



provisions of Section 13(a)<sup>2/</sup> and employees coming under the provisions of Section 14.<sup>3/</sup>"

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2/ Section 13(a) of the Act reads as follows:

"The provisions of Sections 6, and 7 shall not apply with respect to (1) any employee employed in a bona fide executive, administrative, professional, or local retailing capacity, or in the capacity of outside salesman (as such terms are defined and delimited by regulations of the Administrator); or (2) any employee engaged in any retail or service establishment the greater part of whose selling or servicing is in intrastate commerce; or (3) any employee employed as a seaman; or (4) any employee of a carrier by air subject to the provisions of title II of the Railway Labor Act; or (5) any employee employed in the catching, taking, harvesting, cultivating, or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds, or other aquatic forms of animal or vegetable life, including the going to and returning from work and including employment in the loading, unloading, or packing of such products for shipment, or in propagating, processing, marketing, freezing, canning, curing, storing, or distributing the above products or byproducts thereof; or (6) any employee employed in agriculture; or (7) any employee to the extent that such employee is exempted by regulations or orders of the Administrator issued under section 14; or (8) any employee employed in connection with the publication of any weekly or semiweekly newspaper with a circulation of less than three thousand the major part of which circulation is within the county where printed and published; or (9) any employee of a street, suburban, or interurban electric railway, or local trolley or motor bus carrier, not included in other exemptions contained in this section; or (10) to any individual employed within the area of production (as defined by the Administrator), engaged in handling, packing, storing, ginning, compressing, pasteurizing, drying, preparing in their raw or natural state, or canning of agricultural or horticultural commodities for market, or in making cheese or butter or other dairy products."

3/ Section 14 of the Act reads as follows:

"The Administrator, to the extent necessary in order to prevent curtailment of opportunities for employment, shall by regulations or by orders provide for (1) the employment of learners, of apprentices, and of messengers employed exclusively in delivering letters and messages, under special certificates issued pursuant to regulations of the Administrator, at such wages lower than the minimum wage applicable under section 6 and subject to such limitations as to time, number, proportion, and length of service as the Administrator shall prescribe, and (2) the employment of individuals whose earning capacity is impaired by age or physical or mental deficiency or injury, under special certificates issued by the Administrator, at such wages lower than the minimum wage applicable under section 6 and for such period as shall be fixed in such certificates."

The hosiery industry was defined in this order to mean "Manufacturing or processing of hosiery including among other processes the knitting, dyeing, clocking and all phases of finishing of hosiery, but not including the manufacturing or processing of yarn or thread."<sup>4/</sup>

The Committee first convened on February 23 and thereafter held a series of meetings, including hearings at which many persons testified concerning conditions in the hosiery industry.<sup>5/</sup> On March 30, the Committee unanimously voted to recommend that the minimum wage rate in the full-fashioned branch of the industry be 40 cents an hour and the minimum wage rate in the seamless branch be 32 $\frac{1}{2}$  cents an hour.<sup>6/</sup> This recommendation

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<sup>4/</sup> See paragraph 2 of Administrative Order No. 15, "Wage and Hour Division's Exhibit A," referred to in footnote No. 1 above.

<sup>5/</sup> Pursuant to Regulation Section 511.12 of the Wage and Hour Division, the Committee kept a journal, recording the time and place of all its meetings, the members present, the votes, and other formal proceedings of the Committee. The Committee's journal was introduced into evidence on page 5 of the record and is marked "Wage and Hour Division's Exhibit B."

<sup>6/</sup> The text of the recommendation of the Committee is printed on p. 50 of the Committee's report which was introduced into evidence on p. 6 of the Record and is marked "Wage and Hour Division's Exhibit C."

"Upon the basis of its investigation of conditions in the hosiery industry and of the foregoing analysis of the evidence, and pursuant to Section 8 of the Fair Labor Standards Act of 1938, the Committee makes the following recommendations:

"1. The hosiery industry, as defined in Administrative Order No. 15, shall be classified into two branches:

"(a) The manufacturing or processing of full-fashioned hosiery including, among other processes, the knitting, dyeing, clocking and all phases of finishing full-fashioned hosiery, but not including the manufacture or processing of yarn or thread;

(b) The manufacturing or processing of seamless hosiery including, among other processes, the knitting, dyeing, clocking and all phases of finishing seamless hosiery, but not including the manufacture or processing of yarn or thread.

"2. The minimum wage rate to be paid all employees in the full-fashioned branch of the hosiery industry, as defined in paragraph 1(a) above, shall be 40 cents an hour.

"3. The minimum wage rate to be paid all employees in the seamless branch of the hosiery industry, as defined in paragraph 1(b) above, shall be 32 $\frac{1}{2}$  cents an hour."

was duly embodied in a report of the Committee which was then filed with me on May 25, 1939, in accordance with Section 8(d) of the Act and Regulation Section 511.20 of this Division.<sup>7/</sup>

Section 8(d) further provides, in part, that "upon the filing of such report, the Administrator, after due notice to interested persons, and giving them an opportunity to be heard" shall by order approve or disapprove the Committee's recommendation.

Consequently, the Administrator published in the Federal Register<sup>8/</sup> on May 27 a notice that a public hearing commencing on June 12 in Washington, D. C., would be held before him to determine whether he should approve or disapprove the Committee's recommendation. The substance of this notice was printed in leading newspapers and hosiery trade journals.<sup>9/</sup> The hearing continued from June 12 through June 14 and included one evening session. There appeared at the hearing in favor of the Committee's recommendation representatives of the

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<sup>7/</sup> See a letter dated May 24, 1939, from Mr. George W. Taylor, Chairman of the Committee, addressed to the Administrator and attached to the last page of the Committee's journal, "Wage and Hour Division Exhibit B."

<sup>8/</sup> The text of this notice, which appeared in the Federal Register of May 27, issue No. 103 at p. 2168, was introduced into evidence on p. 6 of the Record and is marked "Wage and Hour Division Exhibit D."

<sup>9/</sup> "Wage and Hour Division Exhibit I" includes a sworn statement by Mr. George H. Kennedy, Acting Chief of the Information Branch of this Division, dated June 10, 1939, naming newspapers and trade journals which carried a notice of the hearing.

National Association of Hosiery Manufacturers, the Southern  
Hosiery Manufacturers Association, the Full-Fashioned Hosiery Manu-  
facturers of America, the American Federation of Hosiery Workers,

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- 10/ Mr. Constantine appeared on his own behalf and on behalf of the National Association of Hosiery Manufacturers, of which he is President (Record, p. 113). His testimony is recorded on pp. 93 to 132.
- 11/ Mr. T. R. Durhan appeared on behalf of the Southern Hosiery Manufacturers Association. His testimony is recorded on pp. 380 to 389.
- 12/ Mr. Joseph Haines, Jr., appeared on behalf of the Full-Fashioned Hosiery Manufacturers of America, Incorporated, of which he is executive secretary (Record, p. 227). His testimony is recorded on pp. 222 to 230.
- 13/ The American Federation of Hosiery Workers appeared with the following witnesses:
- Mr. Emil Rieve, President of the American Federation of Hosiery Workers and of the Textile Workers of America, whose testimony is recorded on pp. 676 to 683;
- Mr. Alfred Hoffman, Research Director of the American Federation of Hosiery Workers and Manager of its Hosiery Department for the seamless industry, whose testimony is recorded on pp. 660 to 676;
- Mr. John McCoy, Assistant Director of Research for the American Federation of Hosiery Workers, whose testimony is recorded on pp. 637 to 660;
- Mr. William Smith, Secretary-Treasurer of the American Federation of Hosiery Workers, whose testimony is recorded on pp. 610 to 637.

and several members of the Committee.<sup>14/</sup> The Committee on its own behalf supported its recommendation with testimony from several witnesses,<sup>15/</sup> including

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14/ Mr. John Berry, President of the Rome Hosiery Mills, Rome, Georgia, a member of the Committee and manufacturer of both cotton yarn and hose, appeared on his own behalf to request that the hosiery wage order be made effective on the same date as the textile wage order and to take exception to a portion of the Committee's report. His testimony is recorded on pp. 352 to 389. Also Mr. Glasner who appeared as a witness for the Committee (see footnote 15 below) and Mr. Emil Rieve and Mr. Alfred Hoffman who appeared as witnesses for the Union (see footnote 13 above), are members of the Committee.

15/ The Committee supported its recommendation with the following witnesses:

Mr. Newman Arnold Tolles, Assistant Chief Economist of the Wage and Hour Division, whose testimony is recorded on pp. 11 to 92, 316 to 351, and 683-687.

Mr. J. E. Baker, associated with the Baker, Cammack Hosiery Mills, Burlington, North Carolina, whose testimony is recorded on pp. 132 to 145.

Mr. W. H. Slane, associated with the Slane Hosiery Mills, Inc., High Point, North Carolina, whose testimony is recorded on pp. 145 to 155 and 311 to 316.

Mr. T. C. Langley, associated with the Adams-Millis Corporation, High Point, North Carolina, whose testimony is recorded on pp. 155 to 179.

Mr. R. A. Maynard, Secretary-Treasurer and General Manager of the Grace Hosiery Mill, Burlington, North Carolina and the Tower Hosiery Mill, whose testimony is recorded on pp. 179 to 195.

Mr. F. D. McIver, Vice-President, of the Phoenix Hosiery Company, Milwaukee, Wisconsin, whose testimony is recorded on pp. 195 to 220.

Mr. George F. Lang, President of the Co-Ed Knitting Mills, Philadelphia, and of the Full-Fashioned Hosiery Manufacturers of America, Incorporated, whose testimony is recorded on pp. 220 to 230.

Mr. G. Allan Dash, Research Assistant in the Industrial Research Department, University of Pennsylvania, whose testimony is recorded on pp. 232 to 298.

Mr. J. B. Glasner, Treasurer and General Manager of the Rockford Mitten and Hosiery Company, Rockford, Illinois, and also a member of the Committee whose testimony is recorded on pp. 300 to 311.

mill owners and experts. Several small manufacturers of seamless hose and one large producer of full-fashioned and, to a minor degree, seamless hosiery, appeared in opposition to the Committee's recommendation.<sup>16/</sup> All persons who appeared were given ample opportunity to present evidence and argument, written and oral.<sup>17/</sup>

Section 8(d) of the Act prescribes that the Administrator shall approve the committee's recommendation if he finds that

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16/ The following persons opposed the Committee's recommendation:

Mr. H. M. Arthur, President of the Excel Hosiery Mills, Union, South Carolina, represented his mill and other small mills located in eight southern states (see p. 419 of the Record). His testimony is recorded on pp. 417 to 482 and 516 to 553. Mr. Arthur also offered as a witness on behalf of his group Mr. Frederick Moore, a textile cost specialist. Mr. Moore's testimony is recorded on pp. 553 to 588.

Mr. M. M. Brunson represented the Dixie Hosiery Mill, Montpelier, North Carolina, of which he is Secretary-Treasurer and General Manager. His testimony is recorded on pp. 588 to 608.

Mr. H. Lamb appeared on his own behalf and on behalf of the Union Manufacturing Company, Union Point, Georgia (see Record p. 407). His testimony is recorded on pp. 389 to 417.

Mr. J. S. Gordon represented the Massachusetts Knitting Mills with plants located at Boston, Massachusetts, and at Columbia, Tennessee, the Gloucester Knitting Mills located at Gloucester, Massachusetts, and the Lestor Knitting Mills and Boston Knitting Mills located at Boston, Massachusetts. His testimony is recorded on pp. 482 to 515.

17/ The rules governing the conduct of the hearing prescribed that all persons who appeared at the hearing shall be given opportunity to file written briefs and may, in the discretion of the Presiding Officer, be given an opportunity to make oral argument before him. These rules were published in the notice of hearing (see "Wage and Hour Division Exhibit D") and were announced by counsel at the hearing (see Record P.9). Written briefs were permitted to be filed within five days after the close of the hearing (see pp. 515 and 516). The privilege of oral argument was offered, but no persons desired argument (see Record p. 687).

"the recommendations are made in accordance with law, are supported by the evidence adduced at the hearing, and, taking into consideration the same factors as are required to be considered by the industry committee, will carry out the purposes of this section."

The purposes of Section 8 are set forth in paragraph (a) of that Section and in Section 2 of the Act. The factors which are required to be considered by the Committee and Administrator are set forth in paragraphs (b) and (c) of Section 8. These portions of the Act, therefore, are reproduced in full in the footnote below. <sup>18/</sup>

18/

FINDING AND DECLARATION OF POLICY

SEC. 2(a) The Congress hereby finds that the existence, in industries engaged in commerce or in the production of goods for commerce, of labor conditions detrimental to the maintenance of the minimum standard of living necessary for health, efficiency, and general well-being of workers (1) causes commerce and the channels and instrumentalities of commerce to be used to spread and perpetuate such labor conditions among the workers of the several States; (2) burdens commerce and the free flow of goods in commerce; (3) constitutes an unfair method of competition in commerce; (4) leads to labor disputes burdening and obstructing commerce and the free flow of goods in commerce; and (5) interferes with the orderly and fair marketing of goods in commerce.

(b) It is hereby declared to be the policy of this Act, through the exercise by Congress of its power to regulate commerce among the several states, to correct and as rapidly as practicable to eliminate the conditions above referred to in such industries without substantially curtailing employment or earning power.

WAGE ORDERS

SEC. 8(a) With a view to carrying out the policy of this Act by reaching, as rapidly as is economically feasible without substantially curtailing employment, the objective of a universal minimum wage of 40 cents an hour in each industry engaged in commerce or in the production of goods for commerce, the Administrator shall from time to time convene the industry committee for each such industry, and the industry committee shall from time to time recommend the minimum rate or rates of wages to be paid under section 6 by employers engaged in commerce or in the production of goods for commerce in such industry or classification therein.



18 (continued)/

(b) Upon the convening of an industry committee, the Administrator shall refer to it the question of the minimum wage rate or rates to be fixed for such industry. The industry committee shall investigate conditions in the industry and the committee, or any authorized subcommittee thereof, may hear such witnesses and receive such evidence as may be necessary or appropriate to enable the committee to perform its duties and functions under this Act. The committee shall recommend to the Administrator the highest minimum wage rates for the industry which it determines, having due regard to economic and competitive conditions, will not substantially curtail employment in the industry.

(c) The industry committee for any industry shall recommend such reasonable classifications within any industry as it determines to be necessary for the purpose of fixing for each classification within such industry the highest minimum wage rate (not in excess of 40 cents an hour) which (1) will not substantially curtail employment in such classification and (2) will not give a competitive advantage to any group in the industry, and shall recommend for each classification in the industry the highest minimum wage rate which the committee determines will not substantially curtail employment in such classification. In determining whether such classifications should be made in any industry, in making such classifications, and in determining the minimum wage rates for such classifications, no classification shall be made, and no minimum wage rate shall be fixed, solely on a regional basis, but the industry committee and the Administrator shall consider among other relevant factors the following:

(1) competitive conditions as affected by transportation, living, and production costs;

(2) the wages established for work of like or comparable character by collective labor agreements negotiated between employers and employees by representatives of their own choosing; and

(3) the wages paid for work of like or comparable character by employers who voluntarily maintain minimum-wage standards in the industry.

No classification shall be made under this section on the basis of age or sex.

(d) The industry committee shall file with the Administrator a report containing its recommendations with respect to the matters referred to it. Upon the filing of such report, the Administrator, after due notice to interested persons, and giving them an opportunity to be heard, shall by order approve and carry into effect the recommendations contained in such report, if he finds that the recommendations are made in accordance with law, are supported by the evidence adduced at the hearing, and, taking into consideration the

For the most part, the accuracy of data offered in evidence at the hearing regarding the hosiery industry and of the estimates regarding the effect of the recommended wage rates upon the industry, was not disputed. Most of this data and these estimates were corroborated both by witnesses who opposed the Committee's recommendation and by those who favored the recommendation.<sup>19/</sup> Consequently I am basing these findings and conclusion upon facts and estimates the accuracy of which was generally accepted at the hearing.

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18 (continued)/

same factors as are required to be considered by the industry committee, will carry out the purposes of this section; otherwise he shall disapprove such recommendations. If the Administrator disapproves such recommendations, he shall again refer the matter to such committee, or to another industry committee for such industry (which he may appoint for such purpose), for further consideration and recommendations.

19/

Regarding the wage study prepared by the Bureau of Labor Statistics, Mr. Constantine stated "we have accepted that study as an exceptionally well done job of a labor survey" (Record p. 105). Mr. McIver stated that "the statistics of our own company coincide very well with those prepared by the Committee, and I can find no fault with them" (Record p. 197). The Full-Fashioned Hosiery Manufacturers of America accepted the figures compiled by the U. S. Department of Labor in their brief which was placed in evidence as "Committee's Exhibit No. 16" (p. 14 of the Exhibit). Mr. Dash endorsed the accuracy of the studies and findings made by the Committee, (Record pp. 240 and 252). Mr. Arthur, who opposed the recommended rates at the hearing, accepted the basic figures contained in the Committee's study, though on those figures he reached different conclusions (see Record p. 450 ff). Mr. Gordon, however, took issue with some of the estimates presented (see Record p. 499).

NECESSITY FOR CONSIDERING SEPARATELY SEAMLESS AND FULL-FASHIONED PLANTS

The hosiery industry, as defined by Administrative Order No. 15, included the manufacturing and processing of full-fashioned and seamless hosiery.<sup>20/</sup> The inclusion of dyeing and all phases of finishing hosiery<sup>21/</sup> within the industry is appropriate in view of the fact that a majority of hosiery manufacturers also process their hosiery in the manufacturing plant.<sup>22/</sup> The inclusion of both

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20/ See definition of hosiery industry quoted above.

21/ See footnote 20 above.

22/ Mr. Constantine testified that he thinks "most of the dyeing and finishing is done in what you would describe as the integrated plant" (Record p. 102). Mr. Dash, taking his data from the biennial census of 1935 and 1937, stated: "For 1935, out of a total of approximately 36,200,000 dozen pairs of women's full-fashioned hosiery which was produced, approximately 11,800,000 dozen were finished in establishments other than that in which they were produced in the gray. I would say in the very large majority of cases you would call that being finished in commercial dyeing and finishing establishments. In 1937, out of a total of approximately 40,000,000 dozen pairs of full-fashioned hosiery which were produced in the industry, approximately 14,850,000 dozen were dyed and finished in establishments other than those in which they were produced. That would indicate an increase in trend to the finishing of hosiery, full-fashioned hosiery, in an establishment outside of the one in which they were produced" (Record p. 245). See also testimony of Mr. Tolles on p. 26 of the Record, and the section of this opinion on Commercial Finishing and Dyeing Plants.

full fashioned and seamless hosiery within the single industry was arrived at in accordance with the practice generally accepted by manufacturers of hosiery. A large number of these manufacturers have joined together into an association of hosiery manufacturers.<sup>23/</sup> Likewise, employees in both seamless and full-fashioned manufacturing and processing plants are members of one labor organization.<sup>24/</sup> Until recently most of the available statistical information regarding the manufacture of hosiery has been compiled without distinguishing between full-fashioned and seamless.<sup>25/</sup>

The plants in this industry are engaged, broadly speaking, in three different operations and may, therefore, be divided for the most part into three separate groups; namely, the full-fashioned plants, the seamless plants, and commercial finishing and dyeing

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<sup>23/</sup> Mr. Constantine testified that the National Association of Hosiery Manufacturers is "an organization which embraces in its membership about 400 plants who represent in terms of capacity about 85% of the full-fashioned production and about 73% of the seamless production", (see Record p. 113)

<sup>24/</sup> The American Federation of Hosiery Workers is the only labor organization which has appeared in this proceeding to represent hosiery workers. It has members in both the full-fashioned and seamless branches of the industry (see below the section of this opinion on Wages under collective labor agreements and voluntarily maintained minimum wage standards in the hosiery industry).

<sup>25/</sup> Mr. Tolles testified that since the hosiery industry was first identified by the Bureau of the Census, the Bureau has, until recently, covered all manufacturers of hosiery into one classification. Likewise, until recently, official wage statistics have been compiled only for a single classification of hosiery. (See Record p. 24)

plants.<sup>26/</sup> Full-fashioned hosiery is knit in a flat piece with a gradual narrowing or fashioning to fit the shape of the leg.

After the full-fashioned material has been knit, it is seamed up the back to form the stocking.<sup>27/</sup> Seamless hosiery is knit in tubular shape and thus requires no seaming operation.<sup>28/</sup> The commercial finishing and dyeing plants are engaged, as the name indicates, in finishing and dyeing, not manufacturing, grey hose. Most commercial finishing and dyeing plants specialize in hosiery alone, though some work on products other than hose.<sup>29/</sup>

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<sup>26/</sup> The full-fashioned and seamless groups were recognized by substantially all the witnesses. The commercial finishing and dyeing group was described as a separate group by Mr. Hoffman (Record p. 664), Mr. Constantine (Record, p. 102), Mr. Dash (Record pp. 244, 245) and Mr. Gordon (Record p. 490). There is also some testimony that the manufacturers of woolen hosiery constitute a separate group within the hosiery industry (Mr. Glasner, Record pp. 300 to 311). No request was made, however, and no evidence placed in the Record, to warrant separate treatment of this group.

<sup>27/</sup> Mr. Tolles' testimony at Record p. 25.

<sup>28/</sup> Mr. Tolles' testimony at Record pp. 25-26.

<sup>29/</sup> Administrator Andrews: "From your experience with the finishing and dyeing, are those establishments primarily for the hosiery industry, or are there other materials finished there too?"

Mr. Dash: "Virtually all of them dye only hosiery and finish only hosiery. Some of them only dye hosiery, they don't do any finishing at all; and some of the mills that do only dyeing also do dye, at some time, small amounts of sweaters and things of that sort which can be done in the same manner as hosiery. But the very large majority of them work only on hosiery," (Record pp. 265-266).

Mr. Constantine testified that "as time goes on, these finishing plants have a tendency to specialize" in hosiery alone (see Record p. 103)

The Committee has made separate recommendations for the seamless and full-fashioned branches of the industry. The Committee's division of the hosiery industry into seamless and full-fashioned branches, its separate consideration of each, and its separate recommendations for each, will be reviewed in the light of the evidence adduced at this hearing and the provisions of the Act.

I. Seamless and Full-Fashioned Treated Separately as Branches of an Industry.

Seamless and full-fashioned are branches of an industry within the meaning of the Act.

Though both seamless and full-fashioned plants are engaged in the production of hosiery, the activities of each are largely confined to different spheres and competition between the two is negligible.<sup>30/</sup> In the production of seamless hosiery 41 percent of the raw material used is cotton, 26 percent rayon, 22 percent other mixtures, including wool, and only 10 percent silk. More than 95 percent of the full-fashioned hosiery produced is made of pure thread silk or of pure thread silk with lisle or cotton tops or heels.<sup>31/</sup> Cotton, rayon and wool are domestic

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<sup>30/</sup> Mr. Tolles testified: "Almost no competition exists between the two branches (Seamless and full-fashioned) because the seamless industry produces primarily for men, children and infants, and the full-fashioned branch produces primarily for women" (p.28 of the record).

<sup>31/</sup> Mr. Tolles testified that:  
"Actually 95 percent of the full-fashioned product is made of pure thread silk; an additional 2 percent is made of various mixtures of silk and rayon. By contrast, 41 percent of all seamless

products while silk is imported mainly from Japan, China and Italy.<sup>32/</sup> The principal seamless products are men's, boys', misses', children's and infants' hose.<sup>33/</sup> The principal full-fashioned product

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31/ (Cont'd)

hose is made entirely of cotton, 26 percent is made entirely of rayon, 22 percent is made of various mixtures and only 10 percent is made of pure-thread silk" (Record, p. 26). Such silk as is used by seamless plants is used almost entirely in ladies' seamless stockings. The hosiery industry is nevertheless the principal consumer of raw silk in the United States, utilizing about 63 percent of the domestic consumption in 1937-1938, and about 72 percent in 1938-1939. (See p. 10 of "Committee's Exhibit No. 5.") Of all silk consumed by the entire hosiery industry, Mr. Constantine estimated that "80 percent goes into full-fashioned and 20 percent in the seamless" (Record, p. 111). These statements are supported by reports of the United States Bureau of the Census printed in the Hosiery Bulletin for the years 1931, 1933, 1935 and 1937 and offered in evidence in tabulations contained on p. 11 and Appendix Table G of "Committee's Exhibit No. 4," and pp. 10 and 11 of "Committee's Exhibit No. 5." Footnote (b) of Table 5, p. 11, of this Exhibit shows that included in the 95 percent of the full-fashioned output made of pure-thread silk are hose with lisle or cotton tops, heels and toes.

32/ According to the United States Bureau of Foreign and Domestic Commerce, about 93 percent of the raw silk used in this country in 1937 was imported from Japan, the remaining 7 percent being obtained mainly from China and Italy (Bureau of Foreign and Domestic Commerce, Foreign Commerce and Navigation of the United States, 1937, Table 1, pp. 148-153, cited in "Committee's Exhibit No. 5," p. 10).

33/ In 1929, the seamless group produced 86.7 million dozen pairs of hose of which 44.1 million dozen were men's hose, 22.5 million were boys', misses', children's and infants' hose and 20.1 million dozen were women's hose. In 1935 the seamless group produced 76 million dozen pairs of hose of which 34.1 million dozen pairs were men's hose, 30.9 million dozen pairs were boy's, misses', children's and infants' hose,

is women's stockings.<sup>34/</sup> The greatest volume of the seamless hosiery sells in price brackets of 10, 15 and 25 cents, whereas the greatest volume of the full-fashioned hosiery sells in price brackets of 59, 69 and 79 cents.<sup>35/</sup> Consequently in large part, seamless and full-fashioned plants produce different products for different markets.

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<sup>33/</sup> (Cont'd) and 11 million dozen pairs were women's hose. In 1938, not including some wool hose, the seamless group produced 86.3 million dozen pairs of hose of which 35.3 million dozen pairs were men's hose, 37.4 million dozen pairs were boys', misses', children's and infants' hose and 13.6 million dozen pairs were women's hose. This data was compiled from information collected by the U. S. Bureau of the Census for 1939 and by the National Association of Hosiery Manufacturers for 1935 and 1938. See Appendix tables B, C, and D in "Committee's Exhibit No. 5."

<sup>34/</sup> In 1929, the full-fashioned branch produced 31.8 million dozen pairs of hose of which 31.1 million dozen were women's hose. In 1935 the full-fashioned branch produced 35.5 million dozen pairs of hose of which 35.3 were women's hose. In 1938 the full-fashioned branch produced 42 million dozen pairs of hose of which all but a "negligible quantity" were women's hose. See Appendix tables B, C, and D of "Committee's Exhibit No. 5."

<sup>35/</sup> See footnotes 84 and 189 below. In 1935, the total value of all hosiery amounted to 311 million dollars, 65 percent of which was accounted for by full-fashioned hosiery. In the same year the total production of hosiery amounted to 112 million dozen pairs, of which 68 percent was accounted for by seamless hosiery (p.2, "Committee's Exhibit No. 3").



Geographically, seamless plants are located 2/3 in the South, 1/3 in the North and West.36/ Full-fashioned plants are located 2/3 in the North and West, 1/3 in the South.37/ Full-fashioned plants require a much larger capital investment than seamless plants and consequently the full-fashioned group is **relatively** more heavily capitalized.38/ The seamless and full-fashioned

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36/ According to the National Association of Hosiery Manufacturers, of the 514 seamless hosiery knitting mills in existence in December, 1938, 338 were located in the South, 133 in the North and 43 in the West and Middle West. Of the southern plants, 191 were located in North Carolina, 65 in Tennessee, 32 in Georgia and 50 in other southern states which include Virginia, Alabama, Kentucky, Louisiana, Maryland, Mississippi and South Carolina. The northern plants were located 91 in Pennsylvania and Delaware and 42 in New York, New Jersey and New England. In the West and Middle West, plants are found in Illinois, Wisconsin, Indiana and Ohio (Table 3 on p.4, and Appendix Table F of "Committee's Exhibit No. 4" and Table 32 on p. 72 of "Committee's Exhibit No. 2"). "Union's Exhibit 1-A" further indicates that there are seamless plants located in Texas and West Virginia (p. 9, Table 2, "Union's Exhibit 1-A").

37/ Figures taken from the "Hosiery Examiner" for November, 1938, indicate that 74 percent of full-fashioned hosiery knitting machines are located in the North and West, 25 percent in the South, and 1 percent not specified (Table 3 on p. 5 of "Committee's Exhibit No. 5"). According to the National Association of Hosiery Manufacturers, in December, 1938, 167 full-fashioned knitting mills were located in Pennsylvania and Delaware, 59 in New Jersey, New York and New England and 30 in the West and Middle West, while 63 were located in North Carolina, 19 in Tennessee, 12 in Georgia, and 46 in other southern states (Table 2 on p. 5 of "Committee's Exhibit No.5"). The other southern states include Alabama, Kentucky, Maryland, Virginia and Mississippi. The West and Middle West are represented by plants in Wisconsin, Illinois, Indiana, Minnesota, Iowa and California (See Appendix Table F in "Committee's Exhibit No. 5" and Table 1 on p. 13 of "Committee's Exhibit No. 2").

38/ Mr. Dash testified: "I know that the full-fashioned industry has a much larger capitalization than the seamless hosiery industry does. Various branches of the seamless hosiery, because of the fact that they are operating machinery plants

are faced with a different problem arising out of over-capacity in their group,<sup>39/</sup> technological change,<sup>40/</sup> and methods of

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<sup>38/</sup> (Cont'd) which has been bought and owned by many owners, have a very small capitalization tied up in machinery. The other extreme, some of the large full-fashioned plants that have very modern and up-to-date machinery have an extremely high capital investment, much more so than a great many other types of textile producers, for instance" (Record, pp. 266 and 267, also p. 238). To similar effect, Mr. McCoy stated that the circular machinery used in the production of seamless hosiery involves "very little cost compared to the amount of money needed to buy complicated full-fashioned machines" (Record, p. 658)

<sup>39/</sup> Mr. Tolles testified that the problem of idle capacity "is not nearly as serious in the full-fashioned as in the seamless branch of the industry. Estimates for 1938 presented to the Committee indicate that actual production [in the full-fashioned branch] in that year amounted to more than 80 percent of potential capacity on a two-shift basis" (Record, p. 327). Another witness testified that the full-fashioned plants are now running on a more curtailed basis, this being due to present prices of silk, a factor which does not seriously affect production of the seamless hosiery (Mr. T. R. Durham, Record, p. 383, Mr. Tolles at p. 324 and Mr. Gordon at p. 513). In the seamless group, the percentage of over-capacity varies for different types of machines and different styles of hose. However, it is estimated that for 1934 total production of men's hose amounted to 56.7 percent of potential capacity of all seamless plants on a two-shift basis (p. 25 of "Committee's Exhibit No. 4"). Also compare pp. 23 through 28 of "Committee's Exhibit No. 4" describing the over-capacity which exists in the seamless industry with pp. 19 and 20 of "Committee's Exhibit No. 5" describing the over-capacity in the full-fashioned branch.

<sup>40/</sup> A great deal of testimony relating to technological problems in both full-fashioned and seamless plants was introduced at the hearing. Much of this evidence will be discussed hereafter. Suffice it to say here that as the problems in each group arise out of different mechanical developments, each necessitates separate study.

distribution,<sup>41/</sup> Each has a very different problem of consumer demand, the one selling very largely a single product subject to no major style fluctuations, the other selling various articles, many of which are almost constantly subject to violent style changes.<sup>42/</sup>

Upon these facts, therefore, I find that the seamless and full-fashioned plants constitute separate branches of the hosiery industry within the meaning of the Act.<sup>43/</sup>

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<sup>41/</sup> See "Committee's Exhibits Nos. 4 and 5," which contain a study of the marketing system in the seamless and full-fashioned branches, respectively, (pp. 16 through 20 of "Committee's Exhibit No. 4" and pp. 1 through 17 of "Committee's Exhibit No. 5"). Possibly over 50 percent of full-fashioned hosiery is sold under the manufacturer's brand, thereby creating a marketing system in that industry differing from that found in the seamless industry.

<sup>42/</sup> From year to year there have been rapid shifts in consumer demand for various items of seamless hosiery. In 1938 as compared with 1934, shipments of infants' anklets increased 43 percent, other anklets 99 percent, women's stockings 39 percent, children's 5/8 flat and 7/8 hosiery 31 percent; while shipments of misses' ribs decreased 34.5 percent, boys' socks 28.6 percent, wool bundle goods 21.9 percent, boys' golf hose 16.6 percent (Table 2 on p. 3 of "Committee's Exhibit No. 4"). Many of these changes were at variance with the general trend in the industry (Mr. Dash, Record, p. 249). See also testimony of Mr. Tollos, Record, P. 58.

<sup>43/</sup> Hereafter the seamless plants will be referred to as the seamless branch and the full-fashioned plants as the full-fashioned branch.

Separate recommendation for seamless and full-fashioned branches. 44/

The full-fashioned branch is now paying, and has for some years been paying, wages substantially higher than the seamless branch. Just before October 24, 1938, when the 25-cent an hour minimum wage rate became effective under the Act, the average hourly wage in the full-fashioned branch was approximately 66 cents an hour, in the seamless branch 35 cents

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44/ The argument was made at the hearing that the Committee was not authorized by the Act to treat separately and make separate recommendations for branches within the industry. I am of the opinion that such an argument is built upon a misunderstanding of the Act. The term "industry" is defined in Section 3(h) to mean "a trade, business, industry, or branch thereof, or group of industries, in which individuals are gainfully employed." A committee appointed for an industry in accordance with Section 5 is thereby appointed for all branches within the industry and may, pursuant to Section 8, recommend separate rates for separate branches in order to fix the highest minimum rates for all branches within the industry. This appears to be the plain meaning of the Act. It was with this meaning in view that both branches of the industry were given representation on the committee in accordance with the provisions of the Act.