CHAPTER 194.

Motor Vehicle Transportation Act.

Revisor’s Note, 1939: Section 110.03 (5) (created by chapter 416, Laws 1929) transfers to the Motor Vehicle Department “all powers, duties and functions vested in the public service commission by virtue of chapter 194, excepting” specified provisions; and section 110.08 commands the revisor of statutes “to make the necessary changes in the language of the statutes so as to indicate the transfers provided in section 110.03.” The revisor has done that to the best of his ability. In every instance that he has made any change in the language he has called attention to the change by citing section 110.08 at the end of the section, either in the history of the section (brackets) or in a “revisor’s note.” The changes of language have been limited to substituting “motor vehicle department” or “department” for “public service commission” or for “commission.” Section 194.36 is compiled from 194.18 (1), (2), and 194.36 (1), (3). The introduction to 194.38 is necessarily new.

194.01 History: 1933 c. 408 s. 8; Stats. 1933 s. 194.01; 1937 c. 296; 1939 c. 322; 1947 c. 695; 1961 c. 35; 1965 c. 418; 1969 c. 386 s. 176; 1969 c. 509 a. 30 (3) (a).

Legislative Council Note, 1961: This eliminates “two-wheeled” so as to permit the use of four-wheeled or tandem axle trailers when used with an automobile. This change will clarify the application of 194.4 (2) which relates to dealers of vehicles. [Bill 33-S].

An agent selling and delivering products for an oil company under a bulk station agent’s employment contract, who is not required to furnish any delivery equipment, is not a “carrier,” notwithstanding the cost of operation is deducted from the agent’s commission. An agent whose employment contract required him to provide a truck chassis necessary for the sale and delivery of the company’s products and provided for compensation by salary and commissions is not a “contract motor carrier.” The oil company employing him is a “private motor carrier” and not required to obtain a permit to operate. Standard Oil Co. v. Public Service Comm. 217 W 563, 250 NW 586.

A partnership organized for the sole purpose of hauling milk for hire is a contract motor carrier within the meaning of the terms defined in 194.01, Stats. 1945, and is subject to 194.54, notwithstanding its contract of carriage is limited to members of the partnership. 38 Atty. Gen. 110.

A municipality hiring a motor truck without a driver is a private motor carrier under definitions provided by 194.01 (5), (11) and (14). Persons leasing a truck with driver to a municipality are contract motor carriers. 194.05 (1) does not provide exceptions in the above cases. 38 Atty. Gen. 486.
Stats. 1947, requires approval of assignment from such a partnership requires similar winding up. Atty. Gen. 643.

partnership holding a license under 194.34, carried on beyond the period necessary for the license and payment of a fee under 194.04. Atty. Gen. 743.

permits to nonresident private motor carriers (b), Stats. 1945, does not include a mortgage or lease of a common motor carrier certificate. 34 Atty. Gen. 326.

Applications for amendments to certificates and licenses, and payment of filing fees, are required under 194.04, 194.05, and 194.20, Stats. 1965, from interstate motor carriers which have been authorized by the interstate commerce commission to extend their routes outside of Wisconsin or to transport additional commodities. 44 Atty. Gen. 216.

history: 1933 c. 488 s. 3; Stats. 1933 s. 194.04; 1937 c. 299; 1939 c. 410 s. 2 (110.08); 1943 c. 78; 1951 c. 261 s. 10; 1969 c. 500 s. 30 (3) (g).

At the action of the commission, the court summary of the record by the person who heard the testimony is made practically equivalent to a finding of the public service commission unless set aside by the commission on exceptions made by one of the parties. Where such exceptions are made, the commission must examine the record sufficiently to ascertain whether they are well taken and, if it finds that they are, must modify the summary accordingly. Since the circuit court is limited by 227.20 to a review of the action of the commission, the court is not required to make an original examination of the evidence or to re-examine the entire record or to summarize the evidence. Gateway City Transfer Co. v. Public Service Comm. 253 W 367, 34 NW (2d) 238. See note to 194.20, citing Chicago & M. E. R. Co. v. Public Service Comm. 254 W 661, 37 NW (2d) 68.

License to carry dwelling goods in private gain without the consent of the public service commission to extend their routes in the interests of public safety is not adequate motor-transportation service to meet by the regulation of motor carriers authorized Stats. 1951, the equivalent to a finding of the public service commission on exceptions made by one of the parties. Where such exceptions are made, the commission must examine the record sufficiently to ascertain whether they are well taken and, if it finds that they are, must modify the summary accordingly. Since the circuit court is limited by 227.20 to a review of the action of the commission, the court is not required to make an original examination of the evidence or to re-examine the entire record or to summarize the evidence. Gateway City Transfer Co. v. Public Service Comm. 253 W 367, 34 NW (2d) 238. See note to 194.20, citing Chicago & M. E. R. Co. v. Public Service Comm. 254 W 661, 37 NW (2d) 68.

The power of the motor vehicle department under 194.05, Stats. 1945, to regulate school buses in the interests of public safety is not limited to the regulation of school buses operated under contract with school districts. Vehreth v. Hueftli, 253 W 510, 34 NW (2d) 903.

The public service commission may issue permits to nonresident private motor carriers for private gain without the consent of the public service commission to extend their routes in the interests of public safety is not adequate motor-transportation service to meet by the regulation of motor carriers authorized Stats. 1951, the equivalent to a finding of the public service commission on exceptions made by one of the parties. Where such exceptions are made, the commission must examine the record sufficiently to ascertain whether they are well taken and, if it finds that they are, must modify the summary accordingly. Since the circuit court is limited by 227.20 to a review of the action of the commission, the court is not required to make an original examination of the evidence or to re-examine the entire record or to summarize the evidence. Gateway City Transfer Co. v. Public Service Comm. 253 W 367, 34 NW (2d) 238. See note to 194.20, citing Chicago & M. E. R. Co. v. Public Service Comm. 254 W 661, 37 NW (2d) 68.

The withdrawal of a general partner to a partnership holding a license under 194.34, Stats. 1947, requires approval of assignment of the license and payment of a fee under 194.04. The withdrawal of a general partner from such a partnership requires similar approval and payment if the business is to be carried on beyond the period necessary for winding up. 36 Atty. Gen. 643.

The addition of a new general partner to a partnership holding a license under 194.34, Stats. 1947, requires approval of assignment of the license and payment of a fee under 194.04. The withdrawal of a general partner from such a partnership requires similar approval and payment if the business is to be carried on beyond the period necessary for winding up. 36 Atty. Gen. 643.

The public service commission may issue permits to nonresident private motor carriers and such permits may be issued for foreign-owned vehicles for hire, even though they make only one trip into the state per year. 24 Atty. Gen. 743.

The word "assignment" as used in 194.04 (1) (b), Stats. 1945, does not include a mortgage or lease of a common motor carrier certificate. 34 Atty. Gen. 326.

The paramount goal sought to be attained by the regulation of motor carriers authorized by 194.02, Stats. 1961, is that of providing adequate motor-transportation service to meet the public needs, and any other objective is secondary. Motor Transport Co. v. Public Service Comm. 265 W 31, 55 NW (2d) 546.

Motor vehicle transportation act, ch. 194, Stats. 1951, as applied to for-hire transportation of property by motor carrier, is a whole and complete statutory plan of regulation, which has completely supplanted, and which does not permit of, any common-law concepts of such for-hire transportation. There is no inherent right to use a public highway in the conduct of the business of a common carrier for private gain, without the consent of the state. 42 Atty. Gen. 79.

The power of the motor vehicle department under 194.02, Stats. 1945, to regulate school buses in the interests of public safety is not limited to the regulation of school buses operated under contract with school districts. Vehreth v. Hueftli, 253 W 510, 34 NW (2d) 903.

The public service commission may issue permits to nonresident private motor carriers for private gain without the consent of the public service commission to extend their routes in the interests of public safety is not adequate motor-transportation service to meet by the regulation of motor carriers authorized Stats. 1951, the equivalent to a finding of the public service commission on exceptions made by one of the parties. Where such exceptions are made, the commission must examine the record sufficiently to ascertain whether they are well taken and, if it finds that they are, must modify the summary accordingly. Since the circuit court is limited by 227.20 to a review of the action of the commission, the court is not required to make an original examination of the evidence or to re-examine the entire record or to summarize the evidence. Gateway City Transfer Co. v. Public Service Comm. 253 W 367, 34 NW (2d) 238. See note to 194.20, citing Chicago & M. E. R. Co. v. Public Service Comm. 254 W 661, 37 NW (2d) 68.

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The word "assignment" as used in 194.04 (1) (b), Stats. 1945, does not include a mortgage or lease of a common motor carrier certificate. 34 Atty. Gen. 326.
pany to operate limousines interurban between
service, but thereunder, and acting within the
flashing light on the west side of a certain
street and viaduct in Milwaukee did not grant a motor-carrier certificate, where the
company already had a certificate as a
of paving on a certain portion of the route, is
not void for indefiniteness or uncertainty.
Madison Bus Co. v. Public Service Comm. 264
W 12, 56 NW (2d) 493.
See note to 194.03, citing Milwaukee & S. &
Corp. v. Public Service Comm. 268 W 578,
68 NW (2d) 522.

A statement of the public service commis-
sion that 194.18 and 194.23, Stats. 1949, do
not set up a presumption in favor of competi-
tion was not a holding that such statutes create a
presumption against competition between
common motor carriers, nor an assertion that
the commission favored monopoly or in-
dulged in a presumption in favor of it, and
did not indicate that the commission’s denial of
an application of a common motor carrier for
authority to render additional services by its
truck lines was based on an erroneous view of
the law. The refusal to grant a second cer-
tificate of convenience and necessity does not
offend either the constitution or a valid stat-
ute enacted under it, even if such refusal re-
sults in the route being served by a single
common motor carrier, as against a conten-
tion that the order of the public service commis-
sion in this case, based on the standards
prescribed by said sections leaves one com-
mon motor carrier with an exclusive fran-
chise to transport passengers similar to that
afforded by street railways, and all questions
are submitted for determination to the rail-
road commission, but subject to review the
same as the commission’s other orders. Such
determinations are controlling as against any
conflicting municipal regulations. Vender-
weener v. Superior, 179 W 638, 192 NW 60.

The words “public convenience and neces-
sity,” are not words of precise legal content
but, in the light of decided cases, they can be
properly applied in a given case when the basic
ultimate facts are found. Clintonville Trans-
fer Line v. Public Service Comm. 248 W 59,
21 NW (2d) 238.

Hearings before the public service commis-
sion under the statutes relating to common
motor carriers are not to be treated as civil
actions, but such hearings are legislative in
character, and, while they are quasi-judicial
because of fact-finding powers of the commis-
sion, they nevertheless operate in the legisla-
tive field. Gateway City Transfer Co. v. Public
Service Comm. 253 W 397, 34 NW (2d) 288.

Ch. 194 was designed to prevent imprud-
ent, wasteful and unnecessary duplication of
service, but thereunder, acting within the
bounds of the legislative standards set forth in
the specific provision presently applicable in
chapter 208. (Bill 33-S)

By the adoption of ch. 546, Laws 1915, the
state assumed jurisdiction over street trans-
portation by motor vehicles similar to that
afforded by street railways, and all questions
are submitted for determination to the rail-
road commission, but subject to review the
same as the commission’s other orders. Such
determinations are controlling as against any
conflicting municipal regulations. Vender-
weener v. Superior, 179 W 638, 192 NW 60.

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tive field. Gateway City Transfer Co. v. Public
Service Comm. 253 W 397, 34 NW (2d) 288.

Under 194.18, 194.23, and 194.27 (1), Stats.
1945, the public service commission has au-
thority to issue a certificate to a common
motor carrier authorizing service between points
in one municipality to points in another, with
the restriction that there may be no transfer
of lading between vehicles for the purpose of
pickup and delivery service. Motor Trans-
port Co. v. Public Service Comm. 253 W 497,
34 NW (2d) 707.

An order authorizing a company to estab-
lish a motorbus service which would be in com-
petition with an existing streetcar service over a
certain street and viaduct in Milwaukee did
not grant a motor-carrier certificate, where
the company already had a certificate as a
common motor carrier giving service within the city, and did not grant an amendment, where the order did not involve the establishment or abandonment of service at any city or village but involved only a change of routes within the limits of the city; hence the requirements in this section as to a finding of public convenience and necessity and as to taking into consideration existing transportation facilities in the territory in granting a certificate or an amendment did not apply. Chicago & M. E. R. Co. v. Public Service Comm. 254 W 551, 37 NW (2d) 42.

The power delegated to the public service commission by ch. 194, Stats. 1947, is in a power to act throughout the state. 194.18 (1), vesting the commission with the power to designate the public highways as routes over which common motor carriers may or may not operate, and 194.23 (1), providing that no person shall operate any motor vehicle as a common carrier except in accordance with the terms and conditions of a certificate issued by the commission, is mandatory and, considered with related provisions, confers on the commission, as a state agency acting for the state throughout its boundaries, the exclusive power to designate routes for common motor carriers. Safe Way Motor Coach Co. v. Two Rivers, 256 W 35, 39 NW (2d) 847.

See note to 194.25, citing Clintonville Transfer Line v. Public Service Comm. 258 W 570, 46 NW (2d) 741.

A certain statement in the opinion of the public service commission, when considered in the light of other language in the opinion, was not the equivalent of a finding that the service of carrier M, already operating over the same route and opposing this application, was adequate for public needs. Findings of the commission that the proposed operations are in the public interest and required by public convenience and necessity because there is reasonable need for such service and there is no showing that efficient public service by any other motor carrier will be unduly interfered with were based on prescribed legislative standards, and were supported by substantial evidence in view of the entire record, so as to warrant the granting of a certificate, as against objection by carrier M. Motor Transport Co. v. Public Service Comm. 263 W 31, 56 NW (2d) 548.

See note to 194.25, citing Albrecht Freight & Storage Co. v. Public Service Comm. 263 W 119, 56 NW (2d) 846.

If a common motor carrier has freight destined for delivery outside its authority but within that of another carrier, it may arrange for such delivery by the other connecting carrier, and such connecting service is known as joint-line service. When the carriage is performed by a single agent who possesses a single authority to complete it from collection to delivery of the freight, it is known as single-line service. West Shore Express, Inc. v. Public Service Comm. 264 W 65, 50 NW (2d) 407.

One of the qualifications of 194.23 (1), which confers legislative discretion upon the public service commission to grant or deny a certificate of authority to a motor vehicle common carrier in conformity with public convenience and necessity, requires the commission, in making such a determination, to take into consideration existing transportation facilities in the territory proposed to be served.Robertson Transport Co. v. Public Service Comm. 29 W (2d) 553, 150 NW (2d) 650.

194.24 History: 1933 c. 488 s. 3; Stats. 1933 s. 194.34; 1957 c. 523; 1969 c. 30 (3) (c).

194.25 History: 1933 c. 488 a. 3; Stats. 1933 s. 194.25, 1957 c. 288; 1947 c. 196; 1961 c. 712.

The public service commission must approve an assignment of a certificate of a common motor carrier if the same is not against the public interest, which is the requirement prescribed by 194.25 (2), Stats. 1947, and the commission cannot impose an additional requirement by a rule providing that, if a certificate of an intrastate common motor carrier is to be assigned to another like carrier operating a connecting route and it is proposed to operate the combined systems as a single through route, the application must be supported by evidence that public convenience and necessity require the through service; but if it is proposed to link up the 2 routes and operate a single-line service, thereby creating new operating rights, it is necessary for such assignee to file an application for an amendment to its certificate, pursuant to 194.23, and then to establish public convenience and necessity, as required by that section. Clintonville Transfer Line v. Public Service Comm. 268 W 570, 46 NW (2d) 741.

The public service commission's approval of an assignment to carrier A, of the certificate of authority of connecting carrier B, was proper, but the commission's findings that a grant of additional authority for unification of operations, so as to provide a single-line service, were not supported by substantial evidence in view of the entire record. The commission's finding, that a saving in operating costs would be effected by carrier A if single-line service was permitted, was not sufficient in itself to support the commission's ultimate finding that unification was required by public convenience and necessity. Albrecht Freight & Storage Co. v. Public Service Comm. 263 W 119, 56 NW (2d) 846.

Where approval is sought for the assignment of the authority of one carrier to a carrier with a connecting line, and the applicant informs the public service commission that it will maintain the former joint-line service between the 2 routes, the commission, even though of the opinion that a single carrier cannot joint-line with itself, may not on that ground treat the application at one for an amendment to the applicant's existing certificate so as to confer new operating rights, and the commission in such case may not deny approval for lack of proof by the applicant of elements which the statutes do not require when assignments, not amendments, of authority are under consideration; but if such applicant, on receiving approval of the assignment, does conduct single-line operation, the commission has the same power to interfere that it has when any carrier operates outside its authority. West Shore Express, Inc. v. Public Service Comm. 264 W 65, 50 NW (2d) 407.

This section does not prevent sale of a contract motor carrier license by a trustee in bankruptcy, subject to approval of the public.

194.39 is inapplicable to an order of the public service commission entered under 194.35 (2), with respect to which the commission has a single determinative function and with respect to which parties have fully executed contracts made pursuant to a prior determination of the commission. 29 Atty. Gen. 101.

194.26 History: 1933 c. 488 s. 3; Stats. 1933 s. 194.26; 1937 c. 288; 1951 c. 712.

194.27 History: 1933 c. 488 s. 3; Stats. 1933 s. 194.27; 1937 c. 288.

See note to 194.23, citing Motor Transport Co. v. Public Service Comm. 253 W 497, 34 NW (2d) 797.

194.28 History: 1933 c. 488 s. 3; Stats. 1933 s. 194.28; 1937 c. 226; 1947 c. 197.

194.29 History: 1933 c. 488 s. 3; Stats. 1933 s. 194.29.

Service orders cannot take the place of managerial initiative which is fostered by competition, so the public service commission may determine whether or not competition will best serve the public need for additional common motor-carrier service, provided that the commission is in a position to determine, on the basis of evidence presented, whether the public need for such service makes it desirable to permit new service. Motor Transport Co. v. Two Rivers, 256 W 35, 39 NW (2d) 650.

194.30 History: 1933 c. 488 s. 3; Stats. 1933 s. 194.30.

194.31 History: 1933 c. 488 s. 3; Stats. 1933 s. 194.31; 1939 c. 410 s. 2 (110.08); 1957 c. 323; 1969 c. 500 s. 30 (3) (c), (d).

194.32 History: 1933 c. 488 s. 3; Stats. 1933 s. 194.32; 1945 c. 385; 1951 c. 650; 1955 c. 624; 1969 c. 460.

194.33 History: 1933 c. 488 s. 3; Stats. 1933 s. 194.33; 1939 c. 410 s. 2 (110.08); 1957 c. 663; 1969 c. 560 s. 30 (3) (g).

194.34, Stats. 1947, confers on a city a power which is subordinate to the exclusive authority conferred on the public service commission by 194.18 (2) to designate routes, and does not confer on a city the power to nullify an order of the commission designating the routes over which a common motor carrier may operate within the city. An ordinance which attempts to change such designated routes is void as a usurpation of power conferred solely on the commission. Safe Way Motor Co. v. Two Rivers, 256 W 35, 39 NW (2d) 847.

194.34 History: 1933 c. 488 s. 3; Stats. 1933 s. 194.34; 1937 c. 288; 1941 c. 215, 216; 1943 c. 79; 1945 c. 206; 1959 c. 560.

If there is a reasonable need apparent for the use of the service offered by an applicant for a contract motor carrier license, and if a common carrier is not unduly interfered with nor the public highways unduly burdened, a case of “convenience and necessity” entitling the applicant to a license, exists. United Parcel Service v. Public Service Comm. 240 W 603, 4 NW (2d) 138; Farmers Co-op. E. U.S. Ams. v. Public Service Comm. 245 W 143, 13 NW (2d) 597.

On the distinction between private and public contract carriers see R. D. C. Corp. v. Public Service Comm. 32 W (2d) 260, 127 NW (2d) 496.

194.34 (1), which provides that an application for a contract license shall be granted or denied as the public interest may require upon a finding of public convenience and necessity (taking into consideration all existing transportation facilities in the territory), is neither to be interpreted as a legislative commitment to competition as the best guarantor of adequate carrier service nor as a mandate for monopoly as the best assurance thereof. Friebe v. Public Service Comm. 38 W (2d) 635, 157 NW (2d) 600.

Drayage companies holding contract motor carrier licenses issued by the public service commission, under 194.34, Stats. 1951, may not legally furnish truck-tractors or road tractors to certificated common motor carriers for pickup and delivery or any other use by the latter; and may not hitch and pull trailers or semi-trailers permitted under a common motor carrier certificate with their own permitted tractors for for-hire transportation of property. 42 Atty. Gen. 79.

194.35 History: 1933 c. 488 s. 3; Stats. 1933 s. 194.35; 1957 c. 525; 1969 c. 500 s. 30 (3) (c).

194.35 History: 1933 c. 488 s. 3; Stats. 1933 s. 194.36; 1939 c. 410 s. 2 (110.08); 1957 c. 663; 1959 c. 560.

The power and authority of the public service commission to regulate contract motor carriers must be found within the statutes, and distinctions fixed by the statutes between classes of motor carriers must be followed. One of the purposes of the motor vehicle transportation act is to protect the common carrier from the contract motor carrier, and unfair competition as between common and contract carriers is sought to be eliminated, but no consideration is given to other contract carriers with respect to competition by the contract carrier seeking a license, and as between contract carriers competition is to be permitted when it can reasonably exist. United Parcel Service v. Public Service Comm. 240 W 603, 4 NW (2d) 138.

194.37 History: 1939 c. 410 s. 2; Stats. 1939 s. 194.37; 1951 c. 319 s. 217; Stats. 1951 s. 194.36; 1953 c. 61 s. 114; 1953 c. 488; Stats. 1953 s. 194.37; 1953 c. 10; 1957 c. 672; 1961 c. 316, 646; 1965 c. 163; 1969 c. 560 s. 30 (3) (c).

194.38 History: 1933 c. 488; Stats. 1933 s. 194.18 (1), (3); 1939 c. 410 s. 2 (110.08); Stats. 1939 s. 194.36; 1951 c. 319 s. 217; 1965 c. 163; 1969 c. 560 s. 30 (3) (g).

The motor vehicle transportation act does not authorize the public service commission to fix hours of service of drivers of private carriers. Gardner Baking Co. v. Public Service Comm. 224 W 548, 271 NW (2d) 833.
Where endorsement upon an automobile liability policy clearly expresses the insurer’s intent to afford coverage to a motor carrier, the addition to said endorsement of ambiguous language relating to contingencies under which the insurer may in turn be liable to the insurer, but which does not in any manner alter or change the insurer’s liability to third persons, does not render the endorsement unacceptable for filing in the motor vehicle department. 42 Atty. Gen. 57.

**CHAPTER 195.**

Public Service Commission: Regulation of Railroads, Street Railways, Interurban Railways and Express and Telegraph Companies.

195.01 History: 1909 c. 362 s. 1; Supl. 1909 s. 179-1; 1917 c. 362 s. 1; 1907 c. 678 s. 19; 1911 c. 663 s. 337; 1913 c. 772 s. 101; 1918 c. 107; 1911 c. 101; 1919 c. 93 s. 30, 31; 1910 c. 382 s. 14, 28, 32; 1921 c. 390 s. 25; 1923 c. 201 s. 3; Stats. 1924 s. 165, 165; 1926 c. 288; 1929 c. 465 s. 3; 1935 c. 564 s. 171; 1929 c. 529 s. 7; 1931 c. 45 s. 1; 1933 c. 103 s. 2; 1937 c. 9; Supl. 1939 c. 110; 1943 c. 275 s. 40, 1945 c. 201; 1935 c. 33; 1939 c. 97 s. 43; 1941 c. 247, 712; 1947 c. 97, 263; 1963 c. 658 s. 7, 1969 c. 57, 1969 c. 658 s. 7, 1969 c. 658 s. 7.

195.02 History: 1905 c. 362 s. 2; Supl. 1906 c. 1797—2; 1907 c. 682; 1907 c. 676 s. 19; 1911 c. 663 s. 337; 1913 c. 311; 1923 c. 291 s. 3; Stats. 1926 c. 82; 1929 c. 195; 1933 c. 366.

195.03 History: 1907 c. 499; 1909 c. 248; 1911 c. 663 s. 265; 1911 c. 1797—3; 1923 c. 291 s. 3; 1923 c. 291 s. 3; 1923 c. 291 s. 3; Stats. 1926 c. 82; 1929 c. 160; 1945 c. 375 s. 12; 1969 c. 523; 1969 c. 276.

On equality, inherent rights, and exercises of police power see notes to sec. 1, art. 1; on legislative power generally and on delegation of power see notes to sec. 1, art. IV; on judicial power generally see notes to sec. 2, art. VII; and on securities of public service corporations see notes to various sections of ch. 184.

The railroad commission is an administrative body empowered to investigate and determine the existence of certain facts. When