

In the Matter of DRAVO CORPORATION, ENGINEERING WORKS DIVISION,
WILMINGTON SHIPYARD and UNITED OFFICE AND PROFESSIONAL
WORKERS OF AMERICA, CIO

Case No. 4-R-1270.—Decided February 9, 1944

Messrs. K. G. Jackson, J. C. Garvin, D. W. Mack, all of Pittsburgh, Pa., and *Mr. H. A. Heimbach*, of Wilmington, Del., for the Company.

Mr. Albert Shepard, of Philadelphia, Pa., and *Mr. Marcel Scherer*, of Wilmington, Del., for the CIO.

Mr. J. J. Naughton, of Greenville, Del., and *Mr. L. J. Gammache*, of Wilmington, Del., for the Independent.

Mr. William Strong, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by United Office and Professional Workers of America, CIO, herein called the CIO, alleging that a question affecting commerce had arisen concerning the representation of employees of Dravo Corporation, Engineering Works Division, Wilmington Shipyards,¹ Wilmington, Delaware, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Eugene M. Purver, Trial Examiner. Said hearing was held at Wilmington, Delaware, on December 28, 1943. The Company, the CIO, and Independent Office Workers Council, herein called the Independent, appeared and participated. All parties 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.

¹ The name of the Company, incorrectly shown in some parts of the record, was corrected at the hearing.

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

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Dravo Corporation, Engineering Works Division, Wilmington, Shipyard, Wilmington, Delaware, a Pennsylvania corporation, is engaged at its Wilmington Shipyard in the construction of destroyer escort vessels for the United States Navy. During 1943 the Company used raw materials at the Wilmington Shipyard valued in excess of \$15,000,000, of which more than 10 percent in volume and in value was received from points outside the State of Delaware. During that same period more than 90 percent of the Wilmington Shipyard's finished products, totally valued at more than \$20,000,000, was shipped to points outside the State of Delaware.

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

II. THE ORGANIZATIONS INVOLVED

United Office and Professional Workers of America, affiliated with the Congress of Industrial Organizations, and Independent Office Workers Council, unaffiliated, are labor organizations admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

The Company has refused to grant recognition to the CIO as the exclusive bargaining representative of the Company's employees until the CIO has been certified by the Board in an appropriate unit. The Company has likewise refused to recognize the Independent.

A statement of the Regional Director for the Fourth Region, introduced into evidence at the hearing, indicates that the CIO represents a substantial number of employees in the unit hereinafter found appropriate.²

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.

² The Regional Director reported that the CIO submitted 223 membership application cards, all of which bore apparently genuine original signatures; that the names of 156 persons appearing on the cards were listed on the Company's pay roll of November 16, 1943, which contained the names of 502 employees in the alleged appropriate unit.

The Independent submitted authorization petitions which bore 152 apparently genuine original signatures. The names of 114 persons appearing on the cards appear on the aforesaid pay roll in the CIO's alleged appropriate unit, and of 126 persons in the Independent's alleged appropriate unit, which would contain 516 of the employees on the November 16, 1943, pay roll.

IV. THE APPROPRIATE UNIT

All parties stipulated that all salaried office and clerical employees at the Company's main office and yard at the Wilmington, Delaware, plant,³ excluding executives and their private secretaries and private stenographers, and professional and confidential employees and supervisors, constitute an appropriate unit.⁴ The parties disagree as to the buyers and expeditors, the Company and the CIO seeking their exclusion, and the Independent desiring their inclusion.

There are six or eight buyers and eight expeditors in the purchasing department of the Company.⁵ All constitute part of the purchasing department and all are paid on a salary basis. The buyers purchase material, involving large sums of money, for ship construction and maintenance work, upon receipt of requisitions from various department and section heads. Buyers obtain bids on needed materials, study the bids and recommend what bid to accept, and place the orders for the materials. The buyers deal directly with outside suppliers of materials, as representatives of the Company. The work hours of buyers are irregular. They are paid a minimum \$175 a month. Stenographers and typists perform stenographic work for the buyers.

It is the function of expeditors to expedite the delivery of materials and supplies by contacting vendors and others, to check and follow the progress of delivery, and to perform other functions necessary to assure proper and timely deliveries of materials and supplies. At least 2 years of general mercantile experience is a prerequisite for the job. Expeditors deal directly with outsiders involved in supplying the Company with materials, with the United States Navy Department insofar as it has control over supplies, inspection, and other matters relevant to production by the Company, and directly with the Company's various department heads. Expeditors operate to a large extent independently, on their own initiative, without supervision, although there is a chief expeditor, and are responsible for

³ The parties stipulated for purposes of clarification that, except for the disputed categories discussed elsewhere herein, the unit inclusions should consist of the following categories of employees: (1) typists, (2) clerks, (3) office machine operators, (4) stenographers, (5) escorts (messengers), and (6) telephone operators; that the exclusions should include the following categories of confidential employees: (1) the industrial relations department, including (a) personnel, (b) training, (c) labor relations, (d) morale, and (e) rationing, (2) wage and salary administrative department and (3) salary payroll office.

⁴ There appears to be another labor organization, identified at the hearing as "Local 36," which represents hourly paid clerical workers, and possibly other hourly paid employees in categories in which salaried employees are sought to be included in the stipulated unit. At the hearing the parties appear to have disposed of the representation problem which would arise when a salaried employee in the unit became hourly paid at the same type of work, by agreeing that such an employee would remain in the salaried unit for purposes of representation. We cannot agree with this proposed solution. Employees included in the unit which we below find to be appropriate will remain in that unit only so long as they occupy salaried jobs within the included categories of work.

⁵ The Company also employs other types of expeditors in its yard, with whom we are not concerned here.

the allocation, delivery and expedition of needed materials, supplies and parts. The expeditors are in effect coordinators as well as expeditors.

Specialized knowledge of materials, and the supplying industry is needed by both buyers and expeditors.⁶ The work of the buyers and the expeditors is intertwined to a certain degree, since the expeditors take over the expediting of orders which have been placed by the buyers, and refer the problem of obtaining supplies back to the buyers whenever supplies are not forthcoming from the vendors.

Since the work of both buyers and expeditors requires much greater initiative and more direct contact with outsiders, and is of a much more responsible nature than that of the employees in categories which the parties would include in the unit, we are of the opinion that it would best serve the policies and purposes of the Act to exclude the buyers and expeditors from the office and clerical employees unit. This is not to say, however that buyers and expeditors are to be denied the right to self-organization and to collective bargaining under the Act. The precise relationship of the buyers and expeditors to management here is not now being determined by us.

We find that all salaried office and clerical employees at the Company's main office and yard at the Wilmington, Delaware, plant, excluding executives and their private secretaries and private stenographers, buyers and expeditors, professional and confidential employees, and 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 find that the question concerning representation which has arisen can best be resolved by means of an election by secret ballot. The CIO urges that the date of the filing of its petition be used to determine eligibility to vote. Inasmuch as no persuasive reason appears as to why we should depart from our usual practice, we shall direct that those eligible to vote shall be 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.

⁶ The Independent takes the position that the expeditors under consideration "are more or less pushers, or purchasing pushers * * * more or less clerical workers rather than a true expeditor in the meaning of the word"

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 Dravo Corporation, Engineering Works Division, Wilmington Shipyard, Wilmington, Delaware, 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 Fourth 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 they desire to be represented by United Office and Professional Workers of America, affiliated with the Congress of Industrial Organizations, or by Independent Office Workers' Council, for the purposes of collective bargaining, or by neither.