

In the Matter of EDWARD G. BUDD MANUFACTURING Co. and BUDD
CHAPTER, UOPWA, LOCAL 2 (CIO)

Case No. 4-R-1408.—Decided August 24, 1944

Mr. Geoffrey J. Cunniff, for the Board.

Drinker, Biddle & Reath, by *Messrs. Henry S. Drinker* and *H. H. Coburn*, of Philadelphia, Pa., for the Company.

Mr. Louis F. McCabe, of Philadelphia, Pa., for the C. I. O.

Mr. L. Halpern Miller, of Philadelphia, Pa., for the Independent

Mrs. Catherine W. Goldman, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by Budd Chapter, UOPWA, Local 2 (CIO), herein called the C. I. O., alleging that a question affecting commerce had arisen concerning the representation of employees of Edward G. Budd Manufacturing Co.,¹ Philadelphia, Pennsylvania, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Robert F. Koretz, Trial Examiner. Said hearing was held at Philadelphia, Pennsylvania, on June 29, 1944. The Company, the C. I. O., and Independent Workers Union of the Edward G. Budd Manufacturing Co., herein called the Independent,² 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.

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

¹ At the hearing the parties stipulated that the correct name of the Company is Edward G. Budd Manufacturing Co., and that wherever the name appears on the formal papers in the proceeding as Edw. G. Budd Mfg. Co., it may be changed to show the correct name.

² On June 24, 1944, the Independent was permitted to intervene in the proceeding.

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Edward G. Budd Manufacturing Co., a Pennsylvania corporation with its principal place of business in Philadelphia, Pennsylvania, is engaged in the manufacture of steel automobile bodies and parts, stainless steel rolling stock for railroads, stainless steel parts for naval vessels, and other steel products. During 1943 the Company purchased for use at its Philadelphia plant steel valued at more than \$15,000,000, of which approximately 75 percent was shipped from points outside the Commonwealth of Pennsylvania. During the same period the Company manufactured finished products amounting in value to \$80,000,000, of which 95 percent was shipped to points outside the Commonwealth of Pennsylvania. The Company's entire production is devoted to the war effort.

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

II. THE ORGANIZATIONS INVOLVED

Budd Chapter, United Office and Professional Workers of America, Local 2, affiliated with the Congress of Industrial Organizations, is a labor organization admitting to membership employees of the Company.

Independent Workers Union of Edward G. Budd Manufacturing Co., is an unaffiliated labor organization admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

The Company has refused to recognize the C. I. O. as the exclusive bargaining representative of its office and professional employees until the C. I. O. has been certified by the Board in an appropriate unit.

A statement of a Board agent, introduced into evidence at the hearing, indicates that the C. I. O. represents a substantial number of employees in the unit hereinafter found appropriate.³

³The Field Examiner reported that the C. I. O. submitted 615 designation cards; that there are 1,900 employees in the unit requested by the C. I. O.; and that the cards were dated as follows: 3 in March 1943; 1 in April 1943; 3 in January 1944; 1 in February 1944; 217 in March 1944; 270 in April 1944; 70 in May 1944; and 50 undated.

He also reported that the Independent submitted 1,603 application cards; that there are 2,229 employees in the unit alleged to be appropriate by the Independent; and that the cards were dated as follows: 26 in March 1943; 1 in April 1943; 2 in February 1944; 1,225 in March 1944; 124 in April 1944; 114 in May 1944; 10 in June 1944; and 101 undated.

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 C. I. O. contends that the appropriate bargaining unit should comprise all office and professional employees of the Company, excluding shop clerical employees, personnel counsellors, employment interviewers, job analysts, rate setters and time-study men, safety inspectors, the secretaries to the president, vice presidents, secretaries, treasurer, personnel manager, personnel director, works manager, and assistant works managers, and all supervisory employees. The Company and the Independent contend that office and professional employees should be included within a plant-wide unit of all the Company's employees. In the event, however, that the Board should find appropriate a separate unit of office and professional employees, the Company and the Independent contend that the unit should include shop clerical employees whom the C. I. O. would exclude. The Company and the Independent agree to the other exclusions proposed by the C. I. O.

The Company's office and professional employees perform the customary tasks assigned to such workers. We have, in prior cases, had occasion to assert our belief that the status, duties, and interests of office and professional employees are essentially different from those of production and maintenance employees.⁴ The instant proceeding affords no persuasive reason for departing from our usual practice of separating these two groups of employees.⁵ Accordingly, we are of the opinion that the office and professional employees of the Company may properly constitute a separate bargaining unit.

There remains for consideration the specific composition of the unit. As indicated above, the Company and the Independent contend that, if a separate unit of office and professional employees is established, shop clerical employees should be included, while the C. I. O. contends that such employees should be excluded. The Company employs the following categories of shop clerical employees:

Timekeepers. Of the Company's 139 timekeepers, 94 work in production departments. It is these 94 that the C. I. O. would exclude from the unit. The shop timekeepers, although working in the manufacturing divisions of the plant, are listed on the timekeeping depart-

⁴ See, for example, *Matter of Boston Edison Company*, 51 N. L. R. B. 118.

⁵ The office and professional employees of the Company are included with the production and maintenance employees in a contract between the Company and the Independent. The contract, however, was executed on May 31, 1944, subsequent to the C. I. O.'s claim of representation, and is not urged as a bar to this proceeding.

ment pay roll and are under the general supervision of the supervisors of the timekeeping department. They report to the timekeeping office at the beginning of their shifts to receive instructions, and at the end of the shifts to submit their records. During the shifts they make telephonic reports to the timekeeping office. Shop timekeepers are paid on the same basis as office timekeepers, and there is frequent interchange between the two groups. Under these circumstances, we see no basis for separating the shop timekeepers from the remaining timekeepers. Accordingly, we shall include the shop timekeepers in the unit.

Store clerks. There are 18 store clerks who work in storerooms located in the various production departments. They are not under the supervision of the production foremen, however, but are under the supervision of the general foreman of the storeroom and are carried on the pay roll of the general stores division of the purchasing department. These employees are engaged in keeping a card index system of incoming and outgoing materials. They do not handle any of the materials. They perform substantially the same type of work and receive the same pay as store clerks in the purchasing department, whom the C. I. O. would include in the unit. We are of the opinion that the store clerks in the shop should be included in the unit with the other store clerks.

Planning clerks. The Company assigns 12 of its 292 planning clerks to locations in the production shops where they keep records of the factory employees' production cards. The C. I. O. would exclude these 12 clerks from the unit. It appears, however, that they are under the same supervision and are carried on the same pay roll as are the planning clerks who work in the office of the planning department. Consequently, we shall include the shop planning clerks in the unit.

Expeditors. Expeditors, known as material chasers, assist the flow of production by locating and forwarding material to the proper production machines. These employees not only work in the production departments, but also are under the supervision of the shop supervisors and are listed on the production pay rolls. In view of the foregoing, we believe that the interests of the expeditors are more closely identified with those of the production and maintenance employees than with those of the office and professional employees. Accordingly, we shall exclude expeditors from the unit.

Shop stenographers and typists. Seven stenographers and five typists are located in the shops to perform clerical work for shop superintendents and foremen. These employees are listed on the production pay rolls and are under the supervision of the production supervisors. However, their work is purely clerical in nature and similar to that of the office stenographers and typists. Accordingly,

we shall include the shop stenographers and typists with the office stenographers and typists.

Inventory clerks. Inventory clerks, allocated to various departments, record the amount of materials on hand and the amount of materials needed and make reports to the accounting and purchasing departments. They are under the supervision of the superintendents of the stores division, the planning department, or the accounting department; they are not under the supervision of any production supervisors. When there is no inventory work, these clerks are assigned duties in the offices; there is constant interchange between office and inventory clerks. Upon the basis of these facts, we shall include the inventory clerks in the unit.

We find that all office and professional employees of the Company, including all timekeepers, store clerks, planning clerks, shop stenographers, shop typists, and inventory clerks, but excluding expeditors, personnel counsellors, employment interviewers, job analysts, rate setters and time-study men, safety inspectors, the secretaries to the president, vice presidents, secretaries, treasurer, personnel manager, personnel director, works manager, and assistant works managers, 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, 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 payroll period immediately preceding the date of the Direction of Election herein, subject to the limitations and additions set forth in the Direction.⁶

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 Edward G. Budd Manufacturing Co., Philadelphia, Pennsylvania, an election by secret

⁶The C. I. O. requests that its name appear on the ballot as Budd Chapter, United Office and Professional Workers of America, Local 2, CIO, and the Independent requests that its name appear as Independent Workers Union. The requests are hereby granted.

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 the 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 Budd Chapter, United Office and Professional Workers of America, Local 2, CIO, or by Independent Workers Union, for the purposes of collective bargaining, or by neither.

CHAIRMAN MILLIS took no part in the consideration of the above Decision and Direction of Election.