While it would seem to me to have been much wiser for Congress to have limited the Board's jurisdiction, leaving much to the States, that is the province of Congress and not the Board. Since Congress, as its actions have been interpreted by the Supreme Court, did not see fit to do so, it seems to me incumbent upon the Board to "reassert its jurisdiction" as the Supreme Court suggested, but that it should do so in a more realistic way.

Since I would have asserted jurisdiction over this enterprise in any event, I concur in the result.

Carolina Supplies and Cement Co. *and* General Drivers, Warehousemen and Helpers, Local Union No. 509, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Petitioner. *Case No. 11–RC–1147. November 14, 1958*

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 John M. Dyer, 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 a South Carolina corporation engaged in the business of selling building supplies at retail in Charleston, South Carolina. During the 1957 calendar year the Employer's gross volume of business was approximately $635,000. All sales were made within the State of South Carolina. Its purchases for the same period amounted to approximately $523,000 of which $336,000 were received from points outside the State of South Carolina. The Employer contends that the Board should not take jurisdiction because its operations do not satisfy the jurisdictional standards for retail enterprises applied by the Board since 1954.[1]

Ever since the enactment of the National Labor Relations Act in 1935 the Board has consistently held to the position that it better effectuates the policies of the Act and promotes the prompt handling of cases not to exercise its jurisdiction to the fullest possible extent under the authority delegated to it by Congress. For the first 15 years the Board exercised its discretion in this area on a case-by-case basis. In 1950 the Board first adopted certain jurisdictional standards designed to aid it in determining where to draw the dividing line between exercised and unexercised jurisdiction. In 1954 the

[1] *Hogue and Knott Supermarkets*, 110 NLRB 543; *The T. H. Rogers Lumber Company*, 117 NLRB 1732.

Board reexamined its jurisdictional policies in the light of its experience under the 1950 standards and revised its jurisdictional standards. At that time the Board noted that "further changes in circumstances may again require future alterations of our determinations one way or another."[2] Consistent with this practice of periodic review of its jurisdictional policies and as a direct consequence of the Supreme Court's decision in *P. S. Guss d/b/a Photo Sound Products* v. *Utah Labor Relations Board*[3] denying to the States authority to assert jurisdiction over enterprises as to which the Board declines to exercise its statutory jurisdiction, the Board reexamined its existing jurisdictional policies and the standards through which such policies were implemented. As a result the Board determined to revise its jurisdictional policies so that more individuals, labor organizations, and employers may invoke the rights and protections afforded by the statute. In *Siemons Mailing Service*[4] the Board set forth the considerations which persuaded it that this could best be accomplished by the utilization of revised jurisdictional standards as an administrative aid in making its jurisdictional determinations. The Board has chosen this case to set forth the revised standard to be applied in all future and pending cases involving retail enterprises.

The Board has decided that it will assert jurisdiction over all retail enterprises[5] which fall within its statutory jurisdiction and *which do a gross volume of business of at least $500,000 per annum.* The Board will apply this standard to the total operations of an enterprise whether it consists of one or more establishments or locations, and whether it operates in one or more States.

In adopting this standard the Board has departed from its past practice of also utilizing outflow and inflow standards in aid of its jurisdictional determinations with respect to retail enterprises. It has done so because experience has shown that under past standards assertion of jurisdiction over retail enterprises usually depended upon a retail enterprise's volume of inflow. The ascertainment of inflow figures often involves extensive examination of an employer's records in which every purchase must be considered, which is time-consuming both for personnel of the employer involved and the Board. Gross volume of business figures on the other hand are readily obtainable and their production places no hardship upon employers. Accordingly, in the interests of expediting the handling of the increased volume of retail cases which the Board expects will result from the liberalization of its jurisdictional policies, the Board decided to apply only a gross volume of business standard to such enterprises. The

[2] *Edwin D. Wemyss, an individual, d/b/a Coca-Cola Bottling Company of Stockton,* 110 NLRB 840, 842.
[3] 353 U.S. 1.
[4] 122 NLRB 81.
[5] The term "retail enterprises" shall be deemed to include taxicab companies.

$500,000 standard chosen by the Board should, in its opinion, reasonably insure that jurisdiction will be asserted over all labor disputes involving retail enterprises which tend to exert a pronounced impact upon commerce.

In the present case, as it is clear that the Employer's gross volume of business of $635,000 exceeds the minimum amount required under the new standard, the Board finds that it will best effectuate the policies of the Act to assert jurisdiction herein.

2. The labor organization involved claims 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. We find, in accordance with the agreement of the parties, that a unit of the Employer's warehousemen, truckdrivers, and helpers at Charleston, South Carolina, excluding clerical employees, guards, and supervisors as defined in the Act, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act.

[Text of Direction of Election omitted from publication.]

Raritan Valley Broadcasting Company, Inc.[1] ***and*** **American Federation of Television and Radio Artists, New York Local, AFL–CIO, Petitioner.** *Case No. 22–RC–190. November 14, 1958*

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 Oscar Geltman, 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 a radio broadcasting company engaged in the operation of a radio station with call letters WCTC–AM and FM, serving the area of Middlesex and Somerset counties in New Jersey. During the calendar year preceding the hearing the Employer's gross revenues were approximately $196,244.[2] It receives revenues generally from the sale of time for commercial advertising, from the sale of talent and the furnishing of material or services to advertisers.

[1] The Employer's name appears as corrected at the hearing.

[2] In view of our disposition of this case, we need not determine whether the amount of $6,119 which advertising agencies deducted prior to paying the Employer the amount charged them for use of time is properly attributable to the Employer as gross income, thus bringing the Employer's operations within the $200,000 gross revenue standard of *Hanford Broadcasting Company*, 110 NLRB 1257.