

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

REPORT
to
THE ONE HUNDRED AND THIRD LEGISLATURE

S E A S O N A L E M P L O Y M E N T
by
Interim Joint Committee
102nd Legislature

January 1967

REPORT ON
SEASONAL EMPLOYMENT STUDY

TABLE OF CONTENTS

ORDER	<u>X</u>
LETTER OF TRANSMITTAL	<u>XX</u>
	<u>Page</u>
BELFAST HEARING	1
Committee Statement	14
SIX COMMITTEE QUESTIONS	15A
AUGUSTA HEARING	15
Committee Statement	27
PRESQUE ISLE HEARING	28
Committee Statement	37
COMMITTEE RECOMMENDATIONS	38

STATE OF MAINE

IN HOUSE June 4, 1965

ORDERED, The Senate concurring, that there be created an interim joint committee to consist of 3 Senators appointed by the President of the Senate and 4 Representatives appointed by the Speaker of the House to study the impact of seasonal employment, and of such Federal standards as may be imposed upon the states by the U.S. Congress, upon the employment security program and to report to the 103rd Legislature, or to the 102nd Legislature in special session if in its judgment earlier action is necessary or desirable, its recommendations for revision of the Maine Employment Security Law; and be it further

ORDERED, that there is appropriated to the Committee from the Legislative Appropriation the sum of \$1,000 to pay the expenses of the members of the Committee.

Name: Gifford

Town: Manchester

Pursuant to the above Order, the following members were appointed by the President of the Senate - Senators, Donald O'Leary, Glenn H. Manuel and Richard W. Glass - and the following members were appointed by the Speaker of the House - Representatives Joseph A. D'Alfonso, Raymond Boissonneau, Gerard P. Conley and Richard J. Dumont.

Representative D'Alfonso and Senator O'Leary were elected Chairman and Vice Chairman respectfully by the members of the Committee. Public hearings and executive meetings were held during the interim and the (majority) report is herewith submitted.

Letter to the 103rd Legislature

January, 1967

To: The 103rd Legislature

From: Interim Committee on Seasonal Employment

The efforts of the Committee were rather handicapped by the fact that federal requirements with respect to unemployment compensation and federal standards with respect to their impact on seasonal employment have not been established and, therefore, the committee proceeded with its legislative directive knowing that no definite conclusions could be anticipated by the committee unless these federal standards had been forthcoming.

Nevertheless, the members of the interim committee on seasonal employment are pleased to submit this report.

Signed: Joseph A. D'Alfonso
Chairman

Minutes of Meeting
SEASONAL EMPLOYMENT STUDY COMMITTEE
September 28, 1965
Belfast

The Legislative interim committee studying seasonal employment held a public hearing at the East Belfast School Auditorium on Tuesday, September 28, 1965 at 7:30 P.M.

Present were -

Senator Donald O'Leary, Vice Chairman
Senator Richard W. Glass
Rep. Joseph A. D'Alfonso, Chairman
Rep. Raymond Boissonneau
Rep. Gerard P. Conley
Rep. Richard J. Dumont

Absent were -

Senator Glenn H. Manuel

The hearing was called to order by the Chairman, Representative Joseph A. D'Alfonso.

Rep. D'Alfonso - There were two members from a particular industry here. They have left a statement with us - a very brief statement.

"My name is Verne McFadden, President of the Maine Sardine Packers Association. Our Executive Secretary, Richard Reed, and myself are here as observers only in order to report back to the industry a summary of the discussions. It will then be decided what action the industry wishes to take regarding a statement before the committee at a later date.

However, I do wish to point out that the last legislature legalized the canning of sardines on a year around basis and this should result in longer periods of operation of most canneries than in the past. This development resulted from improvements in fishing techniques, changes in marketing methods and other factors.

Thank you gentlemen!"

REP. KENNETH R. GIFFORD, MANCHESTER

Mr. Chairman and members of the committee. It appears that this is going to be an informal gathering. I have been invited to sit. This is a little unusual but if that pleases all of you, it will be that much more

comfortable for me. I have prepared a statement and copies, I believe, are being distributed among you which I would like to read and then offer any assistance or answer any questions which you might care to ask that I might have the answers to.

For a number of years the Maine Employment Security Commission law has been most lenient as to the eligibility provisions. When the law was first enacted in the 30's, it simply required that a worker should in his base year, earn \$300. \$300 back in the mid-30's, at perhaps \$15 a week, required 20 weeks of work and this through the years, nationally, has been considered a suitable standard for eligibility for Unemployment Security benefits. Perhaps unfortunately, Maine chose in the beginning to select a dollar figure for eligibility rather than a weeks' of work figure. Had wage rates remained as they were in the 30's, this would still have worked well today. However, as wage rates rose, Maine legislatures did not up-date the law to account for this and for a number of years the \$300 provision remained on the books. Only six years ago, I believe, was it increased from \$300 to \$400 and, of course, in the recent session of the 102nd legislature the figure was increased to \$600. However, at today's minimum wage of \$1.25 an hour, 40 hours work produces \$50 weekly and we now have only a 12 week requirement in effect at minimum rate. Of course, at \$60 a week it is only 10 weeks requirement, at \$80 a week we have only 7½ week requirement and so on, and the average wage in covered employment today is in excess of \$80 a week in the order, I believe, of 83-84 dollars. So we have not really up-dated our program as to eligibility of employee participation in the program - rather over the years we have let this deteriorate. As this has happened, more and more people have become eligible for benefits. They have had to be affixed to the labor force for shorter and shorter periods of time and this has permitted people to enter the program who are not truly committed to the labor force, they are not full-time workers.

They can be, as I described, people who work only for the summer and perhaps would not work at any other time of the year if work were available to them. It permits people during, possibly, the Xmas season and perhaps a few weeks during the Easter season, to qualify for 26 weeks of benefits having worked actually for only a very short period. The funds for the program, of course, are limited by the contribution formulas - contributed by the employers to this fund. As more and more people become eligible for this program, more and more people drawing upon it, this has created a serious drain on the available funds. In my observation this has also created pressures upon the employer groups to hold benefit levels down in order to keep their cost participation in the program under control.

The direction in which we should have gone long ago is to tighten up on the eligibility. -Maintain the original 20 week requirement which we had when the program started 30 odd years ago - a requirement which is expected even now to be in the federal standards. -Federal standards will not require a more lenient eligibility requirement than 20 weeks, so this is still an accepted standard nationwide and is expected to be in the federal standard. Had we maintained this, I don't think there would have been pressure on the part of the employers to keep benefit level down and legitimate full-time workers would have enjoyed a higher level of benefits over the years than they have. The federal standards as they come along will now, of course, require states to provide in their programs levels to provide program benefits as prescribed in the federal statutes. This will take away from employers the opportunity to exert pressure to keep competitive costs down by keeping benefit costs down and I fear it is going to throw State of Maine employers in a non-competitive position, trying to carry a program in effect for legitimate full-time workers and for those who I describe as part-time, short-term ones who really have not

by generally recognized standards, earned the right to these benefits.

REP. DUMONT - Have you had a chance in your study of the Employment Security laws to compare Maine with the other 50 states. I understand Maine is only one of five with this seasonal provision, to be able to receive unemployment benefits within the employment period or within the period of operation and why should we be just one out of five that is so strict on employment so far as the employees are concerned.

REP. GIFFORD - Well, as a suggestion along these lines, I think if we would stiffen our basic eligibility requirement, bring it up to the level that it should be, we could probably strike this seasonality provision from the law entirely. I think if we write the law as it should be in the first place, we can eliminate it.

SENATOR GLASS - You will agree without a question that as it stands right now our practice does not conform with the law insofar as the designation of seasonal industry is concerned. This obviously is a problem. Without referring to any particular industry, I have in mind myself the sardine industry, for example, which by law up until this last session was, as a practical matter, forbidden or prohibited from engaging in the ordinary course of their business within a certain specified period of time. Consequently, they could work a maximum of 34 weeks and for one reason or another - there are obviously pros and cons - were never and have never been declared seasonal. Are there any other industries - sardines seem to be on my mind at the moment as this is the industry, perhaps, that I am most familiar with - are there any other particular areas that you would like to comment on that you have had any experience with or knowledge about.

REP. GIFFORD - No, in fact, I had no intention to comment on the sardine industry. This one has been so much talked about I had hoped to

be able to avoid it. No, I think my feeling is based on personal experience having served in the 101st Legislature on the labor committee, having been involved in employment security legislation as a co-sponsor in the present legislature, that too little information has been available, too little has been accumulated on the whole problem of seasonal employment.

There has been an awareness of the problem but no one has really been able to tackle the program or to have any detailed information regarding it. That, again, was part of the thinking that led to the creation of this study committee - that perhaps at long last someone ought to be finding out just what this problem is and what its elements are and see if we can't tackle it armed with that knowledge which has not been available - has not been accumulated up to this point. I think there are questions that none of us can answer because this work has simply not been done.

SENATOR GLASS - Are you necessarily convinced that the federal standards of 20 weeks - baring in mind our particular economy as it exists in Maine and our peculiar features perhaps about some of our more important industries and mercantile establishments--do you feel that 20 week federal standard is something that would be ideal for Maine?

REP. GIFFORD - It does not seem to me that a 20 week requirement is excessive - that this is a hardship. We once had it in effect and it deteriorated more out of neglect than out of design. These federal standards, of course, are minimum standards and I think it is particularly significant that the federal government does not think it is necessary for a more lenient standard than 20 weeks. Again, I might change my mind if I had the sort of information that I am hopeful this committee will be able to accumulate. Our knowledge of this problem, our detailed knowledge, is, I am afraid, rather meager. Based upon

the degree of knowledge that I have at the present time, I think I would advocate a 20 week requirement.....A worker would have to work at least 20 weeks. Exactly how you would define a week of work, I am not prepared to say at this time. I think I would want to study the definition in other states - what they would normally consider a week of work because you do have a problem here. Well, for example, in the paper industry when work is slack they go on to a four day week, so if you only consider a five day week a week of work, a worker would never accumulate any weeks at this rate so there has to be some sort of workable definition.

REP. DUMONT - Do you feel in the event the U.S. Congress did pass HR 8282, do you think this would help alleviate Maine's employment security programs. The reason I ask is if I find within the next week or so that it will have a tendency to close that in, I shall make it a point to write my congressman and my senator - of course, on my side of the fence.

REP. GIFFORD - I don't know whether I would want to comment on whether I am for or against this particular piece of federal legislation. But if it is enacted, I think it will aggravate the problem as to employment security in Maine. Then this seasonal employment problem, instead of asking for a solution, will be shouting for it. That is, it was the threat of adoption of federal standards that provided much of the motivations for the creation of this committee. Under these federal standard benefits, levels will be pretty well set by the federal government and at higher levels than they are even under the bill which we enacted in the regular session so this is going to make a most expensive program in Maine - carrying both the group of what I call legitimate workers and (I shutter to use the illegitimate) the part-time seasonal, short-time

and so on, workers. To carry the group that we should be carrying plus these others under federal standards will be an expensive proposition.

JOSEPH E. A. COTE, COMMISSIONER
EMPLOYMENT SECURITY COMMISSION

My name is Joe Cote. I am labor representative at Employment Security. I wanted to say that the other two members of the Commission wanted to be here but could not for some reason. I have something - statistics, facts and my opinion which I would like to spell out to the committee, if I may. First, I would like to commend Ken Gifford and regret that he is not a spokesman for the industry but I find myself very much in accord with his thinking. At the outset, I would say I am very much opposed and always have been to the definition of a seasonal worker. I think we have to realize here that this particular worker only works as long as his employer can use him or wishes to use him. He limits employment to these people because of weather, tourist business, or other conditions but he shuts down when it is convenient to him. Therefore, I do not think that our law is morally right to discriminate in defining a class of people and say these are seasonal workers and as such should be denied benefits on the basis of wages they earned in a particular industry. These people, as you know, for the most part - many of them are the housewife that wants to help the old man out with taxes, wants to dress the children up for school and this is bonus money for them, lets face it. I think the law should properly recognize labor market attachment. This is a true test. Not because some particular Maine industry happens to work a particular number of weeks and those weeks are dominated by weather. Benefits should go to those people who are eligible on the basis of labor market attachment.

I would like to give you a comparison of fluctuating employment that I have listed not by one industry but amongst a number of them. This chart pictures all industries and seasonal employment variation among all Maine subject employers. I will give you the breakdown for the average employment - this is for the 1964 year - the highest months, the lowest month, the variations in employment and the net change percentage wise.

The particular industries that seem to be most under fire - agriculture, forestry and fisheries. The average annual employment in those industries in 1964 was 878, the lowest month was January, the highest month was July and the variations in employment from a high to a low were from 701 to 1065; change of 364 with a percentage change of $41\frac{1}{2}$ per cent.

Let's take a look at mining - average employment 263, low month, March, high month, October. Variation from 153 to 300 and with per cent change of $62\frac{3}{10}$ per cent.

Construction, which has been previously mentioned, average annual employment 11,350, variation from 7,800 to 13,605, net variation change 50.15.7 per cent.

Services - this, of course, is another seasonal factor - 12,000 average employment - variation from 10,005 to 15,008, percentage change from high to low $42\frac{6}{10}$ per cent.

Food and kindred products - this is your canning industry. Average annual employment 10,670, variation from 9,030 to 14,155, variation percentage-wise of 48 per cent. Here is another industry that could receive consideration if they so elected to be declared seasonal.

Stone, glass and clay - average annual employment 1,057 people,

variation from 756 to 1,302, variation from 51.7 per cent.

I cite these figures only to bring out the fact that there are many industries subject employers in the State of Maine that have fluctuations in employment as severe as the worst of them and it seems that this clearly indicates that there are many employers that might entertain some hopes of being declared seasonal on the basis of their fluctuations. So I say, it is my feeling that it is discriminatory to classify some few number of Maine employers as seasonal and thereby denying their workers job unemployment benefits. I think Ken said in his closing remarks as a result of Senator Glass' question to him regarding the 20 weeks of qualifying requirements - this is the true test of unemployment insurance.

I want to say the last legislature did a tremendous job of advancing the goals of unemployment insurance. There was some liberalization that was long needed. I think Maine workers have suffered for a long period as a result of 1961 amendments, but I think the legislature should be complimented but I was quite disappointed to find, I thought, that the legislature had clearly abdicated a responsibility when it came to passage of earnings and two quarters. This would have been a far stiffer requirement and a more legitimate one than the one that was finally accepted at \$600. An earning test is not a true measurement of whether a person is in the labor market or not. Many of these so-called seasonal employers pay wages \$80 to \$100 a week. So for a month and a half a person working plenty of overtime can earn his qualifying amount under the statutes that is going into effect April 1. It is not enough of a measurement. In most states it is universally recognized that a week's requirement of earnings and two quarters - 18 to 20 weeks is

not uncommon across the country. So I think that you have the responsibility in bringing back your recommendations to the next legislature and I would like to see the seasonality provisions wiped out of the law.

SENATOR GLASS - Who qualify under standards that you feel represent a fair eligibility requirement? With reference to existing eligibility requirements - there seems to be a consensus between you and Rep. Gifford - to use your own language - this is a labor market attachment and not necessarily an arbitrary designation of someone being seasonal. The problem lies here basically with eligibility.

MR. COTE - That's right - the original eligibility requirements. As I stated before there was ample opportunity to correct this in the last legislature and there have been many opportunities in past legislatures. I recall only too well, I think in 1958, when unemployment insurance amendments were held up until the 11th hour because there was a condition of \$400 as an eligibility requirement. At the 11th hour the bill went through but they knocked it back to \$300. This for reasons unknown to me seems to be holy ground and it is most unfortunate because I think our working people who are legitimately unemployed have suffered over the years - and they have voiced this concern - have suffered over the years from low maximum benefit amounts even, because the whole picture has been held down to reward a small group of people who had questionable labor market attachments and I think that the best instrument and the best yardstick that can be used by the legislature is a time factor - earnings of 2 quarters - 18 weeks, 20 weeks - whatever in the wisdom the legislature wants to do, but this is the proper approach.

REP. D'ALFONSO - Do you think if you strengthened the eligibility

laws to the point of saying there must be a minimum of 20 weeks that this would actually, in itself, eliminate the free-loaders or bonus workers?

MR. COTE - That coupled with amending out the seasonality provisions of the law would be a big advancement that the next legislature could make.

REP. BOISSONNEAU - If this was done, do you expect us to ever go to the \$50 mark for maximum benefits?

MR. COTE - Yes, I don't say it will be next year but it is built into the formula which goes into effect April 1, next year. You have a 50% formula.

REP. BOISSONNEAU - But without raising the 2.7. I am trying to say, if this was done, would we have to go to the 3 point?

MR. COTE - I think industry has to recognize that they have got to fund properly, and at the present time they are paying 2.7 on the first \$3,000. This, in spite of the fact that the average year round wage is about \$4,600. This is not realistic either in the sense that wages have gone up. The top maximum of \$3,000 was realistic in the original days of this program - that was some 30 years ago - we have made some progress in wages and in other conditions and Social Security seemed fit to increase their maximum taxable amount to \$5,600. This is provided for in the new 8282 of the federal bill. I don't think it will go that high - this is a personal thing - but there will be most definitely an increase in that area.

SENATOR GLASS - Do you think there is any formula that you could suggest whereby you could possibly couple the standard based on weeks within any given quarter plus seasonality provisions that would be equitable.....

MR. COTE - I think a higher requirement in time would be an improvement but I still say it is morally wrong and against the true insurance principle to take one segment of industry and say its workers shall not use their base period credits for benefit purposes.

SENATOR GLASS - Do you feel there is any validity in the argument that some employers that have been classified as seasonal - that the classification of their particular industry or establishment being seasonal, guarantees them a labor force in any period that they are not operating?

MR. COTE - This is true in some sections of the State.

SENATOR GLASS - Do you think it is significant?

MR. COTE - I would say it depends upon your economy. If the economy is down, you do have a source of people, a source of labor, that you might not have during a period that we are experiencing right now. It is difficult to find people to service industries. These same employers are now crying for help, whereas in poor economic times they would not be.

SENATOR GLASS - Do you feel that you have adequate personnel in the department to police the program and carry and administer the program?

MR. COTE - We have doubled our number of employees in the 13 years I have been with them.

SENATOR GLASS - Do you still feel the personnel is adequate?

MR. COTE - We are limited by a budget we cannot go out....we need people continuously in the sense within the means of the budget and this is not always available. We need people because of the new programs that

have been thrust upon us in recent years - the Great Society has been a tremendous factor in increasing the number of programs we have to administer - the Manpower Training and Development - Job Corps ... Youth Opportunity Act - the Youth Opportunity Center - we have one established in Portland, we have some 14 people down there. So we have had a number of programs thrown at us.

SENATOR GLASS - My point is, are you spread too thin? We are directing our attention to the employment security fund and this is a typical situation - where you step over a pound to pick up a penny.

MR. COTE - No, because of the size of some of our offices we have to limit our personnel and yet there is a diminishing point below which you cannot go in the sense that you have to have a certain number of unemployment insurance people that are given an office - the least we have is 3. We operate 2 offices during certain periods of the year and then we supplement, but as our load increases we put more people on.

(A complete tape of this public hearing is available in the Legislative Finance Office)

STATEMENT FOR THE BELFAST HEARING

IT IS THE FEELING OF THE COMMITTEE THAT THE HEARING IN BELFAST WAS UNATTENDED BY THE PEOPLE WHO WOULD STAND TO BENEFIT THE MOST IN THE AREA. THEREFORE A FEELING OF COMPLACENCY EXISTS AMONG THE INDUSTRIES ENGAGED IN SEASONAL EMPLOYMENT IN THAT AREA. THE INDUSTRIES ARE WILLING TO PAY THE HIGH PERCENTAGE EXPERIENCE RATING TO HELP MAINTAIN THEIR SEASONAL LABOR FORCE.

(Statements submitted to the Committee are available in the Legislative Finance Office.)

(This was sent as a letter)

Gentlemen:

The Interim Committee on Seasonal Employment of the 102nd Legislature will hold a public hearing at Augusta on Wednesday, March 23, 1966 at 1:30 P.M. in the Judiciary Room at the State House for the purpose of gathering information and facts to assist the committee in its study of seasonal industries and employment and their impact on the unemployment security laws and funds.

The committee extends you a special invitation to be present at the hearing so that we may have the privilege and availability of your information and facts on this vitally important study.

The committee has drafted six questions, which appear below, that they consider to be specific guidelines in their thinking. We invite you to consider these questions and if you so desire, be prepared to discuss these at the committee hearing.

- 1.) Is the present maximum experience ratings equitable? If yes, why? If no, why?
- 2.) Are the present statutes relating to seasonal industry up-to-date and fair to the rest of the State on an industry-wide basis?
- 3.) Are the purposes of the Employment Security Laws being administered in the best economic interests of the Unemployment Security Fund?
- 4.) Are present unemployment benefits high enough? If yes, why? If no, why?
- 5.) Are the present minimum earnings for unemployment eligibility high enough? If yes, why? If no, why?
- 6.) On a long-run basis, is the present fund under existing statutes adequate, in danger, or likely to increase?

Minutes of
SEASONAL EMPLOYMENT
102nd Legislature

PUBLIC HEARING
March 23, 1966
Augusta

The legislative interim committee studying seasonal employment held a public hearing in the Judiciary Room at the State House in Augusta on Wednesday, March 23, 1966, at 1:30 P.M.

Present were -

Sen. Donald O'Leary, Vice Chairman
Sen. Richard W. Glass
Rep. Joseph A. D'Alfonso, Chairman
Rep. Raymond Boissonneau
Rep. Gerard P. Conley

Absent were -

Sen. Glenn H. Manuel
Rep. Richard J. Dumont

The hearing was called to order by the Chairman, Rep. D'Alfonso, who welcomed the people attending and introduced his committee and the Commissioners of the Employment Security Commission. He explained that this hearing was being held for the purpose of receiving opinions and gathering information to study the broad problems pertaining to seasonal employment and to listen to any information that may be pertinent to federal legislation that might effect the employment security laws and other related information. He further stated that this was neither a pro nor con public hearing as such. The committee desires only to gather facts and statistics, to have questions answered, and to have the people ask questions in order that they may get a broad picture as to what this is all about.

Following are the names of those appearing before the committee and brief outlines of their testimony.

DANIEL E. WALTHEN - Explained he was present at the hearing to represent the Maine Camp Directors Association. He had no formal statement to make, but was present only to listen and to gather information for the Association.

DAVID DELLERT - Representing the Maine Camp Directors Association. Out-of-state camp directors asked that he appear at this hearing as there is a great deal of misunderstanding and concern on the part of camp directors who come to Maine in the summer as to how much they are involved or with what they are involved and he had no reason to be present, he explained, except to learn more of the situation. As he understands it, any of the Association's camps that hire four people for twenty-one weeks or more are involved in the unemployment situation.

At this point, Rep. Boissonneau asked the Commission to read that part of the law that states that twenty weeks is subject to unemployment payments. Mr. Maher read that section of the law describing the employer who is subject to the law - Section 1043-9A.

"Employer means, on or after January 1, 1956, that any employing unit which for some portion of a day, but not necessarily simultaneously, in each of 20 different weeks, whether or not such weeks were consecutive, within a calendar year, starting with 1955, had in employment four or more individuals, irrespective of whether the same individuals are or were employed each such day."

Rep. Boissonneau next asked the Commission if these people are eligible if they are unemployed. Commissioner Cote answered that they are eligible if they become unemployed during what is defined as a seasonal period. However, if they become unemployed outside that seasonal period, they are not eligible for unemployment benefits.

Rep. Boissonneau then asked if that were the case, why, in previous years, were the so-called seashore fisheries employees paid beyond the months when the law was closed? Mr. Cote answered that this was because the Commission never declared the fish packing industry seasonal. Rep. Boissonneau asked if the Commission would say that this has depleted the funds and Mr. Cote replied it had to a certain degree.

Rep. Boissonneau then asked the Commission if they would also agree that this has no bearing on any legislation that is on the books. He explained his reason for asking these questions was because he was trying to

place the blame where it should be. Mr. Cote answered "from past recollections, yes." He added he would be very emphatic in saying that the drain on the fund had resulted from seasonal activity and instigated some amendments or, at least, some attempts to amend.

Next, Rep. Boissonneau asked who was to blame for the fund being depleted and for people who were not actually suppose to be collecting but were - the legislators or the Commissioners? For example, a man's camp is opened in June and closed in September. If the employees were unemployed between that time, they were eligible to be paid. In regard to sea and shore fisheries, they are paid the year round, but "sardines and such things" are closed by law. Yet the Commission is still paying unemployment. He asked who was to blame for this - the Commissioners, the legislators, or the law on the books? Mr. Cote answered that he certainly was not going to take the blame for it as this condition was present when he first came onto the Commission. He added that there had been many attempts in past legislatures to put a restriction on the collecting by sardine workers. Rep. Boissonneau asked Mr. Sinclair, Chairman of the Commission, if the question as to whether this was legal or illegal has come up during his approximate three years in office. Mr. Sinclair answered that to his knowledge this has never been brought to the attention of the Commission.

Rep. Conley then asked Mr. Sinclair if the Commission had replied or had any suggestions to present to the committee on the seven questions that were originated by the committee and sent forward to management and labor forces in relationship to the problem now being discussed. Mr. Sinclair replied that they had not and he was sorry if they had been expected to reply. The Commission did not feel that they were expected to reply but could see no reason why they could not. Rep. Conley asked Mr. Sinclair if they would submit a reply to the committee as their answers would be very helpful in the problem they are trying to solve.

JANE W. LEVINE - Stated simply that she was attending the hearing in the interest of the boys and girls camps.

SHERMAN K. CROCKETT, Migis Lodge, South Casco - Mr. Crockett appeared for himself as a seasonal employer. He advised that he is a member of the Maine Hotel Association but he was not representing them officially. He believes that the original purpose of the Unemployment Act was to protect people whose employment terminated for no cause of their own. He feels that during these legislative talks there should be some consideration given to dropping the seasonal employment period. Mr. Crockett asked why seasonal employers have to pay a percentage on a payroll when from 40% to 60% of that payroll is for student employees who are not eligible for unemployment.

At this point, Rep. Boissonneau asked the Commission if any of these students have ever collected unemployment under these conditions. Commissione George answered no to this question.

Rep. Boissonneau then asked the Commission if these wages are subject to the 2.7. Mr. George answered by first pointing out that the federal law is the so-called parent law. In a special session in 1936 the legislature ratified the Federal Act and it has been in existence since then. He referred to Section 1043-9A of the federal law previously read by Mr. Maher which provides that any employing unit, (any individual, organization or association that employs one or more people) which had had or does employ four or more people during the main portion of any day of the week within any 20 different weeks in the year is required by law to pay the federal tax, without any distinction as to services rendered other than the accepted services under the law. The federal law further says that anyone who is an employing unit is subject to the State tax, will pay 90% of the total tax to the state agency and the remainder of the tax will be paid to the federal government, which basically is reallocated to the state agency for administrative purposes. Mr. George went on to say that under our law, with the

exception of the provisions in the statute which exempts certain services performed, there is no distinction between whether or not an individual's limit should be taxed dependent upon his eligibility for benefits. It merely says that there be a tax assessed against wages paid to employees in that employing unit without the distinction. The question of eligibility is something else.

Rep. D'Alfonso pointed out that the question from Mr. Crockett and the answer from Commissioner George could very well relate to question #2 in the committee's letter.

JOHN W. BRIDE - Representing Old Orchard Beach Amusement Company which is involved with seasonal business. Mr. Bride felt that this should be kept as a seasonal business, whereas if it were declared a non-seasonal type of employment it would prompt the students to take advantage of this. He feels that money could be saved by keeping ^{it} classified as seasonal type work.

CHARLES E. CHAMPAGNE - Assistant Manager to six Drive-In Theaters in Maine. Mr. Champagne advised that they employ housewives and people on social security and any more tax on seasonal employees would be a hardship to these people. (Note: This speaker did not approach the mike, therefore, it was not possible for the clerk to hear his testimony.)

REP. EDWARD PEASLEE, JR. - Representing the Meadow Hill Golf Club in Farmingdale. Rep. Peaslee stated that his business, as now set up, is not under the Unemployment Law as a seasonal business because he doesn't have that many employees. He feels that the Great Society's programs have raised the minimum wage to a much higher scale than we have here in the State of Maine and could lead to difficulties for any small business such as the one he now operates. He would hope that the law as it is now on the books in this State will remain intact.

BENJAMIN DORSKY - Director Maine State Federated Labor Council. Mr. Dorsky stated that his feelings and the feeling of his organization are

pretty well known regarding experience rating. He stated he never thought much of the experience rating in the State of Maine as it applies to the seasonal worker. He pointed out that the law was primarily put on the books of the federal government and the State of Maine for the benefit of the unemployed worker as an insurance when he was out of a job through no fault of his own. He feels that it is quite clearly stated in the law that the employer shall pay a tax so that the unemployed worker will receive benefits while unemployed.

He does not feel that the maximum rating is equitable because the industry that employs the year round gets a windfall from the seasonal industry because they pay in and the worker gets really nothing from this seasonal operation as very few of them become unemployed during the course of the season.

Mr. Dorsky then discussed the present status of the Unemployment Fund. He stated the fund must be one that is fairly secure and able to pay out enough to take care of the unemployed worker and give him what he actually needs to sustain himself during the period of unemployment. At the present time if the fund, according to the known formula, was in the neighborhood of approximately \$45 million, it would be on the safe side. (He believes the fund at the present time is around \$35 million.) But, he feels the fund should be even higher than this because of the nature of the economy here in the State. The seasonal employer, to his way of thinking, has a just claim as to the nature of his business and what he has to pay for a tax, but his complaint was in behalf of the workers in that particular industry.

He felt that the committee should look carefully at the law as to its intent and whether it is a seasonal industry or what industry it is, there should be equity under the law. Under our present experience rating, he feels there was no equity. He added that the committee should take this into consideration and if the committee desires to draw any amendments,

they should recognize the fact that the law was designed for the benefit of the unemployed worker. As to who pays the tax is up to the legislature to determine.

The Chairman asked Mr. Dorsky if he thought the term "seasonality" is perhaps the improper criteria for designating various industries and that those sections of the statute dealing with seasonality should perhaps be revised?

Mr. Dorsky answered that he felt they should be revised but could not say whether or not it would do any good.

BERNARD B. ESTEY, Portland, Maine - Mr. Estey stated he works for S. D. Warren Company and although he oftentimes speaks for them on matters of business legislation, he was appearing at this hearing as an individual. He further stated that he was Chairman of Associated Industries Unemployment Compensation Committee. However, he was not speaking for Associated Industries at this time as he had not had time to poll the membership on the questions the committee raised in the letter of invitation. Mr. Estey advised he was a member of the 100th Legislature and served as a member of the interim committee in 1962 and 1963 which reviewed the entire Employment Security Law and as a result drafted a bill which was submitted to the 101st Legislature known as the Thaanum Bill. It was rejected in that Legislature and by the Governor. After many draftings and redraftings and amendments, it was again submitted to the 102nd Legislature. The interim committee in 1962 studied the provisions of seasonality and made no recommendations in its report regarding changes in the seasonal employment law.

Mr. Estey referred to the six questions which appeared in the letter of invitation and spoke on each in order as follows:

1. Stated he was extremely puzzled in that he did not know just what the committee was referring to in reference to the present maximum experience

rating. Chairman D'Alfonso advised that actually the question should have had the word "ratings" as they were talking about the whole experience rating table.

Mr. Estey went on to answer the question by saying that to his knowledge the fund balance has never reached a level where the maximum was charged. It did attain a level up to 1958, so that many sound, stable employers were paying the minimum. As he understands it, the fund balances are now such that as of July, this year, the sound, stable employers of the State will again enjoy the minimum rate on the table. He did not recommend maintaining a fund level beyond what is needed. A fund is needed, however, that will weather down-turns in the economy. He would consider the present \$35 million fund level table as being fairly safe with the Maine economy apparently on the upswing and will continue that way for some time. So, he felt that he would say yes to the No. 1 question.

2. Stated that apparently these hearings, particularly the one in Belfast, which he did not attend, relate to a rather inequitable situation as far as the fish packing, fishing industries are concerned relative to pay-in contributions to the fund as it relates to benefits paid out. This has been in a deficit situation for many years. This is only one seasonal aspect of our economy, there are many others. In 1963 there were 6000 jobs in contract construction fluctuating during the year from January low of about 6900 to nearly 14,000 jobs during July and August. In food and kindred products you find another 5000 jobs fluctuating during the year. In wholesale and retail trade there is another 5000 jobs fluctuating in a calendar year, and in services, another 5000. He feels that the statutes are fairly well administered and the seasonal provisions fairly sound. There is a 20-week provision for covered employment, a 40-week season defined in the law, and the Commission rules that if a season closes down its service for 12-weeks or so, it is classified as seasonal, but it must be declared.

There existed for some time an undefined, undeclared seasonal situation. This has been corrected by statutes so that the fishing season now has been defined for a longer period of time so that it is no longer seasonal.

3. Feels that we have a very sound administration. Most states use a tri-par type commission. There are very few states that use a single commission. He said he disagreed with Mr. Dorsky's philosophy on the experience rating idea because an unemployment compensation fund is based on a tax for those people who provide the unemployment and it should be paid to people, who through no fault of their own, are unemployed. It has been maintained for many years that we like to pay and are generally concerned about paying a good profit, a proper benefit for people who are unemployed. The problem is to clearly define the responsibility for unemployment, whether it falls on the individual's shoulders or his employer's. Mr. Estey feels that it has to clearly define a person's attachment to the work force and then base his benefit on his past personal experience. He felt that many of the questions that the committee is asking will partially resolve themselves by the new statutes, many of which will go into effect April 1. He felt the committee was attempting to study some things that will be corrected as soon as they can be administered into the new law.

4. Feels that the new statute which will be in effect April 1, which will pay 1/25th of high quarter earnings, is equivalent to 50% of the employees wage, and feels that 50% is an adequate benefit. This is 50% net, no taxes on it. So it is equivalent to roughly between 70-75% of his gross pay. He feels it is high enough. This is the figure that is being discussed by Congress. Mr. Estey explained he was not attempting to prejudge Congress as he does not know what will come out of the House Ways and Means Committee on the federal administration bill, but added that apparently the recommendation made by the Conference at Phoenix of the state administrators of all state unemployment administrators was 50% of

the state average weekly wage as a maximum. This is what our new law will provide under the new statutes. He says yes to question No. 4.

5. Mr. Estey stated that he feels he cannot help but agree with the question of eligibility. He feels that the new statutes are a bit in error here because it adopted an eligibility of \$600 base year earnings, but is applying a benefit formula based on 1/25th of high quarter earnings. He does not know of any state that has a high quarter benefit formula that does not have an eligibility that ties in to high quarter somehow, either by a number of weeks of work or amount of earnings in a quarter or work in two quarters, or something similar. His immediate reaction would be that to be consistent and get good administration, and good benefit levels, and proper eligibility related to those, that we should at least ask for work in two quarters and preferably earnings of $1\frac{1}{2}$ times a high quarter. This will eliminate some of the problem of the so-called double dip which we will always have with base-year qualifications, base-year eligibility. He would say no, the present minimum earnings are not enough and preferably he would like to see 20 weeks of work or \$1,000 if a base-year or $1\frac{1}{2}$ times the high quarter is going to be used.

6. Feels that presently this fund is adequate, but he could not predict what may happen because there is going to be a new set of statutes where the benefit levels do not go into effect until next April - a new partial unemployment benefit, a new benefit level based on high quarter earnings and a new variable duration system. He could not say what the impact will be. Apparently the economy of the State of Maine and the unemployment picture is such that our unemployed level will continue to be low. There is a certain percentage of the work force that just limits their availability every time they have a chance, and for those people there is nothing any more attractive than some kind of handout. He added that 96.5 of the work force are interested in working and these

are the people we want to protect. If the employers are going to be taxed, he suggested that they make the eligibility and availability from the work force consistent with the tax that the fund can support.

CHARLES BAILY, Cape Elizabeth - Representing the Monmouth Canning Company with headquarters in Portland. He stated his company participates in a seasonal operation not far from Belfast, which is the wild blueberry business. His company employs a number of housewives, teachers and some students. The teachers and students are not eligible for benefits, so to that extent they are building up the fund. As far as the rest of the canning industry goes, there are two or three companies left that can vegetables and that is also seasonal. Any increase in tax, as such, would add to the burden of this small industry and eventually work a hardship. Mr. Baily explained that he merely wanted to point out that there is a seasonal industry in Maine that is peculiarly such and cannot be otherwise.

ROBERT CULLINAN, Portland - Mr. Cullinan said the firm that he represents is in the contract construction business and that his remarks would not be classified according to the letter but will fit into a little of each question. He stated the new federal bill which had been mentioned earlier has all the earmarks of possibly eliminating the State from this unemployment compensation program entirely and he is in opposition to this. In the new federal bill there are philosophies which he feels the contractors would be opposed to; namely, the relaxation of the eligibility under this proposed federal legislation. For example, a man who quits or who is fired for cause, would no longer have to wait 12 weeks before he is eligible for benefits. He would ask the legislature not to subscribe to this. Also the new federal law extends the benefit to 52 weeks. Mr. Cullinan feels that this should be done only in the case of a general economic recession and not as a matter of principle. He does not think the word seasonal applies to the contracting business as in the fishing industry or blueberries, but they do have a peak in the summer and it tapers off during

the winter. He believes that a person drawing unemployment in the winter should be allowed to earn up to the full amount of qualification before he forfeits any part of it. This would help in getting men to work during the slow season on just a one day job which is sometimes very necessary to the contractor.

(A complete tape of this public hearing is available in the Legislative Finance Office.)

STATEMENT FOR THE AUGUSTA HEARING

THE COMMITTEE FEELS THAT THOSE WHO APPEARED AT THE HEARING ARE SATISFIED WITH EXISTING LAWS, PARTICULARLY THOSE THAT WERE ENACTED AND PASSED BY THE 102ND LEGISLATURE. UNTIL SUCH TIME THAT FEDERAL REQUIREMENTS AND STANDARDS HAVE BEEN ESTABLISHED, THE EXISTING LAWS ARE SATISFACTORY AND EQUITABLE.

FURTHERMORE, WE WISH TO NOTE THAT AT THE AUGUSTA HEARING REPRESENTATIVES FROM LABOR, INDUSTRY AND FROM THE COMMISSION TESTIFIED AND COMMENTED TO THE EFFECT THAT THE EXISTING LAWS ARE SATISFACTORY, ADEQUATE AND EQUITABLE AT THE PRESENT TIME.

(Statements submitted to the Committee are available in the Legislative Finance Office.)

Minutes of
SEASONAL EMPLOYMENT STUDY COMMITTEE
PUBLIC HEARING
JUNE 27, 1966
PRESQUE ISLE

The legislative interim committee studying seasonal employment held a public hearing in the District Court Room, City Hall, Presque Isle, on Monday, June 27 at 2 P.M.

Present were -

Senator Donald O'Leary, Vice Chairman
Senator Glenn H. Manuel
Rep. Joseph A. D'Alfonso, Chairman
Rep. Gerard P. Conley

Absent were -

Senator Richard W. Glass
Rep. Richard J. Dumont
Rep. Raymond Boissonneau

The hearing was called to order by the Chairman, Rep. D'Alfonso, who welcomed the people attending and introduced the members of the Committee. He read a portion of the Order creating the Committee by the 102nd Legislature and explained the purpose of the study. He explained that this hearing was the third which the Committee had held for the purpose of receiving opinions and gathering information to study the broad problems pertaining to seasonal employment.

Following are the names of those appearing before the Committee and brief outlines of their testimony.

SMITH McINTIRE, Manager, Aroostook Farm Labor Board, Presque Isle

Mr. McIntire explained that the main service of his organization has been doing the paper work relative to the importation of Canadian laborers. He explained the problem that the federal regulations, which went into effect in 1965, had created for the potato growers in Aroostook County. These new federal standards were established to regulate the Mexican labor and migratory workers and the U.S. Department of Labor did not have

the potato harvester in mind when setting these up. The Farm Labor Board is the prime employer for the Canadian worker and then sublets them to the growers. Every potato crop in the County has been harvested by Canadian labor except during the period from 1928 to 1943. In referring to harvest labor force, it means that 30,000 to 35,000 people are employed, of which 15,000 are school youths and also includes about 1800 Indians from Canada. No regulations cover the migration of Indians. Through the labor standards imposed upon the State by the U.S. Department of Labor, the biggest industry in the country (agriculture) looks to its school children to devise counter programs to accomplish its harvest. The school system arranges an attendance schedule to correspond with the need of youth in the harvesting. Mostly youngsters from the 7th grade up are employed, but there are younger ones in the field with their mothers. Mr. McIntire stated that the composite earnings of the school youth during harvest season would approximate \$3 million which is money that stays in the area and buys clothing for many youngsters who would otherwise be clothed by Welfare.

Mr. McIntire further explained that the total quota of workers asked for last fall from Canada was 4500 of which 3800 were obtained. This was a substantial reduction and the reduction was due in large measure to the federally imposed regulations. Another hardship which these new regulations create is the inability to recruit workers for the spring planting season. However, Mr. McIntire stated that there was a partial relaxation of the regulations after Secretary Wirtz became aware of the situation. He also was hopeful that they will receive more favorable reports from the Labor Department on further flexibility given to the regulations for the fall harvest this year, and that rules governing the Mexican migrant will not have to be applicable here.

Rep. D'Alfonso asked if the employers of the Canadian labor pay

to the Unemployment fund and Mr. McIntire replied that Agriculture is exempt from the Employment Security tax and that applies nationwide. No farm workers are subject to the program and the potato industry in Maine has never been declared seasonal except the processing plants.

Mr. McIntire stated that agriculture is a significant part of Maine's economy and feels that if Maine Legislature could find the opportunity to acquaint itself with the problems of the producer, as they relate to labor, it would be helpful. He further added he would like to see a study made by the various branches of the State, legislative or executive. It would have to be at the top level with an appreciation of need. He said he would be happy to appear and tell the story of the problems if the opportunity ever presents itself.

HAROLD BRYANT, Executive Vice President of the Maine Potato Council, Presque Isle.

Mr. Bryant stated that they have a very serious short-time and long-time seasonal labor problem facing the growers in that area. He wondered, however, if this was an issue of importance to the Committee.

The Chairman assured Mr. Bryant that the Committee was concerned with seasonal employment particularly as it relates to the depletion of funds through the impact of seasonal employment.

Mr. Bryant continued by relating the problems they have to face which are created by the new federal regulations directed to Mexican migratory workers. These regulations have made it practically impossible to get Canadian labor. When the problem was brought to the attention of Secretary Wirtz he recognized this as unusual treatment and authorized 4000 Canadian laborers for the '65 harvest. Mr. Bryant felt that they can expect a fairly reasonable labor supply for the fall harvest through favorable treatment from the U.S. Department of Labor. Canada is enjoying a tremendous prosperity and 4000 is the maximum they could

release for the harvest. He is hopeful that there will be an early announcement from Sec. Wirtz that they can go ahead with obtaining Canadian labor this fall because if Canadian labor is not available, it would be impossible to get the crop out. Mr. Bryant stated that if the Committee could assist in trying to meet the long-range situation of labor problems before it descends, he feels it would be worthwhile. He feels that no one knows what they are actually going to have to face in regards to supplemental labor as the impact of the sugar beet industry has not been evaluated yet, but if a study could be started, it might help the problems which the industry is going to be faced with in the future years of planting and harvesting.

JOHN CAMERON, Maine Sugar Beet Growers Association, Presque Isle

Mr. Cameron feels that both Mr. McIntire and Mr. Bryant pretty well covered the general outline both as to the need for seasonal labor and their long-range program, but as a farmer, he would attempt to clarify a few points, particularly as far as sugar beets go. He stated that this is the first commercial year in the sugar beet crop. They have a 33,000 acre allotment and 3500 acres of this has been planted. There is a good amount of hand labor involved in this production and will be for some time until they find the machines and the way to do the job mechanically. Therefore, for the next few years we could use a substantial amount of seasonal labor. The rates paid for this work is set by the Sugar Act and the people who can be employed is set by the Sugar Act. School children were used this past spring to plant the crops, both beets and potatoes, which is not an efficient way to operate but it was the only labor available. Mr. Cameron feels that the area will have a long-range labor problem for years and also a seasonal problem for many years to come. He has no idea what the answer is to these problems.

(Mr. Cameron left a prepared statement with the Committee)

LUMAN MAHANEY, Easton

Mr. Mahaney stated that he was a potato farmer with 70-75 acres of potatoes, and is situated right in the area that suffers most from the shortage of labor because of the potato processing plant and the big sugar plant that is being constructed there. In speaking about the shortage of labor for the harvest, Mr. Mahaney stated that he feels Secretary Wirtz went out quite strongly for the growers last year and feels he will probably improve on two or three of the mistakes that is very easy to see were made last year. He feels that the need for spring seasonal labor should be stressed. During this cropping season only one session of school is in session in the secondary schools. It starts early in the morning and closes in time for the boys to be in the fields by 1 o'clock. Mr. Mahaney said if the Committee is going to make a study on a long-range program, he would suggest that they put some extra emphasis on the need for some flexibility perhaps from the federal angle for the spring cropping season. He further added that the Canadian labor force is going to gradually dry out as economic conditions in Canada are improving all the time.

When asked if the cropping and harvest program in the area had been as fully automated as it could be at the present time, Mr. Mahaney said he thought so as great strides were made in this last year and more will be made as time goes on, but it requires a lot of manual labor and he pointed out that the labor that is displaced with harvesters and so forth would be more the small ones (the children) because much of the automation and the machines that go with it require men.

Chairman D'Alfonso said that after listening to Mr. McIntire and Mr. Bryant, he feels that as this situation in the area is unique and so critical, in its final report the Committee will perhaps include a proper recommendation relative to this problem. He also asked Mr. Mahaney if he didn't think that this problem which they face is due to the general pros-

perity in the United States and Canada and to the sophistication of industry and the general affluence that now pertains to both countries and the State of Maine as well as to the federal activities involved. Mr. Mahaney replied that some consideration could be given to that as being true, particularly in other areas, not so much in Maine because they have always paid top wages but in some areas they have tried to keep wages of the domestic employees in agriculture a little too cheap. Rep. D'Alfonso said he only mentioned that because he can only see the problem getting worse rather than better simply from the knowledge that the educational explosion and so forth is progressing at such a rapid rate that he cannot see any possible way in which this situation is going to improve. This would lead him to believe that a special study should be made of this unique problem in this area and perhaps in other parts of the country. Mr. Mahaney agreed and added that no one can possibly foresee what the labor situation is going to be and all signs are pointing to a very serious labor shortage in the next few years.

GEORGE PHILBRICK, Vice President and Director-in-Charge of VAHLSING, INC. and major industries located in Easton

Mr. Philbrick said he would like to substantiate some of the employment they had in this area last spring which was brought in from other areas. He read a list of incidents involving help for which the Vahlsing Company paid transportation and board and explained that for one reason or another none of them stayed more than a few hours or a few days. He stated that it is obvious that the average small farmer in Aroostook County cannot afford to deal with that kind of help. He said that he knew of many instances where farmers had cut down their acreage due to the shortage of good help and some cases where they did not plant at all. Mr. Philbrick feels that due to the location of the area, and the fact that there are men in Canada available for work, and the prosperity of this country being

such as it is, it would seem only natural that the Labor Department should allow this particular area to import Canadians for April and May during the planting season and for September and October during the harvest season. He feels that the Labor Department should recognize the area's need and take it into consideration.

Vahlsing Inc. employs between 750 and 800, most of them local people. Mr. Philbrick said that they always had enough work force until the Labor Department imposed the embargo. He reminded the Committee that the sugar beet industry is new and as each spring goes by that particular operation requires more and more help. This last spring they were not able to get enough Canadians with visas to work on the farms so they attempted an importing deal to recruit from the southern part of the State and those are the ones that did not stay after their transportation was paid, etc. The labor shortage in the spring had a substantial effect on the fact that there were only 3500 acres of sugar beets planted, as most of the farmers are used to planting potatoes and they come first and if they had time and help later, they put in a few beets. He feels that they should have up to 1000 Canadians available for spring labor during April and May to take care of the sugar beets and the potatoes, and at least 4000 in the fall. No matter how mechanized they become, they will never need less workers.

ELLIOT BARKER, Manager of the Employment Office for the Maine
Employment Office for the Maine Employment Commission, Presque Isle

Mr. Barker stated he has been Manager of the Employment Office in Presque Isle for the past 18 years. He said he did not intend to testify but there have been many questions pointed in his direction and it appeared that he should stand ready and willing to answer any and all questions. He said he would like to make a broad statement first with respect to the hearing and that was that they were not there to discuss the reasons why we need harvest labor and spring labor. It appears that the question of

seasonality, which the majority of the group present does not yet understand, was the main issue. However, all the other that has crept in seems to have taken precedence over everything else. His second statement concerned the labor bind in Aroostook County which has been true for quite a long time. With respect to the spring importation of labor and spring need for labor, they were cut off last year after great trials and tribulations and were in desperate need. The crop was planted, but this was only done through hardship and by using every possible means that were at the farmers disposal.

The Chairman commented on the fact that the Committee is studying seasonality and this is the third hearing they have held on this. The subject is so broad and the Maine Unemployment Security Laws have attempted to define seasonality. At the first hearing seasonality was attempted as a subject for definition, at the second hearing it was attempted as a subject for definition. There has been a lot of prevarication and equivocation and the like, but the Committee is interested in finding out more about this subject of seasonality as this word always crops up. Mr. D'Alfonso added that the Committee is trying to actually ascertain from others who are more familiar with the subject, who are close to it and have worked with it, what their feelings and what their attitudes and their experiences have been with seasonality with the hope that the Committee may be able to reach some definite conclusions.

Mr. Barker said that his understanding was that the Committee was interested in seasonality for two purposes 1.) to determine what is just a seasonal operation, 2.) whether or not this operation is a taxable one and whether or not a seasonality feature should be applied to it during which time unemployment benefits could be drawn. Mr. D'Alfonso said that would be just two points among an innumerable number of points as they would pertain to seasonality.

Mr. Barker was asked if agricultural visas were obtainable by Canadians desiring to work in Aroostook and he replied that they were not. He further explained that the Department of State has two lists, one of certifiables and the other non-certification and the agricultural worker is classified on the non-certification list.

(A complete tape of this hearing is on file in the Legislative Finance Office.)

STATEMENT FOR THE PRESQUE ISLE HEARING

IT IS THE FEELING OF THE COMMITTEE THAT THE PRESQUE ISLE HEARING REVEALED TO THE COMMITTEE A LABOR PROBLEM REQUIREMENT IN THAT AREA AND THAT THE PROBLEM IS BETTER RELATED TO A STATE-FEDERAL SITUATION. IT WAS NOT THE RESPONSIBILITY OF THIS INTERIM COMMITTEE TO TRY TO RESOLVE IT BUT THE COMMITTEE WAS DISTURBED BY THE STATEMENTS MADE CONCERNING THE EMPLOYMENT OF SCHOOL CHILDREN AND THAT NO PROGRAM THAT INFLUENCES THE EDUCATIONAL WELL-BEING OF CHILDREN IS IN THE BEST INTERESTS OF THE STATE.

THE COMMITTEE RECOMMENDS TO THE 103RD LEGISLATURE THAT EFFORTS BE MADE TO INSIST THAT STATE, LOCAL, AND FEDERAL AUTHORITIES BE CALLED INTO CONFERENCE TO DISCUSS THE LABOR SITUATION AS IT PERTAINS TO THE POTATO INDUSTRY AND THE APPLE INDUSTRY AND THE EMPLOYMENT OF SCHOOL CHILDREN.

(Statements submitted to the Committee are available in the Legislative Finance Office.)

COMMITTEE RECOMMENDATIONS

The Committee wishes to note that no federal standards for Unemployment Compensation and their impact on the Unemployment Compensation laws at the state level were passed by the 89th Congress. Moreover, there is every indication that federal standards for Unemployment Compensation will remain controversial legislation in the 90th Congress. The absence of federal standards has necessarily handicapped the anticipations of the Committee and its recommendations.

The Committee does submit the following recommendations based on the contents of this report and the public hearings that were held.

Recommendation #1

The provisions and definitions relating to seasonality should be eliminated as soon as a more equitable eligibility formula has been defined. The statements by Commissioner Cote and Representative Gifford at the Belfast hearing somewhat substantiates this recommendation.

Recommendation #2

The Committee recommends that the broad purposes of the Unemployment Compensation funds be administered so as to more accurately carry out the original purpose of the law; that is, an insurance against unemployment for those

who are really unemployed. There were indications at the Belfast hearing that some people have been abusing the privileges and insurance benefits of the Unemployment Compensation laws.

Recommendation #3

The Committee recommends that the present eligibility requirements be changed even if federal legislation does not impose these changes on the states. Federal legislation introduced in the 89th Congress (HR8282) specifically recommended an eligibility requirement of 20 weeks rather than a money requirement. The Committee concurs that a time requirement of 20 weeks is more equitable and more satisfactory today than a money requirement such as the minimum \$600 eligibility requirement in the State of Maine. The Committee believes one of the surest ways to strengthen and maintain adequate compensation funds is to change the eligibility requirements.

Recommendation #4

The Committee recommends that Unemployment Compensation benefits should be increased as the cost of living increases. The Committee further recommends that employer contributions be increased if necessary to meet this increase in benefits. A more equitable maximum benefit today would be \$60 per week.

Recommendation #5

The Committee recommends that a concerted effort among all responsible parties involved be made to solve the labor recruitment problems peculiar to the potato, apple and other related industries. The Committee feels that this labor problem in the State of Maine is unique. The Committee deplores the wide practice of recruiting school-age children to do cropping and harvesting. The Committee would like to emphasize its desire that the educational welfare of all school children be fully considered as efforts are made to improve the labor recruitment problems noted above.

MINORITY REPORT
to
THE ONE HUNDRED AND THIRD LEGISLATURE

SEASONAL EMPLOYMENT

Filed by
Richard W. Glass

January 1967

MINORITY REPORT OF THE JOINT INTERIM COMMITTEE
APPOINTED TO STUDY THE IMPACT OF SEASONAL
EMPLOYMENT UPON THE EMPLOYMENT SECURITY PROGRAM

The Joint Interim Committee appointed to study the Impact of Seasonal Employment upon the Employment Security Program was the outgrowth of a joint order as originally introduced in the House, proposing a committee for this study to be composed of two labor representatives, two management representatives, and two public representatives appointed by the Employment Security Commissioner from the membership of the Advisory Council of the Maine Employment Security Commission, together with two members of the Senate and three members of the House. However, Senate leadership was responsible for the indefinite postponement of this order, and a substitute appeared changing the composition of the Study Committee to three members of the Senate and four members of the House, reducing the original appropriation for the expenses of the Committee.

The Maine Employment Security Law is perhaps the most complicated statute in terms of interpretation and application of any of the many statutes embodied in the Maine Revised Statutes of 1964 as amended by the 102nd Legislature in regular and special sessions. It was indeed unfortunate that only one attorney was appointed to this Committee, namely, me - more especially so, since my practice does not involve me to any considerable extent in those areas where the Maine Employment Security Law is applicable. With further reference to the composition of the Committee, having admitted my own limitations, we find two members, one from each Branch, who served on the Labor Committee during the 102nd Legislature, and five members, including myself, who have had no intimate acquaintance with the Maine Employment Security

Law, with the possible exception of Representative Boissonneau, who served on the Labor Committee in the 100th Legislature when the controversial Estey Bill was passed. There have been many profound changes in the Maine Employment Security Law since 1961, most of them enacted by the 102nd Legislature in 1965, and though many of these changes were debated at length on the floor of both branches, only the members of the Interim Committee who sat on the Joint Standing Committee on Labor could possibly be intimate with the Maine Employment Security Law as amended following the regular session of the 102nd Legislature. It should then be obvious from the facts related here that the Committee, as finally constituted, was not qualified nor truly representative of labor and industry, as perhaps it might have been, had its composition followed the original order.

The very order creating the Interim Committee is in and of itself contradictory. Paragraph one declares that it is in the public interest that the Maine Employment Security Law effectively provide to as many as possible of the working men and women of Maine substantial protection against loss of income due to loss of employment for reasons beyond their control. Paragraph two provides that it is likewise in the public interest that the costs to contributing employers be competitive with similar employers in other states. Paragraph three states that in Maine more so than in most of the states, a large segment of the work force is engaged in seasonal employment, and subject to regularly recurring seasonal unemployment with consequent heavy demand upon the funds of the Employment Security Program. Based on these prefaces, we were directed to study the impact of seasonal employment upon the Employment Security

Program so as to formulate recommendations for revision of the Maine Employment Security Law. It must necessarily follow that any recommendations made by the Committee must of necessity adversely affect either the public interest insofar as providing employment security for as large a percentage of our population as possible, or, on the other hand, result to the detriment of the public interest by making our employers costs as competitive as possible, thereby sacrificing employee benefits to a large portion of the work force to make Maine competitive with other areas, when the very order itself states that Maine, due to causes beyond its control, suffers from the fact that a large segment of its work force is engaged in seasonal employment and thereby subject to recurring unemployment occasioning heavy demands upon the funds of the Employment Security Program. We cannot retain our cake and eat it too, even though we were directed to so do by the order.

The Majority Report states "the absence of Federal standards has necessarily handicapped the anticipation of the Committee and its recommendations". I cannot agree that the failure of the last Congress to further usurp a traditional prerogative of the several states in any way handicapped the Committee. Notwithstanding the absence of these Federal standards, the 102nd Legislature dealt with this problem as I have set forth in my comments which follow. The administration of unemployment compensation should remain the responsibility of the several states as it has in the past.

The recommendations of the Committee in the whole are specious. Recommendation No. 1 concerns itself with a more equitable formula. A more equitable formula has already been defined and adopted by the 102nd Legislature. Seasonal industries, or those industries sometimes

referred to as deficit contributors, now must pay penalty premiums based on step by step reductions in monetary levels of the fund, even although such fund reductions are not, in many cases, the result of recurring unemployment due to seasonality, but the result of a general broadening and relaxation of various areas such as qualification and dis-qualification, voluntary leaving of work, mis-conduct, etc., as well as more liberal benefits paid to the unemployed whether their employment was related to seasonal industry or year round industry.

With respect to Recommendation No. 2, if there are proven abuses of the Unemployment Compensation Laws, within their existing framework, then some suggestion should have been set forth to correct these specific abuses. Simply stating, however, that "the broad purposes of the Unemployment Compensation Fund be administered so as to more accurately carry out the purposes of the law" is platitudinous. The "Unemployment Compensation Law" is designed for those persons who are really unemployed; for those people who do not have jobs. The purpose of the law, which originated, I believe, in the 1890's in Austria, is to pay benefits to people who do not have jobs so that they do not become public charges, the understanding being that the employers pay a premium on all wages to establish a fund for funding unemployment benefits similar in nature to programs such as group life insurance, Social Security, and other programs designed to spread the risk over an entire population in an equitable manner for the benefit of the jobless, aged, etc.

As for Recommendation No. 3, I believe that the Majority Report is remiss in not noting that the 102nd Legislature substantially changed present eligibility requirements by increasing the four

hundred dollar qualifying wage to six hundred dollars. The fact that Federal legislation introduced in the 89th Congress recommended an eligibility of twenty weeks rather than a money requirement is not pertinent. Many bills are introduced annually in Congress that never survive the test of committee hearings, and justifying a time requirement of twenty weeks because it was incorporated in a proposed Federal bill is highly questionable. If Congress could not concur on such a time requirement, as opposed to a money requirement, why is it so essential that Maine move in this direction when our problems are doubly compounded by the fact, as stated in the justification for the joint order, "that in Maine, more so than in most states, a large segment of the work force is engaged in seasonal employment"? The remark that the committee "believes one of the surest ways to strengthen and maintain adequate compensation funds is to change the eligibility requirements", interpreted in terms of Maine's work pattern might reasonably be re-phrased to state, the committee "believes that one of the surest ways to strengthen and increase the demands of the Bureau of Public Assistance and the various town relief funds would be to change the eligibility requirements". Unless industry statewide accepts the concept that Maine is not responsible for the seasonable nature of much of its work force, industry will find itself paying far more in the way of taxes, including a corporate income tax, to provide for the subsistence of those without jobs than it is now paying to maintain the level of the fund, especially where one considers the deficit and/or seasonal industries are paying penalty premiums as the fund drops even though the drops in the fund are in large measure the result of a more liberalized Act which increased benefits payable to those now eligible, rather than the so-called

unreasonable impact of seasonal industries on the fund.

Although I cannot disagree with the fourth recommendation that unemployment compensation benefits should be increased as the cost of living increases, I do take issue with the statement that a more equitable maximum benefit today would be sixty dollars per week. Revisions of the Employment Security Law adopted by the 102nd Legislature increased the maximum weekly benefit to two thirds of the employee's average weekly wage, but not to more than two thirds of the average weekly Maine wage, as computed by the Employment Security Commission. A maximum based upon this ratio is far more realistic for unemployment compensation than a flat maximum of sixty dollars weekly. Wages continue to escalate and there is the real possibility that the figure computed by the Commission based upon the formula provided could result in a maximum in excess of the sixty dollars per week recommended by the Interim Study Committee. In any event, unemployment compensation based on this formula is more consistent with the intent and purpose of the Act than the establishment of a flat maximum benefit such as recommended.

With respect to the fifth recommendation of the Committee wherein it, "deplores the widespread practice of recruiting school age children to do cropping and harvesting", I cannot agree. I am surprised that one of the Senate members, engaged as he is in the potato industry, could countenance this recommendation. The language makes one envision the slave labor and sweat shops of the middle nineteenth century. Extensive investigation on my part convinces me that the use of school age children to harvest the Aroostook County potato crop is not only justifiable but beneficial. These children, employed in a wide number of capacities at wages far above the National minimum wage, engage in the harvest because they want to, not because they are forced to. They

earn literally millions of dollars during a three week school recess, which is of immeasurable benefit to the economy of Aroostook and the Welfare of these children, especially when one considers that without the use of school age children the harvest of the Aroostook County potato crop would be impossible to complete no matter how much Canadian labor was imported, provided Secretary of Labor Wirtz dropped all his restrictions on imported labor. The schools in Aroostook comply with all the laws of the State in as far as length of the school year and the number of school days. The children and their parents recognize that Aroostook's economy is dependent on successful harvest of its potato crop and the children participate willingly and enthusiastically. I have personally checked with parents of substantial financial responsibility whose children participate in the potato harvest. They say that not only do they agree with the practice, they encourage it, and if this be true of people of substantial financial responsibility, it is even more true of less fortunate parents.

Conclusion

In conclusion, I would say that in view of the emasculating of the original order by Senate leadership, it should come as no surprise to the 103rd Legislature that the Committee has no constructive recommendations.

/s/ Richard W. Glass - Senate Member - Waldo
Joint Interim Committee to Study the
Impact of Seasonal Employment upon the
Employment Security Program

Belfast, Maine
December 31, 1966