

The National Agricultural
Law Center



University of Arkansas School of Law

NatAgLaw@uark.edu ☎ (479) 575-7646

An Agricultural Law Research Article

Farm-Labor Relations

by

Wayne Fuller

Originally published in IDAHO LAW REVIEW
8 IDAHO L. REV. 66 (1971)

www.NationalAgLawCenter.org

FARM-LABOR RELATIONS

WAYNE FULLER^{*}

INTRODUCTION

Idaho, along with many other states, faces a long-neglected problem in farm labor relations. The nature and extent of the problem is acute. Farm workers, aware they do not have the same protection and rights afforded to other laborers, are trying to increase their wages and better their working conditions. Migrant laborers have engaged in efforts to organize in Idaho and other states. Farmers are extremely apprehensive about picketing, strikes and their disruptive effect, especially at harvest time. As a result, state legislation has been sought by farm groups to regulate farm labor relations.

This article will analyze present federal and state regulation of collective bargaining pertaining to agricultural workers. Idaho's "Agricultural Labor" legislation will be analyzed. There will be, necessarily, a discussion of constitutional issues raised by state legislation.

FEDERAL EXCLUSION OF AGRICULTURAL LABOR

While there has been comprehensive regulation of collective bargaining in industry and business, the "agricultural laborer" has been, from the first, specifically exempt from the National Labor Relations Act. The exclusion is built into the Wagner Act of 1935 by the definition of an employee who is covered by the act:

an employee . . . shall not include any individual employed as an agricultural laborer . . .¹

One author has concluded, "The legislative history of the National Labor Relations Act demonstrates that neither Congress nor virtually anyone else was concerned with the problems of agricultural labor."² The initial draft of the Senate bill proposed in 1934 did not exclude farm employees.³ However, with no discussion nor reason given, the version reported out of committee contained the exclusion.⁴ The reason given in the Senate report on the Wagner Act was that the exclusion was deemed wise for "administrative reasons."⁵ It has been suggested that Congress

^{*}A.B. 1954, LL.B., 1957, Stanford University; member of Idaho Bar, from Caldwell, Idaho.

¹29 U.S.C. §152 (1964). The Wagner Act is the common name title of the N.L.R.A. enacted in 1935.

²Morris, *Agricultural Labor and National Labor Legislation*, 54 CALIF. L. REV. 1939, 1951 (1966).

³S. 2926, 73d Cong., 2d Sess. Sec. 3 (3) (1934).

⁴Morris, *supra* note 2, at 1952-53.

⁵S. Rep. No. 573, 74th Cong., 1st Sess. 7 (1935).

was not sensitive to the needs of farm workers in 1935 because (1) the farm labor population was mainly made up of migrants, who had little voting power; and (2) unlike urban workers, farm employees were not organized.⁶ The best explanation, however, for the exclusion was Congressional sensitivity to farm groups that might oppose the legislation if it included agriculture.⁷

When congress adopted the N.L.R.A. in 1935, the primary justification for implementing the concept of collective bargaining was specifically set forth:

The denial by some employers of the right of employees to organize and the refusal by some employers to accept the procedure of collective bargaining (which) lead to strikes . . . obstructing commerce . . . the inequality of bargaining power between employees . . . and employers . . . (which) burdens . . . commerce . . . by depressing wage rates and the purchasing power of wage earners in industry and by preventing the stabilization of competitive wage rates and working conditions within and between industries.⁸

In 1969 the U. S. Senate Subcommittee on Migratory Labor concluded that "various elements of the agriculture industry were on a collision course similar to the course of industry in general in 1935."⁹ This subcommittee recommended:

The National Labor Relations Act should be extended to our citizens employed in agriculture. The discriminatory exclusion of the agriculture industry continues at incalculable cost to farm workers and their families, farmers, growers, and to the general public. We must guarantee employees the right to organize and bargain collectively, and we must make the orderly procedures of the act available to the industry.¹⁰

Pending before the 92nd Congress are bills to amend the N.L.R.A. to remove the agricultural worker exclusion.¹¹ However, there is also legislation proposing a National Advisory Council on Migratory Labor, introduced in the Senate by Senator Griffin.¹² This bill would provide for a fifteen-member council appointed by the President to provide advice

⁶Note, *The Constitutionality of N.L.R.A. Farm Labor Exemption*, 19 HASTINGS L.J. 385 (1968).

⁷Morris, *supra* note 2, at 1956.

⁸29 U.S.C. §151 (1964).

⁹*The Migratory Farm Problem in the United States*, S. Rep. No. 91-83, 91st Cong. 1st Sess. 19 (1969).

¹⁰*Id.* The recommendations reflect the view of the majority of the sub-committee and not the individual members. Senator Murphy of California set forth his individual views; he opposes bringing agriculture workers under the N.L.R.A. and lists distinctions between agriculture and industry.

¹¹H.R. 1410, intr. by Mr. Leggett. Identical bills are: H.R. 2546, intr. by Mr. Roybal, H.R. 3625 intr. by Mr. Gonzalez. H.R. 4438 intr. by Mr. Ryan.

¹²S. 554, intr. by Senator Griffin, Michigan.

to him and to Congress on matters pertaining to federal laws, programs and policies relating to migratory agricultural labor. The Council would exist for five years and would also evaluate problems concerning migrant farm labor.¹³ Whether Congress will enact any legislation bringing farm workers under the N.L.R.A. remains a matter of speculation. A strong case is made for elimination of the exemption by the Senate Subcommittee on the basis that established procedures available through the N.L.R.A. will reduce strife in farm labor relations:

This year, the industry is involved in the most costly and economically detrimental activity yet. A nationwide boycott of California table grapes was called by the United Farm Workers Organizing Committee, and supported by civic and church groups, presidential candidates, Congressmen and other political leaders including mayors. A number of retail chainstores voluntarily refused to handle grapes, while others ceased handling grapes under pressure of picket lines and consumer protest actions. Statistics reveal that the boycott has had a severe impact on the wholesale and retail purchase, distribution, warehousing, and transportation of grapes. Prices received by growers for their grapes are down; more sales are on consignment than ever before, and large sums of money have been expended on ads in the mass communication media describing the pros and cons of the economic warfare. Farm workers, already on the bottom of the economic and social ladder, are out of jobs; and strikebreakers, many of them from Mexico, increase tensions. The farmers and growers remain intransigent, and the workers are adamant. Communities are racked by bitterness, dissent, and conflict, and racial undertones mark the actions of some parties involved.

There is a solution.—Mounting evidence confirms that the lack of established procedures for communication, elections, negotiation, arbitration, and settlement by employers and employees, leads to costly strikes and disruption of interstate commerce. In view of this agriculture strife, particularly in the last 5 years, logic compels that the same considerations that led Congress in 1935 to declare a national policy to alleviate the causes of substantial obstruction to the free flow of commerce are applicable today as compelling reason to include agriculture within the scope of the National Labor Relations Act.¹⁴

If the Congress did eliminate the exclusion, what affect would it have? Under the pre-emption doctrine, the states would no longer have the power to regulate this segment of labor relations.¹⁵ The National

¹³Congressional Research Service, Library of Congress, April 30, 1971.

¹⁴*The Migratory Farm Problem in the United States*, *supra* note 9, at 20. See also for a good discussion: Note, *The Farm Worker: His Need for Legislation*, 22 *MAINE L. REV.*, 213 (1970).

¹⁵The pre-emption doctrine was spelled out in the leading case of *San Diego Building Trades Council v. Garmon*, 359 U.S. 236 (1959).

Labor Relations Board would have exclusive jurisdiction over farm employers who came within its jurisdictional standards. The usual non-retail standard is \$50,000.00 in interstate operations.¹⁶ It is estimated that about 3.5 per cent of all farms would be covered and that 45 per cent of the total farm wage work would be included.¹⁷ The N.L.R.B. would, under its procedures, conduct employee elections, investigate and hold hearings on unfair labor practice charges, and generally regulate collective bargaining practices between employer and his employees.¹⁸

IDAHO'S EXPERIENCE

In 1943 the Idaho legislature enacted the Idaho Farm Picketing Act, which was designed specifically to combat the threat of unionization of farm workers.¹⁹ The bill contained provisions that applied to all labor organizations, even though they might not be involved in organizing farm workers.²⁰ Section 1 required the annual filing of comprehensive financial statements by every labor union. Section 2 prohibited entry, without the consent of the owner or operator, of union representatives upon agricultural premises.²¹ Section 3 prohibited picketing or aiding in picketing of any agricultural premises. Section 4 prohibited boycotting or interfering with the movement or sale of agricultural commodities. Other provisions provided for criminal penalties and for severability of any part found unconstitutional.

This statute was challenged in the Idaho courts in a declaratory judgment action.²² The grounds for the challenge consisted of a variety of constitutional objections, including that it was class legislation, it violated rights of privacy, it constituted a direct burden upon interstate commerce, and that it impinged upon a field pre-empted by the National Labor Relations Act. The District Court held sections 1, 2 and 3 were constitutional, but found section 4 was invalid under both the Federal and State Constitutions.²³ The court reasoned that the broad sweep of section 4 covered lawful as well as unlawful acts and would penalize peaceable picketing on public streets or highways in or around any business handling farm products.

¹⁶*Siemons Mailing Service*, 122 N.L.R.B. 81 (1958).

¹⁷*The Migratory Farm Problem in the United States*, *supra* note 9, at 22.

¹⁸At the present time, workers in processing and agricultural related industries are covered by the N.L.R.A. For a discussion of this problem, see Rummel, *Current Developments in Farm Labor Law*, 19 HASTINGS L.J. 371 (1968).

¹⁹Ch. 76 [1943] Idaho Session Laws 158.

²⁰*Id.* Section 1 applied to "every labor union or branch or local of every labor union. . ."

²¹For a discussion of this problem under California law, see Note, *Privileged Entry Onto Farm Property for Union Organizters*, 19 HASTINGS L.J. 413 (1968).

²²*A.F.L. v. Miller*, 15 L.R.R.M. 677 (1944). The suit was brought in Ada County District Court against the Attorney General and other state officials.

²³*Id.* at 681-684.

Upon appeal, the Idaho Supreme Court dealt with none of the issues passed on by the District Court.²⁴ Instead, the reviewing court considered only if the entire statute was unconstitutional since it dealt with more than a single subject in violation of Article 3, Section 16 of the Idaho Constitution. The court found that the statute was unconstitutional yet resolved none of the difficult issues raised by this attempt at state regulation of farm labor problems.

In August, 1970, farm labor disputes arose in Southwestern Idaho between migrant workers and farmers. A crew leader and his workers, aroused by an incident, began picketing not only the farm where the incident occurred but also other farms in the area. Farm managers and owners held meetings to discuss what action they could take to meet the threat of impromptu picketing and strikes. The Idaho Labor Commissioner offered to hold an election to determine if workers wanted to be represented.²⁵ However, noting that agriculture was exempt from Idaho's labor laws, he concluded that an election would not be binding on either side.²⁶ A few farmers filed suits seeking injunctive relief from the state courts, but these cases provided no acceptable solution for the farmer.

As a result of the 1970 farm labor disputes, the various farm groups banded together to seek legislative help to meet what they considered an imminent peril. The Idaho legislature, which is oriented toward agriculture—although less so because of reapportionment—responded by passing House Bill 241.²⁷ The act, which takes effect on July 1, 1971, is unique because it terminates on March 1, 1972.²⁸ This short duration, which apparently overcame a threat of veto by the Governor, will require the legislature to review the Idaho Agricultural Labor Act, 1971, and its operation, at the next session.²⁹

The I.A.L.A. provides for a comprehensive scheme of regulation, including the creation of an Idaho agricultural labor board of five members with authority to make rules and regulations.³⁰ Employee and

²⁴A.F.L. v. Langley, 66 Idaho 763, 168 P. 831 (1946). The change in parties was due to a new attorney general.

²⁵The Department of Labor is established under IDAHO CODE §44-101 (Supp. 1969), and a Commissioner of Labor, appointed by the Governor, is to be in charge of the department, under IDAHO CODE §44-102 (Supp. 1969).

²⁶IDAHO CODE §44-108 (Supp. 1969) provides: "This Act shall not apply to labor engaged in agricultural labor as that term is defined in Section 72-1304. . ." IDAHO CODE §74-1304 (Supp. 1969) contains the same definition of agricultural labor as the employment security law. IDAHO CODE §72-1316 (Supp. 1969) exempts agricultural labor from unemployment benefits. They are also exempt from workman's compensation benefits. See IDAHO CODE §72-105 (1949).

²⁷Ch. 174 [1971] Idaho Session Laws 825.

²⁸*Id.* §14.

²⁹The Idaho Agricultural Labor Act, 1971, will hereinafter be called the I.A.L.A.

³⁰Ch. 174, §3 [1971] Idaho Session Laws 826.

employer rights are recognized;³¹ unfair labor practices are specified;³² election procedures to select a bargaining representative are provided;³³ and remedies before the court are authorized.³⁴

However, an analysis of this scheme of regulation demonstrates that the act is not designed to promote collective bargaining between farm employers and their employees. Instead, it is primarily intended to prevent collective bargaining. The I.A.L.A. imposes insurmountable requirements before an election could be held.³⁵ It permits an employer to block multi-employer units, even where an employers association has traditionally assumed a role in recruiting or housing farm employees.³⁶ To require an election for each individual farmer that employed migrant farm workers is unrealistic and could bog down the board in a mire of unnecessary elections. A more sensible approach would be to leave the question of appropriate bargaining unit to the expertise of the board, as is done under the N.L.R.A.³⁷ The unusual restriction that an employee must have worked fourteen working days for a particular employer before he can sign an authorization card should be eliminated. This issue should also be left to the board to determine after it conducts hearings. The N.L.R.B. has faced a similar problem in seasonal industries and arrived at a workable solution.³⁸

A viable labor organization is a pre-requisite to collective bargaining. The impediments to organization under the I.A.L.A. make doubly difficult any viable labor organization for a group already handicapped by other adverse factors.³⁹ Employment is primarily seasonal and most farm workers migrate from other areas. In 1967-68, Idaho had approximately 20,004 seasonal agricultural workers, and of these, 18,868 migrated into the county where they worked.⁴⁰ Other economic and social factors also make organization difficult: chronically low wages, inadequate housing, and fears about the impact of mechanization.⁴¹

Another prime requisite in collective bargaining is a balance in the

³¹*Id.* §§ 4 and 5.

³²*Id.* §§ 6 and 7.

³³*Id.* §8.

³⁴*Id.* §11.

³⁵Section 8 requires an employee to have worked fourteen days for a particular employer; to be employed by that employer when the petition is filed, and for there to be a representative number employed at time of election.

³⁶Section 8 requires an employer to agree to be included in a multi-employer unit.

³⁷29 U.S.C. § 159(h) (1964).

³⁸The N.L.R.B. requires a showing of interest among the employees on the payroll at the time the petition is filed. See *Holly Sugar Corp.*, 28 L.R.R.M. 1195 (1951).

³⁹See Note, *Agricultural Labor Relations - The Other Farm Problem*, 14 STAN. L. REV. 120 (1961).

⁴⁰*The Migratory Farm Problem in the U.S.*, Appendix A, *supra* note 9, at 118.

⁴¹For an excellent discussion of these factors, see Chase, *The Migrant Farm Worker in Colorado, the Life and the Law*, 40 COLO. L. REV. 45 (1967).

economic weapons available to both parties. The I.A.L.A. strikes a very heavy balance in favor of the employer. It limits the rights of employees to picket a farm premises where perishable agricultural crops are produced, unless the persons picketing have been employees for the last six calendar work days prior to the picketing.⁴² The phrase "perishable agricultural products" is defined in the act so that it includes any product "which may be affected adversely by weather, lack of attention, improper growing or harvesting, and any other product raised on a farm or ranch whereby agricultural labor is employed."⁴³ The effect of this broad definition may be to prohibit picketing at any time after farming operations begin in the spring. If the aim of this provision is to prevent impromptu picketing, it goes much further.

CONSTITUTIONAL ISSUES

The attorney general of the State of Idaho has concluded that I.A.L.A. would be held invalid if tested in the courts because: its provisions deny the exercise of freedom of speech; it may interfere with the right of freedom of assembly; it may deny equal protection of the law, and it may abridge the right to travel.⁴⁴ The provisions of the bill that are specifically thought to be unconstitutional are:

1. Section 7 (7)—which proscribes picketing at a business premises with placards to promote a boycott of an agricultural commodity.
2. Section 7 (8)—which proscribes inducing or encouraging any person to strike or to refuse in the course of his employment to handle or work on any agricultural commodity—where the object is to force or require certain prohibited purposes.
3. Section 7 (10)—which proscribes picketing a farm where perishable agricultural products are produced, unless the persons picketing have been employees for six calendar working days, provided notices in English and Spanish about the prohibition are displayed.
4. Section 8 (1)—which requires employees to have worked fourteen days for a particular employer in order to sign an authorization that accompanies a petition for an election.
5. Section 8 (6)—which requires a representative number of employees to be employed at the time of the election.
6. Section 7 (13) (b)—which requires a labor organization to submit an annual report of officers and finances, its current by-laws and constitution, and all its current collective bargaining agreements.

⁴²Ch. 174, §7(10) [1971] Idaho Session Laws 831.

⁴³*Id.* §1(8).

⁴⁴Attorney General's opinion dated August 2, 1971.

The United States Supreme Court has recognized that picketing is a form of speech and protected by the First Amendment.⁴⁵ The court reached the highwater mark of this free speech doctrine in *A.F.L. v. Swing*,⁴⁶ which reversed a state court decree that enjoined peaceful picketing when it was conducted by strangers to the employer. The court in *Swing* decided the right of free communication could not be proscribed by state action:

A state cannot exclude workingmen from peacefully exercising the right of free communication by drawing the circle of economic competition between employers and workers so small as to contain only an employer and those directly employed by him.⁴⁷

The Supreme Court in subsequent cases limited the application of the free speech doctrine.⁴⁸ However, in a recent decision, *Food Employers v. Logan Valley Plaza*,⁴⁹ the doctrine of the *Swing* case was reaffirmed in invalidating a trespass law applied to peaceful picketing on private business property to which the public had access.

If Section 7 (10) of the I.A.L.A., which requires six days of employment, prohibits picketing solely because it is conducted by persons not employees of the agricultural employer, then it is invalid under the holding in the *Swing* case. Whether Section 7 (7), which prohibits product picketing at non-farm premises, infringes on constitutionally protected free communication, is not clear. If Section 7 (7) is construed to prohibit lawful primary strike activities, then there must be serious reservations about its validity.⁵⁰

Section 7 (8) (a), of the I.A.L.A., which specifies a number of unfair labor practices, follows a pattern similar to Section 8 (b) (4) of the N.L.R.A.⁵¹ However, additional clauses found in Section 8 (b) (4) are omitted. These are: (1) a provision permitting a person to refuse to go on premises where a certified union is engaged in a primary strike, and (2) a clause permitting publicity, other than picketing, for the purpose of a product boycott as long as it does not induce secondary employees not to perform any services. The absence of these provisions

⁴⁵*Senn. v. Tile Layers Protective Union*, 301 U.S. 468 (1937), and *Thornhill v. Alabama*, 310 U.S. 88 (1940).

⁴⁶312 U.S. 321 (1941).

⁴⁷*Id.* at 326.

⁴⁸*Giboney v. Empire Storage and Ice Co.*, 336 U.S. 490 (1949); and *International Bro. of Teamsters v. Vogt, Inc.*, 354 U.S. 284 (1957).

⁴⁹391 U.S. 308 (1968).

⁵⁰Idaho recognized the right of employees to engage in a lawful primary strike in *Robison v. H. and R.E. Local No. 782*, 35 Idaho 418, 207 P. 132 (1922).

⁵¹Section 8 (b) (4) of the N.L.R.A. is found in 29 U.S.C. §158 (b)(4), and proscribes various unfair labor practices, including secondary boycotts.

may adversely affect the interpretation of Section 7 (8) (a) of the Idaho Statute. However, on the balance, it is likely Section 7 (8) (a) will be sustained against a constitutional objection based on free speech.⁵²

The Supreme Court has recognized that state action in the labor relations field may not infringe upon the right of peaceful assembly.⁵³ In *Hague*, the court struck down an ordinance forbidding the leasing of any hall without a permit from the chief of police.⁵⁴ In *Thomas* a statute requiring union organizers to register with the Secretary of State of Texas was declared invalid.⁵⁵ If Section 7 (13) (a) and (b) of the I.A.L.A. are construed to place a prior restraint upon farm laborer activities to hold peaceful meetings to organize, then these provisions may violate the First Amendment right to peaceful assembly.

Although constitutional questions involving free speech and peaceful assembly pose serious questions concerning the Idaho Agricultural Labor Act, 1971, the issue of "equal protection" is its most formidable challenge. The entire act is predicated on a separate classification and a different treatment of farm workers as compared to other workers. An existing Idaho statute authorizes the Commissioner of Labor, when a question arises regarding representation of employees, to investigate, to hold hearings, to conduct secret ballot elections and to certify employee representatives.⁵⁶ There are no provisions in the Idaho labor code that impose any of the restrictions found in Section 8 of the I.A.L.A. As noted before, prior to 1971, agricultural labor was exempt from the provision of Idaho's labor laws.

While a state has broad discretion in classification in the exercise of its legislative powers, the classification must be "reasonable."⁵⁷ The Supreme Court in *Smith v. Cahoon*,⁵⁸ considered a state statute requiring a bond or policy for private carriers but which exempted those transporting agricultural, horticultural, dairy or other farm products and fish and oysters and shrimp. Chief Justice Hughes, in finding a denial of equal protection, stated:

"But in establishing such a regulation, there does not appear to be the slightest justification for making a distinction between those who carry for hire farm products, or milk or butter, or fish

⁵²See *Building Service International Union v. Gazzam*, 339 U.S. 532 (1950); see also *Int. B. of E.W. v. N.L.R.B.* 341 U.S. 694 (1951).

⁵³*Hague v. C.I.O.*, 307 U.S. 496 (1939); *Thomas v. Collins*, 323 U.S. 516 (1944).
⁵⁴307 U.S. at 516 (1939).

⁵⁵323 U.S. at 541 (1944).

⁵⁶IDAHO CODE §44-107 (Supp. 1969).

⁵⁷See *Louisville Gas & Elec. Co. v. Coleman*, 277 U.S. 32 (1928); see also Note, *The Constitutionality of the N.L.R.A. Farm Labor Exemption*, *supra* note 7, at 390.

⁵⁸283 U.S. 553 (1931).

or oysters, and those who carry for hire bread or sugar, or tea or coffee, or groceries in general, or other useful commodities . . . 'Such a classification is not based on anything having relation to the purpose for which it is made.'⁵⁹

The critical question to be answered in examining the I.A.L.A. should be: Is there any relation to the purpose for which the legislation is enacted and the distinction between farm workers and other workers? The purpose of the legislation is not specifically stated but it must be assumed its objectives include: The promotion of labor peace and collective bargaining, and provisions for administrative and court procedure to resolve disputes. Do these purposes justify the distinction between agricultural employees who have worked 14 days and those who have not? Do such purposes justify the distinction between farm employees in a potato or beet field and those workers employed at a sugar factory or potato processor?

In recent years, the concept of "equal protection" has been expanded by the Supreme Court to new areas: It has required equal treatment of rural and urban voters in selecting state legislators,⁶⁰ and it has struck down residence requirements imposed by states in denying public assistance to welfare applicants.⁶¹ It is difficult to predict whether the court will apply these expanded concepts of equal protection to require the states to afford agricultural employees the same protection and rights as other workers.

The states do have a legitimate interest in regulating labor relations in a field exempted from federal regulation. The farm employer can sustain heavy losses, if he is unable to obtain the manpower to harvest his crops. But in protecting agricultural owners, there should not be a denial of basic rights to collective action. Once a group of employees have selected their representative by legal means, then the farmer or rancher should not be insulated from legitimate economic pressures.

OTHER STATES

There are fourteen other states that have labor relations acts similar to the N.L.R.A.⁶² However, there are only two that clearly include farm workers in their coverage: Hawaii and Wisconsin.⁶³ In both of these states, farm workers have successfully organized.⁶⁴

⁵⁹283 U.S. at 567.

⁶⁰Reynolds v. Sims, 377 U.S. 533 (1964).

⁶¹Shapiro v. Thompson, 394 U.S. 618 (1969).

⁶²Colorado, Connecticut, Hawaii, Kansas, Massachusetts, Michigan, Minnesota, New York, North Dakota, Oregon, Pennsylvania, Rhode Island, Utah and Wisconsin.

⁶³HAWAII REV. LAWS §377-1(13) (1968); WIS. STATE ANN. §111.03(3) (1957).

⁶⁴See *Hearings on Migratory Labor*, 90th Cong. 1st Sess. p. T. 4, at 931-42 (1968). See Erenburg, *Obreros Unidos in Wisconsin*, 91 MONTHLY LABOR REV., June 1968, at 17, 20-38.

In Oregon, there is special legislation pertaining to the picketing of farms where perishable agricultural crops are produced while such crops are being harvested.⁶⁵ The law makes it unlawful for a person to picket unless he has been employed for at least six calendar work days.⁶⁶

The Hawaii Employment Relations Act provides employees engaged in the production, harvesting or initial processing of any farm, agricultural or dairy product that may be destroyed or seriously deteriorated shall give ten days notice of their intention to strike.⁶⁷

CONCLUSION

The exemption of agricultural employees under the N.L.R.A. was a result of farm group pressure against any regulation. The absence of regulation has created a vacuum into which only a few states have ventured. Two other states have regulated farm-labor relations in the same manner it does other labor relations. The Idaho experience demonstrates that efforts to provide a bill that is both constitutional and acceptable to an agriculturally oriented legislature is difficult to attain. The object of the I.A.L.A., as presently drafted, is to prevent collective bargaining, not to encourage it.

While there may be peaceful labor conditions for a time in Idaho, it will largely be due to the fact that farm workers are poorly organized. In the long run the negative philosophy of the I.A.L.A. will create more problems than it will solve for the farmer, his employees and the public. The act contains restricted provisions of doubtful validity that may lead to expensive litigation and general uncertainty about what protection it really affords. Employees who are denied a fair chance to organize themselves and to engage in collective activities for better wages and working conditions may resort to other measures. To avoid strife, conflict and bitterness that could erupt and cause incalculable harm, there should be realistic legislation that will promote collective bargaining and labor peace.

⁶⁵OREGON REV. LAWS §662.815 (1967).

⁶⁶*Id.* §662.805(3).

⁶⁷HAWAII REV. LAWS §377-12 (1968).