As the tally of ballots shows a majority of the ballots were cast for the Petitioner, we shall certify that labor organization as the collective-bargaining representative of the employees in the appropriate unit.

[The Board certified Retail Clerks Union Local 1460, Retail Clerks International Association, AFL, as the designated bargaining representative of the employees of Hammond-Hohman Corporation d/b/a York Dress Shops, Hammond, Indiana, in the appropriate unit.]

W. P. R. A. INC. *and* GREMIO DE PRESA, RADIO, TEATRO Y TELEVISION DE PUERTO RICO, IND. *Case No. 24-CA-534. March 24, 1955*

Decision and Order

On December 30, 1954, Trial Examiner James A. Shaw issued his Intermediate Report in the above-entitled proceeding, finding that jurisdiction should not be asserted over the Respondent under the Board's new jurisdictional standards, and therefore recommending that the complaint be dismissed, as set forth in the copy of the Intermediate Report attached hereto. Thereafter, the Union filed exceptions to the Intermediate Report and a request for oral argument.

The Board has reviewed the rulings made by the Trial Examiner at the hearing and finds that no prejudicial error was committed. The rulings are hereby affirmed. The Board has considered the Intermediate Report, the exceptions, and the entire record in the case, and hereby adopts the findings, conclusions, and recommendations of the Trial Examiner.[1] The Union's request for oral argument is denied, because the record and exceptions, in our opinion, adequately present the issues and the positions of the parties.

[The Board dismissed the complaint.]

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[1] See *South P. R. Broadcasting Corp., d/b/a Radio Station WISO,* 111 NLRB 272, where, as in the instant case, the employer's gross income from the operation of a radio station in Puerto Rico was below the minimum figures established by the Board for the assertion of jurisdiction over radio stations, and therefore the Board did not assert jurisdiction. Also *Cantera Providencia,* 111 NLRB 848. *Member Murdock* in signing this decision directs attention to the fact that in the *Cantera* case he dissented from the adoption of the policy of applying United States jurisdictional standards to Puerto Rico and other Territories in place of the Board's former plenary policy.

Intermediate Report and Recommended Order

This proceeding, brought under Section 10 (b) of the National Labor Relations Act, as amended, 61 Stat. 136, herein called the Act, was heard before the undersigned at Santurce, Puerto Rico, on October 4, 1954, and on October 5, 6, 7, and 8, 1954, at Mayaguez, Puerto Rico, pursuant to due notice to all parties. The case involves W. P. R. A. Inc., herein called the Respondent, a corporation organized and existing by virtue of the laws of the Commonwealth of Puerto Rico, with its

principal office and place of business in Mayaguez, Puerto Rico, where it is engaged in the operation of a radio broadcasting station.

With respect to the unfair labor practices the complaint alleges that the Respondent had engaged in certain unfair labor practices violative of Section 8 (1), (2), (3), and (5) and Section 2 (6) and (7) of the Act. The Respondent in its answer admitted certain factual allegations in the complaint as regards the nature and volume of its business, but denied that it was engaged in commerce within the meaning of the Act. In addition it denied the commission of any of the alleged unfair labor practices. For reasons which will be apparent below the undersigned deems it unnecessary to set forth in detail herein the specific allegations in either the complaint or the answer.

At the onset of the hearing counsel for the Respondent stated for the record that it was the position of the Respondent that its business operations were of such a nature that the Board should decline to assert jurisdiction in the matter for the same reason it would decline to assert jurisdiction over a similar operation in one of the several States. In other words, the Board should apply the same jurisdictional standards to the Commonwealth of Puerto Rico that it applied to business operations in the several States.

As indicated above the complaint alleged that the Respondent operated a radio station in Mayaguez, Puerto Rico. It further alleged as follows:

> Respondent in the course and conduct of its business operations has been licensed by the Federal Communications Commission to broadcast programs to listeners in Puerto Rico and other islands in the Caribbean area, said programs advertising products manufactured by companies engaged in interstate and foreign commerce. Respondent receives a substantial part of its income from commercial companies who advertise their products by radio. Respondent is a subscriber to the various press services operating in the United States whose articles are used in the broadcast of Respondent's news programs. During the year 1953 the gross volume of its business from the operation of its radio broadcasting station was approximately $80,000.

The Respondent in its answer admitted that the foregoing allegations were correct as regards the nature of its business operations. The record shows that at all times material herein there were in all five radio stations serving the public in the Mayaguez area.

After the hearing herein was closed the Board had announced new jurisdictional standards for asserting jurisdiction in (1) cases involving the operation of radio stations, and (2) standards for asserting jurisdiction in Puerto Rico, and other of the Territories, and the District of Columbia. The pertinent cases that concern us herein are (1) *Hanford Broadcasting Company (KNGS)*, Case No. 20–RC–2315, 110 NLRB 1257 wherein the Board held as follows:

> We have determined that in future cases, the Board will assert jurisdiction over radio and television stations and telephone and telegraph systems only if the gross income of the particular enterprise amounts to at least $200,000 annually.

and (2) a Puerto Rican case, *Sixto Ortega d/b/a Sixto,* Case No. 24–RC–751, 110 NLRB 1917 where the Board held as follows:

> The Employer contests jurisdiction on the ground that the Act, which is applicable to the Territories, is not applicable to the Commonwealth of Puerto Rico. We find it unnecessary to pass on the Employer's contention at this time, as we find, on other grounds, that it will not effectuate the policies of the Act to assert jurisdiction in this case. While it is true that the operations of this Employer are not wholly unrelated to commerce, the relationship to commerce is no greater here than in the case of a similar enterprise in any of the 48 States. The Employer is essentially a retail selling organization, a type of business operation for which the Board has established specially applicable jurisdictional standards, as set forth in the *Hogue and Knott* case.[1] We do not believe that the impact of this type of operation is sufficient either in the States or in Puerto Rico to warrant the assertion of jurisdiction when the particular enterprises involved does not meet the standards therein set forth. The Employer's business, tested against the *Hogue and Knott* standards, fails to meet the amounts which we have determined are necessary to justify our assertion of jurisdiction. We therefore find that it will not effectuate the purposes of the Act to assert jurisdiction in this case, and shall dismiss the petition. *Moreover, in future*

[1] *Hogue and Knott Supermarkets,* 110 NLRB 543.

cases involving other types of business or operations for which the Board has established specially applicable standards for taking jurisdiction in the 48 States, we shall apply the same standards for asserting jurisdiction in Puerto Rico. [Emphasis supplied.]

Applying the foregoing to the admitted facts herein it is obvious that the Respondent's gross business for the representative period stated in the complaint, $80,000 annually, does not meet the standards set forth in the *Hanford* case, *supra,* $200,000 annually. Since the Board would not assert jurisdiction over the Respondent's business, if it were in one of the several States, then it follows that under the doctrine laid down in the *Sixto* case, *supra,* it would apply the same standards in Puerto Rico and the Territories.

In the circumstances the Trial Examiner will recommend that the complaint herein be dismissed forthwith.

J. H. RUTTER-REX MANUFACTURING COMPANY, INC. *and* AMALGAMATED CLOTHING WORKERS OF AMERICA, CIO. *Case No. 15–CA–632. March 25, 1955*

Decision and Order

On November 30, 1954, Trial Examiner David London issued his Intermediate Report in the above-entitled proceeding, finding that the Respondent had engaged in and was engaging in certain unfair labor practices and recommending that it cease and desist therefrom and take certain affirmative action, as set forth in the copy of the Intermediate Report attached hereto. Thereafter, the Respondent filed exceptions to the Intermediate Report and a supporting brief.

The Board has reviewed the rulings made by the Trial Examiner at the hearing and finds that no prejudicial error was committed. The rulings are hereby affirmed. The Board has considered the Intermediate Report, the exceptions and brief, and the entire record in the case, and hereby adopts, with minor corrections,[1] the Trial Examiner's findings, conclusions, and recommendations.

THE REMEDY

The Trial Examiner found that the Respondent discriminatorily discharged Elizabeth Morgan on July 31, 1953, and offered her reinstatement effective August 31, 1953. Morgan could not accept the job offered because of illness. The Trial Examiner also found that the Respondent thereafter discriminatorily refused to reinstate Morgan

[1] The Intermediate Report contains certain minor misstatements or inadvertencies, none of which affects the Trial Examiner's ultimate conclusions. Accordingly, we note the following corrections:

J. H. Rutter's speech pertaining to the Union's organizational campaign was delivered on July 30, 1953

Eight of the employees who signed the telegram received by the Respondent on October 16, 1953, testified concerning conversations thereafter had with Eugene Rutter.

During Eugene Rutter's conversation with Leonard concerning the telegram received on October 16, 1953, Hingle advised Rutter that he had never had any trouble with Leonard.

When, on July 31, 1953, Budy first told Morgan to go to her machine, Morgan was about 20 feet from the head of the aisle from which Morgan's machine was about another 90 feet.

The title of the case cited as 204 F 2d 579 (C. A. 10) is *N. L. R. B.* v. *Coal Creek Coal Co.*