

MR. HITCHCOCK: That is true. The expression "vehicles which do not stop to park" should not be interpreted to mean through traffic in the business district. It does include cruising vehicles and vehicles being serviced or repaired. Determination of the volume of cruising vehicles would be difficult but the volume of vehicles in these two classes

is small. A proportion of this volume should be considered as eligible for bypass routes. Even with bypass routes available, some traffic undoubtedly will continue to travel through the central business district. These percentages do show, however, what proportions of the congestion is caused by moving vehicles and those who park.

## STATE GENERAL, SPECIAL AND LOCAL ENABLING LEGISLATION DEALING WITH AUTOMOBILE PARKING FACILITIES<sup>1</sup>

BY DAVID R. LEVIN, *Head, Special Administrative Studies Unit, Public Roads Administration*

### SYNOPSIS

Existing parking facilities, apparently a basic ingredient in our motorized cities are still relatively inadequate in capacity, expensive in user cost, and inconvenient in location.

One of the principal barriers to betterment in the parking muddle has been the inadequacy of the legal and administrative machinery provided to do the job. Accordingly, at the earliest possible moment, all existing statutes relating to parking facilities ought to be placed under a legislative microscope by all States, and revised in accordance with present needs.

Analysis of state enabling legislation reveals that there are 91 different laws in 29 States and the District of Columbia, enacted over a period of almost three decades. Only 59 of these acts are general in application. The availability of a substantial amount of legislation in more than half the States should not be construed, however, as meaning that efficient machinery is already available to deal with the parking problem.

An essential of an adequate parking law is an appropriate declaration of legislative policy, serving as a valuable guide-post for the judiciary in legal contests that are likely to result from the extensive exercise of a relatively new public function.

The diversity of legislative terms used to describe parking facilities is amazing. There are no less than 53 different phrases in the laws investigated. Only three or four terms are necessary to describe the different functional or administrative types of automobile parking facilities, and these should be legally defined.

In spite of widespread interest in parking in the United States in recent years, bold measures directed toward alleviating the problem have been largely lacking. It is becoming apparent that preachment alone will not solve urban parking difficulties; more is required than the counting and recounting of potential parkers and present parking accommodations, the apprehension of illegal parkers, and the installation of parking meters. Parking facilities, apparently a basic ingredient in

our motorized cities, are still relatively inadequate in capacity, expensive in user cost, and inconvenient in location.

One of the principal barriers to betterment of the parking muddle has been the inadequacy of the legal and administrative machinery provided to do the job. The enactment of a comprehensive, modernized general enabling statute in many States could be a most important factor in solving the parking problem.

Accordingly, it is the responsibility of every State legislature to re-examine present State enabling legislation in the light of present needs and to revise its laws in accordance with its findings. This analysis of State enabling

<sup>1</sup> Based in part upon An Analysis of General State Enabling Legislation Dealing with Automobile Parking Facilities, Highway Research Board, Bulletin No. 2, Revised (1947)

authority dealing with automobile parking facilities and the preparation of model statutes derived therefrom have been undertaken as an aid to the States in the achievement of this objective.

Investigation of state enabling legislation logically resolves itself into three categories. The first and perhaps most important class deals with general enabling legislation of state-wide or area-wide application. The second type of statute may be called state special and local enabling legislation, dealing with specific cities or specific projects or places where parking facilities may be built. The third and last category deals with the establishment and regulation of parking facilities by means of zoning ordinances, building codes, and the police power generally. This paper deals only with the first two segments of parking legislation.

*Extent of Legislation.* Careful investigation of State enabling legislation reveals that there are 91 different laws in 29 States (1)<sup>2</sup> and the District of Columbia, enacted over a period of almost three decades. Of these, 59 are general enabling statutes, while 32 are special and local in character. The recognition of the parking problem and the desire to cope with parking difficulties thus evidenced is indeed salutary.

This recitation of the availability of a substantial amount of legislation in more than half the States should not be construed, however, as meaning that efficient machinery is already available to deal with the parking problem. Let us see why this is so.

*Declaration of Legislative Policy.* The essentials of adequate parking laws are easily discernible. Among them is an appropriate declaration of legislative policy, serving as a valuable guide-post for the judiciary in legal contests that are likely to result from the extensive exercise of a relatively new public function.

Less than a third of the state statutes examined contain legislative enunciations of public policy, and only a small portion of these are comprehensive in character. Based upon the better state laws and modern needs, it seems that an adequate declaration of policy should contain recitals to the effect:

<sup>2</sup> Italicized numbers in parentheses refer to the list of notes at the end of the paper.

...that excessive curb parking of motor vehicles on roads and streets in urban and metropolitan areas and the lack of adequate off-street parking facilities create congestion, obstruct the free circulation of traffic, diminish property values, and endanger the health, safety, and general welfare of the public;

...that the provision of conveniently-located off-street parking facilities, attractive in user cost, and the simultaneous public control of curb parking are therefore necessary to alleviate such conditions; and

...that the establishment of public off-street automobile parking facilities and fostering the provision of commercial and special-purpose off-street automobile parking facilities are deemed to be proper public functions.

*Parking Terminology.* The diversity of legislative terms used to describe parking facilities is amazing. There are no less than 53 different terms or phrases in 91 separate acts in 30 jurisdictions. Even within the same State, uniformity in terminology is often neglected. Granting that a single term may not necessarily prove adequate to describe different types of automobile parking facilities, there is, nevertheless, excessive and unwarranted variety.

Only three or four terms are necessary to describe the different functional or administrative types of automobile parking facilities, and these should be legally defined in order to establish a broad conception of parking facilities. Based primarily upon an administrative classification, there are four basic types of facilities, as follows:

(1) Public off-street automobile parking facilities, defined as accommodations provided by public authority for the parking of automobiles off the street or highway. Such facilities may be publicly owned and publicly operated or they may be publicly owned and privately operated, open to public use, with or without charge.

(2) Commercial off-street automobile parking facilities, defined as accommodations provided by private enterprise for the parking of automobiles off the street or highway, open to public use for a fee.

(3) Special-purpose off-street automobile parking facilities, defined as accommodations provided by public authorities, private groups, or individuals, generally for re-

stricted use in connection with public improvements, particular businesses, theaters, hotels, and other private enterprises, or combinations thereof, or as adjuncts to housing developments or private residences. Such facilities may or may not be cooperatively established and operated.

(4) Combined off-street automobile parking facilities, defined as accommodations provided by joint action of any two or more of the above-designated agencies.

Such classes of parking facilities may include lots, garages, or other structures or accessories; they may be surface facilities, or facilities above or under the ground.

*Administrative Authority and Jurisdiction.* Authority is granted to a variety of administrative agencies under the 91 enabling statutes dealing with automobile parking facilities. Practically every level of government shares responsibility for the provision of parking facilities under one or another of these laws.

Limited authority to establish parking facilities is granted by statute to state administrative agencies in 15 States, in 10 instances (2) for general purposes, and in the remainder for specific purposes (3). In about half of them, the responsibility is lodged with the state highway department, while in the rest, it is vested in the Conservation department, the State Planning and Resources board, and other state agencies.

Six States (4) have some legal provision for the establishment of parking facilities by administrative agencies at the metropolitan level. In only three cases (5), however, is the authority applicable to such urbanized areas generally.

Though the authority varies considerably in magnitude, 24 jurisdictions (6) permit all cities, designated classes thereof, or specific cities to provide or foster the provision of parking facilities. In seven States (7), only single cities are empowered to act.

Eight States (8) sanction the solution of parking problems by county administration; in three (9) of these the law is confined to a single county.

Finally, twelve States (10) extend authority to establish parking facilities to towns, villages or other lesser units of local government. Of these, the statutes of two (11) are limited to designated towns.

This brief review of existing administrative authority concerning the provision of automobile parking facilities reveals that in most states the legislative grant of administrative power is not coextensive with parking problem areas. In the last two decades, the motor vehicle has altered fundamentally city and rural living, industry, agriculture, recreation, education and countless other activities. Today, all states, cities, counties and other units, both large and small, have parking problems—the large ones have difficult problems, the small ones have difficulties easier of solution, but everywhere, the parking problem persists.

Accordingly, in light of the present needs of a motorized nation, there is little justification for restricting the authority to establish or foster the provision of parking facilities. Legislation ought to grant such authority broadly to designated administrative agencies of the state, cities, counties, towns, villages and other local units, in a single enabling act. Desirable sanction would also make provision for the cooperation of any of these units with each other, or with any federal, state, or local agency.

It may be difficult to determine what particular administrative agency at each level of government should be vested with authority to deal effectively with the parking problem. The smaller and medium-sized urban areas will probably find it expedient to create parking facilities divisions in existing street or highway or public works departments. The larger cities will probably seek to establish independent automobile parking agencies.

But this much is now apparent about the administration of parking facilities: the complicated task of establishing and fostering the provision of parking facilities can no longer remain the part time function of a single public employee, as is the case so often today. It must now become the primary and exclusive concern of either a public agency specially created for the purpose, or of a special division of an existing public department. In either case, a well-organized, expertly-trained staff is indispensable to solution of the vexing parking problem.

*Functions and Powers.* The functions and powers of the designated administrative agencies vested with authority by state en-

abling legislation may be grouped logically into six major categories: (1) planning and preliminaries, (2) financing, (3) land acquisition, (4) construction, (5) maintenance, and (6) operation. Detailed analysis of these provisions of state codes reveals remarkable foresight and wisdom in the granting of broad powers in some jurisdictions, while circumscribed and inadequate legislation is found to exist in other states.

*Planning and Preliminaries.* Many statutes contain little express language dealing with the advance planning or programming of parking facilities. Of 91 major acts in 30 jurisdictions, less than a third, 25, of the laws in approximately half this number of states (12) contain any such provisions.

Advance planning for parking facilities, like its street and highway counterparts, will pay rich dividends by facilitating wiser selection of projects, deliberate design and land acquisition program, improvement in the distribution and flow of traffic, and will result in a more efficient application of public funds.

The essence of desirable planning policy consists of the thorough investigation of the parking problem by an appropriate administrative agency and the formulation, for public acceptance and support, of a master plan of automobile parking facilities, subject to alteration as necessary. A well-planned program of construction and methods of financing are likewise necessary preliminaries to effective solution of the parking problem.

*Financing.* The financing of off-street parking facilities is such an important element that most laws contain express language dealing with the subject. Only 17 laws in 12 States (13) omit provisions relating to financing. Even in some of these cases, general laws are sometimes broad enough to sanction the financing, among other public enterprises, of parking facilities authorized in specific statutes.

Because of the urgency of the need for parking facilities in cities today, great importance is attached to the various statutory means for financing such urban accommodations. Bonds may be used as a method of financing parking facilities by cities in only 15 States (14) and in four of these, (15), only specific places are empowered to act. General obligation bonds are permitted in seven States

(16), while ten (17) are authorized to use revenue bonds.

Special or benefit assessments to finance parking facilities in cities are sanctioned in only five jurisdictions (18), one of which (19) is confined to a single urban area.

General funds may be used to finance parking facilities in seven States (20), and in three of these (21) the authority is confined to single cities.

Eighteen States (22) and the District of Columbia permit the recouping, in whole or in part, of the costs of establishing and maintaining parking facilities through fees or special charges levied against the user or beneficiary of special services. The authority of seven States (23) in this class is confined to special cities.

Taxation of real property generally, to supply the wherewithal for parking facilities is sanctioned by law, with notable limitations, in ten States (24), the laws of two of which (25) are confined to special places only.

The statutes of only three States (26) specifically mention federal or state grants and local aids as a possible source of funds for parking facilities. The growing urgency for solution to the urban parking problem seems to indicate that state aid might be desirable.

Finally, statutory language deals with the problem of financing parking facilities only in general language in 11 States (27). Presumably any or all of the specific methods of financing already mentioned might be employed under the broadest of such statutes.

Because of the variety of public fiscal practices and the financial complexities of different types of parking facilities, general state enabling authority ought to be broadly conceived. The respective legislative bodies of the counties, cities, towns and villages should be authorized to finance the planning, acquisition of property for, construction, alteration, enlargement, maintenance and operation of parking facilities by any one or a combination of methods. These would include:

(1) General obligation bonds within legal debt limitations, or revenue bonds payable solely out of revenue from parking facilities, in such amounts, at an interest rate, and upon conditions prescribed by the respective legislative bodies;

(2) Special benefit assessments, equal to the total cost of land and improvements or

only a portion thereof, to be assessed against benefitted property in proportion to benefit derived, to be paid in not to exceed ten annual installments, at interest not to exceed a given percent per annum. Such benefit assessments are to be determined in accordance with established state and local special assessment practice, after proper notice and hearing, subject to approval by the respective legislative bodies;

(3) Parking fees and special charges derived from the use of off-street parking facilities, by motorists, lessees, concessionaires or others;

(4) General fund appropriations to the extent deemed necessary or desirable;

(5) State and federal grants and local aids, to the extent available for the provision of off-street parking facilities;

(6) Parking meter revenues;

(7) General property taxes, not to exceed —cents per \$100 assessed valuation of real property;

(8) Gift, bequest, devise, grant, or otherwise.

*Land Acquisition.* One of the most troublesome obstacles to the provision of off-street parking facilities involves the acquisition of the necessary lands and property, particularly in cities. Twenty-three jurisdictions (28) now have authority to purchase lands and property for parking facilities in cities, the statutes of six (29) of which are confined to designated places.

Much more significant than ordinary purchase is acquisition by condemnation. Cities in seventeen States (30) and the District of Columbia are authorized to acquire lands for parking facilities by the exercise of the power of eminent domain; in five of these (31) the sanction is limited to specific cities.

Leasing of real property for parking facilities in cities is specifically set forth in only 11 jurisdictions (32), and in five of them (33) only specially-named places are involved.

One might presume that, given the power to acquire lands for public purposes, cities would automatically possess the right to dispose of such property without further ado. Such is not necessarily the case, however. Analysis reveals that the laws of only nine States (34) and the District of Columbia deal specifically with this sequel to the acquisition

of lands, four of them (35) for special purposes only.

Adequate legislative provision for land acquisition would authorize the state, counties, cities, towns, or villages to acquire private or public, real or personal, property and property rights, above, at, or below the surface of the earth, necessary or desirable for off-street automobile parking facilities, by purchase, condemnation, gift, lease, bequest, devise, or grant, in the same manner as such governmental units are now or hereafter may be authorized by law to acquire such property or property rights in connection with highways or streets within their respective jurisdictions.

Wherever possible, property so acquired should be in fee simple. Court proceedings necessary to acquire property or property rights for parking facilities should take precedence over all causes not involving the public interest in all courts, to the end that the provision of parking facilities be expedited. The said governmental units should likewise be authorized to sell, encumber, lease, exchange, or otherwise dispose of property and property rights acquired, if by so doing the interests of the public will be best served.

*Construction.* Relatively few statutory provisions relate to the construction of parking facilities. Aside from the grant of the power to construct, which is found to exist in most instances, a few special problems are dealt with in state law, such as contract and bidding technique, force account practice, and matters of design.

Desirable legislative provisions relative to construction would authorize the respective governmental units to construct or cause to be constructed, public off-street automobile parking facilities above, at, or below the surface of the earth, including buildings, structures, equipment, entrances, exits, fencing, and all other accessories necessary or desirable for the safety and convenience of motorists using the facilities. Such facilities should be geared to present and future needs through their functional design. Construction may be undertaken by contract or by force account. Contracts exceeding \$1,000 should be awarded to the lowest responsible bidder, in the same manner as contracts are now or hereafter may be authorized by law to be awarded in connec-

tion with highways or streets within the jurisdiction of the respective governmental units.

*Maintenance and Operation.* Some state statutes grant the power merely to maintain and operate parking facilities, while others, in addition, contain elaborate provisions relating to the leasing to individuals or firms for stated periods, staffing through civil service, levy of taxes for maintenance purposes, the promulgation of special regulations, and related matters.

Whatever the governmental unit involved, it ought to possess sufficient authority to maintain and operate parking facilities efficiently and in the public interest. Leasing by competitive bidding to any individual, firm or corporation, upon such terms and conditions as the public interest may warrant, should be sanctioned. Necessary and qualified personnel ought to be employed in the same manner as the respective units are now or hereafter may be authorized by law to so employ.

*Accounting and Reporting.* It is but sound business and governmental practice to require the respective administrative agencies charged with responsibility for the provision of parking facilities to maintain proper accounting and financial records of all transactions, and to provide annual financial statements. An annual report of activities should likewise be made to the respective legislative bodies.

*Control of Curb Parking.* Many authorities believe that the provision of conveniently-located off-street automobile parking facilities attractive in user cost, cannot be undertaken successfully without the simultaneous public control of curb parking accommodations. Accordingly, proponents advocate that the exclusive control of the establishment, financing, and operation of parking meters be vested in the same administrative agency having jurisdiction over off-street facilities.

It could be the responsibility of such agency properly to integrate the establishment, use and regulation of parking meters with off-street parking facilities, pursuant to a master plan scientifically evolved. But the enforcement of curb parking and parking meter regulation should be specifically reserved to the police agencies of the respective jurisdictions, where such enforcement functions are traditionally lodged.

*Model State General Enabling Statutes.* Perhaps the safest generalization one can make about parking legislation is that there will be more of it in the future. To fulfill an obvious need, preliminary drafts of model bills for a state general enabling statute dealing with automobile parking facilities have been prepared and are presented in Appendices A and B. These model bills have been reviewed by the Committee on Land Acquisition and Control of Highway Access and Adjacent Areas of the Department of Economics, Finance, and Administration and the Committee on Parking of the Department of Traffic and Operations, Highway Research Board; the membership of the National Institute of Municipal Law Officers; and others interested in the problem of automobile parking facilities.

Because requirements for the provision of parking facilities in large cities and in small ones may differ, it has been found expedient to draft two model statutes, a highway or street or public works department form (Appendix A), and an automobile parking agency form (Appendix B).

Both models are composites of the best portions of existing state enabling legislation and will serve the parking needs of a nation on wheels. In drafting suggestive language for state and local consideration, it was contemplated that the states and their subdivisions would adopt variations and elaborations suitable for their respective needs. The purpose of the model legislation is merely to sketch the essentials that should be considered at the very start in drafting new laws, so that the need for amending the law periodically will be kept at a minimum.

*Conclusion.* At the earliest possible moment, all existing statutes relating to parking facilities should be placed under a legislative microscope by all states. Mere tinkering with the legal and administrative machinery will no longer do. Some statutes need to be entirely discarded, and better ones substituted.

#### NOTES

1. California, Connecticut, Delaware, District Of Columbia, Florida, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, New Hampshire, New Jersey, New York, North Carolina, Oklahoma, Oregon,

Pennsylvania, Rhode Island, Texas, Utah, Virginia, West Virginia, Wisconsin.

2. Louisiana, Maryland, Michigan, Minnesota, New Jersey, Oklahoma, Oregon, Pennsylvania, Utah and Wisconsin.

3. California, Massachusetts, New Hampshire, Texas and Virginia.

4. California, Maine, Massachusetts, Michigan, New York and Pennsylvania.

5. California, Michigan and Pennsylvania.

6. California, Connecticut, Delaware, District of Columbia, Florida, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, West Virginia, Wisconsin.

7. Connecticut, Delaware, Florida, Idaho, Maryland, New York and Rhode Island.

8. California, Florida, Illinois, Michigan, New York, North Carolina, Pennsylvania, and Wisconsin.

9. Florida, New York and North Carolina.

10. Connecticut, Iowa, Maine, Massachusetts, Michigan, Minnesota, New Hampshire, New York, North Carolina, Pennsylvania, Rhode Island and Wisconsin.

11. Connecticut and Rhode Island.

12. California, District of Columbia, Florida, Illinois, Indiana, Kansas, Maryland, Michigan, Minnesota, New York, North Carolina, Pennsylvania, Rhode Island, Texas, West Virginia, and Wisconsin.

13. Delaware, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, New Jersey, New York, North Carolina, Oregon, Pennsylvania and Utah.

14. California, Florida, Illinois, Indiana, Kansas, Kentucky, Maine, Maryland, Michigan, Minnesota, New Jersey, New York, Pennsylvania, West Virginia and Wisconsin.

15. Florida, Maine, Maryland and New York.

16. California, Florida, Indiana, Kansas, Minnesota, New Jersey and New York.

17. Florida, Illinois, Indiana, Kentucky, Maine, Maryland, Michigan, New York, West Virginia and Wisconsin.

18. California, Idaho, Kansas, Minnesota and West Virginia.

19. Idaho.

20. California, Connecticut, Indiana, Iowa, Kansas, Rhode Island and Texas.

21. Connecticut, Rhode Island and Texas.

22. California, Connecticut, Florida, Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, West Virginia and Wisconsin.

23. Connecticut, Florida, Maine, Maryland, Massachusetts, New York and Rhode Island.

24. California, Florida, Indiana, Iowa, Kansas, Maryland, Minnesota, New Jersey, West Virginia and Wisconsin.

25. Florida and Maryland.

26. California, Kentucky and Wisconsin.

27. California, Indiana, Kansas, Maine, Massachusetts, Michigan, Minnesota, New Hampshire, New Jersey, North Carolina and West Virginia.

28. California, Connecticut, Delaware, District of Columbia, Florida, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, West Virginia and Wisconsin.

29. Connecticut, Delaware, Florida, Idaho, Maryland and New York.

30. California, Connecticut, District of Columbia, Florida, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Michigan, Minnesota, New Jersey, New York, Pennsylvania and West Virginia.

31. Connecticut, Florida, Idaho, Maryland and New York.

32. California, Connecticut, Delaware, District of Columbia, Illinois, Indiana, Iowa, Maine, Maryland, New Jersey and Pennsylvania.

33. California, Connecticut, Delaware, Maine and Maryland.

34. Florida, Iowa, Kentucky, Maine, Maryland, Michigan, New Hampshire, New York and Pennsylvania.

35. Florida, Maine, Maryland and New York.

#### APPENDIX A

##### MODEL FOR A STATE GENERAL ENABLING STATUTE PROVIDING FOR AUTOMOBILE PARKING FACILITIES

##### *Highway or Street (or Public Works) Department Form*

AN ACT TO PROVIDE FOR THE PLANNING,  
DESIGN, LOCATION, FINANCING, ACQUISITION  
OF PROPERTY FOR, CONSTRUCTION, ALTERA-

TION, ENLARGEMENT, USE, MAINTENANCE, OPERATION, AND FOSTERING OF OFF-STREET AUTOMOBILE PARKING FACILITIES; FOR THE CREATION OF PARKING FACILITIES DIVISIONS IN THE DEPARTMENTS OF HIGHWAYS OR STREETS (OR PUBLIC WORKS) OF THE STATE, COUNTIES, CITIES, TOWNS, AND VILLAGES; AND FOR OTHER PURPOSES.

*Section 1. Declaration of policy.* The legislature hereby determines and declares that excessive curb parking of motor vehicles on roads and streets in urban and metropolitan areas and the lack of adequate off-street parking facilities create congestion, obstruct the free circulation of traffic, diminish property values, and endanger the health, safety and general welfare of the public; that the provision of conveniently located off-street parking facilities attractive in cost and the simultaneous public control of curb parking are therefore necessary to alleviate such conditions; and that the establishment of public off-street automobile parking facilities and fostering the provision of commercial and special-purpose off-street automobile parking facilities are deemed to be a proper public or municipal purpose.

*Section 2. Definitions of types of parking facilities.* For purposes of this act (1) *public off-street automobile parking facilities*<sup>3</sup> are defined as accommodations provided by public authority for the parking of automobiles off the street or highway, and open to public use, with or without charge. Such facilities may be publicly owned and publicly operated, or they may be publicly owned and privately operated; (2) *commercial off-street automobile parking facilities* are defined as accommodations provided by private enterprise for the parking of automobiles off the street or highway, open to public use for a fee; (3) *special-purpose off-street automobile parking facilities* are defined as accommodations provided by public authorities, private groups, or individuals, for restricted use in connection with public improvements, particular businesses, theaters, hotels, and other private enterprises, or combinations thereof, or as adjuncts to housing developments or private residences.

<sup>3</sup> A possible alternative for the term "public" might be "municipal." But if the latter term is preferred, it should be defined to include state, county, city, town, and village facilities.

Such facilities may or may not be jointly established and operated; (4) *cooperative off-street automobile parking facilities* are defined as accommodations provided by joint action of public and private interests.

Parking facilities may consist of lots, garages, or other structures and accessories; they may be surface facilities or facilities above or under the ground.

*Section 3. Creation of parking facilities divisions.* Each department of highways or streets (or public works) of the state, counties, cities, towns, and villages, is hereby authorized to create a parking facilities division within its organization, for the purpose of establishing public off-street automobile parking facilities and of fostering the provision of commercial and special-purpose off-street automobile parking facilities within its jurisdiction.

*Section 4. Authority to establish parking facilities.* Each department of highways or streets (or public works) of the state, counties, cities, towns, or villages, or of combinations thereof, acting alone or in cooperation with each other, or with any federal, state, or local agency, is hereby authorized, through its respective parking facilities division, to plan, design, locate, finance, acquire property for, construct, alter, enlarge, use, maintain, operate, lease (either as lessee or lessor), otherwise provide, or foster the provision of, public, commercial, or special-purpose off-street automobile parking facilities, wherever and to the extent that such facilities are deemed necessary or desirable within its respective jurisdiction. Said highway or street (or public works) department of the state, counties, cities, towns or villages, in addition to the specific powers granted by this act, shall also have and may exercise, relative to automobile parking facilities, any and all additional authority now or hereafter vested in such highway or street (or public works) department, within its respective jurisdiction. Said department may regulate, restrict, or prohibit the use of off-street parking facilities in a manner consistent with the purpose for which such facilities are established.

*Section 5. Planning for parking facilities.* The highway or street (or public works) department, after thorough investigation of the parking problem within its jurisdiction, shall formulate for public presentation, a



master plan of automobile parking facilities, as a guide for the future provision of parking facilities, properly integrated with present and proposed traffic facilities, subject to alteration as necessary. A program of construction and methods of financing shall likewise be formulated. Planning for automobile parking facilities shall be reconciled, in so far as possible, with the overall master plan of the area.<sup>4</sup> Provision of parking facilities under this act shall be properly integrated with the provision of parking facilities required by zoning ordinances, building codes, or subdivision regulations.

*Section 6. Design of parking facilities.* Each highway or street (or public works) department is authorized to so design and locate any off-street automobile parking facility as to best serve the public purpose for which such facility is intended. Such facilities may consist of lots, improved or unimproved; single or multi-level garages; other structures and accessories; or any combination of these features. They may be surface facilities or facilities above or under the ground.

*Section 7. Financing of parking facilities.* Each highway or street (or public works) department of the state, counties, cities, towns and villages is hereby authorized, subject to specific authorization and approval of its legislative body, to finance the planning, design, acquisition of property for, construction, alteration, enlargement, maintenance, or operation of parking facilities by any one or any combination of the following methods: (a) General obligation bonds within legal debt limitations, or revenue bonds payable solely out of revenue from parking facilities, in such amounts, at an interest rate, and upon conditions prescribed by the legislative bodies of the respective jurisdictions. (b) Special or benefit assessments, equal to the total cost of land and improvements or only a portion thereof to be assessed against benefitted property in proportion to benefit derived, to be paid in not to exceed ten annual installments, at interest not to exceed — per

cent per annum. Such benefit assessments are to be determined in accordance with established State and local special assessment practice, after proper notice and hearing, subject to approval by the respective legislative bodies. (c) Parking fees and special charges, to be levied at the discretion of the respective highway or street (or public works) departments, derived from the use of off-street parking facilities by motorists, lessees, concessionaires, or others. All such fees and charges shall be reasonable and shall be imposed only to further the purposes of this act. (d) General fund appropriations to the extent deemed necessary or desirable. (e) State and Federal grants and local aids, to the extent available for the provision of off-street parking facilities. (f) Parking meter revenues. (g) General property taxes, not to exceed — cents per \$100 assessed valuation of real property. (h) Gift, bequest, devise, grant, or otherwise.

*Section 8. Acquisition of property and property rights.* For the purposes of this act, each highway or street (or public works) department of the state, counties, cities, towns, or villages is hereby authorized to acquire private or public, real or personal, property and property rights, above, at, or below the surface of the earth, necessary or desirable for off-street automobile parking facilities, by purchase, condemnation, gift, lease, bequest, devise, or grant, in the same manner as such department is now or hereafter may be authorized by law to acquire such property or property rights in connection with highways and streets within its jurisdiction. Wherever possible, property acquired under the provisions of this act shall be in fee simple. Court proceedings necessary to acquire property or property rights for purposes of this act shall take precedence over all other causes not involving the public interest in all courts, to the end that the provision of parking facilities be expedited. Said highway or street (or public works) department may sell, encumber, lease, exchange, or otherwise dispose of property and property rights acquired hereunder, if by so doing, the interest of the public will be best served.

*Section 9. Construction of parking facilities.* Each highway or street (or public works) department is hereby authorized to construct

<sup>4</sup> An eminent planner has suggested that a master plan of parking facilities ought to be prepared by a qualified and adequately staffed planning agency. But he indicates that there are comparatively few such organizations in the United States at the present time.

or cause to be constructed, public off-street automobile parking facilities, above, at, or below the surface of the earth, including buildings, structures, equipment, entrances, exits, fencing, and all other accessories necessary or desirable for the safety and convenience of motorists using the facilities. Construction may be undertaken by contract or by force account. Contracts exceeding \$1,000 are to be awarded to the lowest responsible bidder, in the same manner as contracts are now or hereafter may be authorized by law to be awarded in connection with highways or streets within the jurisdiction of the respective governmental units.

*Section 10. Maintenance and operation of parking facilities.* Each highway or street (or public works) department is hereby authorized to maintain and operate public off-street automobile parking facilities or to contract therefor, or lease the same by competitive bidding, to any individual, firm or corporation, upon such terms and conditions as the public interest may warrant. Reasonable regulations for the orderly use of parking facilities may be prescribed by the respective highway or street (or public works) departments, as well as a schedule of parking fees and other charges. Necessary and qualified persons may be employed in the same manner as personnel is employed by the respective highway or street (or public works) departments or may hereafter be employed.

*Section 11. Records and reporting.* Each highway or street (or public works) department, through its parking facilities division, shall maintain proper accounting and financial records of all transactions, and provide annual financial statements. An annual report of activities shall be made by the respective highway or street (or public works) departments, to their respective legislative bodies.

*Section 12. Authority of departments to consent.* Each highway or street (or public works) department of the state, counties, cities, towns, or villages is authorized to enter into agreements with each other, or with the federal government, respecting the planning, design, location, financing, acquisition of property for, construction, alteration, enlargement, use, maintenance, operation, leasing or fostering the provision of off-street automobile parking facilities in their respective jurisdictions, to facilitate the purposes of this act.

*Section 13. Parking meters.* Exclusive control of the establishment, designation, installation, financing, acquisition, maintenance, regulation, and operation of parking meters is hereby vested in the highway or street (or public works) departments of the respective jurisdictions. It shall be the responsibility of said departments to properly integrate the establishment, use, and regulation of parking meters with off-street parking facilities, pursuant to a master plan as evolved under section 5 of this act. Enforcement of curb parking and parking meter regulations are hereby reserved to the police agencies of the respective jurisdictions.

*Section 14. Severability.* If any section, provision, or clause of this act shall be declared invalid or inapplicable to any person or circumstance, such invalidity or inapplicability shall not be construed to affect the portions not so held or persons or circumstances not so affected. All laws or portions of laws inconsistent with the policy and provisions of this are hereby repealed to the extent of such inconsistency in their application to the provision of automobile parking facilities authorized by this act.

## APPENDIX B

### MODEL FOR A STATE ENABLING GENERAL STATUTE PROVIDING FOR AUTOMOBILE PARKING FACILITIES

#### *Automobile Parking Agency Form*

AN ACT TO PROVIDE FOR THE PLANNING, DESIGN, LOCATION, FINANCING, ACQUISITION OF PROPERTY FOR, CONSTRUCTION, ALTERATION, ENLARGEMENT, USE, MAINTENANCE, OPERATION, AND FOSTERING OF OFF-STREET AUTOMOBILE PARKING FACILITIES; FOR THE CREATION OF AUTOMOBILE PARKING AGENCIES OF THE STATE, COUNTIES, CITIES, TOWNS AND VILLAGES; AND FOR OTHER PURPOSES.

*Section 1. Declaration of policy.* The legislature hereby determines and declares that excessive curb parking of motor vehicles on roads and streets in urban and metropolitan areas and the lack of adequate off-street parking facilities create congestion, obstruct the free circulation of traffic, diminish property values, and endanger the health, safety and general welfare of the public; that the provision of conveniently located off-street parking facilities attractive in cost and the simul-

taneous public control of curb parking are therefore necessary to alleviate such conditions; and that the establishment of public off-street automobile parking facilities and fostering the provision of commercial and special-purpose off-street automobile parking facilities are deemed to be a proper public or municipal purpose.

*Section 2. Definitions of types of parking facilities.* For purposes of this act (1) *public off-street automobile parking facilities*,<sup>5</sup> are defined as accommodations provided by public authority for the parking of automobiles off the street or highway and open to public use, with or without charge. Such facilities may be publicly owned and publicly operated, or they may be publicly owned and privately operated. (2) *commercial off-street automobile parking facilities*, are defined as accommodations provided by private enterprise for the parking of automobiles off the street or highway, open to public use for a fee; (3) *special purpose off-street automobile parking facilities* are defined as accommodations provided by public authorities, private groups or individuals, for restricted use in connection with public improvements, particular businesses, theaters, hotels, and other private enterprises, or combinations thereof, or as adjuncts to housing developments or private residences. Such facilities may or may not be jointly established and operated; (4) *cooperative off-street automobile parking facilities* are defined as accommodations provided by joint action of public and private interests. Parking facilities may consist of lots, garages, or other structures and accessories; they may be surface facilities or facilities above or under the ground.

*Section 3. Creation of automobile parking agencies.* The state, counties, cities, towns, and villages respectively, are hereby authorized to create automobile parking agencies answerable only to the respective legislative bodies, for the purpose of establishing public off-street automobile parking facilities and of fostering the provision of commercial and special-purpose off-street automobile parking facilities within their respective jurisdictions. Such parking agencies shall be constituted as prescribed by the legislative bodies of the respective jurisdictions.

*Section 4. Authority to establish parking facilities.* Each automobile parking agency

of the state, counties, cities, towns, or villages, or of combinations thereof, acting alone or in cooperation with each other, or with any federal, state, or local agency, is hereby authorized to plan, design, locate, finance, acquire property for, construct, alter, enlarge, use, maintain, operate, lease (either as lessee or lessor), otherwise provide, or foster the provision of, public, commercial, or special-purpose off-street automobile parking facilities, wherever and to the extent that such facilities are deemed necessary or desirable within its jurisdiction. Said parking agencies may regulate, restrict, or prohibit the use of off-street parking facilities in a manner consistent with the purpose for which such facilities are established.

*Section 5. Planning for parking facilities.* The automobile parking agency, after thorough investigation of the parking problem within its jurisdiction, shall formulate for public presentation, a master plan of automobile parking facilities, as a guide for the future provision of parking facilities properly integrated with present and proposed traffic facilities, subject to alteration as necessary. A program of construction and methods of financing shall likewise be formulated. Planning for automobile parking facilities shall be reconciled, in so far as possible, with the overall master plan of the area.<sup>6</sup> Provision of parking facilities under this act shall be properly integrated with the provision of parking facilities required by zoning ordinances, building codes, or subdivision regulations.

*Section 6. Design of parking facilities.* Each automobile parking agency is authorized so to design and locate any off-street automobile parking facility as to best serve the public purpose for which such facility is intended. Such facilities may consist of lots, improved or unimproved; single or multi-level garages; other structures and accessories; or any combination of these features. They may be surface facilities or facilities above or under the ground.

*Section 7. Financing of parking facilities.* Each automobile parking agency of the state, counties, cities, towns and villages is hereby authorized, subject to specific authorization and approval of its legislative body, to finance the planning, design, acquisition of property for, construction, alteration, en-

<sup>5</sup> See Footnote 3, Appendix A.

<sup>6</sup> See Footnote 4, Appendix A.

largement, maintenance, or operation of parking facilities by any one or any combination of the following methods: (a) General obligation bonds within legal debt limitations, or revenue bonds payable solely out of revenue from parking facilities, in such amounts, at an interest rate, and upon conditions prescribed by the legislative bodies of the respective jurisdictions. (b) Special or benefit assessments, equal to the total cost of land and improvements or only a portion thereof, to be assessed against benefitted property in proportion to benefit derived, to be paid in not to exceed ten annual installments, at interest not to exceed — per cent per annum. Such benefit assessments are to be determined in accordance with established state and local special assessment practice, after proper notice and hearing, subject to approval by the respective legislative bodies. (c) Parking fees and special charges, to be levied at the discretion of the respective automobile parking agencies, derived from the use of off-street parking facilities by motorists, lessees, concessionaires, or others. All such fees and charges shall be reasonable and shall be imposed only to further the purposes of this act. (d) General fund appropriations to the extent deemed necessary or desirable. (e) state and federal grants and local aids, to the extent available for the provision of off-street parking facilities. (f) Parking meter revenues. (g) General property taxes, not to exceed — cents per \$100 assessed valuation of real property. (h) Gift, bequest, devise, grant, or otherwise.

*Section 8. Acquisition of property and property rights.* For the purposes of this act, each automobile parking agency of the state, counties, cities, towns, or villages is hereby authorized to acquire private or public, real or personal, property and property rights, above, at, or below the surface of the earth, necessary or desirable for off-street automobile parking facilities, by purchase, condemnation, gift, lease, bequest, devise, or grant, in the same manner as such governmental unit is now or hereafter may be authorized by law to acquire such property, or property rights in connection with highways or streets within its jurisdiction. Wherever possible, property acquired under the provisions of this act shall be in fee simple. Court proceedings necessary to acquire property or property rights for purposes of this

act shall take precedence over all other causes not involving the public interest in all courts, to the end that the provision of parking facilities be expedited. Said parking agencies may sell, encumber, lease, exchange, or otherwise dispose of property and property rights acquired hereunder, if by so doing, the interest of the public will be best served.

*Section 9. Construction of parking facilities.* Each automobile parking agency is hereby authorized to construct or cause to be constructed, public off-street automobile parking facilities, above, at, or below the surface of the earth, including buildings, structures, equipment, entrances, exits, fencing, and all other accessories necessary or desirable for the safety and convenience of motorists using the facilities. Construction may be undertaken by contract or by force account. Contracts exceeding \$1,000 are to be awarded to the lowest responsible bidder, in the same manner as contracts are now or hereafter may be authorized by law to be awarded in connection with highways or streets within the jurisdiction of the respective governmental units.

*Section 10. Maintenance and operation of parking facilities.* Each automobile parking agency is hereby authorized to maintain and operate public off-street automobile parking facilities or to contract therefor; or lease the same by competitive bidding, to any individual, firm, or corporation, upon such terms and conditions as the public interest may warrant. Reasonable regulations for the orderly use of parking facilities may be prescribed by the respective automobile parking agencies, as well as a schedule of parking fees and other charges. Necessary and qualified persons may be employed in the same manner as personnel is employed by the respective governmental units or may hereafter be employed.

*Section 11. Additional powers of parking agencies.* Each automobile parking agency is hereby authorized to exercise all powers necessary or desirable to carry out the purposes of this act. In addition to the powers set forth in the preceding sections, such agency shall have the power to sue and be sued, and the power to be a party to a contract.

*Section 12. Records and reporting.* Each automobile parking agency shall maintain proper accounting and financial records of all transactions, and provide annual financial

statements. An annual report of activities shall be made by the respective automobile parking agencies to their respective legislative bodies.

*Section 13. Authority of agencies to consent.* Each automobile parking agency of the state, counties, cities, towns, or villages is authorized to enter into agreements with each other, or with the Federal government, respecting the planning, design, location, financing, acquisition of property for, construction, alteration, enlargement, use, maintenance, operation, leasing or fostering the provision of off-street automobile parking facilities in their respective jurisdictions, to facilitate the purposes of this act.

*Section 14. Parking meters.* Exclusive control of the establishment, designation, installation, financing, acquisition, maintenance, regulation, and operation of parking meters is hereby vested in the automobile parking agencies of the respective jurisdic-

tions. It shall be the responsibility of said agencies to properly integrate the establishment, use, and regulation of parking meters with off-street parking facilities, pursuant to a master plan as evolved under section 5 of this act. Enforcement of curb parking and parking meter regulations are hereby reserved to the police agencies of the respective jurisdictions.

*Section 15. Severability.* If any section, provision, or clause of this act shall be declared invalid or inapplicable to any person or circumstance, such invalidity or inapplicability shall not be construed to affect the portions not so held or persons or circumstances not so affected. All laws or portions of laws inconsistent with the policy and provisions of this act are hereby repealed to the extent of such inconsistency in their application to the provision of automobile parking facilities authorized by this act.

## DISCUSSION

MR. GUY KELCEY, *Kelcey and Edwards, New York*: Would it not be desirable, in drafting suggested enabling legislation, to include provision, not only for automobile parking facilities, but for bus and truck facilities as well, dealing with the whole terminal problem at one time?

DR. LEVIN: On the merits, it would be desirable to deal with the entire terminal problem simultaneously, either in a single enabling law or in companion bills. As a matter of expediency, however, quite the contrary seems to be indicated. The reasons are various.

To start with, from a research point of view, we now know a great deal more about the automobile parking problem than we know about the bus and truck terminal problem. Elaborate origin and destination surveys in many cities and parking studies made in connection with some of these are now revealing, for the first time, a pattern of driving and parking habits that is indispensable to a rational solution of the parking problem. No comparable information is yet available for bus and truck operations, though we are making limited progress in that sphere too.

Moreover, the direct beneficiaries are so different in the two cases. In the one, we are dealing with private passenger car owners; in the other, commercial interests. Because of this fact and the nature of the facilities themselves, the needs are so vastly different in both instances.

Accordingly, for these reasons and others, perhaps, it probably would not be expedient to deal with the terminal problem in its entirety, in a single legislative act. Whereas, the provision for automobile parking facilities might be acceptable from a legislative point of view, the companion features relating to bus and truck terminals might invite opposition (from totally different quarters) sufficient to defeat the legislation as a whole.

MR. F. W. LOVEJOY, *Public Roads Administration*: In Section 2 of both off-street parking acts proposed, you seek to define four classes of off-street facilities in terms of the providing agency and usage of the facilities. Elsewhere in the Bulletin you express your amazement at the great variety of designations for off-street parking facilities to be found in existing legislation. But whatever the specific terminology, are not the designations adopted by the state legislature intended to be compre-

hensive rather than to multiply type descriptions of facilities unnecessarily?

It seems to me there are just about three basic classes of off-street parking facilities, which may be designated thus: (a) public, (b) restricted public, (c) restricted, by whatever kind of agency or individual they are provided and whether or not fees are charged for their use. Fundamentally, the differentiation of parking facilities by availability to classes of users is most important; not so much the kind of agency providing the facility. And certainly as your proposed legislation contemplates, parking agencies however established should ultimately regulate all parking facilities in a municipality on-street as well as off-street.

So to my mind a "public" parking facility, like a "public" address system need not be in public ownership, it is simply open to the public. A "restricted public" facility is open to any purchaser in a department store, or a theatre patron, or to any car carrying Maryland tags, for example. A "restricted" off-street parking facility is open only to certain vehicles or drivers of them, such as the brass-hats or other employees of an enterprise, members of the Senate, and so on, whether these facilities are publicly, privately, or individually provided.

DR. LEVIN: Mr. Lovejoy indicates that his preference conforms to common practice. Such does not appear to be the case. Our analysis has indicated that there are no less than 53 different terms or phrases used to describe parking facilities in 91 separate acts in 30 jurisdictions.

Many of the terms used bear little administrative or functional relationship to the facilities to which they are applied. Moreover, close examination of most of the important literature on the subject of parking facilities reveals that common usage of terms is strikingly lacking. This present state of affairs and the desirability of a logical set of terms carefully defined in the law have resulted in the designations suggested by the author. The definitions used are based upon a functional and administrative classification of parking facilities which has been applied traditionally to highway facilities.

MR. THEODORE M. MATSON, *Bureau of Highway Traffic, Yale University*: Might it not be preferable to condense the model statutes into a short form of a single paragraph or two? I feel that our statutes already are much too cumbersome and detailed.

DR. LEVIN: Your point with respect to the cumbersome nature of present state statutes is well taken and perhaps our model acts do not help that situation particularly. However, considering the complex subject matter involved in the establishment of parking facilities—planning, financing, land acquisition, construction, operation, and so on—the author believes that a paragraph or two of enabling authority would be inadequate and certainly not acceptable from the standpoint of present state legislative practice. There seems to be very little disposition, if any, on the part of most state legislatures to lodge any great amount of discretion in the administrative agencies of the state's executive branch; rather, these law-making bodies choose to spell out public policy and enabling authority in great detail.

Even so, the five-page models suggested are extremely abbreviated, at least in terms of existing statutes on the subject. For example, the California Transportation District Act of 1939, authorizing the establishment of parking facilities among other things, is at least 13 statutory pages in length, each page containing many more words than a page of the suggested legislation. Likewise, the Automobile Parking District Act of 1941, in the same State, contains 8 pages; the Vehicle Parking District Act of 1943, 20 pages, and so on.

MR. RICHARD C. WALTZ, *City Attorney for Beverly Hills, California*: I would like to observe, in connection with the proposed legislation, that if bonds are permitted to exceed about 25 percent of the assessed value, they will not be salable on the bond market, and if special assessments exceed the amount, they will be construed as confiscatory and will not be paid.

DR. LEVIN: The model legislation does not fix any definite percentage of financing by bonds or through the special assessment device, but is flexible enough to permit the

respective States and local units to do as they wish in the matter.

MR. WALTER H. BLUCHER, *Executive Director, American Society of Planning Officials*: A master plan of parking facilities, as planned by a highway or street or public works department, suggested in the first model, may be inadequate. Few such departments are competent to prepare a master plan of parking facilities because a great deal more than traffic has to be taken into account in the development of a parking program. Population trends, and the present economic status of the city and probable future buying and shopping trends; mass transportation facilities and likely improvement in such facilities; trends in the movement of industry and residential areas—all are factors which must be taken into account.

This is no plea that the planning agency in every instance should be called upon to prepare the parking master plan. Where there is an adequately staffed and qualified planning agency, it is, in my opinion, more competent to prepare such a master plan than is the department of public works. Yet I recognize that in the entire United States, there are comparatively few adequately staffed and qualified planning agencies. Under such circumstances, some other method must be found for developing a planned program for traffic, as distinguished from an engineered program for parking facilities.

DR. LEVIN: It is difficult to find an appropriate alternative to the plan suggested, as

Mr. Blucher indicates. However, in recognition of a point well taken, the model statutes have been altered to the effect that "planning for automobile parking facilities shall be reconciled, in so far as possible, with the over-all master plan of the area."

H. J. FRIEDMAN, *Consultant, Brunswick, Georgia*: I would like to suggest that details regarding design, financing, property acquisition, construction, maintenance and operation could be eliminated from the law wherever possible by resorting to the same legal authorization that the departments of highways or streets or public works or the legislative bodies of the respective jurisdictions operate under in their normal major functions. In addition to shortening the enabling legislation, this would make for uniformity in procedure and might insure easier passage of the legislation.

Additionally, it might be desirable to sketch some of the administrative aspects in great detail, indicating the number of members of a proposed special authority, say five to seven, their term of office, and other features. This could be handled along the same lines as is customary for enabling legislation in connection with planning and zoning boards. I believe that by including these phases, desirable uniformity in the administration of parking facilities could be obtained.

DR. LEVIN: This suggestion is a good one, and it is assumed that some States will want to follow this course in the enactment of specific legislation based upon the suggested essentials.