MAINE STATE LEGISLATURE

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FINAL REPORT

OF THE

Legislative Research Committee

For 1941-1942

TO THE

91st Legislature

December 1, 1942

FINAL REPORT
of the
LEGISLATIVE RESEARCH COMMITTEE
For 1941-42
to the
91st LEGISLATURE
DECEMBER 1, 1942

INTRODUCTORY STATEMENT

With this final report the Legislative Research Committee is completing two years of work. Following the close of the last legislative session, the Committee organized, appointed Mr. Donald W. Webber, who had previously served as attorney for the Joint Special Legislative Investigating Committee, to act as its counsel, and began its deliberations on June 6, 1941.

The Committee's attention was first directed to a complete investigation of the administrative methods and opportunities for increased efficiency and economy in the Department of State. The Committee published its first report on October 31, 1941, which report was printed and sent by mail to the members of the 90th Legislature. The Committee is pleased to be able to report that practically all of the suggestions made in that report have already been carried out by the Department of State, and it is already apparent that substantial savings have already been and will in the future be effected by these policies.

The Committee was called upon to undertake the task of constructing the emergency legislation required by the advent of war at the beginning of 1942, and on January 12, 1942, the Committee published a short report for the Special Session of the Legislature and presented the legislation which was enacted into law. The most important and far-reaching subject for future legislation which was referred to this Committee was the study of Merit Rating in Unemployment Compensation, and, after painstaking research, the Committee published its report on this subject May 12, 1942. Proposed legislation to carry out the suggestions in the report will be presented to the next Legislature, and at the present time the proposed bill is being examined for approval by the Social Security Office in Washington. The report on this subject was sent to all the members of the 90th Legislature, and will be made available also to the new members of the 91st Legislature.

The Committee met six days in 1941 and eighteen days in 1942, largely for the purpose of considering the reports of its attorney, taking testimony, determining policies and writing reports. The assembling of factual and research material was done under the direction of the committee by Mr. Webber, who devoted 35 days in 1941 and 66 days in 1942 to this work. In addition to this, the attorney for the Committee has been called into numerous consultations on various subjects by State departments pertaining to State Affairs.

The Committee has been fortunate in having the services of numerous experts from New York, Massachusetts, Vermont and other places, all of whom, as it happens, were brought to Maine without expense to the State. If it had been necessary to pay these men the compensation which they ordinarily would charge, the total expenditure indeed would have been great. The Committee has had the special services of Mr. Ralph W. Proctor, Principal of Edward Little High School in Auburn, Maine, who was engaged for about five weeks in a complete research study of Indian Affairs, and the Committee is very grateful to Mr. Proctor for a thorough and painstaking report. The Committee also appreciates the services of Mr. Ruel C. Hanks and several of the State House stenographers who have graciously assisted in the work, and acknowledges the splendid cooperation of all the State officials and employees who have procured and given valuable information to the Committee.

During the year 1942, the Committee lost to the military service three of its members: Representatives McNamara, Farwell and Briggs, and these gentlemen were sorely missed in the later deliberations of the Committee.

The Committee now, in its final report, presents the findings and conclusions resulting from its study of the following important subjects:

- Emergency Municipal Finance Board, and distressed towns and cities of Maine.
- Municipal Reserves.
- Bonds of State Officials and Employees.
- Teachers' Retirement Pension Fund and Annuity Premium Tax.
- Destruction of Records.
- Indian Affairs.
- Shore Land Tax Assessments.
- Revision of Chapter 35 on Fire Prevention.
- Legislative Expense.

The Committee has tried to follow the policy of not undertaking so many separate studies that it would do justice to none, but the experience of two years has brought to the attention of this Committee numerous and

important subjects of future study which will engage the attention of the new members of the Legislative Research Committee and which will contain the seeds of progressive future policies for the State of Maine.

LEGISLATIVE EXPENSE

The Legislative Research Committee feels that it is unfair to investigate State Departments, offer criticism, and expect of them a high degree of efficiency and economy, without calling attention to opportunities for greater economy and efficiency on the part of the Legislature itself. Accordingly, some analysis has been made of the regular sessions of 1939 and 1941 and the intervening special sessions.

The first consideration should be of over-all expenses. The following is a comparative statement of the general expenses of the regular sessions of 1939 and 1941, which shows an improvement of approximately $10,000 in the latter year.

General Expenses	1941 (Jan. 4-Apr. 20)	1939 (Jan. 1-Apr. 26)
Salaries and Wages	$149,462.10	$162,623.80
Clergy and Agents' Fees	268.00	344.00
Postage	1,511.51	1,605.05
Telephones and Telegrams	5,660.54	6,282.03
Mileage	4,094.45	4,786.59
Printing	48,314.03	46,588.62
Binding	4,329.29	1,982.13
Advertising Notices	6,211.26	6,068.19
Repairs to Furniture	111.35	208.22
Office Supplies	3,813.47	3,455.89
House Furnishings, Supplies and Clothing	198.60	75.00
Electrical Supplies	552.73	186.78
Lumber and Wood Products	150.37	239.44
Newspaper Subscriptions	1,007.97	990.72
Furniture and Fixtures—Equipment	3,725.50	4,044.00
Travel Expense (Other than Legislative Mileage)	283.11	659.74
Medical Services		100.00
Miscellaneous Items	341.92	182.62
	$230,046.20	$240,422.00

SALARY SCHEDULE

The officers and staff of the House and Senate received the following amounts, which are broken down on the basis of the length of the 1941 session (approximately 16½ weeks) and the number of days the Legislature was actually in session during those 16½ weeks (68 Legislative days).

THE SENATE

Name	Office	Per Session	Per Week	Per Leg. Day
Royden V. Brown	Secretary of Senate	$2,000.00	$121.00	$29.41
Chester T. Winslow	Ass't Sec. of Senate	1,200.00	72.00	17.64
Roy S. Humphrey	Sergeant at Arms	680.00	41.00	10.00
Waldo H. Clark	Ass't Serg. at Arms	510.00	30.00	7.50
Harlan L. Wadleigh	Page	425.00	25.00	6.25
Paul F. Kennon	Page	425.00	25.00	6.25
Jeremiah Kennedy	Postmaster	550.00	33.00	8.00
F. Stanton Libby	Folder	425.00	25.00	6.25
Francis X. Mooney, Jr.	Doorkeeper	425.00	25.00	6.25
Howard Slosberg	Messenger	300.00	18.00	4.40
Inez G. Wing	Stenographer	1,000.00	60.00	14.70
Naomi B. Brown	Stenographer	700.00	42.00	10.29
Marjorie L. Sewall	Stenographer	680.00	41.00	10.00
Charles P. Lyford	Reporter	1,750.00	106.00	25.73
Dorothy Dennett	Stenog. to Rep.	550.00	33.00	8.00
Margaret C. Payne	Ass't Reporter	700.00	42.00	10.20

THE HOUSE

Name	Office	Per Session	Per Week	Per Leg. Day
Harvey R. Pease	Clerk	$2,000.00	$121.00	$29.41
Earl L. Wing	Ass't Clerk	1,200.00	72.00	17.64
Frank H. Treworgy	Sergeant at Arms	680.00	41.00	10.00
Daniel H. Foley	Ass't Serg. at Arms	510.00	30.00	7.50
Harlan E. Gilman	Doorkeeper	510.00	30.00	7.50
Leland F. King	Page	425.00	25.00	6.25
Everett M. Stoddard	Page	425.00	25.00	6.25
James E. Harvey	Document Clerk	550.00	33.00	8.00
Ruel C. Hanks	Reporter	1,750.00	106.00	25.73
Armorel S. Hanks	Ass't Reporter	700.00	42.00	10.29
E. May Chapman	Stenographer (Clk.)	1,000.00	60.00	14.70
Regis T. Strout	Legis. Docket Clk.	700.00	42.00	10.29
Virginia F. Pease	Stenographer	510.00	30.00	7.50
Gladys G. Nielsen	Sec'y to Speaker	680.00	41.00	10.00
Mary E. Gray	Stenographer	595.00	36.00	8.75
Elizabeth Richardson	Stenographer	275.00	16.00	4.04

Some of these employees perform duties on days when the Legislature is not in session, and as to them the per diem breakdown is not entirely representative of the real situation, but in many instances the per diem pay is as stated.

The Governor has called the attention of the Committee to the fact that in all state departments, wages and salaries must be equalized and in most

cases increased. The Legislature, in considering any proposals which may be submitted along this line, should keep in mind that it has set a high standard of salaries and wages for its own employees.

It has been the practice in the past for the Clerk of the House and the Secretary of the Senate to appear before the Appropriations Committee in its closing days and obtain confirmation of the wage and salary schedule. Practically, the result has been that the employees have been hired, have performed their duties, have drawn advances upon their pay, and all upon the understanding as to what their pay was to be. Practically, therefore, the Appropriations Committee had little choice except to approve the schedule as submitted although technically they had the power to revise or reject. It is recommended and urged, therefore, that an order be passed when the next Legislature organizes that the Clerk of the House and the Secretary of the Senate present the proposed salary and wage schedule to the Appropriations Committee within one week after that committee is organized. Mr. Pease and Mr. Brown, who testified before the Research Committee, both expressed the belief that there was no reason why such a suggestion is not both possible and practical.

TELEPHONES AND TELEGRAMS

By order of the Legislature, every member was allotted 50 telephone calls during the 1941 session. Five members of the Senate and sixteen members of the House exceeded the allotment. Bills ranged from 60 cents to $150.89 per member. The 1943 Legislature will be a war-time Legislature, and it will be the patriotic duty of every member to conserve the use of the telephone. In many instances, a three-cent stamp will accomplish the purpose, particularly where no business of the State is involved.

PURCHASE OF FURNITURE EQUIPMENT AND SUPPLIES

Two factors appear under this subject—first, the lack of purchase control and supervision, which undoubtedly results in overpurchasing for Legislative needs, and second, the complete lack of inventory control, which unfortunately has made it possible for a large amount of durable property belonging to the State of Maine to disappear at the close of a Legislative session. There has been some slight improvement in the control of large items of furniture and equipment, including typewriters, but the situation is still far from businesslike.

In the opening days of a session, organization orders are put through which give the Clerk of the House and the Secretary of the Senate authority

to purchase whatever the Legislature needs or requires for its business. An analysis of the purchase orders for the past two regular sessions indicates that in the past the motto has been "Nothing but the best, for the best is none too good." This in itself would not be so unfortunate if it were not for the fact that it becomes necessary at each new session to buy for the Legislature the same identical things all over again. For example, durable and lasting items such as fountain pens, pencil sharpeners, staplers, brief cases, ringfolios, Hummer punches do not ordinarily wear out after being used for 68 Legislative days. The attitude of the Department of Purchases has been very properly that the Legislature was entitled to anything it asked for, so no questions have been asked. It is apparent, therefore, that only the Legislature can put its own house in order and unless it is willing to do so, a situation which can very properly be criticized by the taxpayers of Maine will continue.

The first constructive step is to take inventory of the property which the Legislature owns and which can still be located for use. This has been done.

The inventory is as follows:

1. On hand in the custody of Supt. of Buildings:

   10 4-posted mahogany chairs
   1 Dark oak swivel chair
   1 Costumer
   1 Bookcase
   22 Typewriter desks
   5 Flat-top desks
   22 Steel cabinets
   25 Swivel chairs
   2 Typewriter tables
   4 Art squares
   11 pieces of reed furniture
   1 5-foot table
   3 4-foot tables
   1 8-foot table
   6 Costumers
   8 Intercommunication stations
   Miscellaneous discarded furniture being repaired.
   (All of above at Blaine Garage or in State House)

2. On hand in custody of Clerk of the House:

   At State House:

   3 Cardex cabinets and table
   14 Sectional files and storage cases

1 Sectional bookcase section
1 Letter-size 4-drawer letter file
1 Wardrobe cabinet
1 Large supply storage cabinet
1 Legal transfer section
3 Desk-high steel cabinets
5 Pedestal typewriter desks
1 Small-size flat-top desk
3 Small typists desks
1 Short-legged oak table
2 Small typewriter tables
3 Costumers
3 Oak leather arm desk chairs
1 Mahogany leather arm desk chair
4 Oak swivel chairs with no arms
2 typists chairs
1 Oak banker's side chair
3 Line-a-times
2 Flash-O-Call stations
2 4 x 6 transfer files
1 rug
2 typewriters, new in 1941
1 reconditioned typewriter
1 zipper binder with 2-inch reams
1 zipper binder with 1-inch reams
6 ream binders, imitation leather
2 pencil sharpeners
3 numbering machines
2 staplers
1 hand punch fastener
1 fountain pen desk set
3 wastebaskets
2 binders for journal sheets
1 tape dispenser
1 large paper cutter
1 Hummer punch
2 Unabridged dictionaries
1 Copy of Holy Bible
Clipboards for sending bills to printer
Copies of 1931-3-5-7-9-41 Session Laws

1 copy of '40-'41 Maine Register
Considerable supply of smaller items: pencils, erasers, penholders, typewriter ribbons, carbon.

At Wiscasset:

1 Typewriter
1 small table
1 2-drawer 3 x 5 card file
1 Desk lamp
1 Stapling machine
1 Desk-high cabinet
Miscellaneous binders and legislative files
1 Clock

3. On hand in custody of Secretary of Senate:

In Skowhegan:

1 Typewriter
1 Typewriter table
1 Big stapler
1 Large papercutter
1 Copyholder

At State House:

Miscellaneous supplies: pencils, bands, paper, copying paper, journal paper, binder paper, staplers, ink, carbon paper, typewriter ribbons
1 Small mahogany typewriter table
2 Large mahogany chairs
6 Wood chairs
4 Desks
2 Large desk chairs
1 Clock

Purchases apparently go to four channels at the close of each session: (1) A substantial amount is carried away by members of the Legislature, particularly such items as pencils, wastebaskets, ash trays, brass spittoons, and committee supplies and equipment. (2) Some property is given by members or committee officers to State Departments. In this case, the property still remains in the possession and use of the State, yet there is a breakdown in inventory control which is not good business. (3) Some property is taken over by the Superintendent of Buildings who acts as custodian of it for the Legislature. (4) A minute amount of supplies is returned for credit. In addition to these four dispositions of Legislative property, some is stored in

the offices of the Clerk of the House and the Secretary of the Senate, some is removed by them to their homes under Legislative order to retain what they need to complete the Legislative record; also certain items are given away by Legislative order. Property purchased by the Legislature is, after all, still the property of the State of Maine and any misappropriation of that property is as much a crime as would be the misappropriation of any other property. Somehow through the years a careless attitude has grown up and the concrete result is seen in an expenditure at each regular and special session for items of which a sufficient supply has been previously purchased to last many years. An awareness of this wasteful procedure on the part of the Legislature, and the installation of a sound method of control will necessarily result in a saving of several thousands of dollars at each session.

This Committee recommends that a committee composed of two Senators and five members of the House be constituted at each session to be responsible for Legislative inventory and purchases; that the President of the Senate and the Speaker of the House be ex-officio two of the seven members of such committee; that this committee first inventory the property previously purchased and still on hand, that it make all requisitions for new purchases, and charge to each committee, officer or subdivision of either House or Senate the purchased items; that at the close of the session, it inventory the property on hand, giving credit for all items returned, and make its report from which it may be determined what supplies were used up and what returned and by whom. Legislative supplies can then be returned to the Purchasing Department for credit, and larger items of furniture and equipment can be placed in the custody of the Superintendent of Buildings for safekeeping. The Legislature can earmark by order any items that it intends as souvenirs to members or gifts to members, and the balance of Legislative property should be dealt with as strictly the property of the State of Maine. It should be perfectly possible for such a committee to arrange a sharing of equipment and supplies by committees which have little business to transact, as the complete outfitting of committees which function only once or twice a session is one of the extravagant features of the present system.

COMMITTEE EXPENSES

In addition to the unnecessary equipment and supplies which are furnished to committees in excess of the needs of many of them, practically all committees employ a clerk at a flat rate for the session. In many cases, one clerk serves several inactive committees but by receiving a flat rate from each, the total compensation is entirely out of proportion to the work performed. For the most part, committees have nothing to do at all during the opening

weeks of the session, and even after bills begin to be referred, a clerk's duties are performed on only about three days of the week. These clerkships have grown up as established political plums, and the Legislature should have the courage to discard the custom and substitute efficient management. The same committee which handles supplies should be empowered to supply a few full-time clerks who would form a pool and be assigned by the committee as needed by the various committees of the Legislature. It is recommended that all committee clerks be employed on a strictly per diem basis. It will be found that each clerk will receive reasonable and adequate compensation but there will be an overall saving in that obviously fewer clerks will be necessary to service all the committees under the proposed plan. At the 1941 session of the Legislature the total cost of clerk and stenographer hire was $12,645. It is apparent that a substantial saving against this figure can be effected without loss of efficiency.

EMERGENCY MUNICIPAL FINANCE BOARD

The Committee was requested to review the circumstances surrounding efforts which have been made over a period of years to compromise the debts of the City of Eastport which has been for some time under the management of the Emergency Municipal Finance Board. After a full hearing, it is apparent that a rather serious misunderstanding arose between the Board and an investment house which undertook to participate in the refinancing of the affairs of Eastport. The Committee feels that, as a result of its efforts, the parties were brought near to an amicable and satisfactory settlement of their dispute and that no useful purpose will now be served by reporting the matter in detail.

An investigation of this special situation which concerned only the City of Eastport led very naturally to a thorough analysis of the whole problem of depressed and bankrupt or near baankrupt towns and cities in the State of Maine. There is no problem which besets the people of the State of Maine more serious than that presented by a definite trend of many of our towns and cities away from financial stability. This problem demands the thoughtful consideration of the Legislature which will assemble in 1943. At present there are 13 communities which are under State control and under the supervision of the Emergency Municipal Finance Board. There are a number of others which are toppling on the verge of losing local self-government and coming under board management. Although actual figures are not available, it is reliably estimated that at least 50 towns and cities have

already reached or exceeded their constitutional debt limit. This in itself is a danger signal and points the way in which these communities are apparently headed. No town or city in Maine can hope to escape the effects of a trend toward municipal bankruptcy. The credit, the borrowing capacity and the reputation of every town, city, county and even the State itself is at stake.

The Committee has considered the problem from two separate aspects which may be stated in the form of questions: (1) What policy shall the State pursue with regard to those communities already under the management of the Emergency Municipal Finance Board? (2) What policies shall the State adopt to prevent the further spread of municipal failure and to ultimately restore financial stability in depressed communities?

(1) *What policy shall the State pursue with regard to those communities already under the management of the Emergency Municipal Finance Board?*

Upon consideration of the first question the Committee found that different situations are presented by the several communities under Board management. The Board has, of course, operated by appointing a commissioner who manages the town affairs. Efforts have been made to pay current bills and accumulate as much reserve as possible. In some instances the variation between the borrowing capacity of the town and its total debt is very great indeed and the outlook is dark. In others it has been possible to accumulate funds which reach a substantial percentage of the total past indebtedness. As to the first class of communities, there appears to be nothing now possible except the continuation of State management. In the latter class, the question now arises as to whether or not a compromise of the debts of the community, the complete refinancing of the community, and a restoration of local self-government may not be a solution of the problem. The Board cannot determine these problems for itself. As matters now stand, there is not adequate machinery in the statutes to effectuate a compromise of all the claims against a town, such as state and county taxes, bonds, unsecured claims and so forth. In the absence of compromise there is every possibility that management by the board might have to continue almost indefinitely. While there may be ample justification for the temporary abrogation of the duties and privileges of local self-government, considerable doubt arises as to the justification for continuing this condition indefinitely. Furthermore, in the absence of compromise, suits have been brought, claims are being heard by special masters and litigation is on its way to the Law Court which could result in a multiplicity of levies on the property of private citizens and a degree of turmoil and confusion in the several towns. With these considerations in mind, there is a considered view which has been presented to the

Committee that compromise should be permitted and that the statutes should be amended and clarified to make such a course possible.

On the other hand, there is a definite school of thought, particularly in the field of municipal investments, which deplores any repudiation of municipal debt, even a partial one resulting from compromise. This group contends that any debt repudiation or compromise constitutes a warning to the investment world that Maine is a state in which each town is left to stand alone financially and in which the people of the whole state refuse to safeguard the credit of the several parts. This group insists that such a course will inevitably increase the interest rates on borrowings and operate against the credit and borrowing ability of every other town, city and county in Maine and even against the state itself. The solution, according to this group, is either the outright appropriation of money by the state to enable the depressed town to pay all creditors one hundred cents on the dollar or some other form of financial aid which will accomplish the same purpose.

Still a third school of thought exists which disapproves both compromise and state subsidy. This group insists that it is better for the law to take its course and for the courts to determine which are legal obligations and which are illegal obligations of the town, and for the State to continue management until the towns can pay in full those obligations which are found to be legal. This group takes the position that no matter how equitable or just a claim may otherwise appear, that one dealing with a municipality does so at his peril and must protect himself against the technical invalidity of the claim at its inception or the subsequent invalidity of the claim under the statute of limitations. The State of Maine must at once determine which of these three conflicting policies it prefers to follow, and it must enact legislation to conform with the adopted policy in order to cure a situation which is rapidly becoming acute.

This Committee has determined to recommend to the Legislature a policy which must be closely restricted, for undoubtedly the effects of widespread compromise would be extremely damaging. The Committee cannot, however, conclude that State subsidy will have the approval of the people of Maine. The large-scale siphoning of money away from well-managed communities and into badly-managed communities is part of a theory of government which has never been well received by our people. The Committee believes that if compromise be permitted only in the case of the towns already under Board management, that the impact upon the credit of the other communities and of the State itself will not be so severe as to be dangerous. Moreover, if some preventive legislation can be simultaneously enacted which will provide some degree of State supervision in those towns

which have reached the danger point, the Committee believes the situation will be gradually stabilized. When the investment market becomes fully cognizant of the definite limitations which are being put upon compromise and of the beneficial effects in the future which may be properly anticipated from sound preventive measures, the Committee believes that the communities of Maine will again obtain a favorable position on loans, and will in fact, as time goes on and the results are further demonstrated, enjoy an even better credit position than they have enjoyed in the past. If the full Legislature should conclude, as the Committee has, that compromise and refinancing shall be the objective, then the Committee recommends that authority be provided by clear phraseology for the compromise of both state and county taxes, interest and costs. As it stands now, there is no authority for compromising county taxes, and the only authority for compromising state taxes lies in that provision which deals in express language only with accounts receivable. The Attorney General has ruled that state taxes may be compromised under that provision, but it would seem advisable to specifically state the authority. The Committee recommends that if compromises be authorized at all, that they be permitted only in the cases of towns and cities actually under board management, as a wholesale compromising of county and state taxes should be avoided at all cost. The Board should, of course, be given authority to offer compromises on behalf of the town.

At the request of the Committee, Mr. George E. Hill, former Chairman of the Board of Emergency Municipal Finance, has submitted a long and thoughtful memorandum on the subject, in which he adopts the theory that an equitable compromise of all claims is the best solution. To that end he suggests and the Committee recommends the following amendment to the present Emergency Municipal Finance law.

"SECTION 11. *Voluntary Compromise Settlements.* The Board of Emergency Municipal Finance, at any time prior to the commencement of proceedings under Sec. 10 of this Act, during the pendency of such proceedings, or after the termination thereof, when in its judgment it seems advisable so to do for the purpose of re-establishing upon a sound financial basis any municipality under its control by virtue of action taken prior to January 1, 1943, may in behalf of such municipality offer compromise settlements to any or all of its creditors upon claims, demands or obligations of whatever nature which accrued prior to the assumption of such control by the Board, and upon all interest thereon whenever accrued.

"Such an offer may be made to the State of Maine upon obligations due the State, whether arising from taxes, bonds, notes or otherwise, by presentation to the Treasurer of State; and upon recommendation, certification and

approval in the manner prescribed in Chapt. 13 of the Public Laws of 1941, the balance of any such obligation shall be charged off the books of account of the State. The Treasurer of State shall thereupon have full authority to accept and receipt for the sum or sums so offered in full and final settlement.

"With respect to such obligations due any county, whether arising from taxes, bonds, notes or otherwise, such offer may be made to its county commissioners and upon acceptance of such offer by them and tender of the sum agreed upon to the county treasurer, he shall accept and receipt for the same in full and final settlement. The balance of any such obligation shall thereupon be charged off the books of account of said county.

"Provided however that nothing herein contained shall be construed as requiring any creditor or the holder of any obligation of such municipality to accept any offer of settlement made under the provisions hereof, nor shall his refusal to accept in any manner derogate from his existing rights or remedies.

"Acceptance of any such offer by any creditor and payment of the sum agreed upon shall in all cases be and constitute a full and complete discharge of any such claim, demand or obligation, whether arising from taxes, bonds, notes or otherwise, and no attachment, levy, suit, action or other process or proceeding shall thereafter be commenced, maintained or prosecuted for the collection of any part thereof."

The Committee further recommends the clarification of the law relative to termination of management by the Board. As it now stands, the town continues under Board control "until such time as its taxes to the State or loans made therefor or expenses or obligations incurred by said commissioner or commissioners or the Board of Emergency Municipal Finance shall have been paid and until in the opinion of the commissioner or commissioners of the Emergency Municipal Finance Board the affairs of said city, town or plantation may be resumed under local control." The Committee recognizes that many responsible citizens and taxpayers in these depressed towns do not wish to see State control relinquished for fear of a return to power of unscrupulous or inefficient officials who in many instances helped to bring about the financial problem in the first place. But the Committee believes that the primary responsibility for good local self-government should be retained by the citizens in so far as possible, although some preventive safeguards will be necessary. Therefore the Committee recommends that the statute be amended to provide that when the debts of the municipality are paid in full or settled by compromise and the town refinanced so that its total current

debt does not exceed its constitutional debt limit, that control by the Board shall terminate at the end of the fiscal year in which such refinancing is accomplished.

(2) *What policies shall the State adopt to prevent the further spread of municipal failure and to ultimately restore financial stability in depressed communities?*

Upon consideration of the problem of those towns which are not under board management but are either on the verge of becoming so or are headed toward the danger point in financial affairs, each town and city must consider its relation to every other town and city. The State finances are so closely interwoven with and dependent upon the finances of the various towns, cities and counties that the State must, when presented with an acute emergency, be free to exercise a measure of supervision and direction over the financial affairs of its subdivisions. Only thus can the credit of the State of Maine be protected. The various communities which are not bankrupt but whose financial position may be somewhat unstable will be naturally reluctant to relinquish even a small measure of their absolute local control, but this they must do not only for the protection of the whole people of Maine but also for their own self-interest. No city or town can hope to escape the adverse effect of the financial impairment of any other city or town in the State, and if by a submission to some degree of supervision the city or town which has comparative financial stability can gain the benefits of supervision over the unstable cities and towns, it is a matter of enlightened self-interest to embrace such a program.

VALIDATION OF TAX TITLES

The Committee attempted to select the factor which more than any other has led to the bankruptcy or near-bankruptcy of so many of our communities. The Committee has concluded that the most important contributing cause is the lack of marketability of tax titles. Every year the towns and cities file liens or by some other method acquire tax titles in real estate, and thousands of dollars in potential cash are frozen in these titles. In many instances the procedure is repeated year after year and the assets of the town remain on paper but not in cash. Witnesses before the Committee estimated that there were enough uncollected taxes on the books of the distressed towns to take most of them out of bankruptcy. It is a well-known fact that prospective purchasers, banks, loan companies and attorneys are all afraid of tax titles. There are so many technical requirements, some of which seem most insignificant, but any one of which will vitiate a tax title, that very few people dare

to invest any substantial amounts in them. The fact that there is no market for tax titles and that the procedure of filing liens simply goes on year after year without any very serious effect upon the taxpayer, is not the best inducement to the taxpayer to come forward and pay his taxes or redeem his property. The result is the inability of the town to meet its bills and its tax anticipation notes, the refunding and increasing of these notes from year to year, and the gradual expansion of the town debt far beyond its debt limit.

STATUTE OF LIMITATIONS SUGGESTED

In order to make these tax titles marketable, the Committee proposes that legislation be enacted which will establish a limitation upon any action brought by any owner of taxable real estate or person claiming under him to attack the validity of any tax title for any reason whatever after the period of redemption on the particular tax method employed has expired. In other words, the period of limitation to be established upon all tax title suits shall be made coincidental with the redemption period, with the result that if the owner does not come forward during the redemption period to either redeem or attack the lien as a cloud upon his title, he will be forever barred thereafter, and a purchaser who receives a warranty deed from the town thereafter may feel secure in his title. The Committee believes that this will have an extremely beneficial result in that properties actually sold by towns to third persons may be sold for their fair value rather than for no more than the taxes, interest and costs which have accrued, and taxpayers will be far less reluctant to come forward and pay their taxes promptly. Every person who owns real estate knows that the ownership of his property carries with it the inevitable obligation to pay a tax. He knows that he can protect himself against over-valuation by seasonably filing his list and proceeding according to law. He deserves no sympathy if he seeks to hide behind some technical defect to escape his responsibility to the community in which he lives year after year. If such a defect is present and he wishes to take advantage of it to get the tax declared invalid, he will have ample opportunity to do so within the period of limitation.

COMPENSATION OF TAX COLLECTOR

The Committee has concluded that another contributing cause of the failure of towns to collect their taxes is the manner in which tax collectors are paid in many instances. Under the present law "when towns choose collectors they may agree what sum shall be allowed for the performance of their duties." It is common practice for many communities to pay their tax

collectors a percentage upon their tax collections and the tax liens which they file are included as tax collections. As already pointed out, these tax liens in many cases are never collected or reduced to cash. As a matter of fact, the collector receives an additional fee for each tax lien filed, so that there results the paradoxical situation in which the tax collector has an incentive to file liens rather than collect cash. The Committee recommends that legislation be enacted under the terms of which all collectors will be paid either a straight salary, or, if a percentage basis is preferred by a town, then that percentage will be computed only upon cash collections. The tax collector will in any event be compelled to file the tax liens in accordance with his oath and his bond, and will receive the statutory filing fee on each lien but not a percentage thereon.

LOANS ON TAX TITLES IMPOSSIBLE

The Committee studied with particular interest the legislation in Massachusetts under which towns are permitted to borrow money from the State up to but not exceeding the value of the town's tax titles, with the further provision included that certain controls are exercised over those towns which take such loans. It is apparent, however, that only those towns and cities which have reached or exceeded their constitutional debt limit would be vitally interested in such a possibility, and it now appears that the State could not make such a loan even under appropriate legislation without violating the constitutional provision as to debt limit. This provision has been extremely useful in Massachusetts, and our Legislature may wish to consider it, but in doing so must keep constantly in mind that Massachusetts unlike Maine has no constitutional debt limit. Presumably in Maine an amendment to the Constitution would have to be submitted to the people before such a program could be enacted.

STATE AUDIT CONTROL NECESSARY

The Committee is satisfied that the first and most essential element of control by the State over the affairs of its subdivisions lies in the auditing of municipal accounts. It is to be deplored that the Legislature in 1941 destroyed State audit supervision. Many towns in Maine go through the motions of auditing for which they pay five or ten dollars. Such a gesture is meaningless and is exactly the sort of thing that leads to municipal bankruptcy. The towns will find that their audits whether performed by the State Department or by qualified independent auditors approved by the State Department, will not be unduly expensive if they will take reasonable steps to

keep their books and accounts in good order and will follow the suggestions given them by the auditors. The Committee recommends the restoration of the municipal audit law to the same or substantially the same form that it took prior to the amendments enacted at the 1941 session.

FURTHER SUGGESTIONS

The Committee believes that there still remains a wide field for further study on the subject of modified State supervision. It is suggested, for example, that the office of a Director of Municipal Finance might be created, who should be appointed by and serve under the direction of the Emergency Municipal Finance Board. His function would be to serve as an adviser to municipal officers on behalf of the State. It is suggested that any town or city the indebtedness of which equalled or exceeded its constitutional debt limit would be compelled to submit its budget to the director for approval and certification before that budget could be enacted and the money appropriated under it. It is suggested that such a director might be given power to investigate the affairs of any such town or city at any time and report his findings to the municipal officers of the town and to the Emergency Municipal Finance Board, which board might, if it saw fit, compel the municipal officers to publish the report.

These are only examples of the type of preventive supervision which might be enacted by the State for its own protection and the protection of every town, city and county in Maine. The importance of this whole subject and the necessity of action is indicated in the most startling manner when it is learned that leading authorities on municipal finance in New England have predicted to this Committee that the failure of the State of Maine to exercise such control or supervision in the past, culminating in the apparent necessity of compromising the indebtedness of a number of our towns and cities, will conservatively cost the cities, towns and the State itself in the future one-half of one per cent upon forty to fifty million dollars of municipal and state annual borrowings.

The Committee will present to the next Legislature at the proper time proposed legislation which has been drafted pursuant to the recommendations contained in this report.

VALUATION OF SHORE LANDS

The Ninetieth Legislature referred to the Legislative Research Committee the matter of shore land valuations under an order presented by Mr. Rollins

of Greenville, which provided, "That the Legislative Research Committee be instructed to investigate all actions of the State Tax Assessor relative to valuations of shore lands in unorganized territory taken under the provisions of Section 9 of Chapter 12 and Section 37 of Chapter 13 of the Revised Statutes."

Section 9 of Chapter 12 provides for information concerning wild lands to be furnished by the Forest Commissioner to the State Assessor, for the furnishing of information about wild lands by county commissioners, for the separation of assessment where there is separation of ownership, as between land and timber, and then provides as follows: "All owners of wild lands or rights of timber and grass on public lots shall either in person or by authorized agent appear before the board of state assessors at times and places of holding sessions in the counties where said lands are located, or at any regular meeting of the board held elsewhere on or before the first day of August of each year preceding the regular legislative session of this state; and render unto them a list of all wild lands thus owned, either in common or severalty, giving the township, number, range, and county where located, part owned, and an estimate of its fair value; and answer such questions or interrogatories as said board may deem necessary in order to obtain a full knowledge of the just value of said lands. Owners of less than five hundred acres of such lands in any township shall be exempted from the provisions of this section. Any owner of wild lands herein named who, after notice in writing so to do, shall fail to furnish all the information hereinbefore required within sixty days from the time he receives such notice, shall be liable to pay the reasonable expenses of the board of state assessors or of any person or persons, not exceeding two, appointed by said board, incurred in making examination of said wild lands. The amount of said expenses shall be determined by said board, and an action of debt to recover the same shall lie in the name of the treasurer of state."

Section 37 of Chapter 13 provides: "Lands not exempt, and not liable to be assessed in any town, may be taxed by the legislature for a just proportion of all state, county and forestry district taxes upon property liable to be assessed in towns. The board of state assessors shall make lists thereof, with as many divisions as will secure equitable taxation, conforming as near as convenient to known divisions and separate ownership, and report the same to each successive legislature."

The Legislative Record indicates that the matter first came up at the last regular session of the Legislature in the form of a bill introduced in the House, which provided, in substance, that the Assessor in valuing lands in the unorganized territories bounding upon lakes should give full weight in

the valuation to whatever enhancement in value said property might derive from the fact that as shore property it had possible recreational and cottage site possibilities. It is apparent that there was some sort of intention to produce a zoning of property abutting on lakes so that a strip of arbitrary depth along the shoreline would be given an enhanced valuation because of its proximity to the water. For this bill was finally substituted the order referring the matter to this Committee.

The Commitee has made inquiry, and on May 13, 1942, held a hearing, which, although open to the public, was not advertised but to which were invited in particular Mr. Harry I. Rollins, representative to the Legislature and Chairman of the Board of Selectmen at Greenville, Maine, who was known to be deeply interested in the subject matter, and the State Tax Assessor and representatives of his office. Other interested persons attended, and the Committee feels that the information that it obtained from a study of the Legislative Record and from this inquiry produced a rather clear picture of the subject matter in hand.

It is uncontradicted that certain large owners of timberland tracts which, in part, abut on lakes are unwilling to sell any of the shore front property. Whether the underlying reason is a fear of increasing the fire hazard or whether it is their desire to retain the growing timber is immaterial. The Committee cannot approve of any measure, direct or indirect, which is designed to use the taxing power to compel the sale of lands which the owners for their own reasons desire to retain.

On the other hand, the State Assessor, under present law, has full power to add to the valuation of wild lands such amounts as may be fair and reasonable, and which represent the enhanced value of that part of the property which may abut on lakes and have definite potential value as recreational or camp site property in excess of its nominal wild land value. It is, moreover, the duty of the State Assessor to give full consideration to these values, and no additional legislation is necessary to establish either his power or his duty so to do.

Mr. Hill, the State Assessor at the time of this inquiry, and his predecessor, Mr. Holley, have for some years employed expert cruisers and appraisers of wild land, whose work has been directed and supervised by Mr. James W. Sewall, who testified at some length for the Committee. Mr. Sewall's knowledge and long experience appear to be full and satisfactory. Work of cruising these lands appears to have been limited somewhat by the vast amount of territory involved, the number of persons employed to do the work, and the size of the appropriation. As a result, out of a total of 403 townships, the State Assessor has reliable information on 241 townships, or

60% of the total area, unreliable or very old information on 105 townships or 26% of total area, and no information on 57 townships or 14% of total area. Although the situation appears to have been gradually and steadily improved, it is apparent that there is still much to be done in bringing the information up to date, and as new townships are added to the list of those which are up to date, the information on others is growing steadily older.

The last revaluation of the state was made prior to the advent of Mr. Hill as State Assessor, so that criticisms of methods in use heretofore cannot properly be addressed to him.

As to shore lands in particular, it appears to have been the policy of the Department to increase the assessed value of a lot primarily when it was sold for a cottage or recreational lot. There is no apparent indication that any enhanced value has been put on where there was no sale, even though there might be quite obviously a demand for the property. As a result, there have been manifest inequities, which are frankly admitted by the Department, and instances where adjoining lots with the same conditions, the same terrain, the same availability to highway, etc., have been given very different valuation. The Committee is assured that it is the policy of the present State Assessor to give full consideration to the enhanced value of shore property in wild land valuation. It is a fact that even where increased value is put on shore property, if that property is part of a large wild land tract, the additional valuation is lost sight of when spread over the whole tract because the acreage of the large tract is so great by comparison.

There is no indication that the Tax Assessing Department has ever attempted to make any extensive use of the machinery set up in Section 9 of Chapter 12, and it appears to be the viewpoint of the Department that the machinery is impracticable and that the information must and should be gathered only through the medium of the Department's own experts.

A suggestion has been made by Mr. Hill which seems to have a great deal of merit, that the statute be modernized by depriving the taxpayer of his appeal if he fails to file his list, and also if upon notice he fails to appear and answer inquiries. To accomplish this purpose a proposed amendment is herewith submitted as follows:

"Be it enacted by the people of the State of Maine as follows: Section 9 of Chapter 12 of the Revised Statutes is hereby amended by striking out all of said section and substituting therefor the following: 'The Forest Commissioner shall prepare and deliver to the State Tax Assessor full and accurate lists of all townships or parts of townships or lots or parcels of wild lands in this state sold and not included in the tax lists, whether conveyed or

not, and shall lay before said assessor all information in his possession touching the value and description of wild lands at his request; also a statement of all lands on which timber has been sold or a permit to cut timber has been granted by lease or otherwise. All other state officers, when requested shall, in like manner, lay all information in their possession touching said valuation before said assessor. In fixing the valuation of unorganized townships whenever practicable, the lands and other property therein of any owners may be valued and assessed separately. When the soil of townships or tracts taxed by the state as wild land is not owned by the person or persons who own the growth or part of the growth thereon, the state assessor shall value the soil and such growth separately for purposes of taxation. All owners of wild lands or rights of timber and grass on public lots shall on or before the first day of August of each year preceding the regular legislative session of this state render to the State Assessor a signed list of all wild lands thus owned, either in common or severalty, giving the township, number, range and county where located; and upon notice in writing any such owner shall either in person or by authorized agent appear before said assessor at such reasonable time and place as he may designate and answer such questions or interrogatories as said assessor may deem necessary in order to obtain a full knowledge of the just value, ownership and description of said lands. If any owner does not render such list to said assessor on or before said first day of August or, after notice, fails or refuses to appear before said assessor and to answer such questions or interrogatories, he is thereby barred of his right of appeal from the assessed valuation of such wild lands or rights of timber or grass.' "

On the basis of past events, it appears that this enactment will furnish the Taxing Department with the only practicable weapon that it needs to obtain from the owners such information as will prove really useful and helpful. In many instances the owners themselves do not have reliable up-to-date information about their own tracts. No use has ever been made of the provision of the law providing for a survey at the expense of the owner, and there seemed to be certain practical difficulties which would undoubtedly deter the department in the future from making much if any use of that provision even if it were written in the act. It is probably wise to make legislation conform with the practical situation which presents itself. By the same token, there is purposely omitted from this proposed enactment that part of the old law which required county commissioners to furnish information on wild lands because, as a practical matter, the county commissioners never possess the necessary information and, in fact, obtain their information from the state department instead of the converse being true.

The committee recognizes that as a necessary part of fair and equal taxation the taxing department should, as a matter of policy, give full weight

to the potential value of lands abutting shore front where those lands are suitable for development as recreational or camp site property whether the property has been sold or is on the market for sale or not, but, as previously stated, the committee does not feel that any new legislation or any enlarging of the authority of the Taxing Department is necessary to accomplish this result.

DESTRUCTION OF RECORDS

There is no provision of law at present permitting any destruction of state records except the provision found in Section 121 of Chapter 29 of the Revised Statutes as amended, which permits destruction of the records of the Department of State after two years. It appears that some records have been destroyed without authority, but, for the most part, records have been accumulated with a resulting waste of valuable space. Some records should undoubtedly be preserved either for legal, accounting or historical reasons, but most records have no usefulness after a reasonable time, are never again referred to, and simply stand gathering dust and using up space. The committee feels that some permissive legislation is necessary in the interest of economy. The following is a suggested draft of a bill which would permit destruction and provide adequate safeguards. The bill is set up upon the assumption that the first and perhaps the best judge of the usefulness of old records is the head of the department which made those records. All auditing of a state department is based upon the records of its transactions, and it therefore appears that the judgment of the State Auditor would be useful in determining the need of retention of records. It appears that if all these controls are maintained old records might be safely destroyed in large part.

"BE IT ENACTED BY THE PEOPLE OF THE STATE OF MAINE AS FOLLOWS: *Destruction of records.* The old records of any state department which in the opinion of the head of such department are no longer of value to the state may be destroyed upon approval in writing of the Attorney General, State Auditor, Commissioner of Finance and State Historian but not otherwise, provided, however, that nothing herein shall be construed as amending or altering the provisions of Section 121 of Chapter 29 of the Revised Statutes as amended, which provisions are applicable only to the Department of State.

STATE EMPLOYEES' BONDS

The Committee has made some study of the present legislation and requirements as to bonds required of State officials and employees. The preliminary work on this subject matter was done by the attorney for the Committee who held several conferences with the Insurance Commissioner and his Deputy, and State Auditor, the Commissioner of Finance, and Mr. Alexander Foster, of New York, an authority on surety bonds.

A thorough analysis of the entire subject of bonds required from and furnished by State officials and employees was prepared by Mr. Guy R. Whitten, Deputy Insurance Commissioner, as of May 1, 1941, and this valuable study has furnished the basis of further efforts to clarify the law on this subject. There are numerous individual enactments dealing with the bonds of individual officials, and an analysis of the many statutory requirements indicates a complete lack of uniformity and the basis for a great deal of natural misunderstanding. There is further apparent the opportunity for a large amount of overlapping of bonds and resulting multiplicity of premiums. The existence of many so-called "Faithful Performance" bonds leads to the giving of bonds by employees to the responsible official at the head of the department for his protection, and in many cases results in unnecessary additional premiums without commensurate protection for the State of Maine. Conflicts have arisen under existing statutes as to whether honesty bonds or faithful performance bonds were required, as to what were the duties and responsibilities of the Insurance Department, the State Auditor, the Attorney General, and the Governor and Council as to approval and acceptance, as a result of which bonds have piled up unapproved, and in numerous instances bonds have run out their entire effective period of coverage without ever being properly approved or accepted by anyone representing the State of Maine. Numerous employees have been bonded for far more than the exposure to risk of loss would warrant, and many others who should have been bonded on the basis of risk have not been bonded at all. The system as now set up is confusing, outmoded, inelastic and undoubtedly fails to produce a maximum of coverage for a minimum of premium.

The Committee and the department heads who have made recommendations to the committee have adopted as the objectives to be sought in new legislation the following: That all bonds should be of the honesty and fidelity type issued by surety companies rather than individuals, that they should run to the State, that they should be uniform, that there should be elasticity as to amount and as to the persons by whom bonds must be furnished, that full use where possible should be made of the schedule type bond covering more

than one employee, that there should be one law in place of multiple laws, and that there should be audit control and control by the Department of Insurance.

The bond of the State Treasurer is required by Section 2 of the fourth part of Article 5 of the Constitution and the condition required is for the "faithful discharge of his trust." The amount of the bond and the specific terms of the condition of the bond were established by the Legislature in Sections 70 and 71 of Chapter 2 of the Revised Statutes. It is apparent that without a change in the Constitution, the treasurer's bond must remain a "Faithful Performance" bond, and, although some multiplicity of premium may result, it does not seem necessary or wise to suggest a change in the law at this time. It does appear, however, that the State Auditor is the best custodian for all bonds and it does not appear that any useful purpose is served by having the treasurer's bond filed with the Secretary of State. It is therefore suggested that Section 71 of Chapter 2 of the Revised Statutes be amended to accomplish this purpose. The suggested draft of a bill to accomplish this result reads as follows:

"Be it enacted by the people of the State of Maine as follows: Revised Statutes Chapter 2, Section 71 amended. Section 71 of Chapter 2 of the Revised Statutes of 1930 is hereby amended by striking out the words "Secretary of State" in the last line thereof and inserting in place thereof the words "State Auditor".

It is not the intention of the Committee at this time to recommend any change with regard to the bonds required from any county or municipal officers or employees, but the scope of the suggested legislation would cover all other State officials and employees except the State Treasurer. The draft of a new law to cover this subject matter would read as follows:

"Be it enacted by the people of the State of Maine as follows: Sec. 1. *Bonds Required of State Officials and Employees.* The State Auditor and Commissioner of Finance shall, as of March 31 of each year, prepare a list of all State officials and employees who handle, have the custody of, or are in any way responsible for the collection, receipt, disbursement, safekeeping or transfer of either money, negotiable instruments or securities, or other property, either real or personal, belonging to the State, or in which the State has a pecuniary interest, or for which the State is legally liable, or which is held by the State in any capacity whether the State is liable therefor or not. They shall appraise the probable cost of the premiums upon bonds necessary to give reasonable protection on the basis of the estimated exposure. They shall designate those State officials and employees who, in their opinion, should be bonded and the amount of the bond which should be required from each such official and employee. They shall further from time to time designate

bonds which should be increased or decreased, and shall designate what if any additional bond should be required either from an official or employee who changes his employment within State Departments, or from a newly appointed or elected official or employee. All such designations shall be submitted to the Governor for his approval, and within ten days after the granting of such approval each such designated official or employee shall give a bond as hereinafter provided, and executed by a surety company authorized to do business within the State. The State Auditor and Commissioner of Finance shall designate which of said bonded officials and employees shall be included in schedule form bonds and which shall furnish individual form bonds. The Insurance Commissioner shall approve all such bonds as to their form, and as to their compliance with the statutes. All said bonds shall be filed with the State Auditor. No official or employee on whom there is a proper bond already in force shall be obliged to give a new bond until the expiration of the current policy year or the specified term for which the bond was issued. Wherever a bond, given in compliance with the statute, is already in force, the requirements of this statute at the time for renewal will be deemed fulfilled if the insuring company issues a renewal certificate approved by the Insurance Commissioner continuing said bond in force for an additional period of twelve months.

"The premiums necessarily incurred and due and payable on account of any bond required by law and given by any official or employee of any State Department shall be paid out of the State Treasury and the amount thereof charged to the appropriation of the particular department in which such official or employee is engaged.

"The Insurance Commissioner shall prescribe the form of schedule bond and individual bond, and no bonds of officials or employees of the State shall be accepted until they comply with the prescribed forms. The condition of each bond shall be such as to indemnify the State of Maine against any loss of any money, negotiable instruments or securities, or other property, real or personal, belonging to the State, or in which the State has a pecuniary interest, or for which the State is legally liable, or which is held by the State in any capacity whether the State is legally liable therefor or not, which the State shall sustain, up to the amount of said bond, through larceny, theft, embezzlement, forgery, misappropriation, wrongful abstraction, wilful misapplication or other fraudulent or dishonest act or acts committed by said bonded official or employee, acting directly or in collusion with others, while said bond is in force.

"All acts of the Legislature dealing with bonds to be furnished by State officials and employees other than the State Treasurer are hereby specifically

repealed, and, without limitation upon the foregoing, the following enactments, in so far as they are inconsistent with the provisions of this act, are specifically repealed.

OFFICIALS AND EMPLOYEES OF THE STATE OF MAINE PREVIOUSLY BONDED AS PROVIDED BY STATUTE

TITLE	CHAPTER	SECTION
Adjutant General	18	15
Assistant Librarian	4	2
Librarian	4	2
Bank Commissioner	57	1
Chiropractic Board—Sec. & Treas.	21	72
Commissioner of Agriculture	39	1
Agents of Indian Tribes	17	4
Fish & Game Wardens	38	12
Forest Commissioner	11	1
Insane Hospitals—Treasurer	155	12
Insane Hospitals—Steward	155	13
Insurance Commissioner	60	83
Osteopaths—Sec. & Treas.	21	61
Public Officials	125	56
Sea & Shore Fish Wardens	50	4
Secretary of State	2	61
State Auditor	2	97
State Commissioner of Education	19	161
State Highway Police Chief	29	126
State Highway Police—All Others	29	126
State School for Boys—Supt.	154	11
Supt. of Public Buildings	2	29

For the purposes of this act the officers of the Chiropractic Board and of the Osteopathic Board and the treasurers of examining boards shall be classified as State Officials."

It is the belief of the department heads who have worked on this matter, and of the Committee, that the foregoing legislation will permit a realistic approach to the matter of who should be bonded and for how much. The Committee has carefully considered the fact that there is undoubtedly a type of exposure against which protection is given only by the "Faithful Performance" type of bond, these being cases where no actual dishonesty is present or provable. It is the considered opinion that these instances are

sufficiently rare in State government, and, as has been evidenced in the past, there has been so much reluctance to proceed upon the bond where no dishonesty is apparent that the State can better afford to become a self-insurer as to this particular exposure. There will undoubtedly be a substantial saving in premiums because of the fact that a department head who is required only to give an honesty and fidelity type of bond cannot reasonably require bonds from his employees running to him, while on the other hand, a department head who gives a "Faithful Performance" type of bond is certainly justified in such a requirement.

There is little chance for argument where the reason for proceeding upon a bond is evident dishonesty and infidelity, but there is an infinite opportunity for argument, difference of opinion, and litigation where only the faithful discharge of duty is in issue.

It is significant to note that in a period of at least forty years there has apparently never been a recovery by the State of Maine on any bond given by any State official or employee, either of the faithful performance or honesty type. If there have been any exceptions at all which have escaped the knowledge of the Committee in its research, they have been so rare as to be of no practical significance. If this represcents the type and character of employee who serves the State, then we might easily conclude that the State could well afford to become a self-insurer and that the resulting saving in premiums would not only provide adequate reserves against loss but would leave substantial funds available for other public purposes. The Committee concludes that it would probably be deemed too drastic a proposal to suggest at this time that all bonds be discontinued as to State officials and employees, and the Committee's proposal is therefore the adoption of the flexible system based upon honesty bonds. However, it may be hoped that the Legislature will begin consideration of the advisability of taking the further step of becoming a self-insurer as to these risks.

MUNICIPAL RESERVES

The State of Maine, while engaged with the rest of the Nation in a war of serious and alarming proportions, is lacking in that degree of progressiveness and foresight which should be occasioned by a memory of the events following World War I, if it does not now give serious consideration to those problems which it may fairly be assumed will arise after the end of World War II. We have learned from bitter experience that the impact of total war upon normal peacetime economy is such as to bring inevitably a post-

war depression, and only by our present thoughtful planning can the full and devastating effects of such a depression be diminished or averted. In all parts of our Nation, people are beginning to give consideration to post-war planning and this should certainly be the policy in the State of Maine.

The idea of a nest egg saved for a rainy day is certainly not a novel concept to a citizen of Maine, for saving against the day of adversity has always been regarded as a cardinal virtue in this State and Yankee thrift has been a byword. It comes somewhat as a shock, therefore, to discover that nowhere in our law is there permission for municipalities to establish reserves for future need. Cities and towns are expected to levy taxes only in an amount sufficient to pay current expenses with an overlay to cover uncollected taxes, the only exception being the contingent funds commonly set up to cover current unexpected contingencies and such sinking fund as may be required to amortize existing debt. But nowhere do we find permitted the setting up of general reserves which could be used for future capital outlays, or to ease the shock of some future financial difficulty. In cases where appropriations have been made in excess of requirements and surpluses thereby developed, such surpluses might almost be termed "bootleg".

Probably the principal reason for the lack of permissive legislation allowing municipal reserves has been the fear that such reserves would be unprotected and fair game for spending by the first group of unscrupulous persons who might later obtain control of the municipal government. Obviously, the ideal to be achieved is a protected reserve.

Mr. William S. Parker of Boston, now associated with the National Resources Planning Board, came before the Committee and discussed the subject of reserves and in addition submitted helpful material which was studied by the Committee. Mr. Parker has apparently made protected reserves the subject of long study and is now qualified as an authority on the subject. As early as 1938 the Massachusetts State Planning Board, of which Mr. Parker was a member, published a report recommending the creation of Municipal Protected Reserves. Also, in 1937, California passed a law permitting municipalities to set up funds for future capital outlays, but the permission was restricted to these purposes. In 1941 New York passed a somewhat similarly restricted law limiting the expenditure of permitted reserves to special public works projects or types of projects. The Governor of Rhode Island has also gone on record as approving some form of protected state reserves. The Municipal Finance Officers Association of the United States and Canada and the Tax Committee of the Council of State Governments have expressed themselves in similar vein.

In 1942 Massachusetts passed a law permitting municipalities to invest in defense bonds to be expended for capital outlays after the war, but this legislation is temporary. There had been previously presented before the Massachusetts Legislature a bill entitled, "An Act to Establish a State Credit Reserve Fund and Protected Municipal Reserves," which embodies the principles of a protected municipal reserve which in case of later need may be drawn upon for general purposes. The need to draw upon the fund is determined by a formula which uses as its factors the increase or decrease of assessed valuations, the increase or decrease of tax collections and the increase or decrease of welfare costs. This formula furnishes the protection of the fund which is fundamentally necessary. The Massachusetts proposal, although not yet enacted as law, has the endorsement, at least as to principle, of state officials with whom the representative of this committee conferred in Massachusetts.

As to the practical working of the formula, it can only be said that it has never yet been tried. It has been studied and approved by experts. It appears to incorporate those factors which furnish the best criteria as to whether the municipality is encountering a period of need or not. The formula has been applied to the finances of cities like Boston, Worcester, Springfield, Newton, and Athol, and it would appear that, had the formula been in operation during the depression years, it would have worked effectively to release reserve funds when they were needed.

The proposal in Massachusetts calls for a compulsory contribution to the Reserve Account. It does not seem wise for the State of Maine to go so far at the beginning. It is suggested that the legislation be permissive only, so that forward-looking and progressive municipalities in Maine may take advantage of it at their option. A process of education may ensue and it may in the not too distant future seem advisable to make the legislation compulsory in the interest of sound municipal finance, but it would seem premature to do so now. It appears reasonably certain that those communities which are able and willing to take advantage of the legislation may in the post War II period of readjustment have real reason to be grateful that this legislation was passed.

The State of New York has enacted a law permitting reserves for specific future capital improvements which might appeal to certain Maine municipalities which felt unable at present to accumulate any other type of reserve. It would permit planning ahead for the new school building or the new water system which may be necessary sometime in the next few years.

The following is a proposed draft of a bill adapted from proposed legislation in Massachusetts and from the enactment in New York which combine both types of reserves, this legislation being entirely permissive:

AN ACT to Permit Towns and Cities to Create Protected Reserves.

Be it enacted by the People of the State of Maine as follows:

SECTION 1. *Municipal Credit Reserve Fund*

There is hereby established a fund to be known as the Municipal Credit Reserve Fund, hereinafter called the fund, which shall be administered by the State Treasurer as depository for funds raised by cities and towns under the provisions of this act.

SECTION 2.

The State Treasurer is hereby authorized to receive from the treasurer of any city or town funds raised by such city or town under the provisions of this act. Such funds shall be placed in, and shall become a part of, the fund; and the State Treasurer shall issue, or cause to be issued, to such city or town certificates of credit for such sums as may be so deposited.

SECTION 3.

The funds received by the State Treasurer for this purpose shall be invested by him in bonds of municipalities of the State of Maine approved by him for this purpose, in bonds of the State of Maine, or of any other state approved by him for this purpose, or in bonds or other evidences of indebtedness of the Federal Government, or bonds of any federal agency, the interest and principal of which have been guaranteed by the Federal Government. The total of the funds invested in the aforementioned issues of the Federal Government or its agencies shall be at no time less than ten per cent nor more than thirty per cent of the Municipal Credit Reserve Fund.

SECTION 4.

Any city or town may annually appropriate money for the purpose of providing a reserve of borrowing power which can be applied, in periods of financial stringency or depression, to assist in carrying forward normal expenditues of the city or town without increase in the tax rate thereof. Such appropriations shall be made in the same manner as other appropriations, but no such annual appropriation shall in any case exceed five per cent of all other net expenditures for the municipal financial year. Such appropriation shall be covered by the tax rate of the city or town for the year, and shall be carried upon the books of the city or town as a separate item, to be known as the Credit Reserve Account.

SECTION 5.

Annually at the beginning of the fiscal year, the treasurer of the city or town which has established such a credit reserve account shall develop the following formula according to the financial records of the city or town:

Item 1. Assessed Values

Assessed values in the previous year less the average assessed values of the two preceding years prior thereto times the tax rate of the previous year.
(Plus or minus) ....$————————

Item 2. Per Cent Taxes Collected

Per cent of taxes collected in the previous year less the average per cent of taxes collected in the two preceding years prior thereto times the assessed taxes of the previous year.
(Plus or minus) ....$————————

Item 3. Welfare Expenditures

The Welfare expenditures of the previous year subtracted from the average welfare expenditures of the two preceding years prior thereto.
(Plus or minus) ....$————————

Total (Plus or Minus) $————————

If the result of the formula above stated is a plus amount, there shall be no withdrawal from the Credit Reserve Account. If the result of the formula is a minus amount, the treasurer of the town or city may withdraw from the fund by draft upon the State Treasurer a sum not exceeding the minus amount produced by the formula and credit the current budget with such sum. In each case of withdrawal, the draft shall be accompanied by a certificate of the State Auditor that he has checked the formula against the books and accounts of the city or town and has verified the result produced by the formula. The State Treasurer shall honor all such drafts as are accompanied by such certificates of the State Auditor up to but not exceeding the amount of the credit account of such city or town in said Municipal Credit Reserve Fund. No city or town may withdraw amounts in excess of its credits to the fund, but the State Treasurer shall credit each city or town with its proportion of the income actually earned by the fund upon its investments.

Section 6.

No funds of the State of Maine shall be hereafter invested in the bonds or other obligations of any town or city in this State which does not annually appropriate an amount equal to at least one per cent of its other net expenditures for the creation and maintenance of a credit reserve fund.

Section 7. *Capital Reserve Funds Created.*

In addition to Municipal Credit Reserve Fund created by the first six sections of this act, any city, town or county may establish capital reserve funds for the financing of all or part of the cost of

(a) The construction, reconstruction, or acquisition of a specific capital improvement, or the acquisition of a specific item or specific items of equipment, or

(b) The construction, reconstruction, or acquisition of a type of capital improvement, or the acquisition of a type of equipment.

SECTION 8.

Any city, town or county may appropriate money to be paid into such Capital Reserve Fund or may authorize the transfer thereto of any part or all of the unencumbered surplus funds remaining on hand at the end of any fiscal year.

SECTION 9.

The municipal officers or county commissioners as the case may be are hereby constituted trustees of such Capital Reserve Fund and shall be subject to all the duties and responsibilities imposed by law on trustees, and such duties and responsibilities may be enforced by action commenced by the city, town, or county as the case may be, or by any officer or taxpayer thereof. All monies in said fund shall be either deposited in Savings Banks, Trust Companies, or National Banks in this state, the deposit in any one bank in no case to exceed $5,000, or shall be invested in whole or in part in the bonds of this state, in bonds of municipalities of this state which are purchasable by the State Treasurer under the provisions of section 6 of this act, or in bonds or other evidences of indebtedness of the Federal Government, or in bonds of any Federal Agency, the interest and principal of which have been guaranteed by the Federal Government. Any interest earned or capital gains realized on the monies so deposited in any such fund shall accrue to and become part thereof. The separate identity of each such fund shall be maintained whether its assets consist of cash or investments or both.

SECTION 10.

Expenditures from each such fund shall be only for or in connection with a capital improvement of the specific nature and within the specific purpose for which the particular fund was established.

SECTION 11.

Any city, town or county may transfer to another capital reserve fund all or part of

(a) the unexpended balance remaining in any capital reserve fund after the completion of the work to be financed therefrom and the payment of all costs incurred therefor, or

(b) the unexpended balance remaining in any capital reserve fund established for a project which the city, town or county has decided to abandon in whole or in part.

TEACHERS' RETIREMENT PENSION FUND AND ANNUITY PREMIUM TAX

The committee find that a serious problem has arisen and is now ever-increasing with regard to the state's fund for teachers' pensions. There are in effect two pension plans simultaneously: the first, the old noncontributory pension, and, second, the more recent contributory pension. Up to the present time there has been a steady reduction in school appropriations but at the same time a steady increase in the drain on the school funds by way of pensions. In 1923, with a school fund of $2,264,000, only $46,655 was required for the teachers' pension fund. By 1933 the amount required for teachers' pension fund had increased to $190,000. In 1933 there was available by way of state moneys to be distributed to towns $221,000, together with a three-dollar allotment for each child of school age in every town and city in the State. In 1941 the reductions in school appropriations together with the increased demand for pension funds had wiped out the aggregate attendance moneys of $221,000 and had reduced the appropriation on a census basis to a figure of $1.63. In other words, as against a constant trend of increasing responsibilities and costs in the operation of our schools, we have had an equally constant trend downward in the matter of money available for these purposes.

Perhaps the first problem to face specifically is that of the contributory pension fund, under the terms of which the teachers pay into the fund, and the state has obligated itself to match the teachers' payment. Since 1932 the state, because of its financial problems, has not matched any of the teachers' money, with the result that the teachers have paid into the fund $821,536 whereas the state has paid in only $88,537. It is perfectly obvious that as teachers begin an ever-increasing withdrawal from the contributory pension fund the amount which the state will eventually have to meet as its share can and will become a figure of dangerous proportions. It is equally obvious that the state should go at once on a sound actuarial basis of contributions to the fund, which will not only keep the state's share currently paid but will also, over a period of years which may be computed on an actuarial basis, liquidate the amount which the state should have paid in in the past but has not. The fund is being analyzed by an actuary at present and his report will undoubtedly contain specific recommendations as to the annual amount which the state should pay into the fund to liquidate its back balance in a reasonable and proper manner. It is roughly estimated that an amount of somewhere in the neighborhood of $25,000 or $30,000 a year will be sufficient to adequately liquidate the back balance owned by the state to the fund. In addition, however, the current obligations are continuing and the teachers

are annually paying approximately $100,000 a year into the fund. Although it is not necessary for the state to match this amount dollar for dollar, it is necessary for a substantial amount to be appropriated for this purpose, and the Legislature should give careful consideration as to whether or not, this being a pension fund and not strictly any part of the educational program for Maine, it should be so set up as to constitute a further drain on the already badly depleted school funds. It is strongly urged by the Commissioner of Education that the entire matter of pensions be divorced from educational expenses as such and even if his plea is not wholly granted, there is undoubtedly a strong argument for not draining the fund further than it has already been drained.

The next specific problem may be said to be the noncontributory pension. Because of the fact that no new teachers are being added to the old plan, there is, of course an ultimate point at which all expenditures under the old plan will cease, but that point is still many, many years away and in the meantime, the drain upon school funds to pay these pensions is ever-increasing. In 1941, for example, the school fund was drained $275,420 for pensions. It can perhaps be truthfully said that in effect one hand washes the other because the Department of Education has to add to its request in its appropriation the amount necessary to pay the pensions. In fairness to the Department of Education, however, it should be pointed out that there is, first, the ever-present danger that the Legislature may not appropriate enough money to pay the pensions, and funds badly needed for other school purposes might have to be diverted to keep the promises and obligations owed the teachers, and, secondly, it appears hardly fair to charge the Department of Education with expenditures which are increased by over a quarter of a million dollars by something that is in no sense education. The public is certainly given the false impression that the Department of Education has over a quarter of a million dollars more than it acutally does have to spend on education in Maine, and the public may well wonder why the department is unable to make a better showing if it has all this extra money. It is undoubtedly this concept that leads the department to request the absolute divorcing of all matters of pension from the regular funds and expenditures devoted to education.

In view of the fact that approximately one-half of the total appropriation for education goes to pensions it would certainly present a far more realistic picture if the appropriation could be entirely segregated. The Legislature might even give serious consideration to putting all pension matters in one place and perhaps entrusting to the board which is charged with the administration of the state employees retirement pension program the responsibility of administering both of the teachers' pension programs also. It would then

be possible to present a much more vivid picture of exactly the amount which is being expended annually for pensions and pensions only, and would have the further result of removing out of the picture the reduction of expenditures upon our school children in order to pay teachers' pensions.

It is apparent that the problem would be somewhat simplified if new revenue could be found, and the Committee has adopted a proposal of the Insurance Department, which, if its recommendation is followed by the Legislature, will apparently produce at least enough annual revenue to systematically liquidate the back payments due the contributory pension fund from the state.

At the present time Sections 50, 51, and 52 of Chapter 12 of the Revised Statutes provide a tax on the premiums paid domestic and foreign insurance companies of 1 per cent in the case of domestic companies and 2 per cent in the case of foreign companies as to business done within the state. This has never applied to annuity contracts. By the provisions of Section 148 of Chapter 60 of the Revised Statutes, annuity companies are made specifically exempt from the provisions relating to taxation. Presumably one of the considerations which led to the granting of this exemption was the idea that residents of this state would benefit by this tax exemption in the rate which they paid on their annuity contracts, but it has been proven that such is not the case. The rate as promulgated by the annuity contracts includes a fixed amount of 2 per cent for taxation of premiums and no exceptions as to rate are apparently made in those states which, like Maine, do not tax the annuity consideration. In other words, as to all annuity considerations paid by residents of Maine, the Maine resident is in effect paying a sum designated for taxation, but, because there is no taxation, that sum is merely added to the companies' profit on the transaction.

Of the other forty-seven states and the District of Columbia who were contacted with regard to their policy, 25 signified that annuity considerations were taxed, 17 signified that they were not, and 6 failed to reply.

In the year 1941, consideration for annuities was $1,698,785. A tax of 2 per cent would yield in excess of $33,000. There is only one company in Maine which would be affected by such legislation. Representatives of that company were notified and invited to attend the committee hearing at which this matter was discussed. They were unable to attend but sent word to the Insurance Commissioner as to what their opinion would be if they were present to express it. As explained by Mr. Perkins, their attitude apparently would be that they would not oppose the premium tax upon new business but that they would oppose the tax as it might apply to renewals on business already written prior to the enactment of the legislation. Their contention appears to be that the old annuity rates were not enough. The

fact remains, however, that in the rate, whatever it was, there was figured at least 2 per cent for taxes, and the rate would have been the same whether the tax had actually been collected or not. There is no apparent hardship if they now, for the first time, are called upon to pay a tax which they collected in the first place. It is perfectly true that the profit on the business will be somewhat reduced, but no more so than it is already in other states which apply the tax. In the absence of any real or serious hardship upon the companies, it would appear that the benefit to the people of the State of Maine would be such as to fully justify the imposing of the tax. It is suggested that the tax will produce approximately the revenue needed to liquidate the back indebtedness to the contributory pension fund, and this Committee recommends that the tax be enacted and the proceeds devoted to the contributory pension fund.

The suggested legislation would read as follows:

"Be it enacted by the people of the State of Maine as follows: Section 148 of Chapter 60 of the Revised Statutes is hereby amended by striking out the words at the end of said section 'except so far as relates to taxation,' and substituting in place thereof the following: 'including all provisions relating to taxation'.

"Section 50 of Chapter 12 of the Revised Statutes of 1930 as amended by Section 1 of Chapter 1 of the Public Laws of 1939 is hereby further amended to read as follows: 'Section 50. *Domestic insurance companies to be taxed on real estate, premiums and annuity considerations.* Every life insurance company or association organized under the laws of this state, in lieu of all other taxation, shall be taxed as follows: first, its real estate shall be taxed by the municipality in which such real estate is situated, in the same manner as other real estate is taxed therein. Second, it shall pay a tax of one per cent upon all gross direct premiums including life annuity considerations, whether in cash or notes absolutely payable, received from residents of this state during the year preceding the assessment, as hereinafter provided, first deducting therefrom all return premiums and all dividends paid to policyholders in this state on account of said premiums or considerations. Every other insurance company or association organized under the laws of this state, except those mentioned in Section 55, including surety companies and companies engaged in the business of credit insurance or title insurance shall as hereinafter provided annually pay a tax of 1% upon all gross direct premiums written, whether in cash or in notes, absolutely payable on contracts made in the state for fire, casualty and other risks, less return premiums thereon and less all dividends paid to policyholders and less all premiums and assessments on policies of insurance issued on farm property'."

"Section 51 of Chapter 12 of the Revised Statutes of 1930 as amended by Section 2 of Chapter 1 of the Public Laws of 1939 is further amended to read as follows: 'Section 51. *To return to Insurance Commissioner statement of premiums liable to taxation.* Every such domestic life insurance company shall include in its annual return to the insurance commissioner a statement of the amount of premiums and annuity considerations liable to taxation as provided in the preceding section, and of the real estate held by it on the 31st day of the previous December, showing in detail the amount of all premiums including life annuity considerations whether in cash or notes absolutely payable, received by said company from residents of this state during the year preceding the assessment, and all dividends paid policyholders in this state on account of said premiums or annuity considerations as required by blanks furnished by the commissioner. The taxes provided by the preceding section shall be assessed and paid as provided in Section 59 and said Section 56 shall be applicable thereto'."

"Section 52 of the Revised Statutes of 1930 as amended by Section 3 of Chapter 1 of the Public Laws of 1939 is hereby further amended to read as follows: 'Section 52. *All insurance companies to pay tax on premiums.* Every insurance company or association which does business or collects premiums or assessments including life annuity considerations in the state, except those mentioned in sections 50 and 55, including surety companies and companies engaged in the business of credit insurance or title insurance, shall, for the privilege of doing business in this state, and in addition to any other taxes imposed for such privilege, as hereinafter provided, annually pay a tax upon gross direct premiums including life annuity considerations whether in cash or otherwise, on contracts written on risks located or resident in the state for insurance of life, life annuity, fire casualty and other risks at the rate of 2% a year'."

REVISED STATUTES, CHAPTER 35

Fire Prevention

An examination of the provisions of Chapter 35 of the Revised Statutes discloses the presence of many provisions which are ancient and outmoded and which do not conform with either modern experiences in fire-fighting or general practices which have been followed for many years. Conflicts have arisen as between organized fire departments and voluntary fire departments and the location of control and supervision in fire emergencies. The whole

concept of fire wards, so-called, appears to have long outlived its usefulness. The appointment of building inspectors and fire inspectors, the responsibility for their appointment, and the performance of their duties in event no appointment is made, require clarification. The need for a relatively simple method with explicit directions for the repair or demolishing of dangerous buildings and the removal of hazardous conditions appears necessary. To this end it appears that a very useful purpose may be served in a complete and careful revision of Chapter 35 in entirety.

The Committee has sought and obtained assistance from the Maine Municipal Association and from individuals who have knowledge of the problems, and in particular the problems of the smaller communities. The Committee hopes to have ready for presentation at the next session a complete revision of the chapter which may prove to be, if not the complete solution of the problems presented, at least an intelligent framework for a final revision. This revised chapter will define organized fire departments and independent fire departments, will determine the authority of one over the other and the authority of the municipal officers in each case. Authority will be definitely placed in the event of the necessity of demolishing buildings during a fire to prevent its spread, and even the placing of authority amongst individual municipal officers is clearly defined. There will be a provision making possible cooperative fire-fighting units organized and maintained by two or more towns. The appointment of fire and building inspectors is coordinated, and the duties of fire and building inspectors, which formerly overlapped each other, will be separated and defined. Wherever private rights are impaired as part of the police power, as, for example, where inflammable substances must be removed or dangerous buildings torn down, the exact procedure is clearly set forth so that there may be no question as to who shall act and when. The required notice to the owner, the method of giving it, the time of giving it, provisions for hearing and provisions for protective action by the court are all included. The provisions of Sections 50 to 59 inclusive, which apply only to cities having a population of over 40,000 inhabitants, are so worded as to make it readily apparent that their application is so limited. Certain provisions of the old statute are either joined to make single sections, or, if they have no longer a practical significance they are omitted. The provisions empowering the Insurance Commissioner to act in certain cases where dangerous buildings must be removed or demolished is removed from this chapter and included in a rewrite of Sections 36 to 40 inclusive of Chapter 26, which contained similar provisions under which municipal officers might act.

It is hoped that these revisions will bring the provisions of the law into proper and modern condition.

MAINE INDIANS

INTRODUCTION

There was referred to this Committee by the Committee on Indian Affairs Legislative Document 694. This act will be further discussed in this report, but its application was simply to instances of Indian women marrying white men or men not eligible for membership in the tribe.

As an outgrowth of its consideration of the specific bill which was referred to it, the Legislative Research Committee concluded that the whole subject of Indian affairs in the State of Maine presented a problem well worth the time and effort involved in an extended research study. Consequently, the Committee employed Mr. Ralph Proctor to make this study and an extended report upon his findings, and he devoted more than five weeks to this work. He examined the laws relating to Indian affairs, old records and treaties, records of departments, conferred with representatives of the departments interested in Indian affairs, visited the reservations, talked with Indians, and otherwise attempted to assemble material from all available sources. He was finally able to present to the Committee a report on Maine Indians comprising 87 pages, complete with maps, graphs, and reference material. Several copies of this report will be filed with the State Library in the hope that it may prove a valuable reference work in the future, particularly to future legislatures dealing with Indian affairs. The first 11 pages of the report are prepared as a report in brief for those who wish to follow the essential points. The remainder of the report expands the several topics with details and supporting evidence. Many problems which have vexed previous legislatures are simplified and dealt with in a clear and precise manner in this report, and the Committee feels that this report, supplemented by its own findings and conclusions, may prove helpful in the future consideration of the Indian problem in Maine.

I. BACKGROUND

Since 1820 the State of Maine has acted as guardian for the Penobscot and Passamaquoddy tribes of Indians, assuming by the Act of Separation in 1819 all the responsibilities formerly exercised by the State of Massachusetts. These responsibilities consisted mainly in delivering to the Penobscots "every year so long as they shall remain a nation" certain foodstuffs and cloth having a present value of approximately $2000 annually, and in setting up certain lands for the exclusive use of both tribes. In 1833 the State purchased part of the Penobscot lands, crediting the purchase price of $50,000 to said Indians. This was the beginning of the Penobscot Indian Fund.

The Passamaquoddy Indian Fund was established in 1856 by a deposit of $22,500 for a fifteen-year lease of timber, grass and water power rights.

From 1834 to 1859 the Indians were provided for by specific appropriation of sums for schools, goods due by treaty, and such other assistance as the Legislature chose to provide by annual resolution. The Penobscot Indians also had the annual interest from their trust fund and income from shore rents. Starting in 1860, the interest on both funds was appropriated for the annual use of the agents, and other specific and additional appropriations were made. After 1936 it became the practice to cover all necessary Indian expenses by means of one total appropriation on a budget basis, the interest on both trust funds being transferred annually to the general funds of the State. Since 1936 these appropriations have approximated $100,000 annually, and since 1909 the State has thus spent over two million dollars on the combined Indian tribes, providing supervision, food, lodging, medical care, schooling, bounties, etc. to all needy Indians.

In 1934, 95 per cent of the members of the tribes were supported entirely; in 1940, 44 per cent of the appropriation was spent for groceries; in 1940, 106 Penobscot families had 60 employable men, 30 of which were on W. P. A., 25 employed in canoe and moccasin factories from four to six months in the year, 5 had steady employment for eleven months of the year. Of 140 Passamaquoddy families with 65 employable men in the same year, the Indian Agent reports: "We have only six families in the tribe that we do not help with food and clothing; outside of these six families the Indians are all on steady relief when we do not have any W. P. A. work."

In 1822 there were 277 Penobscots and 379 Passamaquoddies, a total of 656. In 1942 there were 584 Penobscots and 616 Passamaquoddies, a total of 1200. The period of greatest increase was from the years 1932 to 1942 inclusive, in which there occurred a numerical increase from 1014 Indians to 1200 Indians, representing the equivalent of a percentage increase of 18.3 per cent. In the membership of both tribes there are a total of 73 intermarriages with whites and 7 with Canadian Indians. There are 192 children by such intermarriages, which, with an estimated 35 illegitimates, gives a total of 227 children of mixed blood classified as Indians who can continue to produce families of so-called "Indians" who will enjoy all tribal privileges. If these children should marry whites, their offspring would still be "Indians", and so the tribe continues to increase with less and less Indian blood. The third generation would be one-quarter Indian and three-quarters white.

II. Proposed Legislation

Legislative Document No. 694, "An Act Relating to Loss of Membership in Indian Tribes by Marriage," provides a partial restriction upon the continuance of the process. As originally submitted for study, it read as follows:

"*P. L., 1933, c. 1 sec. 256, amended.* Section 256 of chapter 1 of the public laws of 1933 is hereby amended by adding at the end thereof a new paragraph to read as follows:

'If any woman who is a member of the tribe marries a man who is neither a member of the tribe nor eligible for membership therein she shall forfeit her membership in the tribe and shall not be eligible for adoption into the tribe during the period of such marriage. All provisions of this section shall apply to the Passamaquoddy tribe of Indians as well as to the Penobscot tribe, and such persons shall be subject to removal from the tribal reservations as provided in sections 261 and 291 of this chapter.'

The Committee recommends revision of the proposed amendment to read as follows:

"If any Indian, who is a member of either the Passamaquoddy or Penobscot tribes, marries a man or woman who is a member of neither tribe nor eligible for membership therein, he shall forfeit his membership in the tribe and shall not be eligible for adoption into the tribe during the period of such marriage, and such persons shall be subject to removal from the tribal reservations as provided in sections 261 and 291 of this chapter."

In this form the bill is recommended for passage as an element in the policy that may limit the membership in the tribes and limit State responsibility for guardianship to those having at least one-quarter Indian blood.

III. Recommended Indian Fund Adjustments

In the course of the study, certain minor items in connection with the handling of Indian affairs have come to our attention, although these minor discrepancies have been more than counterbalanced by the liberal financial policy of the State toward the Indians. The following items have been brought to our attention and recommendations are made to clear the record:

1. On October 11, 1835, three of the Penobscot islands were sold at auction for $7550. (See Page 17, Report on Maine Indians). These were included in the islands in the Penobscot River ceded to the Indians and belonging to them. (Treaty of 1818; Page 16 of report.) They did not receive this money. It should be paid to the Penobscot Indian Fund without interest.

2. The treaty with Massachusetts in 1794 (Page 21 Report) granted to the Passamaquoddy Indians 15 islands in the St. Croix River. The Indians never did obtain these islands. The Indian agent, following a legislative resolution in 1854 (See Public Laws 1854, Chapter 139; Page 22 Report) reported in 1855 regarding conflicting claims on these islands. The islands were apparently granted to William Bingham in 1793, a year before being granted to the Indians, (Page 23 Report) and were estimated by the Indian Agent in 1855 to be worth $2000. As the Indians lost these islands and Maine had taken over the responsibilities of Massachusetts in relation to them, the Passamaquoddies should be reimbursed this amount of $2000 without interest, by payment of such sum to the Passamaquoddy Indian Fund.

3. In 1855 a special committee of the Governor's Council was appointed to defend the title of the Indians to the above islands (Resolutions 1855, Chapter 248; Report Page 23) and recommended that the attorney for the State and the County of Washington be instructed to appear for the State in an action of trespass by Joseph Granger, then owner of the islands. The State lost, and paid in 1878 the sum of $2486.17 (Resolution February 21, 1876) to satisfy the court decision in favor of Joseph Granger. This sum was paid, however, from the Passamaquoddy Indian Fund. Thus the Indians not only lost these islands but had to satisfy the action of trespass on land that had been ceded to them and which they believed was their property.

The Committee recommends that the Passamaquoddy Indian Fund be reimbursed this $2486.17 without interest.

4. The sum of $22,911.05 has been estimated as the amount of the Penobscot Indian Fund which may not be recovered from impounded bank accounts, and the sum of $1718.70 in the Passamaquoddy Indian Fund is estimated as similarly involved. (See Report, Pages 39-40, Department of Audit). In addition, the Passamaquoddy Indian Fund holds $10,000 of City of Eastport bonds which are now in default and upon which future realization remains undetermined. The Committee feels that these sums were deposited in banks of the State of Maine and in bonds of the City of Eastport in good faith, that the losses which may be incurred are the result of no more than the normal hazards accompanying any investment program, and that no negligence on the part of the State in so investing the Indian funds is apparent, and therefore recommends no restoration of these sums to the funds.

5. During the years 1938-39 and 1939-40 balances of $1124.91 and $2752 respectively accrued, and, by precedent, should have been turned into the Passamaquoddy Fund. The Budget Officer at that time ruled that basic legislation had expired (Resolution of 1868) and there was no legal basis for depositing these funds in said account. (Report, Page 5). The total of

these balances, $3877.12, was turned into the general fund. Later legislation set up the Indian Township Administration Fund into which such receipts could go. The sums for these two intervening years, however, had not been returned to the Indians and the Committee recommends that the Legislature now authorize the payment of these sums into that fund without interest.

In making these recommendations, the Committee is basing its conclusions not upon any recognized legal obligations but solely upon a sense of the State of its responsibility for the protection of Indian welfare. In recommending that not interest be included, the Committee is mindful of the fact that its contributions and appropriations to the Indians over the period of many years has exceeded by hundreds of thousands of dollars any of its financial obligations arising from the treaties with the Indians.

IV. Laws Relating to the Indians

Examination of the laws relating to Indians as revised in 1933 and amended thereafter has brought to attention several provisions in these laws that have apparently not been brought up to date as the responsibility of Indian affairs has been shifted.

From 1820 to 1929 the Governor and Council had legal charge of Indian affairs, assisted from 1839 on by a committee of the Legislature on Indian Affairs. In 1929 this responsibility was shifted to the Forestry Department where it remained only three years until transferred to the Department of Health and Welfare in January, 1932.

1. The present laws still provide for the appointment of the Indian Agent by the Governor and Council. This appointment should logically be made by the responsible department, that is, the Department of Health and Welfare.

2. The Health Officer for the Passamaquoddies is still appointed by the Governor and Council; the corresponding position for the Penobscots is appointed by the Director of Health with the approval of the Department of Health and Welfare. The Health Officer occupies an extremely important position and should be chosen with great care. The Committee recommends that the Health Officer for each tribe be appointed by the Commissioner of Health and Welfare upon recommendation of the Director of Health.

3. Numerous definitions have been given as to what constitutes an Indian. An Indian has been defined, for example, as a person having at least one-quarter Indian blood, as a person who looks like an Indian, or as a person whose father and mother were Indians. The Committee recommends that an Indian be defined for all purposes as a person who has at least one-quarter Indian blood.

V. Long Term Policy Toward the Indians

It is elementary that people who have no need for self-dependence and self-reliance seldom develop it. That is the status of the Maine Indians today. Whether this attitude is wholly or in part Indian nature, or whether it has been created by the paternalistic attitude of the State in providing for them, is a matter for conjecture—possibly both factors have contributed.

The Committee feels that at least the elements of the Indian problem have been cleared, and concurs in the following statement:

In order to arrive at any solution of the Indian question, we must first determine whether or not the State of Maine actually owes anything to the Indians excepting the materials which are worth approximately $2000 a year under the treaties. There are those amongst the Indians themselves and in other places who have maintained that the Indians in Maine were robbed. Our conclusion is that is not so, that they have been amply repaid for whatever they gave up and excessively well-treated on the financial side; that they never owned or occupied the whole of the State of Maine; that the numbers of the Indians at the time of the treaties show the impossibility of their having reduced to possession any substantial part of the State; and that as a result of the above conclusions the State is in a position to deal with the Indians fairly but on a realistic basis with a policy looking to the eventual self-dependence and self-reliance of each Indian.

As elements of a long term policy, the Committee makes the following suggestions as bases for further study by the Department of Health and Welfare. We believe that these indicate a trend in the direction towards which Indian policy should be directed.

1. Provide definite vocational training for Indian youth and find jobs for them wherever employment becomes available.

2. Sponsor a business on he basis of Indian handicraft to provide regular employment for those who are too old or otherwise unable to profit from vocational training.

3. Encourage agriculture by material help, supervision and definite ownership of land to those who will work it.

4. Restrict State aid to those who are physically unable to find a place in the above program.

The combination of recommendations contained in this report will do much toward placing the Indians eventually on the same basis as any other citizens, a privilege to which they are undoubtedly entitled legally. Let them understand that they must become self-sustaining; make them understand this by law; show them the way; give them the means to become self-sustaining, and they may succeed.

CONCLUSION

The Committee hopes that the Legislature may find the contents of its several reports helpful and constructive. The individual members of the Committee have enjoyed the work and the pleasant associations which they have had together over a period of two years. Copies of the evidence taken at the several hearings will be filed with the 91st Legislature.

Dated at Augusta, Maine, this
1st day of December, A.D. 1942

Respectfully submitted,

ROBERT B. DOW
HORACE A. HILDRETH
JEAN CHARLES BOUCHER

On the part of the Senate.

W. MAYO PAYSON
ROY S. LIBBY
ROLAND J. POULIN
LORENZO J. PELLETIER

On the part of the House.