

MAINE STATE LEGISLATURE

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JOINT SPECIAL LEGISLATIVE INVESTIGATING COMMITTEE

Testimony of Governor Lewis O. Barrows.

Re: Insurance Department.

Augusta, Thursday, Dec. 12, 1940. Counsel: Donald W. Webber
Hubert Ryan

Thursday, Dec. 12th., 1940.

LEWIS O. BARROWS, recalled and testified as follows:

(By Mr. Donald W. Webber)

Q. Governor, I show you a letter which has been read into our record, dated November 20th., a copy, and ask you if that is a copy of a letter which you did write on that date?

A. That is right.

Q. Now using that to refresh your recollection, can you tell us the circumstances leading up to the writing of that letter?

A. Well, just that particular letter?

Q. What we are interested in is the allocation of the commissions on that Zurich policy and how they came about so far as your department was concerned.

A. I can do that, but it strikes me that it might be of more interest to the committee to perhaps get the history or the background, unless you have already had it from some source.

Q. We would be very glad to have it in your own words.

A. Well, the matter of State insurance, the fire coverage as well as the liability and the boiler policy and all that sort of thing had been distributed by the Governor and Council under the statute which is in Chapter 2 ever since 1912. Now prior to 1912 it had been the custom of the various institutional superintendents and the boards of trustees to place their own insurance on any of their coverages, and some of the policies were written for a one-year period, some of them for three years, and some of them for five years; and the duty of watching

the expiration of these various policies at that time was up to the various institutions.

Now I am told that in 1912 -- and that was the administration of Governor Plaisted, that Mr. Leadbetter was directed to watch and to supervise that; and, whatever the experience at that time might have been, they took it from the supervision of the various institutions which were doing it separately and took advantage of the statute which made it optional for the Governor and Council to supervise it, and that policy has been followed from that day to this to some extent.

Of course you can imagine that as a result of that Mr. Leadbetter and Miss Clancy had some twelve or fifteen hundred policies that they had to watch the expiration on, and, furthermore than that, in the event there was a fire loss they had to go down through and pro-rate that loss, whatever it might be, on all of the policies. I recall very distinctly, because I was a member of the council at that time, that Governor Gardiner was very much dissatisfied with that sort of arrangement, and it came about, or conversation ensued, I should say, pointing out to him that there seemed to be on the State House more of a coverage than there should have been; and I remember specifically that the main institutional buildings of the Augusta State Hospital and the Bangor Hospital, the two insane hospitals, the main institutional buildings themselves, did not carry a dime of State insurance.

Well, it seemed to me at least, and seemed to some others

that was a pretty untenable situation, because, after all, they were not fire-proof, and with the type and nature of the patients in there, in the event we had a fire loss the State would be in a pretty serious situation. And so it was conceived at that time, and it was his suggestion, that we have an insurance committee to study that thing and make a report. And so he said, "I suggest that each member of the council suggest the name of one insurance agent in their district, and let them get together and work out some sort of a plan.

I recall very distinctly that the man he suggested was Gene Thayer, of Waterville, who later died. My recommendation at the time was Harvey McClure, in Bangor. I remember Councillor Cummings suggested Tom White. I recall the representative from the council from Cumberland, and I think it was Mr. Robie, suggested Murray Bradish. I know Councillor Viles recommended Cony Weston. I know Councillor Wilson recommended Nathan Perry, I believe his name is, from Presque Isle.

Well, these men all got together, and from that group they selected a sub-committee, consisting of Bradish, McClure, Thayer, and Cony Weston, and they had several meetings with a Mr. Ralph Sweetland, who at that time -- and I think he is now -- with the Boston Underwriters, in Boston; and they had a great many meetings, and as a result of the effort of the Insurance Exchange a group of their men came down here and made an appraisal of all of the State property, and, as a result of that appraisal we adopted the plan in there, that on any of the buildings that the State owned on which they placed a valuation of

five thousand dollars or less, we would not cover with insurance. Now that meant ~~in~~ some of the instances like the piggeries and that sort of thing that had previously been covered there was no consequence to do that, and they worked out a blanket policy fire schedule on all of the State buildings, including the various institutions of the State House and all that sort of thing, and then they evolved this plan of designating in each of the councillor districts what they termed a key agent, and this key agent was designated by the councillors, and that has been changed as the personnel of the council has changed. I recall at the time I designated first of all as the key agent in the sixth district Harvey McClure. My immediate successor on the council was Arthur Crafts, and he designated, if my memory is correct, Walter Blake, in Guilford; and then when Councillor Fernandez succeeded them he designated Harvey McClure. Since I have been Governor, I designated Walter Blake again in Guilford.

Now as a result of that plan all State insurance was put onto a schedule, one-third of which was expiring June 1st. of each year, and previous to that time expirations were coming along almost any day. And now what happens, the key agents on June 1st write a master policy, so-called, for one-eighth of all of the State coverage. That does not include the boiler policy nor the liability insurance on their motor vehicles. That is entirely a different type of insurance. And then

that is written at the blanket schedule and the rate is relatively small, and therefore the commissions are relatively small. Now then, following that: Of one-third of the policies expiring in June each councillor supplies a list and the key agent,--which is a re-insurance to the various agents in his district at their discretion -- and the key agent advises the various individual agents of the allocation that has been given to him, for which they re-write that proportional part of the insurance. Those policies are maintained and kept by the key agent.

Now then, in the event of a fire loss, it is the duty of the key agent, and not one of our employees here, to pro rate all down through that list of insurance policies that he has. So far as the State is concerned, we only have to watch the expiration and watch our pro rata loss adjustment from eight dealers as compared to the twelve hundred or more that Mr. Leadbetter used to do.

Then it occurred to me that there was no particular reason why that practice should be continued in Mr. Leadbetter's office. After all, it was just one of those things that had grown up over the years and had continued there. He had no other similar duty, and I knew of no reason why this wasn't a proper matter of supervision by our insurance department, and so I asked Mr. Leadbetter, with the consent of the council, to turn the supervision of all of this over to the insurance department, thinking possibly we might perhaps get better rates but at any rate it was a proper function for them to handle, and that is what has happened.

Now that policy has been performed in compliance with

Chapter 2 of the statutes and is in effect now, and that has saved the State a great deal of money, and they have had a more adequate coverage on all their buildings and all their property.

CHAIRMAN TOMPKINS: Pardon me. Could you tell us, Governor, the approximate amount of the insured value, the total insured value of State property in these policies?

A. No; I wouldn't want to rely entirely on memory as to that without checking it up. But perhaps it might give you some idea: One-eighth of the insurance which expires June 1st each year -- and it is now on a three year basis -- all the policies are on a three-year schedule -- is in the neighborhood of \$700,000.

Q. One-eighth?

A. Yes.

Q. Another question that has been before us a little bit: Who owns the buildings at the University of Maine?

A. Well, that is all in the State schedule, I think.

Now if you have a blanket policy there is a rider, a special form that is prepared and used and has been for years, and that is only changed as the buildings change. What I mean, if we have a new building it is added in on the blanket policy. That would give you all of that information.

Q. In other words, the State is insuring the buildings at the University of Maine as State property?

A. Well, they are if it is in the schedule. What the detail of that schedule is I don't know.

Q. What my question was: Who holds the title to the property at the University of Maine?

A. I don't know as I can answer that question for you, but if it is covered in the State schedule it will be itemized in this rider which is prepared and sent to all of the agents that write this.

CHAIRMAN TOMPKINS: I was trying to divorce this from insurance, just as a matter of information.

A. If that question came to me in the office, I would immediately telephone the insurance department to check on that schedule and see if it was there.

Q. I am asking this question disregarding any question of insurance, as a matter of general information.

A. Well, I don't know without checking the thing up. I am just relying upon memory, and I do not want to do that, so I cannot answer your question definitely.

Q. (By Mr. Webber) Again to interrupt before you go on: You said a moment ago, in figuring the proportions, "one-eighth". Now one-eighth is actually one-twentyfourth of the total coverage?

A. Well, there are seven members of the council and the Governor. That is the way it has always been done. I do not know as it comes out to an exact penny, but you can easily verify that from the insurance office. Roughly, one-eighth of the entire coverage expires June 1st., and in such amounts as they see fit to allocate.

SENATOR LAUGHLIN: The University of Maine is not an independent corporation, is it?

A. I am not sure. Of course it is supported entirely by one mill of State valuation.

SENATOR LAUGHLIN: I was sort of wondering along the line of Senator Tompkins' question, whether the land and buildings were owned directly by the State of Maine as the State Capitol is, or whether there was any corporation that intervened in any University property.

A. It may be under the supervision of the Board of Trustees.

Q. I mean the title.

A. I don't know what the legal title is. I couldn't tell you that without checking the thing up. That should be an easy matter to determine, however.

CHAIRMAN TOMPKINS: Apparently it is not.

A. I don't know whether it is covered in the schedule or not. It is supported, of course, by a direct tax on the valuation of the property of the State of Maine, and supervised by a Board of Trustees created by the Legislature and appointed by the Governor.

SENATOR LAUGHLIN: But the buildings are built by an appropriation of the State?

A. Not now. It used to be.

Q. How are they built now?

A. By a direct one mill tax, and, as the State's value fluctuates--

Q. They build new buildings out of the mill tax as well as their maintenance?

A. Oh yes; they have no other support except that.

CHAIRMAN TOMPKINS: Pardon me. But don't they have an endowment?

A. They may have certain endowments that are bequests that are given them.

CHAIRMAN TOMPKINS: According to the treasurer's report, the last one I saw, they had about a million dollars of endowments.

A. The treasurer's report should be right. I am relying on memory. I am not aware they do, but still they may. Of course from time to time, for instance, the gymnasium up there was built from subscriptions among the alumni, and the girls' dormitory was built this year. That was a joint P.W.A. project. Now that was a sponsorship by the Board of Trustees and the P.W.A.

Q. Of course this is all beside the matter we were trying to get at.

SENATOR LAUGHLIN: Certainly anything built by them out of the mill tax would belong to the State of Maine.

A. I should think so. Of course prior to that time -- and that was enacted during the presidency of Dr. Little up there -- prior to that time they used to come to the Legislature for whatever appropriation they could get.

SENATOR LAUGHLIN: I should think probably the title to all that property was in the State of Maine?

A. I should think so, if they covered it with insurance.

CHAIRMAN TOMPKINS: According to our information, Governor, the only property there that is in the name of the State of Maine is the farm and one or two other parcels of land. The rest of the property is held in the name of the corporate corporation. That is our information.

A. I wouldn't want to say that without doing some checking on the thing. The Commissioner of Education should be able definitely to answer your question.

CHAIRMAN TOMPKINS: He is not here.

A. Yes; but his deputy should be there.

Q. We had one man in here yesterday, but he could not tell us.

A. You want me to try to find out for you shortly?

Q. I would like to know.

Q. (By Mr. Webber) Now I think you were about to touch on the background of the casualty and liability.

A. Yes. Of course on the liability, that is on the motor vehicles and that sort of thing, the plan that used to be in existence, the coverage was with the Lumbermens Mutual Liability, I think was the name of the firm, a Chicago insurance company, and at that time the policy was written in the Downing Agency down here, because they were the local agent. After a while this coverage was assumed by the Travelers, and during that period of time as the years went on and the State had title of a great many more motor vehicles, the loss and the risk was correspondingly greater. The experience of the Travelers Company apparently wasn't wholly to their liking, because for the last one or two years they have refused to even participate, they didn't care for the State business. I have been visited several times by some of their company representatives, the home office representatives, pointing out to me the large number of losses that they had, with an inquiry of whether or not something could not be done to remove those losses.

A great many times the accidents, after investigation, where proven to be at no fault of the State official that might have been driving the car, but it took a lot of time and money for them to investigate the accidents, and, as a result of that, they refused to go in.

Then one year I recall that the policy as written was signed by Byron Boyd, and Byron Boyd that year had the commission; and that was always at the suggestion of the Governor and Council.

Then as it went on, I think last year the business was placed with the North American or the Great American Indemnity Company. The coverage at that time was not complete so far as the State is concerned, and we have recently finally settled a claim that cost the State \$19,000 out of the Highway Department, plus the insurance. The insurance company paid part of the loss. They paid \$6000, and that was brought about through the admitted oversight or negligence, the responsibility in any event was that of the State, of one of its highway engineers, through the moving of a big crane or a shovel on a truck that was hired by the State down here at New Gloucester when a train was derailed and it was merely an act of providence there wasn't a tremendous loss of life, because it was a big, heavy train and made up entirely of youngsters that had been in here to the camps and that sort of thing, and they were going home at the end of the camping season. Anyway, that loss cost the State -- and it has just recently been settled with the complete approval of the Chief Engineer of the Highway

Department and the Highway Commission and the Attorney General's office, and also the attorney for the Maine Central Railroad -- the State's share being \$19,000. The policy that we have at the present time with the Zurich Company covers what I think they refer to as hired, owned and loaned cars that the State may have; in other words it is complete coverage. If we had had that last year, it might have broken the company, but at least it would have saved the State \$19,000. And as a result, this plan was worked out by Commissioner Lovejoy.

I was assured by Commissioner Lovejoy and by the only representative on the council that has had any insurance experience at all, that the Zurich Company were invited to submit bids; the Travelers Company were no longer interested and refused to submit any bid. The Zurich Company was the low bidder, and I was advised that they were financially responsible. As a result of that, they were awarded the business.

Now the Zurich Company policy is signed by Charles Jortberg and Charles ~~KXXXXXX~~ Jortberg had been an agent licensed by the Zurich Company since the middle of last August, and prior to that time he had no connection or never had with the Zurich Company. Whether Jortberg had anything to do with the submitting of the bid figures to the Zurich Company is only problematical in my mind. I have some pretty general definite opinions, however. Then came the matter of the distribution of the premium.

CHAIRMAN TOMPKINS: Pardon me. You mean the Commission?

A. The Commission on the premium, which this year of course was higher than the year before, because the coverage and the risk that the Zurich people are assuming is gradually higher; but the State is amply protected and they were not before.

So there came the distribution of that. The first I knew anything about the premium at all was one day when Commissioner Lovejoy inquired of Councillor Weston what the distribution of that was, the desire of the council, and I think he was informed by Councillor Weston that the council had indicated their desire for the award to be made by me. So Mr. Weston inquired as to my desire on the allocation of that to any agent in Maine. Well, of course it has to be to a licensed insurance agent, and there is only one type of license given by the Insurance Department, so I am advised -- that is, a man is either a licensed agent or he is not, and Jortberg is no different in that category than anyone else. And I made the statement at the time: "What did we do last year?" "Well," you gave Brooks Brown part of it last year, and you gave Byron Boyd part of it." Byron Boyd did no more than Jortberg at that time; he merely signed the policy as under our laws is required by the Maine agent. "Well", I said, "I would like to see Brown have part of the commission this year. I would be perfectly willing to have Jortberg have some", although it is my understanding of this transaction that Jortberg had sold himself to the Zurich people on the grounds that the work he had done on ~~XXX~~ safety in the State of Maine could be of value to them in reducing the number of claims they would otherwise have to assume. Well, that

was their problem if they wanted to hire me. I made the allocation this year. I said I would like to see it go that way, which is perfectly legal in every since of the word and is exactly the same discretion that has been followed ever since 1912 on the figure schedule. I had no further knowledge or information, until, one day, I had a letter from the Zurich people, pointing out that they had received a letter from the Commissioner that the checks should be written Brown so much and Jortberg so much, and the check should be forwarded to that office and would be distributed through mine. Well, of course the feature of distributing through mine is what I had done before, merely forward that check to the agent. It was made out to him and was nothing but patronage that had been followed ever since 1912 under the statute.

The Zurich people said they did not find that Brown was an agent of the Zurich Company and they didn't find that Brown was an insurance broker. Well, neither is Jortberg. I immediately turned the letter of the Zurich Company over to Mr. Weston and said, "Here is an inquiry from the Zurich people and what is the answer to this?" He in turn turned it over to Mr. Rodgers, and Mr. Rodgers wrote me a letter covering the matter, which I immediately copied and sent to the Zurich people.

Now the reason that Mr. Rodgers was asked to express his opinion was because some two or three months ago Mr. Lovejoy submitted his resignation and he has since become affiliated with a company in Massachusetts, and I had, of course, strictly speaking, the responsibility of filling that vacancy. Inasmuch as Lovejoy's regular

term would have expired this coming March and the appointment is for a four-year term, and it would then in March have been the responsibility of my successor to have done one of two things: either ^{re}appoint Lovejoy or his successor, I thought it was ^{the} only fair, decent, commendable thing I could do was to say to my successor in essence: "The administration of this Insurance Commissioner, no matter who he may be, is for a four-year period and will parallel your probable administration of four years as Governor of Maine. I think you ought to express your choice, and if you will tell me who you would like to see as Insurance Commissioner to serve under you, I am perfectly willing to name him." Well, at first he thought it was a good idea, and said he appreciated it, and then he came back the next ~~day~~ night and said his telephone had been very busy and that he felt that perhaps it would be better to wait until after January 1st., so there would be no question of any split period. I said, "Well, "I don't know what you mean by split period; there is no question of that. If you want to tell me who you would like to see or who you would appoint if you were here, I will name him and put him up and he will be here." Well, because he expressed that thought, I said, "Well, all right, but remember this: Your suggestion that the deputy continue -- the deputy insurance commissioner here at the present time has only been here about ten days. Now it strikes me it is rather unfair to him; he has not been in the office long enough; I haven't any idea what his background is. It is the easiest thing for me to do, and I feel perfectly safe, because here is what I will do -- and here is what I have done. I will

call this man to the office and say: "Everything here is new and you are not familiar with the routine of the office. Now I want you to assure me that on any matter or any request that comes in here that is not entirely and wholly elementary routine, that you will consult with the State Controller, Mr. Rodgers, who is a thorough insurance man and who would be Insurance Commissioner at this moment if, in my opinion, it wasn't easier to find an insurance commissioner than it is a Controller. He is being paid more money where he is because the responsibilities are greater. He has been deputy in that department for at least a couple of years, and he welcomed that opportunity." Now at the moment I regret that there is no nominal head of the department, and I propose to see that there is before I leave office. But that is the situation at the moment.

So that when I received the letter from Mr. Rodgers -- and I understand you have a copy of it here -- I forwarded that letter to the Zurich people, and the only acknowledgement that I have is that it was being referred to their home office in Chicago.

Now then, it boils right down to this: That what was done was perfectly legal in my judgment, it follows the statute, it follows the custom that has been followed since 1912, and it was purely and entirely discretionary on my part, and that is what I did.

Q. (By Mr. Webber) I would just like to have you correct one thing which I think you stated simply because

your memory didn't serve you. It is unimportant, perhaps. This is the last year's policy of the North American, and you will notice that was signed by Donald Tozier rather than Byron Boyd. (Presenting policy to witness)

A. No; I do not mean that. Byron Boyd signed the Travelers. That particular policy there was worked out with the Insurance Commissioner and the company, but of course some agent in Maine has to sign the policy, and that company elected to have Mr. Tozier sign it. The Travelers -- and I assume it was because he was merely local here -- Byron Boyd signed the Travelers. This year Jortberg signed the Zurich policy.

Q. (By Mr. Webber) The commissions a year ago were divided between Byron Boyd and Brooks Brown?

A. Yes.

Q. Mr. Tozier being on a salary with his company?

A. Exactly as it was understood Jortberg was with the Zurich Company.

Q. I want to get that clear. Your understanding is Mr. Jortberg was on a salary with the Zurich Company at the time he wrote this business?

A. Yes; but only an agent for a very short time, a matter of days.

Q. And your understanding was he was in the same position Mr. Tozier had been a year before approximately?

A. No; I do not think that is exactly right, because Mr. Tozier the year before had been a licensed agent for a number of years.

Q. Does that make any difference?

A. He could not sign the policy if he was not the agent of the company.

Q. But Mr. Jortberg was agent for the company at the time he signed the policy?

A. Yes.

Q. It doesn't make any difference how long he was there?

A. No.

Q. Now Mr. Jortberg has stated and Mr. Lovejoy has stated that he also recalls that at some time prior to the writing of your letter which I first showed you, and at some time prior to Mr. Lovejoy's leaving here, there was a conference between Mr. Lovejoy and Mr. Weston, and Mr. Jortberg, at which it was made clear to them that Mr. Jortberg was not on a salary but was on fee, which incorporated as part of the fee the total commissions on the policy. Now I would like to know if that set of facts was ever at any time made known to you prior to the writing of this letter?

A. I never knew about it. I was not present at any conference.

Q. No; no one testified ~~xxx~~ that you were.

So that at the time of your writing of the letter of November 20th., you still believed that Mr. Jortberg was on a straight salary?

A. Oh yes. And I do now.

Q. Rather on a fee which included the commission?

A. I never heard anything about fee.

Q. And you had no knowledge when you made the allocation that whatever part was paid to Mr. Brown would have to come out of Jortberg's pocket?

A. Oh no, not at all.

Q. Now in this letter which Mr. Rodgers prepared for you and which you signed in the form that he prepared it, it states among other things: "And in view of the fact that Mr. Brown placed the State of Maine automobile fleet policy through the authorized agent of your company, namely Charles A. Jortberg, Jr.***" was it your understanding that ^{when} Mr. Brown had placed the business he had placed it through Mr. Jortberg?

A. Well, I was of the opinion that Brown had done some work on this thing, how much I ~~do~~ do not know and I do not know, but I considered that of no consequence in any event, because ~~xxxx~~ had it been the desire to apportion any commission -- you understand it made no difference so far as the State is concerned, they are not involved in that ~~xxx~~ in any way -- it could have been divided among the twenty agents of Hancock County or Aroostook County as far as that is concerned, exactly as all the fire schedule is apportioned and has been since 1912. I think it is of no consequence in any event.

Here is a question in point: Mr. Tozier is on a salary from his company and I am not aware that Mr. Tozier has a nickel of the premium. Now the only reason that Jortberg had any is that I just thought it might be of some help and so suggested.

Q. Would it have made any difference in your mind had you been informed that Mr. Jortberg was on a fee basis and any amount allocated to Mr. Brown would come out of his pocket?

A. I might not have given him any and it would still have been a perfectly legal transaction.

Q. In other words, that difference in your mind is not consequential?

A. Well, I am not convinced now, I do not believe now he had any misunderstanding. He thought he was on a salary basis. That is my personal opinion.

CHAIRMAN TOMPKINS: Governor, under what chapter and section of the statute do you maintain that you or the council have a right to direct to whom the commissions on these premiums shall be paid?

A. That is it, you have it there, Section 34.

Q. I would like to read that into the record, Section 34 of Chapter 2 of the Revised Statutes of 1938:

"All fire and liability insurance upon public buildings and other property belonging to the State shall be placed thereon by the several boards of trustees having said property in charge, subject to the approval of the Governor and Council or by the Governor and Council, and all expenses therefore shall be paid from the several appropriations for insurance on said property. The policies for all insurance so placed shall be deposited with the Treasurer of State and a record thereof shall be kept by the Governor and Council."

A. Now would you care to write in the fact that had been the interpretation since 1912?

Q. Whose interpretation?

A. Governor Flaisted's first, so Mr. Leadbetter advises me. That is long before my day.

Q. There is no mention, of course, in this statute that the Governor or the Governor and Council can indicate to whom the commissions on those premiums shall be paid?

A. I should so interpret it.

Q. Very well, that is all.

SENATOR LAUGHLIN: Has there always been casualty insurance with the autos? Did they carry casualty insurance before they began to acquire automobiles?

A. Of course that was long before my time. I can only recall back to 1926, as a member of the council. It was being done then. Back of that Mr. Leadbetter can probably tell you because it was supervision that he had.

Q. I was just trying, if you knew, to find out when the custom of having the Governor allocate commissions on casualty insurance began?

A. Well, the only thing I can say is it has been done since I have been here. Now what it was before that I don't know.

Q. You do not know how long it had been in use before?

A. I don't know. I can't say back further than my own time.

Q. It had been done before you were Governor?

A. I don't know. It has since I have been here.

Q. I wondered by how many governors before that it had been done.

A. I don't know.

CHAIRMAN TOMPKINS: Was it done when you were on the Governor's Council?

A. I don't recall that it was.

Q. Then so far as this situation is concerned on liability insurance, it is not based on custom so much as on interpretation of the statute?

A. I can only answer that by saying it has been done since I have been here the last four years. Whether it has been done prior to that I don't know.

SENATOR LAUGHLIN: Various persons state it has been long in use, this custom.

A. Of course the extent of the coverage or the size of the policy, that has been rapidly expanding for the last eight or ten years, because of the number of cars we had.

Q. They said the custom had been in effect for a long time for the Governor to allocate commissions on the casualty insurance. They couldn't tell us how long. I wondered if you knew?

A. I could only tell you for the past four years.

Q. You don't know whether it was done by Governor Brann and Governor Gardiner?

A. I don't know.

(By Senator Boucher)

Q. Governor, how long has that committee of agents been in existence, that committee of agents and key men in each district?

A. Since 1932.

Q. Now, Governor, you mentioned one-eighth of the policies are written each year and written for three years. According to my arithmetic that does not jibe, if you only write one-eighth each year.

A. That is not what I mean. You are talking about the fire schedule. All of the policies are written for a term of three years. Now that comes due June 1st, each year. Now the amount that comes due--

Q. Should be one-third.

A. No. You miss the point. The amount that comes due is divided into one-eighths.

SENATOR BOUCHER: One-third comes through each year, and you divide that one-third into one-eighths?

A. Yes.

Q. (By Mr. Webber) As I stated before, each man places one-twentyfourth each June.

A. Now that one-eighth in round numbers is around \$700,000.

Q. Multiply that by twenty-four and you have the total coverage.

A. And it is all on a blanket schedule, and every one of the policies are written on a form that is supplied by the State. They are all uniform in other words, and the premium of course is very low.

SENATOR BOUCHER: Governor, wouldn't your rate still be lower if it was written for a five-year term? What is the reason you take three years instead of a five-year term?

A. That suggestion was advanced by this committee of insurance men, so that the plan we have is a plan that was devised by -- it seems to me the word that might apply would be some of our outstanding insurance men.

Q. You realize, Governor, don't you, that if it was a five-year term the rate would still be lower?

A. I understand that.

SENATOR LAUGHLIN: Casualty insurance is, of course, just a one-year policy?

A. Yes. And then outside of your casualty there is your boiler policy, the boilers in all these institutions are under one blanket policy. The boiler policies on this building and other buildings are in a separate blanket policy. The agent over to Bangor who countersigns that is Donald Higgins. He simply countersigns the

policy, and the premium on that is apportioned by the council, exactly the same as always has been followed.

SENATOR LAUGHLIN: Was it by vote of the council that the allocation of casualty commissions was left to the Governor?

A. It is not a recorded vote, but it is just an agreement between them.

Q. And if, as far as you know, it began with you, then it must have been an agreement at that time, not by any usage previous to that?

A. I cannot say previous to that.

Q. I mean it was by definite agreement at the beginning of your term?

A. Yes. And it has saved the State a lot of money and could even more if we had been covered on that accident down there that cost us \$19,000.

SENATOR THATCHER: Were there any lives lost there?

A. I do not think so. It was mostly damage to equipment. There was one man they haven't been able to settle with yet, the fireman. Even at that, it is a settlement by consent of parties involved, in which the Maine Central Railroad have assumed ten per cent discount on the thing to get the thing finally settled up, and the State of Maine has paid \$19,000, because this particular truck in question was one that was hired by the Highway Department and under their supervision, and wasn't covered in the policy. This policy of the Zurich covers hired, owned and loaned.

Q. It just happened not to be covered?

A. Right. That is a thing that Lovejoy worked on to get this.

It costs us more money but it is a darned good thing.

CHAIRMAN TOMPKINS: Do you have, as the statute provides, a record of these policies?

A. Yes.

Q. In your office?

A. Well, it was in our office during Mr. Leadbetter's handling of the thing, but we have delegated the supervision of that to the Insurance Department.

Q. But the statute says you shall keep a record.

A. Well, he has that record.

SENATOR LAUGHLIN: Governor, if a contract for insurance was made directly through the State representatives and not through any agent as a result of bids, would it have been possible to have allocated that commission to the treasurer of the State of Maine?

A. Yes; if he was an insurance agent, and of course he happens to be.

Q. Couldn't there have been an arrangement by which the money could have come to the State of Maine, if they made the contract direct? There would not be any agent that really was responsible for getting that insurance?

A. There is not now.

Q. There wasn't any agent responsible, and I am wondering whether the commissions could then have been allocated to the State or deducted from the premiums paid?

A. No.

Q. You don't know that any company would have agreed to have paid those commissions to the State?

A. No. The policy has to be written, so I am advised by insurance men, under our laws it must be signed by an authorized agent in Maine.

Q. And that one is signed by Jortberg, but the money

didn't go to him. So I am simply inquiring whether the money, instead of going to Byron Boyd and Brown one year and Borwn and Jortberg another year could not have been deducted by the State of Maine so the State of Maine would have gotten the commission?

A. No; no more than on the fire schedule which has to go to the authorized agents. Now beginning next June under this same schedule that we have, you as a member of the council will have first the naming of a key agent in your district, and then he will ask you probably -- it always has been done at least -- for a list to which he sends authorization for reinsurance. Now of course so far as this practice has always been followed, ^{so far as} ~~the various members of the~~ the various members of the council are concerned, that will probably be confined to your insurance agents in your district. So far as that portion that the Governor allocates, that is pretty much statewide. I have sent it to insurance agents all over the State from Eastport to Kittery.

CHAIRMAN TOMPKINS: That is not by any enactment of the statute; it is simply a business method of handling the insurance?

A. Why, yes, that is right. The responsibility is placed with the Governor and Council. We have no boards of trustees at the present time. The state is covered. I see no difficulty in it. We have got the best possible insurance coverage that we could get at the lowest possible rate, and how could any more than that be desired?

SENATOR LAUGHLIN: In effect then, these commissions have to be turned over some way or another just as a pure gift, and have nothing to do with the work?

A. Well, to an authorized agent.

Q. They were not turned over to an authorized agent in the Zurich case, because in the year they were paid to Byron Boyd and Brown they went as gifts to them. They were agents of course, but they had not secured the insurance. Mr. Brown testified he had not.

A. Nobody has secured this insurance coverage. The State Commissioner has been directed to receive bids on a complete coverage.

Q. And so I am saying, it went then under this system just as a gift to designated persons who have not done anything for it?

A. You can call it what you want to. It is the same way on the fire schedule. You can call it a gift if you want to.

Q. In other words, persons who have had no part in placing insurance, done no work whatever, get a certain gift as designated by the Governor and members of the Council?

A. Well, my advice seemed to indicate that he had done something about it, and I could have made to any authorized agent of the State a legal transaction, and that is what I believe it was.

Q. The statement has been made here he did not do anything.

A. That may be. This has all come up since my request for

information came to me, and you have no question about that, I assume. Was there any question that letter was not sent to me? As I understand it, this is merely a recommendation which emanated from my office. I do not know that any commissions have been paid, and I don't believe they have.

SENATOR LAUGHLIN: They were paid last year. This is still in abeyance because they refused to pay them on that basis. A. They haven't refused to pay it, they just haven't done it. I have had no further correspondence.

SENATOR LAUGHLIN: So it doesn't matter anyway. I was just trying to get at the system. These commissions paid on fire and casualty in all practical effect become a gift to ~~xxx~~ persons who in many cases have done no work whatever; the State did it in the first instance of accepting the bid.

A. Exactly.

MR. McNAMARA: In your opinion, Governor, do you think Jortberg has worked this whole thing up with the expectation he could get commissions?

A. Yes; but I think he did it with a thorough understanding that ~~all~~ he expected to get out of this whole thing was a job with the Zurich Company. He got that. And probably if I had seen fit to recommend that he have a larger proportion of this you might never have heard anything about it. That is the story.

(Off record)

(Witness excused)

The foregoing is a true transcript of my shorthand notes in the above matter.


Reporter