

#51

Public Hearing
U.S. Department of Labor
New York City, N.Y.
March 30, 1989

Testimony of Vernon M. Briggs, Jr., Professor of Labor and Industrial Relations, Cornell University pertaining to the proposed removal of bans on industrial homework in the apparel industry

Efforts to restrict industrial homework in the apparel industry date at least as far back as 1910. During that year, Louis D. Brandeis -- later to become one of the nation's most distinguished Supreme Court justices -- successfully negotiated a private agreement known as the "Protocol of Peace." Among its key provisions was such a restriction on homework. The immediate objective of the Protocol was to find a way to end a protracted and violent conflict within the industry over union recognition. But, as the noted labor historian Philip Taft has written, "the Protocol was an important step toward 'civilizing' a low wage industry whose problems were complicated by the continual flood of immigrants who swelled the labor supply". Taft adds that, with the terms of the Protocol it was possible "to introduce many reforms and eliminate abuses that had plagued the industry over the years."

It was in 1942 that public policy institutionalized the no homework restriction. The U.S. Department of Labor recognized that the very nature of the employment setting in the apparel industry made it impossible to enforce the terms of the Fair Labor Standards Act without such a restriction. While the ban on industrial homework has not stopped the worker exploitation in this highly competitive industry, it has served as a symbol of public understanding and of manifest concern for the welfare of a significant segment of the city's low wage work force. The ban has facilitated efforts by unions and government agencies to at least monitor

the production process.

When the Protocol was set forth, the forces that were depressing wages and working conditions stemmed largely from worker competition due to the availability of waves of helpless immigrants and the cut-throat competition that existed between jobber contractors. But at that time there were high protective tariffs that shielded American workers from having to compete with foreign imports.

To the degree that present employment conditions in this industry have changed from the past, they have changed for the worse. The low wage labor market of New York City is once again beset by mass immigration. This time, many of the workers who are trapped in the secondary labor market are even in a more precarious situation than were their predecessors at the turn of the century. The vast majority are members of minority groups. Moreover, many of the new immigrant workers are illegal immigrants who are far more vulnerable to exploitation (especially since the enactment of the Immigration Reform and Control Act of 1986). Illegal immigrants in particular and all immigrants in general are less likely to know about the existence of worker protection legislation and, even if they do know, are less likely to file individual complaints of violations.

With regard to New York City, a recent study of the labor market -- of which I am a co-author -- documents the fact that immigrant workers are highly concentrated in only a handful of industries (i.e., 47 percent of immigrant workers are employed in only 13 of over 200 industries in the City). Of these 13 industries, apparel manufacturing had the second highest proportion (36.1 percent) of immigrant workers (see Appendix). In percentage terms, it was only slightly behind the private

household industry (37.6 percent). In absolute terms, apparel manufacturing had the highest number of immigrant workers employed in any industry in the City. It should also be noted that the available data probably underestimates the actual magnitudes since many illegal immigrants are known to be employed off the books in this industry. It is also the case that local data on the foreign born are only available from the census counts -- last conducted in 1980. Major inflows of immigrants have come since the last census but what their actual employment distribution cannot be specified for 1989.

It is also the case that at least 40 percent of women employed in the apparel industry in 1980 were immigrants (16 percent of the total are Hispanic females and 13 percent are Asian females). Undoubtedly, these percentages are even higher in 1989. Thus, it is clear that the work force in the apparel industry is disproportionately made up of immigrants who are both females and minorities. It is also likely that there are many youths employed in the industry but only persons over the age of 16 are counted in official labor force data. By every known standard, apparel workers are the most economically "at risk" workers in the New York City labor force.

Furthermore, the competitive situation in the apparel industry has become decidedly worse in the 1980s than ever before. This is due to the current pursuit of the federal government of free trade as a new instrument of international economic policy. It is apparently not widely understood that this nation's economy was built behind the protection of high protective tariffs. The rapid abandonment of this protection without serious thought about labor displacement issues has had serious and unfair

consequences to workers in the apparel industry. Most employers now must compete directly with foreign apparel producers -- many of whom have no obligation to provide even minimally humane employment standards.

In the prevailing climate of resumed availability of exploitable workers and the unprecedented adverse effects on workers of foreign product competition, New York City (and several other metropolitan areas where the apparel industry is located) have already witnessed the widespread revival of one of the sorriest institutions ever to characterize the industrial development of our nation: "the sweatshop." Having once been virtually eliminated, sweatshops have -- since the 1970s -- again become a growing manifestation of the seamier side of our contemporary affluent society.

Earlier in this decade (April, 1981), the Secretary of Labor Ray Donovan staged a media visit to the garment district of New York City. The Secretary promised "to put more teeth into the law" to stop abuses of child labor, minimum wage, overtime pay requirements, and inadequate record keeping that characterize these exploitive enterprises. In fact, nothing has been subsequently done to make meaningful his public outrage about the existence and persistence of sweatshops. Indeed, the presence of sweatshops is now so common that these abominations to a supposedly advanced industrial society are now seemingly being taken for granted.

Given the proposed changes that are the subject of this hearing, it seems that the U.S. Department of Labor has decided not only to abandon the enforcement fight against "sweatshop" conditions but, it also now seeks to make it virtually impossible for any caring society to even come to grips with the issue. It is hard enough to enforce worker protection

statutes in garment factories which are already often found in garages, basements of tenements, and in seemingly abandoned warehouses. But it will be virtually senseless to even try to protect workers if the point of production is the worker's home. The exploitation problem for employees will not go away; only the threat of punitive consequences to employers will be diminished. At least under the present ban, there is the possibility of fair play and minimal protection. Under the pending proposal, any pretense of concern by government for the maintenance of fair standards for some of the most helpless workers in our economy will be abrogated. To be sure, the worker protection laws will still exist on the statute books. They will, however, stand only as even more cynical monuments of societal hypocrisy and indifference than they do now. Form will have triumphed completely over substance.

I urge the Department of Labor not to revoke the ban on industrial homework. Instead, it should focus its resources on the need for stricter enforcement of employment standards and labor laws as well as on the issue of unfair competition from abroad. The Department should be the advocate for worker welfare; not the agent for employer convenience. The apparel industry is a special case and its workers need the Department's shield -- not its sword.

Appendix: Table 1

**NEW YORK CITY INDUSTRIES WITH CONCENTRATIONS
OF NEW IMMIGRANTS, 1980**
(in rank order by number of post-1965 immigrants employed)

Industry	Total Employed	Post-1965 Immigrants Employed	
		Number	Percent of Total Employed
Total for all industries	2,897,880	492,760	17.0
→ Apparel manufacturing	118,540	42,760	36.1
Hospitals	185,820	41,660	22.4
Eating/drinking establishments	110,640	36,820	33.3
Banking	125,320	21,540	17.2
Construction	77,960	15,120	19.4
Real estate/building management	71,660	11,540	16.1
Private households	30,620	11,520	37.6
Nursing facilities	30,960	9,820	31.7
Miscellaneous manufacturing	32,080	9,520	29.7
Grocery stores	47,040	8,920	19.0
Insurance	76,980	8,720	11.3
Motels/hotels	25,420	7,860	30.9
Printing/publishing	74,280	7,760	10.4
Total	1,007,320	233,560	23.2
All other industries	1,890,560	259,200	13.7

Source: Table cited in Leon Bouvier and Vernon M. Briggs, Jr.
The Population and Labor Force of New York: 1990-2050,
(Washington, D.C., The Population Reference Bureau, 1988),
p. 62.

Appendix: Table 2

**PERCENTAGE DISTRIBUTION OF EMPLOYMENT IN NEW YORK CITY OF FOREIGN-BORN PERSONS,
AGE 16 AND OVER WHO IMMIGRATED SINCE 1965 BY SEX, RACE, HISPANIC ORIGIN,
AND DATE OF ARRIVAL, 1980¹**

	Total All Industries	Total of 13 Selected Industries	060 Construction	151 Apparel	172 Printing/Publish	391 Misc. Manufactur.	601 Grocery Store
All Males (Native and Foreign)	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Foreign Born²	17.2	23.1	20.3	26.6	11.8	28.9	20.7
White, Non-Hispanic	4.9	6.1	10.5	5.1	3.1	8.3	6.2
1965-1974	3.4	4.5	7.7	3.8	2.0	5.9	4.5
1975-1980	1.6	1.6	2.8	1.3	1.1	2.3	1.7
Black, Non-Hispanic	3.9	4.2	4.8	3.6	3.3	5.8	2.6
1965-1974	2.9	3.2	3.5	2.2	2.5	3.7	2.0
1975-1980	1.0	1.0	1.2	1.4	0.8	2.1	0.6
Hispanic	5.1	6.5	3.6	10.7	3.8	12.9	8.4
1965-1974	3.6	4.6	2.7	5.8	2.9	8.8	6.4
1975-1980	1.5	1.9	1.0	4.9	0.9	4.1	2.0
Asian, Non-Hispanic	3.2	4.7	1.3	7.1	1.4	1.7	3.3
1965-1974	1.8	2.7	0.8	3.7	1.1	0.6	1.8
1975-1980	1.4	2.0	0.6	3.4	0.3	1.1	1.6
All Females (Native and Foreign)	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Foreign Born²	16.7	23.2	10.9	40.1	8.5	30.8	15.7
White, Non-Hispanic	3.3	3.2	--	7.3	--	5.2	--
1965-1974	2.3	2.4	--	5.9	--	3.0	--
1975-1980	1.0	0.8	--	1.4	--	2.1	--
Black, Non-Hispanic	5.5	8.0	--	2.9	--	4.7	--
1965-1974	4.2	6.4	--	2.0	--	2.7	--
1975-1980	1.2	1.7	--	0.9	--	2.0	--
Hispanic	4.8	5.6	--	16.4	--	18.5	--
1965-1974	3.5	4.2	--	11.1	--	12.3	--
1975-1980	1.3	1.6	--	5.3	--	6.2	--
Asian, Non-Hispanic	3.0	4.7	--	13.4	--	2.3	--
1965-1974	1.8	2.9	--	7.2	--	1.2	--
1975-1980	1.2	1.8	--	6.2	--	1.1	--

Source: Table cited in Leon Bouvier and Vernon M. Briggs, Jr., The Population and Labor Force of New York: 1990-2050, (Washington, D.C., The Population Reference Bureau, 1988), p. 88.