MAINE
LEGISLATIVE RESEARCH
COMMITTEE

REPORT
TO
NINETY-EIGHTH LEGISLATURE

LOGGING AND LUMBERING INDUSTRY

SHELLFISH AND MARINE WORM LAWS

PUBLICATION NO. 98-3

JANUARY, 1957

STATE OF MAINE

SUMMARY REPORT

to

NINETY-EIGHTH LEGISLATURE

LEGISLATIVE RESEARCH COMMITTEE

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* Deceased
** Vice Chairman as of January 10, 1956
*** Replaced Representative Pullen
**** Replaced Representative McCluskey

January, 1957

To the Members of the 98th Legislature:

The Legislative Research Committee hereby has the pleasure of submitting to you a part of its report on activities for the past two years. This report is made in connection with two Committee studies: the logging and lumbering industry and the shellfish and marine worm laws.

The Committee was unfortunate in the loss of two of its original members, the late Representative George D. Pullen and the late Representative Leroy M. McCluskey. In their deaths, the State of Maine has lost much valued leadership. We of the Committee gratefully acknowledge our indebtedness to their wisdom and their contributions to the work of the Committee.

It is the hope of the Committee that the information contained in this report will be of service to the Members of the 98th Legislature.

LEGISLATIVE RESEARCH COMMITTEE

By: Roy U. Sinclair, Chairman.

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ORDERED, the Senate concurring, that the Legislative Research Committee be, and hereby is, directed to investigate and determine the activities of the Employment Security Commission relative to their functioning as a medium for the advertising of minimum hourly wage and acting as an agency for furthering information of the establishment of a predetermined hourly wage as it may pertain to the logging and lumbering industry of the State of Maine; and be it further

ORDERED, that such Committee ascertain the activities of the Department of Health and Welfare relative to the inspection of facilities provided for the housing and feeding of employees, by employers who provide such facilities and make a charge therefor, determining whether or not there is a schedule of inspection whereby any and all camps, providing food and shelter for employees of the logging and lumbering industry, are inspected and that minimum standards of sanitation are met with as provided by statute; and be it further

ORDERED, that the Committee report the results of their study to the 98th Legislature.

Part I.

THE INDUSTRY

A. IN GENERAL.

The importance of the industry in the economy of Maine exceeds comparison with all other industries in the State. More than thirty-five thousand people, or approximately thirty-four per cent of all wageearners in Maine, find employment either in the woods or in the manufacture of forest products. Among all Maine industries, the logging and lumbering industry ranks first in wages, and second in the value of its products. The State ranks second in the nation in the production of wood pulp and manufactures approximately forty-four per cent of all newsprint made in the United States. In Maine, the cut of pulpwood for 1952 was 1,957,449 cords. During 1955, the cut was 2,533,674 cords;

an increase in production of 576,225 cords in three years.

In the report of the Commissioner of Labor and Industry addressed to Governor Muskie, dated April 30, 1956, the Commissioner stated that at the present time forty per cent of the State's economy is based on the logging and lumbering industry. This industry, during the four years, 1951-1954, manufactured a product valued at over 1.6 billion dollars, paying wages of 142 million dollars to more than thirty-five thousand workers. The average return from all forest products is approximately 400 million dollars annually, representing one-third of the returns obtained from all industries in the State. The 1955 figures for soft and hardwood lumber and pulpwood production as prepared by the Maine Forest Service appear in Tables I, I-A and I-B following.

TABLE I

SOFTWOOD LUMBER PRODUCTION IN MAINE- 1955
in Board Feet

(531 Mills Reporting)

County	White Pine	Hemlock	Spruce	Fir	Norway Pine	Cedar
Androscoggin	14,710,236	4,537,656	372,465	71,736	244,870	10,000
Aroostook	13,331,227	453,563	24,363,070	1,614,822	10,000	2,511,637
Cumberland	30,470,696	9,780,717	1,761,547	13,000	656,966	----
Franklin	3,723,877	1,622,916	299,125	150,508	11,400	783,500
Hancock	5,842,784	520,670	2,854,697	40,500	84,200	141,448
Kennebec	11,880,089	8,179,968	402,272	209,937	866,000	364,700
Knox	2,072,528	1,188,691	1,683,141	25,646	95,500	30,000
Lincoln	10,050,312	4,672,309	1,816,461	97,000	12,300	56,219
Oxford	51,230,160	16,282,910	8,005,388	238,022	216,131	31,545
Penobscot	19,274,967	4,262,958	2,895,191	181,016	645,365	844,744
Piscataquis	8,088,926	540,070	685,194	386,949	174,100	80,636
Sagadahoc	983,634	525,669	442,700	468	27,979	102
Somerset	11,864,785	2,473,944	627,262	390,569	241,470	4,164,860
Waldo	6,590,477	3,321,907	2,444,579	630,612	82,000	371,507
Washington	7,395,603	278,156	1,039,936	5,000	699,323	501,000
York	37,709,838	5,517,554	825,631	6,313	473,857	---
Totals	235,220,139	64,159,658	50,518,659	4,062,098	4,544,461	9,891,898
Per Cent of Total	62.7%	17.1%	13.5%	1.1%	1.2%	2.6%

(Continued on next page)

TABLE I (Page 2)

SOFTWOOD LUMBER PRODUCTION IN MAINE - 1955
in Board Feet

(531 Mills Reporting)

County	Pitch Pine	Tamarack	Mixed Softwood	Total Softwood
Androscoggin	71,460	16,000	140,000	20,174,423
Aroostook	---	106,000	169,790	42,560,109
Cumberland	737,283	---	1,283,644	44,706,853
Franklin	---	6,500	---	6,597,826
Hancock	82,000	---	120,620	9,686,919
Kennebec	---	404,000	120,000	22,426,966
Knox	58,500	---	---	5,154,006
Lincoln	14,500	---	---	16,719,101
Oxford	93,614	4,275	295,391	76,397,436
Penobscot	746,600	31,000	---	28,881,841
Piscataquis	2,000	18,477	---	9,976,352
Sagadahoc	5,633	10,116	475,000	2,471,301
Somerset	43,860	26,587	---	19,833,337
Waldo	42,000	15,000	178,143	13,676,225
Washington	---	---	---	9,919,018
York	1,300,612	3,000	---	45,836,805
Totals	3,198,062	640,955	2,782,588	375,018,518
Per Cent of Total	.9%	.1%	.8%	

TABLE I-A.

HARDWOOD LUMBER PRODUCTION IN MAINE- 1955
in Board Feet

(319 Mills Reporting)

County	Birch	Maple	Beech	Oak	Ash
Androscoggin	1,156,739	26,989	68,593	421,303	9,701
Aroostook	501,199	5,347,127	342,025	2,000	377,440
Cumberland	330,048	87,707	334,233	1,378,072	11,844
Franklin	5,262,205	2,202,634	452,647	19,202	59,515
Hancock	735,505	5,850	87,000	47,314	500
Kennebec	1,262,853	449,193	180,058	212,384	60,291
Knox	265,920	25,522	---	79,650	3,000
Lincoln	346,747	36,540	12,000	423,161	5,000
Oxford	16,183,037	1,525,380	1,260,293	964,680	476,750
Penobscot	2,458,600	2,146,659	232,921	78,000	956,342
Piscataquis	6,452,293	1,309,270	108,433	18,535	223,085
Sagadahoc	33,320	580	19,337	46,228	3,520
Somerset	15,027,658	4,254,919	528,655	67,108	970,752
Waldo	1,929,399	230,550	75,026	456,625	46,433
Washington	767,494	101,500	---	41,000	210,500
York	152,049	86,482	18,375	758,560	20,711
Totals	52,865,066	17,836,902	3,719,596	5,013,822	3,435,384
Per Cent of Title	60.5%	20.4%	4.3%	5.7%	3.9%

(Continued on next page)

TABLE I-A, (Page 2)

HARDWOOD LUMBER PRODUCTION IN MAINE- 1955
in Board Feet

(319 Mills Reporting)

County	Poplar	Elm	Basswood	Mixed Hardwoods	Total Hardwoods
Androscoggin	500	5,500	110,417	47,850	1,847,592
Aroostook	304,380	1,000	238,316	505,710	7,619,197
Cumberland	200	15,500	1,600	370,987	2,530,191
Franklin	42,295	2,000	273,500	625	8,314,623
Hancock	---	---	---	14,000	890,169
Kennebec	7,500	7,200	110,600	5,360	2,295,439
Knox	---	7,000	---	---	381,092
Lincoln	2,000	5,000	5,000	---	835,448
Oxford	877,402	---	27,937	431,797	21,747,276
Penobscot	29,000	---	213,647	3,531	6,118,700
Piscataquis	---	265	118,590	---	8,230,471
Sagadahoc	68	144	---	25,560	128,757
Somerset	15,109	17,643	117,712	372,000	21,371,556
Waldo	31,290	8,000	57,282	---	2,834,605
Washington	5,000	---	34,500	---	1,159,994
York	10,000	2,350	692	32,046	1,081,265
Totals	1,324,744	71,602	309,793	1,809,466	87,386,375
Per Cent of Total	1.5%	.1%	1.5%	2.1%	

TABLE I-B.

PULPWOOD PRODUCTION IN MAINE- 1955
(in Cords)

County	Hardwood		Poplar		Spruce & Fir		Hemlock	
	Rough	Peeled	Rough	Peeled	Rough	Peeled	Rough	Peeled
Androscoggin	15,076	2,061	---	36	4,169	549	3,136	1,080
Aroostook	---	1,976	---	35,648	340,565	150,891	---	24,576
Cumberland	25,727	994	---	70	8,365	422	1,308	519
Franklin	20,939	8,539	---	946	73,745	6,907	1,897	2,172
Hancock	2,985	1,036	---	707	37,180	20,621	921	20,234
Kennebec	11,488	3,310	---	1,928	14,943	1,488	4,066	3,632
Knox	597	---	---	102	15,576	1,520	122	1,005
Lincoln	3,320	65	---	100	12,759	1,498	21	1,450
Oxford	144,250	3,267	---	189	105,814	1,109	5,267	1,954
Penobscot	19,347	24,931	---	10,913	86,305	65,753	557	57,830
Piscataquis	1,185	5,706	---	4,365	180,058	16,939	11,589	5,004
Sagadahoc	2,493	135	---	28	3,396	305	165	267
Somerset	17,107	9,322	---	5,815	367,113	55,768	3,213	4,424
Waldo	1,209	670	---	852	17,821	1,665	326	2,065
Washington	50	3,334	---	2,302	77,244	54,122	868	10,849
York	16,754	---	---	---	1,398	4	213	---
	282,527	65,346	---	64,001	1346,451	379,561	33,669	137,161
Conversion of "Peeled" to "Rough"	76,878		75,295		446,542		161,366	
Total Rough	359,405		75,295		1,792,993		195,035	

TABLE I-B. (Page 2)

PULPWOOD PRODUCTION IN MAINE- 1955
(in Cords)

County	Pine		Tamarack		Totals	
	Rough	Peeled	Rough	Peeled	Rough	Peeled
Androscoggin	10,416	22	306	---	33,103	3,748
Aroostook	---	---	---	---	340,565	213,991
Cumberland	22,128	---	176	---	57,704	2,005
Franklin	3,043	----	195	---	99,819	18,564
Hancock	---	---	---	49	41,086	42,747
Kennebec	5,876	21	32	---	36,405	10,379
Knox	310	16	---	3	16,605	2,646
Lincoln	5,612	6	---	20	21,712	3,139
Oxford	22,113	---	1,275	---	278,719	6,519
Penobscot	278	10	19	26	106,506	159,463
Piscataquis	---	---	---	12	192,832	32,026
Sagadahoc	6,540	---	---	---	12,594	735
Somerset	45	---	3	37	387,481	75,366
Waldo	30	6	2	24	19,388	5,282
Washington	194	40	10	120	78,366	70,767
York	19,667	10,000	426	---	38,458	10,004
	96,252	10,121	2,444	291	1,761,343	656,481
Conversion of "Peeled" to "Rough"	11,907		343		772,331	
Total Rough	108,159		2,787		2,533,674	

B. NEED FOR INVESTIGATION.

Dissatisfaction with current industry practices and conditions manifested in complaints to various state and federal agencies are developed in a number of allegations and counter-allegations. Allegations have been made that the importation of Canadian bonded woodsmen in the lumber industry in the northern New England area has adversely affected employment opportunities for American workers; that such imported Canadian bonded workmen were being used for work not originally intended; that there were numerous violations of wage and hour regulations; that there were evasions of withholding tax payments; that a reduction in prevailing wages was being forced on American labor by such importation, and that conditions of health and sanitation were substandard. County-allegations have been made to the effect that because of the shortage of American woodsmen it has always been necessary to import Canadian labor; that this is because American labor lives too far from the woods and because the woods operations is such a short season and in the summer when work is most plentiful elsewhere; that wage and hour regulations are complied with; that Canadians are not taking jobs away from American workers, but rather making employment for American labor; that the Canadians have not forced woods wages down, but rather that woods wages in northern New England have increased more than countrywide woods wages; that employers have no requirement to assume the duties of an internal revenue collector to determine if Canadian workers exaggerate the number of dependents to avoid payment of the Federal income tax; and that conditions of health and sanaitation are standard

or above standard.

Over the past two years these allegations have received the attention of various agencies at both the state and federal levels, resulting in a number of hearings and independently conducted investigations. On February 28, 1955, Governor Muskie at a conference held in Augusta, heard complaints by a number of people from the Bingham area concerning the importation of Canadian labor for work in Maine. This conference was arranged at the request of Steven D. Shaw, Representative to the Legislature, from Bingham, Maine. Representative Shaw was responsible for initiating the order referring the present study to the Legislative Research Committee. The complaints presented at this meeting were later transcribed and subsequently answered by the industry at a hearing before the Maine Employment Security Commission held at Portland on March 16, 1955. No further action was taken. At hearings before the Subcommittee on Labor of the Committee on Labor and Public Welfare of the United States Senate, on July 21, 22 and 25, 1955, the Subcommittee considered Senate Resolution 98 introduced by Senator Margaret Chase Smith of Maine on May 11, 1955. This resolution authorized and directed the Committee on Labor and Public Welfare, or a subcommittee thereof, to make a full and complete study or investigation of:

1. Present policies of the United States with respect to importation of bonded laborers to work in the United States;

2. The number of such laborers presently in the United States; and

3. The extent to which the presence of these bonded laborers affects the wage rates and opportunities for employment of United States citizens.

The Committee was further directed to report the results of its study and investigation to the Senate at the earliest practicable date together with such recommendations as it should deem desirable. There have been no further ramifications of this investigation. In October, 1955, the Legislative Research Committee, pursuant to Legislative Order, commenced its present study. On April 30, 1956 the Commissioner of Labor and Industry submitted a report to Governor Muskie concerning working conditions in lumber and pulpwood camps. To the Legislative Research Committee's knowledge, no further studies or investigations have been made of these matters.

Part II.

IMPORTATION.

A. HISTORY.

The employment of foreign labor, specifically with reference to Canadian labor, is a practice of some precedence, and today accounts for approximately forty per cent of the total Maine wood production. Prior to the Immigration and Nationality Act of 1952, the admission of Canadian woodsmen was authorized by Article IV, Section 3 of the Immigration Act of 1917, which in effect provided that skilled labor, if otherwise admissible, could be imported subject to the approval of the Attorney General if domestic labor was insufficient to meet labor demands. The Immigration Act of 1917 provided the first limitations on the movement of labor from Canada, which was previously unrestricted. The regulations of the Immigration and Naturalization Service, since 1918, have required that employers file individual petitions for permission to import Canadian woodsmen. The records of Immigration and Naturalization Service indicate that the importation of Canadian labor into the northern New England area for six-month periods began in 1926 and continued substantially until the depression. During the period of depression, the importation of temporary Canadian labor was maintained at a minimum. Following the outbreak of the Second World War, shortages in domestic labor forced an intensification of the program, though Canadian labor shortages compelled the Canadian Government to impose restrictions on the movement of Canadian woodsmen into the United States.

To offset the effect of these restrictions, arrangements were made between the Logging and Pulpwood Industry and the Canadian Department of Labor which resulted in the organization of a yearly quota system whereby the industry made its own allocation of individual quotas to participating woods operators. Subsequently, the allocation of quotas of Canadian woodsmen to individual employers was handled by the War Manpower Commission. Since World War II, this function has been assumed by the Bureau of Employment Security of the United States Department of Labor and has continued in operation until the present time. The total number of Canadian woodsmen working in the United States during the war under this program has been estimated at approximately 3,000. Under the Immigration and Nationality Act of 1952, which became effective on December 24, 1952, authority for the importation of temporary foreign labor is found in section 101 (a) (15) (H) (2), which defines an alien of this class as an alien having a residence in a foreign country which he has no intention of abandoning and who is coming temporarily to the United States to perform labor or other temporary services, where domestic labor capable of performing these services or labor is non-available. Under section 214 (c) of the act, the importation of an alien for temporary labor is made by the Attorney General after consultation with appropriate agencies of the government upon the petition of the importing employer. The Immigration and Naturalization Service, pursuant to these provisions of the Immigration and Naturalization Act of 1952, has continued by regulation those provisions requiring the filing of individual petitions

by employers for permission to import Canadian woodsmen. The number of Canadian laborers in the northern New England and New York areas for any given month, commencing January, 1951, through June, 1955, appear in Table II following:

TABLE II.

IMPORTED CANADIAN LABORERS IN NORTHERN NEW ENGLAND AND NEW YORK.

Month ending	Woodsmen	Month ending	Woodsmen
1951-January	6,194	1953-April	1,143
February	5,814	May	3,806
March	3,277	June	4,750
April	2,856	July	4,145
May	4,653	August	3,843
June	5,334	September	4,003
July	5,335	October	4,593
August	5,737	November	4,759
September	6,559	December	4,347
October	7,088	1954-January	4,753
November	7,431	February	3,924
December	6,249	March	1,645
		April	510
1952-January	7,122	May	3,588
February	5,587	June	5,095
March	2,679	July	4,512
April	1,698	August	3,415
May	4,977	September	3,823
June	6,226	October	4,184
July	5,535	November	3,941
August	5,080	December	4,971
September	3,523		
October	4,587	1955-January	4,924
November	4,451	February	3,838
December	5,001	March	1,558
1953-January	5,243	April	305
February	3,860	May	4,894
March	1,022	June	6,442

B. PARTICIPATING AGENCIES.

Domestic labor shortages, particularly with respect to logging and lumbering requirements in the Northeastern United States, in the past, have established the necessity of Canadian labor importation. This section identifies the state and federal agencies involved and briefly describes their responsibilities and functions.

1. IMMIGRATION AND NATURALIZATION SERVICE.

The Immigration and Naturalization Service, created by the Act of March 3, 1891 (26 Stat. 1085), has the responsibility of administering the immigration and nationality laws of the United States relating to the admission, exclusion, deportation and naturalization of aliens; apart from the issuance of visas, quota control, and the expatriation process which are administered by the State Department. The Service, which is headed by a Commissioner, functions within the Department of Justice and operates through sixteen immigration and naturalization districts organized under a district director. The Service, prior to 1940, operated within the Department of Labor and was locally administered by the Commissioners of the several ports. Pursuant to Presidential Reorganization Plan V, effective June 11, 1940, the Service was transferred from the Department of Labor to the Department of Justice, as such operating under the direction of the Attorney General. As a result of the congressional investigation of the immigration system, initiated in 1947, the

McCarran-Walter Bill was introduced and passed over presidential veto on June 27, 1952. Enacted as the Immigration and Nationality Act (66 Stat. 163), it became effective December 24, 1952; and revised and codified all previous immigration and nationality legislation, treaties, executive orders, proclamations, rules, regulations and operational instructions. Exclusive of quota and nonquota immigrant classes, the provisions of the Immigration and Nationality Act provide for the admission of aliens of the nonimmigrant class. The Act provides,in addition,that the admission of nonimmigrant aliens shall be under such conditions and for such periods of time as the Attorney General may prescribe. Under the Act, nonimmigrants are defined in section 101 (a) (15) (H) as aliens having residence in a foreign country, which they have no intention of abandoning. The nonimmigrant category includes such persons as temporary visitors for business or pleasure, crewmen and foreign officials. Canadian laborers are aliens of the class described in section 101 (a) (15) (H) (ii), who come temporarily to the United States to perform temporary services or labor, if unemployed persons capable of performing such services or labor cannot be found in this country. The Secretary of Labor has authority under the Act to require the exclusion of imported labor where there is a sufficiency of domestic labor at the alien's destined place of employment or in

those instances in which the employment of such aliens would adversely affect the employment of domestic labor similarly employed. Every person desiring to enter the United States, irrespective of purpose or duration, must have a passport or other substitute travel document from the government of his allegiance and a visa issued by an American consular officer; the visa being the basic document for entry into the United States. The visas issued are of two kinds: Immigration visas, for permanent or indefinite residence in the United States, and Nonimmigrant visas, for temporary entry into the United States for limited periods of time. Visas, which can only be issued by American counsuls, are required of all immigrants and nonimmigrants with the exception of nonimmigrant North American aliens. Nonimmigrants falling within class (H) (ii) or temporary workers, skilled or unskilled, may be admitted by permit on the petition for admission filed by a prospective employer on form I-129B. This alien class represents the only non-immigrant or immigrant class to which the petition procedure applies. The authority for the procedure is found under section 101 (a) (15) (H)(ii). All aliens applying for admission at any of the specified ports of entry are examined by immigration officers. The fact that an alien is in possession of the foregoing documents does not automatically entitle entry. The admissibility of any alien depends on the determination made by the Immigration and

Naturalization Service of the Department of Justice, which is the final arbiter in all matters pertaining to entry into the United States. As a condition precedent to admission, a nonimmigrant may be required to post bond in order to guarantee his departure and his continued nonimmigrant status. All questions concerning nonimmigrant importation are determined by the Attorney General upon consultation with the appropriate governmental agencies.

2. DEPARTMENT OF LABOR.

The Department of Labor was created by Act of Congress approved March 4, 1913 (37 Stat. 736), and constitutes the ninth executive department of the federal government. The Department is essentially responsible for the administration and enforcement of those laws which further the public interest by promoting the welfare of workers, increasing employment opportunities and improving working conditions. Departmental policies are established and directed by a Secretary of Labor with the assistance of an Under Secretary, the Solicitor, Assistant Secretaries and Administrative Officers. The Department organization includes among its functional units, the Bureau of Employment Security and the Wage and Hour and Public Contracts Division.

a. Bureau of Employment Security.

This Bureau administers the public employment service and the unemployment compensation

program. These services are authorized under the provisions of the Wagner-Peyser Act, as amended, the Social Security Act, as amended, and the Federal Unemployment Tax Act. The United States Employment Service and the Bureau of Employment Security were combined into the present Bureau of Employment Security by Presidential Reorganization Plan No. 1 of 1949. Following the integration of the two agencies, the Bureau of Employment Security was transferred from the Federal Security Agency to the Department of Labor by Presidential Reorganization Plan No. 2, approved in 1949. The responsibilities of the Bureau, in the operation of the employment security program, include review of state administrative operation, determination and certification to the Secretary of the Treasury of the amounts necessary for state administration, audit of state expenditures, passing on state requests for appropriations for administration of the program, furthering uniformity in administrative procedures, analysis of state statistical reports, and orienting states with respect to new developments in the state program. The Bureau issues two monthly publications, the Employment Security Review and the Labor Market and Employment Security.

SOCIAL SECURITY ACT. The Social Security Act, approved August 14, 1935, prescribes certain conditions in connection with its insurance benefit program by which states are permitted to share in federal tax moneys collected by the Treasury from employers for the payment of benefits under the state unemployment insurance or unemployment compensation program. A state law, in qualifying for approval, must comply with those minimum standards set forth under the Act. Included are minimum requirements relating to such matters as administration, benefits, hearings and financing. On approval of the state unemployment insurance law, tax offsets and administrative grants for unemployment insurance are made available to the state for administration through its public employment offices. A state, under the broad minimum standards established by the Act, is permitted to exercise its discretion in determining those industries covered under its law, the amount of tax to be collected from employers, the amount of benefits to be paid, and the manner in which the state law will be administered. Employers contributing to an approved state unemployment insurance program are credited with a percentage of such contribu-

tions against the federal tax. State unemployment insurance laws vary considerably with respect to coverage, amount and duration of benefits, disqualifications, financing and administration. Amendments to the Social Security Act have had the effect of reducing the number of exemptions of employers from the unemployment tax and have generally made extensions in coverage. The law has been further amended to provide for the loan of funds to states whose benefit reserves are endangered by insolvency.

FEDERAL UNEMPLOYMENT TAX ACT. The Federal Unemployment Tax Act was passed in 1939 as an amendment to the Social Security Act. The Act sets forth various conditions which a state must meet in order to qualify employers within the state to credits against their federal tax liability under the act. The tax is levied on commercial and industrial employers of four or more workers on some day in each of twenty different weeks of a calendar year. Liability for the tax is determined by the Treasury Department.

WAGNER-PEYSER ACT. The Wagner-Peyser Act of June 6, 1933 (48 Stat. 116, as amended) created the Federal-State system of public employment offices, and authorized federal

grants for the operation of public employment offices by the states. Grants for the administration of state employment offices are conditioned upon a state's acceptance of the provisions of the Wagner-Peyser Act and the submittal of an operational plan which complies with the federal requirements as determined by the Bureau of Employment Security. Operationally, the unemployment insurance and unemployment security programs are administered through the state employment offices. The responsibilities of the Bureau of Employment Security relative to employment security under the provisions of the Wagner-Peyser Act are assigned to the United States Employment Service. The principal functions involved are occupational analysis, testing, reporting, counseling, and placement standards and procedures. The United States Employment Service assists the states in establishing and maintaining public employment offices, furnishes information as to employment opportunities, maintains a system of interstate labor clearance and generally assists the states in their placement operations. The Employment Service, under the provisions of the Immigration and Nationality Act of 1952, assisted by the state employment security agencies makes the determination as to the

availability or nonavailability of domestic workers as against petitions for the importation of alien workers filed by employers. The policy of the United States Employment Service with respect to foreign labor is:

> To provide for the recruitment of foreign workers for employment in the United States or for the recruitment of domestic workers for employment in foreign countries only when such recruitment is in accordance with provisions of an agreement or arrangement between the United States and a foreign government, except when such recruitment of domestic workers is for employment by the United States in a foreign country.

b. Wage and Hour and Public Contracts Division.

The Wage and Hour Division of the United States Department of Labor was established by Section 4 of the Fair Labor Standards Act of June 25, 1938 (52 Stat. 1060) to administer and enforce the Act. For purposes of administration, the Division was consolidated by the Secretary of Labor on August 21, 1942 with the Public Contracts Division which administers the Walsh-Healey Act. The two divisions function under an Administrator appointed by the President with the consent of the Senate, and are known collectively as the Wage and Hour and Public Contracts Divisions. The organization of the Division, exclusive of its principal office in Washington, D.C., includes ten regional offices, each administered by a regional director, and a system of local field offices

maintained within each regional district. The Division has several functions in connection with its responsibility for enforcing the various laws relating to wages and hours. The most significant of these functions relate to the administration and enforcement of the minimum wage, overtime pay and child labor provisions as established by the Fair Labor Standards Act. Under Presidential Reorganization Plan No. 6, effective May 24, 1950, administrative functions under the Act were assigned to the Secretary of Labor. Pursuant to General Order No. 45A, issued by the Secretary of Labor on the same day, these functions (other than child labor) were delegated back to the Wage-Hour Administrator, subject to general direction and control by the Secretary, and further reserving to the Secretary the handling of legal proceedings under the Act. The Act, as amended, (69 Stat. 711), effective March 1, 1956, establishes minimum wage and overtime pay rates for those employees engaged in interstate commerce, in the production of goods for interstate commerce, and for work performed in closely related processes or occupations directly essential to production, unless specifically exempted by the Act. General coverage of the provisions of the Act as they relate to the logging and lumbering industry

will be found in Part II, Section D (1), Labor Law Requirements Under the Fair Labor Standards Act.

3. Employment Security Commission.

The State of Maine has enacted legislation providing for unemployment compensation (insurance) and establishes an employment service. The administration of these provisions are functions of the Employment Security Commission. The Commission consists of three members appointed by the Governor with the advice and consent of the Council to serve for six-year terms. The law requires that one member be a representative of labor, one a representative of employers and one a representative of the general public. It further provides that the public representative shall be the chairman of the Commission. The Commissioners are required to serve full time, and their salaries are fixed by statute. The responsibilities of the Commission relate to the administration of Chapter 29 of the Revised Statutes of 1954, as amended. The Commission, in addition, has the responsibility of conforming to minimum requirements and standards prescribed by the United States Department of Labor pursuant to the Federal-State employment program. The provisions of the Employment Security Law have developed in response to problems of employment and unemployment, and as such, have resulted in the two primary programs currently administered by the Commission, namely,

the unemployment compensation and employment service programs. The Commission, at the present time, maintains thirteen local offices, and employs a staff of approximately 300 persons. With the exception of overall administration, the Commission operates on a decentralized basis. From an organizational standpoint, the Commission includes the following divisions: unemployment security, employment service, veterans' employment service, research and statistics, methods and training, legal, informational, and business management. The variety of activities handled under the unemployment security and employment service programs include: determination of employers' liability, collection of contributions, payments of unemployment compensation, investigation and disqualification of persons ineligible for benefits, fair and impartial hearings and appeal for dissatisfied claimants and employers, processing employment applications and coding skills and qualifications of applicants, classifying employment opportunities, screening and assignment of qualified applicants, obtaining and reporting information relative to conditions of employment and unemployment, identifying areas with labor surplus or shortage, preparation of labor market reports, preparation of reports for the Department of Labor, investigation of claims for fraud or misrepresentation and releases of information to the public.

a. Unemployment Security Division.

This division of the Employment Security Commission constitutes the largest subdivision of the Commission. The major functions of the division have been previously discussed in reference to activities incidental to the unemployment and employment programs. They include: processing of employer contributions and employee claims, making benefit payments, maintaining employer-employee records, audit of employer accounts, and investigation of fraudulent claims. The unemployment compensation provisions of the Employment Security Law as administered by the Commission through this division have some relevance with respect to the logging and lumbering industry and the problem of importation of Canadian labor. Such provisions, as have been established, do not exempt employers in the industry from liability for unemployment contributions. Canadian bonded labor as an integral part of the industry labor force is not a valid consideration in differentiating or excluding an employer from compliance with these requirements. The employer of Canadian bonded labor is obliged by law to contribute to the unemployment security program. The bonded laborer, however, is not entitled to benefit payments from the unemployment com-

pensation fund, in the event of unemployment, and all moneys contributed by his employer continue as a part of the fund. The situation is somewhat different in those cases involving Canadians resident in this country. In such instances, the Canadian has been permitted entry into the United States under visa and has residence status. As such, he is entitled to those benefits usually accorded to residents of the United States.

b. Employment Service Division.

The functions of the employment service division of the Commission have likewise been referred to in connection with activities relating to the employment and unemployment responsibilities of the Commission. Specifically, they include: operation of a placement service, an employee counciling and testing service, and the administration of certain special programs relating to agricultural and forestry employment. The Commission, operating through this division, actively participates in the importation process whereby Canadian bonded labor is imported temporarily to offset domestic labor shortages. The successful operation of this process requires an integration of activity on the part of those agencies discussed under Subdivision B of this report. The interplay of their

respective responsibilities is outlined in the following Section C relating to placement procedure.

TABLE III.

ORGANIZATION OF STATE EMPLOYMENT SECURITY AGENCIES*

(As Independent Commission or Board- 19 States)

State	Name of Commission or Board	No. of Members	Interests Represented	Basis of Payment
Alaska	Employment Security Commission	5	Tripartite	Per diem
Arizona	Employment Security Commission	3	----------	Part-time
Delaware	Unemployment Compensation Commission	4	Bipartisan	Chairman, full-time; 3 part-time members
District of Columbia	Unemployment Compensation Board	5	Employer and employee representatives appointed by Board of Commissioners	3 District Commissioners ex officio; 2 per diem members
Indiana	Employment Security Board	5	Tripartite	Per diem
Iowa	Employment Security Commission (2)	3	Bipartisan and tripartite	Full-time
Maine	Employment Security Commission (3)	3	Bipartisan and tripartite	Full-time
Maryland	Employment Security Board (3)	3	Tripartite in practice	Full-time
Michigan	Employment Security Commission	4	Bipartisan and employer and employee	Per diem
Mississippi	Employment Security Commission	3	Employee (4)	Part-time
Montana	Unemployment Compensation Commission	3	Bipartisan	Chairman; full-time; 2 per diem members
New Mexico	Employment Security Commission	3	----------	Chairman, full-time; 2 per diem members
North Carolina	Employment Security Commission	7	Tripartite in practice	Chairman, full-time; 6 per diem members

* Continued on next page

TABLE III (Cont.) Page 2.

State	Name of Commission or Board	No. of Members	Interests Represented	Basis of Payment
Oklahoma	Employment Security Commission	5	Tripartite	Per diem
Oregon	Unemployment Compensation Commission	3	Bipartisan and tripartite	Half-time (5)
South Carolina	Employment Security Commission	3	----------	Full-time
Texas	Employment Security Commission	3	Tripartite	Full-time
Vermont	Unemployment compensation Commission	3	Bipartisan	Chairman, full-time; 2 per diem Members
Wyoming	Employment Security Commission	3	Bipartisan (tripartite in practice)	Chairman, part-time; 2 per diem members

(1) Four members of the Commission are appointed by the Governor and a fifth, the public member, is appointed by the other four.

(2) Also administers State retirement system.

(3) Administers Department of Employment Security.

(4) One member from each Supreme Court district and one member must be a representative of employees.

(5) Industrial Accident Commission constitutes the Unemployment Compensation Commission.

NOTE: The State Employment Security Agencies of the following 14 states are organized as independent departments of the state government: California, Colorado, Idaho, Kentucky, Massachusetts, Minnesota, Nevada, Ohio, Rhode Island, South Dakota, Tennessee, Virginia, Washington and West Virginia.

The State Employment Security Agencies of the following 18 states are in the state department of labor or the workmen's compensation agency*: Alabama, Arkansas, Connecticut, Florida, Georgia, Hawii, Illinois, Kansas, Louisiana, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Dakota, Pennsylvania, Utah and Wisconsin.

* Only in North Dakota is the unemployment insurance law administered by the workmen's compensation agency.

TABLE III (Cont.) Page 3.

ORGANIZATION OF STATE EMPLOYMENT SECURITY AGENCIES

(As Independent Commission or Board- 19 States)

State	Designation of Chairman	Executive Officers	
		Title	Appointed by
Alaska	Elected by Commission	Executive director	Commission
Arizona	Elected by Commission	Director, Unemployment Compensation Division	Commission
Delaware	Appointed by Governor	Chairman and Executive director	Governor
District of Columbia	By statute, President of the Board of Commissioners appointed by President of U.S.	Director and Secretary of Board	Board
Indiana	Elected by Board	Executive director of Employment Security Div. and Sec. of Board	Governor
Iowa	Elected by Commission	Chairman	Commission
Maine	By statute, public member	Chairman	Governor
Maryland	Appointed by Governor	Chairman	Governor
Michigan	Elected by commission	Director and Secretary of Commission	Commission
Mississippi	Appointed by Governor	Executive director and secretary of Commission	Commission
Montana	Appointed by Governor	Chairman and executive director	Governor
New Mexico	" " "	"	"
No. Carolina	" " "	Chairman	"
Oklahoma	By statute, public member	Executive director	Commission
Oregon	Elected by Commission	Administrator	Commission
So. Carolina*	" " "	Executive director	Commission
Texas	By statute, public member	Chairman and executive director	Governor
Vermont	Appointed by Governor	Chairman	Governor
Wyoming	By statute, Commissioner of Labor	Executive director	Commission

* Members of Commission are elected by State General Assembly.

C. PLACEMENT PROCEDURE.

The contents of this section cover those procedures implementing the Canadian labor importation program, including in entirety, that information issued by the Regional Office of the Bureau of Employment Security in Boston which was incorporated in a review of relavent data submitted by the Maine Employment Security Commission to the Legislative Research Committee on October 25, 1955.

"Filing of Petitions.

An importer will be requested to file his petition with the District Office of the Immigration and Naturalization Service, Boston, Massachusetts, on Form I-129-B, and supplement, in duplicate for the importation of Canadian woodsmen without any breakdown as to job classifications. This will be done by February 15, for the period beginning April, and August 15, for the period beginning October 1. The District Office of Immigration and Naturalization Service will furnish the Regional Office of the Bureau of Employment Security, Boston, Massachusetts, with one copy of the petition and supplement after its acceptance. Woodsmen order Form W-1 for the local office will not be required to accompany the petition Form I-129-B.

Allocations.

The Regional Office, BES, will review the petition and recommend an allocation to the District Office of the INS, and notify the importer and the State Employment Security Agency of the allocation. Before making this recommendation, the

Regional Office of BES will review the use made of the comparable and previous 6-months quota in an effort to bring the allotment in line with actual use. The District Office of INS will process the petitions for bond and other requirements, notify the importers of approval of the petitions and place importers on notice that they must file a woodsmen's order Form W-1 with the appropriate local employment office and personally appear at such employment office for clearance of woodsmen orders before importation will be allowed.

Increase or Decrease in Allocation.

An importer wishing an increase in his allocation up to the original request will 'phone, write or wire the Regional Office, BES, requesting the increase. The Regional Office will recommend such increases, if found warranted, to the District Office of INS, and will notify the importer and the State Employment Security Agency. The District Office of INS will proceed as on the original request. If an allotment beyond the original request is desired, the importer will proceed with a new petition to the District Office of INS.

If it is found later from semi-monthly reports, Form 151, compiled by the INS border station, that an importer is not using his allocation over a period of time, the Regional Office of the BES will contact the importer in an effort to adjust the allocation downward.

Notification to Unions.

When the Bureau of Employment Security grants an allocation, the Regional Office or the State Agency will notify the State

Presidents of the A.F. of L. and C. I. O. of the number of Canadians recommended to the Immigration and Naturalization Service.

Processing of Woodsmen Order at the Employment Office.

On or before March 15 and again before September 15, the local office of the State Employment Security Agency will contact each importer who has been given an allocation in addition to all other known employers of domestic labor to secure from them wage information. Not less than 15 days before an importer desires to actually import Canadian woodsmen, he or his representative will appear in person and file seven copies of the woodsmen order Form W-1 for the number of men he wishes to import with the appropriate local employment office or offices in the area where the work is to be performed. The woodsmen order Form W--1 will show a breakdown of the workers to be imported by job classifications and the wage rates to be paid. The local office manager will review the orders as to location of operations, number of men by classifications, and other relevant material,and check the wage rates. Rates must be at least seventy-five cents per hour, or the prevailing rate, whichever is greater, and time and one-half must be paid for work over 40 hours. However, an exception to the 40-hour provision is made for cutting peeled pulpwood, spring freshet driving and snow road hauling. This exception raises the overtime period of 40 hours to 56 hours per week in the specified seasons. Employers of 12 or less are exempt from the 40-hour overtime provisions of the Wage and Hour Laws. If the rates do not

meet the prevailing wage rate, the orders will be corrected by the importer or his representative. The prevailing wage rates shall be identified by the Employment Security Administrator in that State.

The local office manager will then prepare to refer as many qualified domestic workers as possible against the importer's order, using all practicable recruitment facilities. He will secure the information from the importer as to the Port of Entry. From that time on, and through the importing 6-months' period, referral of qualified domestic workers will be made. The manager will certify on all copies of the woodsmen order Form W-1 the number and classifications of woodsmen to be imported and the date such importations shall commence, after it has been determined that additional domestic workers are not available. Such certification will take place immediately prior to the date of entry. The total number must be within the allocation recommended by the Regional Office of the BES. Seven copies of the certified woodsmen order W-1 will then be distributed as follows: (1) Port of Entry; (2) INS, Boston, Massachusetts; (2) Regional Office, BES, Boston, Massachusetts, (1) local office file, and (1) the importer.

Control at Port of Entry.

A copy of the certified woodsmen order approved and signed by the Employment Office Manager will permit the Port of Entry to admit only the number and classification of men specified. Controls will be set at the Port of Entry for the importation up to the number specified on the woodsmen order.

Change in Woodsmen Order.

Any changes in the importer's labor requirements will require the submission of a new woodsmen order in seven copies which will reflect his current total needs at the local employment office and will be processed as the original and similarly distributed.

Maintenance of Orders.

The Regional Office of the BES will give the State Employment Security Agency the names of the importers and the number of Canadian woodsmen allocated to each about March 1, and September 1. The Regional Office of BES will also notify the State Employment Security Agency of the number of Canadian woodsmen charged to the bond of each importer as of the first and fifteenth of each month.

Investigation Procedure.

All investigations in connection with the operation of this program are the responsibility of the Immigration and Naturalization Service. In the State of Maine, investigations under this program will be handled by the border patrol. In the States of Vermont, New Hampshire and New York, investigation of complaints may be handled either by the border patrol or by investigators from local INS offices.

If a worker complains of non-payment of wages, failure to meet established wage rates, refusal to hire, inadequate housing, or health conditions, or makes any other complaint, the local manager of the appropriate Employment Security Office will take a statement from the complainant and send it to the

State Employment Security Office for transmittal to the Regional Office of BES. The Regional Office of BES will refer all complaints to the District Office of INS at Boston, Massachusetts, for investigation. In addition, the Regional BES Office will refer copies of all complaints involving wages to the Regional Director of the Wage & Hour and Public Contracts Divisions. Likewise, the State Employment Security Offices will send copies of its complaints regarding health, housing, and other related matters to the State Department of Health or other state agencies.

All information pertaining to findings made by the Wage & Hour and Public Contracts Divisions and State authorities will be forwarded to the Regional Office of BES for transmittal to the District Office of INS. When the District Office of INS has made its findings and taken action thereon, such information will be forwarded to the Regional Office of BES for transmittal to the State Employment Security agencies."

D. LABOR LAW REQUIREMENTS (Under the Fair Labor Standards Act).

The field of labor law is susceptible to division into two major categories. The first relates to the concerted activities of employees, which involve such problems as the regulation of strikes, organization of unions, collective bargaining, administration of collective agreements and relations between unions and their members. The second category relates to employment standards established by law which affect the individual employee. Included in this group are unemployment insurance, workmen's compensation, social

security, industrial safety regulations, veterans' reemployment, minimum wages, maximum hours, child labor and fair employment practices. In connection with the problem of Canadian labor importation, relevant requirements are laid down under the provisions of the Fair Labor Standards Act of 1938, as amended.

The Fair Labor Standards Act of June 25, 1938 (52 Stat. 1060), as amended, was enacted by Congress pursuant to its power under the Constitution to regulate interstate commence to prevent instrumentalities of interstate commerce from perpetuating substandard labor conditions. The Act, in essence, lays a floor under wages, a ceiling over hours and sets a wall against the employment of children by prohibiting the shipment of goods in interstate commerce produced under substandard labor conditions. The Act, as amended, (69 Stat. 711), effective March 1, 1956, establishes the minimum wage and overtime pay for those employees engaged in interstate commerce, in the production of goods for interstate commerce, and for those employees engaged in activities closely related and essential to such production for interstate commerce. The Secretary of Labor is authorized to enjoin shipment of goods in interstate commerce produced in violation of the act. Violators of the Act are subject to injunction proceedings, criminal prosecution and employee suits for restitution of unpaid minimum wages and overtime compensation. Coverage, entitling an employee to wage and hour benefits and standards provided in the Act, includes all employees not specifically exempt, whose activities are

within the definition of interstate commerce. The determination of coverage is made on the basis of the employee's activity and is not based on the nature of the employer's business. In determining coverage, the nature of the employer's business is a relevant factor in establishing the relationship of the employee's activity to interstate commerce. In each case, however, issues of coverage must be considered apart from those issues relating to exemptions under the Act. The exemptions recognized are varied, and an exemption from one provision does not necessarily presuppose an exemption from all others, neither are all exemptions uniformly executed. Exemptions, unlike coverage which is consistently determined on the basis of the individual employee's activity, are frequently based on the nature of the employer's business.

The 1949 amendments to the Fair Labor Standards Act (63 Stat. 910), effective January 25, 1950, create a new exemption, Section 13 (a) (15), from both the wage and hour provisions of Sections 6 and 7. Section 13 (a) (15), relating to forestry and logging operations, exempts employers to 12 persons or less from the wage and hour provisions of the Act, as follows:

> "The provisions of sections 6 and 7 shall not apply with respect to..... any employee employed in planting or tending trees, cruising, surveying, or felling timber, or in preparing or transporting logs or other forestry products to the mill, processing plant, railroad, or other transportation terminal, if the number of employees employed by his employer in such forestry or lumbering operations does not exceed twelve."

This exemption was included as an amendment to the Act for

the purpose of providing relief to the small scale woods operators. The exemption, however, was not intended to include sawmill operations; neither does it pertain to forestry or lumbering operations incident to farming operations. Forestry and logging operations connected with agriculture may qualify for exemption under Section 13 (a) (6). In qualifying for this exemption, forestry or lumbering operations must be a subordinate activity carried on in conjunction with farming. The exemption provided under Section 13 (a) (15) covers woods operations, including preparation and transportation of logs to the mill, railroad or other terminal, but excludes processing. The exemption need not be considered unless the employee is engaged in interstate commerce activity as defined under the Act. The Administrator has denied the lumbering industry the exemption provided under Section 7 (b) (3) relating to seasonal industry.

E. TAXATION.

The income tax provisions of the United States Internal Revenue Code of 1954 divide aliens into two classes--"resident aliens" and "nonresident aliens". For tax purposes, resident aliens are treated the same as citizens of the United States, and as such, are taxable on income derived from all sources. The taxable income of nonresident aliens is limited under special provisions in the Code to that income derived from sources within the United States. The subject of alien taxation, including Code provisions, is affected by tax treaties entered into between the United States and other countries. Such treaties, though frequently

modifying the alien tax provisions found in the Code, are designed to eliminate or reduce double income taxation and income tax evasion. Under the Code, nonresident aliens are divided into four classes: (1) those engaged in trade or business within the United States, (2) those not engaged in trade or business within the United States, but deriving more than $15,400 in United States gross income, (3) those not engaged in trade or business within the United States deriving not more than $15,400 in United States gross income and (4) those who are bona-fide residents of Puerto Rico. Nonresident aliens, in contrast to citizens and resident aliens, are taxable only on gross income from sources within the United States, Section 872 (a). Section 861 (a) of the Code establishes those items of gross income to be "treated as income from sources within the United States." Item III, relating to personal services specified that: "Compensation for labor or personal services performed in the United States shall not be deemed to be income from sources within the United States if -- (A) the labor or services are performed by a nonresident alien individual temporarily present in the United States for a period or periods not exceeding a total of 90 days during the taxable year, and (B) such compensation does not exceed $3,000 in the aggregate....." Irrespective of residence, compensation for labor or personal services performed in the United States is includable as gross income unless otherwise exempted. The taxable income derived from sources in the United States consists of the gross income after deductions. The general rule with respect

to deductions is set forth in Section 873 (a) which states: " In the case of a nonresident alien individual, the deductions shall be allowed only if and to the extent that they are connect4d with income from sources within the United States; and the proper apportionment and allocation of the deductions with respect to sources of income within and without the United States shall be determined.... under regulations prescribed by the Secretary or his delegate." Regardless of the marital and dependency status of the nonresident alien, Section 873 (d) limits the deductions allowed for personal exemption to one of $600, except in the case of "a resident of a contiguous country" (Canada or Mexico). In order to facilitate the collection of nonresident alien taxes, the tax is required to be withheld by persons paying out specified types of income from sources within the United States. Section 1441 (c) (4) provides for the exemption of "compensation for personal services of nonresident alien individuals who enter and leave the United States at frequent intervals" from deduction and withholding requirements. Under Regulations Section 1.1441-4 (b) (2), withholding is not required with respect to compensation for personal services of a Canadian or Mexican resident who enters and leaves the United States at frequent intervals nor with respect to wages for agricultural labor or any other nonresident alien who enters and leaves the United States at frequent intervals. Income tax returns are required of all aliens even though the gross income for the taxable year from United States sources amounts to less than $600. Section 6851 (d) provides that "No alien shall

depart from the United States unless he first procures from the Secretary or his delegate a certificate that he has complied with all the obligations imposed upon him by the income tax laws." Resident and nonresident aliens, pursuant to this requirement, are required to file an income tax on Form 1040C before leaving the country, paying those taxes due on taxable income received prior to departure. Upon satisfying Federal Income Tax requirements, a "Certificate of Compliance" is issued to the alien by the Internal Revenue Service which is checked by officials of the Immigration and Naturalization Service at the time of departure.

PART III.

DEPARTMENT OF HEALTH AND WELFARE.

The activities of the Department of Health and Welfare relating to the inspection of woods camps are administered by the Division of Sanitary Engineering of the Bureau of Health. The Division carries on this function pursuant to the general health provisions as provided in Chapter 25 of the Revised Statutes. Approximately 25 years ago, the Department of Health and Welfare, in conjunction with various representatives of the logging and lumbering industry, formulated certain standards which were adopted by the Department as rules and regulations to govern matters of camp health and sanitation. The rules and regulations are distributed in pamphlet form and cover such matters as the location and arrangement of camps, sleeping quarters, bunks and bedding, screening, water supplies and containers, washing facilities, toilets, garbage,

waste and sewage disposal, the location of hovels and stables, care of food, milk and tableware, vermin, sick persons, abandoned camps and camp locations with respect to a public water supply. The Department of Health and Welfare receives no specific appropriation for this function, but carries on the activity primarily from that part of the general health fund not earmarked for other purposes. In the absence of specific appropriation, the activity is largely confined to investigations of illness and complaints of insanitation. Irrespective of appropriation, the Department has made a number of such investigations over the years. The following is an excerpt from the "Summary Report of Logging, Wood-cutting or Woods Industrial Camps" made by the Department of Health and Welfare, Division of Sanitary Engineering, for the fiscal years 1954-1955 and 1955-1956:

"During the period July 1, 1954 to April 30, 1956, Engineers from the Division of Sanitary Engineering, representing the Department of Health and Welfare, visited 52 logging, wood-cutting or woods industrial camps for purposes of making sanitary inspections of the premises and facilities. Re-inspections were made at 21 of the camps, making a total of 73 inspections over the period cited.

Of the 52 original inspections made, the following tabulation has been compiled and a summary is as follows, in regard to necessary corrections:

(1)- Sewage and solid human waste disposal. Of the 52 camps inspected, 45 showed deficiencies of one sort or another. All of these have been grouped in this category, but specifically the offenses are:

(a) Faulty construction, maintenance or operation of septic tank or cesspool installations.

(b) Improper construction of sanitary privies, such as not being fly-tight, no fly-tight riser or no self-closing seat.

(c) Any of the above structures located less than 60 feet from the normal high water level of any brook, stream, river, lake, pond or other water course; or less than 100 feet from the cookhouse.

(d) Old privies left exposed to flies.

(e) Waste water from washrooms or kitchen discharged directly to ground surface.

(2) Water supply. Of the 52 camps inspected, 39 showed deficiencies of one sort or another in this category. Individual corrections necessary included:

(a) Drinking water container not securely closed or so arranged that water could be drawn only from a tap.

(b) Use of common drinking cup, individual single service paper cups not provided.

(c) Water supply located in area where cutting operations are being carried on.

(3) Refuse or garbage disposal. Of the 52 camps inspected, 24 showed that garbage, kitchen wastes, and other rubbish were not properly deposited in suitably covered receptacles, the contents of which were burned, buried or dumped at a point not less than 1,000 feet from any portion of the camp.

(4) Food storage. 52 camps were inspected, 23 of which showed facilities that were not adequate or proper for the storage of meats, or fresh cooked food.

(5) Bunkhouse windows or ventilators. Of the 52 camps inspected, 24 showed inadequate window area or combined window and ventilator area; i.e., there was less than one square foot of window area available for every 30 square feet of floor area, or the combined area was less than 1/16 of the floor area.

(6) Separate kitchen. Of the 52 camps inspected, 23 showed the existence of either cooks' or cookees' or men's sleeping quarters that were not fully partitioned off from the main portion of the kitchen or mess hall.

(7) Kitchen screening. Of the 52 camps inspected, 15 showed improper screening of the kitchen windows, door or ventilator to eliminate fly nuisance and possible spread of contamination.

(8) Bunk spacing. Of the 52 camps inspected, 14 showed improper arrangements of sleeping bunks, i.e., the bunks were not arranged in groups of not more than two lower bunks and two upper bunks and each was not separated from the adjoining group by a passageway of not less than 24 inches, or the lower bunks were not at least 12 inches from the floor.

(9) Dirty blankets. Of the 52 camps inspected, 12 showed laxity in maintaining clean blankets or mattresses for bunkhouse occupants, or no effort was expended to provide new or freshly laundered blankets to new occupants.

(10) General condition of camp. Of the 52 camps inspected, 10 showed that maintenance was of such a degree as to not be conducive to the health of the camp's occupants or to endanger the health of the public; and the structures therein were not kept in a clean and sanitary condition at all times.

(11) Manure pile. Of the 52 camps inspected, 8 showed the accumulation of manure deposits that were within 100 feet of any lake, pond, river, stream, well or spring or to any other source of water supply.

(12) Bunkhouse screening. Of the 52 camps inspected, 4 showed inadequacies in providing proper screening on living quarters.

(13) Bunkhouses dirty. Of the 52 camps inspected, 4 showed a tendency to have bunkhouses that were maintained in an unclean and unsanitary condition.

(14) Hovel location. Of the 52 camps inspected, 4 showed the existence of hovels that were located within 150 feet from the kitchen or bunkhouses.

(15) Kitchen windows or ventilators. Of the 52 camps inspected, 2 showed inadequate window or ventilator area to permit the proper operational functions of a clean and sanitary kitchen.

(16) Kitchen dirty. Of the 52 camps inspected, 2 showed a tendency to maintain kitchens in an unclean and unsanitary condition.

(17) Bunkhouse airspace. Of the 52 camps inspected, 2 showed that inadequate air space was available for the number of occupants, that is, the sleeping quarters were over-crowded to the extent that 200 cubic feet of air space was not available for each individual occupant.

(18) Improper venting. Of the 13 most recent original camp inspections and re-inspections of camps previously visited, 2 showed improper venting (or vent was non-existant) of gas-operated space heaters. Although no particular regulation

is in effect in this regard for establishments (or camps) of this type, attention was called to this particular deficiency due to the occurrence of some very unfortunate accidents that have resulted in other types of establishments providing sleeping accommodations for the public.

Of the 21 camps that were re-inspected, only 4 were found to have complied completely with the recommendations of the inspecting engineer; the remaining 17 had in part complied with the recommendations or were in the process of attempting to do so, and in some cases new corrective measures were recommended on the second visit. It is noteworthy to cite that in almost every instance, re-inspections were initiated by the camp owners, through correspondence notice to the Department of Health and Welfare, to the effect that the camps in question were supposedly prepared for such an inspection.

Attention should be called to the fact that owners of 21 logging camps have notified this office to the effect that all recommendations for improvements of sanitation had been followed and that the camps were now ready for re-inspection. To date, however, all requested re-inspections have not been made, but with the general opening up of the areas, it is anticipated that they may be accomplished in the near future."

"YEARLY ACTIVITIES OF THE DIV. OF SANITARY ENGINEERING
in Regard to
INSPECTIONS OF LOGGING, WOODCUTTING AND WOODS INDUSTRIAL CAMPS
1943- 1956

Year	Inspections made (including re-inspections)
1955-1956	44
1954-1955	29
1953-1954	1
1952-1953	55
1951-1952	46
1950-1951	103
1949-1950	8
1948-1949	11
1947-1948	27
1946-1947	51
1945-1946	73
1944-1945	7
1943-1944	24
Total--------	479

NOTE: Inspections of camps are made largely on the registration of complaints and every attempt is made to investigate each complaint regardless of the quantity received in any particular year. Facilitation of inspections is also dependent on the availability of suitable personnel and the availability of divisional funds, since no allowance for this service is made budget wise."

Part IV.

DEPARTMENT OF LABOR AND INDUSTRY.

The responsibilities of the Department of Labor and Industry, defined under Chapter 30 of the Revised Statutes, include the improvement of employee working conditions. The Department, as a result of the Governor's Conference held on February 28, 1955, was assigned the responsibility of making an inspection of the working conditions in woods camps. The inspection was made by the Department by virtue of Section 2, which authorizes the Department to inspect working conditions. The following are excerpts from the report submitted to Governor Muskie by the Commissioner of Labor and Industry on April 30, 1956:

" THE SURVEY

On August 30, 1955, schedules were sent to 116 Maine paper companies, loggers, etc..... Replies covering 205 operations were received of which 16 were notifications that no camps were operated either by the company or for them by contractors. The remaining 189 were referred to the Industrial Safety Division for investigation and they inspected 129 operating camps..... In the 129 operating camps there were, at the time of inspection, 820 Americans, 4,129 Bonded Canadian workers and 47 workers on visa. The employment picture, as reported on the questionnaire for the three seasonal peaks (June, October and February), is shown on Table II.

Based upon the employment data from the inspection reports of lumber camps, shown above, the Canadians represented 83.6% of the labor force; however, using the data obtained in the

schedules which is perhaps more reflective of the year-round woods camp picture, we find that (1) In the inspected operating camps, 67.4% of the workers are Canadian and (2) In all camps reported, 69.2% are Canadian. Based upon the average employment reported in the survey in all camps reporting, 3,300 of a total 4,800 were Canadian. Upon inspection of these camps, reported employment averaged 4,996 or 4% higher than the average total determined by the survey.

The relationships of Canadian to American workers ahown above is, of course, distorted as it represents only that portion of the logging industry operating in woods camps. A large percentage of all logging is the harvesting of pulpwood. The Maine Forestry Department reported a total harvest of pulpwood in Maine for 1955 of 2,533,674 rough cords. The Maine pulpwood industry 1/ reported 1,519,360, or 60%, was cut by native labor, the remaining 1,014,314, or 40%, was cut by Canadian bonded woodsmen. The industry also reported that the average total labor force engaged in the production of pulpwood in 1955 was 16,635. From the questionnaires submitted to its membership, the industry reported that 11,309, or 68%, of the average total labor force was native while the remaining 32%, or 5,326, were Canadian. This presents a more accurate picture of the state-wide employment pattern of the industry in contrast with the woods camps alone. Generally the American harvester lives at home and harvests local woodlots on a full or part-time basis.

1/ Committee on Imports for the American Pulpwood Industry.

WAGES AND RELATED DATA

The industry committee prepared a list of the various occupations in logging camps which were submitted to the individual operators for completion as to the wages paid for those jobs. Table IILshows the hourly paid occupations for which data were obtained together with the lowest and highest reported rates, the modal or most prevalent rate, and the computed average rate for each of those occupations. Table IV shows the piecework rate for various operations in the industry on the same basis. (The average hourly rates are weighted by the actual reported number of workers in each of the classifications, the piece work rates are averaged on the basis of frequency of occurrence). (These data are computed from reports of inspected operating camps and do not include the data filed by the other camps). In these camps workers are charged for maintenance or room and board. The average charge reported was $2.11 per day from a range of $1.95 to $2.25 per day.

In the annual "Census of Maine Manufacturers" for 1954, Logging Camps and Logging Contractors paid an average of $2,321 to the 4,000 average number of workers for the year. In evaluating this average an objective considerations of the following is necessary: (1) The part-time nature of the employment pattern in the industry (2) The state-wide average for all manufacturing industries,which is $2,866, and (3) The all manufacturing average for Aroostook County was $2,804, for Penobscot --$2,979, for Piscataquis -- $2,178, for Oxford-- $3,134, and for Franklin --$2,560.

WORKMEN'S COMPENSATION COVERAGE

In the 189 camps reported to this division, 99 indicated that they were "Assenting Employer's" under the Maine Workmen's Compensation Act. 76 of them were covered by insurance while the remaining 23 were self-insurers. 53 more reports indicated non-assent to the Act, but of these 7 carried Employers' Liability insurance, 11 carried Workmen's Compensation insurance and 2 had Canadian Compensation insurance. 11 reports of the total non-assenters stated that some form of health, accident, or hospitalization insurance was carried for which the employer paid one-half or more of the premium cost. The remaining 37 reports made no response to the Workmen's Compensation question.

In the 129 active camps which were inspected, 77 were in assent to the Act (62 insured and 15 self-insured) while 11 did not reply to the question. Of the remaining 31 non-assenters, 5 carry Employers' Liability, 8-- Workmen's Compensation, and 1 Canadian Compensation insurance."

NOTE: No analyses were made on the basis of products or type of operation.

"TABLE I

CENSUS OF MAINE MANUFACTURERS, 1954- Selected Data for the Four Years, 1951-54.

A. Lumber and Wood Products, Paper and Allied Products, Furniture and Fixtures-- 1951-1954.

INDUSTRY	(1951-1954, inclusive) VALUE OF PRODUCT (000,000's)	GROSS WAGES PAID (000,000's)	AVERAGE	EMPLOYMENT (Annual Average)
Lumber and Wood Products	482	155	2,146	18,059
Paper and Allied Products	1,125	250	3,805	16,428
Furniture and Fixtures	19	7	2,616	669
Total--------	1,626	412	2,930	35,156

B. Lumber and Wood Products, Paper and Allied Products, Furniture and Fixtures, 1954.

Lumber and Wood Products	110	32	2,171	14,726
Paper and Allied Products	293	68	3,939	17,206
Furniture and Fixtures	5	2	2,481	659
Total--------	408	102	3,130	32,591 "

" TABLE II.

REPORTED EMPLOYMENT ON SURVEY

A. Inspected Operating Camps.

Period	Number of Americans	Number of Canadians Bonded	Number of Canadians Visa	Total Canadians	Total Americans and Canadians
June	1,380	2,317	94	2,411	3,791
October	1,048	2,963	105	3,068	4,116
February	1,065	1,626	101	1,727	2,792
Average #	1,164	2,302	100	2,403	3,567
%	32.6	64.6	2.8	67.4	100.0

B. All Camps Reporting.

June	1,780	3,738	114	3,852	5,632
October	1,253	3,626	122	3,748	4,981
February	1,385	2,167	117	2,294	3,669
Average #	1,486	3,177	118	3,295	4,761
%	30.7	68.8	2.5	69.3	100.0 "

"TABLE III.

1955 HOURLY WAGE SCALES

(Includes only those jobs for which rates were furnished and in view of the period covered, does not involve the Federal Minimum Wage Revision on 1, March 1956.)

JOB TITLE	LOW RATE	HIGH RATE	AVERAGE RATE	MODAL RATE
Blacksmith	.85	1.33	1.07	1.00
Bull Cook	.75	.92	.77	.75
Bulldozer Operator	1.00	1.72	1.31	1.25
Cant Dog Man	.80	.92	.83	.80
Clerk	.80	1.52	1.16	1.25
Clerk-scaler	.95	1.25	1.02	.95
Cook	.75	1.22	.86	.825
Cook Assistant	.75	1.01	.79	.80
Cookee	.75	1.00	.78	.75
Crane or Shovel Operator	1.00	1.52	1.27	1.25
Crane or Shovel Operator,helper	.90	1.00	.97	1.00
Feeder	.75	.92	.80	.75
Foreman*	.75	2.50	1.79	2.375
Foreman Assistant*	.90	2.00	1.53	2.00
Ground Loader	1.00	1.15	1.04	1.00
Scaler	.85	1.40	1.22	1.28
Swamper	.75	1.25	1.00	1.00
Teamster 1-Horse	.85	1.25	.95	.85
Teamster 2-Horse	.90	1.25	1.07	1.10
Toter	.80	1.00	.95	1.00
Tractor Driver	.95	1.62	1.18	1.00
Tractor Driver Helper	.85	1.29	.97	.90
Truck Driver	.90	1.45	1.09	1.00
Truck Driver Helper	.85	1.25	.94	.90
Wood Worker (Axemen)	.90	1.25	1.15	1.10
Woods Machine Mechanic	1.15	1.35	1.28	1.32
Carpenter	1.25	1.50	1.375	1.35
Log Hauler Operator	1.62	1.62	1.62	1.62
Grader Operator	1.20	1.20	1.20	1.20
Camp Construction	.90	1.00	.91	.90
Choker Man	1.32	1.43	1.39	1.43
Yardman	1.00	1.00	1.00	1.00

* Includes weekly salaries which were prorated on a 40-hour base. "

"TABLE IV.

PIECE WORK RATES

(Includes only those activities for which rates were furnished)

A. Rates per Thousand.

ACTIVITIES		LOW RATE	HIGH RATE	AVERAGE RATE	MODAL RATE
Softwood	- Drop and Limb	6.00	6.00	6.00	6.00
	Cut and Yard	8.00	12.00	10.04	10.00
	Cut and Skid	8.00	12.00	9.69	10.00
Hardwood	- Drop and Limb	6.00	6.00	6.00	6.00
	Cut and Yard	9.00	15.00	11.52	10.00
	Cut and Skid	10.00	12.00	11.20	12.00
Hardwood (Selective Cutting)	- Drop and Limb	5.00	5.00	5.00	5.00
	Cut and Yard	14.00	14.00	14.00	14.00

B. Rates per Cord.

BOLTWOOD					
Birch	- Stump Piled	5.00	6.00	5.50	5.50
	Yarded	6.00	9.00	6.94	6.50
Other	- Stump Piled	5.50	5.50	5.50	5.50
	Yarded	6.50	9.00	7.75	7.50
PULPWOOD					
Rough	- Stump Piled	5.00	6.00	5.47	5.50
	Yarded	5.00	6.50	5.81	5.50
Peeled	- Stump Piled	8.00	8.50	8.04	8.00
	Yarded	8.00	10.75	8.61	8.50
Peeled*	- Yarded	6.25	8.00	7.13	6.50
Peeled Poplar	- Stump Piled	7.00	7.00	7.00	7.00
	Yarded	7.50	7.50	7.50	7.50
Hauling		3.00	7.75	4.41	3.50
C. Maintenance (Board and Room)		1.95	2.25	2.11	2.10

* Chemically debarked "

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A P P E N D I X

EXHIBIT I.

Maine Employment Security Commission

PREVAILING WAGE AND PIECE RATES FOR THE PULPWOOD AND LOGGING INDUSTRY

The following are the prevailing wage and piece rates for occupations in the industries operation which are expected to be in effect in the State of Maine during the six month period October 1, 1956 to March 31, 1957, inclusive.

September 21, 1956 (Date)

PAUL E. JONES (Employment Service Director)

CLASSIFICATION

(Choppers or Cutters)

SAW LOGS	Rate per Thousand Board Feet	
	Drop and Limb	Cut and Yard or Cut and Skid
Softwood	7.00- 10.00	9.00- 14.00
Hardwood	7.00- 10.00	12.00- 18.00
Hardwood Selective Cutting	8.00- 9.00	12.00- 25.00

B O L T S	Rate per Cord	
	Cut and Stumped Piled	Cut and Yarded
Birch	5.50- 7.00	6.00- 7.00
Other Hardwood	5.50- 6.00	6.00- 6.50
		10.00- ----*

PULPWOOD	Rate per Cord	
	Cut and Stump Piled	Cut and Yarded
Rough Pulpwood	5.50- 6.00	6.00- 7.00
Peeled Pulpwood	8.50- 9.50	9.00- 10.00
Peeled Pulpwood Chemically Debarked	----------	7.50- 9.00
Peeled Poplar	6.50- 8.00	7.50- 9.00

* Peeled

EXHIBIT I (Page 2)

ALL OTHER CLASSIFICATIONS

Classification	Rate Range (Hourly Rate)
Blacksmith	1.00- 1.41
Boatman	1.10- ---
Bull Cook	1.00- 1.06
Bulldozer Operator	1.25- 1.78
Cant Dog Man	1.00- 1.25
Clerk	1.00- 1.55
Clerk-Scaler	1.00- 1.25
Cook	1.00- 1.295
Cook Assistant	1.00- 1.05
Cookee	1.00- 1.115
Crane or Shovel Operator	1.25- 1.78
Crane or Shovel Operator Helper	1.00- 1.53
Feeder	1.00- 1.06
Filer	--- ---
Per Week	75.00-125.00
Foreman	
Per Hour	1.25- 2.05
Per Week	72.00- 90.00
Assistant Foreman	
Per Hour	1.00- 1.555
Ground Loader	1.00- 1.392
Motorboat Operator	--- ---
Portable Rosser Operator	--- ---
River Driver	1.10- 1.39
Scaler	1.10- 1.30
Swamper	1.00- 1.275
Teamster- 1 Horse	1.00- 1.40
Teamster- 2 Horse	1.00- 1.40
Toter	1.00- 1.10
Tractor Driver	1.00- 1.50
Tractor Driver Helper	1.00- 1.40
Truck Driver	1.00- 1.50
Truck Driver Helper	1.00- 1.40
Wood Worker	1.00- 1.25
Woods Machine Mechanic	1.25- 1.81
Truck Driver with Truck (Show distance hauled one way and rate on reverse side	

Workers will be paid time and one-half for hours over 40 per week except for the established and approved seasonal exceptions.

EXHIBIT II.**

EMPLOYMENT IN MAINE LOGGING CAMPS AND LOGGING CONTRACTORS (Includes cutting pulpwood)*

	Estimated total employment	Usage-bonded Canadian workers
January-December, 1954:		
January	7,500	3,726
February	7,200	3,149
March	4,600	2,518
April	3,300	636
May	6,100	1,007
June	9,300	3,854
July	9,500	4,185
August	8,100	2,975
September	7,300	2,904
October	7,500	2,945
November	7,600	3,641
December	7,300	4,055
January-June, 1955:		
January	7,500	4,180
February	7,300	3,830
March	5,100	2,218
April	3,800	122
May	6,800	4,020
June	9,900	5,215

* Does not include individual farmers producing pulpwood and long logs.

** Source, Exhibits II-V: U.S. Congress, Senate. Committee on Labor and Public Welfare, "Importation of Canadian Bonded Labor: Hearings before the Subcommittee on Labor. (July 21, 22 and 25, 1955)."

EXHIBIT III.

PEAK EMPLOYMENT-* LOGGING CAMPS AND LOGGING CONTRACTORS

Period	Maine		Vermont		New Hampshire		New York	
	All workers	Canadian workers	All workers	Canadian workers	All workers	Canadian workers	All workers	Canadian workers
October 1951 to March 1952	7,747	5,435	629	192	1,497	1,381	2,667	109
April to September, 1952	7,753	4,801	572	161	1,133	1,155	2,155	441
October 1952 to March 1953	6,736	4,179	445	289	1,210	708	1,908	67
April to September 1953	6,619	3,647	564	314	1,070	833	1,469	98
October 1953 to March 1954	5,239	3,557	421	503	1,028	693	1,564	132
April to September 1954	6,764	4,305	566	281	922	506	1,407	178
October 1954 to March 1955	---	4,337	---	248	-----	320	-----	92
April to July 1955	----	5,528	---	320	-----	450	-----	143

* Does not include individual farmers producing pulpwood and long logs

EXHIBIT IV.

"TEMPORARY USE OF CANADIAN WOODSMEN IN NEW ENGLAND STATES
(Admitted under Public Law 414, 82nd Congress,
The Immigration and Nationality Act)

The following is a brief resume of United States Employment Service and affiliated State agency participation in the Canadian woods program (bonded woodsmen) in New England and New York State:

1. The role of the Employment Service is to determine the availability of labor in the United States to fill the needs of the woods industry. In doing this the Employment Service takes specific job orders from the employers, determines the comparability of the wages and working conditions offered with those prevailing in the community, recruits and refers all available resident workers, and certifies to any shortage.

2. In carrying out its responsibilities the Employment Service examines each job order in the light of all policies and standards of the department having to do with the acceptance of job orders and referral of workers by the United States Employment Service.

3. Available qualified resident workers are always referred to available woods jobs under the procedure. This is true not only prior to the entry of Canadian workers to fill vacancies but also while Canadians are employed. Job orders pf positions temporarily filled by Canadians are kept open during the time Canadians are on the jobs and American workers are referred either to those or to comparable woods jobs. The failure of an employer to hire a qualified worker referred to him while he has a similarly employed Canadian on his payroll constitutes cause for the Immigration and Naturalization Service to cancel his authorization for the temporary use of Canadians.

4. United States Employment Service operations in the woods program are decentralized to the Boston regional office.

5. The Boston regional BES director spends a great deal of his time in carefully checking these operations and in keeping informed of latest developments incident to the operation in both labor and management circles. His staff also spends considerable time on the problem as do Maine, New Hampshire, and Vermont employment service officials and their staffs."

EXHIBIT V.

EMPLOYMENT, HOURS, AND EARNINGS IN THE LOGGING INDUSTRY, 1947- 54

	ALL EMPLOYEES	Production workers	Average weekly earnings	Average weekly hours	Average hourly earnings
	Thousands	Thousands			
1947	92.5	88.6	$55.15	38.3	$ 1.44
1948	86.7	82.6	60.25	38.7	1.56
1949	78.5	73.6	61.31	39.1	1.57
1950	91.5	86.2	66.25	38.9	1.70
1951	106.1	100.3	71.53	39.3	1.82
1952	99.7	93.2	77.68	41.1	1.89
1953	102.1	94.8	79.00	39.5	2.00
1954--January	74.8	67.6	72.74	38.9	1.87
--February	85.7	78.6	73.92	38.7	1.91
--March	96.7	89.6	72.96	36.3	2.01
--April	96.7	89.9	80.30	37.7	2.13
--May	116.1	108.3	76.80	36.4	2.11
--June	125.6	117.8	79.18	39.2	2.02
--July	92.2	64.6	63.00	37.5	1.68
--August	96.1	88.6	67.30	38.9	1.73
--September	112.6	104.8	68.16	35.5	1.92
--October	120.2	112.4	75.83	38.3	1.98

Source: Bureau of Labor Statistics

SHELLFISH AND MARINE WORM LAWS

SHELLFISH AND MARINE WORM LAWS

> ORDERED, the House concurring, that the Legislative Research Committee review the shellfish and marine worm laws and report their conclusions to the 98th Legislature. The Department of Sea and Shore Fisheries is directed to cooperate with the Committee.

The Legislative Research Committee, in complying with the terms of the Legislative Order directing the review of the Maine shellfish and marine worm laws, has conferred with the Commissioner and other representatives of the Sea and Shore Fisheries Department and with representatives of the United States Fish and Wildlife Service. In facilitating its study, the Committee prepared a digest of all existing public laws, private and special laws, resolves, town laws, and rules and regulations of the Sea and Shore Fisheries Department relating to the taking of shellfish. This digest has been made available to the Sea and Shore Fisheries Department by the Committee and is not reproduced as a part of this report. The Committee in conducting its study has examined all provisions included in Chapter 38 of the Revised Statutes pertaining to shellfish, with special attention being given to Sections 49, 91 and 92. These sections relate to town laws, interstate transportation of shellfish and the two-inch clam law, respectively. The Committee, as a result of its study, concludes that existing conditions affecting the shellfish industry would be improved with certain changes in the current shellfish laws. The Committee recommends that the present state laws governing shellfish and marine

worms be revised in accordance with the following specific recommendations:

SPECIFIC RECOMMENDATIONS

1. TOWN CLAM LAWS. That the Sea and Shore Fisheries Laws be amended to provide for the repeal of the "town clam laws," so called, authorized under Section 49 of Chapter 38 of the Revised Statutes; that the Commissioner of the Department of Sea and Shore Fisheries be vested with authority to grant exclusive regulatory rights to such towns or combination of towns as express a willingness to accept the entire responsibility for enforcement and are willing to cooperate with the Department of Sea and Shore Fisheries in its conservation and clam management programs.

   REASON. Section 49 of Chapter 38 provides that:
   "Any town may, by vote at an annual town meeting, provide for regulations fixing the times and amounts in which clams, quahogs and mussels may be taken from any or all of the coastal waters and flats within the town and may likewise provide that municipal licenses be required for the taking of any or all of such species therein and fix the fees therefor..... Any town that adopts any regulation under authority of this section shall be responsible for enforcement of the same....."

   Section 8 of Chapter 38 provides as follows:
   "The Commissioner shall possess all the powers of a coastal warden..... It shall be the duty of the coastal

wardens to enforce all laws relating to sea and shore fisheries and all rules and regulations pertaining thereto; to arrest all violators thereof and to prosecute all offenses against the same....."

The provisions of Sections 8 and 49 of Chapter 38, as a matter of interpretation, conflict in defining the enforcement responsibilities of the Department of Sea and Shore Fisheries and of the towns. The Committee urges a change in the present law for the purpose of clarifying respective enforcement responsibilities. The Committee recommends the repeal of those town laws authorized under Section 49, with authority to be vested in the Commissioner of Sea and Shore Fisheries to grant by rule and regulation exclusive regulatory rights to towns under certain conditions, namely, that the town accept entire responsibility for enforcement, and cooperate with the Department in its clam management and conservation programs. Irrespective of the fact that Section 49 requires local enforcement of town laws, as a practical matter, this responsibility has not been accepted. Towns by and large have disregarded this requirement either by ignoring matters of enforcement or by firmly insisting that the Department of Sea and Shore Fisheries exercise its responsibility pursuant to the provisions of Section 8. Insofar as the provisions of Section 49 have present legal effect, the Committee feels that a town having exclusive rights over its shellfish should, by the same token, be obliged to conform to law

by assuming all enforcement responsibilities. The Department, because of town inaction and much adverse publicity in the past, has been forced to accept town enforcement responsibilities. While doing so, the Department has become involved in numerous disputes and controversies. Enforcement problems are manifested in poorly drafted town laws and by the lack of well defined town coastal boundaries. Department enforcement personnel has not been adequate to assume this responsibility. The recommendation of the Committee, calling for the repeal of town laws, would tend to promote conditions of uniformity in the law, thereby eliminating present legal congestion, promote uniformity in town shellfish regulations to biological conditions, promote flexibility in management and conservation programs in shellfish areas, and provide incentives for towns to actively manage and enforce shellfish regulations for the benefit of the town. The Committee feels that it is most desirable for regulation at the local level because urgent needs generate more prompt action and ultimately prove to be of the most value. However, such regulations should not be made independently by the towns and should be subject to some supervisory authority. The Committee believes that the interest of the public would be better served by interposing the Department of Sea and Shore Fisheries as the final arbiter in matters of shellfish regulation. The ultimate responsibility of determining management areas should be in the Department

and exercised as a part of its management program. Should the Legislature, in its wisdom, decline to repeal the authority of towns authorized under Section 49, it should compel mandatory enforcement at the town level. Should the Legislature in retaining Section 49 determine that enforcement is not a local responsibility, it should provide for such increases in Department personnel as would insure adequate enforcement at the state level.

2. TWO-INCH CLAM LAW. That the Sea and Shore Fisheries Laws be amended to provide for the repeal of the "two-inch clam law," so called, authorized under Section 92 of Chapter 38 of the Revised Statutes.

REASON. The Committee has recommended the repeal of the two-inch clam law feeling that such a recommendation is in keeping with its repudiation by scientific authority as a conservation measure. The present law which restricts the taking of clams and quahogs less than two inches in the longest diameter was originally enacted to protect seed quahogs and clams. In practice such a measure has not proved sound either in conservation or in enforcement value. The chief reason for the ineffectiveness of the law to accomplish its purpose lies in a 50% mortality of clams directly attributable to digging. The Committee believes that the more realistic approach would be to control growing areas rather than protecting individual clams within the area, the Committee indorsing the proposition that restrictions as to size, if necessary, should be controlled by the Sea and Shore Fisheries Department under its clam management program.

3. INTERSTATE TRANSPORTATION LAW. That the Sea and Shore Fisheries Laws be amended to provide for the repeal of the "interstate transportation law," so called, authorized under Section 91 of Chapter 38 of the Revised Statutes.

REASON. The interstate transportation law, which restricts the interstate shipment of clams in the shell to individual lots of not more than 1/2 bushel to any one customer in any one day, though intended to conserve the resource, has not proved to have any appreciable conservation value. The law, though difficult to enforce and easily circumvented, remains as a restraint on trade, generally restricting the development of the industry. For these reasons, the Committee recommends its repeal.

4. MARINE WORM LAWS. That the Sea and Shore Fisheries Laws be amended to provide that management areas which are closed to the digging of shellfish shall be likewise closed to the digging of marine worms.

REASON. Section 125-A of Chapter 38 of the Revised Statutes, as enacted by Chapter 110 of the Public Laws of 1955, provides as follows:

> "It shall be lawful for any person, firm or corporation, who legally possesses a commercial shellfish and marine worm license, to dig, take, buy or sell marine worms, clamworms, bloodworms and sandworms in any tidewater area of the State, except those areas which are closed to all digging for the conservation of marine worms by the Department....."

The Committee has recommended that management areas which

are closed to the digging of shellfish should correspondingly include closing those areas to the digging of marine worms. As the law presently stands, the holder of a commercial shellfish and marine worm license is permitted to dig in any area, except those closed to all digging for the conservation of marine worms. The Committee believes that where conservation requires the closure of a management area, that area should be closed simultaneously to both marine worms and shellfish.