion of their training, these student-employees are placed by the Company in positions on the production or assembly lines. Both the I. A. M. and the U. A. W. seek the exclusion of these employees, whereas the Company would be inclined to include them. We are of the opinion that these employees, until they have completed their training period, do not have such a substantial interest in their positions as to warrant their being placed in a unit of regular plant employees. We shall, therefore, exclude them.¹⁷

Four-hour shift employees: The majority of these employees are engaged at the "feeder" plants operated by the Company, and are therefore excluded from the voting units. Our finding in this respect does not apply to those 4-hour shift employees engaged at the main plant. On the contrary, those employees at the main plant working

¹⁶ *Matter of Val Vita Food Products, Inc.*, 45 N. L. R. B. 23.

¹⁷ *Matter of Consolidated Aircraft Corporation*, 47 N. L. R. B. 30.

half shifts are performing their duties under the same conditions of employment as the full-time employees, and have a definite interest in their working conditions. They are, therefore, properly included within a collective bargaining unit with the full-time employees.¹⁸ Accordingly, we shall include within the voting units those 4-hour shift employees not engaged at the "feeder" plants.

We shall make no final determination with respect to the appropriate unit or units pending the outcome of the elections hereinafter directed. We shall direct that separate elections by secret ballot be held among the employees in each of the voting groups below 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:

(1) All employees of the Company in its electrical maintenance and electrical construction departments, including leadmen¹⁹ and 4-hour shift employees not engaged at the "feeder" plants operated by the Company, but excluding supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, to determine whether they desire to be represented by the I. B. E. W., the I. A. M., the U. A. W., or none; and

(2) All remaining hourly paid production and maintenance employees of the Company, including spot, flash, and seam welders, departmental and plant clericals, tool liaison employees, 4-hour shift employees not engaged at "feeder" plants, and leadmen,²⁰ but excluding timekeepers, "feeder" plant employees, detached warehouse employees, school employees, plant protection employees, safety department employees, time and motion study employees, truck transportation department employees (external transportation department), oxyacetylene, oxyhydrogen, and electric arc welders, gas flame cutters, beginner welders, administrative employees, confidential 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, to determine whether they desire to be represented by the U. A. W., the I. A. M., or neither.

Upon the results of the elections in said groups will depend, in part, our determination of the appropriate unit or units.

¹⁸ *Matter of The New Britain Machine Company*, 48 N. L. R. B. 263, and cases cited therein.

¹⁹ *Matter of Douglas Aircraft Company, Inc.*, 53 N. L. R. B. 486. See also *Matter of Douglas Aircraft Company, Inc.*, Case No. 16-R-759, issued December 16, 1943, 53 N. L. R. B. 1203.

²⁰ See footnote 19, *supra*.

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 3, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with Douglas Aircraft Company, Inc., Long Beach, California, 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 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 groups of employees described below who were employed by the Company at its Long Beach, California, 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 persons 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 date of the elections:

(1) All employees of the Company in its electrical maintenance and electrical construction departments, including leadmen and 4-hour shift employees not engaged at the "feeder" plants operated by the Company, 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, to determine whether they desire to be represented by United Automobile, Aircraft & Agricultural Implement Workers of America, affiliated with the Congress of Industrial Organizations, International Association of Machinists, Aeronautical Lodge #1577, affiliated with the American Federation of Labor, International Brotherhood of Electrical Workers, Local B-11, affiliated with the American Federation of Labor, for the purposes of collective bargaining, or by none;

(2) All remaining hourly paid production and maintenance employees of the Company, including leadmen, spot, flash, and seam welders, departmental and plant clericals, tool liaison employees, and 4-hour shift employees not employed at "feeder" plants, but excluding timekeepers, "feeder" plant employees, detached warehouse employees, school employees, plant protection employees, safety department employees, time and motion study employees, truck transportation

department employees (external transportation department), oxy-acetylene, oxyhydrogen, and electric arc welders, gas flame cutters, beginner welders, administrative employees, confidential 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, to determine whether they desire to be represented by United Automobile, Aircraft & Agricultural Implement Workers of America, affiliated with the Congress of Industrial Organizations, International Association of Machinists, Aeronautical Lodge #1577, affiliated with the American Federation of Labor, for the purposes of collective bargaining, or by neither.

ORDER

Upon the basis of the foregoing findings of fact, the National Labor Relations Board hereby orders that the petition for investigation and certification of representatives of employees of Douglas Aircraft Company, Inc., Long Beach Plant, Long Beach, California, filed by International Union of Operating Engineers, Local No. 235, AFL, be, and it hereby is, dismissed.