

In the Matter of JOHN HANCOCK MUTUAL LIFE INSURANCE COMPANY
and INDUSTRIAL & ORDINARY INSURANCE AGENTS COUNCIL, AFL

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and INDUSTRIAL & ORDINARY INSURANCE AGENTS COUNCIL, AFL

*Cases Nos. 4-R-1647 and 4-R-1794, respectively.—Decided
October 29, 1945*

*Messrs. Samuel A. Fitch and Malcolm C. Young, both of Boston,
Mass., for the Company.*

Mr. George L. Russ, of Washington, D. C., for the AFL.

*Boudin, Cohn & Glickstein, by Mr. Leonard B. Boudin, of New York
City, and Mr. Nicholas Chase, of Philadelphia, Pa., for the CIO.*

Mr. Glenn L. Moller, of counsel to the Board.

DECISION

AND

ORDER

STATEMENT OF THE CASE

Upon petitions duly filed by Industrial & Ordinary Insurance Agents Council, AFL, herein called the AFL, alleging that questions affecting commerce had arisen concerning the representation of employees of John Hancock Mutual Life Insurance Company, Boston, Massachusetts, herein called the Company, the National Labor Relations Board consolidated the cases and provided for an appropriate hearing upon due notice before Herman Lazarus, Trial Examiner. The hearing was held at Philadelphia, Pennsylvania, on July 6, 1945. The Company, the AFL, and United Office & Professional Workers of America, CIO, herein called the CIO, 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:

64 N. L. R. B., No. 92.

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

John Hancock Mutual Life Insurance Company, a Massachusetts corporation with its principal or home office located in Boston, Massachusetts, is engaged in insuring the lives of its policy holders on the mutual insurance plan and in investing its funds.

On December 31, 1944, the Company was, in terms of amount of insurance in force, the sixth largest, and in terms of assets, the seventh largest life insurance company in the United States. On the same date, the Company had more than 8,000,000 policies in force with a total face amount of more than \$4,000,000,000, and its policy holders, who resided in all the States of the United States and in many foreign countries, numbered approximately 5,600,000.

The Company's business is managed and directed by directors and officers located at its home office in Boston. Terms and conditions of the various policies of insurance offered by the Company are determined and all investments of the Company's funds are made by its home office officials. All applications for insurance and claims, applications for loans, and other matters pertaining to insurance in force are noted upon at the home office, and all policies of insurance and checks covering disbursements by the Company are prepared at the home office. The Company does business in 38 States, the District of Columbia, and the Territory of Hawaii. It sells insurance and to a considerable extent deals with its policy holders through the medium of general agents and district offices. As of December 31, 1944, the Company had 51 general agents located in 31 States and the Territory of Hawaii, and 369 district offices in 34 States, the District of Columbia, and the Territory of Hawaii.

On December 31, 1944, the Company's assets, consisting in part of cash, bonds of the United States Government and its political subdivisions, railroad equipment bonds, public utility bonds, industrial bonds, stocks, notes secured by mortgages on real estate, real estate, and premium notes and loans to policy holders, amounted to more than \$920,000,000 in value. During 1944, the Company had available funds amounting to more than \$161,500,000 in value, and it invested daily an average of approximately \$466,000.

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

II. THE ORGANIZATIONS INVOLVED

Industrial & Ordinary Insurance Agents Council, affiliated with the American Federation of Labor, is a labor organization admitting to membership employees of the Company.

United Office & Professional Workers of America, affiliated with the Congress of Industrial Organizations, is a labor organization admitting to membership employees of the Company.

III. THE ALLEGED QUESTION CONCERNING REPRESENTATION; THE ALLEGED APPROPRIATE UNITS

The AFL contends that the Board should find appropriate two State-wide units covering the agents attached to the Company's district offices in the States of Delaware and Maryland. The Company and the CIO contend that the proposed units are inappropriate on the ground that they are part of an already established multi-State bargaining unit.¹ For the reasons hereinafter stated, we agree with the contention of the Company and the CIO.

Self-organization among the Company's agents began approximately 6 years ago. In August 1939 a member local of the AFL filed a petition for an election among the agents attached to the Company's district office in East St. Louis, Illinois, and during the same month a local of the CIO petitioned for an election confined to the agents of the Company's district office, in Hoboken, New Jersey. In August 1940, the Board found both units appropriate and directed elections,² in which the petitioning unions were successful. The Company has ever since recognized the respective unions as exclusive representatives of the agents in those units. Since that time, the CIO, the AFL, and unaffiliated unions have been actively seeking to organize the Company's agents throughout the United States. Thus the CIO won consent elections in single district units in Elizabeth, Fenton, Palisades, and other upper New Jersey offices and when a contract was negotiated, it was drawn to cover all district offices in which the CIO had been or might be certified during the life of the contract. Renewal contracts contained the same provisions. In 1944, the Board dismissed a CIO petition seeking to carve out a single district unit from a State-wide unit in Massachusetts,³ which had previously been found appropriate in a State Board proceeding.⁴

Meanwhile, the AFL continued its activities in Illinois and won consent elections in a unit covering the Company's district offices in Chicago and in another unit limited to the district office at Gary, Indiana. In 1943, the AFL lost a consent election in Maryland. Early in 1945, the AFL filed a petition for a State-wide unit in

¹ The parties agree that the bargaining unit should include all district agents of the Company, excluding clerical employees, managers, assistant managers, and all other supervisory employees, differing only with respect to the geographic scope of the unit

² 26 N. L. R. B. 1024.

³ 57 N. L. R. B. 700

⁴ Although the CIO had filed the petition before the State Board, an unaffiliated union intervened and won the election.

Massachusetts. The CIO intervened and won the subsequent consent election.

The Company's contract with the CIO which preceded their current agreement expired in September 1944. At the bargaining conferences with the Company in December 1944, the CIO demanded recognition on a Nation-wide basis. As a result of this demand, an agreement was reached whereby the American Arbitration Association was to conduct a mail ballot election among the agents of the Company in all district offices not covered by union contracts. This election was conducted and the results certified to the parties on January 19, 1945, the ballots being tallied separately for each State involved. The agreement provided that recognition was not to be granted in those States in which a majority did not choose the CIO. The results showed that a majority of agents in each of 19 States of the 22 States polled voted for the CIO, including those in Delaware and Maryland. The CIO was rejected in Iowa, Nebraska, and Illinois.⁵ On February 21, 1945, the Company and the CIO executed a contract covering the agents in all district offices in which the Company had recognized the CIO, the contract again providing for incorporation under its provisions of any additional offices in which the CIO might subsequently obtain majority representation. The contract also provided that if any portion of the unit were later found by a Government agency to be an appropriate unit and another union certified therefor, the contract was to be inapplicable to such unit.⁶

Meanwhile, on January 23, 1945, after the mail ballot election, but before the execution of the CIO contract, the AFL wrote to the Company claiming majority representation in 10 of the States in which the January election had been held. Thereafter, the AFL filed petitions seeking single State units in several of the States which it had claimed in its letter, including Delaware and Maryland, but soon withdrew all of these petitions except the one covering Massachusetts and the two petitions upon which the instant proceeding is based. As indicated above, the CIO intervened in the Massachusetts proceeding and won the resulting consent election. Immediately following the mail ballot election, the CIO filed a petition seeking to establish a State-wide unit in Illinois and shortly thereafter an unaffiliated union petitioned for an election in a unit limited to the Company's district office in Rockford, Illinois. The AFL intervened in these proceedings, consolidated by the Board for purposes of hearing and disposi-

⁵ The Chicago and East St. Louis agents were excluded from the group polled in Illinois because of the AFL contracts covering those offices

⁶ Since the contract was executed after the AFL claim and after the filing of its petitions, the contract itself is not a bar to the proceeding. Our disposition of this case rests solely upon conclusions with respect to the appropriate bargaining unit.

tion. On June 9, 1945, the Board found appropriate the State-wide unit and directed an election therein.⁷ The AFL won the resulting election and was duly certified. In sum, at the time of the hearing in the instant proceeding, of the Company's 189 district offices, the CIO was the bargaining agent for 166, the AFL for 15,⁸ and an independent for 2,⁹ only the Company's 6 offices in Iowa and Nebraska being unrepresented.

Although we have frequently found appropriate in the insurance business, district or State-wide bargaining units, in all those cases, our decisions have rested upon the limited extent of self-organization among the companies' employees and our belief that dismissal of the petitions would unduly delay collective bargaining.¹⁰ Thus we have found inappropriate units less than State-wide in scope¹¹ and even State-wide in scope¹² where it has been shown that there is a labor organization in a position to represent the employees on a broader basis. The multi-State unit presently represented by the CIO, although not nation-wide, nevertheless does approximate such a unit, and has been established with the consent of a majority of the agents in each of the States included therein. Wherever the issue has arisen in insurance cases before the Board, the companies and the labor organizations involved, including the petitioner in the instant proceeding, have agreed that the ultimately appropriate unit in the insurance business should be company-wide in scope, and we have accepted this conclusion.¹³ To grant elections on a State-wide basis as the AFL requests in the present cases would impede the formation of the very type of bargaining unit which, we have consistently affirmed, is the most appropriate for insurance agents. Nor will dismissal of the present petitions operate to withhold the benefits of collective bargaining from the Company's agents in Delaware and Maryland.

We find, therefore, that the proposed units are inappropriate and we shall dismiss the petitions.

⁷ 62 N L R B 240.

⁸ 14 in Illinois and 1 in Gary, Indiana.

⁹ Both in Wisconsin, the only offices in that State.

¹⁰ *Matter of The Prudential Insurance Company of America*, 46 N L R B 430, 47 N L R B 1103, 49 N. L. R. B. 450, 50 N L R B. 689, and cases cited therein.

¹¹ *Matter of Prudential Insurance Company of America*, 49 N. L. R. B. 450, 61 N L R B 1289; *Matter of Metropolitan Insurance Company*, 56 N L R. B 1635, 56 N L R. B. 1642, *Matter of John Hancock Mutual Life Insurance Company*, 62 N. L. R B 240

¹² *Matter of Prudential Insurance Company of America*, 61 N L R B 1289. see also *Matter of Pennsylvania Electric Company*. 56 N. L. R. B. 625 (unit confined to one division of electric utility inappropriate when a union was in a position to represent employees on a system-wide basis).

¹³ See *Prudential* cases cited, *supra*. The high degree of integration of the operations of the industrial insurance business and the centralization of supervision and control, developed in the records in previous cases and in the instant case as well support the conclusion.

ORDER

Upon the basis of the foregoing findings of fact, and upon the entire record in the consolidated proceeding, the National Labor Relations Board hereby orders that the petitions for investigation and certification of representatives of employees of John Hancock Mutual Life Insurance Company, Boston, Massachusetts, filed by Industrial & Ordinary Insurance Agents Council, AFL, be, and they hereby are dismissed.

MR. GERARD D. REILLY took no part in the consideration of the above Decision and Order.