

Official Order

BEFORE THE UNITED STATES DEPARTMENT OF LABOR
WAGE AND HOUR DIVISION
WASHINGTON, D. C.

In the matter of the :
 :
 APPLICATION OF :
 :
 THE WORK GLOVE INSTITUTE, THE :
 NATIONAL ASSOCIATION OF LEATHER :
 GLOVE MANUFACTURERS, INC., THE :
 UNDERWEAR INSTITUTE, ET AL. :
 :
 To employ learners at wages lower :
 than the minimum wage applicable :
 under Section 6 of the Fair Labor :
 Standards Act of 1938 pursuant to :
 section 14 of the Act and Part :
 522, as amended, of regulations :
 issued thereunder :
 :
 Glove Industry :
 :

FINDINGS AND DETERMINATION
OF THE
PRESIDING OFFICER
February 8, 1940

The Work Glove Institute, the National Association of Leather Glove Manufacturers, Inc., the Underwear Institute, and sundry other parties having made application under Section 14 of the Fair Labor Standards Act of 1938, 52 Stat. 1060, and regulations (Part 522 - Regulations Applicable to Employment of Learners Pursuant to Section 14 of the Fair Labor Standards Act of 1938, - Title 29, Labor, Chapter V - Wage and Hour Division) issued by the Administrator thereunder for permission to employ learners in the Glove Branch of the Apparel Industry at wages lower than the minimum wage applicable under Section 6 of the Act and under such higher minimum wage rates as have been recommended by Industry Committee Number 2 for the Apparel Industry, the Acting Administrator on November 8, 1939, gave notice of a public hearing to be held in Washington, D. C., at 10 o'clock A.M., November 16, 1939, and designated the undersigned as presiding officer to conduct the said hearing and to determine:

- "(a) What, if any, occupation or occupations in the glove branch of the apparel industry require a learning period, and
- (b) the factors which may have a bearing upon curtailment of opportunities for employment within the glove branch of the apparel industry, and
- (c) under what limitations as to wages, time, number, proportion, and length of service special certificates may be issued to employers in the glove branch of the apparel industry for whatever occupation or occupations, if any, are found to require a learning period."

Pursuant to the notice the undersigned convened the hearing on November 16 and on that date and November 17, an opportunity was afforded to all who appeared to present testimony and to question witnesses through the presiding officer.

The term "Glove Branch of the Apparel Industry," as used in the notice, included the manufacture of all gloves and mittens (except athletic) other than work gloves and mittens from leather, woven or knitted fabrics or from any combinations of these materials, and the manufacture of work gloves and mittens from fabric, leather, or fabric and leather combined, or knitted materials.

The Glove Branch of the Apparel Industry may be said to consist of four well-defined branches: leather dress gloves; knit fabric gloves; work gloves; and knit wool gloves.

It was testified at the hearing that the leather dress glove branch of the industry, for many years, has been concentrated in New York State with approximately 85 per cent of total national output being produced in the Fulton County Region where about 130 manufacturers employ approximately 6,000 factory workers in addition to many home workers. The other 15 percent of national production is located in small plants in New York City and a few large plants in Wisconsin and Illinois which together employ approximately 1,000 workers.

Application for learners in this branch of the industry was made by the National Association of Leather Glove Manufacturers, Inc., which represents 95 percent of the total national production. Appearances for labor

were made by the Joint Council of Leather Glove Workers of Fulton County, made up of independent labor unions which include in their membership some 5,000 of the 6,000 glove workers in Fulton County; the International Glove Workers Union of America, A.F.L., which includes in its membership leather dress glove workers employed in plants located in the Middle West; and the Amalgamated Clothing Workers of America, C.I.O., which includes in its membership some leather dress glove workers.

The knit fabric glove branch of the industry is composed of 35 manufacturers who employ approximately 6,500 workers. Approximately 85 percent of the manufacture of fabric gloves is in full process plants which knit the fabric used in the production of gloves; the other 15 percent is manufactured from purchased materials.

Application for learners in this branch of the industry was made by the Underwear Institute. Appearances for labor were made by representatives of the Amalgamated Clothing Workers of America who have under their jurisdiction fabric glove operators.

The work glove branch is made up of 67 firms which are located in 20 states and employ approximately 9,000 workers. Ten of the 67 firms make 75 percent of the total volume of production. Seventy five percent of all the manufacturers are in the Middle West, 15 percent in the South, 6 percent in the East, and 4 percent in the West.

Application for learners in this branch of the industry was made by the Work Glove Institute which testified that it represented 56 percent of the manufacturers and over 90 percent of the volume of production. Appearances for labor were made by representatives of the International Glove Workers Union of America and the Amalgamated Clothing Workers of America.

The knit wool glove branch of the industry is made up of 14 manufacturers. Production is concentrated in but not limited to New York, principally in the Fulton County Region. This branch of the Industry employs slightly over 3,000 workers.

Application for learners in the knit wool branch of the industry was made by the International Association of Leather Glove Manufacturers which includes within its membership 11 of the 14 manufacturers of knit wool gloves. These 11 firms account for 85 percent of the total volume of production of the industry. Appearance for labor was made by the Amalgamated Clothing Workers of America.

In addition to the appearances for and against the application, certain data were filed subsequent to the hearing and are made part of the whole record upon which these findings are made.

FINDINGS OF FACT

1. Occupations involving a learning period.
 - a. Leather Dress Gloves

Leather dress gloves are generally made from imported and relatively expensive leathers. The basic operations consist of cutting, which ranges from extremely skilled table cutting to somewhat less skilled block-cutting; sewing which involves making, fitting, silking, and hemming; and laying-off, which consists of putting the gloves on steam-heated iron forms.

In this branch of the industry there was presentation of evidence which reflected prior discussion of the various learner problems between representatives of employers and employees, and, in fact, substantial agreement on the facts between the National Association of Leather Glove Manufacturers, Inc., and the Joint Council of Leather Glove Workers of Fulton County. Mr. James H. Casey, Executive Director of the National Association, and Mr. Harry Pozefsky, representing the Joint Council agreed that the hand and machine stitching operations require a learning period: They also presented jointly the following pertinent facts respecting the need for and the terms upon which learners in this industry should be employed (which are assembled here for convenient reference):

That there is no present need for learners, (page 252);

That the normal labor turnover is approximately 2 percent per annum, (page 256);

That a learning period of 3 months is required to train a hand or machine stitching operator;

That 75 percent of the statutory minimum wage rate would be an appropriate learner's wage rate during such 3-months learning period, (pages 251 to 255);

Mr. Casey and Mr. Pozefsky also stated that when they find a need for learners, the Association and the Union can agree upon the number in accordance with the needs of the industry, (pages 259 to 260), and will transmit to the Wage and Hour Division their conclusions, for consideration.

Respecting a learning period and wage rate for cutting Mr. Casey and Mr. Pozefsky stated that they had not yet reached an agreement although they are in negotiation.

For these reasons, it was requested that the Hearing record be held open to receive agreed upon evidence from both parties on this subject if they reach an agreement, or to receive additional evidence in behalf of each party if they fail to agree, (page 260).

The representatives of the Amalgamated Clothing Workers' Union and the International Glove Workers Union made no objection to the terms of this agreement stated by Mr. Casey and Mr. Pozefsky.

I find that the stitching operation (hand and machine) on leather dress gloves requires a learning period; and that the record shall remain open to receive additional evidence respecting the need for the terms of employment of learners in the cutting operation.

b. Knit Fabric Gloves

Knit fabric gloves are made from warp or circular knit rayon, silk and cotton fabrics or combinations of knitted fabric and leather. They are cut and stitched rather than knit directly on a machine. The applicants, the Underwear Institute, requested that all operations in the manufacture of knit fabric gloves be granted a learning period. The representative of the Amalgamated Clothing Workers of America, on the other hand, requested that the learning period be confined to machine stitching operations.

The record contains information only on the machine stitching operation in the manufacture of knit fabric gloves. The request of the applicants for learner exemptions in the other occupations was totally unsupported by evidentiary material and can not therefore be given consideration at this time.

The evidence on machine stitching does show that this is an operation for which some learning period is necessary. While the basic movements can be grasped in a very short time, the attainment of skill and dexterity requires practice, and some instruction and supervision are necessary. I therefore find that the machine stitching operation in the manufacture of knit fabric gloves is an occupation which requires a learning period.

c. Work Gloves

Work Gloves are made from cloth (jersey and canton flannel), heavy leather (inexpensive horsehide, cattlehide, and hog skin) and cloth and leather combined. The basic operations of manufacture are cutting and stitching. The applicants, the Work Glove Institute, requested a learning period only for the machine stitching operations. The representatives of the International Glove Workers Union and also the Amalgamated Clothing Workers agreed that this occupation requires a learning period. Further evidence indicates that a learning period is necessary to acquire skill and dexterity in these operations. Therefore I find that the machine stitching operation in the manufacture of work gloves is an occupation which requires a learning period.

d. Knit Wool Gloves

Knit wool gloves are made primarily from woolen and worsted yarn. They are manufactured by machine knitting, the processes of which are: the knitting of the wrist and hand; the knitting of the fingers; and, the closing of the fingers. The applicants, the National Association of Leather Glove Manufacturers, Inc., requested that a learning period be recognized for finger closing and finger knitting. These processes, they testified, were comparable to the stitching operations in other types of glove manufacture. The representative of the Amalgamated Clothing Workers agreed with this classification of occupations. Further evidence in the record substantiates the need for a learning period for the operations of finger closing and finger knitting. I therefore find that the operations of finger closing and finger knitting are occupations which require a learning period.

2. Curtailment of Opportunities for Employment
a. Leather dress gloves

The applicants testified that in this branch of the industry the need for a learner exemption to prevent curtailment of opportunities for employment is variable in different centers of production. In Fulton County there is an adequate supply of trained workers at this time. The average annual labor turnover does not exceed 2 percent. Normally there is no need for a learner exemption. However, occasionally special circumstances arising out of the necessity to train workers on some new and special type of operation may necessitate the employment of learners. In such circumstances, it was testified by both employer and employee representatives, it is customary for employers and organized workers to determine through collective bargaining the conditions upon which learners will be employed. Likewise, the applicants testified that it is possible that impending state legislation regarding homework may radically change the existing situation in Fulton County. Therefore, in order to provide for possible special or future needs, the applicants requested that basic findings be made in order that the unions and the association might know the limits within which the learner provisions in their contracts should be drawn. The representatives of the National Association of Leather Glove Manufacturers and the Joint Council of Glove Workers of Fulton County joined in this request, and the other unions made no objection thereto.

The applicants further testified that there is at present a need for learners in the Middle West where there is no reservoir of trained labor. This testimony regarding the need for learners for the plants in the Middle West was contested by the International Glove Workers Union in a brief submitted subsequent to the hearing.

This conflicting testimony regarding the need for learner exemptions in the Middle West in addition to the evidence offered by both the applicants and the Joint Council of Glove Workers that there is no present need for learners in Fulton County, leads to the conclusion that no industry-wide exemption for learners is required to prevent curtailment of opportunities for employment.

However, consideration must be given to the recent increase in the statutory minimum wage from 25¢ to 30¢ per hour, and the possible further increase in the near future if the Administrator approves the recommended 35¢ minimum applicable to dress gloves under the proposed Apparel Industry Wage Order. Further, there is some uncertainty about the available labor supply in the near future in Fulton County and elsewhere because of possible homework legislation and other factors. Accordingly some need may exist from time to time for individual plants to employ learners at subminimum wages. Therefore, in order to prevent any possible curtailment of opportunities for employment from local or temporary conditions, I find that certificates should be issued to individual plants when or where trained workers are unavailable, upon terms hereinafter set forth.

b. Knit Fabric

The applicants testified that this branch of the Glove Industry is enjoying an expanding market as a result of the cessation of imports from Germany and Czechoslovakia which until recently supplied a large proportion of the American market. In order to meet the demand created by this reduction in imported gloves and to firmly establish the industry to withstand future foreign competition, the applicants requested a learner exemption so as to have a reservoir of trained workers available when the foreign competition starts again; but it may be suggested that the industry's present policy of importing machinery and engaging in research to develop the type of fabric used by foreign producers may provide a more enduring protection for the American producer against possible foreign competition.

It was also testified by the applicants that an exemption for learners was necessary because of the high cost of training the new labor normally drawn into the industry. The annual turnover, due to seasonality, style changes and other factors was stated to be 20 percent. Section 14 of the Act was not designed to remove from the employer the normal responsibility and cost of training his labor but rather to allow some adjustment from the statutory minimum wage when requirement of the payment of that minimum wage to learners would curtail opportunities for employment. In view of the probably reduction in unit overhead costs with increasing volume, and the concomitant increase in profits, there is no reason to anticipate a general failure to employ learners even at the proposed Wage Order Minimum. However, the record does show that during this period of unusual expansion of production the supply of trained workers may at times become exhausted, and that some plants during the period of adjustment to the new wage rates, (actual 30¢ and proposed 35¢) may be compelled to curtail employment if no modification of the applicable minimum is allowed for learners. I, therefore, find that learner certificates should be issued to individual plants when experienced workers are unavailable.

c. Work Gloves

It was testified by the applicants that the work glove branch of the industry was built upon a low priced article and that there has been some decline in sales due to an increase in the common retail price of gloves of 5 cents per pair, that is, from 10 cents to 15 cents. It is indicated that this increase in price is due primarily to the increased cost of raw materials. In order to reduce costs the applicants requested an exemption for learners. Section 14 under which such exemptions are permitted was not designed to subvert the objects underlying the Fair Labor Standards Act. The purpose of the Act was to provide a floor to wages to prevent labor from bearing an unequal and unjust proportion of any reduction in cost imposed by competition. Therefore, in so far as the applicants base their request for exemption on the grounds of cutting production costs, it is not well founded.

Additional testimony was offered to establish the need for learners on the basis of the cost of training new labor due to a high annual labor turnover, stated to average approximately 20 percent. This turnover it was stated resulted from the fact that a very large percentage of the employees in the industry are young unmarried women whose number is continuously depleted by marriage, but it was established by other testimony that at least in some factories many of the employees are married. It was also shown that the wage rates in the work glove branch are among the lowest paid in the Glove Branch of the Apparel Industry and that in the higher paying branches where an equally large percentage of women are employed, marriage does not create turnover. This contrast raises the question whether the large turnover in the work glove branch may not be more closely related to low wage rates than to age or marital status of female workers. Nevertheless, in so far as business conditions may impose some limits upon the ability of the work glove manufacturers to bear the normal cost of training learners under the possible new wage rates and may curtail employment opportunities, Section 14 does provide a means of adjusting minimum wages to prevent such curtailment.

The testimony indicates that in some instances such legitimate reason for relief exists. However, further testimony shows that the need is not felt equally by all producers.

Thus those few manufacturers (out of 75 in the branch) who manufacture about 75 percent of all work gloves are admittedly better able financially to carry the cost of hiring and training learners than the smaller producers. Further some plants are better situated with respect to an adequate supply of trained workers. In view of this uneven incidence of the need for learners at subminimum rates, any industry-wide certificate would, of course, be unjustified; but to prevent any possible curtailment of opportunities for employment from local or temporary conditions, I find that certificates should be issued to individual plants when or where no trained workers are available.

d. Knit Wool

This branch of the Glove Industry is confronted with strong competition from China and Japan which is largely based on price rather than quality of product. In addition it is subject to extreme seasonal fluctuations and the sale of its product varies from year to year. Due to these conditions it is difficult for the manufacturer to plan his production. It was testified that for a period of four months, from January through April, during which the industry awaits orders, employment is uncertain. As a result of this fluctuating volume of production, annual turnover may vary from 2 to 20 percent.

It was testified that the actual and potential competition from China and Japan prevented the establishment of a price which would allow a sufficient margin of profit to enable the industry to bear the full cost of training large number of learners at the applicable minimum wage, and consequently, unless some modification of the minimum were allowed, curtailment of opportunities for employment would at times follow.

According to the testimony, the total cost of training new workers varies from year to year and from plant to plant dependent upon the volume and distribution of production. Thus, the need is intermittent in the industry and variable as between plants. Certificates providing for exemption should therefore be issued to individual plants in those localities in which trained workers are not available.

3. Terms and Conditions of Special Certificates

a. Leather Dress Glove

(1) Learner Wage Rate

The learner wage rate requested by the representative of the National Association of Leather Glove Manufacturers and accepted as fair by the representatives of the Joint Council of Glove Workers Union and of the Amalgamated Clothing Workers was 75 percent of the applicable minimum.

While the record is not entirely clear on this point, it may be assumed that the applicants were proposing two rates, in other words, 75 percent of 30 cents for the present and 75 percent of 35 cents after the effective date of the Wage Order if the Administrator approves the recommendations of the Apparel Industry Committee. These percentages would amount to 22.5 cents and 26.25 cents respectively. The reasonableness of these rates was not contested and is in fact supported by testimony. However, it may be seriously questioned as to whether or not the issuance of a determination of this degree of complexity would lead to the practical enforcement of the Act in the fashion desired by both the employer and employee representatives. Furthermore, the necessity for adjusting to an increased wage bill under a 35 cent minimum may justify some special consideration. Accordingly, during the period of adjustment, a greater learner abatement may be appropriate under the 35 cent minimum than is appropriate under the 30 cent minimum. The same numerical learner rate under both minima will produce this result, and, as set forth above, will also simplify enforcement.

With these various considerations in mind it appears appropriate to set a single simple rate that will be close to the recommended 75 percent computed on each of the possible bases. For obvious reasons a rate of 25 cents satisfies these requirements and on all the evidence appears equitable to all parties. I therefore find that a wage rate of not less than 25 cents per hour shall be the minimum for learners in the hand and machine stitching operations in the dress glove industry both under the present statutory minimum of 30 cents per hour and under the proposed Wage Order minimum of 35 cents per hour, if that figure is made effective. A future minimum higher than 35 cents per hour may require some adjustment in this learner rate.

The record shows that payments on a piece work basis are common throughout the industry. In order to prevent abuse and discrimination against learners, I find that it is necessary that wherever learners are employed in an occupation in which experienced workers of the same employer are paid on a piece work basis, the piece rates for learners shall be not less than those paid experienced workers, and the learners shall be paid the full amount earned on a piece rate basis whenever that amount exceeds 25 cents per hour.

(2) Length of Learning Period

Representatives of the National Association of Leather Glove Manufacturers and the Unions agreed that a three months learning period is required for training a learner on the stitching operation. The evidence indicates that the hand and machine stitching of leather dress gloves requires the attainment of a relatively high degree of skill and dexterity. At the same time, since piece rates in this branch are comparatively high, the continuation of the learning process at the full minimum rate at the end of the three months period should present no difficulties. These facts and the agreement of the parties may be regarded as conclusive that twelve weeks is an appropriate period to establish for the learning of this operation. This should, however, be expressed in terms of hours to simplify enforcement. I therefore find the learning period for the stitching operations to be 480 hours.

I also find that a learner is a person who has not had more than 480 hours experience in the aggregate in the hand or machine sewing of leather dress gloves during the previous three years.

(3) Number and Proportion of Learners

The representative of the National Association of Leather Glove Manufacturers requested that no limit be placed upon the number of learners whereas the representatives of the Joint Council of Glove Workers of Fulton County requested that a 5 percent limitation be imposed. These parties finally agreed however that they will negotiate the question of the number of learners. While the data thus agreed upon and submitted will be of great value in determining the appropriate terms for that part of the industry represented by the agreement, a general provision for the industry as a whole should be made at this time. Consequently, in order to establish a general standard, and in the light of all the evidence, I find that 5 percent of the number of employees engaged on hand and machine stitching operations is an appropriate limitation on the number of learners to be allowed in the special certificates issued under this finding, provided that as many as 5 learners may be permitted in any certificate. Application for learners in excess of 5 percent may be made under Part 522 of the Regulations.

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b. Knit Fabric Gloves
(1) Learner Wage Rates

The representatives of the Underwear Institute requested a learner wage rate of $66\frac{2}{3}$ percent of the applicable minimum. This rate was opposed by the representatives of the Amalgamated Clothing Workers. Evidence was submitted by the representatives of the Institute which sought to establish through sample studies of the productivity of groups of learners in various plants that a $66\frac{2}{3}$ percent rate provided an adequate and fair return to learners during the learning period requested by the applicants. Examination of these studies and of the method by which they were conducted reveals defects which throw doubt upon their adequacy and reliability as tests of productivity. Consequently, they cannot be regarded as furnishing conclusive evidence upon which a wage rate can be found. On the other hand, testimony regarding other branches of the Glove Industry to which the manufacture of knit fabric gloves is closely related indicates that an abatement of approximately 25 percent from the minimum wage is reasonable in the light of the various factors involved.

The same reasons set forth above in the case of leather dress gloves in regard to the setting of a single rate of 25 cents per hour rather than two rates of 22.5 cents and 26.25 cents per hour are applicable here. I therefore find that a wage rate of 25 cents per hour shall be the minimum for learners in stitching machine operations in the knit fabric glove industry both under the present statutory minimum of 30 cents per hour and under the proposed Wage Order Minimum of 35 cents per hour. A future minimum higher than 35 cents per hour may require some adjustment in this learner rate.

The provisions regarding piece work rates as established for the leather dress glove branch shall apply to this branch of the industry.

(2) Length of Learning Period

The applicants requested a learning period of 480 hours in 20 consecutive weeks. The Amalgamated Clothing Workers protested this requested period and in turn proposed an 8 weeks' learning period. Evidence in the record reveals that the machine stitching operations involved in the production of knit fabric gloves are considerably less difficult and require less skill than those involved in stitching leather dress gloves, for which 3 months was recognized by all parties as adequate. On the basis of the demonstrable difference in the skill involved in the manufacture of these two types of gloves, it must be concluded that the less skilled operations require a shorter time to complete the whole learning process. However, since average earnings of experienced operators paid at prevailing piece rates are considerably lower on knit fabric gloves than on leather dress gloves, it may be concluded that the time required to earn the minimum wage is not dissimilar. It is thus reasonable to set the same learning period. I therefore find that the learning period for knit fabric gloves should be 480 hours.

The record shows conclusively that an experienced dress glove operator does not need a learning period on knit fabric gloves, although the reverse is not true. I therefore find that a learner is a person who has not had more than 480 hours' experience in the aggregate in machine stitching operations in the leather dress or knit fabric branches of the glove industry in the previous three years.

(3) Number and Proportion of Learners

The representatives of the Institute requested that no limitation be placed upon the number of learners whereas the representative of the Amalgamated Clothing Workers requested a limitation of learners to 5 percent of the total number of employees engaged on stitching operations. Testimony presented by the applicants indicates that during a period when production was adversely affected by foreign competition, annual turnover was 20 percent. On the basis of this turnover figure which may reasonably be deemed higher than may be expected during a period of expansion in production, a 5 percent allowance related to a 12 weeks' learning period would seem to provide an adequate number of learners. This 5 percent will actually equal a larger percentage in the course of a season. I therefore, find 5 percent of the total number of employees engaged on machine stitching operations an appropriate limitation on the number of learners to be permitted in the individual plant certificates issued under this finding, provided that as many as 5 learners may be authorized in any certificate. Application for learners in excess of 5 percent may be made under Part 522 of the Regulations.

c. Work Gloves

(1) Learner Wage Rates

The representatives of the Work Glove Institute requested a learner wage rate of 65 percent of the applicable minimum. This rate was opposed by the representative of the International Glove Workers Union of America, who proposed that a rate of 25 cents be set until such time as a separate industry rate for the Apparel Industry is established, the rate then to be 75 percent of that minimum. The applicants offered in support of their contention of 65 percent, sample studies purporting to show the actual earnings of learners by weeks from the first through the 24th week of their employment. Because these samples were not adequately controlled as to coverage and because the studies contain other serious defects, they cannot be regarded as conclusive evidence upon which a finding may be made.

It is apparent that in proposing a 25 cent learner minimum under the 30 cent statutory minimum and 75 percent of the applicable Wage Order Minimum thereafter, the Union representatives overlooked the fact that the proposed Wage Order Minimum for work gloves is 32-1/2 cents per hour, 75 percent of which is 24.375 cents per hour. To give practical effect to this recommendation would obviously require a single learner minimum of 25 cents per hour. Bearing in mind the great advantages in enforcement of a single 25 cent per hour minimum, and in the absence of any conclusive showing that the learner

minimum for work gloves should be lower than for leather dress and knit fabric gloves, I find that the minimum wage for learners on stitching machine operations on work gloves shall be 25 cents per hour both under the present 30 cent statutory minimum and under the proposed $32\frac{1}{2}$ cent Wage Order Minimum. A future higher minimum, but only if above 35 cents per hour, may require an adjustment in this learner rate. It should be noted that even with a 25 cent learner rate, the great preponderance of experienced workers in any going plant makes the $2\frac{1}{2}$ cent differential in favor of work gloves in the Wage Order recommendations of far greater consequence than any possible differential in learner rates.

The provisions regarding piece work rates as established for the leather dress glove branch shall apply to this branch of the industry.

(2) Length of learning period

The applicants requested a 24 weeks' learning period. The representative of the International Glove Workers Union, on the other hand, made a counter request for an 8 weeks' learning period. Evidence contained in the record as well as the testimony presented at the hearing shows that the manufacture of work gloves requires considerably less skill than does the manufacture of leather dress and knit fabric gloves and that learners acquire reasonable skill and dexterity in a short time. However, in the light of the prevailing piece rates, the time for earning the minimum will be much the same for work as for leather dress and knit fabric gloves. I therefore find 480 hours an appropriate learning period.

Since the record shows clearly that leather dress and knit fabric gloves operators need no learning period to produce work gloves, I also find that a learner is a person who has not had more than 480 hours' experience in the aggregate in machine stitching operations in any branch of the glove industry, during the previous three years.

(3) Number and proportion of workers

The applicants requested that the number of learners be allowed to equal 10 percent of the total number of employees in a plant. On the other hand, the representative of the International Glove Workers Union requested that this number be limited to 5 percent of the stitching machine operators. The evidence did not establish the need for the high percentage of learners requested by the applicants. Moreover, testimony was offered which indicated that a supply of trained workers is available in certain of the centers of production. This testimony lends weight to the contention that in an industry where production has declined, there is a considerable supply of unemployed trained workers. It is only because the general supply of trained workers may not be equally available to all employers that an employer should be forced to employ learners and where such is the case, 5 percent of the total number of employees engaged on machine stitching operations would seem adequate to provide for the turnover which the applicants have testified is

normal for this branch of the industry. I, therefore, find 5 percent of the total number of employees engaged on machine stitching operations to be an appropriate number to allow in the special certificates issued under this finding, provided that the employment of as many as 5 learners may be authorized in any certificate. Application for learners in excess of 5 percent may be made under Part 522 of the Regulations.

d. Knit Wool Gloves

(1) Learner Wage Rate

The representative of the National Association of Leather Glove Manufacturers requested a learner wage rate of 75 percent of the applicable minimum for the operations of finger closing and finger knitting. No testimony or evidence was offered to contest the reasonableness of this wage rate. Therefore, in the absence of any evidence to the contrary, and following the same reasoning set forth above in respect to leather dress gloves, I find that learners on the finger knitting and finger closing operations on knit wool gloves shall be paid not less than 25 cents per hour both under the present 30 cent minimum and under the proposed 35 cent minimum. An alteration in this learner rate may be appropriate for a possible higher minimum in the future.

The provisions regarding piece work rates as established for the leather dress glove branch shall apply to this branch of the industry.

(2) Length of Learning Period.

The applicants requested a learning period of three months. The representative of the Amalgamated Clothing Workers recognized the need for a learning period for the operations of finger closing and finger knitting. However, they offered no testimony or evidence to contest the position taken by the applicants that the average length of time required to train workers to earn the minimum on these operations was three months. Further evidence confirms the reasonableness of a three months' learning period. I, therefore, find 480 hours to be an appropriate learning period for finger knitting and finger closing respectively.

I also find a learner is a person who has not had more than 480 hours' experience in the aggregate in the operation of finger closing or finger knitting, during the previous three years.

(3) Number and Proportion of Learners

The applicants made no request for a specific number of learners. Furthermore, the only evidence submitted which could be regarded as revealing what should be an appropriate number, is that relating to turnover. Turnover, it was testified, varies from year to year from 2 to 20 percent depending upon market conditions. Therefore, in view of the fact that exemption is to be made

on the basis of certificates which are to be issued only when trained workers are unavailable, the number of learners can be adjusted to actual need. However, in this, as in other branches of the Glove Industry, an upper limit should be set upon the number of learners to be allowed. I find, therefore, that 5 percent of the total number of employees engaged on finger knitting and finger closing operations is an appropriate number to be granted in certificates issued to plants in the knit wool branch of the Glove Industry, provided that any certificate may authorize as many as 5 learners. Applications for learners in excess of 5 percent may be made under Part 522 of the Regulations.

4. Special Conditions

In relation to the findings made above on curtailment of opportunities for employment it is clear that special certificates should not permit and should in fact expressly prohibit the employment of learners at subminimum rates when the employer can obtain experienced workers to fill vacancies. Furthermore, to apprise all interested parties of their rights and obligations, I find that no special certificate should be valid unless it remains posted at all times, during the period of its validity, in a conspicuous place in the plant. Finally, since the evidence in the record is necessarily limited, in large part, to the probable effects of the present 30 cent and proposed $32\frac{1}{2}$ and 35 cent wage rates, I find that no special certificate shall be valid beyond October 24, 1940, unless extended by order or otherwise. The present findings can thus be reviewed in the light of actual operating conditions.

DETERMINATION AND ORDER

Upon the whole record of evidence, I determine and order:

1. Effective on or after February 20, 1940, Special Certificates permitting the employment of learners, at subminimum rates may be issued under the conditions set forth below to all plants in the Glove Branch of the Apparel Industry making application therefor representing that experienced workers are not available to the plant, unless experienced workers are found to be available.

(a) Learners employed under the certificate shall not exceed 5 percent of the total number of workers in the plant engaged in hand and machine stitching operations on leather dress gloves; and in machine stitching operations on knit fabric and work gloves; and in finger knitting and finger closing operations on knit wool gloves, provided that as many as 5 learners may be authorized in any certificate.

(b) No person shall be employed as a learner under the certificate, longer than 480 hours.

(c) Learners employed under the certificate shall be paid not less than 25 cents per hour. In plants where experienced operators are paid on a piecework rate, learners shall be paid at least the same piece work rate and shall re-

ceive earnings paid on this rate if they earn in excess of 25 cents per hour.

(d) Only learners shall be employed at a subminimum wage under the certificate and no learner shall be employed under the certificate unless hired when an experienced worker was not available.

(e) No learners shall be employed at a subminimum wage under the certificate until and unless the certificate is posted and kept posted in a conspicuous place in the plant in which learners are employed.

2. Any special certificate issued pursuant to this order may be cancelled as of the date of issue if it is found that such certificate was issued when experienced workers were available or if the applicant knowingly made false or misleading statements in his application, and may be cancelled prospectively or as of the date of violation if it is found that any of its terms have been violated or that skilled workers have become available. No certificate issued pursuant to this order shall be valid after October 24, 1940, unless extended by order or otherwise.

3. In this order, the term "learner" means;

(a) In the leather dress branch, a person who has not been employed during the preceding three years for more than 480 hours in the aggregate in hand or machine stitching operations on leather dress gloves.

(b) In the knit fabric branch, a person who has not been employed during the preceding three years for more than 480 hours in the aggregate in machine stitching operations on leather dress or knit fabric gloves.

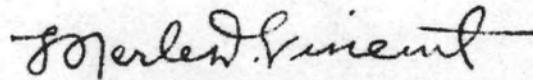
(c) In the work glove branch, a person who has not been employed during the preceding three years for more than 480 hours in the aggregate in machine stitching operations in any type of glove manufacture.

(d) In the knit wool branch, a person who has not been employed during the preceding three years for more than 480 hours in the aggregate on finger knitting and finger closing operations;

and, the term "Glove Branch of the Apparel Industry" includes leather dress gloves, knit fabric gloves, work gloves, and knit wool gloves.

I further order that the record be kept open to receive additional testimony on the possible need for and terms of the employment of learners at subminimum rates in the cutting occupation in the leather dress branch of the Glove Branch of the Apparel Industry.

Signed at Washington, D. C., this 8th day of February, 1940



Morle D. Vincent
Presiding Officer