

MAINE STATE LEGISLATURE

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STATE OF MAINE
ONE HUNDRED AND EIGHTH LEGISLATURE
COMMITTEE ON AGRICULTURE

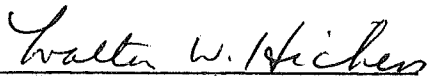
January 24, 1978

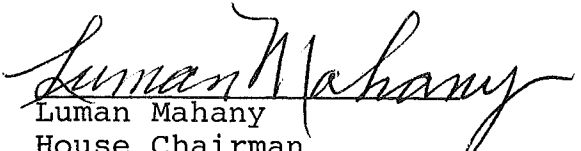
Representative John L. Martin,
Chairman
Legislative Council
State House
Augusta, Maine 04333

Dear Speaker Martin:

In accordance with the directive of the Legislative Council, directing the Joint Standing Committee on Agriculture to study the contents of L.D. 473, we enclose herein the final report of the Committee.

Respectfully submitted,


Walter W. Hichens
Senate Chairman


Luman Mahany
House Chairman

enclosure
TP/sym

Report of the Joint Standing Committee
on Agriculture
on its study of the
Bargaining Procedure Between Potato
Producers and Potato Processors

January 24, 1978

Senate

Walter W. Hichens
Philip C. Jackson
Matthew C. Levine

House

Luman P. Mahany
George A. Carroll
Don Hall
Kenneth E. Tozier
Frank P. Wood
John H. Rollins
Glen W. Torrey
Donald A. Strout
Leonard R. Lougee
Carl W. Smith

INTRODUCTION

The Joint Standing Committee on Agriculture of the Maine Legislature, pursuant to Study Order No. H.P. 1779, undertook a study of LD 473, "AN ACT to Amend the Maine Agricultural Marketing and Bargaining Act of 1973." The Committee also conducted research regarding the bargaining process and contracts between potato growers, shippers, and processors.

In order to implement the study, the committee conducted a public hearing in Presque Isle on November 22, 1977. The committee informed many persons, firms, and organizations interested in the potato bargaining process about the hearing. In addition, participants in the hearing were requested to respond to specific questions prepared for the hearing.

I. Findings and Recommendations

A. Findings

1. The proposed amendment to the Agricultural Marketing and Bargaining Act would convert the Agricultural Bargaining Commission into a potato producer's cooperative.
2. A potato producers cooperative, according to a number of industry spokesmen, would not be accepted by potato growers. There is a very strong tradition of independence and self-reliance among Maine potato growers.
3. The proposed amendment would result in a significant loss in membership in the Agricultural Bargaining Commission and thereby place most growers in the same precarious situation in which they existed prior to the passage of the Agricultural Marketing and Bargaining Act of 1973.
4. Processors and growers oppose the proposed amendment because it will remove a considerable proportion of the flexibility that exists in the present bargaining process. Under the present law, the processor can control the amount he desires at the contract price. The processor can purchase the smaller proportion of his potato supply at the contract price with the hope that the larger proportion can be purchased at a lower price often referred to as the "street price." Under the present system, the processor is also able to risk that the contract price will be lower than the "street price". Potato growers are also able to take advantage of the system's flexibility in the same manner as potato processors.

In addition to the flexibility of price and supply that potato processors and growers enjoy, the present bargaining process also provides flexibility with respect to markets for growers and sources of supply for processors. Whereas the present bargaining procedure permits processors to purchase potatoes from growers of their choice and permits growers to sell their supply to processors of their choice the proposed bargaining procedure would reduce or eliminate this form of flexibility.

5. A single contract as proposed by LD 473 would have serious and adverse effects upon the processing sector of the Maine potato industry. Different processors and individual processors producing a number of potato products often have different specifications for the potatoes utilized in their manufacturing process that cannot be incorporated into a single contract. As a result, the provisions of LD 473 would create a severe hardship for potato processors.
6. The proposed amendment to the Agricultural Marketing and Bargaining Act, according to many spokesmen in the potato industry, will require a large bureaucracy to administer and monitor the bargaining procedure.
7. The present bargaining procedure, despite some difficulties is working relatively well and is preferable to all groups in the potato industry to the procedure proposed in LD 473.
8. While the Committee on Agriculture, was not directed by the study order to study the effects of the proposed legislation in other agricultural industries the bargaining procedure proposed in LD 473 could produce adverse effects in other sectors of agriculture.

B. Recommendation

1. The proposed amendment to the Agricultural Marketing and Bargaining Act of 1973 would create a hardship for the potato industry and could have serious repercussions upon other industries. As a result, the Committee on Agriculture unanimously recommends rejection of the provisions of LD 473.

II. Background

In 1973, the Agricultural Marketing and Bargaining Act was enacted as a means of promoting stability and order in the potato industry. Prior to passage of the Act, the potato industry was characterized by a considerable amount of conflict between potato growers and processors. The conflict involved the purchase price for potatoes for processing, the quality of potatoes, the delivery of potatoes to processors, and payment schedules.

The creation of the Agricultural Bargaining Council to negotiate a master contract between potato processors and growers with respect to the purchase price of potatoes has reduced, in part, the degree of conflict that exists between processors and growers. The Potato Lien Law and the Potato Licensing and Bonding Law have also served to resolve differences between the two groups. In particular, these laws have addressed the controversial issue of payments to producers for potatoes delivered to processors.

Under the present bargaining procedure, the Agricultural Bargaining Council (ABC), composed of 725 grower members, serves as the licensed bargaining agent for Maine potato growers. The ABC is operated by a board of directors. The directors are divided into sub-groups to negotiate contracts with individual processors. Each sub-group is composed of growers who sell potatoes to a particular processor, and the sub-group negotiates the contract for the ABC to be approved by the organization. Each member of the ABC is able to discuss the terms for a contract with individual directors and to recommend terms for negotiations.

Following negotiation of a master contract by the ABC, individual growers negotiate a second contract with processors concerning quantity and delivery. This system provides potato growers with bargaining power that they did not possess as individual negotiators prior to 1973. The bargaining procedure also permits considerable flexibility which permits individual growers and processors to establish volume and delivery provisions that are mutually acceptable and meet each other's needs.

Processors usually contract with growers for approximately 50 percent of need and obtain 50 percent from the "fresh market." Both processors and growers prefer not to commit themselves completely to one another and risk that fresh market prices will give one or the other a better "bargain". Between 85 and 90 percent of the potatoes shipped to processors are produced by growers who are members of the ABC.

Alternatives or partial alternatives to the present marketing and bargaining system include the creation of a marketing order for potatoes and the creation of a producer's cooperative. Neither alternative has ever received much support from Maine potato growers.

The most recent proposal for a marketing order was offered jointly in 1972 by the Maine Department of Agriculture and the University of Maine. The proposal received substantial criticism from potato growers, and the proposal was discarded.

Agricultural cooperatives have been developed in Maine on a very small scale, primarily during the later 19th and early 20th centuries. The cooperatives failed because the agricultural community in the State had a strong attachment to the traditional values of individual independence and self reliance. For the most part, these values continue to be the values of the agricultural community in Maine.

The producers cooperative as proposed by LD 473 unlike previous cooperatives in Maine would lack the authority to enforce any agreement upon its membership that it made with processors. In addition, the processor and the producer will be limited to a standard contract that may not be appropriate for some processors and producers.

Conclusion

The proposed amendment (LD 473) to the Agricultural Marketing and Bargaining Act creates a producers Cooperative without providing the organization with the authority to enforce its decisions upon the membership. Furthermore, the producers' cooperative would be liable in cases of breach of contract, fraud, or other civil and criminal crimes. Potato producers, however, are unwilling to join an organization which negotiates potato contracts and has the authority to enforce the contract provisions upon the membership. The lack of support among potato producers for a producers' cooperative as well as the lack of support among all groups in the potato industry for the proposed change in the potato bargaining procedure prohibits committee support of the provisions of LD 473.