

In the Matter of ELLIOTT BAY LUMBER COMPANY, ELLIOTT BAY  
MILL COMPANY and PLYWOOD AND VENEER WORKERS UNION, LOCAL  
No. 26

*Case No. R-622.—Decided August 1, 1938*

*Lumber and Fir Plywood Industries—Investigation of Representatives:* controversy concerning representation of employees: rival organizations; substantial doubt as to majority status; controversy as to appropriate unit—*Unit Appropriate for Collective Bargaining:* production and maintenance employees in both Mill Company and Lumber Company excluding supervisory and clerical employees and watchmen; centralization of management—*Election Ordered:* ballot to provide for choice of C. I. O. local on the one hand or two A. F. L. locals on the other.

*Mr. Thomas P. Graham, Jr., and Mr. Daniel Baker, for the Board.*  
*Mr. Craig L. Spencer, of Seattle, Wash., for the Mill Company and the Lumber Company.*

*Houghton, Cluck & Coughlin, by Mr. Paul Coughlin, of Seattle, Wash., for Local 26.*

*Mr. Lester C. Voris, Seattle, Wash., for Local 2618 and Local 2519.*  
*Miss Margaret M. Farmer, of counsel to the Board.*

DECISION  
AND  
DIRECTION OF ELECTION

STATEMENT OF THE CASE

On September 16, 1937, Plywood and Veneer Workers Union, Local 26, herein called Local 26, filed with the Regional Director of the Nineteenth Region (Seattle, Washington) a petition alleging that a question affecting commerce had arisen concerning the representation of employees of Elliott Bay Mill Company, Seattle, Washington, herein called the Mill 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 February 11, 1938, 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 1, as amended, ordered an investigation and authorized the Regional Director to conduct it and to provide for an appropriate hearing upon due notice.

On February 17, 1938, the Regional Director issued a notice of hearing, copies of which were duly served upon the Mill Company, upon Local 26, and upon Plywood and Veneer Workers Local 2618, herein called Local 2618, a labor organization claiming to represent employees directly affected by the investigation. Pursuant to the notice, a hearing was held on March 7, 1938, at Seattle, Washington, before Madison Hill, the Trial Examiner duly designated by the Board. The Board, Local 26, and Local 2618 were represented by counsel, the Mill Company by its president, and all participated in the hearing. During the hearing the Trial Examiner made several rulings on objections to the admission of evidence. The Board has reviewed these rulings and finds that no prejudicial errors were committed.

During the course of the hearing, Local 26 requested permission to file with the Trial Examiner an amended petition to include employees of the Elliott Bay Lumber Company. The Trial Examiner refused to accept the amended petition on the ground that it should have been filed with the Regional Director. On May 12, 1938, Local 26 filed with the Regional Director an amended petition, alleging that a question affecting commerce had arisen concerning the representation of employees of Elliott Bay Mill Company and Elliott Bay Lumber Company, Seattle, Washington, herein called the Lumber Company. On May 18, 1938, the Board ordered the reopening of the record for the taking of further evidence.

On May 24, 1938, the Regional Director issued a notice of hearing, copies of which were duly served upon the Mill Company, the Lumber Company, upon Local 26, upon Local 2618, and upon United Brotherhood of Carpenters and Joiners of America, Local 2519, herein called Local 2519, a labor organization claiming to represent employees directly affected by the investigation. Pursuant to the notice, a hearing was held on June 2, 1938, at Seattle, Washington, before Thomas S. Wilson, the Trial Examiner duly designated by the Board. The Board, Local 26, Local 2618, and Local 2519 were represented by counsel, the Mill Company by its president, the Lumber Company by its treasurer, and all participated in the hearing. Full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues was afforded all parties.

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

### FINDINGS OF FACT

#### I. THE BUSINESS OF THE COMPANIES

Elliott Bay Mill Company, a Washington corporation, with its mill and principal place of business in Seattle, Washington, is engaged in the manufacture of fir plywood. Its plant, the fifth largest of its kind in the United States, is valued at \$500,000. It maintains branch offices in California, Illinois, Arizona, and New York City.

The total sales of the Company during 1937 amounted to \$1,500,000. The Company obtains practically all its raw materials in the State of Washington. Approximately 90 per cent of the finished product is shipped to States other than the State of Washington and to Europe. It employs approximately 345 persons at its Seattle mill.

Elliott Bay Lumber Company, a wholly owned subsidiary of the Mill Company, is located in Seattle, Washington, on the same property as that of the Mill Company. It is engaged in the remanufacture of rough lumber. It remanufactures approximately six million feet of lumber annually. Approximately 30 per cent of its finished product is shipped outside the State of Washington and approximately 70 per cent is sold at wholesale and retail in the city of Seattle. It employs approximately 30 persons.

#### II. THE ORGANIZATIONS INVOLVED

Plywood and Veneer Workers Local 26 is a labor organization affiliated with the International Woodworkers of America, which is in turn affiliated with the Committee for Industrial Organization. It admits to membership all production and maintenance employees of both the Mill Company and the Lumber Company, excluding watchmen and clerical employees.

Plywood and Veneer Workers Local 2618 is a labor organization affiliated with the United Brotherhood of Carpenters and Joiners of America, which is in turn affiliated with the American Federation of Labor. It admits to its membership all production and maintenance employees in both the Mill Company and the Lumber Company, excluding watchmen and clerical employees.

Local 2519, United Brotherhood of Carpenters and Joiners of America, is a labor organization affiliated with the American Federation of Labor. It claims jurisdiction over employees engaged in wood-working involved in the manufacture, remanufacture, and handling for sale of lumber in Seattle, Washington, and vicinity.

## III. THE QUESTION CONCERNING REPRESENTATION

Prior to May 1935, Local 2519 was the only labor organization having any membership among the employees of either company. It numbered among its members three or four employees of the Lumber Company. It claimed no membership among the Mill Company employees.

In May 1935, during a strike at the Mill Company, approximately 100 employees, including a few from the Lumber Company, formed Local 2618 and obtained a charter from the American Federation of Labor. In May 1937, the Mill Company recognized Local 2618 as the sole collective bargaining representative of its employees. An agreement negotiated by the parties was signed by the president of the Mill Company but rejected by the labor organization pending the addition thereto of a wage scale. No wage scale was added and the agreement was not signed by Local 2618.

During the summer of 1937, the Committee for Industrial Organization conducted an intensive campaign for members in and around Seattle. Local 26 was chartered at this time and many employees from both companies became members of it. It claims that it represents a majority of such employees.

During January and February 1938, Local 2618 conducted an intensive membership drive among the Mill Company employees and succeeded in regaining many former members. At present it claims to represent a majority of the employees of the Mill Company. It states that since Local 2519, the other A. F. of L. affiliate, claims jurisdiction over the employees of the Lumber Company and is engaged in organizational activity among them, it has made no effort to solicit membership among such employees.

Local 2519 testified that it is organizing the employees of the Lumber Company. It does not claim to represent a majority of these employees.

The president of the Mill Company has refused to bargain with Local 26 on the ground that he has already recognized Local 2618 as the bargaining agent for the Mill Company.

We find that a question has arisen concerning the representation of employees of the Mill Company and of the Lumber Company.

## IV. THE EFFECT OF THE QUESTION CONCERNING REPRESENTATION UPON COMMERCE

We find that the question concerning representation which has arisen, occurring in connection with the operation of the Mill Company, and of the Lumber Company, described in Section I above, has a close, intimate, and substantial relation to trade, traffic, and com-

merce among the several States and tends to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

#### V. THE APPROPRIATE UNIT

Local 26 seeks a single bargaining unit composed of the production and maintenance employees of both the Mill Company and the Lumber Company, exclusive of clerical employees, supervisory employees, and watchmen. Local 2618 contends that there should be separate bargaining units composed of such employees in the Mill Company and the Lumber Company, respectively. At the first hearing the president of the Mill Company took the position that the employees of each company should be in separate units, but at the second hearing he expressed doubt as to the appropriate bargaining unit or units. Local 2519 claims jurisdiction only over employees of the Mill Company.

The evidence presented shows that the two companies maintain separate pay rolls and separate office forces, that there is a separate manager for each company, and that due to the difference in the nature of the operations there is no interchange of employees between the two companies. On the other hand, the Lumber Company is a wholly owned subsidiary of the Mill Company, and, according to the testimony of the president of the Mill Company, ultimate control of the policies of both companies rests in his hands. He also testified that although he had rarely interfered with the management of the Lumber Company, he could make the final decisions concerning the labor policies of both companies. The two companies occupy the same property and share a common yard and common office space. One telephone exchange serves both companies. The Mill Company powerhouse supplies steam to both companies, and its maintenance crew also services both companies. Under all the circumstances, we conclude that employees of both companies are appropriately included in a single bargaining unit.

Local 26 and Local 2618 agree to the exclusion from the bargaining unit of supervisory employees and agree that 12 individuals<sup>1</sup> designated as foremen on the pay roll of the Mill Company, February 15, 1938, and 2 foremen of the Lumber Company, Hadley and Bergman, are supervisory employees. However, they disagree as to the status of seven employees of the Mill Company. Local 26 wants such employees excluded from the unit on the ground that they are supervisory employees; Local 2618 claims that they are not supervisory

<sup>1</sup>The 12 foremen are: Louis Rossi, Harry Beven, Herbert Johnson, Fred Miller, Al Mulver, Einar Fagerland, W. H. Davies, Warren Carithers, Kenneth Wines, Cecil Geystel, Henry Geystel, Del Marcoe.

employees and are properly included within the unit. The record shows that four of these seven men, namely Wm. Hollinger, Louis Dudley, Seivert Kvalheim, and Albert Kitt are bosses on the drier. Each works on one of the four shifts. It is their duty to see that the right temperature is used for the different thickness of veneer, that break-downs are repaired, that there are the proper number of men on the crew, and that they are properly instructed concerning the handling of the material. It appears from the record that of the remaining three employees, two, namely E. M. Steiger and Harry Clarstrom, supervise the crews which repair the sanding machines, and one, namely B. Williamson, is a foreman in the shipping department. The record discloses that, although these seven employees have no power to hire and discharge, they are in a position to recommend dismissals. They do not rotate shifts, as do their coworkers. Their wages are somewhat higher than that of other members of their crews. They attend production meetings attended by other foremen. We find that all seven employees are properly classed as supervisory employees and should be excluded from the unit as such.

The parties also disagree as to the status of Ted Rouse, kiln foreman in the planer mill. Local 26 claims that he is engaged largely in manual labor; Local 2618 and Local 2519 claim that he is a supervisory employee. It appears from the record that he is in charge of piling and loading the lumber into the kiln. The manager of the Lumber Company testified that he was regarded by the company as a keyman and that he had the power to discharge employees working under him. We shall exclude Ted Rouse from the unit as a supervisory employee.

We find that the production and maintenance employees of the Mill Company and of the Lumber Company, excluding supervisory employees, clerical employees, and watchmen, constitute a unit appropriate for the purposes of collective bargaining and that said unit will insure to employees of the companies the full benefit of their right to self-organization and collective bargaining and otherwise effectuate the policies of the Act.

#### VI. THE DETERMINATION OF REPRESENTATIVES

The Mill Company submitted in evidence the pay roll for February 17, 1938, containing the names of approximately 327 employees within the appropriate unit. At the second hearing a representative of the Lumber Company stated that the Lumber Company employed approximately 30 employees.

Local 26 submitted in evidence 257 application cards signed by employees within the appropriate unit, a list of 216 names of members whom it alleged to be members in good standing at the time of the

hearing, and a petition signed by approximately 40 employees designating Local 26 as their collective bargaining agent.

Local 2618 submitted in evidence 228 application cards signed by employees of the Mill Company, a list of members compiled from its records containing 165 names, and a petition signed by approximately 206 employees of the Mill Company designating Local 2618 as their bargaining agent.

Local 2519 stated that it had five members among the Lumber Company employees.

Upon examination of the various documents introduced in evidence by the unions, we find many duplications in their respective claims. We find that the question which has arisen concerning the representation of employees can best be resolved by means of an election by secret ballot. It was stated at the hearing that the Mill Company and the Lumber Company have the same pay-roll period. Eligibility to vote will be determined on the basis of the pay rolls of the Mill Company and of the Lumber Company, respectively, for the pay-roll period ending February 17, 1938.

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

#### CONCLUSIONS OF LAW

1. A question affecting commerce has arisen concerning the representation of employees of Elliott Bay Mill Company and of Elliott Bay Lumber Company, Seattle, Washington, within the meaning of Section 9 (c) and Section 2 (6) and (7) of the National Labor Relations Act.

2. The production and maintenance employees of the Mill Company and of the Lumber Company, excluding clerical and supervisory employees and watchmen, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the National Labor Relations Act.

#### DIRECTION OF ELECTION

By virtue of, and pursuant to the powers vested in the National Labor Relations Board by Section 9 (c) of the National Labor Relations Act, 49 Stat. 449, and pursuant to Article III, Section 8, of National Labor Relations Board Rules and Regulations—Series 1, as amended, it is hereby

**DIRECTED** that, as part of the investigation authorized by the Board to ascertain representatives for the purposes of collective bargaining with Elliott Bay Mill Company and Elliott Bay Lumber Company, Seattle, Washington, an election by secret ballot shall be conducted

within twenty (20) days from the date of this Direction, under the direction and supervision of the Regional Director of the Nineteenth Region, acting in this matter as agent for the National Labor Relations Board and subject to Article III, Section 9, of said Rules and Regulations, among the production and maintenance employees employed by the Elliott Bay Mill Company and by the Elliott Bay Lumber Company at their mills in Seattle, Washington, as of the payroll date of February 15, 1938, excluding clerical and supervisory employees and watchmen, and excluding also those employees who have since quit or been discharged for cause, to determine whether they desire to be represented by Plywood and Veneer Workers Local 26, affiliated with the Committee for Industrial Organization or by Plywood and Veneer Workers, Local 2618, and United Brotherhood of Carpenters and Joiners, Local 2519, affiliated with the American Federation of Labor, for the purposes of collective bargaining, or by neither.