M A I N E

L E G I S L A T I V E R E S E A R C H

C O M M I T T E E

THIRD REPORT

to

ONE HUNDRED AND SECOND LEGISLATURE

JANUARY, 1965

STATE OF MAINE

SUMMARY REPORT

to

ONE HUNDRED AND SECOND LEGISLATURE

LEGISLATIVE RESEARCH COMMITTEE

From the Senate:

Dwight A. Brown, Ellsworth, Chairman
Ralph D. Brooks, Jr., Yarmouth
William R. Cole, Liberty[1]
E. Perrin Edmunds, Fort Fairfield
Norman K. Ferguson, Hanover
Clyde A. Hichborn, Medford[2]
Samuel A. Hinds, South Portland
J. Hollis Wyman, Milbridge

From the House:

Bradford S. Wellman, Bangor, Vice Chairman
Sam A. R. Albair, Caribou
David B. Benson, Southwest Harbor
John E. Gill, South Portland
Archie Humphrey, Augusta
Louis Jalbert, Lewiston
Elmont S. Tyndale, Kennebunkport

Ex Officio:

Robert A. Marden, Waterville,
President of the Senate
David J. Kennedy, Milbridge,
Speaker of the House

Director:

Samuel H. Slosberg, Gardiner

Assistant Director:

Samuel S. Silsby, Jr., Augusta

Finance Officer:

Frederick W. Kneeland, Augusta

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1 Deceased February 2, 1964.
2 Appointed March 26, 1964 to succeed Senator Cole.

January, 1965

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LETTER OF TRANSMITTAL

December 29, 1964

To the Members of the 102nd Legislature:

I have the honor to transmit herewith the third summary report of the Legislative Research Committee on studies authorized by the 101st Legislature for the period ending January, 1965. This report contains the findings and recommendations on 10 of the 21 matters assigned by the Legislature for Research Committee study and determination. The study of the feasibility of an income tax for the State, authorized by the 101st Legislature, was contractually studied and is separately reported as Committee Publication 102-1. The findings and recommendations of the Committee on the 10 remaining studies are reported as Publication 102-2.

The members of the Committee wish to express their appreciation for being chosen to participate in these assignments, and sincerely hope that the reports submitted will prove of benefit to the members of the Legislature and the people of the State of Maine.

Respectfully submitted,

Dwight A. Brown, Chairman

PUPILS ATTENDING SCHOOL OUTSIDE RESIDENCE

> ORDERED, the Senate concurring, that the Legislative Research Committee is directed to study the subject matter of the Bill: "An Act Relating to Tuition for Pupils Attending Secondary School Outside of Residence," Legislative Document No. 271, introduced at the regular session of the 101st Legislature to determine whether the best interests of the State would be served by the adoption of such legislation; and be it further
>
> ORDERED, that the Committee report the results of its study to the 102nd Legislature.

The 101st Legislature, during the regular session, considered Bill: "An Act Relating to Tuition for Pupils Attending Secondary School Outside of Residence" (H.P. 202, L.D. 271); but, with the thought that more definite information was needed, referred the bill to the next Legislature, and assigned the subject matter of the bill to this Committee for further study.

Notwithstanding the specific instructions from the 101st Legislature to study the merits of this particular bill, the Committee undertook a general investigation of the need for such legislation, and, with the assistance of the Department of Education and the Tuition Study Committee of the State Superintendents Association, is able to recommend the following changes in the tuition formula for determining the tuition for non-resident pupils attending secondary schools. It is the feeling of the Legislative Research Committee that these changes in the present law should be enacted by the 102nd Legislature.

Recommendations for Change in the Tuition Formula

1. All mention of schools with fewer than 100 pupils should be eliminated.

REASON: A small school making an extensive effort to build a good school program should not be penalized on the amount of tuition it may charge.

2. The method of computing tuition charges should be changed so that all secondary school expenditures including Administration, Instruction, Attendance Services, Health Services, Operation of Plant and Equipment, Maintenance of Plant and Equipment, Fixed Charges, Food Services from appropriated funds, and Capital Outlay from current appropriations and reserve funds shall be used to compute the per pupil charge and determine the state average per pupil cost.

REASON: All expenditures that improve the instructional program for the pupil should be included in the tuition charge in fairness to the receiving towns (who wish to prevent the addition of a burden to their own communities).

3. The 8% of insured value of school buildings should be removed from the computation. It should be replaced with a provision which would permit the receiving towns to charge an amount not in excess of 5% of the insured value of secondary school buildings in addition to costs already defined.

REASON: The receiving communities should be permitted to determine a per pupil amount for providing classroom space for tuition pupils which would be added to

the actual cost of operating the school program. It is the thinking of a majority of school people in both receiving and sending towns that the charge should not exceed 5% of insured value.

4. The tuition charge should be determined and established for a calendar year to coincide with the fiscal year of the towns. For example, tuition rates determined this summer following the receipt of the fiscal reports of the towns would become effective January 1, 1965 and would remain in effect until January 1, 1966.

REASON: Such a change would make it possible for sending towns to appropriate the necessary amounts of money at the March town meeting based upon known tuition rates. It would permit the receiving town to estimate income on the basis of known tuition rates.

RELATIONSHIP BETWEEN ETV AND WCBB

> ORDERED, the Senate concurring, that the Legislative Research Committee study the relationship between the state ETV network and WCBB and costs relative thereto, and report the result of these findings to the next special or regular session of the Legislature.

The Colby-Bates-Bowdoin Educational Telecasting Corporation was incorporated by Bates, Bowdoin and Colby Colleges, under R.S., 1954, C. 54, on March 22, 1961, and began telecasting over WCBB Channel 10 on November 13, 1961, as the first educational television station in the State. The station operates with maximum power of 316,000 watts, authorized by the Federal Communications Commission, and covers approximately 550,000 persons in eight Maine counties. The station serves both the general viewing public and educational institutions and currently provides the facility for telecasting educational programs to the primary and secondary schools located within its viewing area.

The Maine Educational Television Network, which operates WMEB Channel 12, at the University of Maine, is charged by the Legislature with transmitting educational television programs to the educational facilities in the State, with an appropriation of $224,000 for 1963-64 and $298,000 for 1964-65 (P. & S. L., 1963, c. 168). The sum of $25,000 is deducted for each fiscal year of the biennium as the cost of educational telecasting by WCBB (P. & S.L., 1963, c. 183). Hourly rates are charged by WMEB for telecasts in excess of the limitations imposed on operation by its appropriation budget in order to cover production costs. This rate is currently figured at $55

per hour.

One question raised by the foregoing order is whether the costs charged the State by WCBB for the use of the WCBB-ETV system represent a reasonable charge.

The present contract between the State Department of Education and WCBB calls for not less than 300 hours of telecasting time, 30 hours of video tape recording time and loan of 6 1/2 hours video tape recording by WCBB. The contract commenced in October 1963 and continues for the school year. There are certain contract agreements between both parties as to actual programing, et cetera. The contract further specifies the payment of $25,000 to WCBB by the Department of Education for the year, in payments of $2,500 for 10 months. The contract will be re-negotiated in the near future for the fiscal year 1964-65. Copies of the contract, the costs as determined by the WCBB telecasting unit and the WCBB balance sheet are attached to this report as Appendices I, II and III.

The basis used by WCBB to arrive at its hourly cost for telecasting, includes, administrative costs, program costs, technical costs and depreciation costs for a total cost which is divided by the total telecasting hours for the year to give the hourly cost.

The WCBB cost per hour for 1963, figures out to $81.92, based on 1,700 hours of telecasting, divided into a base total cost of $139,258. The cost per hour to WCBB for 1964, based on projected budget figures, is $85.59. The figure of $54.43, estimated by the Department of Education as the hourly cost to

WCBB, is determined from a different base which excludes certain cost factors. It should be noted that WCBB excludes office rental, personal services, promotional expenses and contingency costs from its base.

The Committee, having evaluated the basis used for arriving at the cost per hour by the WCBB network, feels that the costs of administration, programing, technical and depreciation costs, apart from the production or supply of program material, included in the WCBB base represent accepted business methods of computing the costs of operation of WCBB.

The State of Maine has adopted educational television as an integral part of its educational program. It should never be forgotten that the primary emphasis of E.T.V. should be aimed, at the elementary and secondary level. The University of Maine, although the operating agent for the network, should not be placed in the role of determining curriculum or allocating time. This is clearly the responsibility of the Department of Education.

Obviously, WCBB has a business viewpoint in contracting with the State for part of the State's E.T.V. programing. The current WCBB charges to the State, reflect depreciation costs by which the corporation could eventually charge off its capital investment. No assurance, however, is offered that WCBB will wish to continue contractual arrangements with the State once this is done.

It is the feeling of the Committee that it is incumbent upon the Department of Education to enter into a long time

contract with WCBB securing a commitment to the State. It is further the feeling of the Committee that any contract should contain an extended rate schedule so that the Executive and the Legislature could sensibly decide the quantity of televison time that it desires the Department to purchase. The contract should, of course, be subject to legislation pending each biennium, as one Legislature should not bind the next.

In arriving at a contractual cost, the Department of Education should be aware that, as in every business, there may be a point beyond which it is no longer economically sensible to "rent" time as compared to "owning" time. Most business men are readily familiar with this problem and adjust their operation to reflect the more economical way of doing business. If this point is reached, the Department of Education should inform the Legislature.

APPENDIX I

THIS AGREEMENT, made and entered into as of the first day of September, 1963, but actually executed this 19th day of December, 1963, by and between DEPARTMENT OF EDUCATION OF THE STATE OF MAINE (the "Department") and COLBY-BATES-BOWDOIN EDUCATIONAL TELECASTING CORPORATION ("WCBB");

WHEREAS, in furtherance of the common objective of the Department and WCBB of strengthening and improving the quality of public school education in the State of Maine, WCBB will furnish to the Department the services and facilities provided for in this Agreement for telecasting in its viewing area public school educational television programs prepared or supplied by the Department during the school year 1963-64 and the school year 1964-65;

NOW, THEREFORE, in consideration of the covenants and agreements herein contained, the Department and WCBB agree as follows:

(1) WCBB will furnish and make available to the Department, in each of the school years 1963-64 and 1964-65, a minimum of 300 hours of telecasting time to be used for telecasting throughout its viewing areas public in-school educational television programs prepared or supplied by the Department.

(2) WCBB will also furnish and make available to the Department in each of said school years 1963-64 and 1964-65, approximately 30 hours of video tape recording time for public in-school educational television programs prepared or supplied by the Department and will loan to the Department video tape

for recording approximately 6 1/2 hours of public in-school educational television programs.

(3) The public in-school educational television programs telecast by WCBB for the Department pursuant to this Agreement for the school year 1963-64 shall commence October 7, 1963 and continue throughout such school year. Details with respect to the scheduling of such public in-school educational television programs and other matters for the school year 1963-64 shall be as agreed upon by the representatives of the Department and representatives of WCBB.

(4) The Department believes that more than 300 hours of telecasting time will be required to meet the needs for public in-school educational television programs during the school year 1964-65. The number of public in-school educational television programs for the school year 1964-65 and the amount of telecasting time required (not less than the above-stated minimum of 300 hours) and the details with respect to scheduling such programs and other matters for such school year shall be agreed upon by the representatives of the Department and representatives of WCBB as soon as possible after the execution of this Agreement, and shall be covered in an agreement supplemental hereto. The Department believes it should be in a position to notify the public school systems of the State with regard to the number of public in-school educational television programs available and the hours of telecasting in December of each year for the next succeeding school year. Both parties hereto recognize that while this may not be

possible in December 1963, it does require that these matters in respect of the school year 1964-65 should be agreed upon at the earliest possible date.

(5) The Department will reimburse WCBB for the above-described telecasting and video tape recording time and other services to be furnished by it pursuant to this Agreement and the supplemental agreement contemplated by paragraph (4) hereof, by payment to WCBB of $25,000 out of the amount appropriated by the 101st Legislature for the biennium in each of the school years 1963-64 and 1964-65. Payment of said sum of $25,000 in each of said school years shall be made in ten equal installments of $2,500 on or about the fifteenth days of the months of September to June, both inclusive.

IN WITNESS WHEREOF, the Department of Education of the State of Maine has caused this agreement to be signed by Kermit S. Nickerson, Commissioner and Colby-Bates-Bowdoin Educational Telecasting Corporation has caused this agreement to be signed by James S. Coles, its President, all as of the day and year first above written.

DEPARTMENT OF EDUCATION OF THE
STATE OF MAINE

By Kermit S. Nickerson
Commissioner

COLBY-BATES-BOWDOIN EDUCATIONAL
TELECASTING CORPORATION

By James S. Coles
President

APPROVED AS TO FORM

January 27, 1964
John W. Benoit
Assistant Attorney General

APPENDIX II

COLBY-BATES-BOWDOIN TELECASTING CORPORATION
Expense of Operations-Year Ending June 30, 1964*

	1963	1964
ADMINISTRATIVE Salaries, telephone, office and transmitter, postage, office supplies and publications, travel and entertainment (includes local mileage), professional fees, taxes and social security, insurance	$ 26,070	$ 22,880
PROGRAM Salaries, printing (includes schedules) and postage, travel and miscellaneous, talent and art services, film rental (includes postage), film supplies, record services and studio tape recorder, art supplies, news service (AP), network fees, announcers fees	$ 24,120	$ 27,890
TECHNICAL Salaries, power and light, repair and maintenance of equipment (Includes tubes and projector service contract), maintenance of building and road, operation and maintenance of jeep, travel and entertainment (includes local mileage)	$ 41,010	$ 38,000
Contingency		$ 6,000
DEPRECIATION Building, tower and ant., transmitter and equipment, video tape recorder and equipment, furniture, fixtures and auto	$ 48,058	$ 48,842
Total Expense	$139,258	$143,612

	1963	1964
TOTAL TELECASTING HOURS	1,700	1,678

1963 Equals cost of $81.92 per telecasting hour
1964 " " " $85.59 " " "

(NOTE: Above expense does not include rent of office space at Bates College nor any promotional expenses incurred by the three Maine college presidents. Neither does it include any provisions for contingencies, despite the fact that the current operating budget for WCBB contains $9,640 for such emergency. ($6,000 included in 1964)

*Based on operating budget for the current fiscal year ending June 30, 1963 as approved by the Board of Directors of WCBB. Reflects nine months actual cost day.

(Legislative Finance Office. May, 1964)

APPENDIX III

COLBY-BATES-BOWDOIN EDUCATIONAL TELECASTING CORPORATION

BALANCE SHEET — February 29, 1964

A S S E T S

Current Assets:			
Cash:			
Petty Cash		$ 100.00	
Checking Account-Depositors Trust Company		8,131.25	
Total Current Assets			$ 8,231.25
Plant Assets:			
Land		$ 1,020.71	
Buildings		94,749.47	
Transmitter and studio equip.		402,430.69	
Office furniture and equip.		2,609.35	
Automotive equipment		3,134.40	
Total Plant Assets			503,944.62
TOTAL ASSETS			$512,175.87

F U N D S AND E Q U I T Y

Current Funds:			
Reserve for future operation and expansion		$ 8,207.65	
Deposit - Study guides		23.60	
Total Current Funds			$ 8,231.25
Plant Funds:			
Contributions:			
Bath Iron Works Corp.	$ 2,500.00		
William Bingham 2nd-Betterment Fund	25,000.00		
Central Maine Power Co.	5,000.00		
Charles A. Frueauff Foundation, Inc.	5,000.00		
Mr. and Mrs. Horace A. Hildreth	750.00		
James Foundation	50,000.00		
The Charles E.Merrill Trust	25,000.00		
David Rockefeller	50,062.19		
Warren Memorial Foundation	10,000.00	173,312.19	
Equity:			
Bates College	$110,210.81		
Bowdoin College	110,210.81		
Colby College	110,210.81		
		330,632.43	503,944.62
TOTAL FUNDS AND EQUITY			$512,175.87

SALARIES OF STATE OFFICIALS

> ORDERED, the Senate concurring, that the Legislative Research Committee is directed to study the question of salaries of state officials to determine whether there are discrepancies in the salaries paid in relation to the effort demanded and the ability required; whether inequities exist between those salaries fixed by the Governor and Council and those by the Legislature; whether the policies, if any, which determine the compensation of state officials should be unified and made of general application to all such officials; whether the responsibility for fixing and apportioning such salaries could be more efficiently handled by other means; and to consider such other matters relating to salaries as it deems necessary; and be it further
>
> ORDERED, that the Committee report the results of its study to the 102nd Legislature.

The Legislative Research Committee has studied the question of salaries of officials in State government as directed. In Maine, the salaries of constitutional officers and appointive heads in the executive branch are determined either by the Legislature or by the Governor and Council under entirely different policies.

The Committee is well aware that there is no unified approach or method used by the Legislature and Governor and Council in establishing such salaries, but has reached no independent conclusions as to the manner in which the problem should be handled.

In view of the fact that the satisfactory solution to the problem will necessarily involve the consideration of a number of complex questions, to determine the effort demanded and the ability required, the Committee has assigned the task of developing the necessary information to the Legislative

Finance Officer with instructions to present such information as may be necessary to aid the Committee in determining an overall system of establishing salaries for State officials which will be both fair and equitable.

SENATE AND HOUSE JOURNALS

WHEREAS, the first Legislature of the State of Maine convened under the Constitution of the State on May 31, 1820, following the decision of Maine people to separate from the Commonwealth of Massachusetts; and

WHEREAS, from the founding of the State, through the year 1881, the Legislature was elected and met annually, and since then, biennially, except for special sessions; and

WHEREAS, during this time, Legislators have come from the length and breadth of Maine, after election by their fellow citizens, to enact the laws and transact the business of the State; and

WHEREAS, their doings have been recorded in the respective journals of the Senate and House of Representatives as required under the Constitution, Article IV, Part Third, Section 5, which provides that "each house shall keep a journal"; and

WHEREAS, the original volumes of the journals remain in the custody of the Secretary of State; and

WHEREAS, starting with 1854, the journals have been regularly published and made available for the use of the Legislature and the public; and

WHEREAS, they provide an invaluable source of information on the legislative history of the State and should be published in order that the people may derive the maximum benefits therefrom through their availability for a study and research; now, therefore, be it

ORDERED, the Senate concurring, that the Legislative Research Committee is directed to study the feasibility of printing the original journals of the Senate and House of Representatives of the State for the period 1820 to 1854, and for this purpose, to determine the manner, form and style best suited to accomplish their publication; and to secure, through the State Printer, accurate estimates as to cost of printing these original volumes, together with such other information as it may deem necessary; and be it further

ORDERED, that the Committee report the results of its study to the 102nd Legislature.

The Legislative Research Committee has explored the matter of printing the Journals of the House and Senate and considers it of sufficient and vital importance to the State of Maine to recommend that the Legislature establish a program for the publication of one and not more than two volumes each biennium.

The Committee, in view of the fact that a Governor's Committee on Archives has recently been established to make recommendations for the creation of a State archives program, considers that the determination of the method utilized for publication might well be an appropriate subject for its consideration.

In anticipating the establishment of an archives program for the State of Maine, it could be expected that this would be the type of program that might be undertaken under the direction of a State Archivist.

It is the sense of the Committee that these journals provide an invaluable and irreplaceable source of information on the affairs of the State which should be made available for use through publication.

The Committee is not impressed with the need for facsimile reproduction of these records, nor with the need for publication of the series in deluxe bindings; the Committee is interested solely in the accurate transcription of the records into print, on paper of good quality, in the most economical and useful form.

To this end, the Legislative Research Committee urges that the Legislature give every consideration to implementing these recommendations of the Committee by appropriate legislation.

STATE PRINTING REQUIREMENTS

> ORDERED, the House concurring, that the Legislative Research Committee is directed to study the printing requirements of the State, and the cost thereof, to determine the need, if any, for improvement in printing services and for the purpose of promoting economies in the same; and be it further
>
> ORDERED, that the Committee report the results of its study to the 102nd Legislature.

The Legislative Research Committee, under the foregoing order, has made a comprehensive study of the printing requirements of the State for the purpose of determining possible economies and improvements in State printing. During the course of the study, particular emphasis was placed by the Committee on existing practices, procedures, equipment and personnel in order to identify possible areas of improvement. Two public hearings were held by the Legislative Research Subcommittee on March 18, 1964 and June 17, 1964, for the purpose of hearing statements concerning the study. Final action on the report of the Subcommittee was taken by the Committee at its meeting on November 23, 1964.

The Division of Public Printing of the Bureau of Purchases provides a clearing house for all agency requests for State printing. The Division does no printing, but, in addition to handling the numerous requisitions for printing it receives, furnishes a central mimeographing and addressing service for the various State agencies as needed.

According to estimates submitted to the Committee, the cost of Legislative printing during the year 1963 exceeded the sum

of $130,000. The cost to the State for all other printing and binding, in addition to Legislative printing, was $537,000.

The Committee notes the fact that Legislative printing is almost without exception "rush work". Legislative Documents, the Legislative Record, as well as the Advance Journals of the House and Senate must be printed overnight in order to be available for the use of the Legislature in expediting its proceedings.

The great bulk of Legislative printing during a session is done by the Daily Kennebec Journal on the theory that it is the only available company equipped to do the job. The costs for this type of service come high, but are accepted by the Legislature as a necessary expense to the State.

In spite of the fact that the State Printer estimates that the State is now buying its printing about 20 or 25% below the market price, the Committee feels that the State could save money in the non-legislative areas if it operated some of its own printing equipment on smaller jobs where it would not be competing with private printers. The Committee, however, has not pursued this proposition to the point where it is in a position to offer concrete recommendations. It is definitely the conclusion of the Committee that the State should seriously explore other methods of reproduction as an alternative to printing in order to realize possible savings to the State.

Since 1961, substantial savings have been achieved in the so-called non-legislative areas of State printing as the

result of a new policy of the Division of Printing to place the printing of the session laws out on bid. Other savings have been realized by using offset printing to publish the public laws enacted at Special Sessions of the Legislature. In the future, the so-called "newspaper" edition of the public laws, issued by the Director of Legislative Research at the end of each regular session, will be published by offset in pamphlet form.

After a careful study of State printing, the Legislative Research Committee believes that much can still be done to decrease the overall costs to the State for public printing. The Committee cites, by way of illustration, its recommendation, adopted by the 101st Legislature, requiring all publications, issued by State agencies, to carry an identification of the appropriation account or source of other funds used for publication, as a means of curtailing unnecessary publication and expense.

The Committee, in conclusion, urges not only the adoption of efficiency and improvement in State printing, but that consideration likewise be given to the feasibility of adopting such improvements as will result in savings to the State without impairing or diminishing the effectiveness of State printing services.

STATE SCHOLARSHIPS FOR EDUCATION

> ORDERED, the Senate concurring, that the Legislative Research Committee is directed to study the subject matter of the Bill, "An Act Providing State Scholarships for Education," Legislative Document No. 1305, introduced at the regular session of the 101st Legislature to determine whether the best interests of the State would be served by the adoption of such legislation; and be it further
>
> ORDERED, that the Committee report the results of its study to the 102nd Legislature.

The Legislative Research Committee was directed by the 101st Legislature to consider the need for legislation providing for a State scholarship program in Maine. The necessity for such legislation was made forcibly apparent at the public hearing held by the Committee on December 19, 1963, which was attended by a number of prominent educators and interested persons in support of legislation to establish a State scholarship program. Additional information was received from a survey conducted for the Committee by the Director of Student Aid at the University of Maine which canvassed each of the 22 institutions of higher education in Maine for their comments, suggestions or proposals regarding such a program. This survey was completed during October, 1964, and the summary, as well as other material which was developed in connection with the survey, has been incorporated by the Committee as a part of this report.

The Legislative Research Committee, after a lengthy examination of the scholarship needs of the State, recommends that the State establish a $500,000 fund for college students under the following legislation.

The Committee recommends that the scholarship applications for the fund be awarded by a State Scholarship Committee, appointed by the Governor, the majority of whom should be involved in the area of administration to post high school educational facilities.

It is the hope of the Committee, in making these recommendations, that the adoption of a State scholarship program will effectively contribute to strengthening those programs already available for higher education in Maine.

AN ACT Providing State Scholarships for Education.

Be it enacted by the People of the State of Maine, as follows:

R.S., T. 20, c. 302, additional. Title 20 of the Revised Statutes is amended by adding a new chapter 302 to read as follows:

'CHAPTER 302

STATE SCHOLARSHIPS

§2215. State scholarships established

State scholarships are established for the benefit of qualified citizens of this State which shall be maintained by the State and awarded as provided by this chapter.

Scholarships shall be awarded annually in accordance with this section in such number as may be fixed and determined by the State Scholarship Committee with the approval of the Commissioner of Finance and Administration.

Each scholarship shall entitle the holder thereof to the sum of $1,400 while in attendance upon an approved college in this State during a period of not to exceed 4 years of undergraduate study, to be paid upon the warrant of the State Controller issued with the approval of the Commissioner of Education to or for the benefit of such holder at the rate of $175 per term, but not to exceed 3 terms in any calendar year under regulations prescribed by the Commissioner of Education out of the fund referred to in section 2217. Such approval shall be given upon vouchers or other evidence showing that the person named therein is entitled to receive the sum specified, either

directly or for his or her benefit. Payments may be made directly to the college attended by the person named in such certificate, in behalf of and for the benefit of such person under regulations prescribed by the Commissioner of Education. A person who completed the requirements for a state scholarship in the month of January or June immediately prior to the actual award of the scholarship and who in the interim entered upon a course of study in a college may, on application, have such certificate become effective at the time when he began his regular college course.

§2216. State Scholarship Committee

There is created a State Scholarship Committee to award the scholarships provided under this chapter. The committee shall consist of 5 members to be appointed by the Governor, a majority of whom shall be qualified by experience in the field of administration of post high school educational facilities in this State. At the time of the first appointments, one shall be appointed for one year, one for 2 years, one for 3 years and 2 for 4 years; and thereafter for a full term of 4 years. Any vacancy in the membership of the committee shall be filled for the unexpired term by the Governor. Members of the committee shall serve without compensation.

§2217. State Scholarship Fund

There is created within the General Fund of the State a special State Scholarship Fund. Such fund shall consist of all money appropriated therefor by the Legislature and all money and property received by the State or the Commissioner

of Education by gift, grant, devise or bequest for the purpose of providing funds for the payment of such scholarships and of all income or revenue derived from any trust created for such purpose.

Such fund shall be kept separate and distinct from the other state funds and payment shall be made therefrom to the persons entitled thereto in the same manner as from other state funds, except as otherwise provided by this chapter.

Whenever any such gift, grant, devise or bequest shall have been made or any trust shall have been created for the purpose of providing funds for such scholarships, the incomes or revenues derived therefrom shall be applied in maintaining scholarships in addition to those to be maintained by appropriations made by the State Legislature, as provided herein, and no part of such income or revenue shall be applied for the maintenance of state scholarships. Such additional scholarships shall be awarded by the State Scholarship Committee as provided in the will, deed or other instrument making such gift, grant, devise or bequest.

§2218. State Board of Education to make rules

The State Board of Education shall make rules governing the use of such scholarships by the persons entitled thereto, and the rights andduties of such state scholars, and the colleges which they attend, in respect to such scholarships, and, except for the award of such scholarships, providing generally for carrying into effect the provisions of this chapter.

§2219. List of candidates; award of scholarships

The Commissioner of Education shall cause to be prepared annually, not later than the month of August, from the records of the Department of Education, a list of the names of all pupils who are citizens and became entitled to state scholarships during the preceding shcool year arranged according to the average standing of such pupils.

The scholarships shall be awarded by the State Scholarship Committee annually not later than the month of August to those pupils who are citizens and became entitled to state scholarships, under State Scholarship Committee rules, during the preceding school year and in the order of their merit as shown by the list prepared as provided in this section.

In case a pupil who is entitled to a scholarship shall fail to apply for such scholarship within 15 days after being notified that he is entitled thereto or shall fail to comply with the rules of the State Board of Education as to such scholarships and the same shall have been revoked or cancelled on account thereof, or, if for any other reason such scholarship shall become vacant, then the pupil standing next highest to those pupils on such list who have received scholarships, shall be entitled to receive appointment to such vacant scholarship.

If any person entitled to a scholarship or a holder of the same shall have become or shall hereafter become a member of the Armed Forces of the United States, his scholarship shall not be deemed vacant and he shall be entitled to reinstatement and to the unused benefits of his scholarship, if he resumes

his college education within 18 months after honorable discharge. A pupil entitled to a scholarship under State Scholarship Committee rules who failed to apply therefor within the time required by such rules to entitle him to a scholarship, and a pupil whose name would have been included in the list of names of candidates to be considered in the award of scholarships as provided herein except for errors or inadvertencies in the preparation of such list, may apply to the State Scholarship Committee for a scholarship and if it shall appear to the satisfaction of the State Scholarship Committee that there was reasonable cause for the failure of such pupil to apply for such scholarship as required by State Scholarship Committee rules, or that an error or inadvertency occurred in the preparation of the list of candidates for such scholarships and it shall appear that except for such failure, error or inadvertency the applicant would have received a scholarship, the State Scholarship Committee may award a scholarship to such pupil and such scholarship shall be issued and payments shall be made thereon out of moneys available therefor in the same manner as other scholarships are issued and paid.

In case a scholarship shall not be claimed the State Scholarship Committee shall fill such vacancy by appointing from the list the person entitled to such vacancy as provided in this section.

The Commissioner of Education shall cause such person entitled to receive appointment to a scholarship to be notified of his rights thereto and of his forfeiture of such rights by failure to make the application for such scholarship required

under section 2220.

The Commissioner of Education may grant a leave of absence for a period of not to exceed 12 months to any holder of such a scholarship who is temporarily unable to avail himself of the benefits of such scholarship because of illness or other cause satisfactory to the commissioner. Notwithstanding the time limitation contained in section 2215, the granting of such leave shall operate to extend the period of time during which the holder of such acholarship shall be entitled to the benefits thereof and shall not operate to reduce the total amount of such benefits.

§2220. Issuance of scholarship certificate

Upon the application of a pupil duly notified of his right to a state scholarship, the Commissioner of Education shall issue to such pupil a scholarship certificate. Such certificate shall be in the form prescribed by the State Scholarship Committee and shall specify the college for which it is valid. The commissioner may require such additional statements and information to accompany such application as he may deem necessary.

§2221. Revocation of scholarship

If a person holding a state scholarship shall fail to comply with the rules of the State Board of Education in respect to the use of such scholarship, or shall fail to observe the rules, regulations or conditions prescribed or imposed by such college on students therein, or shall for any reason be expelled or suspended from such college, or shall absent

himself therefrom without leave, the Commissioner of Education may, upon evidence of such fact deemed by him sufficient, make an order under the seal of the Department of Education, revoking such scholarship and thereupon such scholarship shall become vacant and the person holding such scholarship shall not thereafter be entitled to further payment or benefits under this chapter and the vacancy caused thereby shall be filled as provided in section 2219.

§2222. Courses of study

A person entitled to a scholarship shall not be restricted as to the choice of the college which he desires to attend or the course of study which he proposes to pursue; provided that no such scholarship shall include professional instruction in theology, or in any graduate courses following the receiving of a bachelor's degree; and provided that the college selected by the person entitled to such scholarship is situated within the State of Maine, and is incorporated as a college and authorized under the laws of this State and the rules of the State Board of Education to confer degrees. The term "college" as used in this section includes universities, professional and technical schools and other institutions for higher education authorized to confer degrees, requiring 4 years of undergraduate study to obtain a degree and approved by the State Board of Education; also "junior college" provided the person entitled to the scholarship pursues a course therein approved by the Commissioner of Education for 2 years of credit toward a degree in a college authorized by the State Board of Education to confer degrees.'

Sec. 2. Appropriation. There is appropriated from the Unappropriated Surplus of the General Fund the sum of $250,000 for the fiscal year ending June 30, 1966 and the sum of $250,000 for the fiscal year ending June 30, 1967 to carry out the purposes of this Act.

APPENDIX I

STATE OF MAINE SCHOLARSHIP PROGRAM

Institutional Questionnaire

for

Legislative Research Subcommittee

Name of Institution _____

_____

1964-65 Total Enrollment (as of Fall Term opening)

Full time undergraduates _____

Graduates _____

Percentage and/or number of undergraduate students applying for financial grants-in-aid for 1964-65

_____

Percentage and/or number of undergraduate students with some degree of financial need who were denied grants-in-aid for 1964-65 because of the lack of institutional or endowed funds

_____

Questions Concerning a State Scholarship Program

1. Do you recommend that the Subcommittee propose legislation for a State Scholarship Program? YES ____ NO ____

2. Can you recommend a specific sum of money that should be appropriated annually for the start of such a Program?

$ _____

_____

3. What state agency should basically be responsible for the administration of the Program? _____

_____

_____

4. Should an independent organization such as the College Scholarship Service of the Educational Testing Service be used in the selection of recipients? YES ____ NO ____

_____

_____

5. Is it desirable to limit the use of such state scholarships to attendance by the recipients at institutions only within the State of Maine? YES ____ NO ____

6. Should state scholarships be awarded on the basis of the geographical location of the applicant's residence, such as a certain number of awards for each of the sixteen counties of the state? YES ____ NO ____

7. Is the use of representative districts (political) desirable in the allocation of awards? YES ____ NO ____

8. Should recipients be limited to certain courses of study? YES ____ NO ____

9. Must a recipient attend a degree-granting institution?

YES ____ NO ____

10. What do you recommend concerning recipients attending Junior Colleges, vocational schools, business schools, etc. Are they eligible?

11. Should the amount of each state scholarship be a fixed stipend or should it be based upon the computed financial need of the applicant as it relates to the cost of attendance at a particular institution?

12. In the selection of state scholarship recipients please mark in order of importance (1, first, 2 second, etc.) the award criteria.

High School Academic Record	_____
C E E B Scores	_____
Financial resources	_____
Family's ability to contribute	_____
Geographical location of residence	_____
Others _____	_____
_____	_____
_____	_____

13. Some institutions feel that state funds for scholarship purposes could be proportionally assigned to each college or school, and therefore used more effectively. Your comment, please.

14. Please list any additional comments, suggestions, or proposals that you wish to have the Subcommittee consider.

Date

Signature

Print Name and Title

APPENDIX II

STATE OF MAINE SCHOLARSHIP PROGRAM

Institutional Questionnaire

for

Legislative Research Subcommittee

Summary of Returned Questionnaires

Twenty-two institutions in the state were sent questionnaires on September 18, 1964. Seventeen institutions responded. Their answers to the specific questions are briefly summarized herein.

1. Do you recommend that the Subcommittee propose legislation for a State Scholarship Program? YES ____ NO ____

Yes	-	11
Qualified Yes	-	2
No	-	1
Qualified No	-	3

Voting YES (11) were 8 private and 3 state supported institutions.

Voting a Qualified Yes were 2 state supported institutions. One had "some reservations" about the proposed Program and the other was in favor provided the Program was "in addition to and not in place of existing State programs".

Voting NO was 1 private institution that made no other comment on the questionnaire.

Voting a Qualified No were 2 private and 1 state supported institutions. A private and a state supported institution expressed their reason in very much the same manner. They stated that because of limited state resources the state should allocate available funds for the operation of agencies and state institutions at this time. The other private institution voted No, but said that if a Program was started it should follow certain lines. Their comments are included in the summary of the following questions.

NOTE - The following questions reflect comments from the 13 institutions recommending the formation of the Program together with the institution mentioned in the last sentence - 14 in total.

2. Can you recommend a specific sum of money that should be appropriated annually for the start of such a Program?

$_____

Eleven could not or did not feel qualified to recommend a specific amount to start the Program, without further study 2 recommended at least $500,000, and 1 recommended $100,000.

3. What state agency should basically be responsible for the administration of the Program?

State Board of Education	- 1
State Department of Education	- 11
Not Sure	- 2

4. Should an independent organization such as the College Scholarship Service of the Educational Testing Service be used in the selection of recipients? YES ____ NO ____

Seven recommended use of College Scholarship Service if financial need was a factor in award selection.

Seven did not favor use of the Service.

NOTE - Questions were raised concerning the wording of item #4. Several institutions did not understand how the Service might be used.

5. Is it desirable to limit the use of such state scholarships to attendance by the recipients at institutions only within the State of Maine? YES ____ NO ____

Five recommended limiting attendance to within the State of Maine.

Nine would not place a state restriction on the recipient.

Comments on item #5 included "would limit choice of courses", "keep money in Maine Economy", "limit program to the state only at the start", and "the institution must have educational approval". (See separate questionnaire for others)

6. Should state scholarships be awarded on the basis of the geographical location of the applicant's residence, such as a certain number of awards for each of the sixteen counties of the state? YES ____ NO ____

Five favored geographical allocation - emphasis given to county allocation based upon high school population within each county.

Nine were not in favor of any specific allocation.

7. Is the use of representative districts (political) desirable in the allocation of awards?

All 14 institutions registered a NO vote. Several voiced strongly worded opposition to such allocation of awards.

8. Should recipients be limited to certain courses of study?

YES ____ NO ____

Twelve recommended no limitations, but several recommended that the course of study be approved by the State Department of Education.

One recommended that certain limitations be placed upon field of study.

One was uncertain as to what limitations or restrictions should be placed on study.

Several stated that theology should be a restricted field of study.

9. Must a recipient attend a degree-granting institution?

YES ____ NO ____

Eleven reported "NO".

Three reported "YES".

Several institutions reporting either yes or no, commented that schools should be state-approved, or be approved as an institution of higher education by the U.S. Office of Education.

10. What do you recommend concerning recipients attending Junior Colleges, vocational schools, business schools, etc. Are they eligible?

As this was a comment type question, it is difficult to offer a summary giving fair weight to each comment and also reflect each institution's position in respect to questions previously answered. The following general statements may be considered.

1. A majority of institutions favored eligibility in varying degrees.

2. A majority suggested that training beyond high school was highly desirable and that, within the framework of the Program, eligibility should be given for attendance at technical, vocational, and business schools.

3. A majority recommended that some type of institutional accreditation be required. Accreditation agencies suggested were The State Department of Education, U.S. Office of Education, area accreditation services, and the New England Assn. of Colleges and Secondary Schools.

NOTE - A careful review of the comments from each institution should be made.

11. Should the amount of each state scholarship be a fixed stipend or should it be based upon the computed financial need of the applicant as it relates to the cost of attendance at a particular institution?

Nine recommended the amount of each award be based upon the computed financial need of the recipient. The majority of the group proposed that a fixed maximum be established.

Four recommended a fixed stipend. Comments made by this group included "this is a fairer method", "more easily administered", and "might do as New York State does".

One recommended that the stipend not be fixed, that a maximum limit be established, but offered no criteria for the establishment of the stipend.

12. In the selection of state scholarship recipients please mark in order of importance (1, first, 2 second, etc.) the award criteria.

High School Academic Record	_____
C E E B Scores	_____
Financial resources	_____
Family's ability to contribute	_____
Geographical location of residence	_____
Others _____	_____

Ratings in Degree of Importance

FIRST - High school academic record and performance and potential for advanced training.

SECOND - A combination of available financial resources and family's ability to contribute to educational costs.

THIRD - College Entrance Examination Board Test Scores. (This could be considered a part of "First".)

FOURTH - Geographical location of residence. Little importance was given to this particular item.

NOTE - Specific comments on the selection criteria have been grouped in the above four. A careful review of the individual questionnaires on this matter is recommended.

13. Some institutions feel that state funds for scholarship purposes could be proportionally assigned to each college or school, and therefore used more effectively.

Although this is a comment-type question, the expressions of opinions were clearly marked.

Three favored apportioning state scholarship funds to institutions on the same type of proportional basis.

Ten rather emphatically, in most cases, were not in favor of apportionment of funds to institutions. They strongly believed that an agency should award the scholarships, thus allowing the recipient freedom in choice of institution and major course of study.

One was not certain on the matter, and commented on both the advantages and disadvantages of the statement.

NOTE - A careful review should be made of the remarks offered by each institution on this particular question. Except as noted above, a specific summary cannot be offered.

14. Please list any additional comments, suggestions or proposals that you wish to have the Subcommittee consider.

Most of the responding institutions submitted additional comments on the State Scholarship Program. Institutions also offered comments and suggestions pertaining to other types of student financial assistance, and their related problems.

Because of the broad scope of matters covered in this section, no attempt has been made to offer a summary. A thoughtful review of this section of each questionnaire appears extremely desirable.

MAINE INSTITUTIONS OF HIGHER EDUCATION
RECEIVING SCHOLARSHIP QUESTIONNAIRES

* Aroostook State Teachers College
Presque Isle
Pres.: Clifford O. T. Wieden

Auburn Maine School of Commerce
53 Court Street, Auburn
Prin.: Agnes Craig Seavey

* Bangor Theological Seminary
300 Union Street, Bangor
Pres.: Frederick W. Whittaker

* Bates College
Lewiston
Pres.: Charles F. Phillips

* Bliss College
253 Pine Street, Lewiston
Pres.: Marjorie E. Remick

* Bowdoin College
Brunswick
Pres.: James S. Coles

* Colby College
Waterville
Pres.: Robert E. L. Strider, II

* Farmington State Teachers College
Farmington
Pres.: Ermo H. Scott

* Fort Kent State Teachers College
Fort Kent
Pres.: Joseph Martin Fox

* Gorham State Teachers College
Gorham
Pres.: Kenneth T. H. Brooks

* Husson College
157 Park Street, Bangor
Pres.: Chesley H. Husson, Sr.

* Maine Maritime Academy
Castine
Supt.:

* Nasson College
Springvale
Pres.: Roger Crowell Gay

* Northern Conservatory of Music
  Bangor
  Dir.: A. Stanley Cayting

  Oblate College and Seminary
  Eden Street, Bar Harbor
  Rector: Charles H. Dozois

  Ricker College
  Houlton
  Pres.: C. Worth Howard

* St. Francis College
  Pool Road, Biddeford
  Pres.: Clarence Laplante

* St. Joseph's College
  North Windham
  Pres.: Sister Mary Carmel

  Thomas College
  Waterville
  Pres.: John L. Thomas, Jr.

* University of Maine
  Orono
  Pres.: Lloyd H. Elliott

  Washington State Teachers College
  Machias
  Pres.: Lincoln A. Sennett

* Westbrook Junior College
  Portland 5
  Pres.: Edward Y. Blewett

* Indicates Questionnaire Returned

STATE SOIL CONSERVATION COMMITTEE

> ORDERED, the House concurring, that the Legislative Research Committee is directed to study the feasibility of amending the Revised Statutes of 1954, Chapter 34, to grant the power of eminent domain to the State Soil Conservation Committee, or any other agency, for the purposes set forth in Chapter 34; and, the granting of the power of levying assessments by either the State Soil Conservation Committee or the local soil conservation districts, or by both, for the purposes set forth in Chapter 34; and, any other related matters; and be it further
>
> ORDERED, that the Legislative Research Committee report the results of its study to the 102nd Legislature.

The 101st Legislature, during regular session, considered legislation to expand the powers of Soil Conservation districts, under R.S., 1954, c. 34 (12 M.R.S.A. §§1-201), which was finally enacted by P.L., 1963, c. 401. The foregoing order, passed in the latter part of the session, directed the Legislative Research Committee to study the feasibility of amending R.S., 1954, c. 34 to give the State Soil Conservation Committee the power of eminent domain and the power of levying assessments. The question of whether the Legislature should grant the power of levying assessments was dropped at the request of the State Soil Conservation Committee, filed during the first public hearing.

The Legislative Research Subcommittee, chairmaned by Senator E. Perrin Edmunds, held public hearings on the order on February 19, 1964 and on June 17, 1964. Both hearings were attended by representatives of the State Soil Conservation Committee which submitted information concerning the study. Final action on the report of the Subcommittee was

taken by the full Committee on November 23, 1964.

The State Soil Conservation Committee, at the suggestion of the Subcommittee, prepared several drafts of legislation which would have broadened the authority of the State Soil Conservation Committee by making the power of eminent domain available for soil conservation purposes, and providing for other minor changes for clarification and corrections of the Soil Conservation Districts Law. These proposals were not acceptable to the Legislative Research Committee which favored the approach taken by the Massachusetts General Court in specifically authorizing the use of eminent domain, where needed, for an individual project, rather than making a broad delegation of the power to the State Soil Conservation Committee.

The Legislature has recognized weaknesses in the original law which were handicaps to soil and water conservation progress in Maine, and has provided for an expanding program of soil and water conservation through the enactment of major revisions to the original Soil Conservation Districts Law.

The Legislative Research Committee believes that there is a present awareness on the part of the Legislature of the need for the eminent domain power where no other alternatives are available for the completion of a soil conservation project. The Committee, because it believes that the Legislature, in these cases, would be inclined to specifically grant the power of eminent domain, makes no recommendation for legislation authorizing its general use for soil conservation purposes.

TAXATION OF BOATS

> ORDERED, the House concurring, that the Legislative Research Committee is directed to study the taxation of boats as tangible personal property, such study to include, but not be limited to a) whether boats should be taxed locally where they are kept on the April 1st assessment date, or at the residence of the owner; b) whether the assessment of valuation should be made by the State with a clarification of the tax situs and assessment date, but with the tax levy made by the municipalities; c) whether the state should impose an excise tax on boats at a uniform rate 1) to be collected and retained by the municipalities, 2) collected and retained by the State, 3) collected by the State, but distributed to the municipalities of tax situs, 4) collected by the State, but the tax to be shared by the State with the municipalities; d) whether boats as a class should be exempt from taxation as tangible personal property; and e) whether or not the status quo should be maintained; and be it further
>
> ORDERED, that the Committee report the results of its study to the 102nd Legislature.

This report of the Legislative Research Committee on the problem of boat taxation is based on the testimony and statements presented at the public hearing held by the Committee on May 21, 1964.

The Committee is well satisfied that the information received at this time was sufficiently inclusive to support the Committee's conclusions and recommendations.

Based upon this information, the majority of the Committee conclude that the present method of taxing boats as tangible personal property is inequitable; and, after thorough consideration of the possible alternatives, recommends the adoption of the following legislation providing for a municipal excise tax. A minority of the Committee, consisting of Senator Dwight A. Brown and Representative David B. Benson, does not join in the conclusions and recommendations of this report.

AN ACT Relating to Excise Taxes by Municipalities on Boats.

Be it enacted by the People of the State of Maine, as follows:

R. S., T. 36, §1491, additional. Title 36 of the Revised Statutes is amended by adding a new section 1491 to read as follows:

'§1491. Excise tax on boats

An excise tax shall be levied annually with respect to each calendar year on all boats, subject to registration under the laws of this State for the privilege of operating boats on the waters of this State.

1. Registered boats. The excise tax on registered boats and motors used with such boats shall be computed annually as follows:

A. The tax on a hull of an overall length of 12 or more feet shall be the length in feet squared times 3¢.

B. For boats used principally for the securing of food products directly from the sea and for boats licensed by the United States Coast Guard for carrying passengers for hire, the said hull and motor tax computation shall be reduced by 1/2.

C. The tax on a motor shall be computed at 20¢ per horsepower for motors of more than 10 through 100 horsepower using manufacturer's rating to determine such horsepower. Motors of more than 100 horsepower shall be taxed at $25 each.

D. The tax on a boat and motor shall be reduced by 20% for each year of model to and including the 5th year of model.

E. Fractional feet or horsepower computations shall not be used. Computation shall be to the nearest full foot or horsepower. A fractional excess of 1/2 foot or horsepower shall be considered as if said fractional excess were the next full foot or horsepower.

2. Where paid. The excise tax shall be paid in the case of a resident in the place where he resides. In the case of non-residents registering boats in this State, the excise tax shall be paid in the place where the boat is customarily kept.

3. Exempt from further taxation. Boat owners who have paid the excise tax on their boats and motors as provided for in this section shall be exempt from further or other municipal taxation for that year on said boats and motors.

4. Collection. The excise tax shall be collected by the tax collector on forms provided by the State.'

TRANSPORTATION NEEDS OF THE STATE

> ORDERED, the House concurring, that the Legislative Research Committee is directed to study the transportation needs of the State for the purpose of developing and coordinating overall long-range transportation improvement programs; and be it further
>
> ORDERED, that the Committee report the results of its study to the 102nd Legislature.

This is the final report of the Legislative Research Committee on the study of the transportation needs of the State which was assigned to the Committee by the 101st Legislature. The Committee was directed, under the foregoing order, to report the results of its study to the 102nd Legislature.

In accordance with the usual practice of the Committee, a public hearing was held before the Legislative Research Subcommittee on April 16, 1964, which revealed a deep public interest and concern in the problem and needs of the State in the field of transportation, and resulted in further information supplementing that furnished by the Joint Select Committee on Railroad Passenger Service of the 101st Legislature, and that which the Committee had obtained through its own investigation.

The Public Utilities Commission, as the most important part of the present study, cooperated with the Committee in engaging the services of Dr. John H. Frederick to conduct a survey of the motor carrier statutes of Maine administered by the Commission. His report, together with the written comments of the Public Utilities Commission, was presented at an executive session of the Committee on November 23, 1964.

The Legislative Research Committee, in reviewing the factual data which was developed in the motor carrier area, has decided that it can best discharge its duty to the Legislature by submitting this information to the members of the 102nd Legislature; with the recommendation, that the study of the overall problem of State transportation needs be continued by the Committee in order to develop significant data and recommendations in the other important areas of the State's transportation industry.

A SURVEY OF THE MOTOR CARRIER STATUTES OF MAINE ADMINISTERED BY THE STATE OF MAINE PUBLIC UTILITIES COMMISSION

By - JOHN H. FREDERICK, Ph. D.
Consulting Transportation Economist
Camden, Maine

JOHN H. FREDERICK

P. O. Box 205

Camden, Maine
04843

July 1, 1964

Hon. Frederick N. Allen, Chairman
Hon. David K. Marshall
Hon. Earle M. Hillman
Public Utilities Commission
State of Maine
Augusta, Maine

Gentlemen:

In compliance with your request I have made a comprehensive study of the motor carrier statutes of Maine presently set forth in Chapter 48 of the Revised Statutes, as amended. I am suggesting a number of what seem to be logical and appropriate statutory changes as well as several general recommendations. I am submitting my report herewith.

I have very much appreciated the opportunity of making this study and wish to express my thanks for the always cheerful cooperation of Mr. William F. Fernald, Mr. Horace S. Libby and other members of your staff.

Sincerely yours,

/s/ John H. Frederick
John H. Frederick
Professor Emeritus of Transportation
University of Maryland

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Part I

Public Interest in Motor Carrier Regulation

The objectives of state regulation of motor transportation can usually be divided into two groups both of which are protective in nature. The first of these is to save the highways from excessive wear and to keep them safe for use by the general public. The second is to regulate economic or business relations and activities so as to prevent undue competition among motor carriers as well as consequences of such competition and to insure adequate motor carrier service to the public.

The operation of motor vehicles for hire on the highways of Maine affects the public interest thus requiring effective regulation. The objectives of this regulatory policy are stated specifically in Rev. Stats. Chap. 48, Sec. 19 as follows:

> The business of operating motor trucks for hire in the highways of this State affects the interests of the public. The rapid increase in the number of trucks so operated, and the fact that they are not effectively regulated, have increased the dangers and hazards on public highways, and make more effective regulation necessary to the end that highways may be rendered safer for the use of the general public; that the wear of such highways may be reduced; that discrimination in rates charged may be eliminated; that congestion of traffic on the highways may be minimized; that the use of the highways for the transportation of property for hire may be restricted to the extent required by the necessity of the general public; and that the various transportation agencies of the State may be adjusted and correlated so that public highways may serve the best interest of the general public.

This statement of policy seems fully adequate. However, were a rewriting of this Section undertaken it is suggested

that the words "and the fact that they are not effectively regulated" be eliminated from the second sentence as being no longer necessary. Motor carriers have been effectively regulated in Maine for over thirty years.

Protection of Highways and Public Safety

Since highways are constructed for the convenience and benefit of the general public, a state must exercise a measure of control over their use by commercial vehicles. The objectives are to protect the highways and bridges from injury and destruction by vehicles which are too heavy and to protect and promote the safety of highway travel and transportation.

Highway protection legislation in Maine has taken the form of weight limitations imposed upon vehicles administered by the State Highway Commission. (Rev. Stats. Chap. 22, Secs. 16, 94, 97, 98, 104, 109, 111A; Laws 1963, Chaps. 260, 313, 317, 356.)

Protection and promotion of the public safety in Maine is under the jurisdiction of The Public Utilities Commission in so far as this applies to for-hire or commercial carriers of passengers and freight, both intra and interstate. (Rev. Stats. Chap. 48, Secs. 3, 20, 21, 23.) The Commission is authorized to make rules and regulations governing the operation of motor vehicles operating under its jurisdiction, including provisions concerning the safeguarding of passengers and other persons using the streets and highways. The safety requirements contained in the regulations issued by the

Commission are, in general, the same as those of the Motor Carrier Safety Regulations of the Interstate Commerce Commission. (I.C.C. Order, Safety Regulations, 1952 Rev. 17 F.R. 4423 as amended.) These are discussed later in this report.

Economic Regulation

The economic or business regulation of motor carriers in Maine; the chief subject of this report and the chief activity, as far as motor transportation is concerned, under the jurisdiction of The Public Utilities Commission applies only to for-hire carriers and includes control over the conditions of entry into the business, control over the structure and level of transportation rates and fares, as well as control over the quality and quantity of services offered.

The method used by Maine in preventing the demoralizing effects of excessive competition in motor transportation is the requirement that for-hire motor carrier operators, with certain exceptions, obtain authority from The Public Utilities Commission, either in the form of a certificate of public convenience and necessity or a permit, before operations can be begun. Authorization can then be withheld from any applicants whose facilities are not thought to be necessary. (Rev. Stats. Chap. 48, Secs. 2, 3, 4, 5, 20, 23, 24, 25.) Supplementary measures having the objective of preventing excessive competition are the additional requirements that rates and schedules be filed and adhered to (Rev. Stats. Chap. 44, Sec. 18 as amended by Chap. 400, Laws 1957; Sec. 36 as amended by

Chap. 174, Laws 1959; Sec. 40. Chap. 48, Secs. 22, 23, 24, 25, 29, 30), and that satisfactory service be maintained if authority to operate is to be continued. (Rev. Stats. Chap. 48, Secs. 3, 23.)

Adequate Motor Transportation Service

The basic objective of transportation regulation is to provide shippers and passengers with adequate, economical and efficient service by motor carriers and reasonable charges therefor. The paramount goal is that of protecting the interests of the public, and any other objective is secondary. Therefore, prevention of excessive competition in the industry is designed to promote a strong and stable motor transportation system in order to provide adequate and proper transportation at reasonable rates to the public.

Were it not for regulation, irresponsible for-hire carriers would be free among other things, to operate substandard equipment, fail to meet damage claims, ignore contracts and other agreements with shippers and passengers, fail to maintain schedules, discontinue service without notifying shippers and passengers, and otherwise avoid the responsibilities traditionally required of common carriers.

Criticisms of Regulation of Motor Transportation

Highway Conservation and safety regulation of motor trucks and buses have been accepted in Maine, as in other states, without much criticism, but the desirability of economic

regulation over entry into the industry, rates, service, and other matters has been subjected to attack from time to time. The economic characteristics of the for-hire motor carrier industry such as the ease of entry, the existence of so many small independent operators, the fact that large-scale operations apparently have no particular economic advantage, and the nature of motor carrier costs, as well as the shipper's opportunity to provide his own trucks, have made motor trucking, in particular, anything but monopolistic. Those opposing public regulation have pointed to the competitive forces in the industry as being effective guardians of the public interest and have advocated the relaxation of regulation over motor transportation. It is not the purpose of this report to take sides in any controversy but those who object to economic regulation of motor transportation, as it is conducted in the State of Maine, are urged to consider what would happen if shippers lacked the uniformity of a system of published and reasonably stable rates; if carriers had no tribunal to appeal to in the face of rate-cutting competitors, or if the restraints imposed through a system of operating rights were removed.

Part II

Scope of Regulatory Authority

Chapter 48 of The Revised Statutes of Maine brings within the jurisdiction of the Public Utilities Commission of the State all persons, corporations, partnerships, railroads, street railways or other transportation companies, who operate or cause to be operated, any motor vehicles not running on rails or tracks upon any public way in the business of transporting freight or passengers for hire. Three classifications of carriers are governed by the Act - common carriers, contract carriers, and interstate carriers. (Rev. Stats. Chap. 48, Secs. 1, 20, 23). Leasing of motor vehicles for hire, profit, or compensation to be used by any other person, firm or corporation is also within the jurisdiction of the Commission to the extent that lessors are required to provide insurance on such vehicles to protect the parties and the public in the collection of damages for which the operator may become liable by reason of the operation thereof. (Rev. Stats., Chap. 48, Sec. 33.) Charter service by motor carriers is also under the jurisdiction of the Commission. (Rev. Stats., Chap. 48, Sec. 34, as added by Chap. 236, Laws 1961.)

Maine, like all other states, has statutory provisions which stipulate that certain kinds of for-hire motor truck transportation, as well as private trucking or hauling of products by owners or without compensation, are exempt from economic regulation. (Rev. Stats., Chap. 48, Secs. 23, 29.)

Table 1

Commercial Trucks, Tractors and Trailers Registered in Maine and Number under Regulation by Public Utilities Commission

Commercial Trucks #

	1960	1961	1962	1963
Number Registered	66458	67198	69753	68061
Number Under P.U.C. Regulation	612	584	566	558
Percent Under P.U.C. Regulation	*	*	*	*

Exclusive of Farm Trucks.
* Less than 1%.

Tractors

	1960	1961	1962	1963
Number Registered	8110	8610	9136	9401
Number Under P.U.C. Regulation	748	749	765	767
Percent Under P.U.C. Regulation	9.2	7.1	8.3	8.1

Trailers

	1960	1961	1962	1963
Number Registered	42615	44563	51688	54082
Number Under P.U.C. Regulation	1240	1252	1366	1379
Percent Under P.U.C. Regulation	3.0	3.0	2.6	2.5

The statute provides that the following operations over the highways of motor vehicles shall be exempt from its economic regulatory provisions:

A. While being used within the limits of a single city or town in which the vehicle is registered by the Secretary of State or in which the owner maintains a regular and established place of business, or within 15 miles, by highway in this State, of the point in such single city or town where the property is received or delivered, but no person, firm or corporation may operate, or cause to be operated, any motor vehicle for the transportation of property for hire beyond such limits without a certificate of public convenience and necessity or a permit to operate as a contract carrier; nor may any such person, firm or corporation participate in the transportation of property originating or terminating beyond said limits without holding such certificate or permit unless such property is delivered to or received from a carrier over the highways operating under a certificate or permit issued by the Commission or a railway, railway express, or water common carrier, but nothing in this section shall prevent a carrier from delivering and picking up with his exempt motor vehicle in a city or town where he has a terminal, freight and merchandise transported or to be transported over territory covered by his certificate or permit; nothing in this paragraph shall permit the transportation of freight or merchandise for hire, by motor vehicle, under any circumstances unless exempted by provisons of this chapter other than this paragraph, by any person, firm or corporation beyond the 15 mile limit as heretofore prescribed unless such person, firm or corporation holds a certificate or permit from the Commission authorizing such transportation. (1957, Sec. 60.)

B. While engaged, directly or through a contractor, exclusively in construction or maintenance work for any branch of the government of the United States, or for any department of the State, or for any county, city, town or village. (1961, Chap. 11)

C. While engaged exclusively in the transportation of the United States mail.

D. While engaged exclusively in the transportation of fresh fruits and fresh vegetables from farms to canneries or quick freezing plants, place of storage or place of shipment, or the products of vining and

cutting plants to canneries or quick freezing plants, during the harvesting season.

E. While engaged exclusively in the hauling of wood, pulpwood, logs or sawed lumber from the wood lot or forest area where cut or sawed to points within 100 miles thereof, by highway, or while hauling, within said distance, horses, crew, equipment and supplies to or from such wood lot or forest area. (1955, Chap. 331.)

F. While engaged exclusively in the transportation of livestock for exhibition purposes, excluding race horses, to and from agricultural fairs and other exhibits. (1963, Chap. 414, Sec. 24A.)

G. While engaged exclusively in the hauling of milk and cream to receiving stations from points within a distance of 25 miles by highway from them.

H. Of any bona fide agricultural cooperative association transporting property exclusively for the members of such association on a non-profit basis, or of any independent contractor transporting property exclusively for such association.

I. Of any independent contractor while engaged exclusively in the transportation of seed, feed, fertilizer and livestock for one or more owners or operators of farms directly from the place of purchase of said seed, feed, fertilizer and livestock by said owners or operators of said farms to said farms, or in the transportation of agricultural products for one or more owners or operators of farms directly from the farm on which said agricultural products were grown to place of storage or place of shipment within 60 miles by highway of said farm.

J. While engaged exclusively in the transportation of Christmas trees, wreaths and greens. (1957, Chap. 83.)

K. While engaged in the transportation of newspapers.

L. Persons, firms or corporations operating motor vehicles carrying property of which they are the actual and bona fide owners, if such ownership is in pursuance of a primary business, other than the transportation business, of such persons, firms or corporations.

It should be noted that a proposal to amend the exemption under paragraph "B" above, was introduced in the Special Session of the Maine Legislature in January, 1964 to remove the words "or through a contractor" from the first line and to insert the word "and" so as to make this line read: "While engaged directly and exclusively...."

This amendment would make vehicles operated by contractors which have heretofore been exempt from economic regulation subject to such regulation. It is reported that this new legislation was sponsored by the Maine Dump Truck Owners Association with the apparent intent to have a minimum rate structure set up which would be under the control and supervision of the Commission. This proposed legislation was not acted upon in the Special Session of the 101st Legislature but was referred to the 102nd Legislature.

Thirty-two states have specific provisions in their motor-carrier statutes dealing specifically with specialized vehicles such as dump trucks; but Maine has no provisions specifically exempting any carriers from economic regulation on the basis of the type of vehicle involved. Other vehicles specifically mentioned by other states are ambulances, hearses, trucks for towing and repairing wrecked vehicles, transit mixers, armored cars, etc. It would appear that, as is the case in Maine, the service performed by motor vehicle operators is the soundest basis for granting exemptions rather than, as is the case in other states, where the type of vehicle is the basic factor.

Problems Resulting from Exemptions

Less than one per cent of the commercial trucks, exclusive of farm trucks, registered in Maine; about 8 per cent of the tractors and about 2 per cent of the trailers registered in the State come under the economic regulations of the Commission. (See Table 1.)

This is due to the fact that the exemptions granted to various kinds of motor trucking materially reduce the operations within the state which are subject to regulation. Exemptions also serve to increase the difficulties of administration and enforcement and sometimes invite evasion of the law. The amount of traffic carried by exempt for-hire and private carriers in each state varies but for the nation as a whole it has been estimated that regulated common and contract carriers transport about one-third of the total truck traffic, while the non-regulated and exempt carriers transport the remaining two-thirds. It can be assumed that non-regulated transportation is probably greater in Maine than the national average would indicate because of the tremendous amount of trucking of farm and fishery products, logs and lumber, all of which are exempt from economic regulation.

The exemption of private transportation, which is usually defined as the hauling of products by owners without compensation, also means that a large share of motor trucking is free from any economic controls thereby creating a serious problem for the regulated for-hire carriers for whom private transportation is the most important competition. At the same time,

regulation itself can defeat its own purposes and increase the use of private carriage when government controls of for-hire carriers become too burdensome and result in increased expenses and consequently higher rates. Shippers can in many cases easily buy or lease trucks and eliminate the use of for-hire carriers almost entirely.

The exemption of transportation within municipalities and the commercial zones thereof is an administrative necessity in most states, of which Maine is no exception, since such transportation is conducted by numerous small carriers and is very difficult to police. Also, since local trucking and intercity trucking have different economic characteristics, especially as to rate determination, it is difficult to apply the same economic regulation to both types.

The most controversial exemption is that granted to the transportation of farm and fishery products. The existence of exempt haulers of such products adversely affects regulated carriers who compete for the transportation of the same commodities. The exempt carrier, unlike the regulated trucker, is free from any control over territory served, service or rates and is free from the obligation of common carriers to accept all kinds of freight for carriage. Hence the common-carrier trucker, subject to rate and other economic controls, finds it exceedingly difficult to compete. In addition, the exempt carriers are tempted to haul non-exempt commodities illegally which type of evasion is very difficult to police. (Illegal transportation has been defined as "any

transportation which produces services in violation of the state and federal statutes.")

Looking at the matter from the broadest viewpoint there seems to be little justification, outside of political considerations, for allowing a major portion of the commercial motor transportation industry, other than strictly private transportation, to go unregulated except in the field of safety. This problem, however, is not peculiar to Maine and the federal government and most of the states are in general accord with the Maine practice so that probably nothing could be accomplished toward the revision of the exemption provisions of the various statutes without concerted action by the states and the federal government. It is, however, an important subject which should be borne in mind and any future attempts to increase the classes of operation exempted from regulation should be examined with great care.

Definitions of Carriers

The Maine statute defines the various types of carriers under the jurisdiction of the Public Utilities Commission as follows:

> Common carrier shall mean any person engaged in the business of transporting freight or merchandise for hire by motor vehicles over regular routes or in the business of transporting household goods, as such commodity shall from time to time be defined by the Commission, for hire as a common carrier over irregular routes, upon any public highway between points within the State of Maine. (Rev. Stats. Chap. 48, Sec. 20 as amended by Public Law, 243, 1963, Sec. 1.)

In so defining a "common carrier" Maine departs from the generally-accepted or common-law definition by the inclusion of the words "over regular routes" except for the household goods carrier who must operate "over irregular routes". The so-called common-law definition holds a common carrier to be one who holds himself out to serve the public generally, although he may restrict his business to the transportation of particular kinds of traffic; but even then he holds himself out to transport for anyone desiring to ship the specified commodities. The point to be noted is that Maine's definition makes no distinction except for household goods, between carriers who operate over regular routes or between fixed termini and those who do not so operate. Under the common-law definition, however, all carriers serving the general public are included in the concept of common carriage.

The federal act (Motor Carrier Act of 1935, 49 Stat. 543, as amended) and many state motor carrier statutes have adopted the common-law definition of common carriage and several states make a distinction between carriage over regular routes or between fixed termini and carriage not confined to such routes or termini and frequently have established entirely different schemes of regulation for each of the two types of common carriage. There appears, however, to be no justification for treating the two types of common carriage differently, since both serve the general public and both are essential to an adequate transportation system.

> Contract carrier shall mean any person engaged in the business of transporting freight or merchandise for hire by motor vehicles, other than common carriers over regular routes or common carriers of household goods, as such commodity shall from time to time be defined by the Commission, over irregular routes. (Rev. Stats. Chap. 48, Sec. 23 as amended by Public Law 243, 1963 Sec. 4.)
>
> The term "contract carrier" does not include any person, firm or corporation not regularly engaged in the transportation business, but who on occasional trips transports property of others for hire. (Rev. Stats. Chap. 48, Sec. 23.)

This definition does not conform to the usually accepted one of a "contract carrier" as being a transporter of property for hire under special individual agreements and limiting his service to a selected clientele, not holding himself out to serve the public generally.

The states have used two methods to define contract carriage. One way, as in Maine, is to define contract carriers as those not included in the definition of common carrier. This may be termed the negative approach. The second, or positive approach, is to state specifically what constitutes contract carriage such as service for a single or limited number of shippers, contracts which cover a series of shipments over a period of time rather than single shipments, and performance of a specialized type of service that is adapted to the special needs of the particular shipper or shippers served.

While Maine has no such statutory provision, it is not uncommon to find in state laws or commission regulations, definitions limiting the scope of contract carriage. These restrictions take the form of limiting the number of contracts

held or the number of shippers or consignees which can be served. When a carrier exceeds the specified number, his service automatically becomes common carriage and is subject to regulation as such. It would seem, however, that the nature of the service offered by the carrier would be a better test than the number of contracts or shippers. In the last analysis, the essential distinguishing characteristic is the presence or absence of a holding out to serve the public generally.

> Interstate carrier shall mean any person transporting freight or merchandise for hire by motor vehicles upon any public highway between points within and points without the State or between points without the State but passing through this State.

This is the generally-accepted definition and conforms with that of "Interstate Commerce" as used in Part II of the Interstate Commerce Act.

Types of Operating Authority Required

Like all states which have instituted regulation over motor carriers Maine requires that new operators secure permission from the Commission before such operations can be begun. Control over entry into motor transportation either of property or passengers, designed to prevent or reduce unsatisfactory conditions which may result from unlimited competition. These conditions are often listed as: destructive competition among carriers and between carriers and railroads, inadequate rates, high turnover of operators, and poor standards of service. Where the objective of

regulation is to restrict the use of the highways for the transportation of property (and passengers) for hire to the extent required by the necessity of the general public, as it is in Maine, the supply of transportation must be controlled to put such a policy into effect.

The type of operating authority required of motor carriers varies with the class of carrier. Maine requires that common carriers of passengers or freight obtain certificates of public convenience and necessity. Contract carriers and interstate carriers, both of freight and passengers, obtain permits. (Rev. Stats. Chap. 48, Secs. 2, 5, 20, 23.)

Applications for Operating Authority

The statute provides that every application for a certificate or permit shall be made in such form and contain such matters as the Commission may prescribe. (Rev. Stats. Chap. 48, Secs. 20, 23, 24.) Forty-one states provide statutory provisions concerning documents and proofs which should accompany applications but this is not the case in Maine. Evidently the Commission feels that its rules for passenger and freight carrier applications and the forms required provide sufficient instructions. It is recommended, however, in the interest of clarity that requirements be converted from a rule to a statutory provision providing at least something like the following:

> Applications for a certificate to operate as a common carrier of passengers or freight must be accompanied by:
>
> (a) At least one copy of a map or chart designating the routes over which the applicant desires to operate;
>
> (b) The proposed time schedule, if the application is for passenger authority;
>
> (c) A certified copy of the partnership agreement, or if no partnership agreement has been entered into, a statement summarizing the agreement between the parties, if the applicant is a partnership; or if applicant is a corporation, a certified copy of the articles of incorporation; and
>
> (d) A written designation of agent for service of process, if applicant is a non-resident.
>
> The requirements governing applicants for permits as contract carriers are the same as above except for (a) the map and (b) the time schedule. Copies of contracts need not be submitted with the application but must be submitted and approved by the Commission before operation are begun.

The statute provides that the Commission shall give notice prior to any hearing to such common carriers, including steam and electric railways and water carriers, as the Commission shall deem necessary and to any other person who may be interested in or affected by the issuance of the certificate applied for. In the case of contract carriers similar notice shall be given. Any person having an interest in the matter shall have the right to protest and no certificate or permit shall be issued without a hearing. Provisions of this type are found in all state motor-carrier regulatory statutes.

PART III

Considerations in Granting Operating Authority

Common Carriers

A certificate of public convenience and necessity, issued by the Public Utilities Commission, is a prerequisite to lawful motor common-carrier operations in the State of Maine. (Rev. Stats. Chap. 48, Secs. 1, 5, 20.) Such a certificate is also required by every other state as to intrastate, and by the Federal government for interstate motor common carriers.

The term "public convenience and necessity" is not defined by any State or Federal statute. It is a test difficult to apply since the structure of the motor carrier industry makes the element of public service almost impossible to evaluate. For example, while a medium-sized city may be served by a number of motor carriers, the fact that some are carriers of general freight, others of specialized commodities such as household goods, petroleum products, refrigerated commodities, etc., make the pattern extremely complex. This situation is complicated still further by the fact that some are common carriers and others are contract carriers with regular or irregular routes. Still others are "exempt" carriers for-hire, to say nothing of the large number of private carriers. Under such a situation the possibilities of competition are almost infinite.

The basic purpose underlying the requirement of public

convenience and necessity, wherever such is stipulated, seems to be to prevent carriers from weakening themselves by superfluous operations and to protect them from being weakened by competing carriers not required by the public interest. It has been the responsibility of the various state commissions and the courts to interpret the somewhat obscure and vague meaning of "public convenience and necessity." Various principles have emerged which, taken as a whole, serve to provide meaning even though no such meaning is spelled out anywhere in statutory form. In the first place, the convenience and necessity generally considered has been that of the public and not that of private persons; and the fact that the proposed service will accommodate a few individuals and not the whole public seldom has justified the granting of operating authority. Also, consideration is generally given to the interests of the public rather than those of the applicant himself.

The burden of proving public convenience and necessity rests on the person making a request to serve. This is a question of fact which is left to the discretion of the Commission. No such certificate is ever issued in Maine unless and until the applicant has established to the satisfaction of the Commission that there exists a public necessity for such additional service and that public convenience will be promoted thereby.

In determining whether or not an applicant shall receive a certificate of convenience and necessity the Commission is directed by the Statute to take into consideration (Rev.

Stats. Chap. 48, Sec. 20):

1. The existing transportation facilities and the effect upon them of the proposed service.

2. The public need for the service the applicant proposes to render.

3. The ability of the applicant efficiently to perform the service for which authority is requested.

4. The conditions of and effect upon the highways involved and the safety of the public using such highways.

In judging an applicant's ability to perform the services for which authority is requested, the Maine statute is not as specific on some of the factors to be considered as are the statutes of a number of other states. For example, a total of thirty-three states now provide special statutory provisions covering an applicant's financial responsibility to furnish adequate, continuous and uninterrupted service the year round. (It is evidently not thought sufficient to include this factor in a general requirement of fitness, willingness and ability.) The purpose of requiring proof of financial responsibility is apparently to protect the interests of the public by insuring that carriers maintain adequate standards of service and equipment, without extensive turnover among carriers and the uncertainties resulting therefrom. Financial responsibility is, of course, a basis for fitness and ability which must be proven to the Commission's satisfaction by all applicants. However, since financial ability is of such importance from the standpoint

of carriers and the public it would be well to consider whether a specific provision covering this requirement, should be made a part of the motor carrier regulatory statute in Maine. The following is suggestive:

> The financial ability of an applicant for a certificate to furnish adequate continuous and uninterrupted service the year round shall be considered by the Commission before a certificate is granted.

A few states provide for specific statutory consideration of an applicant's facilities and personnel and their adequacy in view of the service to be offered. In view of the fact that only eighteen states provide for the first and eighteen for the second factor, it is not thought that these considerations are important enough to set them apart from the general requirement of fitness, willingness and ability which apply to all applicants under the Maine statute.

One of the factors weighed by the Commission is the effect of a proposed service on the highways such as causing unnecessary wear and tear; whether the added traffic will cause undue congestion; and whether it will be detrimental to the safety of highway travel. Restriction upon the use of the highways in the interests of conservation and safety has generally been emphasized by all states as a reason justifying regulation of motor transportation. It has been argued with some merit, however, that considerations of the effects on the highways should not be of the same importance in granting common carrier truck authority today as they have been in the past since common carrier trucks make up

only a small percentage of the total vehicular traffic and the highways themselves are of better quality, many having been constructed with truck use in mind. Also, truck traffic complements passenger traffic in that the majority of common carrier trucks operate on weekdays and at night when passenger automobile traffic is lightest.

A question which sometimes arises, but which is not dealt with specifically in the Maine statute, is whether or not to grant operating authority to persons who have been operating illegally before the date of application. Prior illegal operation has been held to be a reason for denial of operating authority in a number of states but where such operations have been unintentional or carried on in ignorance of the law, state commissions have been inclined to be lenient if the convenience and necessity of the public require the operation.

In some states the question of whether or not the proposed operation will be profitable for the applicant is taken into consideration in the original granting of authority. The connection here with public convenience and necessity is apparent since public convenience and necessity can hardly be said to demand a service that is certain to be unprofitable. It is only common sense to require the showing of definite prospects and guarantees, distinguished from mere hopes, that a proposed service will be utilized. Applicants for authority to provide transportation services of all kinds are inclined to be over optimistic. In any

event, many commissions will deny an application if the enterprise is not likely to pay, although few states statutes provide for such a determination. On the other hand, some commissions have not been inclined to give much weight to this factor holding that the feasibility of a new service can be determined only by experience and a carrier willing to take the risk and willing to invest its own money should not be refused the opportunity sought.

Another factor considered by some commissions, very much a part of "convenience and necessity", is that of the chance for the public to receive improved service. Even so, just because an applicant proposes to offer a better service is seldom, in itself, evidence of public convenience and necessity; but where a service can be shown to offer more flexible, expeditions, direct and convenient transportation it has sometimes been the chief basis for certification. The character of the service to be offered is specifically provided for in the statutes of nineteen states as a consideration in granting operating authorities.

Contract Carriers

Although many states have been somewhat less exacting in their standards in considering contract carrier applications than in dealing with new common carriers, there has been a tendency to raise the requirements in recent years. This has been caused partly by the regulation of contract carriers at the federal level and partly by a growing appreciation

of the effects of contract carrier operations on common carriers.

In Maine no contract carrier "shall operate, or cause to be operated, any motor vehicle or vehicles for the transportation of property for hire on any public highway without having first obtained a permit from the Public Utilities Commission." (Rev. Stats. Chap. 48, Sec. 23.) This permit authorizes the operation and limits its scope.

Generally speaking, the requirement of "public interest" or "public convenience and necessity" as applied to contract carrier applicants involves the same principles as when it is applied to common carrier applicants bearing in mind that, as has already been discussed, the common carrier must obtain from the Commission "a certificate declaring that public necessity and convenience require and permit such operation" (Rev. Stats. Chap. 48, Sec. 20); and that the "public" here referred to is the general public as distinguished from any individual or groups of individuals.

The need for the particular service, and it must be a real need, justifying a permit to a contract carrier may be only that of an individual or firm or a group of individuals or firms who are the potential contractors for the proposed service, as contrasted with the "necessity and convenience" of the general public. Nevertheless, a Maine Court has held that: "as the law is written, the Commission may by no means ignore the interests of the public in motor carrier transportation in its determination as to whether

or not the application of a contract carrier will be granted." (Merrill v. Maine Public Utilities Commission, Me. Sup. Jud. Ct., May 9, 1958).

The requirements for contract carrier permits may be summarized as follows (Rev. Stats. Chap. 48, Secs. 19-32 incl.):

1. The proposed operation must not be contrary to the declarations of policy set forth in the statute.

2. The proposed operation must not impair the efficient public service of any authorized common carriers already serving the same territory over the same general routes.

3. The proposed operation must not interfere with the use of the highways by the public.

4. Only such of the operations applied for shall be permitted as are justified by the evidence.

5. The applicant must be fit, willing and able properly to perform the service and to conform to the provisions of sections 19 to 32 inclusive of the statute and to the applicable rules and regulations of the Commission.

In the case of Merrill v. Maine Public Utilities Commission, above referred to, the Court held that the two references in Sec. 23 of the statute to Secs. 19 to 32, most of which deal with common rather than contract carriers, and the incorporating of these sections by reference into Sec. 23:

> .....are most significant as indicating the policy considerations which must govern the Commission's determination in contract carrier cases. Without

> doubt the Legislature thereby intended to make certain that contract carrier permits would not be granted in cases where the requested operations would be adverse to the public interest and to the maintenance of a sound and effective motor and rail transportation system. We note with interest that in 1957 the Legislature amended Subsec. III (of Sec. 23) by inserting the words "or otherwise will not be consistent with the public interest." We do not think that this added any new requirement to be met by contract carrier applicants but was inserted by the Legislature to emphasize and point up this very important feature of an already effective policy.

A showing of "convenience" alone is not sufficient to support an application for a contract carrier permit. Evidence also must be presented as to the need for the proposed service and the inadequacy of existing service.

Interstate Carriers

Since the enactment of the federal motor carrier act in 1935, states have been barred from subjecting interstate motor carriers to any economic regulation. However, the states can and do require that an interstate carrier obtain operating authority before conducting interstate operations over state highways. Such identification is necessary in order that a state may properly apply its police, welfare and safety regulations to motor carriers.

The intrastate operations of interstate motor carriers are subject to state regulation in the same manner as are exclusively intrastate operations. As early as 1927, the United States Supreme Court decided the question of whether a state could require the obtaining of authority by an

interstate carrier for intrastate operations. Unless a state law directly interferes with or burdens the carrier's interstate business and as long as all intrastate operators must meet the same requirements, a state has authority to control the entry of interstate motor carriers into the intrastate field. (Interstate Busses Corp. v. Holyoke Street Railway (Mass.), 273 U.S. 45.)

The Maine statute provides the following as to interstate motor carriers:

> Every person, firm or corporation transporting freight, merchandise or passengers for hire by motor vehicle upon the public highways of Maine between points within and points without the state or between points without the state but passing through the state is required to obtain a permit for such operation from the Commission.
>
> Permits for interstate carriers shall issue as a matter of right upon compliance with the regulations and thepayment of fees, unless the Commission shall find that the condition of the highways to be used is such that the operation proposed would be unsafe, or the safety of other users thereof would be endangered thereby. (Rev. Stats. Chap. 48, Secs. 2, 24).

Grandfather Operating Authorities

So-called "grandfather" applications are a closed issue in many states, the task of administering "grandfather" provisions having long since passed for common carriers and in most states for contract carriers. In fact, as is the case in the Maine statute "grandfather" sections as to common carriers have been repealed. In Maine, however, there exist a number of contract carrier permits based on "grandfather" rights which still require clarification.

These permits are held by carriers also conducting common carrier operations and by carriers who engage exclusively in contract carrier service. Hence the statute provides the following (Rev. Stats. Chap. 48, Sec. 23, Par. III):

> Contract carriers now operating by virtue of so-called grandfather rights granted by the commission pursuant to this subsection as originally enacted, and whose present permits, in the opinion of the commission, need clarification, may be directed, upon reasonable notice given as hereinabove provided, to appear before the commission for further public hearing, at which hearing evidence of regular operation as a contract carrier from March 1, 1932 to June 30, 1933 may be submitted, and the carrier may supplement same by evidence of regular operation subsequent to said period, and the commission shall issue an amended permit in accordance with the facts found on the original and new evidence presented. Said amended permit shall specify the territory within which and the general purposes for which the contract carrier may operate, but said amended permit shall not limit or restrict any rights lawfully existing, as shown by the record on the carrier's application filed in 1933, by virtue of this subsection as originally enacted, and shall not restrict the right of such carrier to substitute or add contracts which are within the scope of his permit or to add to his equipment and facilities within the scope of the permit as the development of the business and demands of the public have or may require. (1957, c. 53, Sec. 1; c. 222; c. 429, Sec. 50.)

Contract motor carriers in Maine operating under grandfather authorities can be classified into two groups. The first of these consists of those carriers holding "clarified" and the second group of those holding "unclarified" grandfather permits. The only lawful operations that can be conducted by a holder of an "unclarified" grandfather permit are apparently those within the scope and character of those conducted by such holder in the test period provided by the statute which took place over thirty years ago. If

the holder of a grandfather permit acts beyond the scope of his activity in the test period, such operation would appear to be unlawful. If brought to the attention of the Commission and considered to be unlawful, the contract carrier concerned could be required to cease such an operation. In other words, the carrier acts at his peril until "clarification" has taken place. This "clarification" may however be obtained, on request, from the Commission. (Cole's Express v. O'Donnell's Express, 156 Me. 211.)

"Clarification", however, is not as routine a matter as it might appear to be on the surface. Even at the time of issuance of the original grandfather permits the best evidence of prior operations available in many cases was little more than a verification of the facts stated in the application. A large percentage of all operators were single-truck operators, many of whom had no accurate accounts or written records. Proof may have been made by reference to old telephone directories, or to bank accounts or similar records, but frequently the proof consisted merely of an oral statement.

As the Commission has previously stated "the time is fast approaching when clarification of unclarified permits must be undertaken." (18th Biennial Report, 1957-1958). In 1958, the Commission recommended:

> .....that all concerned give serious consideration to making such statutory revisions as may be necessary to accomplish this with the most justice to all. To this end we would recommend that the Commission be given statutory authority to issue, after public hearing, Certificate of Public Convenience and Necessity over regular and/or irregular

> routes. Such certificates would be issued in lieu of existing dual common and contract authority now held by common carriers. The Commission should also have the authority to issue such certificates separately, that is, certificates would be issued for exclusive regular route operation and exclusive irregular operation as the circumstances may warrant. Such statutory revision should also carry with it authority for the Commission to convert, where the facts warrant, existing contract carriers to common carriers over irregular routes. The authority to issue contract carrier permits should be continued without change.

These suggestions of the Commission were not implemented by law.

In 1963, during the regular session of the 101st Legislature an Act was proposed (H.P. 877 L.D. No. 1262) which was not then either passed or defeated but was referred to the next Legislature. This proposal had to do primarily with grandfather contract carrier permits but it went much further than the suggestions made by the Commission in 1958. In fact, in the opinion of many motor carrier operators and others, its passage would have entitled every holder of a grandfather permit, regardless of how limited its operation was during the test period (March 1, 1932 to June 30, 1933), to a common carrier certificate merely on a representation that it held itself out to serve the general public. It appeared that the proposed Act would go so far as to not only prohibit the Commission from instituting any clarification proceedings but would direct the Commission to give favorable consideration to any operation performed subsequent to the test period including that of the present day.

Amending the present motor carrier regulatory statute to the extent proposed in the 101st Legislature does not seem to be at all desirable; nor is the Commission's earlier suggestion to be recommended. The solution of the present unsatisfactory situation as to "clarified" and "unclarified" grandfather contract carrier permits would seem simply to require an amendment of the present statute empowering the Commission, in addition to its present powers under Par. III of Sec. 23 of Rev. Stats. Chap. 48, to set a date after which all permits which have not been "clarified" shall no longer be renewed.

As a matter of fact, the granting of automatic rights to existing carriers after a long time conflicts with the intent of motor carrier regulation. Automatic recognition of all carriers in operation within some period of time in the past, without reference to their economic justification, freezes into the transportation system the causes of competitive abuses which regulation is designed to eliminate. A state's power to control the supply of motor transportation is thus lessened by automatic awarding of operating authority.

Consideration of Existing Transportation Facilities in Granting New Operating Authority to Motor Carriers

Certificates or permits awarded to motor carriers can be used as devices with which to prevent over-expansion in the transportation industry and the economic consequences of

the sometimes ruinous competition which results therefrom. In order to carry out such a policy of entry control, Maine requires that consideration be given to the transportation facilities already in operation before operating authority is granted to new motor carriers, both common and contract. (Rev. Stats. Chap. 48, Secs. 20, 23). States differ as to what kind of existing transportation facilities are to be considered but in issuing certificates of public convenience and necessity the Maine Public Utilities Commission is directed by the statute to "take into consideration existing transportation facilities and the effect upon them." Such a broad provision would appear to include motor, rail, water, pipeline and air carriers when "existing" for consideration. In the case of contract carriers, however, the Commission is directed by the statute not to issue permits which will "impair the efficient public service of any authorized common carrier by highway or rail then adequately serving the same territory over the same general highway route."

Protection of existing carriers to some degree is almost a universal policy among the states. The general rule is that the state commissions will protect the interests of existing common carriers offering the same service applied for by a new carrier. Contract carriers generally are not protected from competition of new common carriers and, being in the nature of private transportation, are not protected from each other.

The reason behind the denial of operating authority to

common carrier applicants, which would be competitive with existing common carriers, is the belief that the new operation would impair the ability of existing carriers to continue adequate service because of a reduction in revenues. The guiding principle seems to be that the existing carriers in the field deserve protection as long as they supply a satisfactory and adequate service to meet public needs.

The purpose of protecting common carriers from new contract motor carriers rests upon the belief that the contract motor carrier enjoys some definite economic and regulatory advantages over the common carrier. The contract carrier may choose any particular segment or type of traffic he desires, provided it is within the scope of his operating rights, and legally refuse to handle any other class of traffic. He can thus concentrate on the traffic of large shippers who can offer full truckloads in steady quantities of the type of freight which it has been found profitable to handle. In contrast, the common carrier of general commodities must accept all types of freight tendered for shipment whether the shipments be small or large and regardless of the profit to be earned. (Unless his authority limits him to a specific type). The common carrier must also maintain terminal facilities while the contract carrier is often able to operate directly from the shippers' to the consignees' loading platform. Contract carriers are generally required to publish and adhere to minimum rates only, thus being free to adjust their rates to meet individual situations, provided they stay

above the minimum filed with the Commission. Common carriers, on the other hand, are subject to regulations of their precise rates and there must be no changes in rates without Commission approval. Contract carriers can use any route they wish and therefore sometimes obtain greater speed in delivery than common carriers who are subject to route control. Also cargo insurance is less often required by state statutes for contract carriers than for common carriers.

Because of the advantages just mentioned, it is generally believed that contract carriers are able to attract the "cream of the traffic" and, if left unregulated, could eventually force the common carriers out of business, leaving the public without a transportation system to meet all its needs. Common carriers serve the whole public offering certain advantages such as service for all business, including many small shippers usually neglected by the contract carrier as well as the transportation of all types of commodities including lots of small size. The common carrier also maintains a more stable rate structure being usually subject to strict rate control.

The theory behind the practice of not protecting contract carriers from the competition of common or other contract carriers is apparently based on the belief that regulation is designed primarily to strengthen and promote efficient common carrier service rather than contract carrier service; and that contract carriers are controlled as to entry into the transportation business principally for this purpose.

Also, since contract carriers serve only a few individual shippers, the operations of one carrier are not likely to have much influence on those of another such carrier unless the new applicant desires to serve a shipper already under contract to another carrier. In the latter case, it appears to be the custom for state commissions to permit the shipper to exercise his right to choose the carrier he prefers.

Amendment of Scope of Operating Authority

When an authorized motor carrier wishes to extend the scope of his operating rights by serving new routes or territory, carrying additional commodities, or adding new contracts, it is generally required that he secure permission for such extension. Obviously, if a purpose of regulation is to control the supply of transportation service, it is necessary that the Commission have jurisdiction over not only the entry of carriers but also the scope of their operations after authority is granted them.

In forty-six states there are special statutory provisions regulating the amendment of operating rights. Such specific attention is lacking in the Maine statute. In this State the procedure in obtaining approval for an amendment of common carrier authority is apparently the same as that involved in obtaining new operating authority. The same factors are considered by the Commission since the statute provides that a certificate shall not be "amended" until there is a finding that the additional service is required by convenience

and necessity and that a definite public need for the service has been shown. (Rev. Stats. Chap. 48, Secs. 5, 20). It might, however, clarify the situation if specific statutory provision on the amendment of operating rights to govern extensions of service were added to the present statute. The following is suggested:

> Amendment of a certificate or permit will be granted on the same basis that an original certificate or permit is granted.

Railroad Use and Control of Motor Carriers

State commissions are faced with the problem, not only of deciding when and where motor carriers should be allowed to compete with railroads, but also of determining to what extent railroads should be permitted to acquire or control the use of motor carrier facilities. The method the railroads have used most frequently to control motor carriers has been through the establishment of railroad subsidiary companies. Such subsidiaries obtain operating authority and publish motor tariffs. In other cases, a railroad may establish its own truck service without the use of a subsidiary for the purpose of providing short-haul service between way stations in lieu of local freight trains. Still another method is for a railroad to secure financial interest in existing motor carriers or to purchase the operating authority of such carriers. The Maine statute contains the following provisions concerning railroad and water-controlled applicants. (Rev. Stats. Chap. 48, Sec. 25).

> Applications may be filed with the commission by railroads, electric railways, railway express or water common carriers asking its approval of operation by motor vehicles over the highways by or in connection with the service of such carriers, where highway transportation has been substituted by or for such carrier prior to January 1, 1935, for transportation service previously performed by such carrier or is to be substituted for transportation now performed by or for any such carrier.....but if such service has not been regularly performed prior to and since January 1, 1935 such a certificate shall be issued only if the commission shall find that the public convenience and necessity require and permit such operation. Any applicant common carrier shall be permitted, in cases where any such order of approval is issued, to perform said highway transportation service itself or to contract therefor with such persons, firms or corporations as it may select, if the commission shall find that such arrangement will be consistent with the public interest.

It should be noted that while there are no specific provisions covering railroad or water common carrier purchase of motor carrier facilities, the Commission has jurisdiction over such transactions through the provisions in the statute which require approval of transfers of motor carrier operating authority. (Rev. Stats. Chap. 48, Secs. 7, 25).

This policy of preventing railroad or water common carrier control of motor carriers, except in special circumstances, seems to be superior to one which would absolutely prohibit such carriers from engaging in trucking operations, or to one which makes no effort to prevent the abuses which can arise particularly from railroad control of other agencies of transport. The underlying question should be: What is the probability that a railroad, by operating a particular bus or truck line, will drive other bus or truck lines out of business?

Dual Operations as Both Common and Contract Carrier

There are no statutory provisions in Maine prohibiting the holding of a certificate as a common carrier and a permit as a contract carrier at the same time. On the contrary, dual operations appear to be approved because of the following rule of the Commission (Rules and Regs. Rule 8, Pars. (e) (f):

> Common carrier, contract carrier and interstate carrier distinguishing plates may be issued for the same vehicle. Common carrier and contract carrier distinguishing plates shall not be displayed on the same motor vehicle at the same time in the transportation of Maine intrastate commerce but interstate carrier distinguishing plates may be displayed with either common carrier or contract carrier distinguishing plates on the same motor vehicle at the same time if necessary and definitive of the transportation then being performed.

Twenty-six states have statutory provisions dealing with dual operations. The Federal act (Sec. 210 Interstate Commerce Act, 49 U.S.C. Sec. 310) specifically provides that no person shall at the same time hold both a certificate as a common carrier and a permit as a contract carrier authorizing operation over the same route or within the same territory, unless for good cause the Interstate Commerce Commission finds such status consistent with the public interest. State statutes generally follow the provisions of the Federal act.

At least two objections may be cited to a carrier operating both as a common carrier and as a contract carrier. Such operation presents an opportunity for personal discrimination since some shippers might be charged common carrier

rates and other, more favored shippers, might receive substantially the same service through a contract providing lower rates. The second objection is that a common carrier would have an advantage over his competitors in seeking common carrier traffic if he were in a position to offer a shipper special contract carrier services on other traffic.

It is suggested that the Maine regulatory statute would be strengthened in a beneficial manner if a section reading something like the following were added:

> Unless the Commission finds that the public interest so requires, no person controlling, controlled by, or under common control with such person, shall hold both a certificate as a common carrier and permit as a contract carrier. No motor freight common carrier shall transport any property as a contract carrier which said carrier is authorized to transport as a common carrier. No such carrier authorized to operate both as a common carrier and as a contract carrier shall transport property as a common carrier and as contract carrier in the same vehicle at the same time.

Transfer of Operating Authority

No certificate or permit authorized by the Public Utilities Commission of Maine may be assigned or transferred without the consent of the Commission. (Rev. Stats. Chap. 48, Par. 7, 25.) The chief purpose of this requirement, found in most state motor carrier regulatory statutes, is to prevent indiscriminate dealing and speculation in certificates and permits.

Operating authority is granted by the Commission without charge, or upon payment of a small filing fee, those who transfer such authority to others should not be permitted to make a profit. A further objection to allowing certificates and permits to have purchase price is that the person obtaining an operating authority will usually attempt to include the amount paid as an element of property on which a fair return should be permitted in proceedings to determine the reasonableness of rates. Since operating authority is generally considered to confer no property rights, it would appear that no cash value could be legally attached to it.

The status of rights as franchises is covered in special statutory provisions in twenty-three states which usually provide that a certificate or permit shall not be construed as a franchise or to confer any property rights upon the holder thereof. Maine has no such statutory provision. Since it would serve to clarify the situation, particularly where certificate and permit holders, renew their authority annually simply for its possible sale value but with no intent to operate themselves. It is recommended that something like the following be added to the Maine statute:

> No certificate or permit issued in accordance with the terms of this statute shall be construed to be a franchise, or as irrevocable or exclusive, or to confer any property right upon the holder thereof.

Maine has no specific statutory provisions governing consolidations of motor carriers but relies on the power to control transfers of operating authority. This method of

control seems to be adequate since the question of consolidation usually arises in one or another of two different situations. The first being where a carrier applies for new operating authority and intends to combine this with rights he already has. The second is where an authorized carrier seeks to obtain, through transfer, the authority presently held by another carrier. In cases of the first type, the Commission can easily prevent consolidation by attaching appropriate terms and conditions to the new authority granted. In cases of the second type the Commission secures automatic control over consolidations of operating rights which might otherwise lead to undesirable curtailment of competition and a reduction in the service provided.

Duration of Operating Authority

In most states, the operating authority issued to a motor carrier carries rights which are effective for an indefinite period of time. However, in Maine the authority granted in a certificate or permit terminates on the date, following the year of its issue, on which the right to display the registration plates, and on which the authority granted in the certificate of registration issued by the Secretary of State, shall terminate. This date is March 1st of each year. (Rev. Stats. Chap. 48, Par. 25, Rules and Regulations, Rule 5(b).)

The statute provides that if a motor carrier applies to the commission, prior to March 1st of each year, for a renewal of his operating authority in the required manner and pays the requisite fees, the Commission is without power to refuse to

renew any existing permit or certificate, except for willful or continued violations of the statute, or of the regulations of the Commission. (Rev. Stats. Chap. 48, Sec. 25, as amended by H.B. 802, Laws 1957.)

An operating authority granted by the Maine Public Utilities Commission is a revocable license or a license to serve the public for a limited period of time. From the regulatory point of view, this is an advantage since were a certificate or permit considered either a franchise or a property right, its flexible character would be lost, and it would be a much less effective regulatory instrument in the hands of the Commission.

Suspension or Revocation of Authority

The Public Utilities Commission of Maine has the power to suspend or revoke any certificate or permit which it has granted because of any willful or continued violation of the orders, rules and regulations of the Commission. (Rev. Stats. Chap. 48, Secs. 8, 27 as amended by H.B. 802, Laws 1957).

In addition to the reasons for revocation just mentioned, it has sometimes been suggested that state commissions should have the power to revoke operating authority for other reasons such as when the convenience and necessity of the public no longer requires the service; or when holders plainly indicate by their inaction, that they no longer intend to operate.

It might be considered doubtful whether revocation for the

first of these reasons is proper, however, since the purpose of giving the commissions power to issue authority is quite different from the purpose in giving them control over revocation. The latter is primarily a punitive device to compel motor carriers to live up to their statutory and other duties. It is not designed, as is control over issuance, to restrict competition. In this connection, it has been held that the "life-or-death power over existing businesses would impose an impossible task of administration" upon the commissions and that "it is better to let the competitive process do the job."

The second reason, however, has considerable merit and it appears that a situation exists in Maine, to which the Commission has referred from time to time (See, Eighteenth Biennial Report of the Public Utilities Commission, 1957-58) where it is obvious that a number of contract carriers, as revealed by their annual reports to the Commission, have ceased to conduct "motor carrier for hire" operations as authorized by their permits. These carriers, however, continue to renew their permits annually only for the possible sale value of the permits as they apparently have no further intent to operate themselves.

So far as the above situation still continues, it is thought desirable, for the purpose of better regulation and as a protection for the operating of common carriers to provide statutory authority for the revocation of permits when the Commission finds, after hearing, that the holder of

a permit has ceased to conduct operations thereunder and when there is no substantial evidence that the holder will again become engaged in motor carrier "for hire" operations.

It is recommended, therefore, that the Maine motor carrier statute be amended to provide for something like the following:

> The Commission may, at any time after notice and opportunity to be heard revoke any certificate or permit if in the opinion of the Commission the holder of the certificate or permit is not furnishing adequate service, or has failed to operate to a reasonable extent under the certificate or permit for a period of six consecutive months, or if the continuance of said certificate or permit in its original form is incompatible with the public interest.

Insurance Requirements

As in all other states, the Maine statute provides for intrastate and interstate motor carriers that, as a condition precedent to the issuance of a certificate or permit, and to registration of the motor vehicles concerned, each applicant shall procure an adequate insurance policy or indemnity bond, in such amount as the Commission shall prescribe in order to adequately provide for protection of the public in the collection of damages for which the carrier concerned may become liable. In Maine, the surety on such bonds must consist of a surety company authorized to transact business in the State, or two responsible individuals, which bonds shall be approved by the Commission. In addition, common carriers of freight in Maine must provide for cargo insurance in their insurance policies or bonds. (Rev. Stats. Chap. 48, Secs. 10, 28.)

"Exempt" or "unregulated" carriers in Maine, as in most states, are not required to file the evidence of financial responsibility just discussed. Recently the question has been raised by state regulatory authorities and within the motor carrier industry as to why, by reason of being a carrier applying for or possessed of a certificate or permit such a carrier must provide evidence of liability insurance as opposed to an "unregulated" or "exempt" carrier, also carrying persons or property for compensation, being free from this requirement. If carriers holding permits or certificates who are generally responsible organizations, are required to meet such a requirement, it seems certain that unregulated and often irresponsible carriers should not be exempt from compulsory financial responsibility filing in each state through which they operate as a protection to the users of such carriers and the public in general.

It is recommended, therefore, that the Maine motor carrier statute be amended to require:

> All carriers of persons or property for compensation to procure a good and sufficient insurance policy or indemnity bond, in such amount as the Commission shall prescribe, having as surety thereon a surety company authorized to transact business in the state, or two responsible individuals, which bond shall be approved by the Commission.

Part IV

Regulation of Rates, Fares and Charges

There are four major objectives of transportation rate regulation. The first is to maintain the financial solvency of the regulated carriers in order that they may furnish adequate and reliable service to the public. The second is to protect the public from excessive rates. The third is to prevent carriers from unjustly discriminating in their rates and fares between individuals and communities. The fourth is to attempt to allocate traffic among the competing transportation media in accordance with the efficiency and economy of each.

Motor carrier rate regulation aims primarily to prevent destructive rate practices wherein carriers cut rates below costs, thus impairing their revenues and their ability to maintain equipment and reasonable standards of service. Excessive truck rates are not often a problem because shippers, given sufficient reasons, may engage in private transportation. However, the fact that restriction of entry into motor transportation may result in the development of monopolistic or oligopolistic situations makes state control over rates necessary to prevent exploitation of those who must rely upon for-hire carriers.

A large proportion of motor carrier costs vary directly with the amount of traffic; hence unreasonable rate discrimination is not likely to occur, as it might in other media of transport, so long as an excessive number of carriers are

not offering the same service in the same territories.

Co-ordination of transportation, the fitting of each media of transport into its proper place in the transportation system, is largely a problem of the rate policies followed by competing media. Hence, motor carrier rate regulation in some states has stressed allocation of traffic as an objective, and the relationship of rail and motor rates is an important consideration in others.

Almost every state which regulates motor carriers has provided for some form of rate control. Control over common carrier rates generally includes control over the precise rates while such control over contract carriers is usually limited to minimum rates.

Filing and Approval of Common Carrier Rates and Fares

In order to control rates and fares effectively and so that shippers and travelers may have a means of knowing what the legal rates and fares are, the statute requires that the Commission be notified of the rates and fares being charged, or to be charged, by a common carrier of freight or passengers (Rev. Stats. Chap. 48, Secs. 22, 23):

> Every holder of a certificate of public convenience and necessity must file with the Commission a schedule of rates for service rendered or to be rendered within the state, and include in such rate schedules any rates or charges established jointly with other certificate holders to the extent authorized by the Commission over routes not served by a single common carrier.

Schedules of rates and fares (Tariffs) must meet with the

approval of the Commission. (Rev. Stats. Chap. 48, Sec. 22.)

Filing and Approval of Contract Carrier Rates

The Commission may prescribe reasonable minimum rates and charges to be collected by contract carriers and such carriers must file with the Commission, publish and keep open for public inspection, their schedules containing the minimum rates or charges such carrier actually maintains and charges for the transportation of property within the State. These rates must not be less than the rates charged by common carriers for substantially the same or similar service. (Rev. Stats. Chap. 48, Sec. 23.)

The rate restrictions on contract carriers are more strict in Maine than in many other states probably in the belief that common carrier service must be preserved and encouraged. However, although common carrier service may warrant promotion and protection a statutory provision which requires contract carriers to maintain rates at least as high as those charged by common carriers for "substantially the same or similar service" would appear to be objectionable on two grounds. The first of these is that, since contract carriers possess certain operational advantages, such as confining their service to full truckloads of profitable commodities and their lack of need for terminal facilities, they can in many instances operate at lower costs and hence charge a lower rate than can common carriers. To require contract carriers to charge rates no lower than those charged by

common carriers rejects the principle of recognizing the "inherent advantages" of different classes of transportation, which is a part of the national transportation policy. Secondly, contract carriage is often a specialized type of service and a substitute for private carriage, which offers the shipper a flexible and convenient service not provided by common carriers, a policy which would deny contract carriers the right to adjust rates according to their cost advantages might mean that common carriers would, in any event, lose the traffic to transportation provided by shippers' own trucks.

Power to Prescribe Motor Carrier Rates

The Public Utilities Commission of Maine has the power to fix, alter, or amend the rates of motor carriers of property. Thus, where the Commission objects to rates filed by a carrier, or such rates are contested by shippers or other carriers, the Commission may prescribe a rate which will be just and reasonable. This means the exact rates of common carriers and the minimum rates of contract carriers. (Rev. Stats. Chap. 48, Secs. 22, 23.)

Adherence to Established Rates

Carriers must adhere to the rates filed and approved by the Commission. (Rev. Stats. Chap. 48, Secs. 22, 23). This means that common carriers are not to charge a different rate from the precise rates established or approved by the

Commission, and contract carriers must not charge less than the established minimum though they are free to charge more. To reinforce restrictions against departures from published rates the statute contains (Rev. Stats. Chap. 48, Sec. 22) a prohibition against rebating or unlawful refunding of charges collected. In the case of contract carriers this prohibition refers to charging less than the minimum rate prescribed.

Rate Discrimination

Motor carriers hesitate to offer rates much below fully-allocated costs unless forced to do so by severe competition, since most of their expenses vary directly with the amount of traffic carried. In addition, the absence of a monopoly position makes it difficult for motor carriers to make up the deficiencies which arise from rendering service at less than cost under conditions of discrimination by charging rates in excess of costs on other parts of their traffic. For these reasons, rate discrimination has not been a serious problem in motor carrier regulations. Occasionally, however, truck operators will practice what is known as place discrimination where it is cheaper to serve large population centers and the traffic between them ordinarily moves in truck loads. Even though rate discrimination should not be a serious problem when entry controls are in effect, the Maine statute does prescribe against it, although not in as specific a manner as do a number of other states. (Rev. Stats. Chap. 48, Sec. 22).

Rate Changes

Since the Public Utilities Commission has authority to approve or prescribe motor truck rates the statute also gives them control over changes in the rates thus established, with the power to authorize or deny such changes. By a rule of the Commission (Rules and Regulations, Rule 13, (a 5), (b 5)):

> No change shall be made in any rate schedule of a common carrier or rules and regulations therein contained, nor shall new rates or rules and regulations relating thereto be established except by filing with the Commission upon thirty (30) days' notice prior to the time the same are to take effect; provided that the Commission may, in its discretion and for good cause shown, permit changes in existing rates and regulations or the establishment of new rates, rules and regulations upon less than the notice herein required.
>
> No change shall be made in any minimum rate schedule of a contract carrier or rules and regulations therein contained, nor shall new minimum rates or rules and regulations relating thereto be established except by filing with the Commission upon thirty (30) days' notice prior to the time the same are to take effect; provided that the Commission may, in its discretion and for good cause shown, permit changes in existing minimum rates and regulations or the establishment of new minimum rates; rules and regulations upon less than the notice herein required.

Pending investigation of a proposed rate change, or of a proposed new rate, the Commission may, at any time within the period preceding the effective date, suspend the operation of such tariff for a period no longer than three months from the date or order of suspension. If the investigation cannot be concluded within this period of three months, the Commission may extend the time for an additional three months. (Rules and Regulations, Rule 13, (b 6).) When the Commission does not disapprove or suspend a proposed rate, it becomes effective when the notice period ends.

Exemptions from Rate Regulation

Some states permit exemptions from rate regulations for certain types of motor transportation. This is true in Maine to the following extent:

> There shall be exempt from the provisions of the statute as to rate regulations, the transportation by motor vehicles of property when moving in interstate commerce, when moving to warehouses, railroads, or boats for reshipment by rail or vessel, and when consisting of logs, wood or lumber moving to mills for manufacture. (Rev. Stats. Chap. 48, Secs. 29, 30.)

Motor Carrier Rate Level

State Commissions are usually charged with the responsibility of regulating motor carrier rates so they will be "just and reasonable." A reasonable rate is one which is neither so high as to be excessive to the shipper nor so low as to prevent the carrier from earning a fair return and result in confiscation of the carrier's property. In other words, the profit derived by a motor carrier should not be so high as to constitute extortion from the users of its service but should be adequate to give financial stability to the enterprise and sufficient to insure that the operation, if conducted prudently and efficiently, may be continued so long as it serves a useful purpose in the economy. Compared to some states which have special statutory provisions on motor carrier "rate comparisons" and "cost of service" the provisions as to reasonableness of rates in Maine are of a general nature and would be applicable to any utility:

> In determining just and reasonable rates, the Commission shall provide such revenues to the utility as may be required to perform its public service and to attract necessary capital on just and reasonable terms. (Rev. Stats. Chap. 44, Sec. 17 as amended by Chap. 400, Laws 1957.) In determining reasonable and just rates, the Commission shall give due consideration to evidence of the cost of the property when first devoted to public use, prudent acquisition cost to the utility, less depreciation on each, and any factors or evidence material and relevant thereto. However, such other factors shall not include current value. (Rev. Stats. Chap. 44, Sec. 18 as amended by Chap. 400, Laws 1957).

It will be noted that the above stipulations are not a part of the motor carrier regulatory statute, Chap. 48 of the Revised Statutes. Because the statutory provisions in Maine law which direct the Commission in deciding rate matters are so general in wording it is thought that a more specific provision might well be added to the motor carrier regulatory statute itself, possibly as follows:

> In prescribing just and reasonable rates for common and contract motor carriers, the Commission shall give due consideration among other factors, to the cost of service and to the need of revenues sufficient to enable such carriers, under honest, economical and efficient management to provide adequate and efficient transportation service and derive a reasonable profit therefor; at the lowest cost consistent with the furnishing of such services.

The rates charged by motor carriers are of such tremendous importance in a state where, due to abandonment of railroad service of many types and to many communities, motor trucks are the chief reliance of shippers and receivers of freight that a study of the Maine intrastate motor carrier rate structure along the lines of that recently conducted by the Public Service Commission of Michigan might be considered.

(Truck Advisory Board Report, Michigan Public Service Commission, Lansing, September, 1963.)

Joint Rail-Motor Rates

The motor carrier regulatory statutes of twenty-seven states provide that railroads and motor common carriers may establish through routes and joint rates and that such rates must be filed with the commission for approval. Maine does not provide for such rates specifically but since there are no state statutory provisions which prohibit joint rail-motor rates it seems that such rate arrangements may be entered into subject to the over-all rate powers of the Commission.

Part V

Regulation of Motor Carrier Services and Facilities

Most state statutes, upon which regulation of motor carriers are based, contain provisions empowering their commissions to regulate carrier services, both common and contract, although the former are usually more strictly treated than the latter.

Except for a statutory provision (Rev. Stats. Chap. 48, Sec. 1) authorizing the Commission to make rules and regulations governing the schedules to be operated and maintained by both interstate and intrastate passenger carriers, the Maine statute does not provide special rules or regulations concerning the facilities and services of motor carriers in nearly as detailed a manner as do other states.

Adequacy of Service

Forty-seven states have statutory provisions or commission rules requiring common carriers to maintain certain standards of service. Only a few states refer in their statutes or rules to the adequacy of contract carrier service. This difference in treatment is apparently due to the difference in character of common and contract carriage. The former serves the public as a whole and its standards of performance should be at the highest possible level to insure a satisfactory public transportation system. Contract carriers, on the other hand, do not serve the general public but only a few shippers, and they are regulated in many states merely to

protect essential common carrier service.

Maine has no special statutory provisions dealing with the subject of adequacy of service. Since, because of the increasing significance of motor transportation, this subject is deemed of sufficient importance to have specific mention in the regulatory statutes of the majority of states, it is suggested that something like the following might be included in the Maine statute:

> The commission has the authority to regulate the operating and time schedules, equipment and facilities of common motor carriers so as to meet the needs of the public, and so as to insure adequate transportation service in the territory served by such carriers and to prevent unnecessary duplication of service.

Abandonment of Service

The Public Utilities Commission of Maine, like most other states, requires that before common carrier service is abandoned completely, or discontinued temporarily, a carrier must secure commission authorization. (Passenger Regs. Rule 7, Freight Regs. Rule 12.)

Interchange of Freight between Carriers

While the Maine statute has no special provision, as do those of thirty-one other states, covering the interchange of freight between carriers it does provide that every certificate holder must include in his schedules of rates any such rates or charges established jointly with other certificate holders, to the extent authorized by the Commission,

over routes not served by a single common carrier. (Rev. Stats. Chap. 48, Sec. 22.) It can be assumed, therefore, that the practice of interchanging traffic between carriers is approved, although not required as it is in some states.

Additions or Subtractions of Equipment

In general, states require motor carriers of all types not only to provide but to maintain and operate their equipment and other property in such a manner as to promote and safeguard the health and safety of their employees, passengers and customers as well as the public. The Maine Public Utilities Commission is authorized by statute to make rules and regulations governing the operation of motor vehicles which include provisions concerning the safeguarding of passengers and other persons using the streets and highways. (Rev. Stats. Chap. 48, Sec. 2). However, the Maine statute contains no provisions relating to the right of authorized carriers to add, substitute, or subtract equipment permanently except in the case of contract carriers which are given the right, by statute:

> .....to add to their equipment and facilities within the scope of the permit as the development of their authorized business may require. (Rev. Stats. Chap. 48, Sec. 23.)

It is believed by some that effective control over the supply of service cannot be achieved unless the Commission has authority over, not only the number of carriers, but also the size of the carriers' operations within their authorized territories and some states make statutory provision for such

regulation of contract and common carriers. Restrictions on permanent additions to equipment would seem, however, to be an invasion of the rights of carrier managerial discretion and to impair their ability to adjust service as rapidly as possible to meet changes in shipper needs. Such regulation is, therefore, not recommended.

Observance of Common Carrier Schedules

Rules requiring the observance of common carrier schedules both for passengers and property have been promulgated by the Public Utilities Commission of Maine under the provision of the statute authorizing it to make rules and regulations governing the schedules to be operated and maintained by motor vehicles. (Rev. Stats. Chap. 48, Sec. 3; Passenger Regs. Rule 10; Freight Regs. Rule 12).

Handling of C.O.D. Shipments

The regulatory commissions of most states have promulgated rules governing the handling of C.O.D. shipments. This is true of Maine, where such rules are to be found in the Freight Regulations of the Commission (Rule 14).

Cargo Insurance

It is the universal policy for states to require that motor carriers of passengers and property maintain evidence of insurance, or post an indemnity bond, to cover claims against them for personal injury or property damage. The

Maine statute makes such provision but in addition contains a very desirable requirement, not universally found in state regulatory statutes. This is that property carriers maintain cargo insurance or provide an indemnity bond to protect shippers against loss or damage to their property while in transit. (Rev. Stats. Chap. 48, Secs. 10, 28.) The Maine insurance requirements apply to interstate carriers operating in Maine as well as to intrastate operators.

Safety Regulations

Various safety rules and regulations have been promulgated by the Public Utilities Commission (Rules and Regulations Governing the Operation of Motor Carriers of Property and Lessors of Motor Vehicles Thereto, General Order No. 4, effective June 1, 1956; and Rules and Regulations Governing Motor Carriers for Hire, General Order 1-W, effective April 1, 1948.) The statute limits the application of these rules and regulations to for-hire carriers only; that is to the common, contract and interstate carriers coming within the jurisdiction of the Commission. (Rev. Stats. Chap. 48, Secs. 3, 20, 21, 23, 27.) Commission rules and regulations, therefore, do not apply to private carriers and to the various types of "exempt carriers" as they do in numerous other states. In Maine, these carriers, which account for a very substantial part of the total motor transportation of the state, are regulated as to safety solely under the provisions of the Motor Vehicle Regulations provided for in Chap. 22 of the Revised Statutes.

The safety requirements contained in the regulations issued by the Commission, as well as the safety requirements contained in Chap. 22, Motor Vehicles, of the Revised Statutes correspond, in general with the provisions of the Interstate Commerce Commission's Motor Carrier Safety Regulations in the interest of uniformity. (I.C.C. Order, Safety Regulations, 1952 Rev. F.R. 4423 as amended.)

Congress has attached great importance to the safety provisions of the Motor Carrier Act of 1935, as amended, and to safety order and regulations of the Interstate Commerce Commission, and while this Act lists many types of motor carriers which are exempt from economic regulation by that Commission, safety regulations apply to all engaged in interstate commerce. Safety is, however, universal and regulations applicable to interstate commerce are no less important for intrastate commerce.

It is recommended, therefore, that the Maine statute be amended in order to achieve the end of making the Public Utilities Commission of Maine's orders as to safety applicable to all types of motor carriers for compensation and to privately operated motor trucks and buses as well.

Safety rules and regulations may have at first been intended primarily for the protection of employees of for-hire carriers, but it is now apparent that they are of tremendous importance for the protection of others on the highways. In fact, there is not a single safety rule or regulation heretofore adopted by the Maine Commission which should not

apply with equal force to any motor truck or bus no matter what its classification might be as far as economic regulation is concerned. Such an amendment to the present statute would remove inequities which now exist in regulation between for-hire carriers and private carriers and as between for-hire carriers and "exempt carriers."

Part VI

Regulation of Equipment Leasing

A problem which confronts all regulatory agencies and which often leads to considerable controversy, is regulation of the leasing of motor carrier equipment. The Maine statute provides (Rev. Stats. Chap. 48, Sec. 33):

> The business of letting or leasing for hire, profit or compensation of motor vehicles to be used by any other person, firm or corporation for the purpose of hauling or transporting goods, wares, merchandise, or other property upon the public highways of this State affects the use of the public highways by the general public, and affects the interests of the general public in procuring transportation for hire. It is declared that such business requires regulation as hereinafter provided.
>
> No person, firm or corporation shall engage in the business of letting or leasing for hire, profit or compensation a motor vehicle or motor vehicles to be used by any other person, firm or corporation for the purpose of hauling or transporting goods, wares, merchandise or other property upon the public highways of this State until such person, firm or corporation owning or controlling such motor vehicle or motor vehicles shall first have filed with the commission a good and sufficient insurance policy or indemnity bond having as surety thereon a surety company authorized to transact business in this State or 2 responsible individuals, which surety or sureties shall have been approved by the commission, and which insurance policy or bond shall adequately provide for the reasonable protection of the parties of said person, firm or corporation and of the public in the collection of damages for which the operator of said motor vehicle or motor vehicles may be liable by reason of the operation thereof.

This provision pertains to leasing by organizations which make it their business to enter into short-term and long-term leasing arrangements for trucks and cars to users who prefer to employ such a method rather than own equipment. It

does not, however, pertain to leasing of equipment by authorized carriers to shippers and other non-carriers and to leasing between authorized carriers to non-authorized carriers, as do the statutes of other states.

Within the last few years motor carriers, shippers, federal and state authorities have been giving much attention to the question of what is termed "illegal trucking." Many shippers, as has always been the case, resort to any transportation device, legal or illegal, if it reduces costs and results in obtaining the service desired. Legal activities of this sort should be encouraged and are nothing more than skillful traffic management. Illegal activities, on the other hand, have assumed the proportions of a major problem. Conservative estimates say that at least 5,000, many say up to 30,000, illegal trucks move along the highways of this nation each day, each one of them hauling freight for compensation without the required authority from the Interstate Commerce Commission or the state regulatory agencies. It is also estimated, by the Interstate Commerce Commission, that such trucking "may represent between $500 and $600 million annually lost in revenue to regulated carriers." There is no way of estimating how many such trucks operate in Maine, one reason being that most violators are never apprehended.

In most instances "illegal trucking" involves shippers and carriers acting in concert. Many of these transportation practices fall into one of the following categories:

(1) buy and sell arrangements, (2) illegal leasing, (3) pseudo private carriage, (4) illegal agricultural co-operatives and other shipper associations. The net result is the loss of freight by the legitimate carriers, both common and contract. While there is much that the Interstate Commerce Commission can do, if given the proper authority by Congress, to in some degree control the illegal truck operator it has become apparent that, as a practical matter, it can only be effectively accomplished by the various states; and that the regulatory commission of a state is the proper agency to administer such a program. In order to accomplish effective state control those who have been working on the problem have concluded that there are three basic requirements:

1. The state must have a law which requires the registration of all common and contract carriers transporting for hire over its highways whether interstate or intrastate. The Maine statute contains several provisions which accomplish this. (Rev. Stats. Chap. 48, Secs. 2, 5, 20, 23, 24.)

2. The state must have adequate laws, rules and regulations governing the leasing of equipment. The Maine statute is inadequate on this requirement.

3. The state regulatory commission must have an adequate force of inspectors who have the power of arrest. It seems to be the general opinion that since the two inspectors on the staff of the Public Utilities Commission of Maine lack

the power of arrest, the force is by no means adequate.

The primary reason for the adoption by a state of a law requiring registration of for-hire transportation is that it gives a specific state agency the necessary authority to inspect motor trucks operating upon its highways to determine whether or not such operation is a lawful one, in accordance with the regulatory laws of the state. If the motor truck is being operated in interstate commerce pursuant to a certificate, permit or exemption and its operator has complied with the state's laws as to registration, insurance, etc., then there is no violation. On the other hand, if the truck is being operated for hire in either interstate or intrastate commerce without proper authority, it is in violation of state law and the operator thereof is subject to immediate arrest and prompt court action by the state.

It is, of course, realized that there are those who do not agree that the elimination of "illegal trucking" can be obtained from state registration of interstate motor carriers or that such a means would be satisfactory. Such opponents argue that this practice, on the part of the states, could become just another burden on interstate commerce. When one considers the present administrative burden occasioned by the multitude of other state regulations, the objection does have some merit. However, state registration of motor carriers transporting for-hire would not be a burden on the multi-state operator if the uniform

method recommended several years ago by the National Conference of State Transportation Specialists were to be adopted by all states. In too many states, however, the enforcement aspect of the registration requirement is over-shadowed by another which is that of producing revenue. In such cases, the requirement becomes just another fee or tax to be paid by a presently heavily taxed industry. Many in the trucking industry consider this is one of the reasons "illegal trucking" continues to flourish. For in many instances, as long as the state receives its fees or taxes, it makes no effort to look behind the facade of lawfulness. To be specific, consider the practice of stopping a truck at a port of entry, meticulously checking to see if all state highway use taxes are paid and then waving the truck on without any effort to see if the truck was engaged in for-hire transportation and, if so, determining whether the operator had the proper type of authority. Failure to do this in tantamount to "grandfathering" illegal trucking.

The motor carrier industry is regulated as a public utility in the public interest and by the same token, is entitled to protection from illegal competition. Without this regulation in the public interest, there would be no illegal competition. One couldcompete as he pleased with complete indifference to the public interest. The fact that motor carriers should be a regulated industry has long been settled. The fact that seemingly has missed attention in many states is that regulation without enforcement can be disastrous to the regulated.

In regard to the second point involved in adequate state enforcement, the requirement of adequate state laws, rules and regulations governing the leasing of equipment, it is perfectly clear that Interstate Commerce Commission rules and regulations on this subject have not proved adequate. In order for there to be state enforcement, there must be state laws, the violation of which can be enforced by the state. This is most important for a large percentage of "illegal trucking" is conducted by shippers who lease vehicles with drivers. It is urged by those who have been working toward a solution of this problem that a state adopt the same rules and regulations in regard to intrastate leasing as the Interstate Commerce Commission has adopted in regard to interstate leasing.

The final requirement of the program, the delegation of the power of arrest to the personnel of the regulatory commission, is obviously a basic one. For without this power, there is no enforcement by the state agency most familiar with the subject. While it is true that some states, as is the case in Maine, still utilize other law enforcement agencies such as state police or highway patrol this is not, in the opinion of many, the most satisfactory method as it tends to further diversify the activities of an officer whose normal primary duty is to enforce the traffic laws. Furthermore, enforcement of regulatory requirements requires a special knowledge that is usually difficult to impart to the highway patrolman. The enforcement of motor carrier regulation is so vital that it

deserves a group of officers having such enforcement as their primary function. Such officers should be employees of the state regulatory commission. (This subject is discussed in Part VII of this report.)

It is suggested that, in order to place Maine on a par with other states, sincerely trying to correct the illegal trucking situation, the following leasing rules be added to the Commission's Rules and Regulations:

> Definition. Lease, for the purpose of these rules, means a written document providing for the exclusive possession, control and responsibility over the operation of the vehicle or vehicles in the lessee for a specific period of time as if such lessee were the owner.
>
> 1. No common or contract carrier may have more than one lease covering a specific piece of equipment in effect at a given time.
>
> 2. No common or contract carrier shall lease vehicles with or without drivers to shippers or receivers.
>
> 3. A copy of the lease must be carried in the leased equipment at all times.
>
> 4. Each lessee shall properly identify each piece of equipment during the period of the lease as specified in this Act.
>
> 5. Every vehicle subject to lease shall be covered by adequate insurance as required by this Act; such insurance shall be in the name of the lessee and evidence of coverage must be filed with the Commission.
>
> 6. Any lease of equipment by any motor carrier except under the following conditions is prohibited:
>
> > a. Every such lease must be in writing and signed by the parties thereto or their regular employees or agents duly authorized to act for them.

b. Every lease shall specify the time the lease begins and the time or circumstance on which it ends.

c. Every lease shall set out the specific consideration or method of determining compensation.

d. Every lease shall provide for the exclusive possession, control and use of the equipment and for the complete assumption of responsibility in respect thereto by the lessee for the duration of said lease.

Part VII

Enforcement of Motor Carrier Regulation

As of the close of 1963, there were 135 motor carriers under regulation by the Maine Public Utilities Commission. This is shown in Table 2. The total of 135 operators comprises 35 intrastate common carriers, 93 intrastate contract carriers, and 7 intrastate carriers both common and contract whose operations are conducted chiefly in interstate commerce but are domiciled in Maine and, in some cases, conduct a limited intrastate service. For purposes of accounting regulations and annual reporting requirements, common and contract carriers are divided into three classes based upon annual gross operating income as is shown in Table 2. Financial operating results and operating statistics for each class of motor carrier are published by the Commission in its Biennial Reports.

Powers of the Commission

The Maine statute empowers the Commission to enforce the law and outlines the procedure of enforcement to be accomplished through its Rules of Practice as well as by application of the following sections of Chap. 48 of the Revised Statutes: 1, 6, 14, 18, 21, 23, 27, 31, 32, and 33. Also by the following sections of Chap. 44 of the Revised Statutes: 55, 57, 63, 65, 66, 67, 68, 69, 71, and 72.

In the administration of the statutes the Commission is empowered to require the keeping of certain records and the rendering of certain reports, particularly accident reports

Table 2

Number of Motor Carriers, by Classes, under Regulations of the Maine Public Utilities Commission, 1963

CLASS A	*	Common	4
		Contract	1
		Interstate	1
		TOTAL	6
CLASS B	+	Common	7
		Contract	5
		Interstate	3
		TOTAL	15
CLASS C	#	Common	24
		Contract	87
		Interstate	3
		TOTAL	114
SUMMARY		Common	35
		Contract	93
		Interstate	7
		TOTAL	135

* CLASS A includes common and contract carriers having gross operating revenues (including intrastate and interstate) of $1,000,000 or over annually, from freight or merchandise motor carrier operations.

\+ CLASS B includes common carriers having gross operating revenues (including intrastate and interstate) of $100,000 or over but less than $1,000,000 annually, from freight or merchandise motor carrier operations and contract carriers having gross operating revenues (including intrastate and interstate) of $200,000 or over but less than $1,000,000 annually, from freight or merchandise motor carrier operations.

CLASS C includes contract carriers having gross operating revenues (including intrastate and interstate) of less than $200,000 annually, and common carriers having gross operating revenues (including intrastate and interstate) of less than $100,000 annually, from freight or merchandise motor carrier operations.

* * * * * * * * * * * * * * * * *

(Rev. Stats. Chap. 48, Sec. 9). The Commission has also promulgated rules and regulations covering the keeping and filing of accounts.

In substance, the Maine Public Utilities Commission has authority to revoke or suspend operating authority of motor carriers failing to operate in accordance with the law, the rules and regulations of the Commission, or the terms and conditions stated in their certificates or permits. It is also possible to use the Commission's power to issue or deny new operating authority or extensions of authority to induce compliance by refusing to grant such authority when a carrier has a record of past violations. Violations are considered misdemeanors and violators are subject to fines and/or imprisonment.

Unless motor carrier regulatory laws are actively enforced by the Commission, regulation will largely be ineffective regardless of the strength of the statute or the degree of power vested in the Commission. The enforcement of motor carrier statutes is a difficult task because of the number of carriers subject to regulation, the small size of many of these carriers, the fact that many authorized carriers are free to operate over any routes they wish

within the area authorized by certificates and permits, and the fact that there are several types of regulated carriers. In addition, certain carriers are exempt from economic regulation as well as safety regulation by the Commission greatly complicate enforcement. It has been said that over the years in which the Maine motor carrier statutes have been in effect "they have worked out very well with the only difficulty being that they have not been adequately enforced."

Enforcement Arm of the Commission

Maine, as does a number of other states, depends largely on the services of the State Police as its enforcement arm. The statute provides that:

> It shall be the duty of the state police, sheriffs and their deputies, and all other peace officers to investigate any alleged violations of the provisions of the statute, and of any rules and regulations promulgated by the Commission pursuant to the authority thereof, to prosecute violators of said laws and regulations, and otherwise to aid in the enforcement of the provisions thereof. (Rev. Stats. Chap. 48, Sec. 27.)

Under the present arrangement, as of March, 1964, motor carrier enforcement is performed through the Special Services Division of the Maine State Police and consists essentially of three State Troopers who are assigned for this purpose and for whom the State Police are reimbursed by the Commission. While most of the time of these three troopers is spent in motor carrier enforcement service, they are assigned to the Special Services Division and are,

hence, on call for other assignments. The result is that the Commission has no control over the actual activities of these men and, to make matters even more complicated, requests for investigation must be routed to the officer in charge of Special Services, who, in turn, assigns the matters to the various troopers.

In addition to the arrangement just discussed, the Commission employs two men on its staff who are chiefly involved in enforcement matters but do not have the power of arrest and generally work with the three State Troopers in enforcement work. This is a completely inadequate enforcement arrangement for a state the size of Maine and in one where there is so much motor carrier activity.

It is recommended that the powers of the Commission be strengthened by an amendment to the statute. Something like the following would provide a group of officers having the enforcement of motor carrier regulation as their primary function as employees of the Commission:

> The Commission shall designate enforcement officers charged with the duty of policing and enforcing the provisions of this Act and such enforcement officers shall have authority to make arrests for violation of any of the provisions of this Act, orders, decisions, rules and regulations of the commission, or any part or portion thereof, and to serve any notice, order, or subpoena issued by any court, the Commission, its Secretary, or any employee authorized to issue same, and to this end shall have full authority throughout the State. Such enforcement officers upon reasonable belief that any motor vehicle is being operated in violation of any provisions of this Act, shall be authorized to require the driver thereof to stop and exhibit the registration certificate issued for such vehicle, to submit to such enforcement

officer for inspection any and all bills of lading, waybills, invoices or other evidence of the character of the lading being transported in such vehicle and to permit such officer to inspect the contents of such vehicle for the purpose of comparing same with bills of lading, waybills, invoices, or other evidence of ownership or of transportation for compensation. It shall be the further duty of such enforcement officers to impound any books, papers, bills of lading, waybills, and invoices which would indicate the transportation service being performed is in violation of this Act, subject to the further orders of the court having jurisdiction over the alleged violation.

Such enforcement officers shall also have the above authority with respect to anyone who procures, aids or abets any motor carrier in violation of this Act or in his failure to obey, observe, or comply with this Act, or any such order, decision, rule, regulation, direction, or requirement of the Commission, or any part of portion thereof. In a case in which a penalty is not otherwise provided for in this Act, such person, upon conviction, shall be guilty of a misdemeanor and shall be punished by a fine of not less than $_____, nor more than $_____, or by imprisonment for not more than _____ days, or both.

A decided advantage which would follow out of the Commission being provided with their own staff of enforcement officers lies in the area of training. Such officers should be more than policemen. They must be trained in and familiar with the rights conferred by certificates and permits and how to interpret them, as well as leasing practices and requirements. They must be sympathetic with the transportation goals and policies of the State as represented not only by law but by Commission regulations. This means that such officers must have received training in these and other matters which sometimes takes both time and money. They cannot be wholly effective otherwise. This makes it

all the more important to protect the State's investment in such individuals by placing them wholly under Commission control.

General Suggestions on Enforcement

Regulation of the motor carrier industry and its enforcement has been less effective in Maine than is required in the public interest because of the division and diffusion of regulatory authority. Authority and responsibility for the regulation of commercial motor carriers is not vested solely in the Public Utilities Commission. On the contrary this important regulatory agency shares the responsibility and authority with the State Highway Commission, the Secretary of State and several other state agencies. This situation should be corrected insofar as possible by vesting all responsibility and authority for the regulation of commercial motor carriers, as distinguished from motor vehicles in general, in the Commission.

All of the statutes relating to the Commission and to commercial motor carriers should be incorporated into a commercial motor-carrier code with adequate cross-reference and case annotations.

It would also be in the interests of the motor carrier industry and the Commission as well as the public to codify all rules and regulations now in force and to cross-index them to the statutes and to any pertinent court cases.

It is also believed that the orders and decisions of the

Commission should be readily available to the public to a greater extent than they are now. This could probably be best accomplished through the publication of these orders and decisions at least quarterly.

Enforcement of the regulatory statutes would, in any event, not be possible for the Commission were it not for the cooperation of the commercial motor carrier industry as a whole. To encourage voluntary compliance with the statutes and with the rules and regulations promulgated by the Commission, the Commission should take steps necessary to keep industry fully informed with operating conditions and requirements such as statutes, orders and decisions, rules and regulations, policy statements and particularly the status of pending decisions. One way to achieve this would be to adopt the trade-practice conference device of the Federal Trade Commission. At these industry conferences, Commission personnel could explain in detail to the industry all items that should be of concern to those engaged in the commercial motor transportation of persons and property.

Part VIII

Regulation of Motor Carrier Securities

The regulation of the issuance of securities by interstate motor carriers is under the jurisdiction and control of the Interstate Commerce Commission. There are, however, a large number of intrastate common carriers by truck or bus which come solely under the jurisdiction of state commissions. Consequently a considerable number of states have made statutory provision for the regulation of the securities of such operators. Maine is not one of these states.

There have been two chief reasons advanced as to why state commissions should have the power to regulate securities. These are:

1. Regulation is necessary in the public interest since the fixed charges and other capital expenses of the carriers are in proportion to the volume of securities issued. The revenues to meet these expenses are necessarily derived from shippers and passengers. Those who make use of the motor carriers thus have a direct interest in the volume and character of the securities issued by such carriers. Particularly where the general level of rates rather than individual rates, is involved, carriers nearly always attempt to show that the net income after paying costs of operation and fixed charges is not sufficient to yield a fair return to owners. The need of increased revenue through increased rates is always urged. It is, therefore, of vital interest to the shippers and other users of motor

carriers whether the outstanding securities of such carriers represent actual value and so are entitled to share in earnings.

2. Regulation is necessary in order to protect the carriers themselves from improvident financing which might impair their ability to furnish the service which they exist to perform and upon which they depend for their livelihood.

Opposition to governmental control of motor carrier security issues has usually been based on the following:

1. Regulation would tend to restrict carrier enterprise and foster paternalism in government by transferring too much detailed authority over the carriers from their responsible managers to public officials.

2. Regulation would not leave the carriers in a position to take advantage of favorable situations in the money market where changes are often sudden. A carrier would be unable to act quickly to take advantage of some favorable opportunity if the securities to be sold had to have the approval of a State regulatory commission in advance of sale. Such approval, it has been held, could only be given after investigation, which would be likely to cause material delay.

The opposing arguments have not been held to be governing in twenty-two states where security issues are held subject to the approval of regulatory authorities. In general, the statutes of these states provide that commission approval of security issues is only to be granted if

it is found that such assumption of liability on the part of the carrier meets the following conditions:

1. That it is for some lawful object within the carriers corporate purposes, and compatible with the public interest; is necessary or appropriate for or consistent with the proper performance by the carrier of service to the public as a common carrier, and which will not impair its ability to perform that service.

2. That it is reasonably necessary and appropriate for the purpose for which it is issued.

State commissions are usually empowered to grant or deny the applications of carriers as made or to grant them in part and deny them in part or to grant them with such modifications and upon such terms as a commission may deem necessary. State commissions moreover usually have the power, through the issuance of supplemental orders, to modify the provisions of any previous order as to the purposes for which the securities heretofore authorized are to be used, thus retaining control of the carrier's actions with respect to securities. It is usual for state statutes also to provide that all applications for authority to issue securities must be made in the form and must contain such information as the commission prescribes.

A combination of events has recently contributed to an environment wherein it is becoming easier for the regulated for-hire motor carrier industry to attract the interest of a greater cross-section of the financial community of this

country than ever before. Probably the most significant recent development in motor carrier financing is an increasing willingness of major insurance companies to join with banks in making long-term loans. In addition to consideration of value of terminals and/or revenue equipment, lenders are beginning to look more at motor carrier earnings records, and sometimes combine these elements for loan purposes. In view of this situation, as well as the fact that motor transportation is becoming of inccreasing importance to Maine; it is suggested that, in order to be ahead of possible developments in this state, the statute be amended to include at least a provision something like the following:

> A common carrier may issue stock, bonds, notes or other evidence of indebtedness, payable at periods of more than twelve months after the date thereof, when necessary for the acquisition of property, the construction, completion, extension, or improvement of facilities, or for the improvement or maintenance of its service, or for the discharge or lawful refunding of its obligations; Provided, there shall first have been secured from the Commission an order authorizing such issue and the amount thereof, and stating that in the opinion of the Commission the use of the capital to be secured by the issue of such stock, bonds, notes or other evidence of indebtedness is reasonably required for said purposes of the corporation. The provisions of this law will not apply to the security issuances of common carriers who are under the control of a federal regulatory agency.

The natural tendency of all industry, and the motor carriers are no exception, is to resist all extensions of government controls and what might be considered undue interference with private enterprise, except to the extent

that control may help their activities, as is the case, for example, with the regulation of competition. The fact remains that the common carrier motor operators, both interstate and intrastate, are endowed with a public interest and enjoy a franchise which provides them with a degree of monopoly and affords a certain amount of protection against competition. Moreover, intrastate motor carriers like the larger interstate carriers will have a continuing need for new capital and giving a state commission control over their capital structures will coordinate the regulatory processes, center them in the one state agency expected to be best qualified to deal with such matters, and make a substantial contribution toward a sounder and better motor carrier industry.

Part IX

Summary of Recommendations

The purpose of the recommendations made throughout this report and summarized here is to serve as suggestions, rather than to offer the exact wordings which might be enacted into law. Some may find fault with these recommendations on the ground that they are not as far-reaching as they should be or that they go too far. This is understandable. The guiding principle in this report, however, is to recommend only such changes as appear practicable, keeping in mind the increasing importance of motor transportation in Maine, the financial resources of the state and the vested interest that both the regulators and the regulated have in the present institutional arrangement for the regulation of commercial motor carriers. In each instance the wording of the recommendation would need to be tailored to conform to the content of the existing statutory language.

1. Rev. Stats. Chap. 48, Sec. 19 - Suggestion to strike out the words and the fact that they are not effectively regulated from the second sentence of this section (see pages 1 and 2).

2. Rev. Stats. Chap. 48, Secs. 20, 23, 24 - Conversion of a Commission rule to a statutory provision dealing with documents and proofs which should accompany applications (see page 17).

3. Rev. Stats. Chap. 48, Sec. 20 - Addition of specific

provisions concerning an applicant's financial responsibility (see page 22).

4. Rev. Stats. Chap. 48, Sec. 23 - Proposal to set a date after which all permits not already "clarified" shall no longer be renewed (see page 31).

5. Rev. Stats. Chap. 48, Secs. 5, 20 - Clarification on extensions of service involving an amendment of a certification or permit by provision that such amendment will be granted on the same basis that an original certificate or permit is granted (see page 35).

6. Rev. Stats. Chap. 48, Sec. 20 - Amendment to prohibit holding certificate as common carrier and permit as a contract carrier at the same time unless Commission finds that public interest so requires (see pages 38-39).

7. Rev. Stats. Chap. 48, Secs. 7, 25 - Amendment to clarify the status of certificates or permits as franchises or conferring property rights upon holders (see page 40).

8. Rev. Stats Chap. 48, Sec. 25 - Amendment to provide that the Commission may revoke any certificate or permit where holder is not furnishing adequate service or has failed to operate for a period of six consecutive months or if the continuance of such a certificate or permit in its original form is incompatible with the public interest (see page 43).

9. Rev. Stats. Chap. 48, Secs. 10, 28 - Amendment to require <u>all</u> carriers or persons or property for compensation to make filing showing financial responsibility (see page 44).

10. Rev. Stats. Chap. 44, Sec. 18 as amended by Chap. 400 Laws 1957 - Amend Chap. 48 of Revised Statutes to overcome general nature of wording of present Maine law to govern Commission in establishing reasonable rates for common and contract motor carriers (see page 52).

11. The rates charged by motor carriers are of such tremendous importance in a state where, due to abandonment of railroad service of many types and to many communities, motor trucks are the chief reliance of shippers and receivers of freight that a study of the Maine intrastate motor carrier rate structure should be considered (see page 52).

12. Rev. Stats. Chap. 48, Sec. 1 - Provision of specific statement governing commission authority to regulate the operating and time schedules, equipment and facilities of common motor carriers (see page 55).

13. Amendment to make Commission safety rules and regulations applicable to all types of motor carriers for compensation and to privately operated motor trucks and buses as well (see page 59).

14. Rev. Stats. Chap. 48, Sec. 33 - Leasing rules to be added to the Commission's Rules and Regulations to place Maine on a par with other states attempting to correct the illegal trucking situation (see page 65).

15. Amendment to strengthen the powers of the Commission in enforcing the provisions of Rev. Stats. Chap. 48 through the appointment of enforcement officers as employees

of the Commission (see page 71).

16. General suggestions on enforcement (see pages 72-73) - (a) Vesting all responsibility and authority for the regulation of commercial motor carriers, as distinguished from motor vehicles in general, in the Commission. (b) Codification of all state statutes relating to the Commission and to commercial motor carriers into a commercial motor-carrier code. (c) Codification of Commission rules and regulations cross-indexed to statutes. (d) Publication of Commission orders and decisions on a quarterly basis. (e) Establishment of trade-practice conferences by the Commission to foster industry cooperation and voluntary compliance with the statutes, rules and regulations.

17. Addition of a new section to Rev. Stats. Chap. 48 providing for regulation of the issuance of securities by common motor carriers (see page 77).

Acknowledgment

In the preparation of this report the author acknowledges his appreciation for assistance received from the following published material:

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REVIEW AND COMMENT OF THE PUBLIC UTILITIES COMMISSION UPON THE REPORT ENTITLED "A SURVEY OF THE MOTOR CARRIER STATUTES OF MAINE" BY DR. JOHN H. FREDERICK, CONSULTING TRANSPORTATION ECONOMIST

* * *

The following is not intended to be a critique of the report submitted by Dr. Frederick at the request of this Commission. It is rather intended to supplement Dr. Frederick's comments with our own and in some cases to point out to the Committee, areas in which our views differ somewhat with those expressed in the report. For purposes of simplicity and brevity, we will comment briefly on each of the recommendations set forth in Part IX on pages 78 through 81 of the report.

1) The first recommendation appears to be clarifying in nature, suggesting the removal from the provisions of Section 19, Chapter 48, of what appears to be an obsolete phrase. The proposed revision to effect this could easily be drawn.

2) A second recommendation suggests that a statutory provision be enacted setting forth requirements for the submission of certain documents and proofs to accompany applications for operating authority. The proposal would require of common carriers of freight and passengers that--a map designating the routes to be operated, an operating schedule, a certified copy of partnership agreement or articles of incorporation, and designation of agent--accompany the application. For contract carriers, the proposal would be

essentially the same as that imposed upon the common carriers with the exception that a map and time schedule would not be necessary; with the further requirement that contracts be submitted for approval by the Commission before operations are begun.

Much of this is already required through rule and regulation promulgated by the Commission. However, it is noted that our rules at present are not as complete as the statutory requirement suggested by Dr. Frederick. The present system of rules and regulations in this area results in considerable flexibility in such requirements. This has certain advantages to both the Commission and the applicant carriers appearing before it, as it may be necessary or desirable to require greater or less proof of this as existing or changing conditions may warrant. When such requirements are contained in the rules and regulations of the Commission, changes can be made as required. Statutory requirements are not as easily changed; therefore, if legislation of this type is deemed desirable, we suggest that the statute be drawn in such a way as to permit the imposition of such additional documentary proof by rule and regulation of the Commission as it may deem necessary.

3) Recommendation No. 3 suggests the addition of statutory language in regard to an applicant's financial responsibility. As pointed out by Dr. Frederick, financial responsibility is one of the elements considered in the present requirement of Maine law; that the carrier show its fitness and ability to perform the service for which it seeks authority.

In our opinion, the recommendation would be somewhat clarifying of an existing requirement. However, we nonetheless subscribe to it wholeheartedly. The purpose of statutory language such as that suggested is to put applicants and their attorneys on notice that financial responsibility will be an important consideration to be met in the test of fitness and ability. Such considerations are, of course, very important in the issuance of common carrier certificates. We are of the opinion that it also is important in the issuance of contract carrier permits and, therefore, suggest that this provision be made to apply generally to all applicants appearing before the Commission. As in the case of recommendation No. 2 this recommendation could conceivably be handled by rule and regulation of the Commission. However, as is the case of recommendation 2, statutory change would be available readily to all practicing attorneys as well as the carriers. In order to effect this, we believe that our rules and regulations should, in addition to any statutory amendments, also be amended to require the submission of a balance sheet and income statement (if any) with the application.

4) Recommendation 4 suggests that the existing statutes be amended to empower the Commission to set a date after which all permits which have not been clarified shall no longer be renewed. This suggestion is offered as a solution to the present difficulty encountered from the existence of approximately sixty unclarified "grandfather" permits. It

will be noted on page 31 of the report that Dr. Frederick is of the opinion that legislation to the extent proposed in the 101st Legislature or that suggested earlier by the Commission in its biennial reports is neither desirable nor recommended. We long have been of the opinion that a general proceeding wherein the clarification of the existing unclarified "grandfather" permits would be undertaken is both necessary and desirable, if motor carrier transportation is to be effectively regulated in Maine in the future. It appears that there is rather a wide range of opinion among the several holders of such permits and others, as to the form and the weight which shall be given the various elements of evidence presented in arriving at an equitable clarification of the grandfather rights. A controlling case in clarification of permits is PUC v. Vaughn O. Gallop 143 Me. 290. In that case, the Maine Law Court has established the guidelines that the Commission must follow in clarification proceedings. Notwithstanding this, however, there appears to be considerable confusion as to what rights grandfather permits confer upon the holder. We have attempted to the best of our ability to follow the principles laid down in the Gallop case in all clarification proceedings that have come before us since that time. We think it significant, and we believe this is borne out by the language of the Court in Gallop, that at the time the legislature created the grandfather clause, it also created statutory provisions whereby any carrier could obtain operating authority, if it met the statutory test, to perform

services that were beyond those performed by it prior to the passage of the Act. Therefore, we concur with the Court that the legislature intended to confer upon the holder of grandfather rights, the privilege to continue doing what they were doing during the so-called test period and nothing more. We are also of the opinion that the operations conducted by some of the contract carriers and the demands for service placed upon them has so changed in the ensuing thirty years since the passage of the Act, that the classification of contract carrier is no longer entirely proper. We will discuss this matter further in the general comments herein. Being well aware of the necessity to institute at the earliest possible time, the clarification of grandfather permits that have not already been submitted for clarification, we concur with Dr. Frederick that the Commission be given statutory power to establish a date beyond which such permits will not be renewed.

5) In the fifth recommendation the report suggests that a clarifying amendment to sections 5, 20, and 23 be added to specifically provide that extensions of authority (except through transfer) will be granted on the same basis as the issuance of the original certificate or permit. This means that the same showing would be necessary for additional grants of authority as is required of an original applicant. As a practical matter, this is the policy that is now followed and required by the statutes. This recommendation is one of a clarifying nature and we agree would be useful when translated into statutory language, as it would make clear the

showing necessary for any prospective applicant.

6) In recommendation No. 6 it is suggested that the statutes be amended to prohibit the holding of both a common carrier certificate and a contract carrier permit at the same time by a single person, firm, or corporation, unless the Commission finds it to be in the public interest. The implementation of this recommendation would, in our opinion, of necessity require the expeditious clarification of existing unclarified grandfather permits. Many of the existing common carriers possess both a common carrier certificate and an unclarified grandfather permit. The latter rights were acquired when the motor carrier Act was originally enacted by the legislature and must be presumed to contain operating authority for a contract carrier service which the holder was performing at that time. Because of the nature of such rights; that is, having origin in the grandfather clause, we are of the opinion that they should not now be removed by a future legislative act. We are convinced, however, that the holding of dual authority does present serious problems, particularly in the area of preferential treatment of an individual shipper granted services over and above those obtainable from usual common carrier operation or from other devices, which may result in the type of ill the original legislation was designed to cure. We hasten to add, however, that there is very little evidence of such activities at the present time.

Therefore, because of the fact that most of the carriers

who possess dual operating authorities obtained this authority through the grandfather provisions of the Act, we suggest that any legislation of this type be so drawn as to permit the present holders to continue to hold such authority, when clarified as suggested in previous recommendations, and that the granting of dual operating authority in the future be restricted to instances where the Commission finds that such dual operations are in fact in the public interest.

It is noted that Dr. Frederick's recommendation also contains two additional and equally important provisions which would prohibit any common carrier also holding a contract carrier permit, from transporting any property as a contract carrier between points which it is authorized to serve as a common carrier and, in addition, would prohibit the commingling of both common and contract carrier shipments in the same vehicle at the same time. These latter provisions, we believe, are consistent with the findings of the Commission and the Law Court in PUC v. Johnson Motor Transport, 147 Me. 138, thereby relieving the problem of determining in each case when the operation in question is common or contract carriage.

7) The seventh recommendation is, we believe, desirable in that it helps clarify an existing situation. At the present time, the State of Maine and nearly all the other states and the Federal Government issue certificates and permits to conduct motor carrier for-hire operation over the highways in accordance with conditions set forth in the

statutes. We have long been of the opinion that such a grant of authority, being a public grant, is also subject to removal or suspension by the public agency designated to administer the law.

The present statutes in sections 25 (IV) and 27 of Chapter 48, contain provisions whereby the Commission may revoke, suspend, or refuse to renew certificates of permit for willful or continued violation. The proposed amendment here would remove any doubt and thereby avoid contests in proceedings instituted for the purpose of suspension, revocation, or refusal to renew operating authorities. While the suggested legislation, in our opinion, is clarifying in nature, we feel it would be of real value in stabilizing the provisions of the existing law cited above.

8) Recommendation No. 8 suggests a statutory amendment to provide authority to revoke certificates and permits where the holder is not furnishing adequate service or has failed to operate for a period of six months (consecutively) or where a certificate or permit in its original form is incompatible with the public interest. We have, on several occasions in past biennial reports, recommended the adoption of such legislation. As previously pointed out, the existing statutes permit the suspension or revocation of certificates and permits for "willful or continued violations." The existing provisions, however, never have been construed as sufficiently broad to permit suspension or revocation for failure to provide adequate service or the revocation of an

operating authority where the holder has failed to operate or, in other words, where the rights have become dormant. We are of the opinion that if the Commission is to maintain the basic philosophy enunciated in the Act, of protecting and fostering a sound transportation system in the public interest, that a statutory provision similar to that recommended in the report is necessary in order to negate the holding of dormant operating authorities for later sale. The holding of such dormant authorities which may be later sold and activated constitutes, as a practical matter, a new competitive force which the existing carriers then adequately serving must meet. Such a condition is not in the public interest and does not contribute to the fostering of a sound transportation system, as the carriers serving, both common and contract, have invested substantial sums in equipment and facilities and when faced with a new competitor may be forced to curtail existing operations and the public suffers from an over-all deterioration of service. Furthermore, it seems quite evident that an operating authority which has become dormant has become so because there is no longer a public demand for the authorized service, and as such rights are granted by the public through a state agency they should not be trafficked in for profit by the holder.

9) Recommendation No. 9 would require that all carriers of persons or property for compensation file satisfactory evidence of financial responsibility. This suggestion would require amendment of the existing statutes. At the present

time, the sections of Chapter 48 dealing with financial responsibility for motor carriers are sections 10 through 13, and 28. These provisons apply only to motor carriers subject to the jurisdiction of the Commission.

The recommendation in the report would make similar provisions applicable to all carriers of persons or property for compensation which would include those now exempt by operation of the provisions of Section 29 for property carriers and those carriers of passengers not covered by the provisions of sections 1 through 18, and sections 34 through 39 of Chapter 48. We are of the view that a provision of this nature is required as a matter of justice, as under existing conditions, carriers of persons and property for compensation not subject to the Commission's jurisdiction, are not required to file evidence of financial responsibility unless required to do so under the financial responsibility laws administered by the Secretary of State. This results in carriers subject to the Commission's jurisdiction being required to maintain insurance coverage at minimums required in our rules and regulations, while carriers who are exempted from the Act, but who nonetheless operate for compensation are not required to file evidence of financial responsibility unless specifically called upon to do so by the Secretary of State.

It is our opinion, that the existing situation is unfair to the regulated carrier. We are further of the opinion that vehicles operated for compensation should as evidence of

public responsibility be required to maintain adequate liability insurance coverage.

10) Recommendation No. 10 proposes to amend the provisions of Chapter 48 to more specifically set forth the factors to be considered in determining the reasonableness of rates for common and contract carriers. The considerations enumerated in the recommendation are as a practical matter used by the Commission in rate cases that come before it at the present time, and are, we believe, consistent with past practice as well as being consistent with the statutory language in many other states and in the Federal Act. While an amendment to the existing statutes would not result in any new factors being considered in determining just and reasonable rates, it would place in statutory language the considerations that frequently have been enumerated in this Commission's decisions, as well as the decisions of other jurisdictions and would make readily available to the carriers and their attorneys, the more important tests to which just and reasonable rates must be submitted.

11) Recommendation No. 11 suggests that the Commission undertake a study of the intrastate rate structure similar to that recently conducted by the Michigan Public Service Commission.

The rates of common carriers in Maine are the result of a study conducted jointly by the Commission and the Maine Motor /Rate Bureau which commenced in 1954. That study resulted in the voluntary establishment of common carrier rates as

published by the Maine Motor Rate Bureau between points in Maine, based primarily on cost of service and length of haul. In that respect, the study was similar in nature and purpose to the Michigan study recently completed. The resulting rates which have been subjected to several revisions in the ensuing years, are still in effect. The basic study was reviewed in 1959 from basic data on a waybill study and a continuing cost study taken from the records contained in the annual reports of the carriers filed each year. Through this process, we are able to keep the cost study up to date each year by making adjustments therein for known wage and material cost increases. This procedure is also similar to that followed by the Interstate Commerce Commission in the publication of its territorial cost scales. It is our intention that this will be a continuing study throughout the years with periodical revisions to basic data obtained from new waybill studies, changing operating conditions and practices. We concur with Dr. Frederick's recommendations.

12) Recommendation No. 12 would modify the existing statutes to provide for regulation by the Commission of the operating time schedules, equipment, and facilities of common carriers of persons, and property. At the present time, there are no specific statutory provisions dealing with the adequacy of service. A statutory provision such as that suggested would clear up a rather vague area of control by the Commission over the adequacy of service performed by common carriers.

We are of the opinion that as the common carriers, through the operation of existing statutes, receive protection from unwarranted competition, they also should be subjected to an obligation to provide adequate service.

13) Recommendation 13 would subject all carriers both private and for-hire of freight and passengers to the safety regulations of the Commission. The existing provisions require the carriers subject to the jurisdiction of the Commission to observe the safety regulations which are promulgated as rules and regulations of the Commission. The intent of this recommendation is to include private and for-hire exempt carriers and subject them to the same safety regulations that are applicable to regulated carriers. Exempt and private carriers are now subject only to the motor vehicle laws set forth in Chapter 22.

With certain exceptions as hereinafter enumerated, we concur with Dr. Frederick's recommendation as a matter of justice which would result in the standard treatment of all commercial vehicles. In addition, as highway safety becomes increasingly important to the public generally, the enactment of provisions as suggested in the report, could reasonably be expected to aid the highway safety effort. Review of the recommendation, however, leads us to suggest that certain exceptions should be made in the application of these provisions. First, we feel that school buses are now adequately controlled and inspected under the provisions of Chapter 22, and that safety regulation by this Commission of

such vehicles would amount to unnecessary duplication. Therefore, in view of the fact that the Commission is now regulating charter bus operations and busses conducting special service, we are of the view that no change would be necessary in the statutes affecting the operation of motor busses.

Further, we would suggest that the statute not apply to trucks with a registered gross weight of nine thousand pounds or less. We take this position because many of these vehicles registered for nine thousand pounds or less are used in virtually the same way as the family automobile, or their commercial use is restricted to store deliveries or by individual craftsmen or tradesmen in the operation of their business; such as, plumbers, carpenters, repairmen, etc and are seldom if ever being used in the transportation of goods and merchandise upon the highways.

14) Recommendation 14 of the report suggests that the Commission prescribe regulations governing the leasing of motor vehicles. The suggested rules are consistent with those recommended by the National Association of Railroad and Utilities Commissioners.

The implementation of this suggestion would not, in our opinion, require any legislative action. The problem of leasing motor vehicles and its effect upon the regulated for-hire carriers is only too well known to the Commission and we propose to put this suggestion under consideration shortly.

15) The recommendations of Dr. Frederick concerning enforcement as shown in recommendation 15 concurs with the independent opinion reached by the Commission after several months of investigation. We, however, respectfully point out that there appears to be a difference in opinion and that the State police would prefer a special State police unit which in effect would be an expansion by number and by supervision of the functions that are now carried on for the Commission.

The Commission does not, however, concur with Dr. Frederick, at this time anyway, as to the need for uniforms or the power of arrest for such personnel. We are anxious that the investigative unit not in any way resemble or become known as a police-type unit. We feel this is important if the unit is to secure the information we need and also enjoy the confidence of the trucking industry.

16) Recommendation 16 contains general recommendations concerning enforcement of motor carrier laws. The first suggests that authority for regulation of commercial motor vehicles as distinguished from motor vehicles generally, be placed within the jurisdiction of the Commission. If the Committee were to adopt this recommendation, legislation would be required to implement it.

Part B suggests the codification of State statutes relating to the Commission and commercial motor carriers into a commercial motor carrier code. Parts C and D suggests codification of the Commission's rules and regulations and

statutes with proper cross-indexing and the publication of Commission orders and decisions on a quarterly basis. This matter has been considered by the Commission from time to time along with a general annotation of our decisions. We have long been of the view that such an undertaking has merit. Particularly, the annotation and codification of statutes, rules, and regulations. We believe that an annotation published at regular intervals would make unnecessary the publication of the full decisions and orders of the Commission. We propose to take this suggestion under consideration, and seek ways and means of accomplishing it. Part E suggests the establishment of trade practice conferences between the Commission and the industry for the purpose of seeking voluntary compliance with the statutes, rules, and regulations and to foster a better understanding of the needs of the industry and the public. We are of the opinion that this is a worthy suggestion and would be very valuable in establishing Commission policy in the future.

17) Recommendation 17 proposes to vest with the Commission jurisdiction over the issuance of stocks, bonds, notes, or other indebtedness of motor common carriers, with the exception that the provisions of the proposed statute would not apply to the security issues of common carriers who are under the control of a federal regulatory agency. Dr. Frederick points out that this provision is suggested in order to coordinate the regulatory process and make a substantial contribution toward a sounder and better motor carrier industry.

GENERAL COMMENTS

In addition to our above comments and those contained in the report, we offer the following in the way of general comments by the Commission in regard to the existing motor carrier statutes.

The motor carrier has in the past thirty years become a major economic influence in itself and further has greatly influenced the pattern and practices of material handling which are so far reaching as to also affect the general industrial development. The regulation of motor carriers and other modes of transport as well, has been and from all appearances will continue to be difficult, because of the fact that the various modes of transport compete with one another in addition to the competition existing between motor carriers themselves. This competitive influence has generally produced good results. However, this very fact perhaps makes even more necessary the continued regulation of the transportation industry to protect the public's interest in transportation, as well as the vested interest of the carriers themselves, and the larger shippers and receivers of freight.

The transportation industry always has been considered to be affected with the public interest. This is no less true today than it ever has been, notwithstanding substantial competition within the industry. Perhaps this can best be realized when one considers that virtually every consumer item must at some stage of its production be

transported. The effect of transportation upon the cost of goods is of major importance. Thus, the justification for continued governmental regulation.

It is equally necessary, however, that the regulatory process be capable and equipped to cope with the rapid changes in the demands made by the shipping public upon the transportation industry. Regulation should not hinder such changes; on the contrary, it should foster them when they are in fact in the over-all public interest.

Since the regulation of transportation was initially conceived in some states nearly a hundred years ago, a basic philosophy has prevailed that has been woven into the various regulatory laws. This basic philosophy is that the theory of common carriage is a valid one and that common carriers are necessary in the public interest to provide the service needed by our economy generally. Therefore, a regulatory law is placed upon the statute books, not only to require service by such carriers, but also to protect common carriers from unlawful or unnecessary competitive inroads.

Competitors are allowed into the field in instances where the common carrier is unable or unwilling to provide a specialized or, in some instances, unspecialized type of service. Over the years, motor transportation has assumed many specialized characteristics. In order to meet the specialized needs of the shipper, carriers have especially equipped themselves and have tailored their service to these demands. It is important to note that some of these

specialized carriers have also assumed many of the characteristics of common carriers, the most important of which is that they serve the public generally. The 101st Legislature recognized this characteristic of carriers engaged in the transportation of household goods; in other words, movers, when it enacted subsections 1 through 3 of Section 20, Chapter 48. We are of the opinion that there are several other categories which should receive similar treatment.

It is our view that it is as necessary in the public interest to protect and foster transportation service performed in this State by specialized carriers even though they are currently designated as contract carriers, as it is to foster and protect service performed by the common carriers of general commodities over regular routes.

It is also our view that the specialized carriers in performing their service do so over irregular routes and should be recognized as were the household goods carriers. Therefore, we feel that carriers who devote themselves to a special or several special types of service and who, in fact, perform this service as a common carrier by serving the public generally, should be so classified by proper amendment to the motor carrier statutes. With this reclassification and the corresponding protection under the law, they would also assume the responsibility of common carriers to serve the public generally at just and reasonable rates.

We wish to emphasize, however, that we are not of the opinion that common carriers of general commodities over

irregular routes are justified by existing conditions in Maine. It would appear at the present time that this State enjoys a rather high level of service by the existing regular route common carriers. Many of these carriers are serving communities on a regular basis that are located off the beaten path, so to speak, where high volume tonnage is simply not available to the carrier. To establish provisions for the recognition of common carriers of general commodities over irregular routes would, in our opinion, syphon off some of the higher density tonnage between the more heavily populated communities, which tonnage of necessity would have to be taken away from the regular route common carrier. In our opinion such a situation would inevitably lead to a general deterioration of the service available to our smaller outlying communities, with the result that perhaps higher rates would have to be assessed generally or perhaps the outright abandonment of service to some areas.

We would also like to bring to the attention of the Committee, the assignment and transfer provisions set forth in Section 25 (III), which requires the approval and consent of the Commission before a certificate or permit is assigned or transferred. These provisions have been interpreted to preclude Commission approval when control of a certificate or permit is acquired through stock purchase of corporations. Today most carriers are corporations

and as a consequence, operating authorities may be controlled, if not in fact acquired, through stock purchase. This becomes a problem when the controlling stockholder is also a carrier holding operator authority in his own right, and could result in the acquisition of operating authority that would not otherwise be considered in the public interest by the Commission in an assignment and transfer proceeding. We recommend a statutory amendment to overcome this difficulty.

We respectfully suggest to the Committee that such legislative changes as it may determine to be necessary or desirable, as a result of this report or representations made by other interested persons, be turned over for drafting to a committee consisting of one person from your Committee, designated by the Chairman; one person from the Commission designated by its Chairman; and two persons from the motor carrier industry, one representing common carrier group and another the contract carrier group.

Dated at Augusta, Maine, this 19th day of October, A.D. 1964.

PUBLIC UTILITIES COMMISSION OF MAINE

Frederick N. Allen

David K. Marshall

Earle M. Hillman

UNIFORM MUNICIPAL CHARTERS

> ORDERED, the House concurring, that the Legislative Research Committee is directed to study the matter of providing uniform municipal charters and alternative forms for adoption by municipalities without the necessity of legislative action: and be it further
>
> ORDERED, that the Committee report to the 102nd Legislature such legislation as is necessary to accomplish this purpose.

The work of the Committee in carrying out its study under the foregoing directive was greatly facilitated by the efforts of several public officials and representatives of private organizations who appeared before it.

The Committee, while it feels that the establishment of uniform charter provisions for municipalities would be desirable under the general law, appreciates the fact that it will require a substantial amount of time and money to prepare the necessary legislation, and apparently, since there is no particular support to warrant this, does not make the recommendation at this time.

Authority (3 M.R.S. §§161-164)

CHAPTER 7

LEGISLATIVE RESEARCH COMMITTEE

Sec.
161 Composition of committee; appointment.

162 Term of office; vacancies.

163 Authority; studies; purposes; director.

164 Functions and services of director.

§161. Composition of committee; appointment.

A Legislative Research Committee, as heretofore established, shall consist of 7 Senators to be appointed by the President of the Senate, and 7 Representatives to be appointed by the Speaker of the House of Representatives during each regular session. The President of the Senate and the Speaker of the House of Representatives shall be members ex officio. The committee shall elect a chairman who shall serve as such at the pleasure of the committee.

R.S. 1954, c. 10, §24; 1955, c. 381.

§162. Term of office; vacancies.

Members of the committee shall hold office from the date of their appointment until the final adjournment of the next succeeding regular session of the Legislature following their appointment. Any vacancy arising in the membership from the Senate shall be filled by the President of the Senate and any vacancy arising in the membership from the House of Representatives shall be filled by the Speaker of the House of Representatives.

R.S. 1954, c. 10, §25.

§163. Authority; studies; purposes; director

The committee shall have authority:

1. Collect information. To collect information concerning the government and general welfare of the State;

2. Examine construction and statutes. To examine the effects of constitutional provisions and previously enacted statutes and recommend amendments thereto;

3. State Government. To study the possibilities for consolidation in State Government, for elimination of all unnecessary activities and of all duplication in office personnel and equipment, and for the coordination of departmental activities, and for methods of increasing efficiency and economy;

4. Assist Legislature. To assist the Legislature in the proper performance of its constitutional functions by providing its members with impartial and accurate information and reports concerning the legislative problems which come before it, which information may be obtained by independent studies or by cooperation with and information from similar agencies in other states as to the practice of other states in dealing with similar problems;

5. Meetings; quorum; hearings; evidence. The committee shall meet as often as may be necessary to perform its duties and, in any event, shall meet at least once in each quarter. Six members shall constitute a quorum and a majority thereof shall have authority to act in any matter falling within the jurisdiction of the committee. The committee may hold either public or private hearings at its discretion and may hold executive sessions, excluding all except members of the committee. At any public hearing, witnesses who testify, whether summoned or not, shall be subject to cross-examination at the will of any interested party or his attorney. In such public hearings, at the request of any interested party or his attorney, common law or statutory rules or evidence shall apply and the Attorney General or any attorney in his department designated by him shall, at the request of the committee or such interested party or his attorney, be present at such public hearings and shall rule on the admissibility of any evidence;

6. Administer oaths; subpoena; witnesses. In the discharge of any duty imposed, the committee shall have the authority to administer oaths, issue subpoenas, compel the attendance of witnesses and the production

of any papers, books, accounts, documents and testimony, and to cause the deposition of witnesses, either residing within or without the State, to be taken in the manner prescribed by law for taking depositions in civil actions in the Superior Court. In case of disobedience on the part of any person to comply with any subpoena issued in behalf of the committee, or on the refusal of any witness to testify to any matters regarding which he may be lawfully interrogated, it shall be the duty of the Superior Court of any county, on application of a member of the committee, to compel obedience by proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued from such court or a refusal to testify therein. Each witness who appears before the committee by its order, other than a state officer or employee, shall receive for his attendance the fees and mileage provided for witnesses in civil cases in courts of record, which shall be audited and paid upon the presentation of proper vouchers sworn to by such witness and approved by the secretary and chairman of the committee;

1961, c. 417, § 8.

7. Director. The Legislative Research Committee shall appoint a qualified Director of Legislative Research. He shall be chosen without reference to party affiliations, and solely on the ground of fitness to perform the duties of his office. He shall be well versed in economics, in political science and law, and in methods of research. He shall hold office for a term of 6 years from the date of his appointment and until his successor has been appointed and qualified. He shall receive a salary of $11,500 per year and any necessary traveling expenses;

1955, c. 473, § 1; 1957, c. 418, § 1; 1959, c. 361, § 1; 1963, c. 380, § 1.

8. Appropriations. Appropriations for carrying out the purposes of this chapter shall be made biennially by the Legislature.

9. State departments to aid. Each state department shall furnish to the Legislative Research Committee such documents, material or information as may be requested by the committee or by the Director of the Legislative Research Committee;

10. Studies by state departments. Each officer, board, commission or department of State Government shall make such studies for the committee as it may require and as may be reasonably made without derogating from its chief functions and duties;

11. Recommendations by Governor. The Governor may from time to time send the committee messages containing his recommendations for legislation and explaining the policy of the administration;

12. Committee minutes. The committee shall keep minutes of matters considered and votes taken at its meetings and shall make reports to the Legislature on all matters which come before the committee, the actions taken thereon, and the progress made in relation thereto;

13. Reports. Reports of the committee may be made from time to time to members of the Legislature and to members of the incoming Legislature and to the public. A final report shall be made to the Legislature not later than during the first week of each regular session;

14. Compensation. The members of the committee shall be compensated for the time spent in attendance at meetings of the committee and of its duly constituted subcommittees, and when engaged in performance of duties under the instructions of the committee and authorization by its chairman at the rate of $10 per day and actual expenses incurred. No compensation shall be paid for attendance at any meeting of the committee held while the Legislature is in session.

15. Legislative Finance Officer. The Legislative Research Committee shall appoint a Finance Officer. He shall be chosen without reference to party affiliation and solely on the ground of fitness to perform the duties of his office. He shall hold office for a term of 6 years from the date of his appointment and until his successor has been appointed and qualified. He shall receive a salary of $9,000 per year and any necessary traveling expenses which shall be paid from the legislative appropriation. His duties shall be:

A. To collect and assemble factual information concerning the fiscal affairs of the State for the use of the Joint Appropriations and Financial Affairs Committee of the Legislature in formulating its proposals for appropriations;

B. To examine all requests for appropriations made by the various executive agencies of State Government and attend any hearings necessary to obtain complete information;

C. To examine other requests for payment of which appropriations are to be requested;

D. To report in such manner as shall be directed by the Legislative Research Committee as to any matters which may be of assistance to the committee or the Legislature in forming an independent judgment in the determination of any fiscal matters. (1961, c. 411.)

R.S. 1954, c. 10, § 26; 1955, c. 473, § 1; 1957, c. 418, § 1; 1959, c. 361, § 1; 1961, c. 411; c. 417, § 8; 1963, c. 380, § 1.

§164. Functions and services of director

The director shall perform the following functions and duties:

1. Research and reference service. Provide a comprehensive research and reference service on legislative problems;

2. Reports. Prepare reports setting forth the political, social and economic effects of legislation enacted, or proposed to be enacted, in this State or elsewhere, when so directed by the Legislative Research Committee or by either or both branches of the Legislature;

3. Assist committees. Assist and cooperate with any interim legislative committee or other agency created by the Legislature or appointed by the Governor;

4. Revision. Upon request, assist any agency appointed to revise the statutes of the State or any portion thereof, and at the direction of such agency, to consolidate, revise and clarify the statutes of the State;

5. Bill drafting. To furnish to the members of the Legislature the assistance of expert draftsmen qualified to aid the Legislature in the preparation of bills for introduction into the Legislature.

During regular sessions of the Legislature he shall perform such duties in addition to those provided for in this chapter as the Legislature shall direct;

6. Session laws. Prepare and index for printing as promptly as possible after the adjournment of each session the session laws thereof, which compilation shall include all acts and resolves which the Legislature has adopted during the session and which have received the approval of the Governor, when such approval is necessary, and any other material of a general nature that the committee may determine;

Immediately after each session of the Legislature to distinguish private and special laws from the public laws, and to cause cumulative tables to be prepared showing what general statutes have been affected by subsequent legislation in such manner as to furnish ready reference to all such changes in the statutes and in addition thereto shall make a complete index of the public laws of the State passed since the last revision of the statutes. The tables and index so prepared shall be printed in the official edition of the laws of the State;

7. Copy of public laws. After each session of the Legislature, to cause the public laws enacted thereat to be printed on good paper and in suitable type and to distribute the same within the State to all citizens thereof making a request therefor;

8. Pocket supplements. After each session of the Legislature to cause to be published cumulative pocket supplements of the volumes of the Revised Statutes, and any replacement or recompiled volumes thereof, which shall contain an accurate transcription of all public laws, the material contained in the next preceding pocket supplement, complete and accurate annotations to the statutes, appendix and other material accumulated since the publication of the next preceding pocket supplement and a cumulative index of said material;

1955, c. 463, § 1.

9. Continuing revision. After each session of the Legislature to prepare a report inserting in their proper places in the Revised Statutes public laws enacted since the last revision of the statutes, and after each subsequent session of the Legislature to prepare and file a report supplementing the report so that such reports and supplements thereto

shall form the basis of the next revision of the statutes, such reports to be made to the Secretary of State;

10. Report. After each session of the Legislature to prepare a report to the Legislature recommending legislation that will keep the statutes continuously revised and to file this report with the Secretary of the Senate on or before January 1st immediately preceding each biennial session of the Legislature;

11. Office hours. The offices of the director shall be kept open during the time provided for other state offices, and when the Legislature is in session at such hours, day and night, as are most convenient for Legislators;

12. Assistants. The director shall appoint, with the approval of the Legislative Research Committee, an assistant director and such technical assistants, and shall appoint, subject to the Personnel Law, such clerical assistants, as may be necessary to carry out this chapter. (1957, c. 397, § 5.)

R.S. 1954, c. 10, § 27; 1955, c. 463, § 1; 1957, c. 397, § 5.

RULES (Adopted July 16, 1957; July 14, 1959; July 11, 1961; July 17, 1963)

Rule 1. Regular meeting dates. Regular meetings of the Committee shall convene on the third Wednesday of each calendar month, unless otherwise ordered by the Chairman or by two-thirds vote of those present at a previous meeting.

Rule 2. Regular meeting hours. The Committee shall convene each day at 10:00 A.M. unless otherwise ordered by the Chairman.

Rule 3. Official meeting place. The Judiciary Room of the State House shall be the official meeting place of the Committee.

Rule 4. Special meetings. Special meetings of the Committee may be held at such times as the Chairman may determine.

Rule 5. Notice of special meetings. The Director upon the request of the Chairman shall issue written calls for all special meetings of the Committee. The call shall give the date and time of the meeting and such other information as the Chairman may direct.

Rule 6. Subcommittee meetings. The Director upon the request of the Chairman of a Subcommittee shall issue written calls for a meeting of the Subcommittee. The call shall give the date, and time of the meeting, and such other information as the Chairman may direct.

Rule 7. Meetings public. All meetings of the Committee and Subcommittees shall be public, except for executive sessions of the Committee or Subcommittees.

Rule 8. Minutes of meetings. The Director shall maintain an accurate, permanent record of all minutes and proceedings of the Committee and Subcommittee.

Rule 9. Order of business. The regular order of business of the Committee shall be:

(a) Call to order.
(b) Roll call.
(c) Reading and correction of minutes.
(d) Reading of communications.
(e) Original motions.
(f) Reports of Subcommittees.
(g) Committee meeting.

Rule 10. Rules of order. The proceedings of the Committee

shall be conducted in accordance with Robert's Rules of Order, except as otherwise specified in these rules.

Rule 11. Naming of Subcommittee. All Subcommittees shall be named by the Chairman and shall consist of not less than 3 members.

Rule 12. Appointment of Chairman and Vice-Chairman. The Committee shall select a Chairman, who shall preside at all meetings of the Committee when present. The Committee shall select a Vice-Chairman, who shall act as Chairman in the absence of the Chairman. The Vice-Chairman shall not be a member of the same branch of the Legislature as the Chairman.

Rule 13. Progress reports. Each Subcommittee may make a progress report on the matters referred to it at the regular meetings of the Committee. When a Subcommittee reports progress, a member of the Subcommittee may read or explain the report, and the Committee may immediately consider the information, facts and opinions presented in the report and may instruct the Subcommittee regarding its further action. Progress reports shall be of such a nature as to inform other members of the Committee of the problems involved and the possible solutions which might be considered.

Rule 14. Final reports. Each Subcommittee shall present a written, final report on the matters referred to it on or before the regular meeting of the Committee in October during the year the Legislature is not in regular session.

Rule 15. Expense accounts-subcommittees. The members of a Subcommittee shall incur no expenses in connection with Committee business except upon the approval of the Committee Chairman.

Rule 16. Release of information. Statements to the press or public relative to Committee matters shall not be made except by the Chairman or by those members authorized by him.

Rule 17. Change of rules. These rules may be altered, suspended or amended upon a two-thirds vote of the Committee present and voting.

SUBCOMMITTEES

1963-1964

Admission to Kindergarten and Grade One

Ralph D. Brooks, Jr., Chairman
Elmont S. Tyndale
Louis Jalbert
Archie L. Humphrey

Aid to Dependent Children

Samuel A. Hinds, Chairman
William Cole
John E. Gill
David B. Benson
David J. Kennedy
Louis Jalbert

"All Other" Expenditures at State Institutions

E. Perrin Edmunds, Chairman
John E. Gill
Samuel A. Hinds
David J. Kennedy
Archie L. Humphrey
Louis Jalbert

Allowances of Retired Fish and Game Wardens

Elmont S. Tyndale, Chairman
William Cole
Louis Jalbert
David B. Benson

Employment Security Law

Dwight A. Brown, Chairman
E. Perrin Edmunds
Samuel A. Hinds
Louis Jalbert
David J. Kennedy
Bradford S. Wellman
J. Hollis Wyman

Forest Research Programs

Norman K. Ferguson, Chairman
E. Perrin Edmunds
Bradford S. Wellman
Archie L. Humphrey

Highway User Taxes

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Robert A. Marden
E. Perrin Edmunds
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Sam A. R. Albair
Ralph D. Brooks, Jr.

Military and Naval Childrens Home

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David B. Benson
Samuel A. Hinds
E. Perrin Edmunds

Out-of-State Credit for Retirement System

Louis Jalbert, Chairman
Elmont S. Tyndale
Archie L. Humphrey
David B. Benson

Pesticides Upon Fish and Wildlife

Committee as a Whole
Dwight A. Brown, Chairman

Pre-Legislative Conference

Dwight A. Brown
Bradford S. Wellman
Robert A. Marden
David J. Kennedy

Pupils Attending School Outside Residence

Archie L. Humphrey, Chairman
Ralph D. Brooks, Jr.
Norman K. Ferguson
David B. Benson

Relationship Between ETV and WCBB

Bradford S. Wellman, Chairman
Robert A. Marden
Ralph D. Brooks, Jr.
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Salaries of State Officials

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John E. Gill
Samuel A. Hinds
Robert A. Marden
David J. Kennedy
Dwight A. Brown

Senate and House Journals

J. Hollis Wyman, Chairman
Archie L. Humphrey
David J. Kennedy
Robert A. Marden

State Income Tax

Committee as a Whole
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State Soil Conservation Committee

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Taxation of Boats

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Norman K. Ferguson
Sam A. R. Albair
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Transportation Needs of the State

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John E. Gill
Sam A. R. Albair

Uniform Municipal Charters

Sam A. R. Albair, Chairman
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Norman K. Ferguson
J. Hollis Wyman
Louis Jalbert
Bradford S. Wellman

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1941-1964

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Armand Duquette, Biddeford (R'55)

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Samuel A. Hinds, South Portland (S'63)
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George D. Pullen, Oakland (R'51; R'53; R'55)

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Norman R. Rogerson, Houlton (S'57)
Rodney E. Ross,Jr., Bath(R'55; S'57)

Lauren M. Sanborn, Portland (S'43)
Brooks E. Savage, Skowhegan (S'45; S'47; S'49)
William S. Silsby, Aurora (R'47; R'49)
Roy U. Sinclair, Pittsfield (R'51; S'55)
Stanley G. Snow, Auburn (R'45)
James S. Stanley, Bangor (S'61)
Leslie H. Stanley, Hampden (R'55)
Lawrence E. Stanwood, Steuben (R'55)
Carl M. Stilphen, Rockland (S'59)

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George W. Weeks, South Portland (S'55)
E. A. Welch, Mars Hill (R'43)
Bradford S. Wellman, Bangor (R'61; R'63)
Gilman B. Whitman, Woodstock (R'61)
J. Hollis Wyman, Milbridge (S'55; S'57; S'59; S'61; S'63)