

Recent Laws Affecting Farm Labor

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AS THE first session of the 87th Congress ended, the Mexican Labor Act (Public Law 78) was extended, with several amendments, until December 1963. Other measures enacted by Congress in 1961 are expected to have an impact on farm laborers. One is the Omnibus Housing Bill, which provides loan funds for farmworker housing. The Area Redevelopment Act, aimed at improving economic conditions in areas characterized by persistent unemployment and underemployment, may help domestic farm workers as well as others in rural areas of chronic labor surplus. A number of other bills relating to migratory workers are under consideration in Congress.

Historically, farm labor has been exempt from virtually all Federal labor legislation, such as minimum wage and unemployment insurance, although for a quarter of a century unsuccessful attempts have been made to include farm workers under protective laws. The investigations and studies of the LaFollette Committee in the late 1930's, the Tolan Committee in the early 1940's, the President's Commission on Migratory Labor in the early 1950's, and the Senate Subcommittee on Migratory Labor in 1952 helped to focus attention on the problems of migratory workers.

The most significant Federal legislation in this area prior to 1961, however, was the extension of Old-Age and Survivors Insurance to regular hired farm workers in 1950 and to farm operators and seasonal hired workers in 1954.¹ Presently, approximately 1.9 million farm workers are earning credits toward retirement benefits.

The Fair Labor Standards Act also has a limited application to agriculture by providing a 16-year minimum age for work on farms during school hours. Compulsory school attendance laws in States and localities supplement this, but laws in many jurisdictions permit children under 16 to be excused from school to work in agriculture.

¹ Between 1955 and 1957, farm workers who received \$100 in cash wages from a single employer during a calendar year were covered. Since 1957, farm workers who earn \$150 or more in cash wages on a farm during a calendar year, or who work for an employer for 20 days or more at time rates during a year are covered under OASI.

Under the Sugar Act of 1937, producers, in order to obtain maximum benefits, must not hire children under 14 and must pay at least the minimum wages set by the Department of Agriculture.

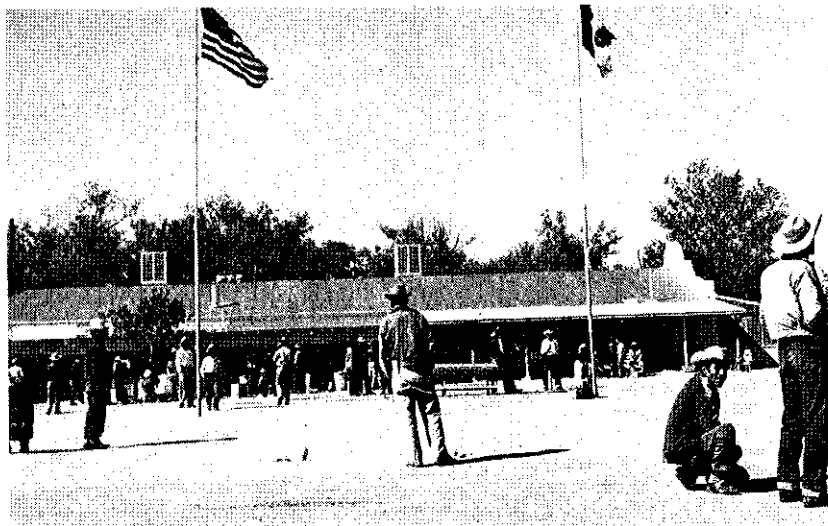
Mexican Labor

Public Law 78, which was due to expire at the end of 1961, authorizes the Secretary of Labor to admit Mexican agricultural workers for temporary employment on U.S. farms in areas where labor shortages are certified. Under this law, 316,000 Mexican nationals were admitted to the United States in 1960. They worked in 26 States, with Texas and California accounting for more than 75 percent. Arkansas, Arizona, Michigan, and Colorado also use large numbers of Mexican laborers. Crops in which Mexican workers are concentrated are mainly cotton, tomatoes, sugar beets, pickles, lettuce, and citrus fruit.

After prolonged study and consultation with a group of advisors, the Department of Labor recommended five amendments to the proposed 2-year extension of Public Law 78. The most important of these would require employers with labor shortages sufficient to warrant the employment of foreign workers to offer such workers wages at least equal to the Statewide average rate for hourly paid farm labor, or the U.S. average farm wage rate, whichever is lower. Under the existing law, wage rates for Mexicans are set at the prevailing wage level for each crop activity in each locality. In widespread areas where Mexicans are employed, wages of 50 cents an hour prevail. The purpose of this amendment would be to require wage rates paid to Mexican workers to keep pace with farm wages generally.

The national average farm wage rate in 1960 was 97 cents an hour. In Texas, the average farm wage rate without room or board was 78 cents while in California it was \$1.23 last year. Employers would not be required however, to raise their wages more than 10 cents in any one year.

The second amendment endorsed by the Department would make Mexican workers available only to



A Department of Labor Reception Center where Mexican agricultural workers are received from migratory stations and are contracted to employers. Employers are required to pay the U.S. Government \$10 per worker authorized, to cover costs incurred in obtaining and processing the workers.

employers who have made an effort to attract domestic workers at terms and conditions of employment reasonably comparable to those offered to foreign workers. This would prevent employers from providing less desirable fringe benefits or paying lower wages to domestic workers than to Mexican workers, whose terms of employment are now established by international agreement. For example, insurance and transportation costs are paid by employers of Mexican workers but are not generally provided to domestic farm workers.

Another amendment proposed by the Department would authorize the Secretary to place a limitation on the number of foreign workers who might be employed by any one employer. This was intended to assure active competition among farmers for the services of domestic farm workers and to provide greater incentive for employers to recruit and retain U.S. workers, as presently required by the law. The admittance of Mexican workers, under other suggested amendments, would be limited to temporary or seasonal employment, and to unskilled field work.

In outlining the Administration's views on the extension of the Mexican labor program, Secretary of Labor Goldberg emphasized the inconsistency of passing legislation to improve conditions for migratory farm workers, while requiring them to compete without legal protection against an inexhaustible supply of foreign workers.

Spokesmen for employer groups who opposed these amendments centered their arguments on the excessive discretionary power and the administrative infeasibility of some of the proposals. It was also pointed out that the Secretary already has sufficient authority to adjust wages where necessary under the present law, which requires him to prevent any adverse effect on domestic workers from the importation of Mexicans.

An amendment introduced on the Senate floor by Senator Eugene McCarthy of Minnesota provided that wages for foreign workers be established by law

at the lower of two alternative levels—90 percent of the farm wage level in the State, or 90 percent of the national farm wage level. It was adopted by a narrow majority. Another major amendment, introduced by Senator Kenneth Keating of New York, requiring employers to offer terms and conditions of employment to domestic workers which were comparable to those offered to foreign workers, failed to pass.

The original bill that passed the House extended the Mexican program for 2 years with none of the amendments proposed by the Department of Labor. In the Conference version of the bill, which became law, the McCarthy wage amendment was dropped, but several other amendments were retained.

As finally passed, the measure permits Mexican workers to be provided to farm employers only after reasonable efforts have been made to attract domestic workers at wages, hours of work, and *working conditions* comparable to those offered to foreign workers. The previous law provided only that comparable wages and hours of work be offered. The conference report explains that the term "working conditions" is intended to refer only to physical conditions, such as sanitation and safety, and not to terms of employment, such as housing, transportation, subsistence payments, insurance, and work guarantees. The new law also contains a specific provision that Mexican workers can be recruited only for seasonal or temporary occupations, and expressly prevents their employment in the operation or maintenance of "power-driven self-propelled harvesting, planting, or cultivating machinery."

In signing the Mexican Labor Bill, President Kennedy noted its failure to include some of the significant safeguards needed to protect wages and working conditions of U.S. workers. He stated, however, that the present law does contain broad authority to regulate the conditions under which Mexican nationals are to be employed, and that this authority was recognized during legislative consideration of the bill.

Other Federal Legislation

Also signed into law during the 1961 congressional session was the Omnibus Housing Act, amending the 1949 housing loan legislation administered by the Farmers Home Administration of the Department of Agriculture. Under the new law, provision is made for loan funds for construction and improvement of rural homes and facilities, including buildings for use of farm tenants and laborers.

The Area Redevelopment Act, which went into effect in May 1961, provides for Federal financial assistance to areas with persistent unemployment and covers rural as well as urban areas. One provision of the act provides funds for retraining underemployed workers including agricultural workers in redevelopment areas.

Bills Passed By Senate

In the first session of the 87th Congress, five bills aimed at alleviating some of the social and economic problems of migratory farm workers, were passed in the Senate but no House action was taken. When Congress reconvenes for its second session in January 1962, these bills can still be acted upon. They are part of an 11-point program introduced by the Senate Subcommittee on Migratory Labor, headed by New Jersey's Harrison Williams, following extensive hearings and study over a 2-year period. Similar bills were introduced in the House by Congressman Herbert Zelenko of New York, but have not been reported out of various House committees.

Child Labor.—One of the five migratory labor bills passed in the Senate would extend the child labor law provisions of the Fair Labor Standards Act to the employment of children on farms outside school hours. The magnitude of this problem was indicated by a special Census survey in July 1957, which revealed that 457,000 paid workers in agriculture during that month were 10 to 15 years of age, of whom more than one-half (236,000) were under 14 years of age. Nine States and the District of Columbia and Puerto Rico now provide a minimum age for children employed in agriculture outside school hours.

The Senate Bill would amend the Fair Labor Standards Act to forbid the employment of any child under 12 years of age on farms during days when school is not in session, except children employed by their own parents. Children 12 and 13 years of age would be allowed to work on farms only with their parents' written consent and only within 25 miles of their permanent residence.

The bill also included a provision to regulate agricultural employment of youth under 18 in hazardous occupations. This problem has become of increasing concern because of recent trends in mechanization of farm employment. Secretary of Labor Arthur J. Goldberg, testifying before the subcommittee, pointed out that the death rate per 100,000 in agriculture was exceeded only by the rates for extractive industries and for construction.

As passed by the Senate, the bill would authorize the Secretary to issue regulations prohibiting employment of children under 18 in particularly hazardous farm occupations except those employed by their parents.

Crew Leader Registration.—Another bill passed by the Senate provides for the registration of labor contractors or crew leaders. An estimated 8,000 crew leaders now operate in the migratory agricultural labor force, and in many cases arrange transportation, collect wages, compute and file social security tax deductions, and in other ways serve as the middleman between growers and seasonal hired workers.

At the present time, nine States and Puerto Rico require registration of crew leaders. A BES survey of the crew leader system in early 1960, however, indicated a need for Federal regulation to strengthen and supplement State action. The survey showed that, while crew leaders render many valuable services to both workers and employers, certain abuses occur. These relate particularly to discrepancies in wage payments, overcharging, or overlapping charges to both workers and employers for the same services such as transportation costs. As a result of data obtained from this survey and other sources, the administration supported the crew leader registration bill.

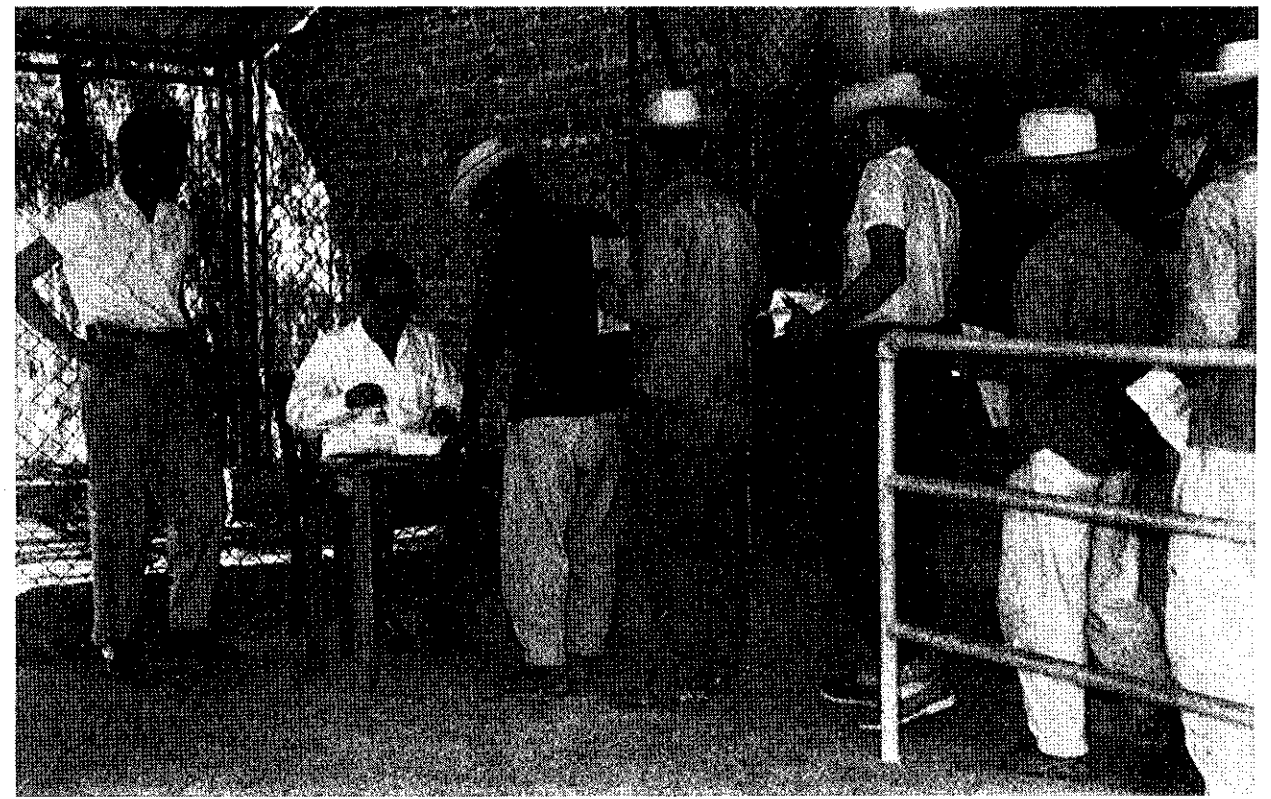
Under this bill, farm labor contractors or crew leaders recruiting 10 or more migrant workers (exclusive of immediate family members) for a fee for interstate agricultural employment would be required to register with the Secretary of Labor. Registration would require proof of public liability insurance on vehicles used. Registration could be refused or revoked for failure to perform agreements entered into with workers or employers, or for conviction under laws relating to use of narcotics or certain other Federal offenses.

Education and Health.—The Senate also passed two measures to provide Federal aid for education and health services to States and local communities affected by a seasonal impact of migratory workers.

Payments would be made to State educational agencies to meet part of the cost of educating migratory children during the regular school session. Also

"The unpleasant truth is that the migratory labor system in the United States is based on underemployment, unemployment, and poverty. . . Farm workers are excluded from minimum wage, unemployment insurance, almost all workmen's compensation legislation and most other social legislation. In addition, they are excluded from legislation which protects the right of workers to organize and bargain collectively with their employers. . . . We, as a nation, take pride in our concern for the dignity of the individual; but the apathy that has been demonstrated toward this lingering social problem seems to us to be an abdication of our responsibilities. . . . The present administration is firmly of the view that the time for studying the migrant's problem is past; the time for remedial action is long overdue."

—Arthur J. Goldberg, Secretary of Labor, before the Senate Committee on Agriculture and Forestry, June 13, 1961.



Mexican workers prove their identities and have their papers stamped to indicate approval by the Mexican Government representative as they enter the migratory station for further processing for work on U.S. farms.

authorized were grants for: (1) The operation of summer schools for migratory children; (2) State and interstate planning and coordination of programs for education of migratory children; and (3) meeting the operating costs of pilot projects for programs of practical education for adult migratory workers conducted by local educational agencies or colleges. After the first 2 years, authorized funds would be on a matching basis.

Authorization of funds for health services would be primarily in the form of grants for special projects to provide medical and hospital care for migrant workers and their families in areas seriously affected by the impact of large numbers of seasonal farm workers. Grants would also be made for special projects to improve health services and health conditions for migratory workers, and to facilitate cooperation of health agencies both interstate and intrastate.

National Citizens Council.—The fifth Senate bill calls for establishing a National Citizens Council on Migratory Labor to be composed of non-Government members appointed by the President and reporting to him and to the Congress through the Secretary of Labor. The purpose of the council would be to focus public attention on problems of migratory farm workers and to help develop programs for their solution. Debate on this measure centered about the membership of the council. As passed, the 15-member council would include 3 individuals to represent farmers, 3 to represent migratory agricultural workers,

and 3 State officials. The remainder would be persons with a special knowledge of migratory agricultural labor problems.

Other Legislative Proposals

Several of the Senate subcommittee bills will be considered at the 1962 session of Congress. One of major importance would establish an agricultural minimum wage for an estimated 1 million farm workers employed on large farms. A "Domestic Worker Stabilization" bill sets up a plan for the orderly recruitment and distribution of domestic agricultural workers by procedures similar to those now used in the recruitment of foreign agricultural workers. Workers participating in this plan would have a written agreement with employers which would assure prevailing wages, a guaranteed period of employment, and other benefits accorded to Mexican nationals in the United States.

Other bills introduced but not acted on in the first session include coverage of agricultural workers under the National Labor Relations Act, and amendment of the Social Security Act to provide grants to States for operation of day-care centers for migratory farm children.

Recent State Legislation

During 1961, California brought agricultural workers under coverage of the temporary disability insurance provisions of the Unemployment Insurance

law, and also enacted legislation requiring annual registration of labor camp owners or operators, thereby supplementing the existing statutory provisions for regulation of labor camps. California's Industrial Welfare Commission issued regulations, effective August 28, 1961, establishing a minimum wage of \$1.00 per hour for women and minors employed in agriculture and in "industries handling products after harvest on the farm." Regulations covering hours and provisions for overtime pay for women and minors employed in such processing industries were included.

The legislature of Illinois for the first time enacted statutes regulating the construction and operation of migratory labor camps and providing for licensing and inspection of the camps.

In 1961, North Carolina for the first time provided regulations for the transportation of farm workers. Wisconsin, which had previously required workmen's compensation coverage for a limited number of hazardous farm occupations, such as threshing and corn shredding, passed legislation requiring workmen's compensation coverage for all persons employed in farming 20 days during the calendar year by an employer of six or more workers.

Existing laws regulating crew leaders were applied to day-haul crew leaders in New Jersey. New York amended requirements for registration of growers bringing migrant workers into the State. A Pennsylvania law provided special funds for summer classes for migrant children.