

MAINE STATE LEGISLATURE

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COUNTY GOVERNMENT

MAINE

MAINE
LEGISLATIVE RESEARCH
COMMITTEE

FOURTH REPORT

to

NINETY-SIXTH LEGISLATURE



COUNTY GOVERNMENT
TRANSPORTATION PROBLEMS
RECREATIONAL NEEDS OF THE STATE
MAINE EMPLOYMENT SECURITY LAW
OIL BURNING OR LIQUEFIED GAS EQUIPMENT

January, 1953

STATE OF MAINE
SUMMARY REPORT
to
NINETY-SIXTH LEGISLATURE

LEGISLATIVE RESEARCH COMMITTEE

From the Senate:

Frederick N. Allen, Cumberland, Chairman
Albert C. Brewer, Aroostook
Foster F. Tabb, Kennebec

From the House:

Edward E. Chase, Cape Elizabeth
John H. Carter, Bethel
Lloyd T. Dunham, Ellsworth
Lewis D. Bearce, Caribou (Deceased)
Roy U. Sinclair, Pittsfield
David W. Fuller, Banger
Louis Jalbert, Lewiston

Director:

Samuel H. Slosberg, Gardiner

January 7, 1953

To the Members of the 96th Legislature:

The Legislative Research Committee hereby has the pleasure of submitting to you the fourth section of its report on activities for the past two years. This year, due to the large number of items on our agenda and the scope of these studies, we are submitting our report to you in sections.

This fourth section deals with the committee's studies concerning County Government, Transportation Problems of State, Maine Employment Security Law re State Employees, Recreational Needs of the State, Oil Burning or Liquefied Gas Equipment, as directed by the orders of the 95th Legislature.

LEGISLATIVE RESEARCH COMMITTEE

By: Frederick N. Allen, Chairman

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COUNTY GOVERNMENT

ORDERED, the senate concurring, that the legislative research committee be, and hereby is, directed to study and investigate the government and management of the several counties in the state, including the feasibility of the county manager form of government; and be it further

ORDERED, that a report of such study together with any recommendations deemed necessary be made to the 96th legislature.

In order to assemble facts regarding county government in Maine in sufficient detail to justify general conclusions and recommendations, the committee employed Professor Edward F. Dow of the University of Maine. Professor Dow was told to devote to this work as much time as possible within the limits of funds made available. He was specifically instructed that the committee was interested primarily in facts and figures, as a basis for drawing its own conclusions, but that the committee would also be pleased to consider such recommendations as he might wish to make, based on his own study of the subject. Professor Dow's report will be reproduced and distributed to the members of the 96th legislature under separate cover.

Professor Dow has assembled a supply of factual

data, of which only a small part is embodied in his formal report to the committee, the remainder being available in the committee files, or library, for study and use by any members of the legislature who may wish to advance specific proposals for changes in county government.

While there is room for differences of opinion regarding some of Mr. Dow's recommendations proposing drastic reforms, the committee believes that several of his suggestions have great merit, and that many of the others deserve serious consideration. The fact that some of these recommendations will be highly controversial is no reason for believing that nothing can be accomplished.

The committee is agreed, first, that county government in Maine badly needs reform, and second, that needed reforms will be very difficult to accomplish. In considering what ought to be done, we have applied a test which we told Professor Dow not to apply, namely, the test of political practicability. In our opinion it is proper and right for a legislative committee to consider any proposed reform from the angle of timing. To promote a right cause at the wrong time, or to advance too many right causes

at once, or to get the causes in the wrong sequence, may result in destroying all hope of any reform. While the committee strongly recommends that steps be taken by the legislature to effect changes deemed desirable, we believe that it would be wrong to undertake too much at one legislative session.

Awareness of the weaknesses in county administration requires a greater familiarity with government than most people possess. There seems to be no strong opinion on the subject, except concerning an apparent weakness in a particular county office where shortcomings have aroused public indignation. The people may blame a delinquent official, or even occasionally themselves, but they are only slowly coming to see that the real difficulty may lie in the system itself. To arouse a public opinion strong enough to overcome the opposition of vested political interests in the existing system will require a widespread public conviction that changes are necessary. Even when the public is convinced, it will be important to remember, as Webster said, that "A strong conviction that something must be done is the parent of many bad measures." So we recommend that legislative attention be first

directed to the more urgent problems of county government, to which we make more specific reference hereafter; and that every effort be made to promote an enlightened public interest in the entire subject in the hope that substantial improvement may be made over a period of years.

Especially, we urge the citizens committee on state government to give careful study to this matter, because the aim of public enlightenment was expressly made an important objective for that committee to accomplish and because such enlightenment is an essential first step for any thorough reorganization of public agencies and offices. If the next legislature should see fit to undertake further work in this field, it may be desirable to narrow the scope of its study to those phases which appear to offer the most promise for improvement.

JAILS

The committee is in general agreement that the setup of our fourteen jails is not only questionable but that immediate steps might well be taken to eliminate most of them and set up in their place work farms under the state penal system. We would however preserve as lockups the better jails as necessary for the confinement of more serious

criminals. The Dow report, plus the personal inspection by committee members, shows clearly that most Maine jails are expensive to operate and that they are also generally inefficient and lacking of modern penal requirements. Operation of the jails is a prime responsibility of the sheriffs.

In this modern day of transportation it seems ridiculous for small counties to have the expense of maintaining two, three or four jail inmates. Only two counties are now using another county's jail--Lincoln county and Sagadahoc county prisoners are boarded at the Kennebec county jail at Augusta.

The discussion of the issue of "work" jails vs. "idle" jails brings forth many interesting observations and is a compelling reason for the founding of state work farms for the lounging prisoners now reposing in moldy cells of century-old tomb like jails. At a jail inspected by committee members, it was found that of 13 prisoners incarcerated, only 5 were in the jail, while 7 were working at the sheriff's private home a half-mile up the street. He said that they were rebuilding his residence and that he was paying them \$2.00 per day. The others were loafing just outside their cells in the cell block at the time of the inspection, and one prisoner was in the kitchen as a trusty.

SHERIFFS

We disagree with Professor Dow, who advocates elimination of the office of sheriff. We feel that this might occur in the far distant future but that for now the departments should be strengthened both in the civil and enforcement fields. If the responsibility for jails were removed from the sheriffs and transferred to the state department in charge of correctional institutions, the sheriff would have more time to concentrate on training his staff of deputies. While statutory requirements for adequate training of deputies might be difficult to draft, we think that the legislature should clarify the duties of the sheriff in this respect, and should establish responsibility at the state level to make sure that adequate training is being carried on in every county.

CLERKS OF COURTS, REGISTERS OF PROBATE, ETC.

Recording functions of clerks of courts, registers of probate, and registers of deeds should be integrated into a state department of records under the supervision of the Secretary of State. The records should remain in the county court houses, but should be gradually changed to effect a uniform system. The Secretary of State should be

directed to recommend a plan to accomplish the foregoing objectives over a period of years. For so long as these officials are elected by the people by counties, they should be paid by the counties, but the state might assume part of the expense of maintenance of the office facilities. Clerks of courts, registers of probate, and registers of deeds should continue to be elected by the people, at least until such time as experience may prove that a different system of selection is required.

COUNTY ATTORNEYS

Effective law enforcement requires a high degree of character and competence in the office of county attorney. Under the existing system, which limits the people's choice to aspirants for this county office and which by reason of a fixed salary for part-time employment creates an incentive for lack of diligence, satisfactory performance in law enforcement throughout the state is too much to expect. In order that the system of selection of county attorneys may afford a sound basis for the hope of satisfactory results and for fixing responsibility for law enforcement at the state level, it has been proposed that county attorneys

be appointed by the Attorney General. While the committee believes that this proposal is worthy of consideration, we are reluctant to make this recommendation, because we are not satisfied with the present method of selecting the Attorney General. While this takes us outside of the specific reference to county government, as contemplated in the order for study, we are obliged to qualify our recommendation regarding county attorneys. We believe that county attorneys should be appointed by the Attorney General, provided that first the power of selection of the Attorney General be placed in the Governor, subject to approval by the Executive Council. This would require a constitutional amendment.

The power to appoint the Attorney General is now in the Governor and Council in case of a vacancy when the legislature is not in session.

The salaries of the county attorneys are now paid by the state. The work now done by sixteen county attorneys could be done more effectively by a smaller number. If the office should be made appointive as suggested, the Attorney General should be directed to present a plan for grouping counties in law enforcement districts for the exercise of duties and functions of the office.

JUDGES OF PROBATE

Judges of Probate should be appointed by the Governor or by the Supreme court. This would require a constitutional amendment. Subsequent to the adoption of such a constitutional amendment, the chief justice should be directed to present a plan providing for the gradual reduction in the number of Judges of Probate, to the eventual end of instituting full-time county circuit employment at salaries adequate to assure high quality in the office. Judges of Probate in office should serve out their terms. We recommend that the legislature consider conferring upon the probate courts jurisdiction over divorces and domestic relations.

COUNTY COMMISSIONERS

If the duties and responsibilities of the office should be diminished by reason of changes here recommended with respect to other county offices, it should eventually be possible to substitute a county manager system on a state-wide basis. In the meantime permissive legislation may be desirable to enable the people of any county by vote to adopt a system of management under which county commissioners would be allowed or required to delegate authority to a full-time manager. Inasmuch as the county budgets prepared by the commissioners are subject to the approval of the legislature, we

recommend that the county delegations give more serious attention to these budgets.

COURTS

Professor Dow's report refers in some detail to the functions of the courts, and while the committee has not had the time to adequately study this phase of county government, and also taking into consideration that the courts are technically not a part of a county government survey, we nevertheless feel that it represents an important subject for study, and would recommend that such matters as dealing with the courts be referred to the legislative legal committees. We also feel that the committee on correctional institutions should investigate more fully our survey on jails, and that the legislative committee on towns and counties should review the various duties, functions, salaries, etc. pertaining to county officers.

The subject of county government is of such broad scope that this group had neither the manpower, time or funds with which to cover adequately the work entailed. As has been stated at the beginning, we hired Mr. Dow with the idea that he could gather pertinent facts about the subject and that the committee could delve thoroughly into several of the

matters. This we felt was more advisable than for us to try to cover the whole subject with only a top surface scrutiny. With this in mind the committee feels that the door is opened on the subject and that with this preliminary data the 96th legislature can decide whether it agrees with this committee that the subject certainly needs further study.

The foregoing recommendations in some instances reflect the views of a majority of the committee. It is understood that members holding other views are free to differ herein or hereafter from the majority opinion, and to add to this report an expression of their own views or a record of their dissent from particular recommendations.

TRANSPORTATION PROBLEMS OF STATE

ORDERED, the senate concurring, that the legislative research committee be, and hereby is, authorized and directed to study the transportation problems of the state government, particularly as they relate to the custody and control of motor vehicles owned or leased by the state and individuals and used by officials and employees on state business; and be it further

ORDERED, that the committee report the results of their study to the 96th legislature.

Much discussion has been heard concerning the transportation problem in our various state departments.

There are three systems of travel allowances accepted and carried out by the various states:

1. The present state of Maine system, by which a state employee owns his or her car, and is paid on a mileage basis for travel on state business. A variation of this plan has the state employee using a state-owned car, on a full or part-time basis.
2. A complete state-owned car system.
3. A car lease program.

The first of these systems means that in many departments the state employee owns his own automobile, and is reimbursed periodically for the use

of his car, based on so much per mile.

Also, under the present plan, many employees have state-owned cars, and are given a gas and oil credit card for use when travelling. Major repairs of these vehicles are handled at the state garage.

The second of these systems would entail the purchase of a number of motor vehicles by the state. It would also mean the construction of state-owned and state-operated garages in certain sections of the state. This would naturally involve an original investment of a large sum, to say nothing of maintenance. Such a plan would put Maine into the automobile and garage business. From the point of view of economy, it is the opinion of the committee that this plan is not a feasible one.

The third system resembles the second, except that instead of purchasing the vehicles outright, the state would lease cars, to be turned in at regular intervals, and pay the agency contracted with on a monthly basis for each motor vehicle. It appears this plan would be less expensive than one contemplating state-owned automobiles, but we

would still be faced with an original expense for garages in various sections of the state. These garages would also have to be equipped, staffed, and maintained at considerable cost.

It is the opinion of the committee that the departmental heads of our state government could be asked to give more attention to the following points, if the present system is to be retained:

1. Employees using individually-owned cars for travel.
2. More strict distribution of state-owned automobiles to employees on a permanent basis.
3. Closer scrutiny of employees using state-owned cars on a part-time basis.
4. More encouragement of car pooling.

The committee appreciates the fact that an individual is not expected to return a state-owned car to a state garage nightly. By the same token, a state-owned car should be restricted in usage to purposes for which it is intended. Personal excursions in state-owned cars should be curbed.

One suggestion is brought forward, by the committee,

to the effect that a more detailed report of explanation be filed when signing out for the cars.

Furthermore, we recommend a travel bureau, with authority, and conducted on a business-like basis which could save the state much unnecessary expenditure. It is the suggestion of the committee that the legislative committee on appropriations and financial affairs, and the legislative committee on transportation meet jointly and make a thorough study of this question.

MAINE EMPLOYMENT SECURITY LAW

Re State Employees

ORDERED, the senate concurring, that the legislative research committee be, and hereby is, ordered to study the provisions of chapter 430 of the public laws of 1949, namely the Maine employment security law, to determine the advisability of granting "unemployment compensation" coverage to the employees of the state and its several jurisdictions; and be it further

ORDERED, that the committee shall make such report or reports and such recommendations as it concludes and such reports shall be made prior to the date of the convening of the 96th legislature.

The purpose of this joint legislative order was to determine the advisability of including State employees within the provisions of the employment security law, thus extending to them the same benefits of unemployment compensation as now accrue to industrial workers.

At the public hearing held before the legislative research committee on February 13, 1952, the following facts and conclusions were drawn:

The state has about 4,500 regular employees who work 40 hours a week, 52 weeks in the year. Layoffs in this particular group are very small; however, there was no method available for computing the number of part-time and seasonal workers inasmuch as the number fluctuates with the season

and need for such employees.

Based on the state of Maine payroll of \$15,000,000.00 the cost of unemployment insurance could run as high as 3% or \$450,000.00 to the state, or as low as 9/10 of 1% or approximately \$135,000.00. However, a program not covering all state employees could be promulgated at a much lower cost.

New York is the only state in the union to offer such coverage at a cost of $\frac{1}{2}$ of 1% of their total payroll. Not even the Federal government participates in employment coverage.

Separation from state employment is rather low in the full-time group but is high in the part-time and seasonal groups.

It might be pointed out that institutions' separations run from 10%-12% a month and in any year might conceivably run as high as 100%.

After careful and serious consideration of this problem, the committee feels that the subject has many inherent difficulties to overcome and that any plan to include state employees within the provisions of the employment security law is not feasible at this time.

RECREATIONAL NEEDS OF THE STATE

ORDERED, the house concurring, that the legislative research committee be, and hereby is, directed to study and appraise the recreational needs and standards of the state; and be it further

ORDERED, that the results of such study together with any recommendations be reported to the 96th legislature.

While the language of the order might be construed as directing the study of the entire recreational facilities of the state, it appeared upon hearing from the active proponents of the order that the purpose in mind was the establishment of a state agency to stimulate, organize and direct recreational activities in the cities and towns of Maine.

The committee was impressed with the spirit, interest and enthusiasm displayed by those invited and appearing before them to urge state action on this matter; nevertheless, after serious study the committee does not agree with the thought of a central clearing house at state level and at state expense.

The belief existed that the recreational leadership should remain or should be found in the communities

and that it should be purely voluntary with each community or locality deciding the specific type of its recreational needs.

It was also felt that leadership at the state level might hinder rather than help, and that the activities of state government in this field should be directed and confined to further development of state park recreational facilities which involve expenditures beyond the means of smaller communities to provide.

OIL BURNING OR LIQUEFIED GAS EQUIPMENT

ORDERED, the house concurring, that the legislative research committee be, and hereby is, directed to study the need of regulating the installation of oil burning or liquefied gas equipment utilized for heating or cooking; and be it further

ORDERED, that the committee report the results of its study to the 96th legislature.

The above order pertaining to oil burning and liquefied petroleum gas equipment involves a matter which came to the attention of the 95th legislature due to the large number of fatalities caused by fires involving oil ranges. The sponsor of the legislation felt that it was advisable to have either regulations pertaining to the licensing of oil burner mechanics or regulations pertaining to the industry in general which would have the effect of reducing the serious problem which was felt to exist in Maine. The public hearing held by the committee in September, 1951 produced general testimony by industry spokesmen that they were attempting continually to control the type of equipment being installed and to educate those persons who were working on such equipment.

RANGE OIL BURNERS

Most of the 97 fatalities in 1950 and 1951 in Maine were caused by fires from range oil burners. It

was the concensus of opinion that the only real way of coping with this problem was for manufacturers to work out their own safety devices and for the various states to require that burners carry an underwriter's label. Licensing of individuals installing these burners, of course, is not much protection, nor is it very feasible as most of the burners are sold through appliance or chain outlets and are installed by the home owner. The main problem involved here appears to be that of educating the public against destroying themselves by foolish or careless acts in the operation of these units.

POWER BURNERS

Testimony collected by the committee relating to the installation and maintenance of power burners was of a conflicting nature when it came to the advisability of licensing and examining persons who were to install and service equipment.

Mr. Flynn of the state insurance department felt decidedly that there should be state department regulations of the installation of oil burners and that the individuals installing the burners should be licensed. He also feels that manufacturers should be required to build in certain safety

devices. Spokesmen for the industry were in complete agreement as to the advisability of regulations and amendments to the present law to give the insurance commissioner powers covering oil burning equipment but did frown on any legislation requiring specific devices. The committee generally is in agreement with these opinions.

LIQUEFIED PETROLEUM GAS

In a discussion of liquefied petroleum gas one should remember that all of this gas is produced outside of the state then brought in and distributed to customers. It is handled as a liquid but is used as a gas. There appear to be about 15,000 installations in Maine and the great majority are using this liquefied petroleum gas for cooking, a small number for heating water, and very few others for refrigeration and other miscellaneous uses. The industry appears to regulate very well safety measures pertaining to its use and there appear to be only one or two serious accidents in the state which can be laid to liquefied petroleum gas or its equipment.

In general the committee feels, as do those persons

in the industry, that there should be some revision of regulations and statutes covering this whole field, and that the 96th legislature should take measures to close any loopholes which may now exist.

IN MEMORIAM
LEWIS D. BEARCE

We wish to express our sincere sorrow on the passing of a faithful and conscientious member of the Legislative Research Committee, Representative Lewis D. Bearce, who died in August of 1952.

His passing left a definite void in our committee. His sincerity and integrity in meeting the responsibilities and duties of his assignments were a source of inspiration to his fellow committee members.

His service to this committee and the State will long be remembered.