If a majority of the employees in both voting groups vote for the Intervenor, they will be taken to have indicated their desire to constitute a single appropriate unit, and the Regional Director conducting the elections directed herein is instructed to issue a certificate of representatives to the Intervenor for a unit consisting of the employees in the foregoing voting groups, which the Board, under such circumstances, finds appropriate for purposes of collective bargaining. If a majority of the employees in only one of the voting groups vote for the Intervenor, they will be taken to have indicated their desire to constitute a separate appropriate unit, and the Regional Director is instructed to issue a certificate of representatives to the Intervenor for a unit consisting of the employees in such voting group, which the Board, under such circumstances, finds to be appropriate for purposes of collective bargaining. If a majority of the employees in either or both of the foregoing voting groups vote for the Petitioner, such voting group or groups shall be represented by the Petitioner as part of its existing unit, described above, and the Regional Director will issue a certificate of results of election to that effect.

[Text of Amended Direction of Elections omitted from publication in this volume.]

MEMBERS HOUSTON and MURDOCK took no part in the consideration of the above Amended Decision and Direction of Elections.

XAVIER ZEQUEIRA *and* UNION INSULAR DE TRABAJADORES DE LA CONSTRUCCION, FLT, PETITIONER. *Case No. 24–RC–480. January 30, 1953*

Decision and Direction of Election

Upon a petition duly filed under Section 9 (c) of the National Labor Relations Act, a hearing was held before Roy J. Cohen, hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

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

1. The Employer is an individual engaged in the construction business in Puerto Rico. He is currently building the Luis Llorens Torres housing development in Isla Verde, the Toa Baja housing project in Toa Baja, and a six-story structure at Vela Street in Hato Rey. It is the employees at the latter site whom the Petitioner and Intervenor seek to represent. During the 12-month period preceding the hearing the Employer imported materials and equipment valued at approxi-

mately $48,000, and his gross receipts were approximately $1,500,000, all of which were receipts from operations within Puerto Rico.

The Employer contests the Board's jurisdiction. He asserts that upon the ratification in 1952 of the constitution of the Commonwealth of Puerto Rico by the Congress of the United States, the political status of Puerto Rico changed, and that the Board can no longer consider it a "Territory" for the purpose of asserting jurisdiction, but must treat it as a "State" of the United States. The Employer argues that the Board would not assert jurisdiction over its business if it were conducted in a State of the United States.

By virtue of Public Law 600 [1] a procedure was established for the adoption of a constitution by the people of Puerto Rico and for its subsequent ratification by Congress. Upon the approval of such a constitution by the Congress, it was provided that certain sections of the Organic Law of Puerto Rico,[2] the act establishing the government of Puerto Rico and its relations with the United States, were to be repealed. The constitution has since been written, adopted by the people of Puerto Rico, and ratified by Congress, and the prescribed sections of the Organic Act of 1917 have been repealed. That act, as revised, is known as the Puerto Rico Federal Relations Act.[3]

We have examined the Organic Act of Puerto Rico before and after amendment, Public Law 600, the constitution of Puerto Rico, the act of Congress ratifying the constitution,[4] and the applicable legislative history, and we are satisfied that the National Labor Relations Act applies to Puerto Rico as heretofore. For example, in the reports which accompanied Senate Bill S 3336 (now Public Law 600) both the Senate and House Committees stated that the section of the Organic Act of Puerto Rico concerning "the applicability of United States law . . . would remain in force and effect," [5] and that Puerto Rico's fundamental political, social, and economic relationship to the United States would not change. Moreover, the language was repeated in the Senate report which accompanied the resolution proposing ratification of the constitution.[6] In addition, we find nothing in the repeal of certain sections of the Organic Act, sections which dealt primarily with the organization of the local government and

[1] 64 Stat. 319, 48 U. S. C. Supp. V Sec 731 (b) (1950).
[2] 39 Stat. 951 (1917) as amended, 48 U. S. C. Supp. III Sec. 733 (a) (1950).
[3] 48 U S. C. Supp. V Sec 731 (e) (1950).
[4] Public Law 447, 66 Stat. 327 (1952).
[5] Sen. Rep. No. 1779, 81st Cong., 2d Sess. 8321 (1950). H. Rep 2275, 81st Cong, 2d Sess. 8857 (1950).
[6] Sen. Rep. No. 1720, 82d Cong., 2d Sess. 7051. James P. Davis, Director, Office of Territories, Department of Interior, appeared before the Senate Committee on Interior and Insular Affairs during hearings on the resolution approving the constitution, and stated in response to a question from Senator Malone, "The organic act provides that they [the basic laws of the United States] apply unless locally inapplicable, but in actual practice practically all of the general legislation of the United States applies in Puerto Rico."

the civil rights of the people of Puerto Rico, which would alter our conclusion.

We therefore find that, even though it is no longer a "Territory," this Board has plenary jurisdiction over labor relations matters in Puerto Rico, and that the Employer is engaged in commerce as defined in Section 2 (6) of the National Labor Relations Act. The Employer's contentions as to jurisdiction are rejected.

2. The labor organizations involved claim to represent certain 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) (1) and Section 2 (6) and (7) of the Act.

4. The Petitioner and the Intervenor seek a unit restricted to the Employer's operations on Vela Street in Hato Rey. The Employer, while agreeing to the composition of the unit, asserts that its scope should be broadened to include the Luis Llorens Torres housing development project which is about five-sixths of a mile from the Vela Street building. The predecessor of the Petitioner was certified by the Board, pursuant to an agreement for a consent election, as exclusive bargaining representative for all the Employer's production and maintenance workers at the Llorens project, and the Employer and Petitioner presently have a collective-bargaining agreement covering those workers. There is no bargaining history with respect to the Toa Baja housing project. The Employer has a central office at the Llorens project from which all purchases of materials and supplies are made, and in which all clerical records and payrolls are made and kept. There is some interchange of personnel between the projects. Thus, a few employees have been permanently transferred to the Vela Street project and others have been sent there temporarily as replacements or additional help. In addition, employees at both projects have the same starting and quitting times and work the same number of hours a week. None of the employees gets vacations, bonuses, or sick leave.

On the other hand, in addition to the physical separation of the two projects, separate payrolls are maintained, a different storekeeper-timekeeper is employed at each location, and each project is under the supervision of a chief engineer and foremen who have the power to hire, discipline, and discharge. Furthermore, the bargaining history at the Llorens project attests to the feasibility of that project as a separate unit. Because of the physical separation, the maintenance of separate payroll and other records, the noncentralized hiring and discharging of employees, the employment of a storekeeper-timekeeper at each site, and the bargaining history at the Llorens project, the Board finds that the following unit is appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act:

All construction and maintenance employees at the Employer's Vela Street project in Hato Rey, excluding professional personnel, office clerical employees, timekeepers, storekeepers, foremen, watchmen, guards, and supervisors as defined in the Act.

However, under the circumstances of this case, it will not be inappropriate for the parties to consolidate the two groups in the event that the Petitioner is selected by a majority of the Vela Street employees in the unit described above.[7]

[Text of Direction of Election omitted from publication in this volume.]

[7] See *John Deere Harvester Works*, 66 NLRB 1078.

AMERICAN CABLE & RADIO CORPORATION *and* COMMUNICATIONS WORKERS OF AMERICA, CIO, PETITIONER. *Case No. 2–RC–4670. January 30, 1953*

Order Denying Petition

On December 31, 1952, the Board issued a Decision and Direction of Election in this proceeding. Thereafter, on January 19, 1953, counsel for the Employer filed a petition for reconsideration of the Board's holding that the hearing officer properly overruled the Employer's objection to the presence of A. C. A. at the hearing on the asserted ground that, although its officers had filed affidavits, A. C. A. was not in compliance with Section 9 (h) of the Act, and also that he properly rejected evidence in support of that contention.

The petition for reconsideration also asked that the Board order A. C. A. stricken from the ballot in the representation election or, in the alternative, that the Board order a postponement of the election until such time as the Board had ruled on the compliance status of A. C. A. in a current separate administrative proceeding. On January 22, 1953, the Petitioner, Communications Workers of America, CIO, filed a memorandum in opposition to the Employer's petition, urging the Board, in the interest of the employees involved, not to delay the election. On January 27, 1953, A. C. A. filed an answer to the Employer's petition.

The Employer's petition raises the question of the Board's authority to investigate the truth and validity of the affidavits filed under Section 9 (h) by the officers of the A. C. A. On January 27, 1953, in *American Communications Association* v. *Herzog, et al.*, Civil Action No. 5827–52, the United States District Court for the District of Co-