M A I N E

L E G I S L A T I V E R E S E A R C H

C O M M I T T E E

SECOND REPORT

to

ONE HUNDRED AND SECOND LEGISLATURE

JANUARY, 1965

STATE OF MAINE

SUMMARY REPORT

to

ONE HUNDRED AND SECOND LEGISLATURE

LEGISLATIVE RESEARCH COMMITTEE

From the Senate:

Dwight A. Brown, Ellsworth, Chairman
Ralph D. Brooks, Jr., Yarmouth
William R. Cole, Liberty[1]
E. Perrin Edmunds, Fort Fairfield
Norman K. Ferguson, Hanover
Clyde A. Hichborn, Medford[2]
Samuel A. Hinds, South Portland
J. Hollis Wyman, Milbridge

From the House:

Bradford S. Wellman, Bangor, Vice Chairman
Sam A. R. Albair, Caribou
David B. Benson, Southwest Harbor
John E. Gill, South Portland
Archie Humphrey, Augusta
Louis Jalbert, Lewiston
Elmont S. Tyndale, Kennebunkport

Ex Officio:

Robert A. Marden, Waterville,
President of the Senate
David J. Kennedy, Milbridge,
Speaker of the House

Director:

Samuel H. Slosberg, Gardiner

Assistant Director:

Samuel S. Silsby, Jr., Augusta

Finance Officer:

Frederick W. Kneeland, Augusta

---

1 Deceased February 2, 1964.
2 Appointed March 26, 1964 to succeed Senator Cole.

C O N T E N T S

PROPOSED BILLS TO BE SUBMITTED TO THE 102nd LEGISLATURE

LETTER OF TRANSMITTAL

December 29, 1964

To the Members of the 102nd Legislature:

I have the honor to transmit herewith the summary report of the Legislative Research Committee on studies authorized by the 101st Legislature for the period ending January, 1965. This report contains the findings and recommendations on 10 of the 21 matters assigned by the Legislature for Research Committee study and determination. The study of the feasibility of an income tax for the State, authorized by the 101st Legislature, was contractually studied and is separately reported as Committee Publication 102-1. The findings and recommendations of the Committee on the 10 remaining studies are reported as Publication 102-3.

The members of the Committee wish to express their appreciation for being chosen to participate in these assignments, and sincerely hope that the reports submitted will prove of benefit to the members of the Legislature and the people of the State of Maine.

Respectfully submitted,

Dwight A. Brown, Chairman

ADMISSION TO KINDERGARTEN AND GRADE ONE

> ORDERED, the Senate concurring, that the Legislative Research Committee is directed to study the subject matter, Bill: "An Act Relating to Admission to Kindergarten and Grade One in the Public Schools," Legislative Document No. 273, introduced at the regular session of the 101st Legislature to determine whether the best interests of the State would be served by the enactment of such legislation; and be it further
>
> ORDERED, that the Committee report the results of its study to the 102nd Legislature.

The Legislative Research Committee studying School Entrance Age has been concerned with the advisability of legislation relative to school entrance age in the 102nd Maine State Legislature.

L.D. 273, presented in the 101st session by Mr. Tyndale of Kennebunkport, proposed several basic changes to R.S., c. 41, § 44 (20 M.R.S. § 859) and § 237-c, sub-§ I and III (20 M.R.S. § 3721). The specific issues in L.D. 273, and therefore those which have been the focal points of this study, are listed below:

(1) Change entrance date for both five and six-year olds from October 15 to September 1.

(2) Insert the provision of early school admission for those children who show sufficient mental and physical maturity on qualified pre-school tests.

(3) Eliminate words "pre-primary" and "sub-primary" in preference to the word "kindergarten".

(4) Add qualification that only those teachers who had a certified course in kindergarten methods shall teach five-year-olds.

(5) Change the ratio of pupils per teacher from 60 to 50.

PROS AND CONS OF SCHOOL ENTRANCE AGE ISSUES

A public hearing was held by the Legislative Research Committee at Gorham State Teachers College on February 18, 1964. Attendance was good and included parents, teachers, school administrators, mental health personnel, and interested citizens.

Statements and comments presented at the public hearing are categorized below:

(1) Changing date from October 15 to September 1

(a) pro - children would be more mature because they would actually be older.
- Children would have reached ages of five or six before starting school.
- the date does not require additional procedures, staff or money.

(b) con - September date is still arbitrary and inflexible.
- question as to whether or not a six week's change is sufficient or if a July 1 date would be more advisable.

(2) Pre-school testing for early admission

(a) pro - allows flexibility in school entrance by allowing individuality in decision

of acceptance in school.

- provides for group of children who now miss the date even though they might be matured enough to benefit from the school program.
- school systems in other states have reported some success with early school admission.

(b) con - mental and physical testing is not broad enough base. The social, emotional, and psychological factors were inadvertently omitted from the bill.

- every indication is that such a testing program would require an extensive staff; i.e., medical doctor, psychologist, counselors, eye specialists, specially trained teachers, etc.
- cost of such a program is indeterminate at the moment, but it is assumed that there would be some additional cost to every town.
- a testing program and flexible date will bring strong pressures on the school by many parents while an arbitrary date is easily administered locally.
- such a testing program should logically include the evaluation of readiness of all children and those who now are

eligible for school might be sensibly excluded on the basis of school readiness.

(3) Use of term "kindergarten", eliminating the words "pre-primary" and "sub-primary"

(a) pro - one term, "kindergarten", would standardize the name in all schools of the State.

- the name "kindergarten" is used more consistently, almost exclusively, in other states.
- there would be influence on the program for five-year olds that would help to keep it in the realm of pre-academic activities and more solidly prepare pupils for the academic endeavors of later grades.

(b) con - since the names are used synonymously in the Statutes, the limitation on name would have little meaning.

- the curriculum in the kindergarten grade is the important factor.
- Maine schools operate under local option for selection of and responsibility for curriculum for five-year-olds. Legislation in this area should not pre-empt this option.

- a flexible program that will fit the individual children in that school that year might be a better approach. Many schools now attempt to compensate for individuality in children and any inequities in the school entrance date by various grouping techniques, use of transitional grades between kindergarten and grade one, ungraded primary units, and normal promotion and retention policies.

(4) Teacher certification in kindergarten methods

(a) pro - kindergarten methods are needed in the teaching of five-year-olds.

- the beginning year could be the most critical in a pupil's school experience and must be helped by well-trained teachers with knowledge of this age group.
- present Maine certification standards are being studied for possible specialization in kindergarten methods.

(b) con - any requirement will have to include a time element to protect present teachers because supply of primary teachers is extremely limited.

- local prerogative on selection and hiring of teachers should be protected.
- availability of courses for teachers could help this problem.

(5) Reduction of pupil-teacher ratio to 50 to 1

(a) pro - the needed individual attention could be more nearly realized.

- fifty different children who have never attended school before are actually more than a teacher can efficiently influence and instruct.

(b) con - some hardship on local schools.

(6) General comments at hearing

(a) Many questions related to L.D. 273 are still unanswered for Maine. Some of these are: How much would it cost to have a flexible school entrance age? How much staff would a school system require to implement this legislation? What pre-school tests can be used? Who would administer and interpret a testing program? Will early school entrance serve to educate these children better? Is the program for five-year-olds more important than the entrance age in the overall progress of children?

(b) study, experimentation, and research are needed to determine answers to the above questions.

(c) the professional committee now working on school entrance age is too limited in membership. It should include parents and representatives of the various interested organizations in the State.

(d) is Maine ready for this legislation at this

time? The consensus of the public hearing and the belief of this Committee was that Maine is not ready now for this total bill.

SCHOOL ENTRANCE AGE AND BEGINNING PROGRAMMING STUDIES NOW BEING CONDUCTED

A professional committee, the Committee on School Entrance Age and Beginning Programming, appointed by the Maine Elementary Principals Association and the Maine Elementary Supervisors Association and working in cooperation with the Maine State Department of Education was organized on November 20, 1963.

The objectives of this Committee are: (1) to evaluate programs of early school admissions, (2) to investigate the area of early school programming, (3) to conduct experimentation with various testing techniques involved with school entrance and placement (4) to research all findings, and (5) to try to determine on a factual basis a recommended direction for Maine schools in the area of school entrance age and beginning programming.

In the fall of 1964, two pilot projects were in progress, in Brunswick and Saco, in cooperation with school officials and school committees.

In Brunswick, as the first stage of a broader program, the Gesell Institute Test of School Readiness is being administered by a specially trained teacher. It is hoped that the value of this instrument, as a device that might be used by local teachers, will be determined and that this test can be helpful in the later project. In the second stage of the experiment, tentative plans are being made to use a variety of

testing procedures in the evaluation of pre-school children for possible early entrance. In order to launch the latter stage there will need to be some legislation that will allow limited experimentation and flexibility in entrance age laws.

In saco, the pilot project is presently concerned with flexible programming for five-year-olds. The Gesell Institute test is being used in conjunction with other evaluative procedures in order to establish the kind of program for which each child is ready. The program will be designed for each individual maturity group.

Other pilot projects are planned in other towns to cover all issues relative to the problem.

CONCLUSIONS

The Legislative Research Committee wishes to make the following recommendations to the 102nd Legislature:

(1) That more study of the subject of school entrance age is needed before the State is ready for the specific enactment of L.D. 273.

(2) That funds will be needed in order to obtain a thorough study with a firm basis in research.

(3) That the proposed amendment below be enacted to allow present pilot projects to be expanded to include early school admission experimentation:

AN ACT Relating to the Entrance Age in Public Schools.

Be it enacted by the People of the State of Maine, as follows:

R. S., T. 20, §859, amended. The first paragraph of section 859 of Title 20 of the Revised Statutes is amended to read as follows:

'In the public schools of the State only those children who are or will become 6 years of age on or before October 15th of the school year shall be admitted to grade one, except that pilot programs related to school entrance age may be administered locally with approval of the State Board of Education, during the 1965-1966, 1966-1967 school years only. Grade one age limitations shall not apply to children participating in these pilot programs.'

AID TO DEPENDENT CHILDREN

> ORDERED, the House concurring, that the Legislative Research Committee is directed to study the welfare functions and activities of the State as relate to the Aid to Dependent Children Program; and be it further
>
> ORDERED, that the Committee report the results of its study to the 102nd Legislature.

The foregoing order of the 101st Legislature directs this Committee to a study of the functions and activities of the Department of Health and Welfare in administering the State's Aid to Dependent Children Program rather than making an overall appraisal of it in terms of its need or fundamental goals or objectives. The Committee has approached this assignment on the basis of evaluating a recognized program for the purpose of determining to what extent it fulfills statutory requirements in Maine for:

1. Determination of initial and continuing eligibility and approval of payments to persons eligible for ADC benefits;
2. Rehabilitation, utilizing all available resources to restore the self-sufficiency of ADC families.

The study is viewed by the Committee as the exercise of a legitimate and continuing function of the Legislature to keep informed of the activities and operations of State administered programs and the need for appropriate legislative action. The Committee believes that this process, in the final analysis, should not only indicate whether a particular program accomplishes its purpose, but also determine the need for statutory and administrative changes which would improve its operation.

The fundamental requirements of the Aid to Dependent Children Program are described in the 1963 edition of the United States Department of Health, Education and Welfare handbook on Grants-In-Aid and Other Financial Assistance Programs appended to this report. The program is designed to provide financial assistance and other services to children living with a parent or relative. The federal grants authorized under the program are established by the Social Security Act to enable states to furnish assistance to needy children under age 18 who are deprived "of parental support or care by reason of death, continued absence or incapacity of a parent." The federal government does not directly admister the program, but provides matching funds, standards and consultation to assist the administration of state programs. The persons to receive assistance are defined by federal requirements for the administration of the program. Other conditions include: assurance of the right to apply, the right of appeal and fair hearing, the safeguarding of information, state-wide operation of the program and the unrestricted use of ADC payments. The state grant is based on its expenditures for assistance payments and costs of administration. The federal government participates financially in the program by providing up to an average monthly maximum per individual in assistance payments plus one-half the administrative costs to the state. Federal allocations or grants to Maine for ADC assistance for fiscal years 1961 to 1963 and total expenditures of the Department of Health and Welfare for ADC for 1962-63 are summarized under Appendix II.

The program within the state is established by a state plan which provides the basis for federal-state cooperation. The plan furnishes a basis for determining that the state program meets the federal requirements for ADC under the Social Security Act, the continuing conformity of the state program with these requirements and the assurance that federal participation will continue as long as the state program remains in substantial compliance.

In the final analysis, the adequacy and scope of the state program is the responsibility of the state which determines the legislative policy, administration and financing within the framework of the state plan according to its own philosophy, circumstances and conditions. State cooperation with the federal government in establishing child welfare services for homeless, dependent and neglected children is provided under Revised Statutes, 1954, Chapter 25, §§231-233; sections 234-246 establish the state requirements in Maine for ADC.

The Committee, through its Subcommittee on Aid to Dependent Children, consisting of Representative John E. Gill, Representative David B. Benson, Speaker of the House David J. Kennedy and Representative Louis Jalbert, chairmaned by Senator Samuel A. Hinds, held two public hearings on October 16 and November 20, 1963 to gather information about the ADC program; an executive session on December 18, 1963 with caseworkers from the Department of Health and Welfare limited to their suggestions and comments concerning the operation of

the program; and a similar session on February 20, 1964 with mothers selected from among those receiving ADC assistance. Final meetings of the Subcommittee were held on March 17 and April 15, 1964 for the preparation of this report which was accepted as the report of the full committee on November 23, 1964.

APPENDIX I

AID TO FAMILIES WITH DEPENDENT CHILDREN

Purpose

Grants to States for aid to families with dependent children were provided in 1935 in Title IV of the Social Security Act. Federal funds were authorized for the purpose of enabling each State to furnish financial assistance to needy children meeting the specifications in the Federal act as to age, deprivation of parental support or care by reason of death, continued absence or incapacity of a parent, and living in the home of a parent or certain relatives. The objective of this program is to maintain children in their own homes. Amendments clarified the basic purpose of this title by making explicit that aid to families with dependent children includes provision of both financial assistance and services to families and individuals. The amendments emphasize that an objective of the program is to help maintain and strengthen family life, and to help the parents or relatives with whom the children live to attain the maximum of self-support and independence consistent with the maintenance of continuing parental care and protection. The Public Welfare Amendments of 1962 give special emphasis to preventing and reducing dependency through the provision of rehabilitative and other social services.

Federal grants to States for aid to families with dependent children deprived by reason of the unemployment of a parent were first authorized in 1961 for a temporary period and were extended by the 1962 amendments to June 30, 1967. Federal funds were also first made available in 1961 for a temporary period for foster family home care under certain conditions for dependent children removed by court order from the home in which they are living. The Public Welfare Amendments of 1962 made this provision permanent and for a temporary period (ending September 30, 1964) provided for the inclusion of care in a non-profit private child care institution. The 1962 amendments also authorized Federal financial participation in assistance for the spouse of the dependent child's parent living in the home in cases where eligibility is based on the incapacity or unemployment of a parent.

The 1962 amendments also authorized Federal financial participation through June 30, 1967 in community work and training programs that meet certain standards as part of aid to families with dependent children.

The table on the following page includes data for a full year of operation prior to and following amendments which effected a major change in the maximum payment in which the Federal government participates and/or in the proportion of Federal participation in such payments.

Financing

A single appropriation is made to meet the combined costs of grants-in-aid for old-age assistance, medical assistance for the aged, aid to families with dependent children, aid to the blind, and aid to the permanently and totally disabled. This is an open-end grant, and the amount of the appropriation depends upon the amount of the States' expenditures for each program. The Federal share of total expenditures for each program is computed in accordance with the formula for that program specified in the Social Security Act. The following table shows, for selected years, the amount of the appropriation for the public assistance programs, combined expenditures for the four types of public assistance that were in operation prior to October 1960, and the five programs thereafter, and expenditures in this program.

Fiscal Year 1/	Appropriation (000) 2/	Expenditures for--			
		OAA, MAA, AFDC, AB and APTD combined 3/		AFDC only	
		Federal (000)	State and local (000)	Federal (000)	State and local (000)
1937	$ 146,000	$ 142,568	$ 167,326	$ 13,094	$ 30,897
1946	441,000	446,048	572,663	62,796	125,911
1948	726,000	722,527	757,041	138,901	213,394
1950	1,098,000	1,095,788	1,020,600	246,865	313,040
1952	4/ 1,150,000	1,209,076	1,111,222	311,098	287,546
1956	1,447,000	1,463,618	1,244,893	397,154	311,628
1958	5/ 1,770,600	1,757,078	1,387,376	529,560	373,091
1959	1,957,960	1,972,918	1,426,885	624,305	432,313
1960	2,037,500	2,055,226	1,493,152	665,700	464,814
1961	2,177,000	2,191,225	1,568,146	716,164	523,929
1962	6/ 2,401,200	2,465,562	1,720,756	845,399	643,092
1963	7/ 2,538,300	Not available		Not available	

1/ Years shown include the first full year of operation, the full year prior to and following significant changes in the Federal share, and the last five years.

2/ Includes regular and supplemental appropriations. See footnote 3.

3/ Data are for the programs of Old-Age Assistance (OAA), Aid to Families with Dependent Children (AFDC) and Aid to the Blind (AB) from 1937 to date; for Aid to the Permanently and Totally Disabled (APTD) from 1952 to date; and for Medical assistance for the Aged (MAA) beginning in 1961.

4/ In addition $22.4 million from the 1953 appropriation was used for part of the 1952 grants to States.

5/ Includes $11.4 million used for part of the 1957 grants to States.
6/ Includes $3.5 million used for part of the 1961 grants to States.
7/ Excludes supplemental request of $210 million which includes $69.2 million used to complete 1962 requirements.

Method of Distribution

Federal funds equal fourteen-seventeenths of the first $17 of a maximum average monthly payment of $30 per recipient plus a proportion (the Federal percentage) of the next $13 of such average payment which varies according to the average per capita income in the State for the most recent three years, except that the Federal percentage in any State shall not be less than 50 percent nor more than 65 percent. The average monthly payment is based on expenditures for money payments to recipients and payments to vendors for medical or remedial care. In addition, effective September 1, 1962, Federal funds are available to cover 75 percent of the cost of providing certain preventive and rehabilitative services as designated by the Secretary and the costs of staff training under conditions specified in the 1962 amendments. Beginning July 1, 1963, if certain services prescribed by the Secretary as a minimum are not provided, the Federal share of such costs will be 50 percent. The Federal share of other costs of State and local administration is 50 percent.

An illustration of computation of Federal assistance funds under the above formula for a State with a $35 average payment and a Federal percentage of 60 percent on the amount of payments in excess of $17 per recipient is shown below:

Recipients (children and relatives)

1.	Total persons receiving assistance	4,900
	A. Not eligible for Federal funds	200
	B. Eligible for Federal funds	4,700

Assistance Payments

2.	Total payments (item 1 x $35)	$171,500
	A. Payments not computable for Federal funds (all payments to number included in 1A)	8,000
	B. Balance computable for Federal funds (item 2 minus item 2A)	163,500

Computation of Federal Share

3.	A. Item 1B x $30 or item 2B if less	141,000
	B. Item 1B x $17 or item 2B if less	79,900
	C. Item 3A minus item 3B	61,100

Federal Share:

4.	14/17 of item 3B	65,800
5.	60% (Federal percentage) of item 3C	36,660
	Total Federal share (sum of items 4 and 5)	$102,460

The formula illustrated above is intended to provide the highest percentages of Federal participation to the low-income states, which generally have relatively large proportions of needy people and make relatively low assistance payments. To attain this objective the formula includes a device for varying the percent of Federal participation in the second part of the payment, i.e., the amount above $17, in relation to the per capita income status of the State.

Matching Requirements

The amount of State funds required under the formula is three-seventeenths of the first $17 of the average monthly payment per recipient plus a percent varying from 35 to 50 of the balance of total payments not exceeding a monthly average maximum of $30 per recipient. Any payments above a monthly average maximum of $30 or to recipients not eligible for Federal funds are made entirely from State and/or local funds. In addition, effective September 1, 1962, State funds cover 25 percent of the cost of providing certain preventive and rehabilitative services designated by the Secretary and the costs of staff training under conditions specified in the 1962 amendments. Beginning July 1, 1963, if certain services prescribed by the Secretary as a minimum are not provided, State share of such costs is 50 percent. The State share of other costs of State and local administration is 50 percent.

Who May Receive Federal Aid

Federal funds are available to States making expenditures under a plan that has been approved by the Secretary of Health, Education, and Welfare as complying with the requirements of Title IV of the Social Security Act.

Application Procedure

The system of grants established under the public assistance titles of the Social Security Act provides for quarterly advances to States with approved plans on the basis of estimates submitted by the States; and for adjusting the amounts granted by adding to or deducting from subsequent grants on the basis of reports of actual expenditures submitted by the States.

Developments During the Past Year

Nine States began, during the year, to aid families with dependent children deprived by reason of the unemployment of a parent under a provision in the 1961 amendments to Title IV. This was in addition to the six States which administered such segments of their AFDC programs in June 1961. Twelve States provided, for the first time, foster care to certain children who previously had been receiving aid to families with dependent children, under a provision also in the 1961 amendments. Only

one State provided such care in June 1961. Of the increase during the year of 310,000 recipients, 125,000 received aid to families with dependent children deprived by reason of the unemployment of a parent.

Legal Basis

Title IV (Sec. 403) of the Social Security Act, 42 USC 603.

APPENDIX II

Federal allocations or grants to Maine for ADC assistance for fiscal years 1961 to 1963 were:

	Actual
1961	$5,229,615
1962	5,548,665
	Estimated
1963	5,947,000

(U.S. Department of Health, Education and Welfare, Grants-In-Aid and Other Financial Assistance Programs, 1963)

The total expenditures of the Department of Health and Welfare for ADC for the fiscal year 1962-63 as reported to the Legislative Finance Office were:

From State funds	$ 994,777
From Federal funds	5,791,605
From Municipal funds	942,527
	$7,728,909

APPENDIX III

AID TO DEPENDENT CHILDREN

	December 1958	December 1962
Separate ADC Family Unit Cases	5,420	6,055

Number of ADC Cases on the Rolls Today That Were on the Rolls Five Years Ago.

1.	12 1/2%	of the present day cases are	6 months old
2.	26 1/2%	" " " " " "	1 year "
3.	12.6%	" " " " " "	2 years "
4.	12.2%	" " " " " "	3 " "
5.	7 1/2%	" " " " " "	4 " "
6.	4 1/2%	" " " " " "	5 " "
7.	4.1%	" " " " " "	5-7 " "
8.	9.3%	" " " " " "	7-10 " "
9.	10.8%	" " " " " "	10 " " or older

(Legislative Finance Office)

"ALL OTHER" EXPENDITURES AT STATE INSTITUTIONS

> ORDERED, the House concurring, that the Legislative Research Committee be directed to study the "All Other" expenditures at the various institutions operated by the State, for the purpose of determining whether there is legitimate reason for the wide disparity in "All Other" expenditures as reflected by the greatly varying costs to the State when the total population of State institutions is compared to the total "All Other" expenditures on a per capita basis; and be it further
>
> ORDERED, that the Legislative Research Committee report their findings to the 102nd Legislature.

The basis of the foregoing order which directed this study was the discovery by the Appropriations Committee, at the last regular session, that "All Other" costs on a per capita basis varied drastically among the various State institutions. Not satisfied with the existing disparity, the Appropriations Committee initiated the order, realizing that it was unable to conduct its own investigation due to the Committee workload during the session.

The Subcommittee on "All Other" Expenditures at State Institutions, chairmaned by Senator E. Perrin Edmunds, was charged with the responsibility of conducting the study. The initial hearing was held by the Subcommittee on October 17, 1963 for the purpose of receiving statements and testimony concerning the study. Other meetings were held by the Subcommittee on December 18, 1963 and May 20, 1964. The Subcommittee considered the study in executive session on November 23, 1964, and final action was taken on its report the same day by the full Committee.

During the course of its investigation, the Subcommittee conferred at frequent occasions with the Commissioner of Mental

Health and Corrections and with various members of his staff. The Commissioner, having instituted his own study of the matter, cooperated fully with the Subcommittee in researching the problem and developing the information necessary for this report.

The following information was submitted by the Commissioner at the second hearing before the Subcommittee on December 18, 1963

> We in the Department are involved in a continuous study and evaluation of any "disparity" in "ALL OTHER" costs as reflected in the expenditures in this category by each of our institutions. We know from very careful analysis through a period of years that there will always be a differential in costs between the various institutions and, aside from inefficient management, a truly valid reason exists for any such variance.
>
> I. Factors which influence such "disparity" or variance . . . are:
>
> (a) Type of Institution (Correctional, Mental Health, Educational, Adult or Juvenile, Male or Female)
>
> (b) "Standard" of Care Rendered (Custodial, Intensive Treatment, etc.)
>
> (c) Physical Condition and Layout of the Buildings (More utility costs, maintenance on older buildings, etc.)
>
> (d) Population of the Institution and as it relates to Total Plant Capacity
>
> II. To Analyze a Specific "Case in Point"
>
> . . .
>
> An Analysis of Two Exceptionally Well Operated Mental Hospitals:
>
> (a) Decreasing census at Augusta has been due to a combination of factors including improvement of patients' conditions from tranquillizing drugs and other treatment methods, and to an intensive effort at placement of elderly patients and others in boarding or nursing homes. With increasing admissions only the most energetic efforts on the part of the superintendent and all of the staff have

kept the in-patient census from increasing dramatically.

(b) Bangor has experienced an almost identical increase in admissions and the staff has had to expend every effort to prevent the census from exploding. Two factors can be seen as contributing to the small increase: the first is the opening of the Pooler Pavilion which added much-needed beds for elderly patients; and the second, that there were no patients released in 1962-63 who had been hospitalized 15 years or more. Of 337 patients in Pooler Pavilion 92 have been hospitalized 15 years or longer.

(c) These two factors are identifiable but are by no means the only or even the most important. The Bangor area does not offer the number or quality of nursing homes which will accept the patients who can be placed in such facilities. Funds for nursing and boarding care are limited by budgetary appropriations to the Department of Health and Welfare. With limited professional staff efforts must be placed where the repayment is highest-with the acutely ill, newly admitted patient-and the chronic case may be by-passed simply because recoverability decreases with time.

(d) Finally, the increasing admission rate and the preference for care at the Bangor State Hospital, especially for the elderly mildly mentally ill, indicate that the hospital is doing a good job in providing desirable care.

The general conclusions of the Department, which are concurred in by the Committee, were presented by the Commissioner at the public hearing on May 20, 1964:

> Representatives from the Department of Mental Health and Corrections have considered it a challenge, as well as a duty, to thoroughly explore and to report on "All Other" expenditures in our ten state institutions. It must be recognized, however, that meaningful cost accounting for institutions is extremely complex. The present so-called per capita cost, arrived at by dividing total expenditures by total average population, is not truly indicative, nor does it reflect or emphasize all aspects of program costs.

It is the only method we now have, however, of listing "Comparative Costs."

What is Being Done? During the past two years much study on this subject has been encouraged by the American Society of Mental Hospital Business Administrators. There has been a pilot study by the National Institute on Mental Health in nine institutions. Plans are presently under way for a study to be conducted by the University of Michigan, Bureau of Hospitals-all this to evolve a standardized procedure. Hence, it should be indicated that our present method, while simple and direct, is nevertheless at best a "stop-gap" method.

In our mental hospitals the "bulk" of the cost accrues in the first months of hospitalization, for at this time our laboratory and general workup of the case occurs. At this time we are involved with much expense for professional services-that is, psychiatric and psychological evaluations. With a high admission and equally comparable discharge rate it is obvious that the present per capital cost method is inadequate.

There will always be varying costs between different types of institutions even with a proper accounting method, for the program in a "correctional" setting obviously varies widely from the type of care necessary in a mental hospital. It is felt we can compare, with a proper yardstick, costs between like institutions, but between dissimilar institutions such comparisons would seem meaningless.

If we are to recognize and report on disparity in costs between institutions, then the obvious answer is that the program involved is a major consideration. To compare disparity of costs between like institutions one must consider the efficiency of administration and management. Also, one must consider to what extent the program in the institutions has been successful in rehabilitation of the inmate. We are also concerned with the cost involved as to maintenance of the physical plant, its capacity and its type of construction.

Many other factors enter into a variance of cost, such as the "standard" or "kind of care" afforded by the various programs. Higher admission rates in some institutions project higher per capital costs. For instance, a survey made just today shows:

Pineland Hospital and Training Center

Admissions - 1962-63.....61
Admissions - 1963-64 (10 months only)....223

This clearly indicates increased cost for early diagnostic work and evaluations.

> We have submitted to this Committee various reports and statistics, including a booklet showing the per capital costs in the "All Other" category for each institution over a period of fifteen years . . . In the judgment of the Commissioner the most valuable aspects of the entire process have been to re-emphasize the importance of efficient administration and management in each and every one of our institutions. If after an efficient management is implemented and a helpful program is executed, then I feel we must let the costs speak for themselves.

The Legislative Research Committee, in submitting this report, wishes to express its appreciation to the Department of Mental Health and Corrections for the cooperation shown during the course of the study. The all-out effort of the Commissioner and his staff to identify and correct the various problem areas confronting the department in administering the State institutions has had the necessary effect, making recommendations for corrective legislation unnecessary at this time.

The Committee feels that the Department should continue its program of cooperation with the Legislative Research Committee, and suggests that it continue its policy of initiating and promoting appropriate programs to find new ways to strengthen the efficient and economical operation of those institutions coming under its jurisdiction.

ALLOWANCES OF RETIRED FISH AND GAME WARDENS

> ORDERED, the Senate concurring, that the Legislative Research Committee study the allowances of retired fish and game wardens to determine the desirability of increasing their retirement allowances; and be it further
>
> ORDERED, that the Committee report the results of its study to the 102nd Legislature or any special session of the 101st Legislature.

The study directed by the foregoing order was the result of "Resolve, Providing Increases in Retired Allowances for Certain Fish and Game Wardens" (S.P. 255, L.D. 629), introduced at the Regular Session of the 101st Legislature, to equalize the pay of eighteen retired wardens not coming under the provisions of the State Retirement System. These wardens, in most instances, were retired prior to the creation of the Retirement System, having served through the 1920's with pay ranges from $27.87 to $90.36 weekly. Against present living costs, this has meant that the pension received by each of the wardens is ridiculously low.

Under the resolve, each of the wardens in this category would receive $100 per month across the board. The resolve was reported out of the Committee on Pensions O.T.P., but failed of passage in the House. An amendment offered by the sponsor to save the resolve provided that the total cost of $33,000 to carry out the resolve should come from the dedicated revenues of the Department of Inland Fisheries and Game, rather than from the General Fund.

Passage of the resolve was objected to for two reasons: 1) because it would give special treatment to one group when there were others as equally deserving, and 2) because, as

amended, the funds to implement the resolve were to come from a department that, at best, was "just barely struggling along."

It was the consensus of the Subcommittee that the Department of Inland Fisheries and Game owed a duty to look after its retired personnel and that the total cost of the proposed resolve should be taken out of departmental funds.

The department, while agreeing in principle that something should be done to alleviate the condition of the wardens, felt that it was only bringing the day closer when the department would have to come to the Legislature for an increase in its fees to meet the services expected of it.

Definite action was taken by the Subcommittee on March 17 which

> VOTED to recommend to the Department of Inland Fisheries and Game that they increase the retirement allowances of certain retired fish and game wardens in keeping with legislation considered at the regular session of the 101st Legislature, such moneys to come from their dedicated revenues, and, that they report on their action to the Legislative Research Committee on Thursday, March 19th.

The report of the Subcommittee was accepted by the Committee on March 18, and the Vice Chairman was directed to consult with the Attorney General to determine whether the recommendation of the Subcommittee was legally valid.

The Vice Chairman subsequently reported that it was the opinion of the Attorney General that the proposal accepted by

the full committee would be improper and that it would require action on the part of the Legislature to effectuate the recommendation.

No further action was taken by the Committee until September 16, 1964 when, after further consideration, the Committee

> VOTED to accept the recommendation of the Subcommittee that each case be brought before the Committee on Pensions as a separate resolve rather than presenting a blanket resolve.

This recommendation is herewith submitted to the consideration of the 102nd Legislature as the recommendation of the Legislative Research Committee.

EMPLOYMENT SECURITY LAW

ORDERED, the House concurring, that the Legislative Research Committee be directed to study the Employment Security Law; and be it further

ORDERED, that the Committee report the results of its study to the 102nd Legislature.

The Legislative Research Committee, after due consideration of the Maine Employment Security Law, herewith presents as its report the Transcript of Testimony of the public hearing held by the Committee on the effect and operation of the law on July 22, 1964.

In presenting this transcript, the Committee does so with the knowledge that, in addition to assisting the Legislature, in dealing with the Employment Security Law, the record will also serve as a source of reference for future information.

It is the conviction of the Legislative Research Committee, by making the transcript available through its report, that the Committee will best discharge its responsibility to the Legislature in assisting it to solve the complex problems involved in adjusting the competing interests affected by the Employment Security Law.

STATE OF MAINE

101st LEGISLATURE

LEGISLATIVE RESEARCH COMMITTEE

S.P. 707

MAINE EMPLOYMENT SECURITY LAW

Senators:	Brown	Representatives:	Albair
	Brooks, Jr.		Benson
	Edmunds		Gill
	Ferguson		Humphrey
	Hichborn		Jalbert
	Hinds		Kennedy
	Marden		Tyndale
	Wyman		Wellman

TRANSCRIPT OF TESTIMONY

Hearing held at 10:00 o'clock in the forenoon on July 22, 1964, Room 228, State House, Augusta, Maine

INDEX OF WITNESSES

TRANSCRIPT OF TESTIMONY

CHAIRMAN BROWN: This is the sub-committee of the Legislative Research Committee, and the bill that we are considering today is the Employment Security Law. We are working under Joint Order, Senate Paper 707, Ordered, the House concurring, that the Legislative Research Committee be directed to study the Employment Security Law; and be it further Ordered, that the Committee report the results of its study to the 102nd Legislature. We would appreciate it if any person desiring to speak would give their name and whom they represent for the record. Also, if you have any prepared statements, would you please leave them with the Reporter.

MR. FRANK BESSE: I am Frank Besse from Clinton. Mr. Rudolph Greep, who is presently the President of Associated Industries of Maine, prepared a statement, but as he is unable to be here today, he asked me to present it for him.

Mr. Chairman and Gentlemen: To perhaps aid you in your deliberations, I should like to make a brief presentation as to the position of Associated Industries of Maine regarding the Maine Employment Security Law.

Perhaps a little bit of history would be in order at the outset. Prior to 1958, the Employment Security Trust Fund was felt by most people to be at a safe level, and it was in excess of $45,000,000. Subsequently, the Fund dropped and kept dropping and there was concern on the

part of labor and management and the general public as to the future of the Trust Fund. Industry people generally felt that the disqualification provisions then existing in the law were much too lax and abuses of the law were prevalent. Thus, legislation sponsored in 1961 by Representative Estey which was enacted and signed by the Governor, in our opinion, did much to correct abuses and generally tightened up the law to provide benefits for those who were truly on the labor market and who were out of work through no fault of their own. That bill, incidentally, I might add, provided also for an increase in benefits to those entitled to them.

Subsequent to the enactment of the Estey Bill, so-called, the Employment Security Law was studied by an Interim Study Committee composed of representatives of labor, management and the public. The Committee's work culminated in recommendations to the 101st Legislature in 1963 in a bill sponsored by Representative Thaanum. This bill, after prolonged debate and study, was rejected by the Maine Legislature as being too radical a departure from the existing law. At about the same time, another bill which industry sponsored, sometimes called the Brown Bill by Representative Brown, was enacted by the Legislature, but subsequently vetoed by Governor Reed. At this point, it might be well to point out to the Committee for your use and deliberations, that an opinion was rendered by the Maine Attorney General during the course of the 101st

Legislative Session which alleviated an unfortunate and unintended hardship whereby certain persons who had to leave their jobs because of illness were denied benefits upon return to work if their job had been filled in the interim.

Now if we look again at the Special Session of the 101st Legislature, which convened in January, 1964, we find that what might be called a junior Thaanum Bill was introduced and was again rejected by the Maine Legislature as being unacceptable. At the same time and place, the Labor Committee came up with its own bill in form of amendments which were rejected.

You may wonder what the above history is intended to lead up to. I would say that the thrust of these remarks is that the law which is on the books currently is basically good, sound legislation, and this fact has been repeatedly recognized by our Maine Legislature since the enactment of the same in 1961.

Finally, we believe the law which now exists is fair and doesn't deny benefits to those rightfully entitled and who are in the labor market. We point your attention to the fact that since the enactment of the Estey Bill, in 1961, when the Trust Fund was approximately $23,000,000, there has been an increase in the Fund to an excess of $26,000,000. This, we believe, shows some measured progress. We know that this State is committed to a sound program of Economic Development, and this State of Maine is actively seeking new interests. We submit to you that the type of law which

Maine now has on the books provides for a sound economic climate in the area of Employment Insurance, and has been followed by the State of Pennsylvania and by the State of Oregon. We would like to see promotional work in Maine along the lines that have been adopted by the State of Pennsylvania and several other states, namely, pointing out to prospective employers that we have sound and sensible unemployment legislation on our books. That's the end of the statement. I thank you for your attention.

CHAIRMAN BROWN: Thank you. Are there any questions by the Committee?

REPRESENTATIVE JALBERT: I think that generally, labor and industry have enjoyed somewhat pleasant relations in Maine, but don't you feel or can you quote from Mr. Greep's statement or your own observations that possibly insofar as the Estey Bill so-called, that possibly the disqualification area and misconduct and maybe even going into the refusal of suitable work are a little harsh?

MR. BESSE: I don't think that is generally thought to be true, no.

SENATOR HINDS: In this statement, sir, you mention that since the enactment of the Estey Bill, that the fund has risen from $23,000,000 to $26,000,000. Do you people contribute this completely to the enactment of the Estey Bill?

MR. BESSE: Oh, probably general business conditions have something to do with it.

REPRESENTATIVE JALBERT: Would you assume that the--that possibly Mr. Besse, knowing you are a fair-minded man, that the rise from 23,000,000 to 26,000,000 could not even begin to be tacked to the Estey Bill? Wouldn't that be a fair statement for me to make?

MR. BESSE: I didn't get it.

REPRESENTATIVE JALBERT: Wouldn't it be a fair statement for one to make, knowing that you are a fair-minded observer, that the rise from 23,000,000 to 26,000,000 had nothing to do with the Estey provisions of the Employment Security Law?

MR. BESSE: Well, if I understand you correctly, I think that the increase did have -- the Estey corrections did have something to do with it by cutting out some of the people who didn't belong on the list and who were previously on there.

REPRESENTATIVE JALBERT: How much percentage do you think of increase in business --

MR. BESSE: I wouldn't know.

Q -or lesser unemployment percentage had to do with the rise in the fund?

A I don't know that. Maybe some of the technicians would know.

SENATOR EDMUNDS: Mr. Chairman? Mr. Besse, would you describe the period of this increase from 23,000,000 to 26,000,000 as a period of say relative prosperity in Maine business?

A I can't hear you, I'm sorry.

Q I say would you describe the period in which the fund

increased from 23,000,000 to 26,000,000 as a period of relative prosperity so far as Maine business is concerned?

A You ask me if it was a period of relative prosperity?

Q Yes.

A I would say it was, yes.

Q And if in your opinion this was a period of relative prosperity so far as Maine's business was concerned, then this increase of 23,000,000 to 26,000,000 perhaps could not be contributed to the Estey Bill being too harsh, is that correct?

A I don't know exactly what you are saying.

Q Let's say we had a period of relative un-prosperity or depression during the same period, even with the Estey Bill, isn't it possible that the fund might have gone from 23,000,000 down to 20,000,000?

A Oh, it is quite possible.

REPRESENTATIVE JALBERT: Mr. Chairman, could I ask Senator Edmunds a question. I want to clarify relative prosperity. I assume you mean both on the increase in business and a decrease in the unemployment level?

SENATOR EDMUNDS: Yes.

REPRESENTATIVE JALBERT: So then you can add a certain percentage of the hike from 23,000,000 to 26,000,000 to that couldn't you?

SENATOR EDMUNDS: No question about that.

SENATOR HINDS: My only point on this statement, would indicate that because of the enactment of the Estey Bill, the fund is $3,000,000 higher than it was, and I just thought

that Mr. Besse brought out that the economic condition of the state had a lot more to do with it possibly than the Estey Bill.

CHAIRMAN BROWN: Thank you, Mr. Besse.

MR. ESTEY: Mr. Chairman, may I intercede for just a moment to point out to the Committee that this is a period in which higher taxes were also paid. The decline in the fund increased the tax rate so that all employers paid a higher tax during this time.

CHAIRMAN BROWN: Will you give your name for the record?

A Bernard Estey.

CHAIRMAN BROWN: The Chair now recognizes Mr. Denis Blais.

MR. BLAIS: My name is Denis Blais, International Representative of the Textile Workers Union of America. I have prepared, Mr. Chairman and Members of the Committee, a written statement along with recommendations which I have left with the Chairman and I presume there are sufficient copies for all the members of the committee, and I would like to read the statement and if you want to ask questions, interrupt during the course of the statement or when I am finished, it is immaterial to me either way. It makes no difference.

It seems to me that in order to evaluate the adequacy of the Maine Employment Security Law, it is first necessary to understand the reasons for the need of this type of legislation. We need to recall that the enactment of this type of law in the State of Maine, and other states, did not come

about as a result of initiative of employers or political leaders. The fact of the matter is that this is basically a Federal law which was given birth as part of the Social Security legislation enacted in the mid thirties in Washington.

The Congress at that time in order to compel, and I use that word advisedly, the states to provide for some measure of economic security for unemployed workers, imposed a three per cent federal tax on wages and said to the states in effect: if you will enact legislation to provide for payment of benefits to unemployed workers, you can have the money back to pay benefits and administer the program. It is not, therefore, a serious exaggeration to say that the unemployment tax and the law providing for benefits were forced on Maine employers.

The legislation was needed to prevent and limit the serious social consequences of relief assistance and the stigma attached thereto, and perhaps more important from the point of view of the economists, to maintain purchasing power of workers becoming unemployed, thereby putting a brake on economic downturns and helping to speed recovery. For the individual breadwinner, there is no doubt that his interests in the program center on the amount and duration of benefits, and what is required of him to receive them. It is then quite natural for spokesmen for workers organizations to advance proposals to increase the amount and the duration of benefits.

Employers, on the other hand, most of whom have resented the program since its inception, have strived to secure enactment of changes to lessen the cost and thereby reduce the tax burden. This, obviously, places the legislature in a very unenviable position, and while I have been very critical in the past of some of the changes enacted into law, I can well sympathize with the dilemma you will face after hearing the proposals from spokesmen from industry and labor here today.

I am confident, however, that men of your legislative experience, not faced with the pressures that prevail during a regular legislative session, and keeping in mind the sound social and economic objectives of the law, will arrive at just conclusions.

It is my intention to discuss in some detail several phases of the law, namely: 1, administration; benefit amounts and duration; disqualifications from receiving benefits; coverage, and financing of the program. First, let's discuss administration.

Any law, no matter how well written or well intentioned, must necessarily depend for its effectiveness on the manner in which it is administered. I have closely followed for many years the administration of the Maine Employment Security Law, having served for some ten years on the Advisory Council and also as a representative of labor before the various tribunals charged with the administration of the law.

I have been personally acquainted with not only the present members of the Commission, but also with many of their predecessors. It is therefore, with great reluctance, that I feel that I must say to this Committee that the administration of this law leaves much to be desired. The Commission, in my opinion, has failed in many instances to administer the law as it was written or intended.

First, the Commission has not, for reasons best known to them, fully utilized the services of the Advisory Council, which according to the law, must meet at least four times a year. Their last meeting was held in July of 1963.

Secondly, the Commission has in connection with interpretations of Section 15-1, disregarded the opinion of the attorney for the Commission as well as the majority opinion of the Advisory Council.

It has disregarded the clear intent of the law on appeal procedure.

It has failed to take any action under Section 28-II involving a deputy employed by the Commission or appearing before the Commission and making statements which certainly would raise a serious question as to their ability under section 28-II.

They have disregarded intent and language of Section 21 which has to do generally with seasonal industries.

SENATOR EDMUNDS: May I ask a question, Mr. Blais? What do you mean when you say they have disregarded the language in Section 21, seasonal employment?

A Senator Edmunds, the law as now written, provides in effect that the Commission on its own motion, or on application of someone else, people in a particular industry, should investigate certain industries which might be suspected of being seasonal, and if they so find that the benefits available to people employed in those industries should be limited to the seasonal--to the part of the year during which the industry commonly operates, the law defines a seasonal industry as one which customarily works less than forty weeks in a year. Now if we are to believe the statements that have been made in some of these hearings, particularly in connection with the Thaanum Bill dealing with the fish canning industry, it is quite apparent that a substantial portion of that industry, based on what they said would be the effect of the Thaanum Bill, was not working anywhere near forty weeks in the year, and this has been true year in and year out. I have raised this question on the Advisory Council. It has been sort of a background type of thing hanging over the whole operation of the Commission, and it appears to me that this is a political question rather than a legal one, and in one of my recommendations later, I say either this section is enforced or it be done away with. I don't think that we can constantly continue to have something on the books that the Commission should do this, but only if it is politically feasible.

Q Well the discretion is left with the Commission isn't that so?

A That is correct, the discretion is left with the Commission.

Q And you say they disregarded the intent, you are saying the Commission is not correctly interpreting the law, is that the way I understand it?

A I am saying that they have failed to take action under that section of the law, which in my opinion is clearly intended the way it is written.

Q Are you aware that legislation has been introduced to take away this discretionary authority and that it has not passed the Legislature?

A I am aware that there have been attempts made to amend this section on several occasions.

Q Yet would you still say that they have disregarded the intent of the law?

A Yes sir.

REPRESENTATIVE JALBERT: Mr. Chairman. Mr. Blais, I noticed on page 3, the d. point, "Failed to take any action under Section 28-II involving a deputy employed by the Commission". Now in my opinion, we have several deputies in the system and this is an indictment of one individual, one deputy, among several. Now I never have been maligned in my life and I would like to protect those that are maligned or one of those that might be maligned, at least one out of many. Would you spell that out for us?

A Yes, Representative Jalbert, your concern is well understood. I have particular reference to an appeals hearing before the Employment Security Commission involving a

couple of people, former employees of the Wyandotte Worsted Mills in Waterville. The section referred to is the section having to do with penalties for false statements, and applies as written to an individual who makes false statements to obtain benefits, but the particular section says that any employee unit or any officer or agent of any employment unit or any other person making false statements or representations knowing it to be false, and so on and then it provides the penalty of not less than twenty or more than two hundred and not more than sixty days in jail. In this particular instance, the deputy had appealed the decision of the appeals tribunal to the Commission, submitted a statement which was made a part of the record, and this is a written record, contending that he had obtained certain information from the particular employer as to the wage level of the people involved, and stated, and it is in the record, he got these statements from the --- he named the person he supposedly got them from in the particular plant. Following the hearing and upon receipt of the transcript, because I wanted to make sure, I wrote to the individual in question, it happened to be a plant I had bargaining relations with and I received on May 5 of this year an answer from that person who was a payroll supervisor to whom he talked, which is a complete contradiction of the statement which he made at the hearing. Now somebody is lying. No action has been taken to this date to find out which of these two people has been lying. It is not unusual, however, when an

individual applies for benefits and if he fails to disclose some income from some outside employment while he is unemployed or makes a mis-statement as to his circumstances, time and time again a broad section has been applied against them. I don't think this is fair. It is not unusual either. I have attended many hearings where an employer representative comes in and says this person did this and this person did that and did something else, and it is eventually found out that they were trying to save their experience rating by keeping that person from getting benefits, and the Commission will overrule and find there is no basis of fact and will allow the benefits, but they do nothing about the people who come in and deliberately falsify the record to attempt to keep from getting benefits charged against their company. I think this is discrimination. The law only applies against workers. I don't know of any instance where its been applied in this type of case against the agents of the Commission or agents of the employers.

REPRESENTATIVE WELLMAN: Mr. Chairman? Mr. Blais, we seem to be interrupting you as we go along rather than waiting to the end. I would like to get back to d. again, the seasonal employment. Is the forty weeks seasonal provision in our statute normal throughout this country?

A I have no knowledge of that, Representative Wellman. It is in our state. It may vary in others. Ours says forty. Maybe this is not a correct number, but I say if it is going to remain there, let's enforce it.

REPRESENTATIVE JALBERT: Mr. Chairman. You answered my question partially. I am somewhat interested in going back to my point. I was wondering if you would -- I mean again you say somebody is lying. I was wondering if -- this is not an investigative committee, by any means, but I think -- I was wondering if you have any objection to submitting to this committee the information you have which would be returned to you no doubt, on this case?

A No sir, I have no objection. I have only the original letter from the company, but I could see that the committee is supplied copies if you wish.

Q I am sure this would be helpful.

A I will have copies made for all the members of the committee. It does contain the names of the various individuals.

Continuing on the administration. The Commission has permitted in the benefit administration section and procedure a situation to exist which can only lead to a lack of faith in the impartiality of decisions, and before you ask a question, I will amplify this.

It seems to be very unusual to me to have in the application of benefits and the administration of this law, in the first step where a deputy makes a decision. If any interested party is not satisfied, there is an appeal procedure which goes to an appeal tribunal or referee and from there it goes to the full commission and from the commission then to the court. It doesn't seem good business to me and it doesn't seem to be the way to create a climate in this

country to have in one step of the appeal procedure an individual who is directly a blood relative, in fact who is the son of one of the commissioners, it seems to me that if the deputy makes a decision and at some point of the appeal procedure his father is called upon to make a decision or to make a ruling, either upholding or reversing or sustaining that decision, this to me gentlemen, is not good administration, and certainly is not apt to lend to create a confidence that the decision is free of impartiality, and yet this exists under our administrative procedure.

SENATOR EDMUNDS: Is this knit picking or does this go on all the time?

A Well, you have in one office covering a vast area, one deputy, and every decision from that particular deputy is subject to being appealed to the full commission. This is -- a substantial part of our work force is covered out of this particular office. It would seem to me that there is not that much of a shortage of qualified people so that you could get someone in the appeals step. I don't think any of you attorneys would expect that you could argue a case before your father as the judge in court. Does that answer your question, Senator Edmunds?

Q Yes.

A Continuing. Whether these above acts or omissions are by accident or design, the result is no less detrimental to the effectuation of the program, and corrective measures should be taken.

2. Benefit amounts and duration. An insurance system which indemnifies a loss must be based on the presumption that those protected thereby have a real interest in avoiding that loss. When applied to unemployment insurance, this principle means that the program should be planned to protect those whose record of employment shows a substantial and continuing attachment to the labor force. The program should not be planned to protect those who have been employed only casually, briefly, or intermittently in part-time work, short-term or highly seasonal work. Like all other provisions of the law, the test of insured status should be reasonable and objective. It should attempt to provide equal treatment for all workers who have been employed in covered jobs to the same extent during their base year. It should also be correlated with the other provisions of the benefit formula so that all workers who qualify will receive benefits in adequate amounts without approaching their usual earnings. In addition, it should be easy to understand and administer and have general public acceptance.

REPRESENTATIVE WELLMAN: Mr. Chairman, Mr. Blais, I believe we are again coming back to my original question of the forty weeks in this statement here. We, in Maine here, are certainly placing a tremendous amount of our economic interest, are staking a lot of our economic hopes on recreation. Now certainly a great deal of our recreational industry at the present moment, what we call seasonal, it may

only run three to four months. Now under the present system, for instance, I happen to be familiar with a young man who is cooking at a sporting camp. Are these people under the provisions of the present law?

A Some are not. The commission has in the case of strictly summer hotels, they have applied the seasonal provision. This doesn't mean they are covered by the law, it means that if they are only entitled -- the employees are only entitled to benefits, if they are unemployed during the period which the commission determines is the customary period of operation. I am not saying that forty is the criteria. If it is not forty, let's change it. If we don't want to make it seasonal, let's limit it, but let's either enforce the law or change it or eliminate the section.

Q I see. Thank you.

A The weekly benefit is designed to replace part of the current weekly wage loss of eligible workers. The objective is not to meet all of the beneficiary's usual expenses when employed or to meet all his needs when unemployed, but to enable him to maintain himself and his family between jobs without diminishing his savings appreciably or compelling him to draw on other community resources. Most workers cannot greatly reduce their major food costs. Neither can they be expected to move to less expensive living quarters during periods of temporary unemployment. To accomplish the purposes of the program, the weekly benefit amounts should, therefore, be sufficient to cover the nondeferrable

living expenses such as food, rent, heat and utilities of the insured workers. In general, the differential between unemployment benefits and a beneficiary's usual wages should be more than the sum of the amount withheld for taxes and the additional expenses, if any, incidental to employment, such as lunch and carfare. A worker's usual weekly wages when employed determine his level of living and provide the measure of his wage loss when unemployed. If benefits are to reflect a worker's usual weekly wages when employed, the wage base used to measure his usual weekly wages must minimize the effects of periods of unemployment on his base year earnings, insofar as is administratively feasible. The wage base must also be sufficiently recent to bear a reasonable relation to the worker's current wage loss, and long enough to avoid basing benefits on abnormally high or low earnings. Studies show that workers with low incomes have to spend a higher proportion of their earnings for food, rent and household operation than workers with higher wages. The studies suggest further that a benefit of at least fifty percent of weekly earnings is required to enable beneficiaries to cover basic necessities, and that a higher proportion, up to seventy percent or more, is necessary for low wage earners and workers with dependents. If the benefit schedule is to bear a reasonable relation to the wage levels at which insured workers are employed, the minimum weekly benefit amount should be set in relation to the wages prevailing in the low-paying covered industries. It

should not be so low as to permit payments which are inconsequential in terms of making a significant contribution to the individual's welfare or in terms of administrative expense of processing claims and payments. At present prices, for example, a $5.00 minimum would not be sufficient to enable a worker to purchase adequate food for a week. The maximum benefit amount should be high enough so that the great majority of covered workers in the state may receive benefits in proportion to their usual wages, but it should not be so high that individuals with unusually high wages will draw a disproportionate share of available funds. If the proportion of wage loss to be compensated has been set in accordance with the principles discussed previously, it should represent at least fifty percent of the weekly wages, for a worker without dependents.

Whether the unemployment insurance program achieves its major objective of covering the nondeferrable expenses of insured workers during periods of involuntary unemployment without diminishing their savings appreciably or compelling them to draw on other community resources, depends on the duration of payments as well as the amount of the weekly payments. To accomplish this purpose, the duration of benefits should be sufficient to enable the great majority of the insured workers to find suitable work before exhausting their benefit rights under normal or recession conditions. It is no answer to the problem to remove completely the limit on duration. An indefinite period of payment would not be in keeping with the essential concepts

of the program. Cost is not the only consideration. Unemployment insurance is short-term insurance intended to provide protection to workers who are currently attached to the labor force and who are unemployed between jobs. Even in prosperous times some workers experienced long spells of unemployment. Some of these are specialized workers who can normally expect to seek work for a considerable time before they obtain another job in their particular skill. Some may be attached to occupations or industries which are gradually dying out. For others, reemployment possibilities may decrease directly with the duration of their unemployment. Many workers who have been jobless for long periods need retraining and other adjustments. Other programs are required to help such workers to return to employment.

In framing adequate duration provisions, the job is to devise a duration formula which puts a definite limit on duration, yet insures that the duration so provided covers the total period of unemployment for the great majority, say seventy-five percent, of the beneficiaries. An adequate uniform duration provision is the simplest way of doing this. Such a provision is appropriate if the insured-status requirement is sufficient to demonstrate a material and recent attachment to the labor force. Actual payment within the minimum duration allowed is, of course, limited to weeks of involuntary unemployment. Because it provides an equal maximum period of payment, uniform potential duration is equitable to insured workers at all wage levels. Uniform

duration of benefits clearly defines the role of unemployment insurance for every beneficiary and is also simpler to understand and administer.

On disqualifications. The qualifying requirements are designed to assure that benefits are payable only to claimants who have had sufficient employment in covered work to evidence a basic and continuing attachment to the labor force. Certain additional conditions are necessary, however, to limit the risk covered by unemployment insurance to unemployment due to lack of suitable work and to prevent the potential payment of benefits from encouraging workers to act unreasonably or to restrict unduly the work that they will accept.

This objective can be achieved by not paying benefits during any week or weeks of unemployment which are not due to lack of suitable work. The disqualification provision should not cancel or reduce the worker's future benefit rights. Cancellation or reduction goes beyond the objective of disqualification and turns it into a penalty against the worker.

Availability. The availability provision should be in broad terms to permit the agency, here the Commission, to consider varying individual circumstances and changing conditions in the labor market in determining whether a worker is ready, able and willing to accept suitable work during the week for which he claims benefits. A broad availability provision also permits the agency to require the

claimant to exert such efforts to obtain employment as would be reasonable in view of the situation in the labor market and the normal channels for obtaining work in his occupation.

Refusal of work. The suitable-work provision should include express requirements designed to protect existing labor standards. I might point out here that there are certain of these sections that are in our law because they are required as part of the Internal Revenue Code of the Federal statutes. If we didn't have them in our law, we could not qualify for the 2.7 credit, which is part of this whole program. In other words, every employer would have to pay three percent plus the state tax, so that some of these having to do with refusing to take jobs where a strike is in progress or refusing work where the wages or work and conditions are less favorable, these are in our law and they are required by the Federal statute, and there is no conflict so far as the state law is concerned.

The suitable-work and voluntary-leaving provisions should also require consideration of all the relevant factors which a reasonable man would weigh in determining whether he will accept or remain in a particular job. These factors include among others, the claimant's prior training, experience and earnings, prospects of obtaining work in his highest skill and personal health and circumstances.

Statutory limitations on what constitutes good cause for leaving work bar consideration of many valid personal and economic reasons for leaving one job and changing to another.

Such provisions tend to restrict the mobility of labor, to conflict with accepted concepts of personal and social obligations, and to stifle workers' initiative in improving their economic status by postponing or denying them benefits when their actions are reasonable by all accepted standards of social and economic conduct.

The Maine law, as presently written and interpreted, imposes unfair penalties and undue restrictions on labor mobility and initiative.

The present law's definition of misconduct leaves even reasonable workers at the complete mercy of the employer. No disqualification should be imposed for misconduct unless the commission, in its judgment, finds actual misconduct.

Duration of disqualifications. The period of postponement of benefit rights in cases of refusal of suitable work, voluntary leaving, and discharge for misconduct, should date from the time of the disqualifying act and should be fixed in relation to the average number of weeks it takes most workers to find suitable employment in a normal labor market. A fixed and equal period of postponement under all three provisions is more equitable and easier to administer than variable periods or different periods. It may be assumed that a worker's unemployment is due to his own act for the period that it would normally take him to obtain another suitable job. If his unemployment continues thereafter, it is likely to be due to a lack of suitable work,

that is, to the condition of the labor market. A longer period of postponement or the reduction or cancellation of benefit rights turns the disqualification into a penalty. Contrary to the intent of the program, it is likely to leave workers without benefits during subsequent periods of unemployment which are entirely involuntary.

On coverage. Since the unemployment insurance program is designed to protect individual workers and sustain the confidence and purchasing power of the community during periods of frictional and recessional unemployment, every worker who is normally attached to the labor force, who has a basic and continuing interest in employment, and who is subject to the risk of unemployment, should be afforded the protection of unemployment insurance. Only by ensuring that no large groups of workers who meet these criteria are left outside the system can the purchasing power function of the program be carried out fully. The program falls short of its objectives to the extent that such workers are excluded when coverage is legally and administratively feasible. In determining what groups of workers should be covered, there is no need to distinguish between groups which would be good risks and groups which would be poor risks because of the employment pattern in the industry or occupation to which they are attached. It is the great merit of social insurance that it permits the pooling of all risks, good and bad.

Limitations on coverage mean that workers who are usually employed in the excluded jobs are not protected during periods of involuntary unemployment. They mean also, that workers who are employed in both covered and non-covered jobs during their base period are likely to receive inadequate benefits when unemployed because the payments reflect only part of their employment and earnings. The resultant inequity is particularly apparent where the covered and non-covered jobs are identical in all other respects.

It is desirable from the viewpoint of employers, as well as employees and the community, that all workers who are normally attached to the labor force be covered. Workers who have benefitted from the program have come to regard it as one of the factors to be considered in deciding between jobs. As a result, employers who are not covered, are at some disadvantage in obtaining employees. Some employers who are not covered or not subject to the mandatory coverage provisons of the Federal and State laws, have come to recognize the handicap to themselves and the inequity to their employees, and have therefore made use of the voluntary coverage provisions in State acts. Some employers, on the other hand, are deterred by the added expense which puts covered firms at a cost disadvantage as compared to their competitors who are not covered. Coverage of all employing units would eliminate all these inequities.

Financing. A sound system of financing an unemployment insurance program would be one which would balance income and anticipated expenditures over a period of time. The period over which this balance is to be achieved must be short enough to permit reasonably accurate estimates of expenditures and yet long enough to include both years of better and poorer business conditions, in order to make possible the averaging of costs over the entire period and raising revenue at approximately the same rate each year.

The desired balance between income and outgo over a period of time, depends largely on the taxing provisions. Within the framework of the present Federal law, the only possibility of varying the tax rates in State law is through the operation of experience rating. Any measure of the adequacy of a State's financing system must, therefore, include an analysis of its experience-rating provisions. However, experience rating cannot be considered only from the point of view of its compatibility with sound actuarial principles. Experience rating has been variously described as an incentive for stabilizing employment and as a convenient method for allocating the costs of unemployment. There is little evidence as to the effect of different systems of experience rating upon employment policies. An experience-rating system would seem best which can not only adjust revenue and expenditures over a period approximating a business cycle, but which could contribute to the stabilization of employment without producing pressures to deny

benefits in order to avoid charges to employer accounts.

Our experience-rating systems use benefit payments as a factor in determining an individual employer's experience with unemployment and his tax rate. However, where a worker has had more than one employer since the beginning of his base period, no satisfactory method of allocating benefit charges among employers has been found, either in this State or in other states. An experience-rating system which results in charging employers with unemployment for which they are not responsible, leads to conflict between employers, claimants, and the agency. It also results inevitably in pressures to change the basis on which benefits are charged and to limit payments in order to avoid charges. Such a system does not provide an incentive to employers to stabilize their employment. The only system currently in effect in about six states, which involves no employer charges and over which contests regarding an employer's responsibility for the unemployment of individual claimants do not arise, is the payroll variation system. Under that system, the amount of unemployment for which an employer is deemed responsible is indicated by a reduction in his payroll from quarter to quarter or year to year.

I have also supplied you with a list of specific recommendations, some of which I have touched on in the course of answering questions, which I would like to read through briefly.

On the administration. The Advisory Council should be

utilized as intended or eliminated. 2. Provisions of Section 28, which I talked about considerably before and answered questions, should be applied without discrimination against all parties, including agents of the Commission, employers and their agents. The seasonality provisions should either be enforced or eliminated or changed.

SENATOR EDMUNDS: I would like to ask you a question right there. As you know, I come from an area where there is a high proportion of seasonal employment. Now you say that these provisions should be enforced, and yet as I understand the law, this is purely in the discretion of the commission as to whether or not you are going to pay benefits to seasonal employees.

A I suppose that the enforcement of any law is in the discretion of the commission, but the commissioners take an oath to enforce the law and not just to enforce those sections which he likes or dislikes, which is politically feasible.

Q I can't quote it, I haven't the Act before me, but it is something to the effect that they may pay, but not that they shall pay, in the case of seasonal industry. Now you say that they should be enforced, but I distinctly recall that the Legislature defeated an order which would have taken away that discretionary portion which says seasonal industries cannot qualify. I am just wondering what the language is, that's all.

A I am not familiar with the language or with the resolution.

Q It was a Joint Order as I recall.

A It is my contention that under the law and rules of the commission as contained in this printed booklet of the chapter in question that there -- some segments of some of these industries which you refer to are seasonal. Now again, this is a matter of interpretation. If the commission says they are seasonal, they have no choice. They maintain they are not, because they have never taken the trouble to get into it. Now certainly the intent of the law is that if they are not in fact seasonal, they should be so declared. My point is, that for whatever reason, no action has been taken to make this kind of determination. Therefore, if the commission is not going to do anything about this, or if the Legislature doesn't intend for them to do anything about it, then we would be better off to take it out of the statute.

REPRESENTATIVE JALBERT: How about reading us what the law does say?

A Well, I can do that. Section 21 on Page 58 of the printed book, reads as follows: "As used in this section the term 'seasonal industry' means an industry in which, because of the seasonal nature thereof it is customary to operate only during a regularly recurring period or periods of less than 40 weeks in a calendar year. The commission shall, after investigation and hearing, determine, and may thereafter from time to time redetermine, the longest seasonal period or periods during which, by the best practice of the

industry in question, operations are conducted. Until such determination by the commission, no industry shall be deemed seasonal". It says the commission shall make such investigation, and it may make a determination, but the question isn't making a determination, they shall make a determination.

SENATOR EDMUNDS: I haven't got a copy of the book in front of me.

A I would be glad to see that you get that information Senator. These are described as fair rules and in this section of the rules the procedure for making such determination is obvious.

REPRESENTATIVE JALBERT: Mr. Chairman. My knowledge of the law, Mr. Blais, is not too great. However, I have read very carefully and listened very carefully to your fourteen pages. Now I don't seem to find, and I have gone backward over this, and I don't seem to find anything there where you take the comment at all on the partial benefits.

A That is in the list of recommendations, Mr. Jalbert.

Q As I understand, I am talking now about the famous $10.00 a week.

A I have a specific recommendation on partial benefits, partial unemployment benefits, on my list of recommendations.

Q I am aware of that. What I am trying to submit to you is that in all the past presentations that I have heard and discussions that I have had with you, they have been mentioned. I have always found you to be pretty much

championing that cause, and you may recommend it, but I don't see you spelling it out here.

A Mr. Jalbert, in my previous experience before legislative committees, we have been concerned with a particular piece of legislation which made a specific proposal. The one you refer to is the so-called Thaanum Bill, which did in the area dealing with partial unemployment, recommend a specific payment, a flat $10.00 amount. This, I support, because I was part of the interim committee that studied this whole field, and it was the recommendation of that committee, and I might point out that while the report of the committee was nearly unanimous, this doesn't mean and didn't mean at the time that the eleven or so people who signed the report were in complete agreement on every single proposal. This was sort of a concensus, we agreed to support this. I never considered the $10.00 ideal, but it was the best we could reach agreement on in the interim study committee.

SENATOR HINDS: I note we have two commissioners here today, and I would like to know what their feeling is regarding this section that we have been discussing on seasonal employment. Either Mr. George or Mr. Cote in the back of the room, I wonder if you might tell the committee what the commissioners' feeling is about this particular section?

MR. JAMES J. GEORGE, SR.: Mr. Chairman and Members of the Committee: I would ask you to bear with me for a moment. I want to take this opportunity to clarify a statement that has been made here by Mr. Blais, so that my fellow commissioners will not be perhaps accused of having someone

working for them.

I am Commissioner James J. George. I represent the employers on the Commission. I was appointed as a member of the Commission in November 1954. My son, who is a Deputy in the Waterville office, the individual just referred to, was first employed by the agency early in 1946 I believe, either January or February. My conscience is certainly most clear with respect to my administrative responsibilities, and further with respect to being impartial, and I will enlighten you gentlemen as to my background.

For several years, and I hope this isn't a shock to you, I was a member of the union, and I was elected to various offices, and I was even President of the Maine Textile Council for several years. We have thirty-two local unions. I have been a worker in the union, I am in sympathy with the problems of the workers, but officially I would like to serve the interests of the employers impartially. My conscience is clear.

With reference to my son, I think his rating is comparable to anybodys in the agency. With respect to the specific referrence to the hearing that was referred to, I did disqualify myself. I did not participate in the hearing, and did not participate in the decision that was handed down by the Commission. On several occasions, and they have been few, where the Commission has been compelled to conduct hearings on decisions rendered by my son referred to, I have disqualified myself upon request. Matter of

fact, you may be interested to know that the record will disclose that such instances were very few in number. Further, the record will disclose the young man referred to, my brother has more often than otherwise appealed decisions of an appeals referree who disqualified that claimant in the first instance and the Deputy allowed the benefits. That is impartial? I just wanted that in the record. I do not wish to be involved in any controversy on the issue because I do not think it affects or influences the impartial administration of this commission or past members of the commission.

Matter of fact, I would like to go on record and say that I am proud to be associated with the agency, the present members of the commission and the past members. I think they have been a credit to the State of Maine in every sense of the word.

With respect to the specific question sir, this matter has been a problem over a period of years. This can be argued openmindedly and impartially both ways. First, I want to point out that it is the law that anybody that employs presently four or more people for some part of twenty weeks out of the calendar year, the employer by law is compelled to pay the tax on the earnings of his employees. That applies to all employers who are subject to the Act.

Under the seasonality provision, it is quite clear that if it is found that any industry or occupation is for the duration of less than forty weeks a year, the commission

shall investigate and may determine from time to time, whether or not they should be deemed seasonal. There are two sides to the picture, the actuarial side, the financial side of it and the realistic side, that is the third side. I think the commission has tried to be fair. Matter of fact, were the commission to strictly enforce the provision that is referred to in the law, I think you would agree with me that due to the nature or climate and weather in the State of Maine, you would find that generally speaking in the building and trades there are exceptions to it where they operate less than forty weeks in the year. Woods work operated on less than forty weeks until recent years. Woolen mills in normal periods of time operate less than forty weeks a year in two sessions. Many of our shoe manufacturers entirely operate much less than forty weeks a year due to market and business conditions. If this section of the law is to make it mandatory for the commissior that there should be no distinction, then everyone who operates less than forty weeks should be included in the seasonality determination. If that is done, then the adverse effect would be on the workers who would only be entitled to benefits if the unemployment occurred during the normal seasonal operation. If they became unemployed outside that period of seasonal operation and unless they had wage claims and other activities, they would be denied benefits during the period outside of the normal seasonal operation.

Frankly, gentlemen, speaking for myself, it is a difficult situation to sit in judgment in attempting to take action that results in denying people unemployment insurance benefits. I want you to believe that, regardless of who I represent. I am sincere. My record will stand for myself. I am proud of it, incidentally, whether anybody else is or not. I think it is a situation that requires a lot of deliberation and a lot of consideration. Much has been said about the human element. Certainly there is human element involved in this. Actually, if an industry is determined to be seasonal, we find ourselves faced with compelling the employer to pay a tax on the earnings of his employees and turn right around and deny the workers benefits. I will not argue the merits of the soundness of the present law one way or the other. That can come later if necessary. But I feel very strongly that the commission has been concerned, the present members and the past members of the commission, have been concerned with this problem. Needless to say, in a very nice way, I have been the target for a lot of people approaching me and saying that the employer representative is not taking a stand on it. I am sympathetic with all the problems that face the workers and the employers, but I think it is a matter that deserves a lot of consideration and a lot of deliberation. I can say this to you, and I think the record will bear it out, undoubtedly we might perhaps pay out more benefits for instance in our total amount would be much in excess of that we pay out for the

so-called fish factories, and I am not waving a flag in behalf of anybody. I am pointing out that if you come in and study this thing and come in and talk with the members of the commission and with members of our technical staff, we have qualified people down there, and you can satisfy yourselves about these things.

I am not going to stand on any one position right now before you gentlemen, but I will be available, and I am sure our facilities down there are available for you to more familiarize yourselves with this problem. Have I answered your question sir?

SENATOR HINDS: Yes.

REPRESENATIVE JALBERT: Mr. Chairman. Mr. George, you said at the outset that you are representing the employers, and that you do it impartially?

A Yes.

Q Now I assure you that I would be tempted to ask the representative of the employee, Joe Cote, the same question. Isn't that quite a bite for you to try to make some of us swallow? Now isn't it true that according to the law as spelled out, you are representing the employer, and isn't it a fact that on that basis then you should lean a little more to the employer, just like Joe Cote should lean a little more toward the employee?

A Mr. Jalbert, I do not agree with you. I take exception to your statement sir. I would like to point out to you that our interest down there is administrative, even with my

fellow commissioner Cote, I find that he is entitled to every bit of respect and commendation that any man is entitled to. Our chief interest down there is determining the proper procedure in which to administer the exceptions or payment of unemployment insurance benefits. Our sitting in on decisions is based upon the facts that are before us and our interpretation of the law.

Q So that on that basis, from your own statements then, this committee should possibly recommend a change in the law so that the three of you should represent everybody?

A I made no such inference.

Q Well you are saying you represent impartially, what other deduction can I assume?

A Again, I think the agency was set up in special session in 1936 to provide a tri-parte administrative body, and I think I should say that I am not aware of any situation whereby any member of the commission ignored the law on an interpretation of any specific issue with respect to benefits. As I said before, I think our prime interest is in the proper procedure for our operating personnel to follow.

Q I am not touching upon the administration of the law. I know you administer the law, any law, knowing you, you would do it fairly. All I was talking about is this, shouldn't we recommend a change in the law so there would be no more employer representative per se, no more employee representative per se and no more public representative per se? We

would have a three man commission representing everybody, the public, the employer and the employee?

A You ask my opinion whether it should be amended?

Q According to your statement, I think we should, because you say you represent impartially --

A I do not agree with your interpretation of my statement Mr. Jalbert. I think that it is very fairly administered, and we do have a very complex and ambiguous law, and even attorneys in court don't agree on everything, but I don't agree with you. It is in some pretty good hands whether I am in it or not, and I would like to add this one statement, I don't think that any change in the administrative section of the law would solve the problems that are before this committee today, Mr. Jalbert.

Q So then it is your duty to represent the employer, and Joe Cote to represent the employee and Roy Sinclair to represent the public?

A I think it makes an excellent team, and I am very proud of my association with them.

Q Well you can't go around --

A Mr. Chairman, I would suggest it might be interesting if Commissioner Cote came down and made some comments on the question Mr. Jalbert brought up.

Q I didn't make any allegation, I asked you a question, and I want you to answer it.

A I did answer it.

Q No you did not! You went around the barn. You didn't answer my question.

A Mr. Chairman?

Q Want me to repeat the question? Want me to repeat the question?

A Mr. Chairman, with all due respect to everybody here, I don't think anything is going to be gained by any such controversy.

MR. JALBERT: Mr. Chairman, I would like to take very definite issue with that kind of a statement. Now if the law says that you represent a certain segment of industry or labor, in this instance employers, then you can't say that you serve impartially. Now if Mr. Cote will step down here, when he does get down here, I will ask him the same question. If he answers in the same manner, I will take issue with him as I have with you. I mean either we change the law or we go along with the law.

CHAIRMAN BROWN: Any other questions by any members of the Committee?

MR. GEORGE: Thank you.

REPRESENTATIVE JALBERT: Mr. Blais, realizing there are two sides to every story, I would like to go back in the full text to your statement where you say the compensation coverage should be fifty percent. Now again not being an expert on the law or its interpretation or administration, I would like to have you tell me, one, what is the percentage of employer contribution now under the program and what

would the fifty per cent do to the fund, and what would it mean in percentage of contribution by the employer?

MR. BLAIS: Representative Jalbert, I don't know as I can give you a specific answer to that question. The fifty percent proposal is one of those which was originally in our law since its inception. This is the recommendation of all Federal agencies, the Federal Advisory Council, and it was the recommendation of President Eisenhower, President Truman and President Kennedy, and I haven't yet heard it from President Johnson, but in our present law the same percentage is all over the country. We don't have any fixed percentage, we have a standard. We say you earn so much and this is what you get. There is no direct relationship between any specific percentage to average weekly wages. You find people who might be getting seventy or eighty percent of their average wage and some people get only twenty percent. This obviously, is not treating everyone alike. What we find in most states is what I am recommending and which has been recommended, to establish a benefit level to approximate fifty percent of a worker's normal weekly wage, with a stipulated maximum for any individual of approximately fifty percent of the state's average wage.

Now what this will do if you relate it, the Commission statistician indicated that the adoption of the benefit formula proposed in the Thaanum Bill would have resulted in

something like a 4.8% increase in costs. What this will do to the fund is a mathematical problem. Does that answer the question?

Going on with the list of recommendations. The seasonality provisions should be enforced or eliminated. Steps should be taken to eliminate the possibility of prejudice in appeals. My remarks and comments on administration are specifically a point. I am not saying that there has been prejudice in any decisions rendered by Commissioner George which involved his son at the lower level, but I submit gentlemen, that it would be awfully hard to convince the average worker in this state that if a member of the family makes a decision denying benefits at a lower level, and he appeals that decision and the father of the person who made the original decision sits in judgment, no matter how well intentioned the commissioners are, you are not going to find many workers who will say this law is being administered fairly. I think it is a matter of establishing the proper climate so that there is no criticism of the particular individuals. It just doesn't seem to me to be a correct way to administer the law. I am not saying that Commissioner George should resign, but his son should. There are plenty of jobs in the commission in other capacities that would not involve this direct line of appeal where you have this type of relationship.

Qualifying wages and employment in the base year in order for people to be eligible under the program. We

recommend minimum earnings of at least $400 in the base year, and at least twenty weeks of employment. It would seem to me that anything less than that is not in keeping with the objective of insuring people who show a substantial and continuing attachment to the labor force, or anything more would be unduly restrictive also. Benefit amounts, as I said in the text of my remarks, I said drawing about five or six or seven or eight dollars, this is inconsequential, and this is a burden on the administration and doesn't do the job that is intended. We recommend $10.00 as a minimum amount with a maximum which would be claimed to fifty percent of the state's average weekly wage in covered employment. Currently we are faced with the necessity, and we have been since about 1942 or '43 of having a pitched battle every two or three years in getting a raise. I submit that the original intent of the 1937 Maine Unemployment Compensation Act, of which I have a copy, stated in effect that each eligible individual who is totally unemployed in any year shall be paid benefits at the rate of fifty percent of his full-time weekly wages, so that this is nothing revolutionary, and if you have this kind of a percentage factor rather than a dollars and cents factor, if you start out with a correct percentage, it will reflect a reasonable relationship between wages and benefits, then it is reasonable to assume that at least in the next ten or fifteen years as the economy and wages move upward and downward, the changes in the benefit level will move accordingly in the same relation and we won't have to be

arguing this out every two or three years. Similarly, for the individual, the recommendations we discussed earlier should be approximately fifty percent of the individuals full time wage.

On Partials, we are recommending here that any earnings below weekly benefit amount that fifty percent of such earnings be disregarded for the purpose of wages rather than a flat half total amount as has been our custom. The reason behind this is that if you have a flat dollar amount of say five or ten dollars, take an individual who say has a thirty dollar weekly benefit amount, so he goes to work and he earns ten dollars, some of them under the law now don't have to come to ten dollars and others do, a person may work one day and he earns ten dollars; another person may work two or three days and earn twenty-six or twenty-seven dollars. So there is a lack of equity there. You have the same deduction for each one, and obviously there are certain expenses connected with their work, there may be lunch or there may be car fare or there may be taxes or union dues, there may be some other deductions, so that in order to encourage an individual to get as much part-time work as possible and in order to make sure that it is not -- that you don't get more money by being totally unemployed as you do by working part time as in the present situation, which we are suggesting, in other words, the more part-time work an individual is able to obtain, the more he could get in total accommodation of benefits and part-time employment.

It seems to me to provide a proper incentive for people to get as much additional work as possible during periods of unemployment or short-time employment rather than fixed intervals.

SENATOR EDMUNDS: Where do you think in the provisions such as you suggest in C-4 would be departed -- do you have any idea what perhaps we are talking about? Do you have any calculations made as to where we might go?

MR. BLAIS: No. I think the Commission staff at some time has made some estimates -- I was going to use the word guesses, has made estimates of what the certain provisions would cost. I am not aware that they have --

Q I am talking about the amounts, you say disregard this amount and that amount. Are you talking five dollars, seven dollars, ten dollars, fifteen dollars?

A No, let's assume --

Q As an average?

A You would apply the same percentage to everybody, Senator. If an individual is unemployed and entitled to twenty dollars a week, and if he doesn't work it is thirty dollars a week. If he earned ten dollars you wouldn't count the first five dollars, it would be disregarded and you would deduct five dollars from his total benefit amount, therefore he would get twenty-five dollars in benefits and ten dollars with earnings, so he would have thirty-five dollars net less deductions. If he earned twenty dollars in a week you would deduct fifty percent and credit the ten dollars wage and give him twenty dollars benefits, therefore he

would have a total of forty dollars for working two days against the person who would get thirty-five if he worked one day. It would be a graduated step, so that any person working more would be a lot better off than the person who didn't work at all. What the cost to the fund would be, I have no idea. A study would be necessary.

Q It would be a cost to the fund wouldn't it, Mr. Blais, in all probability?

A This is difficult to say because right now and previous to the so-called Estey amendments everybody had a ten dollar deduction. Now for anyone that had less than twenty dollars this would be less costly to the fund. If they earn over twenty dollars, it would be more. Where it would break off, Senator, or what it will average, if they all averaged twenty dollars the cost to the fund would be about the same. It would seem it would be more equitable to reward an individual who worked three days a little bit more than one who only worked one day.

SENATOR EDMUNDS: Just as a comment, I think one of the most unfortunate things about all the debate that has gone on about this is that nobody has ever had any firm figures to work with. You listen to one side and one day they have one group of figures and you listen to another side and they have a different group of figures and the following day both sides produce new figures. I think everybody is always in a constant state of confusion because nobody seems to know what this will do or that will do. It would be nice if sometime labor and industry could get together and

find out what things actually do cost.

A Senator Edmunds, I am here primarily as a representative of labor, I know what these provisions would do for the workers, that is my primary concern. I know that it will cost money, but I can't lose sight of the fact that while this law was originally intended to cost 2.7%, the fact that in the early 1940's the Legislature saw fit to enact merit ratings which was to provide for the fluctuating tax rates, that the cost to the employers is in excess of eighty million dollars less than it would have been had the 2.7 rate been continued right along. Now I am not going to say it is a savings, call it what you will, but the fact of the matter is that the lower taxes that have been permitted since the early '40's have resulted in over eighty million dollars less being paid into the fund and available for benefit payments.

Q With the fact that it was 2.7 during the most severe depression years ever experienced. I think since that time conditions have changed so far as employees and employers. There is some validity perhaps to the argument that you might want to go along with adjusting the rate down.

A I think we both agree when the law became effective and was enacted in 1937 and benefits were paid in 1939 when the fund built up and we all remember what happened from 1941 to '45 and '46 when unemployment was pretty much -----, the fund did accumulate at a substantial pace, this is true, but this was not, by any standard we want to measure

by, a normal period, so that there might have been justification for not allowing this excessive accumulation of funds to take place. Therefore I do not quarrel with a statute specifically which permits lower taxes if the full tax rate is not needed. What I do quarrel with severly, is that now that they have had their cake and eaten it, they still want it, and they are not willing to pay back what is necessary to rebuild the fund. And you heard me say what was done in 1961 was not any thing novel, you can do this in your own household. If you find that your income doesn't meet your expenses and you probably don't want to take any money out of the bank, you cut down your expenses, and this is what we did with the Estey amendments. We made it more difficult for people to get benefits, and therefore less people got benefits and it was less to pay out of the fund. This is what was accomplished. This is going in through the back door, instead of allowing and making provision for higher tax rates which would have been fully justified in order to rebuild the fund under the law which was intended. So if these proposals cost a little money gentlemen, I say it is high time we face our responsibilities and do what the law originally intended.

SENATOR HINDS: Mr. Blais, would you mind if I ask Mr. Frost if he has any figures on this?

MR. BLAIS: Not at all.

SENATOR HINDS: Mr. Frost, do you have any figures at all on this subject we are discussing as to the costs?

MR. FROST: We have no figures on the variable partial provisions. The only estimates we have made are for specific provisions for seasons and most of those were a flat rate.

REPRESENTATIVE JALBERT: Mr. Chairman, pursuing Senator Edmunds comment, I think it should be noted that one of the fallacies in the possible failure of the average legislator to arrive at what he thinks should be done or the right thing for him to do is the failure of certain groups or representatives of certain groups stating to admit what they really represent. I have been coming to these hearings ever since I have been around here since 1945, and I see one side sitting together and the other side sitting together. At least during the hearings they are not necessarily kissing cousins, and that's all right with me, I mean I just -- the law spells it out, you just look around, and it is no different now than it always has been, and that's all right with me, and before this discussion, this friendly discussion I had with Mr. George cools off, the law spells it out, who should say what and who should represent what. The very first paragraph in section 4 of the administrative organization of the Commission reads thusly, the very first sentence: "The Maine employment security commission, as heretofore created by previous enactment, shall consist of 3 members, one of whom shall be a representative of labor, one of whom shall be a representative of employers, and one of whom shall be impartial and shall represent the public generally, and shall be chairman." So let's face up to the facts, as

I knew in that question, I was waiting out of courtesy to have Mr. Cote come up here, the law says the representative of the employers shall be partial to the employers, as I read it, the representative of the employees shall be partial to the employees, and the law specifically says that the third member of the group shall be impartial, he shall be a representative of the public. It doesn't say impartial in the law so far as the other two are concerned.

MR. BLAIS: That wasn't a question?

REPRESENTATIVE JALBERT: No, I was just quoting from the law.

MR. BLAIS: On duration of benefits, are there any further questions on benefit amounts?

SENATOR WYMAN: Mr. Blais, this figure of eighty million dollars that you speak of, is it possible that some of this could be used by employers to extend their business and in fact hold them where they are and cause more business and make more jobs or increase their business?

A Senator Wyman, I suppose it is possible it could have been used in any number of ways. The point I was trying to make is that had they continued in all these years the full 2.7% rate which is in the original law, which certainly is not excessive, that there would have been that much more available at the present time in the fund for paying benefits, plus accumulated interest, ao we would not be approaching this danger point where the fund may be in danger. Obviously, if I had eighty million dollars, I

would use it to some good advantage. This is divided among several hundred employers. I presume that some might use it for expansion, some might have used it for some other beneficial program. I don't know what they did with this, but anything is possible.

Q At one time I heard -- and it was not from the past session, but I heard a representative remark that the difference between the credit rating and the 2.7 made the difference between their getting several destroyers built and not getting them. It seems to me that there is some merit in keeping the jobs.

MR. BLAIS: Senator, I have heard a lot of these statements too, and this may be true. I also want to point out in addition to the rate fluctuation, and that is a good subject, when the 2.7% was originally put in, you see the taxes is limited to the first $3,000 of wages. So adding the top wages it is about $3,000, so that the full payroll dollar is taxed at 2.7%. Therefore the cost rate was 2.7%. But you find today that the payrolls in the state in covered employment are somewhere between eight hundred and nine hundred million, that only about I think it is between five hundred or six hundred million dollars or about two-thirds is taxed at all. Therefore, if you apply a 2.3 rate on that six hundred million dollars, this is the cost rate, it may be only 1.6 or 1.7 as against the 2.7 back fifteen or twenty years ago. Not only are they enjoying lower rates, but because of the ceiling on

taxable wages, much of the wages paid had no tax at all, not even the lower rate.

REPRESENTATIVE JALBERT: Mr. Chairman, I would like to submit to you, Mr. Blais, that you have here, besides this statement here, two pages of recommendations. Now I was wondering, this committee would recommend or not recommend to the 102nd Legislature what they think, it could be in the form of a majority or a minority report or in several reports, but I would submit to you that it might be an idea if you would help the committee getting down to specifics, as to how we would know what to do, help the committee by setting priorities on this program. I mean I think one would be quite at a loss possibly if he had to choose three or four or five items knowing full well that you have got about as much chance of getting this program through --

MR. BLAIS: Mr. Jalbert, I can assure you that I have every desire now and at anytime in the past and in the future to be of any assistance that I can to this committee or any other committee in the legislature. Matter of fact I just made a major attempt to become a part of this legislature and the voters didn't see fit to elect me, but I will be available to this committee or any sub-committee anytime in the future if I can be of any assistance, and I am not impartial.

I will go on with a brief reading of these recommendations. Duration of benefits, uniform duration of thirty

weeks. Currently we have 26 weeks, I believe. Some other states have gone to thirty, thirty-six and thirty-nine. Our record of exhaustion in periods of recession runs considerably higher. It is generally estimated by people who have done these researches that the level of exhaustion runs about 25%. I think we run 29 and 30% some years. I feel the extension of four weeks would be justified. This is a mathematical problem and you can't set a number of weeks because they would draw a certain amount and ---

SENATOR EDMUNDS: I would like to ask one question. I think this is one thing it seems to me that labor and industry agreed on, that the so-called double-dip was a dirty word, it would not be possible for anybody to practice the so-called double dip procedure. I distinctly recall the President of the Senate and I discussed this with the attorneys for the commission and they advised us that in their opinion that at least ninety percent of the cases where the double-dip was in issue were justified, and why should you punish ninety people to get at the tenth person who is say possibly taking advantage of the commission of the act? I would just like to get your thinking on it. Do you think the double-dip should be abolished or not?

A From an administrative point of view it is almost impossible to abolish it and maintain an equitable administration. You can abolish it and you would do great harm to

a lot of deserving people if you did. The adoption of the high quarter formula in the general form in the Thaanum Bill would have eliminated a substantial amount, it would not have eliminated all, but by moving the base year up closer to the benefit year, they they would have to have qualified wages in that quarter or quarter and a half. They would have had to have substantial earnings in that base year. You can stop working in June or July having started in January and you can't get any benefits until the following April, you will wait nine months before you can draw any benefits, because there is a big lag, so the double-dip compensates in that it givesyou that on the other end.

Q I realize that the high quarter formula has done away substantially with the double-dip, and I am just a little surprised on the recommendations that you make here, starting off with the Estey bill and coming up with the Thaanum bill and the junior Thaanum bill, and now it seems that we are coming up with all different types of bills, and I see nothing in here as to the effect of the high quarter or the --

A I am not aware that we are discussing any particular bill.

Q Are we to assume from your recommendations that if you were to write a bill yourself that you would depart from the Thaanum bill as drawn?

A In some specifics, but the recommendations I have here right down the line, you could take the Thaanum bill originally drawn and change it a little, they did as to

amounts, but the method of writing the bill was substantially different.

Q I am going to say that you know more about this statute than any man in the State of Maine except possibly for the commissioners and their lawyers, and I am not going to get into a technical argument with you, but I think one thing that always defeats overall largely this legislation is they attempt to do it all at once. Matter of fact this statement was made on the floor of the Senate, why not bring these things in one by one, take each one on its merits, because none of us are qualified to read twenty-five or thirty or forty pages or whatever is involved in making the decision, what would your reaction be to try to build the act up by taking each section and having separate legislation drawn with respect to that specific section, or do you think it has got to be done all in one bill?

A Senator, I know that it all has to be done and done fairly soon. Whether it is done-- whether the committee wishes to recommend several bills, each one dealing with a separate section is a matter of judgment, it is political judgment as a matter of fact, not judgment on the merits of the proposals. I would call your attention to the fact that prior to the 1963 session in which the Thaanum bill became an issue, which is the one package deal covering benefits duration, administration, disqualification and financing and so on, as I recall, and I have been

around for some time testifying on these matters, we usually have had twenty to thirty different bills dealing with separate sections, some dealing with duration, some dealing with disqualification, some dealing with benefit amounts. It has been tried every way, both on a piecemeal basis and on a package basis, and I am sorry to say that both methods met with equal frustration. Now whether you as a legislator feel that it might be worthwhile to try it on a piecemeal basis again, we would like to see progress made, that is your judgment. We are not concerned with how the battle is fought and won. We want results.

Q Well, do you think it can be done on a piecemeal basis?

A Of course, it can.

Q In other words, let's say that fifteen bills were submitted to the legislature and eight of them passed and seven of them didn't. Have you accomplished the job so far as labor is concerned or have you accomplished the job so far as you are concerned?

A Well, it would depend on which of them are enacted. In 1961 you see there were some pro-labor bills and some pro-management bills, this was a piecemeal thing, but the piece that was passed gave it to us in the neck, if that's what you are talking about, I think it could be done that way. But I think as a perhaps practical matter, Senator, it is not necessary to have one bill cover the whole spectrum.

Q As a practical matter, Mr. Blais, is it possible for a

member of the Maine Legislature who does not serve on the labor committee and I would say many of the members who do serve on the committee, to completely assimilate the recommendations of a bill like the Thaanum bill, tying it in with the existing legislation and realize the effect? They are not lawyers and they don't have the background in this particular field that you have. I served on the labor committee and I attempted to do my homework and yet I would say I was just as confused as anybody in the Maine Legislature with respect to this legislation as at the present time, and I think you will admit that this is one of the most complicated statutes that we have here in the State of Maine.

A I will agree Senator that unless a person is on the labor committee and spends a considerable amount of time, it is difficult to judge the merits of this proposal. And I am assuming the Legislature did just that, and in the case of the Thaanum bill, the Labor Committee did recommend the adoption. It wasn't the Labor Committee that knocked it down, it was the Senate.

Q I think the House concurred.

A I am sure they did it in good faith, sir.

REPRESENATIVE WELLMAN: I would just like to say that I think the Senator has to a great extent brought out the problem, and I am not sure that you can solve it; I am not sure how it can be solved. Maybe it is up to the Legislature to solve it, but I think that this is a real problem, and

whether it would be possible, when they changed certain sections of the administrative code of the state they printed the old one and the new one alongside it and then there were explanations in the third column. I think that somebody somewhere along here has got to do some kind of a job of outlining, education and explanation of what each one of these proposals mean. I think this is the most difficult law in this state for anybody to understand, whether he be citizen or whether he be legislator, and somewhere somehow we have got to do something to try and help the individual legislator understand what he is voting on. I am saying this independent of how I may have voted on any one of the bills.

A The birth of the Thaanum bill was as the result of a joint order which set up a committee to study this act and as a member of that committee, I don't know how many days we met, and hours, and we had tremendous assistance from the staff of the commission, and it was made up of members of labor and industry and business and members of the legislature. Now, if this wasn't a thorough study, I don't know how else you would go about it.

Q I am not talking about the study. I am talking about the mechanical way it is presented to the legislature. I would be the first to admit I am not sure how to do it, but I think some serious thinking has got to be done, and maybe it has got to be done by the labor committee in how to present these things to the legislature.

A In regard to the Thaanum bill in that particular hearing, as I recall, we were sitting together as Mr. Jalbert mentioned, there were no pros and cons from the labor-management point of view with some exceptions, and this bill was supported in the labor committee hearing in an orderly presentation. Whether it was understandable or not is a matter of opinion, but this was voted by labor and management and members of the public and there was sufficient time spent for the committee members for the most part to get an understanding of it.

SENATOR EDMUNDS: Are you talking about the meeting of the Thaanum Committee or of the Labor Committee?

A The Labor Committee where the matter was discussed on which appeared labor, industry and management representatives in support of the bill with explanations for what they thought should be done and the reasons for it, but I will admit that this type of explanation was not made available, for whatever reason, to all the members of the Legislature.

Q Just one comment. As you recall at the regular session we did defeat the Thaanum Bill and offered to substitute the Brown Bill. Now the Brown Bill, I know we have been criticized for the Brown Bill, but we thought we had a pretty good bill, and reason we did, and the only reason we did, we knew that labor didn't like it and we knew industry didn't like it, and we thought we had a pretty good compromise, and I still think that the Brown Bill

which was vetoed, as you know, made some sense because it was as unpopular with industry as it was with labor. I thought that might be a basis for working out a fairly good compromise. I was wondering if there isn't some area for compromise between labor and industry.

A Well Senator, the Thaanum Bill had an area of substantial agreement or compromise, but I hasten to say that you are never going to get any proposal that is worth anything before this or any other committee of the Legislature if you wait until all segments of industry and all segments of labor are in agreement. You will just never get this, because you have such a diversity of interest in the way the provisions are applied. You have the differentiation between say the paper industry as against the construction industry and the road building industry or the canning industry, and this affects them all differently. What is good for one is not necessarily good for the other. On the other hand it applies to labor, and there is not unanimity or opinion on each of the proposals, because if you work in a seasonal industry, you would want the program to take a certain fashion and if you work in a year-round industry you would have another type of benefit determination. You will never get this kind of a set-up that is acceptable to everyone, but, of course, this is true in any legislative process.

Q I agree that everyone will not be agreeable, but it seems there should be an area of compromise so that we could possibly correct this matter even though there are inequities. It seems to me that the eventual results will

have to be compromise. Personally, I cannot see the Thaanum Bill as a compromise. As you know, I served on the Thaanum Committee, and as my decision shows I was very poor in my opinion because I was in Washington most of the time. I would say it was a little different than usual that labor supported the Thaanum Bill right down the line before the 101st Legislature so far as I know and industry was almost unanimous in its opposition, so I doubt if the Thaanum Bill, as such, represented a compromise.

A Well, that is a matter of opinion. The composition of the committee set up by the legislature is not intended to be a one-sided committee.

Q I appreciate that. I recall the composition of the committee very well, but I would still say that the action of labor and industry before the 101st Legislature was not a compromise, between the two factions. I think you would have to agree with that.

A No sir, I would disagree with that, I think it was a substantial compromise, but again I say that if certain segments of industry felt that some of these might be justified, they felt we want no part of them. I could put it more bluntly than that. There are certain people in this state who have been against this program since its inception, and if you got a compromise, getting to the point where they would like to pay more, I think that you will not see it, Senator. When I talk about

compromise, I talk about the legitimate interest of obtaining a particular objective and a compromise on the way of accomplishing it. If you think that the people representing labor will ever say we will compromise to the extent that will allow you to do something that will allow you to save money, this is not a compromise. You don't compromise a yes or a no. All you get is no from the people who opposed it in the Legislature and not labor and industry people or representatives on this thing.

SENATOR HINDS: Mr. Blais, may I interrupt just a minute. I would like to point out to Senator Edmunds that as a member of the Labor Committee, matter of fact the only member of this panel on the Labor Committee, that there were many people from industry who appeared in favor of this bill. As a matter of fact, Bernard Estey, a member of the study committee appeared in favor of the Thaanum Bill at the hearing. He did state that if it was changed at all, he would not be in favor of it, but he was in favor of it as it was written. And I have a list of many others.

REPRESENTATIVE WELLMAN: Gentlemen, the time is moving along here, so I suggest we permit Mr. Blais to finish up and then we can see what the next step is going to be at that time.

MR. BLAIS: On disqualifications. Voluntarily leaving work without good cause if so found, and the -- by the Commission, should be applied only if the employee of his own

free will completely severs his employment. Unfortunately, the law is administered as though the word 'voluntarily' did not appear in the law at all. In fact in 1954-55 the law was changed from this type of language and the words inserted 'voluntarily without due cause attributable to the employment'. Immediately the Commission interpreted this as though the word 'voluntarily' didn't appear, and they began disqualifying people who became ill, they went out and they came back and when they did, because of lack of work or they were replaced or laid off, they disqualified these people on the basis they had voluntarily quit their job. The Commission at that time on the date of October 21, 1955 got a ruling from the Attorney General, or the Assistant Attorney for the Commission, and incidentally this is in the record, the interpretation of the Attorney General. And I submit to you gentlemen that when the law was changed in 1951 and the language reaffirmed, the commission failed to apply its interpretation and consequently thousands of people were wrongfully denied benefits under our present law. The Advisory Council so advised the Commission in March of 1962 and the attorney for the commission told the commission that they should interpret the new law; the commission refused to do it, and the Advisory Council requested that the commission get a legal interpretation from the Attorney General which they failed to do and the correction was not made for some seven months later and thousands of

people were wrongfully denied benefits. Now, I say you should determine this principle and this is the interpretation of the Attorney General, and this certainly was never intended to be the law. This should be a basic concept, it must be established that it was voluntary, something that was done of their own free will and not something over which they have no control over. This would be the recommended principal for establishing disqualification.

Misconduct. On misconduct, this should only be applied if the commission finds misconduct. I don't think that misconduct is established merely by the fact that the employer says it is misconduct, or by using the definition as it exists which says that violation of the employers interest is misconduct. Now who knows what the employer's interest may be as against one worker or another. *****

Refusal to work. The general language I think is presently sufficient, but certainly the section saying that lack of transportation shall not be just cause for leaving is highly undesirable. And if an employee is referred to a job one hundred miles away and he can't get to this job, this should be considered a good reason for refusing and a decision in such cases should be made by the commission because each circumstance may be different. In some different cases a distance of ten miles on a well-travelled highway is not a long distance, but if you ask a person who lives in the city to go ten miles in the woods and the only way you can get there is by jeep, and

he doesn't own a jeep, I think this is an unreasonable distance, and the commission should go out and base their decision on the case and not on some general language that lack of transportation shall not be a good cause of refusal.

On the duration of Disqualifications, we now have a system where they are disqualified indefinitely, maybe until you get another job, and if you get another job you don't need other benefits. You should determine each case. If a wrong-doing has been committed you should hold back for the period during which the unemployment is caused by some act of the employee. Studies indicate nationally this period is deemed to be somewhere between six and seven weeks. If unemployment continues beyond that it is because there are not enough jobs around no matter how hard the individual tries. I submit if a person is getting $240 a week and because he may have sworn at his employer and he doesn't get through that period, compare it with some of the other penalties such as drunken driving and so on, this is a pretty severe penalty for those individuals or an individual with a family and it shouldn't go beyond that.

On Coverage. Again I say all employees, whether an employer has four employees or one, should be covered, they have the same needs. The basic concept of maintaining purchasing power is just as important for that individual, whether he is working for a big employer or a

small employer. You have perhaps a grocery store say with six employees and one with two. One is required to pay and one is not required to pay a tax. This is discrimination. All employees should be insured under this program as long as they are not seasonal and/have twenty weeks of employment in a year. Here you can go in many directions. I am not opposed to merit ratings as such, but surely we must recognize that the present dollar value levels have triggered changes in rates established in the reserve fund, and our economy must go up, and therefore I am recommending that we go from a $35,000,000 requirement to a requirement of $50,000,000, and what is now $40,000,000 be raised to $50,000,000. This is not out of proportion to the increase in the payrolls and benefit payments and so on, it is merely an attempt to keep the curve going and correlating the increases of benefits, outgo and income, and using the basis for triggering various changes in the tax rate level. There should be in the operation of merit rating, not individual merit rating, but uniform merit rating, that the fund level should determine the tax, whether the tax should be uniform on everyone, not having one paying one and another paying another. This way you charge the same tax rate to everyone, whether it is two or two and one-half or one and three-quarters. If this is not feasible, I suggest as an alternative if you want to continue the unit merit rating, use a payroll fluctuation basis as a means for establishing individual

tax rates. A drop in the payroll would indicate unemployment for which the employer is responsible and a mathematical formula can be worked out so that this can be used as a requirement or guide for setting the individual tax rates. And if you maintain individual merit rating and not uniform tax rates, I suggest that first you increase the maximum tax rate to 3.7% for employers with negative balance accounts.

This, gentlemen, concludes my presentation, and as I said before, I would be most happy and willing to be of any assistance to this committee or any committee which you would be willing to call. Thank you very much gentlemen.

CHAIRMAN BROWN: Any questions? Thank you, Mr. Blais. Could I inquire how many have speeches to make? All right. Mr. Gifford?

REPRESENTATIVE KENNETH GIFFORD: Mr. Chairman and Members of the Maine Employment Security Law Sub-Committee of the Legislative Research Committee: I am Kenneth Gifford of Manchester, representing in the present Legislature the Towns of Hallowell, Litchfield, Manchester, and West Gardiner; a member of its Joint Standing Committee on Labor, which in both regular and special sessions studied the Employment Security Law, and in private life an employer of approximately thirty people, and the contributor of approximately $2,000 annually into the Employment Security Fund. In all three capacities, I am

deeply concerned regarding the present deplorable state of the employment security program, a state which can perhaps, be best described as one of inability to adequately fulfill its primary purpose of protecting the normally fully-employed worker against the risk of unexpected unemployment, in large part due to the dissipation of the program's revenues for purposes not consistent with the program's basic principles.

First of all, as a member of a still existing committee with official responsibility, and some experience in this field, may I say to any of you who here finds himself on such a committee for the first time - welcome to the club. I do not envy you. Employment security law is complex, controversial and confounding. I wish you well with it. For the Maine Employment Security program is suffering from a sickness which requires the very best efforts of all who are interested in it, to restore it to good health and maximum effectiveness, to the real advantage of Maine employers, Maine Employees and the Maine economy.

One symptom of its ill health is contained in the table of weekly benefit amounts for total unemployment, Section 13, Sub-section II of the law. While this schedule of weekly benefits munificently provides for the low-income, part-time or short-term worker, it is utterly unrealistic in its application to the overwhelming majority of covered workers who normally earn in excess of $3,000 per year, the top bracket of the table. This top figure ties in, of course, with the limit of $3,000 on taxable wages, a limit which past and

present legislatures have not seen fit to raise, although wages have soared far beyond it. Attempts to improve benefits over the last ten years at least, by retaining this $3,000 limit, have only made more inequitable the application of the table to various wage levels. Under present law, for example, the average worker in covered employment, earning $82.00 per week, becoming unemployed, receives $34.00 per week in unemployment compensation, being 41% of his usual wage, whereas the State minimum wage worker, earning $40.00 per week, receives $28.00 or 70% of his usual wage. Clearly, the table needs to be re-worked to increase benefits for those normally earning in excess of $3,000 per year and to make its application at various wage levels more uniform.

In this regard, it was particularly pleasing to note that the Republican Party, to which I belong, in its 1964 platform recommends: "that workers' benefits under the Workmen's Compensation Act be increased". Inasmuch as these benefits, at two-thirds of average weekly wages with a top limit of $42.00 per week, are already higher than those of the Employment Security Law, the Party, by all that is logical, must favor similar treatment of the benefits of the worker who is unemployed through no fault of his own.

Another area, of course, in which the law could be improved in the interest of the worker is that of the much publicized and highly controversial disqualification provisions of the law. These were apparently last re-written in an atmosphere of near panic at a time when the Employment Security Fund was more seriously threatened than it is today, and probably are

more severe than is necessary. Some degree of relaxation might well be recommended, perhaps, by reducing the numbers while retaining the present language. This approach is a simple one and at least has the advantage of furnishing the corridor lawyers with a minimum of raw material from which to create doubt, suspicion and confusion. In both of the above areas improvement of the law must cost the Employment Security Fund money, and it has become abundantly clear that the controlling influence over the Legislature in this field has no intention of permitting enactment of a measure involving additional expenditures from the fund. Its view is not without justification. Fortunately, however, solution to the problem of financing the needed improvements is available through amendment of the law to put an end to the current dissipation of the fund's revenues for purposes not consistent with the program's basic principles - the very source of the program's ill health.

One cause of the dissipation of the fund is, of course, the so-called "double-dip", the language of the law which permits a worker, having exhausted his twenty-six weeks of benefits, under certain circumstances, to draw from the fund further benefits, in some cases for a second twenty-six week period. This was never intended by the framers of the Maine Employment Security Law and is not in keeping with the principles underlying such law. Its elimination would result in considerable savings to the fund.

Another source of the program's ill health involves the requirement for qualifications for benefits under the law.

The Maine law has always had an annual earnings requirement for eligibility for benefits. When the law was enacted, back in the thirties, this requirement was $300.00, representing perhaps, twenty weeks of work at then prevailing wages, still considered a sound and reasonable requirement. Over the years this annual dollar requirement has been increased only 33 1/3% to $400.00, while wages, have increased perhaps 400%. More through neglect than by design, past legislatures have permitted the eligibility requirement, in terms of weeks of work, to deteriorate from twenty weeks to less than five weeks at the current average wage in covered employment. As a result, a part-time worker now needs only to work at the Federal minimum wage one day a week for a year, or a short-term worker for eight full weeks, to secure eligibility for twenty-six full weeks of benefits. The effect of this deterioration of the qualification requirement upon the Employment Security fund is apparent from a simple study of the table of benefits paid in 1963. Of the $10,000,000 in benefits paid for total unemployment, $6,000,000 or 60% of the total, was paid to claimants with taxable wages in their base periods of less than $2,600, representing full employment at the Federal minimum wage $4.1 million or 41% of the total, was paid to workers with taxable wages of less than $2,000.00, and $1.3 million, still 13% of the total, was paid to those who earned less than $1,000.00, less than twenty weeks of work at the Federal minimum. Here, there would appear to be a saving to the fund of $1,300,000 simply be returning to the twenty week standard

of the original law. Even more striking as indication of misdirection of the efforts of the program are the facts that of the 416,000 weeks compensated at full rates for total unemployment, 297,000 or 71% involved workers with less than $2,600 in taxable wages; 233,000 or 56%, workers with less than $2,000 in taxable wages, and 105,000 or 25%, workers with less than $1,000. In an average week, one out of every four claimants could not qualify under the law's original standards.

Of course, it will be contended that a return to the twenty-week standard would impose a hardship upon those workers in certain distressed areas of the state who have only short seasonal employment available to them, who have depended for years upon unemployment compensation to round out their annual incomes, and who could not qualify under a twenty-week requirement. One cannot have other than compassion for these people who exist in what amounts to a state of economic serfdom. The solution to their problem lies not, however, in the Employment Security program, intended as it is to provide protection to the normally fully-employed worker against the perils of unintended and unexpected loss of income through unemployment. The solution to their problem requires that ultimately full employment be brought to them or, as a last resort, that they be moved to areas in which full employment opportunities do exist. If in the interim financial assistance is needed, and it would appear to be, a program of assistance for these Appalachias of the State of Maine, supported by tax revenues derived from all the segments of the State's economy, is what is required. One cannot contend that the relief

program, as it is now effectively constituted, should be supported solely by that group of employers who by law must contribute to the Maine Employment Security Program. I suggest to you the removal of this burden upon the fund and upon those who must contribute to it, by a return to the twenty weeks of work eligibility standard, and the substitution of a distressed area relief program supported by appropriation from the State's General Fund.

SENATOR EDMUNDS: Mr. Chairman, Mr. Gifford, may I ask a question, please. What would you estimate would be the amount of money that would have to be appropriated from the General Fund to accomplish what you propose here?

A I have made no special estimate.

Q Give us a guess.

A I have indicated here that about $1,300,000 might well be saved by the fund if these workers were removed from the program. Not all of these would be in distressed areas. We have cases of women, for example, who work in stores during the Christmas season; those who live in areas where employment opportunities do exist, but who really do not want full employment who are in this category. I expect the figure would be substantially less than $1,300,000. What figure, would be a guess at this point. Possibly half the amount. This would have to be studied and an estimate determined of course.

Q Do you anticipate a major tax increase in the next session of the Legislature?

A I have read some of the publicity. I have some awareness of the immensity of the problem.

Q Thank you.

MR. GIFFORD: Lightly, I should like to touch upon several other areas in which improvements in the law might be effected. Increase of the limit on taxable wages might be considered, together with off-setting reduction of rates for employers with substantial fund balances. This would have the effect of increasing contributions from employers with negative balances, without imposing higher than 2.7% rates. At the same time it might have merit to forgive existing negative balances, giving employers a new fighting chance, at 2.7% on a higher more realistic base, to achieve experience ratings. And it might also have merit, in the interest of encouraging the establishment of new business and consequent new employment, to grant to new employers for a limited time, during which they would establish their own experience, the average contribution rates established by their classes of business. It might be worthwhile to increase the rates in Column E of the Employers Contribution Rate Table to provide more of a cushion against the possibility of the fund dropping below $20 million and all employers going to the maximum rate.

It might be appropriate to recommend that Section 21, Seasonal Workers, be amended to make determination of seasonal industry by the Commission permissive rather than mandatory, that being the practice, which apparently no one cares to change.

One final matter I feel I must bring to your attention. There is before the Congress of the United States legislation designed to set uniform minimum standards for state employment security programs, which if enacted in its present form and while Maine law is in its present form, could cost the Maine Employment Security Fund and its contributing employers many more millions of dollars than would any proposal which has been made from within the State during the last two years. Naturally, one cannot say that the proposals will be enacted into law, or in what form they may be enacted. It can be predicted, however, that within a very few years Federal law resembling the current proposals might become reality. If in the Federal proposal then, we have a guide to the future, we can benefit by getting our own house in order in anticipation, minimizing future employment security costs to Maine employers.

Specifically, I would like to call your attention to the requirement of the Federal proposal, that an individual's benefit must be at least 50% of his usual wage, basing benefits upon weekly wages while employed rather than upon annual earnings. This requirement could double the cost of the benefits to the group of workers earning less than $1,000 per year, costing the fund an additional $1,300,000 for these short-term workers. Coupled with the proposed increase in benefit period from twenty-six to thirty-nine weeks, this group alone could costthe fund a total of $4,000,000 annually. The income necessary to meet this cost could, of course, be derived from the proposed increase in the taxable base from

$3,000 to $5,200, without compensating rate reductions, at considerable added cost to full-time employers. However, it would seem far wiser to strip from Maine's program those benefits which are not consistent with the primary intents and purposes of Employment Security; update Maine's benefit schedule; adopt a more realistic taxable wage base with off-setting reduction of earned experience rates, in anticipation of Federal law and to minimize its impact upon Maine's fund, Maine's employers and Maine's economy.

In conclusion, through the Chair, I would like to speak specifically to those employer groups whose influence in this field of employment security has so obviously dominated the 101st Maine Legislature. With the authority that influence has achieved for you goes the responsibility for the future of the Maine Employment Security Program. It is to be hoped that you recognize and accept this responsibility, and that you will, before the 102nd Legislature, sponsor or support the legislation necessary for its improvement. The obligation to do this you won as an integral part of your victory in the corridors of the State House.

CHAIRMAN BROWN: Thank you, Representative Gifford. Are there any questions by members of the Committee? Then we will recess until 1:15.

AFTER RECESS 1:15 P.M.

CHAIRMAN BROWN: The meeting will come to order. This is the sub-committee of the Legislative Research Committee which is studying the Employment Security Law. We would be glad to hear anybody who wishes to testify. Mr. Dorsky?

MR. BENJAMIN DORSKY: Mr. Chairman and Members of the Committee: My name is Benjamin Dorsky, representing the Maine State Federated Council, which is composed of workers in all categories of the economy of the State.

I believe that the law that you are studying is one of the most controversial that I have ever known to come before the Legislature of the State of Maine, and I believe that the adoption of the amendment known as the Estey Amendments are so controversial, that the only comparison that can be made is the Prohibition Amendment in the 1920's. The controversy started over the adoption of the Estey Amendment is such that the people of the State of Maine, in general, are interested in what is happening to the law, and I want to make it clear to the Committee the position of the organization which I represent.

We are not concerned with generalities as such, we are concerned with some specific and some generalities. We are concerned primarily with benefits and those who receive the benefits. We are not too concerned with financing, for the simple reason that we believe that financing is a matter for the Legislature to determine. We believe, and we understand, that this is an insurance program, and as such, it should be handled as an insurance program. I believe you, Mr. Chairman, are an insurance agent, and I believe that you understand too that when benefits or those recipients of benefits lower the amounts that the insurance company has, the premium is raised. I believe the same should apply in

this particular program.

I am sorry that Senator Wyman isn't here, because of a statement made by him this morning, I wish to call to the attention of the committee that the negative balance accounts, so far as we are concerned, carry no weight. The fish packing industry are negative balance accounts and the construction industry, negative balance accounts. At the same time it says that druggists are positive accounts, insurance agents and bankers. If they want to finance negative balance accounts, that is their business, but when the statement is made that a contract for work could be determined by the imposition of an additional tax, I think is erroneous for this reason, that if the Bath Shipyard wishes to help finance the fish-packing industry, that is their business, and they shouldn't go out and say that we lost a contract before our rate was increased, because they had every opportunity before this Legislature to do something about it. The joint committee that studied this law over a period of two years I think contributed a great deal. Senator Edmunds made the statement that possibly we shouldn't have split the Thaanum Bill. Basically, the Thaanum Bill was probably considered a compromise. The Thaanum Bill as a whole was not totally acceptable to us, but we were willing to go along with it. I heard statements made about the double-dip. Gentlemen, let me say this to you so far as the double-dip is concerned, we are interested in the double-dip, not to give it away unless something is there to replace it. One of

the statements made by employers today is the fact that they don't want to adopt the high quarter formula. I think one of the statements made in the corridors of the legislative halls during the special legislative session or the regular session was that there are many people who are receiving benefits who should not receive benefits, that they were chiseling. But let me say to you that the employer contributes to that very thing that they are speaking about. The position of the organization which I represent is primarily the matter of disqualification proposed by the Estey Amendments. We believe that they were unjustified and we still believe such. The statement was made that the economy had a great deal of bearing on what happened to the fund today. I can truthfully say, and the record will prove this, that from the adoption of the Estey Amendments when they became law, immediately many people lost benefits as the result of it. The total increases of the premium dollars that was bandied about this morning as to the disposition of the fund, a great deal was due to the economy as we have it today, but the Estey Amendments did contribute to that economy insofar as the fund is concerned. We heard the word partial payments mentioned. I believe many of you have heard me make this atatement to you and members of the legislature at various committee meetings that insofar as partial payments are concerned, we do not have too much of an interest because this is an employer benefit, and the sooner the employer wakes up to that fact the better off he is going to be.

Now I want to cite a specific case that happened very recently. Here the partial payment is designed to save the worker for the employer when the employer needs him. Recently we had a major construction job in operation, and the company decided they wanted to enlarge the project and they shut down the project for thirty days. The condition of the construction industry today is such that it is going to be very doubtful if they will be able to retain the skills that they had or get back the skills that they had because the partial payments were in no way near enough to hold those people to that particular project. We hear about the shoe industry and partial payments and the abuse of the partial payments in the shoe industry, and I make the same remark here that the contributing factor to the abuse in the shoe industry is directly in the hands of the employer because he is using that to retain his skills.

I believe that this committee, if they will continue permitting me to ramble about the briar patch without falling into it, let me ramble a little bit about what happened at the special session and the regular session of the Legislature regarding this bill. I think that the statement was that the Legislature did not understand the bill. To me that was a very poor excuse and I will tell you why I say that.

A legislative committee is set up for a purpose and that purpose is to hear all bills and become acquainted and become experts in that particular field. The Committee on Labor

heard this bill. You had an interim committee study this bill. The Labor Committee with the exception of I believe two asked that the Legislature adopt a particular bill. There are your experts who said that this bill was good. Your interim study committee said the same thing. And I believe that Senator Edmunds said that the House agreed with the Senate. I will say this to Senator Edmunds, and the Committee as a whole, that the House did not agree with the Senate, they became disgusted with the Senate and threw their hands up and said what's the use, there's a roadblock there. And I believe that the majority opinion of the people of the State of Maine is that this bill as written today should be corrected and the disqualifications that have been imposed by the Estey Amendments be eliminated, and at least go back to what we had prior to the adoption of those amendments. And I also believe too that the facts and figures that were gathered by the interim study committee would be of great use to this study committee too, and I believe that the committee could do no better to find some way of adopting the recommendations of the interim study committee.

The statement was made that the Thaanum Bill in the regular session and the junior Thaanum Bill, and incidentally we correct the word 'junior' because it was not junior, it was a bill designed to overcome objections that the industry members had who were originally for the Thaanum Bill. I believe it is no more junior, in fact it was superior to the

original bill, and I certainly hope that when this Committee through its deliberations goes into the matter of employment security, that the work that was done by the Committee on Labor during the regular session and the special session of the Legislature be looked into carefully, and that they adopt the recommendations made by that committee. Thank you, very much.

SENATOR EDMUNDS: I would ask a question or two if I may. I asked the same question of Mr. Blais. I still can't seem to understand why the Brown Bill is so unacceptable if they represented the compromise that was acceptable neither to labor or to industry, and it seems to me that if they were unacceptable to both sides that they must have had some merit.

A Senator, for your information, the Brown Bill was acceptable to industry because industry wrote that bill and the cute little words, five little words put into that bill was enough to make the bill unacceptable to labor.

Q I will correct the record and say that industry did not write the bill. I am sure that you studied the bill and I am sure that the Commission studied the bill and I am sure that the language contained in the bill was a compromise that neither industry or labor would accept and I think you are quite well aware of the attempts that were made to bring both sides together and they were unsuccessful.

A Senator, I may be naive, but not that naive. That bill came to my attention long before the Legislature came in

session, it was called to my attention by a member of the Legislature who said this is the bill we are going to introduce, and when the bill finally came out it had a few cute words added to it that you knew about, so when you say the bill was not acceptable to industry I question that.

Q Well, if you are questioning my integrity, Ben, ---

A No, I do not question your integrity.

Q You are questioning my integrity when you say that the bill was acceptable to industry because I had a number of lobbyists say no, we will not buy it.

A The Brown Bill?

Q Yes. I also heard Mr. George and Mr. Blais say they would not buy it. They sat in a corner office not too far from here and they said they would not buy it, but the bill was an honest attempt to compromise. You can take that for what it is worth coming from me. If my word is good, accept it; if it isn't, forget it.

A Senator, your word is good.

Q My word was very good back in 1961 when I helped keep the right to work bill in the Senate.

A Senator, your word is always acceptable.

CHAIRMAN BROWN: Are there any other questions?

REPRESENTATIVE JALBERT: Mr. Chairman, I have heard, Ben, fairly often the remarks you made that the $10.00 a week involved around -- regarding the shoe industry and that the manufacturers were to blame for it, and if that is so, then -- and I don't disagree with you, if that is so, it then

becomes a contributing factor to the people, the honest people who are being penalized by this. Now, I think we are right back to what Brad said earlier this morning, what have you got for a remedy for it? Why not find a way to write an amendment or something to a bill or the employment security law that might correct this evil, and there must be some way to correct this. If penalties must work they should work both ways. Now, I am trying to say not only based on this particular amendment that I am talking about now in the law but a lot of times over the last twenty years I have heard several times on several occasions criticism of a section of the law, but nothing brought forward to correct it. I am not criticising you, Ben, I am saying it might be you, it might be Mort, it might be the good Judge, and it might be Roger Putnam and it might be Denny. We legislators are pretty much in the dark on this thing and I am one of those that will admit that I don't know the law too much and I lean very, very heavily on advice that I can get and what would be the more judicious thing for me to do, particularly where I am concerned, and I will be honest with you.

A Mr. Jalbert, let me answer you this way. A number of years ago we had a Chairman of the Committee on Labor that came from Washington County, and before the session was over, he came to me and he also came to the representative of industry and he picked out ten bills and he says these five are yours, and these five are yours. We got the five and they got the five. But when it was all over, instead of correcting anything, it compounded the inequities that were already in the

law, and this is what is actually happening now, because as the Senator said this morning, put a bill in piece by piece. The legislature as they accept the bills in toto would do some correcting, but when they accept one proposed by one group and another proposed by another group that are controversial, you compound a felony that has already been imposed. Now, this is what we are up against and when a bill is proposed and in fact frequently I think you are better off that way because then you can lose certain sections you don't want and you can leave other sections in.

REPRESENTATIVE WELLMAN: Ben, I think we are all probably talking around the same animal here. You have just said, and, of course, it was said many times during debate in the House, that so far as Maine is concerned, this is a new look or a new approach.

A No.

Q Oh, you disagree with that?

A The Thaanum Bill is just a continuation of the original concept that we started it all with. We had a bill like that when it was first in operation and it was dropped because we didn't have the mechanism or the office equipment that they have today, and checks were held up for as long as possibly three months. We disagreed and industry and ourselves sat down and the Federal Government came up with the W-2 form and this came about, so we had it based on the W-2 statements.

Q Well, at least it is a new approach over recent practice.

A Yes.

Q Well, I heard several people say why don't we put this in over a period of time, a period of years, a step by step process. Is such feasible?

A How would you do it?

Q I don't know, I am asking you whether it is feasible?

A I can't see how you could take the high quarter formula and break it down and put in piece by piece over a period of time.

Q Is the high quarter formula the only part of it or going back and talking about the Thaanum Bill, is there a method whereas the Thaanum Bill as such could be put into effect over a period of years thus minimizing the hardship that it does create on certain persons?

A I think the first step that should be done would be to adopt the disqualification procedure under the Thaanum Bill and do away with the controversy that has been raging now for about four years over the Estey Amendments. What you do with the rest of this, it will have to come before a successive Legislature anyway for a determination of what's best. I do believe in the high quarter formula, I think it is a good thing for the state; I think it is a good thing for the employer. I think this should be worked out by the experts in the industry field, and we will protect our interests to the point where benefits won't be jeopardized. What industry wants to do is entirely up to them, as long as there is adequate financing to take care of the benefit payments.

REPRESENTATIVE JALBERT: Mr. Chairman, I would like to ask one

more question. Do you think that the ultimate answer is going to be what we have discussed for years, that you people draft a bill initiating legislation and if the Legislature passes it, fine, and if they don't, it goes back to the people, and if industry wants to do the same thing they do the same thing. If you don't do it that way, what is the answer to straightening this thing out?

A Well, I can give you a logical political reason or an off-the-cuff answer. The off-the-cuff answer is that the Legislature as such, who is supposed to be impartial, write a bill.

CHAIRMAN BROWN: Are there any other questions by the Committee? Thank you. Anyone else?

MR. BERNARD ESTEY: Senator Brown and Members of the Committee: I am Bernard Estey, and as you probably know, I would appear before any hearing of the legislative group with probably several identifications.

I was a member of the 100th Legislature and the sponsor of the amendments to the employment security law now known as the Estey Amendments. I also served as a member of the interim study committee established by that Legislature which reported to the 101st. I am identified as a personnel manager for a large employer, and have in the past sessions of the Legislature appeared as a representative of industry before Legislative hearings. I suppose this means that I do not deal with this subject without some partiality.

I would like to very briefly discuss some of the things that have been presented here today, not with the intent of rebutting what was said, but just to a point of clarification. In light of the most recent discussion you just heard, I would remind the panel that in the presentation of the legislation before the last Legislature, the Thaanum Bill, so-called, I appeared with some reservation after having signed the report in favor of the legislation. As was mentioned earlier today, this report did -- there was some compromise on the part of the industry members, the labor members of that group and the public and legislative members. In discussing that piece of legislation I used the -- a diagram or demonstration of the equilateral triangle to describe the Maine Employment Security Law, the base of that triangle being the financing portion, one side of the triangle being the benefit section and the other side being the disqualifications. The question has arisen here several times today whether legislation could be studied or presented piecemeal or whether it would have to be an entire package; whether any one side or another could present specific legislation and come up with a satisfactory solution to the implied problem. I am sure that members of the Commission and attorneys related to interpreting the law would in almost any instance have to study the entire impact of the law on any amendment to determine first whether it was in conformity, and secondly, its effect upon administration. I can only say to you that if you adjust benefits without

simultaneously providing some means of paying for them in the financing section, your triangle is out of balance. By the same token, if you relax or tighten disqualifications, you would throw the triangle out of balance, so that any specific amendment to these sections of the law would have to be studied and looked at with the result on this law. We have even found in the past amendments that were apparently satisfactory in wording and meaning to themselves, but were in conflict with the other sections of the law. We still have one on the law now, the two sections refer to vacation payments so far as disqualifications and earnings are concerned, and one deputy will rule on one section and another deputy will rule on another section and they are both right, because both sections are still in the law.

The minimum rate for Maine employers starts at .5% and the maximum rate is 2.7. The average rate for employers across the state currently runs about 1.9%, I believe. In 1963 it was 2.1%. Now, there are some twenty-eight or twenty-nine states throughout the country that have average rates for their employers who pay the bill of less than the 1.9%. Several mentions have been made of the loss to the fund of some $87,000,000 over the period of financing this, and the question is raised as to how would this have been raised if it was paid in or were not paid in. I can't help but take the position over the period of years when the fund has been good that Mr. Blais and Mr. Dorsky have seen that there were legislation introduced to liberalize and relax

so that this money could be used, and my belief is that if there was $87,000,000 in the fund over the years we probably would have spent it. This has been the experience in other states in the nation to the point where some of them actually went bankrupt, and I am speaking now of Michigan, Pennsylvania New York, and California and several others who liberalized their programs to the point where they finally sunk themselves.

REPRESENTATIVE JALBERT: Mr. Estey, have you got any information that you can give this committee based on the remarks that Michigan and some other states went bankrupt so far as what they did?

A Only that these states have had to raise their taxable rates in excess of 2.7 and may even go as high as 4.5% and Michigan's schedule has taken it way up.

Q What information can you give this committee for what it may be worth that tax percentage is the reason that these states are in economic chaos?

A The primary reason was they extended benefits over a longer duration period, 39 weeks and 52 weeks, and --

Q You don't mean that, do you?

A What's the matter with that, it's a substantiated fact that other states have extended benefits over much longer periods.

Q You substantiate the fact that you say the major reason and that is your quote, for this condition was due to unemployment benefits, or --

A It is a conclusion generally drawn by all the journals.

Q Would you submit all the journals or some of the journals to us?

A This is only my opinion, but --

Q Well, that's what I want.

A But, I am sure I can put my hands on the material which indicates the funds were drained by the extension of the benefits in the program.

Q I just wanted your opinion, and you gave your opinion, and you say it is your opinion and not what somebody else said.

A The point remains, sir, for Maine's business to remain competitive, the experience rating factors were adopted many, many years ago in the statute as in most other state statutes, and I submit to you that these are not losses to the fund as such, even though this term has been used.

I have heard the disqualifications referred to several times today. I heard particular reference to disqualifications on the determinations made for voluntary quitting, discharge for misconduct, refusal of offer, refusal of referral, call-in response, misrepresentation and reporting requirements, and I am looking at the May 1964 Report of the Commission, which shows the total number of determinations made were 1831 that month. 955 of them were allowed and 876 were disqualified. For pregnancy, 33 allowed and 20 were disqualified; voluntary quit, 212 allowed, 203 disqualified; discharge for misconduct, 179 were allowed, 56 were disqualified; refusal of offer, 44 allowed and 44 disqualified; refusal of referral, 20 and 20; call-in response, 4 were

allowed and none disqualified; misrepresentation, and there was some reference there were 25 cases, 10 were allowed and 15 were disqualified; reporting requirements, 256 were allowed and 65 were disqualified. I will not take time to read the other report, but looking at the Annual Report of the Commission which has been recently released, on page 47, table 8 shows the same section for all of 1963. Now, I will just read one on discharge for misconduct. There were 2770 determinations made, and 2079 were allowed, or 75%, these people were allowed benefits. 691 or 24.9% were disqualified.

It is my contention, sir, that the disqualifications written by the Estey Amendments, so-called, were pretty just and they did just what they were designed to do, to tighten some of the loopholes in the law where people were avoiding disqualifications. The theory of using a number of times their weekly benefit amount under disqualifications was adopted, and this is entirely consistent with many other states, although other states may use a number of weeks. If we assume that our benefit levels are going to be less than 50% of wages, then a man has to work so many times that benefit level in order to requalify. In the case of voluntary quit fifteen times he would have to work something less than seven weeks normal productivity, and seven weeks generally considered nation-wide as an average disqualification period.

Q Bernard, you say that the Estey Amendments as they are

labelled, did exactly what they intended to do, am I correct there?

A With one or two exceptions, which have been now corrected.

Q Now, you served on the Thaanum Bill Committee didn't you?

A Yes, sir.

Q You signed the report?

A Yes, sir, I already discussed that.

Q Quite a lot or a little of the Thaanum Bill went into the Estey Amendments did it not?

A No, sir, the Estey Amendments were passed in 1961 --

Q No, but I mean the Thaanum Bill would remove some of the Estey Amendments wouldn't they?

A Yes, if you are relating to disqualifications only.

Q That and other forms.

A We have already submitted that the Thaanum Bill was a compromise bill covering financing, benefits and disqualifications. The entire law was reviewed and adjusted.

SENATOR EDMUNDS: Modified would be a better word.

REPRESENTATIVE JALBERT: Well, but then the fact remains that if it is so that there was qualifications or revision of the Estey Bill through this general review of the law which came up with the Thaanum Bill, then the Estey Amendments were not serving the purpose that they -- for the welfare of the people.

A Only in the light of the relationship to the rest of the law; the Estey Amendments would not have been qualified had we not also tightened up the eligibility in the high quarter

formula and shortened the duration benefits under the plan and provided the changes in refinancing.

Q Well, wouldn't you say that a law that is passed at one session and before the session is over and long before the law goes into effect the committee starts studying it is not too strong a law in the first place?

A The committee only started studying it by legislative order.

Q Which is the very night -- about the same time that the Estey Bill was signed into the law.

A It seems to me that the legislative order was introduced as part of the device or part of the means of discussing the Estey Amendments in that same session.

SENATOR EDMUNDS: For the record, I think at least we should note that the Thaanum Committee was created before the Estey Bill was finally passed, and it was created by a joint order originating in the Senate and was introduced by Senator Mayo.

A Part of that, of course, was to study the impact on the law.

REPRESENTATIVE JALBERT: Would you still recommend to this committee that this committee recommend the passage of the Thaanum Bill?

A There are some things in the Thaanum Bill apparently that the legislature could not see fit to pass, and therefore amended or compromised them in other measures before the legislature. I am not here to tell you what the legislature can do or can't do, this is their prerrogative. Having served in the legislature in the past, I have a great deal of respect for the legislative processes. The fact that the

Thaanum Bill did not pass or that the Brown Bill did not pass or the compromise Thaanum Bill did not pass is not for me to judge. This is a legislative process which you should evaluate, all of the things that have been discussed here today.

Q We need the advice of your wisdom.

A I may comment on these questions that were raised earlier regarding the Brown Bill, these were definitely a compromise bill, and the original Brown Bill was written I believe by an industry group and sponsored by Representative Brown, but they were so amended many, many times before the legislature could finally pass it they no longer represented the original bill.

Q Do you know what kind of a compromise that is? Ha?

A This is one thing that is a subject of discussion.

Q Last Friday, I wanted to go to a good stag. My wife wanted me to stay home. We compromised and I stayed home. That's the Brown Bill to me. No matter how you shape it, it's that way to me.

A Apparently, it was not the legislature, it was vetoed in the Executive Office. I have to make many similar compromises. I would like just briefly to answer another question that was raised by Representative Jalbert, and this is referring to the partials. We do have a solution to the partials and the Thaanum Bill also offered that solution, and most other states have a solution on the partial, and it is not $10.00, it is somewhere between $2.00 and $6.00. The Thaanum Bill

offered a percentage discount based on weekly wages, and the maximum would have been $9.00 and the minimum would have been $2.00, and the average would have been somewhere around $7.00, and if you would like to compromise it at $7.00 which we tried to do with the Brown Bill, I am sure you will find most everybody in agreement.

Q You signed the report that would give up to $7.00.

A Yes.

Q Now then have you changed your mind on that philosophy of the Thaanum Bill?

A Not on the partials. I am opposed to giving $10.00 across the board. The Estey Amendments struck out $10.00 for a simple reason and we have already discussed that today, it was being abused and probably would be abused again if it was put in. Some of the risk of short time work must lie also with the work force. The stockholders have to share it and the management has to share it and I think also that the employees have the same responsibility.

Q Would you also agree with Mr. Dorsky that so far as our paying $10.00 partial, in a lot of instances a man on partials are offenders?

A I have no way of knowing that. I would like to close with one other observation with reference to a statement made by Mr. Bessey this morning. I believe our Maine Employment Security Law is fairly sound. I didn't mention the two unintended areas that went through the legislature and that was in the area of disqualifications for terminating and it

was corrected by the Attorney General, but in my opinion was not corrected quickly enough, it went a whole year before it was, but it was corrected. The Commission itself corrected the interpretation of the application of the word suitable work on referrals and by Mr. Collins those have been corrected. Other states watched that Maine law and there was similar steps taken, Pennsylvania did, Carolina did, and they are telling the world about it.

Now, I have a letter here from the Commonwealth of Pennsylvania, the Office of the Governor, written to a Maine employer. I will leave this with you, and with your permission, I will read it to you. This was written to the President of one of our large Maine manufacturers. "With the enactment of Unemployment Compensation reforms, Pennsylvania has taken one more step to assure that business and industry will have every fair and equitable opportunity to operate profitably in Pennsylvania.

"This action is one of a series taken to make Pennsylvania an excellent place in which to do business to work and to live. Previously, the state had further improved its tax climate; provided a variety of excellent financing tools (including Pennsylvania's famous 100% financing plan); appropriated a record $266 million for new highways this year; enacted a 14-point education program, established a Council of Business and Industry to assure the presentation of business' viewpoint on many state problems, and much more.

"All these things have been done to attract business and industry, because in Pennsylvania we believe that business and industry, not government, provide enduring jobs for our people.

"The enclosed report provides details on our attractive tax climate. A reprint of one of our current ads, also enclosed, will tell you a little about the good life available to your executives in Pennsylvania.

"We want your company here. Our competent professional industrial development staff is prepared to show you how Pennsylvania can mean profit and operating satisfaction for your company." Then it says contact the Secretary of Commerce, and it is signed by William W. Scranton, Governor.

I would show you attached to that two ads sponsored by the State of Pennsylvania based on the unemployment law, in the Wall Street Journal and the New York Times, and their improved tax climate which it describes and their unemployment law, which I would like to leave with you. And I would go back to the basic premise that I left before a committee a year ago in the legislature that it is job opportunities and jobs that we are looking for and not benefits. Unemployment benefits are designed for people temporarily unemployed over a period of unemployment for economic conditions or reasons beyond their control, to contribute to their employment. The purpose of our law which can be met if soundly financed, over the last two years we have just about carried our own weight, the contributions have just about equalled the benefits paid out. The fund currently stands at a

fairly safe level as long as our economy holds, but in order to liberalize this plan or relax the benefits would provide an added tax burden which would again make the employers in the state a little bit less competitive. I would like to leave these with you and I would be glad to answer any questions.

CHAIRMAN BROWN: Thank you.

SENATOR HINDS: Mr. Frost, I would like to ask you a question. What does the Commission figure a safe figure the fund should remain at?

MR. FROST: There are several methods of computing what is a safe reserve. It has been observed in the past that one and one-half times the highest pay-out, which was in 1957 and 1958 was somewhere around $18 1/2 million which would make the minimum safe reserve on that basis around $28 to $29 million, $28,400,000. That would be one and one-half times the 18.9 million we paid out during that period.

SENATOR EDMUNDS: Off the record.

Off Record

CHAIRMAN BROWN: Anyone else wish to testify? I have here a letter from the office of Linnell and Choate, Attorneys at Law, Auburn, Maine, addressed to me.

"Since it is doubtful that I will be able to be present to express in person my views with respect to the Employment Security Law at the public meeting on Wednesday, I would like to do so by means of this letter.

"My concern is primarily with the language disqualifying

an employee if he has left his employment "'voluntarily'" and without good cause attributable to his employment."' My first real exposure to the statute occurred in litigation involving the interpretation of this language. Although my client will derive no benefit from any changes which you may decide upon, I have been sufficiently disturbed by the ambiguity of this language and the unfairness which it can create to express my criticism even though I no longer have a vested interest in the matter.

"In the first place, it has long been a matter of doubt whether the termination of employment had to be both voluntary and attributable to employment to disqualify or whether it was enough that one of these conditions be met. Cases in other jurisdictions have divided on this question. Our own Commission formerly held that if the quit was involuntary there was no necessity for going further and considering whether it was also attributable to employment. See e.g. C.C.H. Unempl. Ins. Rep., Me. A, VL-495-27, p. 22, 102 (App. Trib. 1956). Later it began to hold that both conditions must be met. Since a recent contrary view was expressed by the Attorney General's office, the Commission has, I understand, reverted to its earlier interpretation. If both conditions must be met to disqualify, the language could be clarified by amending it to read "'voluntarily and without good cause'". If either ground is intended to disqualify the language could be changed to read "'either voluntarily or without good cause.'"

"I would suggest, however, that thought be given to amending the statute to read simply "'left his regular employment without good cause'". The present law penalizes people such as those who become sick or because of urgent family necessity leave their work and later return to find the job gone and no other to be had. Neither employer nor employee is to blame for this situation which is attributable solely to economic conditions. The general fund should pay without affecting the employer's experience rating.

"The unfairness of the present law is further illustrated by the case with which I have been connected. My client was laid off at Raytheon in Lewiston. She got herself a job with Fairchild in South Portland doing similar work. Because of an old back injury, however, the travelling from her home proved to be too much for her and she was obliged to quit. She was held disqualified for benefits because the quit was held not attributable to her employment. Ironically, because of her physical condition and the long travel time, the job would probably not have been classified as "'suitable work'" under the statute by the Commission in the first place. Thus, as it turned out, my client would have been better off to have sat at home and collected benefits after leaving Raytheon rather than going out and finding herself a job and taking the risk that it wouldn't pan out.

"It seems to me that the proper test to be applied is that given by Kemper in an article entitled "'Disqualification for Voluntary Leaving and Misconduct'" appearing in

55 Yale Law Journal, p. 150 (1945). He suggested that the award of benefits should be tested by whether the conduct of the employee "'is consistent with a genuine desire to work and to be self-supporting, or whether it indicates that the claimant is seeking to take advantage of his benefit rights in order to have a vacation from work.'" Defining disqualification as "'leaving without good cause'" would seem to accomplish this." This is signed by G. Curtis Webber.

Now is there anyone further who wishes to testify at this time? If not, we will declare the hearing closed and take this matter under advisement.

FOREST RESEARCH PROGRAMS

> ORDERED, the House concurring, that the Legislative Research Committee examine the actions of the National Congress with respect to federal appropriations made available under the McIntire-Stennis Act, particularly with respect to federal matching funds for the State of Maine, should the same become available for projects concerning forest research programs, including but not limited to capital construction projects, and further that the decisions reached by the Legislative Research Committee be communicated to the Governor and Council for such action as they may take to implement such recommendation, by use of the Contingent Fund.

The purpose of the McIntire-Stennis Act is to provide two major benefits: 1) research; 2) financial assistance to graduate students to do research in forestry. The Maine Legislature has considered the possibilities of a forest products laboratory on several occasions, with an all-out attempt to obtain one back in 1945-47. Interested people have expressed a need for more research in forestry and forest products, but the needed funds haven't been available. Federal aid in forest fire control has worked well beginning back in 1910 and expanded in 1923 with the passage of the Clark-McNary Cooperative Aid Law. The McIntire-Stennis Act is patterned after the Clark-McNary law and its formula is designed to provide major help to forested states like Maine. It is also designed to assist forestry schools in low income states to improve their entire program.

The benefits of the McIntire-Stennis Act to Maine are as follows:

1. It will provide fifty percent matching funds to help obtain and maintain a good forest research and teaching

staff. In addition to the staff, funds can be used for required research equipment. The law provides a most logical approach toward a state forest research center.

2. Funds can be used to hire and help finance graduate assistance in research. This is a good means of training students and doing research under a competent staff.

3. The use of McIntire-Stennis funds for the two programs will also strengthen undergraduate training in forestry.

Forests provide one of the State's greatest source of raw material for industrial development. The competition in wood products from other states with large forest resources is great as well as competition from wood substitutes. The State of Maine requires a good research program and well-trained personnel to meet this competition. Such states as Oregon, Washington, Idaho, Georgia and California, with large forest resources, have major public forest research programs operated in connection with their forestry schools. McIntire-Stennis funds can help Maine establish a much needed forest research center and training program.

The Legislative Research Committee has carefully examined Federal appropriations under the McIntire-Stennis Act, with particular emphasis on Federal matching funds available to the State of Maine. The Committee makes no specific recommendation in this regard in the absence of a definite indication as to the amount of funds eventually needed by the State for full participation under the Act. The Committee feels that the purposes of the Act will have a decidedly beneficial effect on

the forest industry and economy of the State and that the Legislature should be in a position to match such Federal funds as they become available. There is no need, however, for the State to act until the extent of these funds is known.

HIGHWAY USER TAXES

RESOLVE, Authorizing a Review of Maine Highway User Tax Study (R., 1963, c. 68).

Maine Highway User Tax Study; State Highway Commission authorized to review. Resolved: That the State Highway Commission arrange to have a review made of the Maine Highway User Tax Study, which study was made by Wilbur Smith and Associates, Consulting Engineers, of New Haven, Connecticut and filed with the Legislative Research Committee by the State Highway Commission on December 7, 1960, the review to be made by the Planning and Traffic Division of the Maine State Highway Commission or by consulting engineers to be employed by the commission. The State Highway Commission is to file with the Legislative Research Committee a report containing a review of the Maine Highway User Tax Study before November 1, 1964. The Legislative Research Committee is directed to transmit the report, with any recommendations it wishes to make in regard to the review, to the 102nd Legislature before January 15, 1965.

The State Highway Commission was directed, under R., 1963, c. 68, to review the 1960 Maine Highway User Tax Study and file a report with the Committee for transmittal to the 102nd Legislature.

This report, entitled, "Highway Needs and Finance in Maine", has been completed by Consulting Engineers employed by the State Highway Commission, and copies will be made available to the members of the 102nd Legislature.

MILITARY AND NAVAL CHILDRENS HOME

> ORDERED, the House concurring, that the Legislative Research Committee be directed to study the program of the Military and Naval Childrens Home located in Bath, Maine. In so doing, the efficiency, the adjustment of the child, the contribution of the area, the physical plant and the overall contribution to the State and departments involved shall be studied and the results reported to the 102nd Legislature.

The Legislative Research Committee, under this directive, has studied the program of the Bath Military and Naval Childrens Home. The Committee held one public hearing during the course of its study, on November 20, 1963, at which time a number of interested persons appeared or filed statements. As the study progressed, there were also consultations with the Commissioner of Mental Health and Corrections and with members of the Department of Health and Welfare staff. The final meeting of the Committee relative to the study was held on November 23, 1964.

On the basis of its findings, the Committee feels that the Military and Naval Childrens Home, while serving a useful purpose since 1866, at the present time serves little or no purpose under the Department of Mental Health and Corrections which is charged with the correction and custody of offenders sentenced by the courts and with the rehabilitation of the mentally retarded and mentally ill.

The Commissioner of Mental Health and Corrections, upon a review and evaluation of the United States Department of Health, Education and Welfare (which is appended to this report), has recommended that the Home be transferred to the Department of Health and Welfare. The Legislative Research Committee accepts

this recommendation with the earnest conviction that the Child Welfare Division of the Department of Health and Welfare, with its more than 2,450 State children, can certainly make better use of the Home and its facilities.

APPENDIX

MILITARY AND NAVAL CHILDREN'S HOME

The Commissioner, Maine Department of Mental Health and Corrections, requested Regional Child Welfare Representative, Children's Bureau, Department of Health, Education, and Welfare, to review the program at the Home and make recommendations which might be helpful in evaluating the future of the Home.

In planning for this study during an initial conference with the Commissioner and Superintendent of the Children's Home, it was agreed that responsibility for review of fire, safety and sanitation would be carried out by appropriate State or other officials who had competence in these areas.

Changing conditions and changing times influence programs to help children. Among these are: the full orphan has almost vanished; the half-orphan is diminishing relatively; economic insurance and assistance programs are reducing the number of children needing foster care because of economic breakdown in families; children are or should be reached earlier in their own homes through family counseling, protective services and community resources, such as day care and homemaker services; there is increased emphasis on intensive work with parents to rehabilitate the child's own home or to place the child in a new home through adoption. More children needing placement outside their own homes come from socially and psychologically broken homes which may have had a serious effect on the child's growth and behavior.

Increased knowledge from special studies and experience has shown that no one type of foster care can meet the needs of all children who must be removed from their own homes because of the varying personalities of children and the range of problems and situations which make foster care necessary. Therefore, foster family homes - especially boarding homes - must be available for those children whose needs can be met best in a family setting. Special foster family homes need to be recruited for emotionally disturbed children who can still make an adjustment in the community.

For those children who cannot relate to a family for a variety of reasons, different types of group care must be available, such as small specialized group homes and residential treatment centers for emotionally disturbed, mentally retarded, and other handicapped children, in addition to institutions for certain dependent and neglected children in special situations or with special needs.

At the present time, as a part of a total community Child Welfare program:

1. Institutions are being asked increasingly to serve the child who needs to be removed from family living because his behavior or condition is, at the moment, not treatable or tolerable in the home or foster home, even when maximum use is made of community resources in his behalf.

2. In order to properly serve these children, institutions are being asked to provide individualized professional services integrated with more constructive group influences - and both closely related to what the child needs, and what is happening in his family.

3. In addition, institutions continue to be used for some dependent children who resist living with foster families for a variety of reasons including close attachment to their own parents, distrust of dependent relationships with any parent persons, et cetera. This is particularly true for certain pre-adolescent and adolescent children.

   Similarly, some parents reject foster family care for their child because it threatens their own parental role. (e.g., "I won't risk having any family take my child away from me psychologically.") This attitude may persist even with casework interpretation and reassurance.

In accord with the best research knowledge we have today: 1) preschool and younger children should not be placed in group settings; 2) it is of importance in most cases that there be continued relationships with the child's own family; 3) the selection of the type of placement should be based on a sound social study and diagnostic evaluation of the needs of children; and 4) placement should not be seen as an end in itself but as a part of a long range plan. As there are changes in situations or needs and behavior of children and their families, a change in type of placement should be made as appropriate to the needs of children. The focus should be on preparation for living in families in the community and adult self-sufficiency.

<u>The Military and Naval Children's Home - is it an asset or an outmoded liability? Does the Home serve a useful purpose?</u>

The initial focus was on the children now placed at the Children's Home. On March 31, 1964, 25 of the 37 children at the Home were the responsibility of Child Welfare Services, Maine Department of Health and Welfare. Seventeen children were referred to the Home by Child Welfare. Services and legal responsibility for eight children already at the Home had been given to Child Welfare Services by the Court. These eight children were accepted upon request from parents at an earlier date.

There are five additional children whose families are known to the Department of Health and Welfare, since other children

in the family are with their mother receiving Aid to Families with Dependent Children. Three of these children were accepted upon request of mother and two were referred by New England Home for Little Wanderers.

The remaining seven children were accepted at the Home as follows: 3 at the request of mother, who said she had plans to return to prior home in North Carolina; 1 referred by a Public Health nurse; 1 at request of an elderly father; 1 referred by police matron; and 1 who has been in long time care at the Home.

Although Child Welfare Services, Maine Department of Health and Welfare, has placed children at request of parents, this has been limited by actual appropriations rather than a legal limitation. The children's home has had considerable flexibility in accepting children without court commitment. Placement without commitment is desirable if there is an initial intake study for either placement in foster family or group care.

All children at the Home are or would usually be children who are the responsibility of Public Child Welfare Services. A review of cases accepted upon request from parents indicates lack of service for helping parents to assume responsibility, rather than placement or in working out plans after placement for rehabilitation of family. These children tend to remain for longer time care.

A review of the background and characteristics of the children in the home was made to consider whether a group placement was a satisfactory plan.

The children ranged in age from 3 to 20 years. There were 18 boys and 19 girls. There were 9 boys and 10 girls 12 years of age and over. There were an additional 6 boys between 10 to 12 years of age, and 3 girls of this same age range. Thus, there were 28 children 10 years of age and over in the Children's Home. Six of the younger children were members of large families of children placed at the Home. Two preschool children were in the Children's Home on a temporary basis with their mother working at the Home. This plan is to be discontinued.

One family of 7 children was referred by Child Welfare Services pending court hearing and development of further plans for the children. For the other family of 6 children, who are now the responsbility of Child Welfare Services, plans are in process for placement of 3 younger children in foster family care.

Group placement was recommended for 2 children after study at Sweetser Home; 2 girls who need education in special classes and who had failed in foster homes are making a good adjustment for the first time; an adolescent girl causing conflict between a man and his wife who brought the girl from another State is

in Home pending exploration of own family situation in another State; several children are at the Home pending placement at the Sweetser Home for further study; another boy was unable to accept foster family care-he was in two homes in six weeks; 4 children are in temporary care pending divorce-custody action; 1 boy has a special medical problem; another was enuretic and known to a community Mental Health Clinic before placement at the Home. Some of the adolescents in the Home have older siblings in training schools which is important only as it relates to need for right kind of help now for these children in early adolescence.

Four children were referred by the Naval Base while the mother was hospitalized for three weeks. These children returned home and were not in the Home on March 31, 1964.

The major purposes for group placement were: temporary care pending development of other plans, court hearings or in emergency situations; group care recommended by a residential treatment center or after special study; placement of children unable to accept living in a family setting; and for pre-adolescent and adolescent children.

Therefore, the Children's Home is in general providing care for children who need placement in a group setting for a period of treatment or pending the development of more permanent plans. It is serving a valuable purpose in meeting the needs of children. One major gap is in availability of social services for intake for all children and for continued work with own families and the children.

The Children's Home is an integral part of the community in Bath, Maine, and has had active support and acceptance throughout the years. This is a definite strength which has great value for children. It has what group facilities in other places are trying to develop.

There is considerable flexibility in the present program at the Children's Home, in accordance with the interest, capacity and needs of children. Children attend local public schools. They have friends in the community and they are allowed to visit, and the friends visit the children at the Home. The children participate in community activities, such as the Little League, 4-H Club, church, et cetera. There seems to be a warm, helpful, individualized approach in the program with firmness in certain expectations and controls which provides a security many of these children have lacked in their prior life experiences.

The size of the institution is another definite asset. The Child Welfare League of America in its Standards for Services of Child Welfare Institutions, issued in 1964, recommends that generally it is desirable for an institution to provide services for no more than fifty children. There is a definite trend in

in programs of group care for smaller group units located in various sections of the State, rather than a large institution serving the whole State. In some less populated areas, and to meet special needs, there has been the development of small agency operated, family-type group homes rather than a larger group facility.

The families of the children at the Home have residence within a radius of approximately sixty miles from Bath. There are eight children from Bath; the others are from Naples, Winslow, Portland, Waterville, Rockport, Augusta and Topsham, Maine. Thus, contacts could be maintained with own families.

The program at the Children's Home was reviewed as related to the Standards for Services of Child Welfare Institutions, published by the Child Welfare League of America. The care given the children has many positive aspects; however, any continuation of the institution should include more emphasis on treatment through professional supervision and staff services, which could strengthen both the use of the group to help children with their problems and individualized services to help some of these troubled and troublesome children. To illustrate, an attractive 12 year old boy with average ability, at the time of my second visit, spoke of his concern about his separated parents, the older members of his family in correctional institutions and about how well he was doing-yet he was saying: "help me," "who am I," "can I succeed whenother members of my family seem to have failed?" Now is the time rather than expenditures later.

The Children's Home is no longer providing long time care for younger children. It is providing care primarily for pre-adolescents and adolescents and some younger children with special needs. This change needs to be recognized in staffing and services provided.

The physical structure of the building poses problems in constructive program planning. The large dormitories at the Children's Home leave much to be desired. Newer institutions are providing a sufficient number of bedrooms to accommodate from one to four children each.

The children do not have in the bedroom an individual chest of drawers, a table or a desk, or an individual closet with clothes racks and shelves within easy reach. Plans have been made for the children to have their own lockers off the living room on the first floor. They have a special place within the sewing room for their clothes. Some older homes have remodeled and made effective use of ready-built units which not only divide a dormitory into cubicles, but also include in their construction dressers, closet or locker space, and shelves. Plastic bricks which admit light, but are not transparent, offer another means of dividing a dormitory or living quarters. Children need to feel "This is my place," I am an individual and I am

responsible, I will also respect other individuals and their rights.

Plans have been made for several small groups of adolescent girls to have their own living room. This provides for some degree of privacy and individualization where they can learn to assume responsibility for themselves and in relation to others.

One dormitory is located on the third floor. This is contrary to the usual standards for children's institutions. At the time of my first visit to the Home, there were four large, light rooms formerly an infirmary, which were not in use on the second floor. It would seem that there are difficulties in heating these rooms during the winter season. By the time of my second visit, one room was in use as living and sleeping quarters for three children and another for a boy who needed to be away from the group for a portion of the time each day for his own protection as well as the protection of others. These rooms are available since the Home has moved along with current thinking under medical direction that children should be cared for in surroundings that are familiar to them, so long as this is medically and socially desirable. These rooms do offer possibilities for adaptation; also, if some of the staff now having quarters on the second floor could either live out of the Home, or on the third floor, there is a possibility of adapting the present quarters as more suitable living units for the children.

A minimum standard for bedrooms should be 700 cubic feet of space per child. Beds should be three feet apart on all sides. Further analysis is needed of this particular aspect of the physical planning.

There is excellent indoor and outdoor space in the gymnasium, and in the large grounds surrounding the institution, for active play. There is less space for quiet activities-arts and handcraft-which would help the children by enriching their activities and which would allow for the development of individual interests. Some of these children come from families where there have been limited opportunites for learning and development.

The present program is able to operate because of the ability and dedication of the superintendent and assistant superintendent of the Home. In addition to the responsibilities carried during the day, they carry complete responsibility from 9:30 in the evening until 7:00 in the morning, seven days a week. Several staff members do live in the building and may be called in an emergency. Even if a communications system is installed, there should be one person on duty for the night time period. This is important if the use of the third floor dormitory is continued.

Schedules for child care staff have been carefully worked out so there will always be two houseparents on duty. However, at peak periods, for 37 children this means a group of more than 10 children for each staff member. It was observed that the superintendent, assistant superintendent, and other staff assumed some responsibility at these times. Substitute staff is available in community for short time employment in emergencies.

The age of some of the staff at the Children's Home is a factor only as it relates to physical stamina, flexibility, and ability to work with children creatively in groups, as well as an ability to handle deviant behavior with firmness, yet helping the child to develop more constructive attitudes and behavior as a part of the treatment program.

The Children's Home in its present placement in State structure has been somewhat isolated from other staff in the Child Welfare Services program. There seems to be a good relationship between the Child Welfare worker in Bath and the superintendent of the Children's Home. The superintendent has been participating recently in group meetings of staff from institutions under voluntary auspices which are licensed by Child Welfare Services, Department of Health and Welfare, as meeting standards established for such licensing.

The Military and Naval Children's Home, established in 1866 in Maine, remained under the jurisdiction of the Department of Institutional Services and later under the Department of Mental Health and Corrections. It has thus been separate from and not an integral part of the Public Child Welfare Services program in the State.

An institution in Rhode Island, established in 1884, has been an integral part of and administered by Child Welfare Services, Rhode Island Department of Social Welfare. The program has changed with changing needs and the outmoded buildings have been replaced by modern, one-story, brick buildings for eighteen children, with small bedrooms for two to four children. The state is small in geographic area and the Children's Center has units for various groups within the larger complex of the institution. Mental Health and casework staff provide regular individualized services, working as a team with the child care and other staff.

The Connecticut Department of Public Welfare has also retained an institution as a part of its public Child Welfare Services program to meet the needs of a special group of children. There is a recognized gap in other States because of the lack of group facilities, especially for pre-adolescent and adolescent children.

The per capita cost, $2,322.61 in fiscal year 1962-1963, is

at the lower range of costs for group care in the country. Suggestions made earlier would increase per capita costs. However, it is also costly to try to place children in foster family homes when the need for group care is apparent. It might cost less now to place children in foster family homes but more later if children become delinquent or develop serious mental and emotional problems.

The Children's Home, administered by the Department of Mental Health and Corrections, can make use of quantity purchasing and services for other aspects of the operation of the Children's Home. However, the program would be more appropriately administered as an integral part of the Child Welfare program, Bureau of Welfare, Maine Department of Health and Welfare, cooperating with the Department of Mental Health and Corrections for certain quantity buying or other institutional upkeep services as well as Mental Health services as needed.

Special appreciation is expressed to the superintendent and staff of the Children's Home who were willing to give information requested and to allow full freedom for contact with children and for observation any place, any time.

General Summary

The Children's Home at Bath, Maine, is serving an appropriate and useful purpose in helping children who need group care. It is definitely an asset, rather than an outmoded liability.

The purposes of the Home and children served are those who are or should be a part of the Public Child Welfare Services program, Division of Child Welfare, Bureau of Welfare, Department of Health and Welfare.

Institutional care for the children now at the Children's Home should be provided as part of the total Child Welfare Services program in behalf of children. There should be professional direction and plans for an intake study to determine if group care is the appropriate form of care and treatment for the particular child with joint decision by person in charge of group as to whether children can be accepted at a particular time; there should be individualized work with children, as well as help to children through group and community living; there should be continued work with the parents of children; and plans for the termination of group care as children are ready to move to a family home.

The size of the Children's Home and the participation of the community in meeting the needs of children is a great asset.

Further evaluation of the building and possible remodeling is indicated in order to strengthen the group living program and to determine the number of children who can be placed. The small community-based Children's Home is in accord with current

trends for group care.

The total needs of the Public Child Welfare program would need to be evaluated by the Department of Health and Welfare to determine whether the program of the Children's Home should have priority in relation to other unmet needs.

OUT-OF-STATE CREDIT FOR RETIREMENT SYSTEM

> ORDERED, the Senate concurring, that the Legislative Research Committee is directed to study the subject matter, Bill: "An Act Relating to Out-of-State Credit for Service of Members of Maine State Retirement System," introduced at the regular session of the 101st Legislature, to determine whether the best interests of the State would be served by the enactment of such legislation; and be it further
>
> ORDERED, that the Committee report the results of its study to the 102nd Legislature.

The Legislative Research Committee has held several conferences with members of teaching and State employee groups and representatives of other bodies having an interest in the subject matter of agreements between States for the transfer of retirement service credits. The Committee, after due consideration, believes that while there may be certain benefits derived by the State of Maine from this type of program, the situation, if such a program were adopted, could be such that there might be a depletion in assets of the Maine State Retirement System. For this reason, among others, the Committee feels that this is not the time for it to recommend the introduction of a bill to allow the Board of Trustees to enter into such agreements.

Consideration has also been given to the fact that such a step should perhaps require an outside actuarial study; and, as the cost of such a study could conceivably run into many thousands of dollars, it is the opinion of the Committee that the expenditure of such sums, as might be necessary, should not be recommended at this time.

The Legislative Research Committee recognizes that

legislation permitting teachers, State employees and members of participating districts to have the right to transfer their credits between the State of Maine from and to other States has merit; but, in view of the possibility that the risks involved could be greater than the good obtained, does not recommend the enactment of such legislation.

PESTICIDES UPON FISH AND WILDLIFE

> ORDERED, the Senate concurring, that the Legislative Research Committee is directed to study the effect of pesticides upon fish and wildlife and to report its findings to the 102nd Legislature or to any special session of the 101st Legislature.
>
> ORDERED, the Senate concurring, that the Legislative Research Committee is directed to study the subject matter contained in the Bill "AN ACT Providing for Permits from Commissioner of Inland Fisheries and Game for Aerial Spraying of Chemical Insecticides," Legislative Document No. 1620, introduced at the first special session of the 101st Legislature to determine whether the best interests of the State would be served by the enactment of such legislation; and be it further
>
> ORDERED, that the Committee report the results of its study to the 102nd Legislature.

The Legislative Research Committee, by joint orders of the 101st Legislature, was directed "to study the effect of pesticides upon fish and wildlife" and the need for regulation of "aerial spraying of chemical insecticides." A well attended public hearing was held by the Committee on March 10, 1964.

The Committee, because of the fact these orders involved a technical study well beyond the resources of the Committee, at an executive session the same day, referred the problem to a fifteen man committee for study and preparation of necessary legislation.

The intent of the Committee, in assigning the study, was "to form a . . . (group) as representative as possible of the major interests affected, to explore, evaluate and make recommendations for specific legislation for the control of pesticides which the Legislative Research Committee . . . (could) study and report to the 102nd Legislature."

The Pesticides Committee was named by the Chairman of the Legislative Research Committee on May 14, 1964.

The work of the Pesticides Committee culminated in a recommendation for specific legislation which is submitted with this report as the majority recommendation of the Legislative Research Committee. The recommendation does not have the approval of Senators Edmunds and Wyman, and Representatives Albair and Humphrey.

The background for the recommendation is found in the minutes of the Pesticides Committee which have been included, for the purposes of information, as an appendix to this report.

The Legislative Research Committee is appreciative of the assistance of the Pesticides Committee in preparing the legislation for pesticides control; and, because of the inherently dangerous nature of the chemicals and practices involved, urges the adoption of this legislation at the forthcoming session of the 102nd Legislature.

AN ACT Establishing a State Board of Pesticides Control.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1.R.S., T. 22, c. 258, additional. Title 22 of the Revised Statutes is amended by adding a new chapter 258 to read as follows:

'CHAPTER 258

PESTICIDES CONTROL

§1451. Purpose.

The purpose of this chapter is to regulate, in the public interest, the application of pesticides.

§1452. Board of Pesticides Control.

There is established a Board of Pesticides Control to be composed of the Commissioner of Agriculture, the Commissioner of Health and Welfare, the Forest Commissioner, the Commissioner of Inland Fisheries and Game, the Commissioner of Sea and Shore Fisheries, the Chairman of the Public Utilities Commission, the Chairman of the Highway Commission and 2 public members to be appointed by the Governor for a term of 3 years, provided that in the initial appointment, one member is to be appointed for a term of 2 years. The commissioners of the state departments may appoint agents to serve in their absence. The board shall elect annually a chairman from its own membership. The public members shall be entitled to reasonable compensation for expenses incurred in traveling and attending board meetings.

§1453. Definitions.

The listed terms as used in this chapter are defined as follows, unless a different meaning is plainly required by the context:

1. Aircraft. "Aircraft" means any machine or device used or designed for navigation of, or flight in, the air.

2. Board. "Board" means the State Board of Pesticides Control as established in section 1452.

3. Custom application of pesticides. "Custom application of pesticides" means any application of pesticides by aircraft or ground equipment for hire.

4. Fungi. "Fungi" means all nonchlorophyll-bearing thallophytes, that is, all nonchlorophyll-bearing plants of a lower order than mosses and liverworts, including but not limited to rusts, smuts, mildews and molds.

5. Fungicide. "Fungicide means any substance or mixture of substances intended for destroying or repelling any fungi or mitigating or preventing damage by any fungi.

6. Ground equipment. "Ground equipment" means any machine or device, other than aircraft, for use on land or water, designed for, or adaptable to, use in applying pesticides as sprays, dusts, aerosols, or fogs, or in other forms.

7. Herbicide. "Herbicide" means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any weed.

8. Insect. "Insect" means any of the numerous small invertebrate animals generally having the body more or less

obviously segmented, for the most part belonging to the class insects, comprising 6-legged, usually winged forms, including but not limited to beetles, bugs, bees, flies and to other allied classes of arthropods whose members are wingless and usually have more than 6 legs, including but not limited to mites, ticks, centipedes and wood lice.

9. Insecticide. "Insecticide" means any substance or mixture of substances intended for destroying or repelling any insect, or mitigating or preventing damage by any insects.

10. Pesticide. "Pesticide" means any substance or mixture of substances:

A. Intended for destroying or repelling, mitigating or preventing damage by any insect, fungus, weed or other form of plant or animal life which the board declares to be a pest; or

B. Intended for use as a plant regulator, defoliant or desiccant.

11. Weed. "Weed" means any plant which grows where not wanted.

§1454. Licenses.

1. Application. No person shall engage in custom application of pesticides within this State at any time without a license issued by the board. An annual fee of $10 shall be collected by the board for each license. Application for a license shall be made to the board. Each application for a license shall contain such information regarding the applicant's qualifications and proposed operations and other relevant

matters as required by the board. The board shall maintain a complete and up-to-date list of licensed applicators and shall annually publish all regulations in effect.

2. Examination. The board may require the applicant to show, upon examination, that he possesses adequate knowledge concerning the proper use and application of pesticides, and the dangers involved and precautions to be taken in connection with their application. If the applicant is other than an individual, the applicant shall designate an officer, member or technician of the organization to take the examination, such designee to be subject to the approval of the board. If the extent of the applicant's operations warrants it, the board may require more than one officer, member or technician to take the examination.

3. Restrictions. If the board finds the applicant qualified and if the applicant files the bond required under subsection 5, the board shall issue a license for the calendar year to perform application of pesticides within this State. The license may restrict the applicant to the use of a certain type or types of equipment or materials if the board finds that the applicant is qualified to use only such type or types. If a license is not issued as applied for, the board shall inform the applicant in writing of the reasons therefor.

4. Suspension. The board may suspend, pending inquiry, for not longer than 10 days, and, after opportunity for a hearing, may revoke or modify the provisions of any license issued under this section, if it finds that the licensee is no longer

qualified, has engaged in fraudulent business practices in the application of pesticides, or has made any application in a faulty, careless, or negligent manner, or has violated this chapter or regulations made thereunder.

5. Bond. The board shall require a liability bond in an amount and with surety satisfactory to the board, from each applicant, under such rules and regulations as it may prescribe. Any person injured by the breach of any such obligation shall be entitled to sue on the bond in his own name in any court of competent jurisdiction to recover the damages he may have sustained by such breach.

6. Nonresidents. The board may issue a license, without examination, to a nonresident who is licensed in another state substantially in accordance with this chapter.

7. Appeal. Any person aggrieved by any action of the board may obtain a review thereof by filing in the Superior Court within 30 days of notice of the action, a written petition praying that the action of the board be set aside. A copy of such petition shall forthwith be delivered to the board, and within 30 days thereafter the board shall certify and file in the court a transcript of any record pertaining thereto, including a transcript of evidence received, whereupon the court shall have jurisdiction to affirm, set aside or modify the action of the board, except that the findings of the board as to the facts, if supported by substantial evidence, shall be conclusive.

§1455. Inspection.

The board may provide for inspection of any equipment, device or aparatus used for application of pesticides and may require proper repairs or other changes before its further use for application.

§1456. Materials and Methods of Application.

The board may, by regulation after public hearing, designate:

1. Critical areas. Land and water areas in which a critical situation has developed, appears to be developing or should not be allowed to develop relative to the use of pesticides.

2. Limitations on use. Those pesticides which are not to be used in areas described in subsection 1, and specify the limitations imposed on those pesticides which may be used.

3. Unsafe practices. Those practices which are not in accordance with the safe and proper use of pesticides.

In issuing such regulations, the board shall give consideration to pertinent research findings and recommendations of other agencies.

§1457. Emergency situations.

The board may without public hearing suspend for a period not to exceed 10 days, any existing regulations relative to the use of pesticides in specific land and water areas in which an emergency situation has developed, appears to be developing or should not be allowed to develop.

§1458. Reports.

The board may, by regulation, require licensees to maintain such records and furnish reports giving such information with

respect to particular applications of pesticides as it may deem necessary.

§1459. Regulations.

The board may, after public hearing, make regulations for carrying out this chapter, provided that the regulations shall not be inconsistent with regulations issued by this State or by the Federal Government respecting safety in air navigation or operation of aircraft. Before issuing regulations directly related to any matter within the jurisdiction of any other official of this State, the board shall consult with that official with reference thereto.

§1460. Information.

The board, on its own or in cooperation with others, may publish information regarding injury which may result from improper application or handling of pesticides and methods and precautions designed to prevent such injury.

§1461. Penalties.

Any person who violates this chapter, or the regulations issued hereunder, shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than $100 for the first offense and not more than $500 for each subsequent offense. Each day that any person operates without a license required by this chapter shall be considered a separate offense.

§1462. Exemptions.

1. Buildings and vehicles. This chapter shall not apply to application of pesticides within or under buildings or within

vehicles, ships, aircraft or other means of transporting persons or property by land, water or air. The use of pesticides in or under farm buildings other than dwellings shall continue to conform to existing state and federal regulations.

2. Forestry. This chapter shall not apply to applications made by the Forestry Department under the authority contained in Title 12, chapter 213.

3. Agriculture. The board may by regulation exempt from the licensing provisions of section 1454 casual agricultural applications by bona fide farmers.

§1463. Right of entry.

The board or its agents may enter upon any public or private premises at reasonable times in order to have access for the purposes of inspecting any aircraft or ground equipment subject to this chapter.

§1464. Cooperation.

The board may cooperate with any other agency of this State or its subdivisions or with any agency of any other atate or of the Federal Government for the purpose of administering this chapter and of securing uniformity of regulations.

§1465. Enforcement.

The state agencies listed in section 1452 shall designate the enforcement personnel.'

Sec. 2. Appropriations. There is appropriated from the General Fund to the State Board of Pesticides to carry out the purposes of this Act the sum of $2,000 for the fiscal year ending June 30, 1966 and the sum of $2,000 for the fiscal year

ending June 30, 1967. The breakdown shall be as follows:

STATE BOARD OF PESTICIDES	1965-66	1966-67
Personal Services	$ 500	$ 500
All Other	1,500	1,500
Capital Expenditures	-	-
	$2,000	$2,000

APPENDIX

PESTICIDE MEETING #1

The first organizational meeting of a Pesticide Committee was held Tuesday, July 7, 1964, in the Dept. of Agriculture conference room, called to order at 10:00 a.m. by E. L. Newdick, Commissioner of Agriculture, chairman.

Senator Dwight A. Brown of Ellsworth, chairman of the Legislative Research Committee, appointed the chairman and named a committee earlier this year, to work with his group on pesticide legislation.

Maine Pomological Society with Rufus Prince, committee chairman, started the "ball rolling" a few months ago, Chairman Newdick related, offering the services of that group to the Legislative Research Committee.

Commissioner Newdick said that he wants "legislation all may subscribe to". The chairman also expressed the feeling that, although the committee has several members, it is not too large. It must represent segments of industry, recreation, etc., he asserted.

The pesticide committee's job is to sell their plan to the Legislative Research Committee, first, it was pointed out.

Upon the motion of Harold Schnurle (CMP) and the second of Ronald T. Speers, Commissioner of Inland Fisheries & Game, it was voted that Chairman Newdick name a committee to study pesticide laws in other states, their workability and acceptance.

Pesticides, fungicides and herbicides (growth regulators)

were discussed in the same breath with roadside spraying, fish kill and crop dusting.

Robert L. Dow of Sea & Shore Fisheries made the motion that a Problems Study Committee be set up by Chairman Newdick, its members to evaluate the problems of each segment of the larger committee, also studying terms and definitions. This was seconded by Frank Chapman of the Maine Municipal Assn. and so voted.

Public relations was termed a most important phase of this pesticide legislation work, perhaps requiring a separate committee.

Chairman Newdick cited the work of the Agricultural Experiment Station at Orono, which has helped the Dept. of Agriculture to keep better informed of the new developments in pesticides, and the control of side effects.

More activity on pesticide control is evident at all levels of government, he indicated, mentioning the Ribicoff and Neuberger Bills recently passed by Congress.

References on pesticides available were noted, namely: copies of Legislative Bills, the NACM* Pesticide Booklet and the New York Symposium Report on Pesticides.

Present at this meeting were Sen. Clyde Hichborn, member, Legislative Research Committee; Stewart Smith, Maine Potato Council, Corinna; William A. Hatch, Maine Publicity Bureau, Augusta.

Guy E. Twombly, PUC; Ben Pike, Maine Timberlands, Augusta; Ronald T. Speers, Commissioner, Inland Fisheries & Game; Dr. Elmer Campbell for Dean Fisher, Commissioner, Health & Welfare;

Ronald Green, Commissioner, Sea & Shore Fisheries; Robley Nash, Entomologist, for Austin H. Wilkins, Commissioner, Maine Forest Service.

E. L. Newdick, Commissioner, Dept. of Agriculture; John T. Boyd for Robert O. Elliot, dir., Recreational Promotion, DED; Ashley Walters, Jr., Maine State Grange, Waldoboro; Rufus Prince, Maine Pomological Society, Turner.

Leo W. Boulanger, University of Maine, Orono; Harold Schnurle, CMP, Augusta; Dr. Alonzo H. Garcelon, Natural Resources Council; Gordon Hunter, State Highway Dept., Augusta; Frank Chapman, Maine Municipal Assn., Hallowell; M. Stetson Smith, Maine Farm Bureau; Clarence Staples, Maine Weed and Brush Control Assn., Augusta; Edward Myers, Saltwater Farms, Damariscotta; Robert L. Dow, Sea & Shore Fisheries; and George W. Bucknam, Deputy Commissioner, Inland Fisheries & Game.

The meeting was adjourned at 11:50 a.m.

Respectfully submitted,

E. L. Newdick
Chairman

*National Agricultural Chemical Manufacturers

REPORT OF PROBLEMS STUDY COMMITTEE JULY 31, 1964

PREAMBLE

The term "pesticide", as a convenient catch-all phrase, has led to innumerable instances of confusion and misunderstanding. It has been coined from the term "pest", meaning anything that is noxious, destructive or troublesome, with the addition of the suffix "cide", meaning to kill, and covers a wide area of activity from the destruction of crop weeds to the control of forest insects, and from the suppression of disease-producing bacteria to the elimination of unwanted fish from streams and lakes.

Because of the lack of specificity inherent in the term "pesticide", its generalized use has brought into contention many materials and methods which have no bearing on the issue under consideration. An effective study of the situation, then, is dependent upon a much more concise definition of the problem, accompanied by the elimination from consideration of many so-called pesticides having none of the reputed side effects which have brought the question into focus.

It is the purpose of this committee, through an examination of the many facets of the question as propounded by individuals whose interests lie in numerous areas of natural and economic importance, to endeavor to clarify the issue.

In this connection it is also essential to bear in mind that the toxicity, or poisonous potential, of a material is likewise a relative matter, both as to the quantity involved and to the type of organism affected. The clarification sought must therefore include an attempt to define the nature of those materials whose use it may be desirable to regulate and to limit deliberations to this specific group of materials.

DEFINITIONS

The term "pesticide" has already been described as a convenient catch-all phrase. It may actually include a number of prefixes used to describe a specific type of material or a specific application of material which may be used for several purposes. Among common terms used to describe control materials are:

herbicides. A descriptive term for materials used to destroy plants -- bushes and trees as well.

algaecides. Used for the removal of algae from both fresh and salt water.

fungicides. Materials used to prevent fungus.

insecticides. Materials used to kill insects.

For the purposes of this study, the sub-committee has limited its considerations to insecticides, fungicides and herbicides. Rodenticides, although highly toxic, appear to be limited in their application in Maine to municipal dumps and household or farm building use.

HERBICIDES

Herbicides are used primarily for roadside brush control as top killers and for weed control purposes. They reduce by 90% or more the cost of roadside clearance and maintenance essential to highway safety and clearance and maintenance of utility rights of way. Labor is not available for hand cutting. Chemical control of brush encourages the spread of low growth cover plants and greatly improves roadside appearance. Herbicides provide the only method for efficient site preparation of burned or other nonproductive lands through killing of inferior or worthless plant species to release the land for growth of valuable tree species. Maine has extensive acreages of land needing such treatment.

RECOMMENDATIONS

A. The Committee recommends that fruit and berries or edible plants which are sprayed under brush control programs be considered unfit for human consumption for public health reasons.

B. The Committee recommends that the height of roadside brush control be regulated.

C. The Committee recommends that the use of arsenicals for aquatic plant control be prohibited; for terrestrial plant control be considered for regulation.

INSECTICIDES AND FUNGICIDES

Within present limitations of knowledge the considered use of insecticides and fungicides is essential to the health and welfare of mankind and the production of food, fiber and wood products. Insecticides provide an economical tool for protection of forest stands from insect depredations. They are used when no other control methods are available and are confined to outbreak situations. In some cases protection also involves resort protection and abatement of public nuisance.

There are two classes of toxic materials; those of high and those of low potential toxicity, further subdivided into materials that have long-term and those that have short-term toxic potential.

The major problem of regulation appears to be concerned with high potential toxicity of long-term effect.

The use of insecticides in particular has created problems:

1. The principal problem is one of people.

2. In the field of public health, the preparation, distribution and use of these materials is hazardous to human life and health through absorption or inhalation or by ingestion of contaminated food or water.

3. Organic phosphates and chlorinated hydrocarbons produce one hundred percent mortality of lobsters, crabs, shrimp and other commercial marine crustacea in trace dilutions under natural conditions.

4. Chlorinated hydrocarbons have been associated with reduced populations and growth rates of game fish in insecticide contaminated areas.

RECOMMENDATIONS

A. The Committee suggests that the secondary effects of insecticides in certain geographical areas may require regulation in order to protect and balance conflicting interests where several facets of the economy may be involved.

CONCLUSIONS

Such rapid development has been made in the whole field of pest control since World War II that products in common use only a few years ago have been replaced by new products. Therefore, the Committee foresees a continuation of this process, aimed toward the development of specific controls for specific organisms, and comes to the conclusion that new products will soon be developed to replace those which are being considered today. This fact emphasizes the need for a continued research program to answer questions on the extent to which these materials and their breakdown products are being concentrated, and what the adverse effects may be on nonselective plant and animal life.

Respectfully submitted,

Robert L. Dow, CHAIRMAN
Robley Nash
Lyndon H. Bond
Frank G. Chapman
Edward D. Johnson

PESTICIDE MEETING #2

Progress reports were aired at a meeting of the Legislative Advisory Pesticide Committee, held Monday, August 3, in the Department of Agriculture conference room, with chairman E. L. Newdick, Commissioner of Agriculture, presiding.

The Pesticide Laws Committee, Clarence Staples, chairman, and the Problems Study Committee, Robert L. Dow, leader, agreed that the principal problem is people.

Earlier this year, Senator Dwight A. Brown of Ellsworth, chairman of the Legislative Research Committee, appointed the chairman and named a committee to work with his group on Pesticide legislation.

Chairman Newdick pointed out that each state has its own problems.

Problems Study chairman Dow revealed that the committee had met twice, solicited statements and confined their recommendations to herbicides, fungicides and insecticides. He cited the A., B., and C. recommendations under Herbicides.

Chairman Newdick warned that "we must get ready to write legislation".

Recent instances of alleged spraying of cattle at Freeport and DDT-carrying fish were discussed.

It was pointed out that the Pesticide Laws Committee must have recommendations for the general legislative committee by September 18.

One cannot stop a person from using materials to kill aquatic plants in ponds, etc., it was agreed. Improper disposal and handling are a problem.

Rufus Prince of Maine Pomological Society asked, "Do you want to write in specific materials or have a regulatory board whose decisions may be altered with time and changes?"

The meeting was in agreement that you must establish authority---guide lines.

Public relations came in for some criticism. There is more misinformation than information, it was asserted. We need more public relations through stories in the daily papers, etc. The Legislative Research Committee needs to be consulted. Timing was singled out as a key factor.

A function of the Problems Committee is to formulate objectives. Steps, leading to Legislative action in the fall, were recommended in this order: objective, enabling act, and Legislative Research Committee.

It was thought that the recommendations of the committees should be taken back to the farmers, for their reaction.

A progress report is in order now, it was thought, while the summer visitors are here. We need to point out the helpful areas of pesticides, it was asserted.

The consensus of the meeting was that a progress report be submitted to LRC Chairman Dwight A. Brown, utilizing both committee reports.

Present at this pesticide session were E. L. Newdick, Commissioner, Dept. of Agriculture; Robert L. Dow, Sea & Shore Fisheries; Clarence Staples, Maine Weed & Brush Control Assn., Augusta; Frank Chapman, Maine Municipal Assn., Hallowell.

Roger Woodcock for Robert O. Elliot, dir., Recreational

Promotion, DED; Leo W. Boulanger, prof. of Entomology, University of Maine, Orono; Gordon Hunter, State Highway Dept., Augusta; Rufus Prince, Maine Pomological Society, Turner.

Edward Myers, Saltwater Farms, Damariscotta; Lyndon H. Bond, Coordinator, Fisheries Research Div., Dept. of Inland Fisheries & Game; Robley Nash, Entomologist, for Austin H. Wilkins, Commissioner, Maine Forest Service; M. Stetson Smith, Maine Farm Bureau, Augusta; Stewart Smith, Maine Potato Council, Corinna; Benjamin Tucker, Jr., publicity representative, Dept. of Agriculture.

Meeting was adjourned at 11:55 A.M.

Respectfully submitted,

E. L. Newdick
Chairman

To the Honorable Dwight A. Brown
Chairman, Legislative Research Committee
State House
Augusta, Maine

October 21, 1964

On May 5th you notified me of the appointment by your committee of a subcommittee known as the pesticide committee, and asked me to accept the chairmanship of this committee, organize it and if possible, come up with appropriate legislation. I was very glad to attempt to do this job, realizing full well what we had been through the past several months dealing with the subject of pesticides following publication of the book written by Rachel Carson.

With your permission I added to the original list of committee members five people versed in the field of entomology, biology and horticulture. This additional group I like to call our technical people. It has been a difficult task to get the entire committee together because, for the most part, they were busy men who had their own jobs to do. At this point I would like to thank the members of the committee for the many hours they worked individually with me, and many times in groups of six or eight, trying to make progress toward coming up with good legislation.

Soon after our organization we appointed two committees; one to study the existing laws and another to work on problems with which we were confronted very early in our work. This technical committee had to work on definitions and did a tremendous job. A copy of their report is being filed with you. Our laws committee, after going over the material from other states,

furnished us with the first draft for study by our members.

The method of operation was about as follows: At the end of each meeting a draft of proposed legislation was made available to each member of the committee, and you may be sure that following the receipt of each draft we got letters from many members of our committee, and in some cases the attorneys for their interests. In any event these were all helpful to us. Altogether we had four drafts. The one that we are bringing to you today is the fourth and final draft. Each time we had fewer corrections to make until, with this last draft, we think we have done about all that we can do and submit it to you for your consideration. In passing I would like to point out that Lawyers for the woodland interests, the power companies, the Maine Potato Council and the Maine Municipal Association contributed greatly to our final draft.

Our committee has been in agreement from the beginning because we understood that a new image in the field of pesticide use had been created, and we were anxious to bring to you something worthwhile. We agreed at the start that any recommendation we might make would be sensible and not interfere with the day-to-day work of the users of pesticides. We have tried to consider Agriculture, Inland Fisheries and Game, Sea and Shore Fisheries, Forestry, Public Utilities and Highway. I might say that it has been difficult to try to be of service to all of these different groups and put the job together in the form of legislation. We hope that we have not antagonized anyone who recognizes the absolute necessity of using pesticides

to grow the food to feed our people and do the other jobs that are so necessary and fostered by the different agencies concerned.

During the period of getting this job done we have acquired much material having to do with the pesticide situation. It is not my intention to bother you with technical details because we are working in a very broad field. The material that we have acquired we will make available to anyone who may want to use it for testimony before a Legislative committe or for any reason whatsoever.

Should your committee submit our final draft as proposed legislation, we have agreed among ourselves that we would be glad to appear as witnesses and give our testimony as to how we feel about this proposed legislation.

Respectfully submitted,

E. L. Newdick
Chairman, Pesticide Committee