

MAINE STATE LEGISLATURE

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LEGISLATIVE RESEARCH COMMITTEE

State House, Augusta, Oct. 7, 1942

Re: Annuity premium tax, teachers' pension fund.

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MR. WEBBER: Now I want to take up the first of this afternoon, as expeditiously as possible, two matters that coming together, or at least one right after the other, may seem somewhat unrelated but which some of us feel may possibly be related or a sort of thing that can be related. One is the Teachers' Retirement Pension program and the general situation of the school fund, which I will ask Mr. Gilson to develop, and Mr. Perkins is also a member of the board, so it is proper he should be here; and then the possibility of an annuity premium/^{tax.} I will say that was scheduled for the first thing this morning, but two gentlemen representing the Union Mutual, which would be the only domestic company in Maine that would be affected, were notified and invited here but were unable to be present today and stated their views to Mr. Perkins, who can state them to the committee.

The reason I am tying those things together is that it may appear some additional revenue may be desirable to assist the teachers' pension program and the annuity premium tax furnishes a possible source of additional revenue which might not have too many embarrassing features. For that reason, I suggest taking them up together. I will ask Mr. Gilson to present the difficulties that surround the pension program.

MR. GILSON: Well, our position is this: that the financial difficulties with both the public education set-up of the

State and the teachers' pension obligation combine to place us in a position where we are simply going to have to ask for a considerable sum of money if we are going to carry both set-ups as they have been carried in the past.

As you people probably know, during the course of the last ten years there has been a reduction in school appropriations made of \$465,000, I believe, and along with that there have been increased demands for the two types of teachers' pensions in which the State now recognizes an obligation, therefore it is my recommendation that the pension problem be studied as a part of the whole financial problem of the State support of public schools.

Apropos of that suggestion, I would like to point out that this teachers' pension plan started out as rather an innocuous thing from the standpoint of the drain it was going to make on public school funds, but it has grown by leaps and bounds. As late as 1923, with a total school fund of \$2,264,000, an amount of only \$46,655 was required for the teachers' pension fund. This obligation accrued, and then when the contributory teachers' retirement obligation was added to that it made two plans for which the State had to recognize financial obligation.

In 1933, for example, ten years ago, there were nearly \$190,000 of pension moneys required. In 1933, with a reduction in State school appropriations of \$275,000

decreased revenue the Legislature was faced with the problem of being unable to continue the pension payments as they were stacking up and at the same time be able to have any amount of any consequence to issue to the towns and cities for support of schools, whereupon they suspended those payments in 1933 by act of the Legislature, and since then those payments have been building up, those obligations have been building up. There is a bill which the State owes to the Teachers' Contributory Retirement Plan.

Meanwhile the Education Department funds have continued to carry the non-contributory teachers' pensions which have steadily increased, so that at this time the non-contributory still being deducted from educational funds has resulted in withdrawal of about \$296,000. The effect of this reduction in State school appropriations together with the non-contributory teachers' retirement obligations being deducted from it means just this to the towns and cities of the State: In 1933 there was available state moneys to be distributed to towns \$221,000, together with a three-dollar allotment for each child of school age in every town and city in the State. In 1941, the reductions, together with the increased demand for pension funds had wiped out the aggregate attendance moneys of \$221,000 and had reduced the appropriation on a census basis to a figure of \$1.63, and it is still going down, which brings us at this time to this problem: First, that more state money is necessary

for the support of public schools in this state, given the responsibilities and increased costs facing public education at this time; and, secondly, the obligation of the state to the pension fund will present a grave situation unless means are found to meet past and future obligations.

Recent actuarial studies indicate that pensions, both contributory and non-contributory, may reach at their peak the sum of \$700,000 annually. Obviously that is an obligation that the State school appropriation wont be in a position to stand.

Now I have two or three recommendations concerning this point jointly, Mr. Webber, if you would like to have them. The first one is: The State obligation to teachers' pensions, both contributory and non-contributory, should be financed and administered separate and apart from the State school fund, our position being that teachers' pensions are not a phase of public education but a problem of social security as are other pensions, and when we conceal the cost of teachers' pensions in the present school appropriations we give the public a false impression of the assistance which the State is rendering to the education of the children. A precedent established years ago by the payment of small amounts of school money for pensions has developed the pernicious policy of providing for our old people at the expense of our children. As long as pension responsibilities are considered as part of public education, our schools will suffer from increased demands on school funds.

The second recommendation is that legislative action be sought to provide necessary funds to maintain the following pension obligations: A. Teachers' non-contributory retirement. B. Teachers' contributory retirement. C. The clerical and administrative expense incidental to maintaining those which again has had to be borne by the Department of Education.

The third recommendation we had was that legislation be sought to provide for the administration of teachers' pensions under the direction of the existing State Pension Board, or, if that is not practical, an alternative that a separate division be provided under the direction of the State Department of Education to which pension funds are allocated and administered entirely apart from public school moneys.

That is about my story.

MR. WEBBER: I am not sure whether you have covered it in all these figures or not, but I assume the Committee is more or less familiar with the non-contributory pension program.

CHAIRMAN DOW: I have a question.

Mr. Gilson, can you tell -- I don't want this to be an unfair question, but can you tell from any indications you have seen as to whether or not the non-contributory has anywhere near run its peak as to amount of money?

MR. GILSON: No. We know up to date from figures we have that it has steadily increased. The actuaries who made studies

of the pension plan tell us that it will continue to rise probably until about 1960.

CHAIRMAN DOW: We are a long ways from the peak.

Have any payments been made as yet out of the contributory pension fund?

MR. GILSON: No; because I know of none of these people that are in that would be eligible at this time.

CHAIRMAN DOW: So that is intact?

MR. GILSON: Yes.

CHAIRMAN DOW: And what is the amount of it?

MR. PERKINS: A little better than \$800,000 they have put in. The State has put in about \$80,000. Under the present law, the amendment in 1932, the State would double everything the teachers put in. The State of course has not done that since 1932.

CHAIRMAN DOW: You mean double it or put in an amount double their contribution?

MR. PERKINS: Whatever the contribution is, they are supposed to match it and put it to work at interest. There is the difference between the \$800,000 to the teachers' credit and the \$80,000 put in before 1932 by the State.

MR. GILSON: I have the exact figures here. There has been \$821,536 donated by the teachers: the State paid up to 1933, \$88,537. That leaves the State owing that fund a balance of \$732,999.

CHAIRMAN DOW: That \$800,000 in the kitty is contributions plus earnings?

MR. GILSON: Yes.

CHAIRMAN DOW: But the State owes that because they match it from time to time?

MR. GILSON: Yes.

MR. WEBBER: Now, Mr. Perkins, you have the actuarial point of view, and I think you had some thoughts as to how a program, if it were started right away, might be worked out to take care of this over a period of years.

MR. PERKINS: Obviously you will have to match the contributions you are going to get in from now on: as the teachers put in a certain amount it should be matched by the fund, which leaves you with a balance of \$732,000 which must be made up. Now that can be spread over a period of at least thirty years because in practice you do not stand your loss all at once. I mean, for instance, a man retires and the present value might be \$10,000 you have to pay him, but that does not mean you are going to lose the \$10,000 tomorrow: it means over his lifetime you are going to have to put out \$10,000, therefore there is no real need of getting panicky about the thing, but you should outline some situation which over a period of thirty years would liquidate this \$732,000. If that is followed, then your fund will be solvent.

MR. GILSON: I think there is, too, the problem of steadily increasing current obligations from year to year on this thing. They were unable to meet that condition of things in 1933, and I think in addition to the back obligations now there is still the current obligation.

MR. PERKINS: Oh yes, you have got your current obligation.

CHAIRMAN DOW: What is the average current obligation, would you say?

MR. WEBBER: While he is looking that up, if my mathematics serve me, somewhere around \$25,000 a year over the period you mentioned would about be it.

MR. PERKINS: That wouldn't do it, and I will tell you why. The \$732,000 that is there is a present value. That is going to earn interest and continue to increase, so whatever payments you make over thirty years have got to come back to the present time to get your values right. If I had my interest book at 3 per cent, I could tell you. I have got one downstairs. It will only take a minute to tell you what that should be.

Of course there is one thing about it: you can't discount it directly at interest, because if any of these people die before retirement or leave, the State's liability is just out of the picture, because they are handed back just their own funds, so it is not fair to discount it just at interest: you have got to take into consideration withdrawals and things of that nature, which will bring the amount that you have to put in down. It really should be done with a mortality table.

MR. BOUCHER: About \$36,000 a year.

MR. PERKINS: I wouldn't want to make an estimate until I tried it out.

MR. PAYSON: Mr. Perkins, I never read that teachers' contributory pension proposition. Is there anything besides the fact it was a statute which makes it necessary for the state to put in specifically the same amount that the teachers put in?

MR. PERKINS: No; that was just an amendment that was stuck in, and the word "double" has been put in.

MR. PAYSON: Do the teachers' rights depend on the amount of the fund?

MR. PERKINS: Oh yes; the pension they will get will be what the State's fund plus interest, plus their fund plus interest at the time will purchase. In other words, if they put in \$5000 and the State puts in \$10,000, that would be used to pay the pension, just the same as if they stepped out to an insurance company and bought one, except in an insurance company you would make charges for expenses and things like that, but under this law of course there are no expenses put in there at all.

MR. PAYSON: Then their rights are vitally bound up in that proposition?

MR. PERKINS: Definitely.

MR. PAYSON: I was wondering -- of course on the other contributory pension we are not putting in the same amount that the employee is.

MR. PERKINS: No. Well, actually you should but practically you wont have to. If I can point this out: You see you

get their contributions, but suppose one of these persons withdraws -- and a lot of them do -- or suppose somebody dies -- that person never gets their check -- they get what they put in plus interest.

MR. PAYSON: It looks to me like that thing would leave the teachers sitting awfully pretty, if the State keeps up its end of it, if the State has got to match dollar for dollar every contribution made by teachers, knowing very well perhaps fifteen per cent of those teachers will never draw a nickel.

MR. PERKINS: That person who gets out of the plan when he retires he can only get his corresponding share. It is just like in the new plan, Mr. Payson, where any person who stays the State will have contributed for that person but wouldn't have contributed for the present old teachers.

MR. PAYSON: Actuarially, isn't the fund going to be growing up too large?

MR. PERKINS: That is why in figuring the amount you have to put in for this accrued liability we are talking about you must take into consideration withdrawals and things like that.

MR. PAYSON: But supposing the State had kept up its part of this plan, matching dollar for dollar with the teachers, they would have more money in there than they need to carry out their obligations, wouldn't they?

MR. PERKINS: Yes, they would.

MR. PAYSON: Because the money they put in for Teacher A, who never draws a pension, is there and no one has any right to it. That doesn't sound any too sound to me.

MR. PERKINS: You mean the present plan or the arguments for putting some more money up?

MR. PAYSON: The arguments for putting the money up are perfectly all right.

MR. PERKINS: You mean as to the amount?

MR. PAYSON: As to the amount.

MR. PERKINS: There is an actuarial investigation being conducted now which will be done, we hope, by the 15th of November, and that should give some ideas as to what the State should put up.

MR. PAYSON: Is that investigation by the same man who has been working on it?

MR. PERKINS: That is right; Mr. Buck.

MR. PAYSON: Is he coming down?

MR. GILSON: No; it is being conducted in New York, but he was down last week. We sent the records to the men in New York, and they are doing the study there.

MR. WEBBER: You found you could do it more inexpensively there?

MR. GILSON: Yes. That was our only hope of meeting the time limit too.

(Off record)

MR. GILSON: That figure you wanted, we do not have it exactly, but it is roughly \$100,000 annually at the present time.

CHAIRMAN DOW: Contributed by the teachers?

MR. GILSON: Yes.

MR. PAYSON: May I ask just one more question: Until the thirty years is over you will write down that \$100,000 in making up your accrued liability payments. The \$100,000 then is more that you ought to be taking in, and you can take care of that in your accrued liability?

MR. PERKINS: Yes; and that will come out in this report.

MR. PAYSON: Then at the end of thirty years the State should not match dollar for dollar, if you have caught up on your accrued.

MR. WEBBER: To boil this down, is this true: That there is to be paid out whatever amount is required under the old non-contributory system each year, which is now a drain on the school fund and which you as head of the Department of Education would like to see the school fund relieved from, it being, as you see it, no part of the educational program. Second, there is whatever current charge each year is necessary, some amount apparently less than \$100,000, to match what the teachers put in under the contributing fund, which presumably must be taken care of by some sort of appropriation. And, third, there is whatever amount is determined to be necessary to put in each year now to make up for the back, which should be roughly in the neighborhood of \$25,000 or \$30,000?

MR. PERKINS: Roughly.

MR. WEBBER: At least it would not be \$100,000 anyway?

MR. PERKINS: No.

MR. WEBBER: Now how much did you say, Mr. Gilson, your school fund is now being drained for pensions?

MR. GILSON: In 1941 it was drained \$275,420.

MR. WEBBER: Has your school fund been drained in other ways for things that do not seem to be strictly educational?

MR. GILSON: Well, it has been drained in this way: Of course we have had reduced appropriations, the sources of income have dried up to some extent and it has been reduced that way. Then we have had an increased drain, for example, on account of the deorganized territories, unorganized territories have increased. Now we have about 114 of them in the State which have to be administered directly out of state appropriation, and of course that reduces the amount allocated to towns and cities. A number of the items, however, that come out of the State school appropriation have been reduced over the past ten years and show a figure lower last year than they have for previous years. But, generally speaking, the services which the State has seen fit to put into the schools and encourage have increased the cost -- the moneys that have to be taken from the school appropriation before that money is allocated to towns and cities, for physical education, vocational education, and services of that sort, have reduced the amount of the State appropriation.

CHAIRMAN DOW: Is it true that some federal subsidized activities in schools which got them pretty well started, the federal subsidy has been pretty well reduced, taken away?

MR. GILSON: Yes; in some cases federal subsidies have been reduced. In most cases they are a matching proposition, and as they continue on in some cases the federal appropriations are reduced somewhat, but I do not think you would run into a ten or fifteen thousand dollar loss, however.

MR. PAYSON: Your loss in appropriation is not actually failure on the part of the legislature: it is reduction in valuations on the state tax?

MR. GILSON: Yes; there is a reduction in the state in valuations, and there has been shrinkage in incoming tax on trust companies and savings banks, and also shrinkage in interest on the permanent school fund

CHAIRMAN DOW: What do you get -- three mills?

MR. GILSON: Three and a half mills.

MR. PAYSON: Doesn't the University of Maine go into that?

MR. GILSON: Yes; they also get funds from the same source.

MR. WEBBER: About what is the drain on the school fund currently of the old non-contributing plan alone?

MR. GILSON: That is the figure I gave you of \$275,000.

MR. WEBBER: That is right, it would all be there.

MR. GILSON: In 1933, when they abandoned the contributory payments that was \$160,000; now it is \$275,000. That

gives you an idea of how that is growing.

MR. WEBBER: Suppose that could be stabilized at \$250,000 and the additional as it gradually increases made up by additional appropriation, could the school fund stand that amount of burden if it didn't increase any more?

MR. GILSON: You mean if it were stabilized at \$250,000 and the school fund paid the difference?

MR. WEBBER: If the school fund paid the \$250,000.

MR. GILSON: I will answer that this way: If it stays in the school fund it means we are going to have to ask for that much, \$275,000, more than we would have to ask for otherwise to support the schools. That is about the way it lines up.

MR. WEBBER: One hand washes the other?

MR. GILSON: Yes.

MR. WEBBER: Well I have an idea that we will probably develop this somewhat further when we get together in November, and it is possible Mr. Buck's report may be available at that time. Are there any questions?

CHAIRMAN DOW: Isn't it true that a certain part of your expenses this year are going to be considerably more in spite of reduced income?

MR. GILSON: We can't help it.

CHAIRMAN DOW: Even though you don't pay all teachers, you have to pay some, and you have to buy textbooks and supplies?

MR. GILSON: That is true; and the services which the

State renders and pays for out of this fund are going up, because of increased cost of personnel and supplies.

MR. PAYSON: I have one question that has nothing to do with this but may be of interest to the committee.

Mr. Perkins, isn't part of your state salary paid out of the appropriation for the Industrial Accident Commission?

MR. PERKINS: Yes, sir.

MR. PAYSON: Any particular reason for that?

MR. PERKINS: Except we regulate compensation rates in the State, and we have a girl who works entirely on the fund, supervised by myself and Mr. Whitten. Now you could handle it two ways. That comes out of the general fund. It looks to me as if you were cutting off your nose to spite your face.

MR. PAYSON: As a sound governmental practice, the work you do is actually insurance?

MR. PERKINS: That is right.

MR. PAYSON: You are actually doing insurance work, and if the appropriation for your salary were entirely from the insurance department that would be sound practice?

MR. PERKINS: That is exactly where it should be. \$2500 comes out from the general fund and \$1500 comes out of the Industrial Accident Commission.

MR. PAYSON: The Insurance Commissioner used to sit with the Industrial Accident Commission on certain cases, but that is not true now.

MR. WEBBER: I am going to have Mr. Perkins stay.

Mr. Gilson, you may leave. You are welcome to stay if you like. Any other questions of Mr. Gilson before he leaves?

MR. WEBBER: Now, Mr. Perkins, will you tell the Committee of the study that you have made of State laws regarding annuity premium tax and the proposals you have.

MR. PERKINS: Well, I am put in a dual capacity here. When this thing was brought up it was thought, as we have one domestic life insurance company to do with, that Mr. Irish and his actuary should be here today. It so happens that Mr. Irish is sick and couldn't come, and his actuary, Mr. Leman, was out of town. They gave me their views as to how far they are willing to go along without fighting it in the legislature.

When I came here I found that this state had never taxed annuity premiums. I made a study to see how many states did, and from the replies I got twenty-five definitely do.

Now I have been connected with insurance companies for quite a long while as far as rate structures are concerned, and I know it is the practice for every company when they are making up their rates to stick in two per cent for taxes. They make the same rate for Maine that they make for California: there is no change whatsoever.

A life insurance company charges one rate in Maine and charges exactly the same rate in any other state. So I figure the Maine policyholders have been paying and are now paying an extra two per cent for taxes, because it is earmarked for taxes and the state fund is not getting it: in other words, they never taxed it. The reasons are that annuities grew up after the insurance business started, and for social reasons they have never been taxed.

Now last year the insurance companies collected \$1,699,000 of annuities here in the State. If it had all been taxed at two per cent, that would have been an increase of nearly \$34,000 coming into the general fund.

My feeling is that not matter whether the companies are taking losses on annuities or not -- I do not think that is the problem at all -- the fact is they have been charging two per cent for taxes, and there is no reason that I can see why they should not pay to the State of Maine two per cent. That is my side of it.

The companies' side is this: They are willing to go along on the idea that for any annuity issued on or after a certain date, which you gentlemen of the Legislature may specify, any new business written would be subject to the tax, but they do not want to make it retroactive. That is, there are a lot of annual premium annuities which are coming up every year, and on the renewal business

they do not want to be taxed 2 per cent, and they tell me undoubtedly there will be a fight in the Legislature if they are required to do it.

CHAIRMAN DOW: Haven't they charged 2 per cent in that premium?

MR. PERKINS: They have.

The reason they give is that the old annuity rates are inadequate -- I will agree with them, that they are -- that companies have been taxed for quite a few things -- the federal government is going to get them badly this year; and also they say that several years ago they upped the premium tax anyway -- I guess that was in 1939 -- it was before my time, but you gentlemen probably remember that -- and, after all, annuities are more or less of an investment, that they have to compete with banks and therefore they do not see why they should be singled out in these older cases to be taxed, although they are willing to go along as far as any new business is concerned.

Now as far as single premium business is concerned, that is fine, but I believe in this \$1,699,000 that was collected for the year 1941 there is a lot of annual premium business, so if you ~~do not~~ make it retroactive I am afraid you would find the \$34,000 cut in half at least. I have no figures which would indicate to me how much is annual and how much is single, because in the companies' statements they just file it in one group, just the total for Maine, never having been taxed on it. It

is the regular company blank which all the states require. It just says: "Consideration for annuities." I don't know whether that is single or annual.

MR. WEBBER: Well, if they were here and made the argument that you have presented for them, what would your answer to it be?

MR. PERKINS: My answer would be simply this: Although as an Insurance Department official I am interested in the solvency of the companies, yet why should Maine be singled out not to pay a tax when Massachusetts and New Hampshire is? They have to pay it in those two states and they have had to pay it for years. After all, the first commission has been paid. Now in life your commissions start on annual premium business at not over twenty per cent and then they drop right down: on annual business it is usually not over five per cent for the next five years and after that nothing, with the result they do not have to pay their commissions any longer, that is their first-year commissions anyway, but on their renewal business the commission has been dropped. Of course that is taken into consideration in the rate, but, nevertheless, in making up that rate there is two per cent for taxes. Some companies take ever more than two per cent. I am taking two because that happens to be our rate when we tax for insurance premiums and in general that is what is used today in figuring the annuity premiums, but definitely there was a two per cent in there when that rate was

originally figured. You could take the position and say they have been making money for years in Maine on annuities on that feature, that is they have not had to pay the tax and yet it was stuck in there. That of course was going into the company's coffers. I say it should go to the State, not to the Insurance Department, but should go to the general fund of the State.

MR. WEBBER: They admit, do they, that the two per cent has been figured in the rate?

MR. PERKINS: They have to do that, because I know all their rate changes since 1933. There is no question about that so far as rate structure is concerned.

MR. WEBBER: So what they are really saying is they are having kind of hard times and it is going to reduce their profit?

MR. PERKINS: Yes; and the fact they look upon annuities as more or less a social benefit to the State: that is when you come up to get your annuity there is so much possibly the State wont have to pay in old age pensions and things of that nature.

MR. PAYSON: The same thing is true of life insurance, isn't it?

MR. PERKINS; Well, life insurance you have to die to get it, unless you buy an insurance annuity.

MR. PAYSON: Life insurance is a social welfare proposition: if I kick off my family are provided for.

MR. PERKINS: Yes, you are absolutely right, no doubt about that.

CHAIRMAN DOW: What they are saying is, "We have got away with it for years and we are now caught."

MR. PERKINS: I am not speaking for all the companies; I am just speaking for this company.

CHAIRMAN DOW: Is there a uniformity of rates between this local company and outside companies on the same line of business?

MR. PERKINS: No uniformity of rates because they use different tables: the same loading.

CHAIRMAN DOW: Supposing I should buy of this local one \$100,000 of annuity, which I would like to, and should buy \$100,000 from one outside, would the cost be any cheaper? Could I buy it cheaper than in Maine, between the Maine company and one outside?

MR. PERKINS: I would say offhand unless you went to several of them that the rate would be the same.

CHAIRMAN DOW: They are not cutting the price any?

MR. PERKINS: No; it is not on account of taxes they cut the price: the only cut in price is some company that has not adopted the latest up-to-date table.

CHAIRMAN DOW: They are not passing that 2 per cent back to anybody?

MR. PERKINS: Oh no.

MR. HILDRETH: Would this tax fall on all insurance companies or only the one domiciled in Maine?

MR. PERKINS: On all companies doing business in Maine. Here is the list. (Presents list)

MR. WEBBER: Just take a look at Section 5 of Chapter 13, the last part of it particularly, and tell us what effect that has, if any, on what we are talking about. I don't know that there is any particular connection.

MR. PERKINS: You see there are two classes of annuities. The annuities I am talking about are life annuities contingent upon a man's life. There are other annuities, and I think what this section is probably referring to is an annuity where you pay something over a stipulated period of time, ten or fifteen years, whether the man lives or not: that is the common definition of annuity as used in textbooks. The annuities I am talking about are contingent upon a man's living and not contingent upon paying over a specified period of time. I think that is what this refers to, the textbook group, so to speak.

MR. WEBBER: Does that create any situation under which if we were to amend the law to provide for this annuity consideration tax that should be amended so as to indicate the different type of annuity that is there intended, because in each case the word "annuity" alone is used?

MR. PERKINS: That is right.

MR. WEBBER: It would be well to insert a defining word in connection with "annuity?"

MR. PERKINS: That is right, defining the type of annuities we are talking about as far as taxation.

MR. BOUCHER: Would this affect mutual benefit organizations?

MR. PERKINS: Oh no.

MR. WEBBER: Mr. Perkins and I have more or less had the thought that if it became advisable or necessary to raise some additional revenue for the pension ~~tax~~ program that this was one place at least where a relatively small amount of money might be realized and could be put to that use, and, interestingly enough, the amount that might be realized, somewhere around \$34,000, is not too far removed, apparently, from the amount necessary to liquidate the arrears on the pension program, and they seem to fall into somewhat the same pattern.

MR. HILDRETH: Like taking a rabbit out of the hat.

MR. PAYSON: Taking it away from one set of taxpayers to give to another.

MR. WEBBER: No; the insurance companies are going to pay it and they are not pensioners yet.

MR. PERKINS: I might say these were developed independently: no original thought of combining them at all.

MR. WEBBER: We have gone to the extent of drafting a short piece of legislation for the consideration of the Committee which would accomplish the necessary result apparently. It is not necessary to read it. All that it is necessary to do is to strike out in one place the words "except so far as relate to taxation" and substitute the words "including all provisions relating to taxation," and then in another place adding the words,

after the word "premiums" the words "and annuity considerations." That is what they are commonly called, rather than annuity premiums. And with the possible addition of putting a defining word in this place Mr. Perkins called our attention to. That would accomplish the desired result and raise about \$34,000 with about twelve words.

MR. PELLETIER: Would you believe, in the event legislation should be enacted and this tax imposed, that it should be retroactive on the former premiums?

MR. PERKINS: Well my opinion is -- this is my own opinion -- seeing that in all premium structures that 2 per cent was put in, then it should be made in premiums collected, whether the policy was issued next year or five years ago.

MR. PAYSON: You don't mean retroactive in the sense of going back?

MR. PERKINS: No; I mean as the premium is collected.

MR. PAYSON: That is what I mean, I mean retroactive on a policy issued previously.

MR. PERKINS: When the premium is paid -- let us say you put it into effect January 1st of next year and the premium was collected on January 3rd, I would say no matter whether that was a policy immediately issued or issued five years ago that should apply. That is not the company's opinion at all. They say if a policy is issued

next year they are willing to go along, but otherwise than that they would probably give you a fight.

CHAIRMAN DOW: I should think the answer would be that they could come along or be dragged along: they would get there.

MR. PERKINS: Of course you have got some pretty big companies issuing that stuff: Equitable, Prudential and Travelers, and they have got a lot of money.

MR. WEBBER: Would you like to hear off the record the states that already tax.

(List read off record)

MR. PERKINS: You note that New York is conspicuous by its absence.

(Off record)

MR. POULIN: In other words, in states where they are not taxed it is just giving the insurance companies two per cent more?

MR. PERKINS: That is right: the premium is exactly the same, no difference so far as premium.

MR. POULIN: You are not taking anything away from the person who is buying?

MR. PERKINS: No; they are getting that.

CHAIRMAN DOW: They are paying it anyhow.

MR. PERKINS: Yes, because a company issuing in New York has the same premium in New Hampshire where they are taxed as in New York.

MR. POULIN: And that is because it is all figured up?

MR. PERKINS: That is right: they do not change premium rates for states.

MR. WEBBER: Are you prepared to discuss briefly these small changes?

MR. PERKINS: I would be glad to.

MR. WEBBER: Now he has a number of suggested changes in the insurance law, and he has discussed them with me, and I suppose the logical thing to do with things like that is to have the proposed bills come from the Insurance Department itself where it is strictly on insurance law. There is no objection, I assume, to me giving him some assistance in the preparation of that, and I think Mr. Perkins thinks it would be helpful if he stated to the members of the committee in a brief way why these changes will be suggested so perhaps they wont be quite so unfamiliar to you when they do come into the House or Senate. I think perhaps the first one is the mail order business so-called.

MR. PERKINS: That has always been a sore spot with us because the department has no jurisdiction over any unauthorized company. We get a lot of letters from different people who are stuck, that is they have purchased some of this mail order business and it is written up beautifully as far as the advertisements are concerned, but there are always a few hidden phrases in the advertisement -- it is usually not there, it is usually in the policy itself -- with the result that the man cannot collect a claim. We

find it mostly in the casualty line. We feel very embarrassed to have to write to them and say we are sorry, that there is not a thing we can do; and there is not, because those companies come under the jurisdiction of other states. I have written to commissioners of other states, but so far I haven't got very far. There are a couple of states that have a lot of these companies.

Now there are two states, Virginia and Michigan, that have passed what is known as an unauthorized insurance law. Let us bring it down to Maine. I will say that any company in this state cannot do business in another state unless it is authorized to do business in that state, providing that state has a similar law. It is what is known as the reciprocal law. That is, if this law was passed I would not allow a mail order company in Maine to do business in Virginia, and if I got a complaint from Virginia I would call that Maine company in and they would have to show cause why their license should not be revoked. Now if it was some other state I got the complaint from, South Carolina, which does not have the reciprocal law, there would be nothing I could do, but as long as the other state has the reciprocal law I could do something about it.

There has been a lot of criticism of the state department on that one thing, and that is one thing that has been put up for federal legislation: the federal government can

control it but states can't.

I know quite a lot of other states are going to attempt that this year. It is certainly a good bill, and will help people in this state, because I then will be able to get at these fly-by-night companies.

There are a couple of good ones: one in New York City, called the Teachers' Assurance Association. There is one that is good, but for that one you have got fifteen hundred or two thousand of these other ones that are not worth a cent. In fact, we tell anybody that comes to the department if they are going to take insurance to take it in an authorized company because if anything goes wrong we can go to the company and find out about it, but we cannot with these unauthorized companies.

As the other states start passing these laws -- and they are going to -- we are going to be in a position where we can police them.

MR. PAYSON: I do not quite see how that works yet: the companies are not in Maine.

MR. PERKINS: Let us say there is a company in Virginia, which has this law: it is a mail order concern and it does business in Maine. If I have a similar law I will write the Commissioner of Virginia and say, "You have got a law on your books which says that company can not do business in a state in which it is not authorized. You police it." And he has got to under the statute.

MR. PAYSON: What about a state that does not have this law?

MR. PERKINS: I cannot do a thing. In other words, you have got to get the states to pass this law. Two passed it at the last session, Virginia and Michigan. I know quite a few other states that are going to try it this year.

MR. PAYSON: Do these mail order insurance companies center in certain states?

MR. PERKINS: Yes, in several states: Illinois is a great place for them.

MR. PAYSON: Take Illinois: is there a chance that Illinois, with that profitable business, will pass this law?

MR. PERKINS: It will have a big fight. Of course I question whether under the Illinois statutes they are doing business legally anyway. I do question whether in Ohio and Illinois, especially, you are going to get this law passed, or in New York.

MR. PAYSON: And those might be states where the fly-by-nights would be?

MR. PERKINS: That is true; there is no doubt about that. I hope they can see their way clear to pass it.

MR. POULIN: Whatever the situation might be, it certainly would not be detrimental to the people of the State of Maine?

MR. PERKINS: No, because it so happens we have no mail order companies.

MR. PAYSON: I was just wondering if this had any effectiveness.

MR. PERKINS: Well, there are certain companies in Virginia and Michigan. I will force them out of these states, and there will be, as I say, other laws passed this year.

MR. WEBBER: Isn't part of what you hope -- you and other insurance commissioners in other states -- is that this will start a progressive movement which may eventually result in enough pressure so even reluctant states will fall in line?

MR. PERKINS: Yes.

MR. POULIN: Is the law proposed a uniform law?

MR. PERKINS: No, it is not uniform. The one in Virginia is not even a reciprocal law -- I do not mean Virginia, I mean Michigan. If I had a mail order company working out of Michigan, I could today, without passing any law, write to them and say, "Under your laws you have got to revoke that company's license." Virginia, on the other hand, has reciprocal laws, but practically all of them are going to be reciprocal laws.

I have talked with quite a few commissioners on that, and they say if some other state does not see fit to do it we are not going to stick our necks out. So it will be a reciprocal law, and that is why I have with the help of Mr. Webber, drawn this up: in other words, make some other state take the same action before we police it for that state.

MR. WEBBER: The next thing is examinations for life agents.

MR. PERKINS: Well, in this state we have since 1937 qualifications for agents of all companies except life; that is, they have had to take written examinations in order to do business in this State. Life companies have not had to do that: they have just turned in their money and requisition. We feel that the life agents should not be given any privileges that other companies are not given. We would like to have every agent qualify in this State. All types of insurance except life have to be qualified, and I can see no reason why life should not be. I do not understand why they were not included in the first place, but I wasn't around, and I can't seem to find anybody to help me along that line.

CHAIRMAN DOW: I can help you. There was a bill in last winter to allow savings banks to set up life insurance, and if you could see the lobby sent down here you would understand why it didn't go through at that time.

MR. PAYSON: I should think life insurance ought to be the first of all to be qualified.

MR. PERKINS: I think that is right: they have more chance to do harm to policyholders. You will find the present agents already in are going to be all for this: it means it is going to cut down their competitors.

MR. PAYSON: Isn't there a grandfather clause in there for men who are now engaged in business as agents?

MR. PERKINS: Yes. I think you will have to take those in: I do not think you could make this retroactive.

CHAIRMAN DOW: You can pass your law so much easier that way.

MR. WEBBER: And there goes with that examination a fee?

MR. PERKINS: That is right.

MR. POULIN: What is the examination fee for casualty?

MR. PERKINS: Ten dollars for the first time.

MR. PELLETIER: How would that affect the life companies who have quite a turnover of agents?

MR. PERKINS: It might better if they didn't have that turnover. I do not like those agents coming in for a short time and then stopping, because I do not think in the first place they know their business, and they usually come on to sell one risk.

CHAIRMAN DOW: Sell their relatives.

MR. PERKINS: That is just about it: you hit it right on the head when you said that. It would be much better for policyholders if they didn't have that turnover.

MR. PELLETIER: The reason I brought that up, I have noticed various companies have a large turnover of agents in my section, and when the going gets a little tough and lapses come you find the agent gets disgusted and leaves the job and they have to get somebody else. There is a continual process that way, which is probably due to the system.

MR. PERKINS: It is so easy to get in and get started: you only have to pay two dollars and start; and they don't pay the two dollars: the companies do.

MR. WEBBER: What about the suggestion as to domestic life insurance companies?

MR. PERKINS: Well, the next bill that we would like to see is not a question of charging anybody any more than what we are doing now: the only thing is I feel that the Insurance Department of the State of Maine should make its own examinations in this State. It so happens with many of the companies, especially some of your domestic mutuals, it has been customary in past years to call in foreign examiners, with the result those companies have got socked. Most of them are mutuals, and they don't have \$1500 they can pay for examiners to come in and examine.

You see by law we are required to examine every company in this state every other year. Many of them, where it is a one-man job, we can do it, but where it is a two-man job nobody in the department can. I can go down and supervise it, but I have got to be back here, and the deputy the same way.

CHAIRMAN DOW: You mean examine their assets and liabilities?

MR. PERKINS: That is right; check them to see whether that statement is correct.

We have the money, but I do not dare touch it for the

reason the present law reads that this filing fee they are now paying shall be used for examining and auditing of annual statements. I would like to have the words added: "and examinations required by law." I will never have to ask the legislature for any more money, because it is a separate fund that comes to the insurance department, but I wouldn't dare to use it unless the legislature sees fit to add those words.

MR. WEBBER: You have about \$13,000?

MR. PERKINS: About \$13,000 in the fund now. That law has not been on so very long, I think since 1939. We will be getting about \$7500 per year into this fund. That is enough to hire two good examiners, and that bill I tell you right now you won't find any opposition to. In other words, you will find every company in the State will try to have it pass: in fact that is something you are going to take to the companies, you are going to give them a chance to get just as good examinations done, but the only fees we would charge them would be just traveling expenses, because the salaries will be paid by the department.

CHAIRMAN DOW: They are using their own money for their own benefit?

MR. PERKINS: That is just it.

MR. WEBBER: Let us pass along to suggested change on brokerage.

MR. PERKINS: Well, this is a competition situation. It so happens that Maine life agents -- I will pick life agents because I think that is the group where it is happening -- they will go and sell a policy and also sell fire and casualty along with it.

The law we have now, I believe it was the legislative intent -- that is my own opinion -- it was for placing excess life. If you were an agent and had to insure a big piece of property for \$100,000 for fire and your company could not handle it, you should be allowed to say your company would only take \$25,000 and you should be allowed to pass the extra \$75,000 on; but I do not think it was the intent for a life agent to write that business through the fire company without being licensed and knowing nothing about fire, as is being done today.

MR. WEBBER: In other words, he is using another agent who is in the fire business, and he is just brokering it and knows nothing about it?

MR. PERKINS: That is right; but he does get his commission.

MR. WEBBER: The proposed change there would only permit an agent licensed to do a certain line of writing to broker with an agent licensed in the same line?

MR. PERKINS: Yes.

MR. PAYSON: What particular section does that amend?

MR. PERKINS: Chapter 60, Section 122.

MR. WEBBER: In a little different connection, some of you

gentlemen will recall that we saw the brokerage section stretched line an elastic band on one occasion.

CHAIRMAN DOW: We couldn't find anyone to agree with us it wasn't right either.

MR. WEBBER: The next suggested change?

MR. PERKINS: The next one that Mr. Webber has there deals with a law that was passed in the 1941 session, and consists of what the Insurance Commissioner shall do in case he has to revoke a company license. It says I have to determine it on or before June 1st. Suppose I find anything that goes wrong in June: I have got to wait a full year before I can tackle that company. It so happens on May 1st the taxes are payable. There are other laws that say if those taxes are not payable I have to revoke their license. I will not find that out, until after a lot of correspondence, that they actually wont pay it, and I can't do a thing until next year.

Furthermore, when it comes to licensing companies, I license them July 1st. If I am going to find anything wrong it will probably be in the month of June, and yet the law specifically says if I don't before June 1st. I am just out of luck.

CHAIRMAN DOW: Isn't any date before June 1st -- or is that a broad interpretation?

MR. PERKINS: You may be right. But supposing I examine a company in July and I find it should not do business in the State of Maine, I want to stop it from doing business

right then; I do not want to have to wait.

CHAIRMAN DOW: But if you discover it July 5th that is before June 1st?

MR. PERKINS: Well, not in that year: it would be in the next. But I do not see any reason for any date being put in there at all. If it ever came up like that, Mr. Dow, I certainly would do it.

CHAIRMAN DOW: And let them squawk.

MR. PERKINS: Yes. At the same time, I do not like to have such a law on the books

CHAIRMAN DOW: It allows too many different interpretations.

MR. WEBBER: What is the story on moving pictures?

MR. PERKINS: The thing there is we have an arson fund which we use for inspection of public buildings, and, as you know, for investigation of fires. I have to turn over backwards to give moving picture licenses under that. I have to give an operator's examination: I am required to do it. The people in the arson division do it. In order to do it I have got to give an inspection down in Portland on a certain day in order for that man to give the examination, otherwise I can't take anything from the arson fund to pay for it. My hope and thought, although I think there will be some trouble on the thing before we get through with it, is that they should pay five dollars for that examination, which would be used to cover the cost of giving it. Now I also know they have

a little legislation they want, so I may be in a bargaining position before I am through. I do not like to take it out of the arson fund.

MR. WEBBER: I think it might interest the committee: The committee will recall that under the former insurance commissioner we found the policy to be to spend the arson money for anything and everything, defense and other things that had nothing whatever to do with the purposes of the law, and the result was that the arson money was being spent freely and the tax was continuing year after year, although the law contains a provision that under certain circumstances the tax may be stopped. I think it might be of interest for you to learn from Mr. Perkins what the present policy of that department is about the arson fund.

MR. PERKINS: Arson money today is used just for two purposes, and those are within the law: one is for inspection of public buildings, or explosives or inflammables or for investigation of arson. We are not at present buying moving picture machines and things like that, which has been done in the past, although I will say I want to go on record as making no criticism of any of my predecessors: I think they had their own ideas and I think every man is entitled to them. But I came in here May 1st, and I am answering for the department after that date. I would never get into any criticism or

sustain any criticism of people that have been in there before me.

MR. WEBBER: It would appear now as though it may be possible sometime in the future to suspend the tax?

MR. PERKINS: Yes, sir; within the next two years the tax will be suspended for one year: whether it will be this year or next year, I can't say; it all depends on how that fund stands on next May 1st and how the emergency seems to look, but if it is not next year it definitely will be the next.

MR. PAYSON: Shouldn't we keep the tax on and give the money to the school department?

MR. WEBBER: Now Chapter 35, Section 49.

MR. PERKINS: There is the one Mr. Dow and I have talked about. Don't you think that section ---

CHAIRMAN DOW: Should be made clearer. You understand, Mr. Perkins, as attorney for the town of Norway I am in an embarrassing position, and as chairman of this committee I might not slide in the same groove right along.

MR. PERKINS: Well, we have what is known as the demolition section, that is 48 and 49 of Chapter 35, which says that upon complaint the Insurance Commissioner may have somebody go out and look at a piece of property, and, if it is not proper it will have to be removed, and if it is not removed then we must issue a demolition order and the

property will be torn down and the man will be charged for having it torn down. Now some of you gentlemen are lawyers, and you all informed me that you were afraid that may be unconstitutional, and the Attorney-General's department backs you up, I understand, under weight of numbers.

CHAIRMAN DOW: They agreed with me that morning.

MR. PERKINS: They certainly did.

MR. PAYSON: I don't agree: I think it is well within the police powers, I haven't any doubt of it.

MR. WEBBER: Without right of appeal? As I understood it, Bob took the position that the fact that there was no compensation provided is one of the reasons why it is unconstitutional, and I cannot agree with that either. I do think, however, the failure to provide appeal may well make it unconstitutional, and there is no appeal provided, as I recall.

MR. PERKINS: His decision shall be final.

MR. WEBBER: That is definitely government by bureaucracy.

CHAIRMAN DOW: There is another provision that is not clear, just who the person is that works for him in making the inspection, the fire warden.

MR. WEBBER: It is not the statute, it is the fact there is no fire warden.

(Off record discussion)

MR. PERKINS: It so happens, Mr. Payson, until we ran into

the town of Norway we were getting by with it because people were complying with it and doing it, but we ran up against a fellow in Norway who, I understand, would take it to the superior court of the country.

MR. FOULIN: Isn't there something else in those two sections regarding notice by registered mail?

CHAIRMAN DOW: Yes; but you are placing a whole lot of authority in one man. When he says a certain building shall be torn down he may be wrong; you can't always be right.

MR. FOULIN: How are you supposed to notify the owner of the building?

MR. PERKINS: In order for it to work, the fire inspector, who is one of the fire wards -- not all fire wards are fire inspectors, but one of the fire wards is fire inspector, and he is supposed to issue the first order. If he does not, a man does not have an appeal at all.

MR. FOULIN: What I am talking about particularly is how is the owner of property notified?

MR. PERKINS: He is first notified by the department by letter.

MR. FOULIN: I do not think that is adequate.

MR. WEBBER: You think it ought to be given in hand?

MR. FOULIN: I think it should be something more than a letter.

(Off record discussion)

MR.WEBBER: Now we have got quite a lot to do this afternoon, so let us push on.

MR.PERKINS: The only other one I think I have is the dance hall situation. We have rules and regulations for certain building inspections and so forth, but we have no control over dance halls. Now I think some of the worst fire hazards in this state are your present dance halls. Exits are not properly constructed, and lotsof times, especially around graduation time, you see all kinds of streamers and so forth, and you let one of those things go up and people would never get out of the dance hall.

CHAIRMAN DOW: They had a bad case a few years ago out at Island Park.

MR. PERKINS: And you have to do only one little thing, because there was a law passed, I think it was in 1939, Chapter 192, rules and regulations dealing with inflammables, which says that the department, after hearing, will set up reasonable rules and regulations on inflammables, explosives, transportation of dynamite, so if you just add "public dance halls and auditoriums" that would cover it.

CHAIRMAN DOW: Would that include roller skating rinks?

MR. PERKINS: I think it would. I would want to embody all those things.

MR. WEBBER: There is one other thing, where you are charged with some authority that should be invested in the Banking

Commissioner.

MR. PERKINS: That is licensing of finance companies. Finance companies have nothing to do with the Insurance Department; it is purely a banking proposition. We never examine them,; we don't know anything about them. That deals with the financing of mortgages and things like that. That is far afield from me.

MR. WEBBER: I wonder if any member of the committee knows why.

MR. PAYSON: I don't know, except there is an exception concerning automobile finance companies in the insurance law.

MR. PERKINS: Some automobile finance companies have set up a separate corporation, like the GEIC: that is an insurance company for General Motors.

MR. PAYSON: There is a statute which says a finance company can force a borrower to take his insurance and excepts certain finance companies from it.

MR. PERKINS: That is right. That may have been the tie-in, I don't know. But as far as the finance company itself is concerned, I think that should be examined by the Banking Commissioner, because insurance and banking are two different things, just~~as~~ as different as black is from white. They would not accept the method in which the insurance company makes up its statement, and the insurance company would never accept the banking method.

The banks make theirs on an accrual basis: the insurance companies do not, they make theirs on a cash basis.

That is why all life companies have to put in a gain-loss, to true their surplus up at the end of the year. One is the single-entry bookkeeping system and the other double. I don't know about banks and the method they work under, and if I get to fooling around with finance companies I have got to know the banking business, and I don't feel I should.

MR. PAYSON: I don't know any logical reason why it should be under there.

MR. PERKINS: We don't mind the work of licensing; it is just the fact it seems we are doing something outside our province.

(Off record discussion)
