

In the Matter of THE KROGER COMPANY, EMPLOYER and RETAIL CLERKS  
INTERNATIONAL ASSOCIATION, LOCAL UNION No. 1583, AFL,  
PETITIONER

*Case No. 32-RC-116.—Decided July 1, 1949*

DECISION  
AND  
DIRECTION OF ELECTION

Upon a petition duly filed, a hearing was held before Robert D. Stark, hearing officer of the National Labor Relations Board. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

Pursuant to the provisions of Section 3 (b) of the National Labor Relations Act, the Board has delegated its powers in connection with this case to a three-member panel [Chairman Herzog and Members Reynolds and Gray].

Upon the entire record in this case, the Board finds:

1. The Employer is engaged in commerce within the meaning of the National Labor Relations Act.

2. Retail Clerks International Association, Local Union No. 1583, AFL, is a labor organization claiming to represent employees of the Employer.

3. A question affecting commerce exists, concerning the representation of employees of the Employer within the meaning of Section 9 (c) and Section 2 (6) and (7) of the Act.

4. The Petitioner seeks to represent a unit consisting of all retail clerks in the Employer's three grocery stores in Pine Bluff, Arkansas, excluding those employed in the meat department. The Employer contends that the unit should either (1) be coextensive with the administrative district of which these stores are a part, which includes the single stores in each of nine other towns in southeastern Arkansas, or (2) should encompass the stores in its Little Rock Branch, which includes virtually all of the Employer's stores in Arkansas.

The Employer operates a Nation-wide chain of approximately 2,700 retail grocery stores, grouped for administrative purposes into 28 branches, which are further subdivided into districts. Despite the

administrative grouping of the Employer's stores into branches and districts, a considerable degree of autonomy remains at the individual store level. Thus, although such broad personnel matters as wage scales, employee insurance coverage, and vacation plans are determined at the top management level, the local store manager makes up his own pay roll, pays wages out of the store's receipts, and may hire and discharge store personnel subject to the district manager's later approval. There is little community of interest between employees in the Pine Bluff stores and those in the other widely scattered towns in the district. There is no uniform wage scale, employees in Pine Bluff receiving a higher rate than those in the smaller towns. There is a free exchange of employees between the 3 stores in Pine Bluff, but normally there is no interchange between stores located in different towns.<sup>1</sup>

At various points in its operations, the Employer deals with the representatives of its employees<sup>2</sup> in units varying in size from a single store to an administrative branch. Organization for collective bargaining has extended only to three of the five districts which comprise the Employer's Little Rock Branch. In one of these, the recognized unit<sup>3</sup> includes all the Employer's stores in the City of Little Rock and its environs, and is coextensive with the district. In another, the unit is limited to clerks in the single store in Texarkana, Arkansas, one of 13 towns within the district. In Pine Bluff itself, a unit was established as the result of a consent election, consisting of the meat department clerks in the very 3 stores with which we are here concerned. The pattern of collective bargaining that emerges for this region of the Employer's operations is on a community basis rather than in conformity to the Employer's administrative units. In view of this history, together with the comparative independence of the Employer's Pine Bluff stores from an operational standpoint, and their geographic separation from the other stores in the district, we believe that a unit limited to the employees of the 3 Pine Bluff stores is appropriate.<sup>4</sup>

The Petitioner seeks to include, and the Employer to exclude, part-time employees. There are five or six full-time, and two part-time employees in each store. The part-time employees are high school boys, who are employed principally on Saturday at carrying out

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<sup>1</sup> Transfers from one town to another are occasionally made when employees request it for personal reasons. The only transfers from other towns to Pine Bluff made as a matter of policy are those of employees under consideration for promotion, who are first brought into Pine Bluff for a wider experience.

<sup>2</sup> Approximately 80 percent of the Employer's 26,000 employees are represented by labor organizations.

<sup>3</sup> This unit is composed of clerks other than those in the meat departments.

<sup>4</sup> *Matter of American Stores Company*, 82 N. L. R. B. 882.

packages to customers' automobiles. Some are also employed several hours during the week, usually at trimming produce or placing merchandise on the shelves. The full-time employees also perform all these functions, including the carrying out of packages on other days than Saturday. The part-time employees are paid at rates which are comparable to those of the full-time employees, but are not included in vacation or insurance benefit plans. Three of the six part-time employees have been employed by the Employer for 18 months, and the others for periods varying from 3 to 8 months. As it appears that the part-time employees are regularly employed at work which is the same as that performed by full-time employees, we shall include them, as regular part-time employees, in the unit.<sup>5</sup> We also find that they are eligible to vote in the election.

We find that the following employees of the Employer constitute a unit appropriate for collective bargaining: All employees in the Employer's three stores at Pine Bluff, Arkansas, including part-time employees, but excluding employees in the meat departments, the store managers, and all other supervisors as defined in the Act.

#### DIRECTION OF ELECTION

As part of the investigation to ascertain representatives for the purposes of collective bargaining with the Employer, an election by secret ballot shall be conducted as early as possible, but not later than 30 days from the date of this Direction, under the direction and supervision of the Regional Director for the Region in which this case was heard, and subject to Sections 203.61 and 203.62 of National Labor Relations Board Rules and Regulations—Series 5, as amended, among the employees in the unit described in paragraph numbered 4, above, who were employed during the pay-roll period immediately preceding the date of this Direction of Election, including employees who did not work during said pay-roll period because they were ill or on vacation or temporarily laid off, 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, and also excluding employees on strike who are not entitled to reinstatement, to determine whether or not they desire to be represented, for purposes of collective bargaining, by Local Union No. 1533, Retail Clerks International Association, A. F. L.

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<sup>5</sup> *Matter of Florsheim Retail Boot Shop, et al.*, 80 N. L. R. B. 1312; *Matter of Burrows & Sanborn, Inc.*, 81 N. L. R. B. 1308.