

MAINE STATE LEGISLATURE

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STATE OF MAINE
LEGISLATIVE RESEARCH COMMITTEE

**Reports
to the
ONE HUNDRED AND FOURTH LEGISLATURE
Volume Two**

January, 1969

Legislative Research Committee

Publication 104-20 (Vol. II)

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 William H. Garside, Augusta, Finance Officer
 Appointed July 17, 1968
 Samuel A. Hinds, Assistant Finance Officer
 Appointed November 20, 1968; Effective, January 1, 1969

LETTER OF TRANSMITTAL

January 15, 1969

To the Members of the 104th Legislature:

As Chairman of the Legislative Research Committee of the 103rd Maine Legislature it is with great pride and pleasure that I present a cumulation of findings and recommendations that we as a Committee have developed on our assigned subjects during the past biennium.

This, the second of three volumes, designated as Legislative Research Committee publication 104-20 (Vol. II), combines in a single publication the findings and recommendations developed in nine specific areas of study which are individually reported in committee publications numbered 104-11 through 104-19.

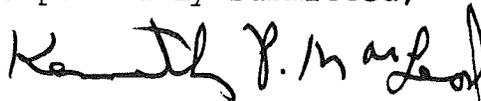
On behalf of the Committee and myself, I would like to take this opportunity to extend our grateful appreciation to Horace A. Hildreth, Jr., formerly our Committee Chairman, to Roger V. Snow, Jr., a former member of the Committee and to Frederick W. Kneeland, the former Legislative Finance Officer, each of whom resigned during the interim after having so faithfully served this Committee.

I also extend, on behalf of the entire Committee, our sincere gratitude and appreciation to the Committee, staff, to the news media and to the many private citizens, organizations and employees of the State, without whose endless cooperation and dedicated

service the Committee could not have reached its conclusions.

The members of the Committee further wish to express their appreciation for being chosen to participate in these assignments and sincerely hope the reports contained herein will prove of benefit to the Members of the Legislature and the people of the State of Maine.

Respectfully submitted,

A handwritten signature in black ink, reading "Kenneth P. MacLeod". The signature is written in a cursive style with a large, prominent initial "K".

KENNETH P. MACLEOD, Chairman
Legislative Research Committee

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STATE OF MAINE
LEGISLATIVE RESEARCH COMMITTEE

REPORT ON
LAND ACQUISITION
to
ONE HUNDRED AND FOURTH LEGISLATURE

JANUARY, 1969
Legislative Research Committee
Publication 104-14

SUBCOMMITTEE ON LAND ACQUISITION

CHAIRMAN - Armand Duquette

VICE CHAIRMAN - Joseph B. Campbell

Ethel B. Baker

Harrison L. Richardson

Horace A. Hildreth, Jr., Ex Officio

Kenneth P. MacLeod, Ex Officio

ORDERED, the Senate concurring, that the Legislative Research Committee is directed to study the subject matter of Bill: "An Act Relating to Highway Commission Land Taking," H. P. 409, L. D. 575-1699 introduced at the regular session of the 103rd Legislature to determine whether the best interests of the State would be served by the enactment of legislation that would make compensable certain elements of damage caused by the taking under the power of eminent domain, which are now noncompensable and which have been historically noncompensable; and be it further

ORDERED, that the study be coordinated with the review, analysis and study now under way by our Federal Congress; and be it further

ORDERED, that the Committee report the results of its study to the 104th Legislature.

The subject of noncompensable damages resulting from land acquisition by the State Highway Commission, under the power of eminent domain, was referred by order to the Legislative Research Committee for study and determination. The Committee was further directed to study the subject matter of "AN ACT Relating to Highway Commission Land Taking," L. D. 1699, introduced at the regular session of the 103rd Legislature and to coordinate its study with the review, analysis and study then underway by the Federal Congress.

The problem in this instance stems from depreciation of property values in the interim period between notice of a public improvement project and eventual condemnation proceedings under eminent domain. During this critical period following an announced project, land values in the immediate vicinity of the project will fluctuate and more often than not depreciate in value. When advance publicity and time lag have an adverse impact on the market value and income on a proposed purchase before eminent domain proceedings, the question is raised as to whether or not an owner should be entitled to the property value from the date of taking as if there had been no advance notice or should the public authority doing the condemning be the recipient of interim gains. Under Article I, section 21 of the Maine Constitution, a property owner of this State is guaranteed just compensation, such as will finally and fully indemnify him for damages sustained by the loss of his property. However, no statutory recognition has ever been granted to the type of damage described above.

After several hearings on this problem, the Committee suspended further deliberations pending congressional passage of the Intergovernmental Cooperations Act of 1968 (S698). Such action on the Committee's part was based on certain provisions contained in S698 which specifically provided, among other considerations, for the acquisition, use and disposition of land within urban areas by federal agencies in conformity with local government programs, a uniform relocation assistance policy and more important for purposes of this study, to establish a uniform land acquisition policy for federal and federally aided programs and other purposes.

Senate 698 was the climax of a four-year effort by Congress and a host of other national organizations to achieve much needed reforms in the use of federally assisted land clearance programs. Unfortunately, following adoption by both Houses of a conference report on S698, the uniform land acquisition policies, uniform relocation and judicial review provisions were deleted from S698. The pertinent portion of that report reads as follows:

The House amendment deleted Titles VII and VIII of the Senate bill, which related to uniform relocation assistance and uniform land acquisition policy, and Title IX, which related to judicial review of certain administrative actions under Titles VII and VIII. The conference substitute omits these three Titles.

The conferees were in agreement on the desirability of the Congress enacting a uniform relocation policy to assist those displaced from their homes, farms, or businesses by Federal

and federally assisted projects. They were also agreed upon the desirability of a uniform land acquisition policy in cases where Federal or federally assisted programs result in the taking of the land of private owners. They recommend to the appropriate committees of both Houses that action be taken on these objectives as soon as possible.

Chet Holifield,
John A. Blatnik,
Harry S. Reuss,
Florence P. Dwyer,
John N. Erlenborn,
Managers on the Part of the House.

It is interesting to note that some of the omitted provisions were absorbed in other legislation, for example, the relocation assistance provisions of S698 were closely paralleled in the Federal Aid Highway Act of 1968. The end result of congressional action came with the enactment of the Intergovernmental Relations Act S698 on October 16, 1968 as public law 90-577 less provision for a uniform land acquisition policy. One concluding aspect of the bill, as finally passed, is contained in Title V and reads as follows:

"Acquisition or change of use of real property

"Sec. 804. (a) To the extent practicable, prior to a commitment to acquire any real property situated in an urban area, the Administrator shall notify the unit of general local government exercising zoning and land-use jurisdiction over the land proposed to be purchased of his intent to acquire such land and the proposed use of the property. In the event that the Administrator determines that such advance notice would have

an adverse impact on the proposed purchase, he shall upon conclusion of the acquisition, immediately notify such local government of the acquisition and the proposed use of the property.

"(b) In the acquisition or change of use of any real property situated in an urban area as a site for public building, the Administrator shall, to the extent he determines practicable -

(1) consider all objections made to any such acquisition or change of use by such unit of government upon the ground that the proposed acquisition or change of use conflicts or would conflict with the zoning regulations or planning objectives of such unit; and

(2) comply with and conform to such regulations of the unit of general local government having jurisdiction with respect to the area within which such property is situated and the planning and development objectives of such local government."

In view of the foregoing and the expectation of future congressional action, the Legislative Research Committee concludes that it does not consider the best interests of the State would be served by enactment of legislation such as proposed by " AN ACT Relating to Highway Commission Land Taking," introduced in L. D. 575-1699 at the regular session of the 103rd Legislature.