

In the Matter of FIRST NATIONAL STORES, INC. and AMALGAMATED MEAT CUTTERS AND BUTCHER WORKMEN OF NORTH AMERICA, A. F. OF L.

*Case No. 1-R-1768.—Decided April 14, 1944*

*Mr. Edmund J. Blake*, of Boston, Mass., for the Company.

*Mr. Philip J. Guest*, of Boston, Mass., for the Union.

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

DECISION  
AND  
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition duly filed by Amalgamated Meat Cutters and Butcher Workmen of North America, A. F. of L., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of First National Stores, Inc., Manchester, New Hampshire, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Leo J. Halloran, Trial Examiner. Said hearing was held at Manchester, New Hampshire, on March 21, 1944. The Company and the Union 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

First National Stores, Inc., is a Massachusetts corporation operating about 1,600 grocery and meat stores throughout the States of Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, and New York. During 1943 the Company sold products valued in excess of \$200,000,000. The Company maintains warehouses and bakeries that supply the retail stores. We are here concerned with

the Company's 24 stores at Manchester, New Hampshire. The products sold in the Manchester stores are shipped to it from the Company's warehouses and bakeries at Somerville, Massachusetts.

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

## II. THE ORGANIZATION INVOLVED

Amalgamated Meat Cutters and Butcher Workmen of North America is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

## III. THE QUESTION CONCERNING REPRESENTATION

On or about February 1, 1944, the Union requested the Company to recognize it as exclusive collective bargaining representative of employees at the Manchester, New Hampshire, stores. The Company refused this request until such time as the Union is certified by the Board.

A statement of a Field Examiner of the Board, introduced into evidence at the hearing, indicates that the Union 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 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 Union urges that all employees in the Manchester, New Hampshire, stores, excluding superintendents, supervisors, bakers, and order boys, constitute an appropriate unit.

The Company contends that the same classes of employees working in all its stores in the State of New Hampshire constitute an appropriate unit.

The Company has 24 stores in Manchester, employing approximately 103 persons. Throughout the State of New Hampshire, it maintains 59 stores, employing approximately 622 persons. As stated above, the Company operates stores throughout the States of Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, and New York. With the exception of the State of Rhode Island,<sup>2</sup> all units are on a less than State-wide geographic basis. The Company's past bargaining history throughout its system has been on a

<sup>1</sup> The Field Examiner reported that the Union submitted 43 membership application cards. There are approximately 103 employees in the appropriate unit.

<sup>2</sup> In Rhode Island organizational activities had included the entire State. See *Matter of First National Stores, Inc.*, 26 N. L. R. B. 1275.

basis of groups of towns and cities. Manchester is a city of substantial size and population, and the nearest town containing a store operated by the Company is several miles away. The extent of the Union's present organizational activities is limited to Manchester. Whenever possible, it is obviously desirable that, in a determination of the appropriate unit, we render collective bargaining of the Company's employees an immediate possibility. There is no evidence that a majority of the other employees in the State of New Hampshire belong to any union whatsoever, nor has any other labor organization petitioned the Board for a certification as representative of the Company's employees on a State-wide basis. Consequently, even if the employees in the city of Manchester do not constitute the most effective collective bargaining unit, nevertheless, in the existing circumstances, unless they are recognized as a separate unit, there will be no collective bargaining agent whatsoever for these workers.

At the present time, and in view of the existing state of labor organization among the employees in the State of New Hampshire, in order to assure to the employees in the city of Manchester the full benefit of their right to self-organization and collective bargaining, we find that all employees of the Company employed in its Manchester, New Hampshire stores, excluding bakers, order boys, superintendents, supervisors, and any other 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 of the Company in the unit found appropriate 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.

#### 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 First National Stores, Inc., Manchester, New Hampshire, 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 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 employees of the Company 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 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 or not they desire to be represented by Amalgamated Meat Cutters and Butcher Workmen of North America, A. F. of L., for the purposes of collective bargaining.

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