

carriers who use the highways as their place of business.”

Bradley v. Public Utility Comm., 289 U. S. 292.

Since the enactment of the Federal Motor Carrier Law which became operative October 1, 1935, a number of serious problems have arisen in connection with the State's control over interstate carriers. It may be stated generally that a state now has no power to determine the need or convenience for interstate motor carriage. That question rests with the Interstate Commerce Commission. However, recent court decisions have recognized the right of the states to continue certain lines of regulation, such as the size and weight of trucks, because that has to do with the construction and type of roads which are local problems. *L. L. Freight v. R. R. Commission*, 17 Fed. Supp. 13 (Decision December 4, 1936) and *Barnwell Brothers v. So. Carolina Highway Commission*. (Not yet reported.)

The Federal Act also leaves to the several states the power of taxation of motor carriers. However, since the field of interstate motor regulation has been occupied by the Federal Government, a state is without power to enact any regulation that would operate as a regulation of interstate commerce or which would put a serious burden upon it.

I do not believe that a law which would prevent interstate motor carriers from using the highways of the State on Sunday between 6:00 A.M. and midnight is so certainly a police regulation that its validity could be sustained.

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**FINANCIAL INSTITUTIONS, DEPARTMENT OF: Venue, change of; liquidation of banks. Right of change of venue in matters touching.**

January 25, 1937.

Mr. Wm. R. Dexheimer,  
Supervisor, Division of Liquidations,  
Department of Financial Institutions,  
Indianapolis, Indiana.

Dear Sir:

I have your letter of inquiry containing the following question:

“Can the Department of Financial Institutions take a change of venue from the judge in the matter of the determination of claims and priorities on the schedule of liabilities filed in liquidations?”

The section of the statute providing for a change of venue is quite broad and provides that,

“When any matter of a civil or equitable nature, not triable by a jury, is pending, the judge before whom said cause is pending shall change the venue thereof upon application of either party.”

*Section 2-1402 Burns 1933 Revision.*

This statute has been construed in the case of *State ex rel. Wood, v. Carlin*, 197 N. E. 825, in which recent decisions of the Supreme Court are cited and upon the authority of this case and cases cited it is our opinion that the Department of Financial Institutions, or their Liquidating Agent, is entitled to a change of venue in matters touching the administration of his trust over which the court has jurisdiction.

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**ACCOUNTS, STATE BOARD OF: County commissioners, appropriations to office of prosecuting attorney for purposes in addition to salary for office expense valid.**

Hon. W. P. Cosgrove,  
State Examiner,  
State Board of Accounts,  
State House,  
Indianapolis, Indiana.

January 26, 1937.

Dear Sir:

Receipt is acknowledged of your request, dated January 19, 1937, for an opinion on the following:

“At the September meeting of the county council in Monroe County, appropriations were made for the office of Prosecuting Attorney, as follows:

Salary of Stenographer	\$900.00
Postage	75.00
Telephone Tolls and Telegrams	150.00
Repairs to Equipment	25.00
Books and Stationery	100.00