

In the Matter of PILLSBURY FLOUR MILLS COMPANY and FLOUR, CEREAL,  
FEED MILL, AND GRAIN ELEVATOR WORKERS, FEDERAL LABOR UNION  
19252, AFFILIATED WITH THE AMERICAN FEDERATION OF LABOR

*Case No. R-2032.—Decided October 17, 1930*

**Jurisdiction:** flour milling industry.

**Practice and Procedure:** petition dismissed where no appropriate unit within scope of petition.

*Mr. Bradshaw Mintener*, of Minneapolis, Minn., for the Company.

*Clark & Krings*, by *Mr. Harry C. Clark* and *Mr. L. W. Krings*, of Kansas City, Mo., and *Mr. Herbert S. Thatcher*, of Washington, D. C., for the Union.

*Mrs. Augusta Spaulding*, of counsel to the Board.

DECISION

AND

ORDER

STATEMENT OF THE CASE

On May 1, 1940, Flour, Cereal, Feed Mill, and Grain Elevator Workers, Federal Labor Union 19252,<sup>1</sup> herein called the Union, filed with the Regional Director for the Seventeenth Region (Kansas City, Missouri), a petition alleging that a question affecting commerce had arisen concerning the representation of employees of the Pillsbury Flour Mills Company, Atchison, Kansas, herein called the Company, and requesting an investigation and certification of representatives pursuant to Section 9 (c) of the National Labor Relations Act, 49 Stat. 449, herein called the Act. On August 2, 1940, the National Labor Relations Board, herein called the Board, acting pursuant to Section 9 (c) of the Act, and Article III, Section 3, of National Labor Relations Board Rules and Regulations—Series 2, as amended, ordered an investigation and authorized the Regional Director to conduct it and to provide for an appropriate hearing upon due notice.

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<sup>1</sup> The petition was filed under the name of Flour, Feed and Cereal Workers Federal Labor Union #19252, affiliated with the American Federation of Labor.

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On August 14, 1940, the Regional Director issued a notice of hearing, copies of which were duly served upon the Company and the Union.<sup>2</sup> Pursuant to notice a hearing was held on August 26, 27, 28, 29, and 30 and September 3, 4, and 5, 1940, at Atchison, Kansas, before Joseph A. Hoskins, the Trial Examiner duly designated by the Board. The Company and the Union were represented by counsel and participated in the hearing. Full opportunity to be heard, to examine and cross-examine witnesses and to introduce evidence bearing upon the issues was afforded all parties. During the course of the hearing the Trial Examiner made several rulings on motions and on objections to the admission of evidence. The Board has reviewed the rulings of the Trial Examiner and finds that no prejudicial errors were committed. The rulings are hereby affirmed.

On October 8, 1940, a hearing was held before the Board at Washington, D. C., for the purpose of oral argument. The Company and the Union appeared and presented argument. Each filed a brief which the Board has considered.

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

#### FINDINGS OF FACT

##### I. THE BUSINESS OF THE COMPANY

The Company, a Delaware corporation, is engaged in the manufacture of flour, feed, and other cereal products. It maintains its principal office at Minneapolis, Minnesota, and operates mills at Buffalo, New York, Minneapolis, Minnesota, Springfield, Illinois, Enid, Oklahoma, and Astoria, Oregon. In July 1940 its acquired the assets and property of Globe Grain and Milling Company with mills located in California and Utah and other plants in western States. The Pillsbury mills are controlled by the central management at Minneapolis, Minnesota. Grain is shipped from one mill to another to meet emergency conditions.

The Atchison, Kansas, mill, which is the only plant involved in this proceeding, is composed of a flour mill, feed mill, elevators, and warehouses connected by doors and bridges. Grains milled in the plant come from Kansas, Nebraska, Iowa, Oklahoma, and Texas. For the crop year ending May 31, 1940, more than 50 per cent of the manufactured products were shipped out of Kansas.

##### II. THE ORGANIZATION INVOLVED

Flour, Cereal, Feed Mill and Grain Elevator Workers, Federal Labor Union 19252 is a labor organization affiliated with the National Council

<sup>2</sup> Service of notice of the hearing was also made upon W. A. Younker, district vice president, National Council of Grain Processors. He did not appear at the hearing.

of Grain Processors and the American Federation of Labor. It admits to membership all regular production and maintenance employees of the Company, including elevator employees, but excluding supervisory and office personnel, laboratory employees, buyers, and salesmen.

### III. THE ALLEGED QUESTION CONCERNING REPRESENTATION

On December 8, 1939, the Company and the Union executed an agreement for a consent election among all regular production and maintenance employees, excluding supervisory and office personnel, laboratory employees, buyers, and salesmen. The parties understood that elevator men were included in this unit and that they would be eligible to participate in the election. On December 13, 1939, the consent election was held among the employees in the unit hereinabove mentioned including the elevator employees. The Union, the only labor organization on the ballot, lost the election.

On April 27, 1940, the Union asked the Company to recognize it as the exclusive representative of the employees in the unit contained in the consent election agreement except that the proposed unit excluded elevator men. The Company informed the Union that a production and maintenance employees' unit which excluded elevator men was inappropriate. On May 1, 1940, the Union filed its petition for investigation and certification alleging as the appropriate unit that which it offered to the Company on April 27. The Company contends that this unit is inappropriate. The Union does not claim to represent a majority of the employees in the broader unit desired by the Company, and it does not want an election if the Board should find inappropriate its proposed unit.

Elevator men are eligible to membership in the Union. The Union agreed for the consent election that the appropriate unit included elevator men. The Union has sought and obtained plant-wide units including elevator men at other flour mills of the Company and of other companies. The Union solicited the membership of the elevator men at the plant under consideration. It claimed at one time to represent a number of the elevator men. Most of the elevator men testified that they desire to be included in the plant unit.

The operations of the plant constitute an integrated enterprise. A number of the elevator men work in direct contact with employees whom the Union wishes to include in the unit. There is no greater separation between the elevator men and other production and maintenance employees than there is between different categories of production and maintenance employees to be included in the unit. Elevator men and other production and maintenance employees start at the same minimum wage rate. The elevator men punch the same time

clocks as do the other production and maintenance employees. They share the same showers and similar facilities and they use adjoining locker rooms. Elevator men and other production and maintenance employees work under similar conditions. The elevator men are negro and the other production employees are white.

Upon the entire record, including the scope of the unit in the consent election agreement, the brief lapse of time between its execution and the filing of the Union's petition, the practice of the Union as set forth above with respect to elevator men, the desire of most of the elevator men as expressed in their testimony, and the interrelationship between the elevator men and the other production and maintenance employees, we find that the unit requested by the Union is inappropriate. Since the Union does not desire an election among the employees in a broad unit which includes the elevator men, we find that no question has been raised concerning the representation of employees of the Company.

On the basis of the above findings of fact and upon the entire record in the case the Board makes the following:

#### CONCLUSION OF LAW

No question concerning the representation of employees of Pillsbury Flour Mills Company in a unit appropriate for the purposes of collective bargaining has arisen, within the meaning of Section 9 (c) of the National Labor Relations Act.

#### ORDER

Upon the basis of the foregoing findings of fact and conclusion of law the National Labor Relations Board hereby orders that the petition for investigation filed by Flour, Cereal, Feed Mill and Grain Elevator Workers, Federal Labor Union 19252, be, and it hereby is, dismissed.