

BEFORE THE UNITED STATES DEPARTMENT OF LABOR

WAGE AND HOUR DIVISION

WASHINGTON, D. C.

IN THE MATTER OF

APPLICATIONS OF

THE RAW FUR AND WOOL ASSOCIATION
OF ST. LOUIS, MISSOURI, INC. AND
SUNDRY OTHER PARTIES

For partial exemption of the
Raw Fur Receiving Industry
as a seasonal industry pur-
suant to Section 7(b)(3) of
the Fair Labor Standards Act
of 1938 and Part 526 of Regula-
tions issued thereunder

FINDINGS AND DETERMINATION

OF THE

PRESIDING OFFICER

January 8, 1940

Application having been filed by the Raw Fur & Wool Association of St. Louis, Missouri, and sundry other parties under Section 7(b)(3) of the Fair Labor Standards Act of 1938, 52 Stat. 1060, and Regulations - Part 526, as amended (Regulations Applicable to Industries of a Seasonal Nature) issued thereunder, for partial exemption of the raw fur receiving industry from the maximum hours provisions of Section 7(a) of the Act, the Administrator gave notice of a public hearing to be held in Washington, D. C., on January 19, 1939, on the said applications. At the request of some of the applicants the hearing was postponed until further notice. Subsequently it was set for December 7, 1939, at Washington, before the undersigned as Presiding Officer. Pursuant to notice, the undersigned convened the hearing and an opportunity was afforded to all who appeared to present testimony and to question witnesses. Appearances were entered for and against the application. Exhibits were entered at the hearing including statements from persons unable to attend, and other statements were received by permission after the hearing. Upon the record as thus made, I make the following findings of fact and determination:

Findings of Fact

For many years domestic furs ^{1/} have been shipped by farmers and trappers and by country dealers and collectors to a limited number of cities in the United States during the trapping season. The principal raw fur

^{1/} For the purpose of this finding "domestic furs" includes Canadian furs.

receiving centers have been and are St. Louis and New York, which together receive about 70 or 75 per cent of the total domestic catch. There are about twenty-two receiving houses, as they are called, in St. Louis, and about twenty-five in New York. There appear to be about thirty-two in the rest of the country.

The receiving season begins each year about December 1 and ends about April 1. To a certain extent this season is determined by the various state and provincial trapping laws, but these laws, in fact, reflect the limited natural season in which pelts are prime. It was shown that even without any legal limitation the maximum trapping season for prime commercial skins would be about six months, considerably less for most animals.

When the fur is removed from a fur bearing animal, it is highly perishable. To retain its value, it must be promptly scraped and dried. The dried skins are not perishable.

Formerly it was common practice in the trade for each receiving house to send out price circulars to hundreds or thousands of farmers and trappers prior to the trapping season. This practice has been largely abandoned and a large proportion of the furs are now shipped in by country dealers or collectors. Whether received from trappers or from collectors, some of the skins - in some instances, a large proportion - have already been scraped and dried and need little or no further treatment. However, immediate inspection of every skin is necessary; (1) to determine the value of the skins because the custom of the trade requires prompt payment to

trappers and collectors (usually within 24 hours); and (2) to identify those that need scraping or drying or trimming because otherwise these skins would deteriorate rapidly. Furthermore, all skins that are scraped must then be dried. The skins are later regraded by the receiving house in connection with sale.

The opening date of the receiving season varies with the weather - a warm fall making a late opening date necessary, presumably because of resultant spoilage in transit. Similarly there is some variation in the closing date. However, the characteristic limits of the season are shown by the fact that about 95 per cent of the raw furs received in St. Louis from trappers and collectors are received between December 1 and March 31 and almost all the balance in the month of April. The conditions in New York and elsewhere appear to be similar. Employment figures likewise reflect this situation: during the season the St. Louis houses, for example, employ about 300 to 325 employees. ^{2/} During the balance of the year they employ only about 60 to 65. Most of those retained are clerks, salesmen, porters and graders.

There is testimony in the record, much of it vague and conflicting, about other activities carried on by the receiving houses during the off season. Not all the raw furs are sold by the houses during the season, but apparently about two-thirds are disposed of at that time. Thus there

^{2/} It can be estimated that peak employment in all the receiving houses in the United States is about 1000.

is some sales activity thereafter. Beyond this activity, which does not affect the question at issue ^{3/}, there is some indication that some receiving houses buy some raw furs from each other or from dealers. It should be noted in this connection that the term "raw furs" applies to both dried and undried furs and is used to distinguish them from furs that have been processed or dyed. It should be further noted that besides the raw fur receivers, and the dealers in processed and dyed furs, there are raw fur dealers and brokers, who buy dried raw furs from receivers and dealers all year round and who do not scrape or dry raw furs. Apparently, with some possible but negligible exceptions in New York, raw fur receivers do not deal in processed or dyed furs at all. It also appears that most raw fur receivers do not act as dealers in raw furs, that is buyers and sellers from other dealers and receivers, except for later sales of the stock accumulated during the receiving season. Furthermore, the small group of receiving houses that do some buying of raw furs throughout the year, are primarily receiving houses and only in a very minor degree dealers. Thus in New York, for example, of twenty receiving houses recently questioned on the subject, ^{4/} eleven never or almost never purchase furs except from collectors and trappers during the receiving season, and the other nine do from 90 to 98 per cent of their total business as raw fur receivers during the season.

^{3/} See Regulations Section 526.3: "ceases production, apart from work such as maintenance, repair, clerical and sales work."

^{4/} See letter from Beldock to Stein, dated December 20, 1939.

It was also pointed out that two of the St. Louis houses, and some others elsewhere, also deal in wool. Likewise one of the St. Louis houses deals in ginseng and sassafras roots and another deals in trappers' supplies. But it does not seem that these are allied activities or that raw fur receiving is properly a part of any of these industries. The employers in question are merely persons who happen to do business in two separate industries.

On all the evidence, it appears that the raw fur receiving houses perform a specialized function and constitute a separate and distinguishable branch of the fur industry. The employers that constitute this group may be conveniently defined as those that (a) receive all or almost all their furs from country sources, i.e., from trappers, farmers, and country collectors and dealers and (b) engage in the operations of scraping, and drying as well as grading.

Determination

Upon the whole record, I find and determine:

1. The legal trapping season in the United States and Canada varies with different animals and from state to state or province to province, and may be longer or shorter than the season in which the pelts are prime but, in any event, the natural season, when the pelts are prime, does not exceed six months. Except for an insubstantial amount, probably less than 5 per cent of the total, all the new catch of fur is taken and shipped from the country

to the raw fur receiving houses between December 1 and April 1 each year.

2. The raw furs are received each year in the chief fur trading centers, of which New York and St. Louis are the most important, during the trapping season, i.e., from December 1 to April 1, by employers known in the trade as raw fur "receiving houses." In these houses the furs are immediately graded, and, when necessary, scraped and dried. The prompt initial grading is necessary; (1) to set a basis for payment to the trapper or collector, and (2) to determine which skins need scraping and drying for preservation. Skins that have not been properly scraped and dried are perishable; dried skins are not perishable.

3. The majority of the furs received are also sold by the receiving houses during the period December 1 to April 1, but some skins are sold during the balance of the year. Aside from these sales, and aside from an insubstantial amount of trading in dried raw furs as dealers with other dealers and receivers, the receiving houses cease operation on or about April 1 each year because the materials they handle, i.e., the annual domestic catch of fur, are no longer available in the form in which they must be handled, i.e., as new prime pelts requiring inspection and, in many cases, scraping and drying, until the following December 1 or thereabouts, because of climate and other natural factors.

4. The business of the raw fur receiving houses constitutes a specialized function not performed by other fur dealers or processors, with specialized employees and the raw fur receiving industry is a branch of an industry of a seasonal nature within the meaning of Section 7(b)(3) of the Act and Part 526 of Regulations issued thereunder.

5. "Raw fur receiving houses" as used herein shall include all employers who (a) receive all or almost all their furs from country sources, i.e., trappers, farmers, and country collectors and dealers, and (b) engage in the operations of scraping and drying, as well as operations incidental thereto.

6. The term "raw fur receiving industry" as used herein shall include the receiving, scraping, drying and grading, in raw fur receiving houses, of domestic furs received from country sources and operations immediately incidental thereto.

7. The term "domestic furs" as used herein shall include United States and Canadian furs.

Dated at Washington, D. C., this 8th day of January, 1940.

Harold Stein

Harold Stein
Presiding Officer