MAINE
LEGISLATIVE RESEARCH
COMMITTEE

REPORT
TO
NINETY-NINTH LEGISLATURE

BOATING REGULATIONS
CONTINUITY OF STATE GOVERNMENT
HIGHWAY USERS' COST SURVEY
LEGISLATIVE PROCEDURES
POTATO FUTURES
VOTING FOR CIVILIANS ON FEDERAL PROPERTY
PROBLEM OF THE UNINSURED MOTORIST

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M A I N E

L E G I S L A T I V E R E S E A R C H

C O M M I T T E E

1957-1958

STATE OF MAINE

SUMMARY REPORT

to

NINETY-NINTH LEGISLATURE

LEGISLATIVE RESEARCH COMMITTEE

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Assistant Director:

Samuel S. Silsby, Jr., Augusta

January, 1959

To Members of the 99th Legislature:

The Legislative Research Committee is pleased to submit herewith the final report of its activities of the past two years.

It is the hope of the Committee that the information contained herein will be useful to the members of the 99th Legislature.

Respectfully submitted,

LEGISLATIVE RESEARCH COMMITTEE

By
Rodney E. Ross, Jr., Chairman

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BOATING REGULATION

VOTED, that the Legislative Research Committee study and report its findings and recommendations on the need for state regulation of boating.

The Legislative Research Committee, upon motion made at its regular meeting on August 11, 1958, has studied the need for state regulation of boating. The growing number of boating accidents in the State, especially during the summer months frequently resulting in death and injury, has stimulated state-wide interest in the problem of providing for boating safety. Public interest, reinforced by express concern of the Governor, Department of Inland Fisheries and Game and numerous sporting organizations, has prompted committee study of the problem to determine legislative regulation needed.

Evidence presented at the public hearing held by the Committee on September 22, 1958 indicates a boating safety problem in Maine which is inadequately dealt with by present state law (c. 37, §65). Until recent years, pleasure boating has not presented problems of sufficient magnitude in the State to warrant close regulation. The tremendous increase in motorboats and water activity following the second world war, however, has exploded this situation into an acute safety problem which has now become a matter of major importance, not only in this State, but in other States as well. Several states faced with the problem of providing boating safety have already enacted motorboat laws, and a large number of others are presently considering such legislation.

In summarizing its findings, it is the opinion of the Committee that legislation is necessary to properly regulate the increased traffic in boating on inland waters of the State. No consideration has been given by the Committee to the regulation of boating on coastal marine waters, since the exercise of authority over coastal marine waters is a matter exclusively for federal action. The Committee, after studying various legislative proposals, including the model State Boat Act prepared by the Council of State Governments, is not satisfied that the regulations suggested conform to actual state needs. While it is obvious that the public agrees in principle with the need for such legislation, it is unable to agree as to the precise legislation required. For this reason, the Committee has prepared a draft based on the model act which it feels more clearly conforms to state boating safety requirements. This recommended legislation, which has the unanimous support of the Committee, will be introduced at the incoming session of the 99th Legislature.

CONTINUITY OF STATE GOVERNMENT

VOTED, that the Legislative Research Committee study the need and means whereby emergency succession of state and local officials may be provided to insure the continuity of state and local government in periods of emergency resulting from enemy attack.

The Legislative Research Committee at the request of the State Director of Civil Defense and Public Safety has reviewed legislative proposals of the Federal Civil Defense Administration providing for continuity of state and local government during emergency periods resulting from enemy attack. The case for legislation to insure continuity of government, as advanced by the Council of State Governments in its program of suggested state legislation for 1959, is as follows:

> The last decade has witnessed the evolution of thermonuclear weapons from an idea to an operational reality. The traditionally vital wartime factors of time and distance have been all but removed by the existence of ballistic missile capabilities. Today nations count in their arsenals devices which only a few short months ago were referred to as the "ultimate weapon," and there is no assurance that the ingenious mind of man will not develop even more powerful and swifter instruments of destruction.
>
> The pace of progress is quickening. That which was yesterday's "terrifying device" is today's "conventional weapon." But scientific and technological advance has not been limited only to the development of weaponry. Today man stands on the threshold of the exploration of space and his solar system. Recent actions of peoples throughout the world have been accentuated by these changes. Political realignments have occurred.
>
> The changes which scientific and technological advance has brought to warfare must be reflected in the preparations of governments to function effectively under emergency conditions. This is an important part of the nonmilitary defense program which has as its over-all objectives the alleviation of the consequences of nuclear war. It is fundamental that a nation's nonmilitary defense capability must be developed within the

framework of existing governmental structures. Therefore measures designed to insure the continuous functioning of government at all levels are of initial and primary concern.

Nonmilitary defense must necessarily be based upon plans formulated and tested well in advance of attack. At the federal level such nonmilitary defense actions are prescribed in the National Civil Defense and Defense Mobilization Plan. This single document presents the basic principles of the nation's civil defense and defense mobilization.

The National Plan covers all major actions encompassed in the term nonmilitary defense. These actions range from the maintenance, in a constant state of readiness, of a national attack warning system to the conduct of programs to encourage the construction (by individuals, corporations and governments) of shelters to provide protection against effects of nuclear weapons. They include provisions for a continuity of government program designed to insure that governments at all levels can continue to function efficiently in an emergency.

An attack upon the United States with the nuclear weapons of modern war would result in many millions of casualties and the disruption of our transportation, communication, production and economic systems. In the event of such a catastrophe state and local governments could be isolated for days or weeks and would have to assume responsibility for all governmental functions, including some normally performed by the state government. The maintenance of effective civilian government would depend in large measure on the extent to which states and local governments would be prepared to operate in such an emergency.

The proposals suggested . . . are designed to provide a basic framework of government in an emergency period. They would change existing governmental procedures as little as possible and still permit the establishment of machinery which can operate effectively during the highly difficult and unusual circumstances which would prevail after an enemy attack. By taking action of this nature in advance, state and local governments can reduce the need for hasty improvising in a period of turmoil and confusion. The proposals would make possible the continuity of government in an emergency period and would promote the orderly and effective operation of state and local governments in a time of crisis.

Five measures are suggested to help insure that state and local governments would be able to function after an attack. They include two suggested acts to provide for the prior selection of interim successors to public officials who might be killed or injured or for other reasons unable to perform their

governmental duties. A proposed constitutional amendment would grant state legislatures the general power to provide for the continuity of government in an emergency attack. Two other proposed acts would permit state and local governments to operate from emergency locations in the event that it became necessary or desirable to do so.

Many states can enact parts of the program suggested . . . without amending their constitutions. In view of the length of time required to obtain constitutional amendments, states are urged to adopt those proposals which are valid under their existing constitutional provisions. However, it is probable that all states will find it necessary to make some constitutional changes in order to adopt all portions of the suggested program.

The suggested program was developed under the general supervision of the Office of Civil and Defense Mobilization. The research and drafting for the suggested legislative succession act and the proposed constitutional amendment were performed by the Legislative Drafting Research Fund of Columbia University acting for the University's Council for Atomic Age Studies at the request of OCDM.

The proposed acts and constitutional amendments were prepared in response to resolutions adopted by:

The Governors' Conference
The National Association of County Officials
The American Municipal Association
U. S. Conference of Mayors
The National Association of State and Territorial Civil Defense Directors
The United States Civil Defense Council
The American Legion.

The Committee, having studied the needs and purposes of the Federal Civil Defense Administration's Continuity of Government Program, concurs in the general principles of the program and recommends that serious consideration be given by the 99th Legislature to the legislation proposed. The Committee, in urging legislative action to insure continuity of government in this State, recommends that the following constitutional amendment, granting general power to the Legislature to provide for continuity of government in emergency attack, be submitted

to the people. Legislation covering other features of the program, adapted to needs of the State and conditioned upon the adoption of this amendment, will be introduced during the 99th Legislature to acquaint members with future implementing legislation:

RESOLVE, Proposing an Amendment to the Constitution to Provide Continuity of Government in Case of Enemy Attack.

Constitution, Article IX, Section 21, additional. Article IX of the Constitution is amended by adding a new section to be numbered 21, to read as follows:

'Sec. 21. Notwithstanding any general or special provision of this Constitution, the Legislature, in order to insure continuity of state and local governmental operations in periods of emergency resulting from disasters caused by enemy attack, shall have the power and the immediate duty to provide for prompt and temporary succession to the powers and duties of public offices, of whatever nature and whether filled by election or appointment, the incumbents of which may become unavailable for carrying on the powers and duties of such offices, and to adopt such other measures as may be necessary and proper for insuring the continuity of governmental operations including but not limited to the financing thereof. In the exercise of the powers hereby conferred the Legislature shall in all respects conform to the requirements of this Constitution except to the extent that in the judgment of the Legislature so to do would be impracticable or would admit of undue delay.'

HIGHWAY USER'S COST SURVEY

RESOLVE, Authorizing the State Highway Commission to Make a Study of the Public Ways of the State.

Highway Commission; authorized to study.
Resolved: That since section 210 of the Federal Highway Act of 1956 requires the State Highway Commission to make certain surveys and studies related to Maine's highway system, the State Highway Commission is authorized and directed to so conduct that survey and study as to present via a report to the 99th Legislature essential data as may permit reasonably accurate legislative conclusions on the following questions:

1. Do current tax statutes reflect reasonable fairness in accomplishing an equitable distribution of costs among highway users or those otherwise deriving benefits from Maine's highways?

2. If the answer is in the negative, what changes should be made in the tax structure?

and be it further

Resolved: That the Legislative Research Committee be, and hereby is, authorized and directed to receive from the State Highway Commission such data as from time to time may be available to the end that the Research Committee may make recommendations to the 99th Legislature as the Committee may wish to conclude from its study and consideration of the data developed in the Highway Commission survey.

The State Highway Commission under Resolves, 1957, c. 98 was directed during the course of certain highway studies to report progress to the Legislative Research Committee.

The following letter from the State Highway Commission to the Committee is hereby submitted:

November 21, 1958
Legislative Research Committee
State House
Augusta, Maine

Chapter 98 of the Resolves of 1957 was enacted as follows:

"RESOLVE, Authorizing the State Highway Commission to Make a Study of the Public Ways of the State.

Highway Commission; authorized to study.
Resolved: That since section 210 of the Federal Highway Act of 1956 requires the State Highway Commission to make certain surveys and studies related to Maine's highway system, the State Highway Commission is authorized and directed to so conduct that survey and study as to present via a report to the 99th Legislature essential data as may permit reasonably accurate legislative conclusions on the following questions:

1. Do current tax statutes reflect reasonable fairness in accomplishing an equitable distribution of costs among highway users or those otherwise deriving benefits from Maine's highways?

2. If the answer is in the negative, what changes should be made in the tax structure?

and be it further

Resolved: That the Legislative Research Committee be, and hereby is, authorized and directed to receive from the State Highway Commission such data as from time to time may be available to the end that the Research Committee may make recommendations to the 99th Legislature as the Committee may wish to conclude from its study and consideration of the data developed in the Highway Commission survey."

Section 210 of the Federal Aid Highway Act of 1956 reads as follows:

"SEC. 210. INVESTIGATION AND REPORT TO CONGRESS.
(a) Purpose.--The purpose of this section is to make available to the Congress information on the basis of which it may determine what taxes should be imposed by the United States, and in what amounts, in order to assure, insofar as practicable, an equitable distribution of the tax burden among the various classes of persons using the federal-aid highways or otherwise deriving benefits from such highways.

(b) Study and Investigation.--In order to carry out the purpose of this section, the Secretary of Commerce is hereby authorized and directed, in cooperation with other federal officers and agencies (particularly the Interstate Commerce Commission) and with the state highway departments, to make a study and investigation of--

(1) the effects on design, construction, and maintenance of federal-aid highways of (A) the use of vehicles of different dimensions, weights, and other specifications, and (B) the

frequency of occurrences of such vehicles in the traffic stream,

(2) the proportionate share of the design, construction, and maintenance costs of the federal-aid highways attributable to each class of persons using such highways, such proportionate share to be based on the effects referred to in paragraph (1) and the benefits derived from the use of such highways, and

(3) any direct and indirect benefits accruing to any class which derives benefits from federal-aid highways, in addition to benefits from actual use of such highways, which are attributable to public expenditures for such highways.

(c) Coordination With Other Studies.--The Secretary of Commerce shall coordinate the study and investigation required by this section with--

(1) the research and other activities authorized by section 10 of the Federal-Aid Highway Act of 1954, and

(2) the tests referred to in section 108(k) of this Act.

(d) Reports on Study and Investigation.--The Secretary of Commerce shall report to the Congress the results of the study and investigation required by this section. The final report shall be made as soon as possible but in no event later than March 1, 1959. On or begore March 1, 1957, and on or before March 1, 1958, the Secretary of Commerce shall report to the Congress the progress that has been made in carrying out the study and investigation required by this section. Each such report shall be printed as a House Document of the session of the Congress to which the report is made.

(e) Funds for Study and Investigation.--There are hereby authorized to be appropriated out of the Highway Trust Fund such sums as may be necessary to enable the Secretary of Commerce to carry out the provisions of this section."

Section 108(k) of the Federal-Aid Highway Act of 1956 referred to in section 210 above reads as follows:

"Tests to Determine Maximum Desirable Dimensions and Weights.- The Secretary of Commerce is directed to take all action possible to expedite the conduct of a series of tests now planned or being conducted by the Highway Research Board of the National Academy of Sciences, in cooperation with the Bureau of Public Roads, the several states, and other persons and organizations, for the purpose of determining the maximum desirable dimensions and weights for vehicles operated on the federal-aid highway systems, including the Interstate System, and, after the conclusion of such tests, but not later than March 1, 1959, to make recommendations to the Congress with respect to such maximum desirable dimensions and weights."

At the time that Chapter 98 of the Resolves of 1957 was enacted it was expected that the Secretary of Commerce, through the Federal Bureau of Public Roads and other federal agencies, would have completed his studies and made a report as provided in section 210 of the Federal-Aid Highway Act of 1956. However, the so-called AASHO Road Test being carried on in Ottawa, Illinois by the Highway Research Board of the National Academy of Sciences in cooperation with the Bureau of Public Roads (Section 108(k) above) has been delayed and the final results will not be available to be considered as a part of the studies called for in section 210 for approximately two years. By subsequent action the Federal Congress has now amended section 210 to provide for the final report by the Secretary of Commerce to be made on or before January 3, 1961.

The same federal bill (H. R. 12489) which provided for the report to be made on or before January 3, 1961 also provides for four progress reports. The first of these, House Document 106 entitled, "First Progress Report of the Highway Cost Allocation Study" was issued March 4, 1957. The second was issued March 3, 1958 and is House Document 344. The third and fourth progress reports are to be filed by the Secretary of Commerce with the Federal Congress on or before March 1, 1959 and on or before March 1, 1960.

In the meantime, the State Highway Commission at the request of the Federal Bureau of Public Roads has developed some data which has been forwarded to the bureau and has become a part of preliminary studies. This data is incomplete and for the purpose of avoiding any possible misunderstanding is not being filed with the Legislative Research Committee at this time.

It is the recommendation of the State Highway Commission that the provisions of Chapter 98 of the Resolves of 1957 be made the subject of a Resolve in the next regular session of Legislature (Ninety-ninth Legislature) and that this Resolve provide for the State Highway Commission to submit data to the Legislative Research Committee as a basis for possible recommendations by the Committee to the one hundredth Legislature meeting in January 1961. It is believed that this may be possible even though the final report by the Secretary of Commerce will not be made available until January 3, 1961. Sufficient data should be available to the Maine State Highway Commission from the Bureau to allow the Commission to submit data pertinent to the State of Maine to the Legislative Research Committee in time for the Committee to make its recommendations in 1961.

Very truly yours,

STATE HIGHWAY COMMISSION

David H. Stevens, Chairman
Perry S. Furbush, Member
R. Leon Williams, Member

By /s/ David H. Stevens
David H. Stevens, Chairman

LEGISLATIVE PROCEDURES

ORDERED, the House concurring, that the Legislative Research Committee be, and hereby is, directed to make a study of legislative procedures, practices and rules or any other phase of legislative activity that may accomplish efficiency and expediency of the legislative affairs of Maine.

The Legislative Research Committee, under joint legislative order, has studied existing legislative procedures to determine improvements whereby greater efficiency and effectiveness may be promoted in the legislative process. The Committee held one public hearing on April 8, 1958 to ascertain deficiencies in the efficient operation of the Legislature and listened to various suggestions made for procedural improvement.

After full consideration of these proposals, the Committee finds:

1. That the effective operation of the Legislature is impeded by the last moment introduction of bills immediately prior to cloture, thereby disrupting the even distribution of the legislative work load.

2. That separate consideration by the Appropriations Committee of capital expenditure bills and general fund expenditure bills at successively scheduled hearings delays action by the Committee in reporting out its heavy load of appropriation bills thereby precluding final action by the Legislature until late in the session.

The Committee recommends:

1. That all departmental bills be filed with the Director of Legislative Research not later than the first day of the

legislative session.

2. That the overall membership of the Appropriations Committee be increased to 15 members: 10 from the House, and 5 from the Senate. For the purpose of expediting the Committee work load, the enlarged Committee should be divided into 2 subcommittees, one to hear bills relating to capital expenditures, the other bills relating to general fund expenditures. It is the Committee belief that the time ordinarily consumed by the Appropriations Committee in conducting successive hearings on the two classes of appropriation bill could be halved by concurrently conducted hearings.

The Committee has given serious consideration to the proposal calling for the adoption of an electrical roll-call voting machine as a means of expediting the legislative process. It is the conclusion of the Committee that until such time as the Legislature is required to render a yea or nay vote on each bill before it, the adoption of such a machine is unnecessary, and will neither materially reduce the length of the legislative session nor its overall costs.

POTATO FUTURES

ORDERED, the House concurring, that whereas the economic welfare of the potato industry in the State of Maine may be in extreme jeopardy as a result of the operations of the commodity markets, the Legislative Research Committee be, and hereby is, directed to study the question of whether or not within the State of Maine, and particularly within the power of the Legislative Branch of the Maine Government, any action may be undertaken to the end of correcting the problem.

It is also directed that the Legislative Research Committee may, if in its judgment, the problem can better be solved via other procedures, request the Department of Economic Development as part of its '58-59 program consistent with Section 4, III of its enabling legislation to undertake on its own motion a study and report covering all the broad phases of this threat to the economy of the potato growing industry in Maine.

The Legislature recognizes and commends any combined effort on the part of both the Legislative Research Committee and Department of Economic Development, and any other department of government and any segment of private industry in Maine, that may result in solution of this serious problem.

The Legislature understands that in the passage of this order, it may require funds which are not available within the current appropriation of the Department of Economic Development; it therefore would be necessary for this work to be financed at the expense of present agricultural activities which are currently a responsibility of the Department of Economic Development, or from other agricultural resources, or any other financial resources which may be available.

The Legislative Research Committee has approved the Department of Economic Development study of future trading of Maine potatoes which it submits herewith as the Committee's report:

STUDY OF THE NEW YORK MERCANTILE EXCHANGE

June 11, 1958

Report and Conclusions

This report is pursuant to a directive by the Legislative Research Committee directing the Department of Economic Development to undertake a study pertaining to the operations of the

New York Mercantile Exchange relating to merchandising of Maine potatoes. The directive results from a legislative order to the Legislative Research Committee in the form of S. P. 677, dated May 8, 1958.

Within the limited time afforded it, the Department of Economic Development undertook to make as exhaustive a study of the operations of the Mercantile Exchange as was possible, through a series of conferences and interviews with several people acquainted with the operations of the Exchange and through an exhaustive review of all published material on the subject.

In the Legislative Order of May 8, 1958, we find the frame of reference for the conclusions stated herewith. We find that the order is actually in two parts. As a result, the conclusions of this report will be presented in response to these two directives as Parts 1 and 2.

Part 1

Is it within the power of the State of Maine, and particularly within the power of the Legislative Branch of the Maine Government to take any action relative to correcting the problem, i.e. the operations of the commodity markets?

Conclusion

1. There is no action that the State Legislative body can take regarding the New York Mercantile Exchange other than to:

(a) Memorialize the U. S. Congress urging:

(1) abolishment of the trading of Maine potatoes on the New York Mercantile Exchange; or

(2) an investigation of the New York Mercantile Exchange with respect to trading in Maine potatoes, to provide corrective measures particularly in the control of speculation in Maine potato futures.

(b) memorialize the New York Mercantile Exchange to the effect that Maine is concerned with the operations of the Exchange, particularly as it applies to speculation in potato futures to the extent that it causes serious fluctuations in potato prices, and that it urges the Exchange to take corrective action to insure price stabilization.

(Note) The State Legislature, in the 1955 session, did memorialize the U. S. Congress to investigate the New York Mercantile Exchange's dealings in potatoes. An opinion by the Attorney General of Maine, as reported by the Hon. John Reed of Fort Fairfield in testimony before a special subcommittee of the Committee on Agriculture, U. S. House of Representatives, preceded this action by the Maine Legislature.

Part 2

The Legislative Research Committee may on its own motion direct the Department of Economic Development to undertake "a study and report covering all the broad phases of this threat to the economy of the potato growing industry in Maine."

Conclusions

The following conclusions are drawn from the many reports, studies and hearings which we have reviewed and which are documented in the Appendix to this report.

(a) The market price of potatoes is not necessarily influenced by the operation of the Mercantile Exchange but is rather influenced in the wide variations in the size of the potato crops produced and the relative inelasticity in the demand for potatoes. It should be pointed out here that two very important factors have influenced the market for potatoes in recent years: (1) The consumption of potatoes from 1910 to 1956 has fallen from 195 pounds per capita per year to 101 pounds per capita per year; and (2) the national acreage yield of potatoes in a 35-year period from 1921 to 1955 has increased from 106 bushels per acre to 253 bushels per acre. (Maine

Agricultural Experiment Station Bulletin #566).

(b) Commodity exchanges in themselves, which have been in existence for nearly 100 years, were designed as a device to stabilize fluctuations in a variety of commodities.

(c) There is ample evidence to indicate that there are equally strong arguments pointing out the values of the Mercantile Exchange and its dealings in Maine potatoes as there are arguments opposed to the Exchange.

(d) The use of the Exchange for "hedging" provides a useful tool to the potato grower and shipper in that it insures them a basic price at a given period, which basic price affords him a source of credit.

(e) Speculation in potato futures has resulted in price fluctuations which have been detrimental to the potato grower and shipper.

(f) Control over the operations of the New York Mercantile Exchange can be exercised by the U. S. Congress; the U. S. Department of Agriculture, Commodity Exchange Authority; and the New York Mercantile Exchange. Several courses of action are open to each of these bodies, working individually or jointly. They are:

(1) to leave the operation of the Mercantile Exchange to the Exchange itself and to the controls exercised by the Commodity Exchange Authority;

(2) Abolish the Commodity Exchange in potatoes by an act of Congress;

(3) introduce such action as would provide greater safeguards to those who must deal with the Exchange to insure price stabilization, particularly through the control of speculative trading. This might include:

a. Establishment of a joint Maine-New York Mercantile Exchange Committee to meet regularly to discuss common problems relating to the trading of Maine potatoes on the Exchange;

b. Application of limits on the total speculative positions of all traders combined in any one potato future, or in maturing futures.

Other Pertinent Observations

The publication "Futures Trading in Potatoes" stated that:

"Prices on the (1955) February, March and May futures were disturbed by large scale speculative operators which, on the basis of Commodity Exchange Authority investigations, resulted in two administrative proceedings charging price manipulation, and the imposition of sanctions for violations of the Commodity Exchange Act."

Legislation was introduced by Congressman Clifford McIntyre on January 27, 1958, Second Session of 85th Congress, entitled HR 10282 House of Representatives, was referred to the Committee on Agriculture.

The Department of Economic Development is not unmindful of the sincere concern which the potato growers of Maine have in the matter of potato prices and the Mercantile Exchange. Neither the Department or anyone else in the State concerned with its economic future, can ignore the fact that the majority of the growers, especially the small growers, do not favor the Commodity Exchange. We have not and cannot look into the many human factors that are involved in potato speculation. It has not been possible to discuss the matter of the operations of the Exchange on a personal basis with the 3,000 or more growers. Our approach has had to be factual, with reliance primarily on study of the reports and hearings on the subject.

It is evident in the review which we have made of the surveys and hearings regarding potato futures, that many of those who are dissatisfied with the operations of the Commodity Exchange are not unalterably convinced that trading of potatoes on the Exchange should be abolished. Rather they hedge their position

by saying that certain controls be established to regulate the exchange . . .

VOTING PRIVILEGES FOR CIVILIANS ON FEDERAL PROPERTY

ORDERED, the House concurring, that the Legislative Research Committee be, and hereby is, directed to study and to report to the 99th Legislature on the privilege of voting for those civilians who reside on federally-owned property in Maine.

The Legislative Research Committee, under joint legislative order, has studied the problem of voting privileges for civilians residing on federal property in Maine. Sources upon which the Committee bases its report include information obtained at a public hearing held by the Committee on June 11, 1958, an opinion requested of the Attorney General, submitted to the Committee on July 1, 1958 and considerable reference to the works of various authorities on the subject of state and federal jurisdiction.

The Committee in reporting the results of its study of the voting status of civilians residing on federal property has disregarded a number of federal-state jurisdictional problems connected with the acquisition by the United States of land within the State. Further disregarded as unnecessary are the various jurisdictional laws and decisions governing federal land acquisition. For the purpose of this report it suffices to say that under appropriate circumstances and ". . . in a political sense, the land is no longer a part of the soil of the State, nor are the occupants inhabitants of the State. They are severed from the enjoyment of the rights, and from subjection to the liabilities, of the citizens of the State as entirely as if they were residents of a foreign country. They have no more

right to vote in the State . . . than have the citizens of another state." [1]

The disenfranchisement of citizens of the state of their right to vote because of such changes in their federal-state status, while affecting comparatively few persons, is nonetheless offensive, and flies in the face of the vigorously acclaimed right of every citizen to participate in the democratic processes of government through vote. The Committee is unable to subscribe to the view that citizens of the state who are frequently compelled by necessity or circumstance to reside in federal areas should be denied the right to vote in elections under the jurisdiction of the state in which the area is located.

Notwithstanding the convictions of the Committee that the privilege of vote should be accorded such persons, the fact remains that a statutory extension of the franchise is impossible in the absence of a constitutional amendment. Authority to this effect is found in the following opinion of the Attorney General submitted to the Committee on July 1, 1958:

"We have your memorandum of June 16, 1958, which reads as follows:

> 'The Legislative Research Committee has been ordered to study the privilege of voting for civilians who reside on federally-owned property in Maine.

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[1] Gerwig, The Elective Franchise for Residents of Federal Areas 24 George Washington Law Review 409, citing Winthrop, Military Law and Precedents 897-8 (2nd ed. 1920).

The Legislative Research Committee would appreciate an answer to the following question:

> In order to permit civilians who reside on federally-owned property in Maine to vote here in Maine, would it be necessary to amend Article II, Section 1, of the Maine Constitution?

For your information, at the last regular legislative session An Act Relating to Right to Vote of Civilian Employees Resident at Togus (L. D. 268), introduced by Senator Martin of Kennebec, was reported by the Judiciary Committee as Ought Not to Pass, which report was accepted by the Legislature. You will note that no effort was made to amend the Constitution.'

Article II, Section 1, Constitution of Maine, sets forth the qualifications required before a person is entitled to vote in election for governor, senators and representatives. Paragraph 1 of said section reads as follows:

> 'Every citizen of the United States of the age of twenty-one years and upwards, excepting paupers and persons under guardianship, having his or her residence established in this State for the term of six months next preceding any election, shall be an elector for governor, senators and representatives in the city, town or plantation where his or her residence has been established for the term of three months next preceding such election, and he or she shall continue to be an elector in such city, town or plantation for the period of three months after his or her removal therefrom, if he or she continues to reside in this State during such period unless barred by the provisions of the second paragraph of this section; and the elections shall be by written ballot. But persons in the military, naval or marine service of the United States, or this State, shall not be considered as having obtained such established residence by being stationed in any garrison, barrack or military place, in any city, town or plantation; nor shall the residence of a student at any seminary of learning entitle him to the right of suffrage in the city, town or plantation where such seminary is established. No person, however, shall be deemed to have lost his residence by reason of his absence from the state in the military service of the United States, or of this State.'
>
> (emphasis supplied)

Following the decision of our Court in State v. Cobaugh, 78 Me. 401, it is our opinion that Article II, Section 1, Maine Constitution, would have to be amended in order to permit civilians who reside on federally-owned property in

Maine to vote in Maine.

By Chapter 66 of the Public Laws of 1867 and Chapter 612 of the Private and Special Laws of 1868, legislative jurisdiction was ceded by the State of Maine over Togus to the United States. The only jurisdiction retained by the State of Maine over that tract was the right to service of process arising out of activities occurring outside the reservation.

Our Court said, in State v. Cobaugh, supra,:

> 'The laws of this State do not reach beyond its own territory and liquor sold in the ceded territory (Togus) cannot be considered sold in violation of the laws of this State.'

The Court was concerned, in this case, with a law dealing with liquor kept and deposited 'in the state intended for unlawful sale in the State (emphasis supplied).'

Consistent with the decision in the Cobaugh Case, a proper interpretation of a statute authorizing residents of federally-owned property to vote would be that such statute had no effect, because residents of Togus would not be persons having a residence established 'in this State' as required by the Constitution.

The Legal situation with respect to any federally-owned property would be similar to that of Togus, either by virtue of special legislation, as in the case of Togus, or by the provisions of Chapter 1, Section 10, Revised Statutes of 1954 as follows:

> 'Exclusive jurisdiction in and over any land acquired under the provisions of this chapter by the United States shall be, and the same is ceded to the United States for all purposes except the service upon such sites of all civil and criminal processes of the courts of this State; provided that the jurisdiction ceded shall not vest until the United States of America has acquired title to such land by purchase, condemnation or otherwise; the United States of America is to retain such jurisdiction so long as such lands shall remain the property of the United States, and no longer; such jurisdiction is granted upon the express condition that the State of Maine shall retain a concurrent jurisdiction with the United States on and over such lands as have been or may hereafter be acquired by the United States so far as that all civil and criminal process which may lawfully issue under the authority of this State may be executed

thereon in the same manner and way as if said jurisdiction had not been ceded, except so far as said process may effect the real or personal property of the United States.'"

In conclusion, the Committee recommends that the earliest possible action be taken to extend the voting franchise to those Maine citizens who reside on federal property in the State. In urging this final determination of the problem, the Committee further recommends that the following constitutional amendment be submitted by the Legislature to the people:

RESOLVE, Proposing an Amendment to the Constitution to Permit Voting by Civilians Residing on Federal Property.

Constitution, Article II, Section 1, amended. Section 1 of Article II of the Constitution is amended by adding at the end a new paragraph to read as follows:

'Civilians, residing on federal property and otherwise qualified, shall be electors in all county, state and national elections.'

PROBLEMS OF THE UNINSURED MOTORIST

RESOLVE, Authorizing Legislative Research Committee Study of the Problems of the Uninsured Motorist.

Research Committee to study problems attributable to the Uninsured Motorist. Resolved: That in the interests of determining and effectuating such measures as shall be necessary and lawful for the protection of drivers, passengers, pedestrians and property owners in this State from the grievous and irreparable consequences of acts perpetrated by financially irresponsible car owners and operators, that the Legislative Research Committee be, and hereby is, authorized to make a general survey of existing State laws relating to the safe use of the highways of this State and the financial responsibility of the users of such highways; that the survey shall evaluate the policies of the Insurance Department in relation to their effectiveness in meeting the liability needs of the State, and determine the extent to which owners of motor vehicles registered in the State carry liability insurance; that the survey shall examine and evaluate the financial requirements of the motor vehicle laws of the State and such policies, rules and regulations that implement their administration; that in making such survey all available materials relating to the use of state highways by financially irresponsible motorists in the several states shall be gathered, examined, compiled and evaluated, including such federal requirements as may be pertinent; that the survey shall include, but not be limited to, study and consideration of legal, administrative and cost matters relating to motor vehicle safety responsibility, impoundment, unsatisfied judgment funds, compulsory insurance, equal financial responsibility, statutory assigned risks, innocent victim endorsements, uncollectible claims funds, highway safety needs and requirements and such other matters as may be necessary; and be it further

Resolved: That the Committee shall have authority to employ such expert and professional advisors and counsel as in its judgment may determine within the limits of funds provided; and be it further

Resolved: That a report of the survey be prepared by the Committee including the recommendations made and the reasons therefor; and that said Committee shall reproduce the same in suitable form and distribute copies thereof to the members of the 99th Legislature; and be it further

Resolved: That there be, and hereby is, appropriated from the unappropriated surplus of the general fund of the State the sum of $2,000 to carry out the purposes of this resolve. Such appropriation shall not lapse but shall remain a continuing

carrying account until June 30, 1959.

ORDERED, the House concurring, that under the authority and direction provided in Chapter 153 of the Resolves of 1957, the Legislative Research Committee be, and hereby is, specifically directed to include in the report provided for in the above resolve, the subject of maximum limits required as security and as proof of financial responsibility for bodily injury liability under the financial responsibility law and its relation to the Public Laws of 1957, Chapter 188.

The Legislative Research Committee has studied various phases of the uninsured motorist problem in Maine and held several public hearings providing interested parties with an opportunity to be heard. In pursuing the study of a problem of such significance as that called for under Resolves, 1957, c. 153, it becomes important that the full import of the Resolve should be understood. Accordingly, the essential requirements are repeated from the text as follows:

1. A general survey of existing state laws relating to:
   a. The safe use of the highways of this State, and
   b. The financial responsibility of the users of such highways.
2. That the survey shall:
   a. Evaluate the policies of the Insurance Department in relation to their effectiveness in meeting the liability needs of the State, and
   b. Determine the extent to which owners of motor vehicles registered in the State carry liability insurance.
3. That the survey shall examine and evaluate the financial requirements of the motor vehicle laws of the State and such policies, rules and regulations that implement their administration.
4. That in making such survey all available materials relating to the use of state highways by financially irresponsible motorists in the several states shall be gathered, examined,

compiled and evaluated, including such federal requirements as may be pertinent.

5. That the survey shall include, but not be limited to, study and consideration of legal, administrative and cost matters relating to:

   a. Motor vehicle safety responsibility,

   b. Impoundment,

   c. Unsatisfied judgment funds,

   d. Compulsory insurance,

   e. Equal financial responsibility,

   f. Statutory assigned risks,

   g. Innocent victim endorsements,

   h. Uncollectible claims funds,

   i. Highway safety needs and requirements, and

   j. Such other matters as may be necessary.

The intent of the Legislature in authorizing the study, as expressed in the following clause from c. 153, was to make certain that the Legislature would be supplied with information which would enable it to provide ". . .for the protection of drivers, passengers, pedestrians and property owners in this State from the grievous and irreparable consequence of acts perpetrated by financially irresponsible car owners and operators. . ."

As to scope and limitations of the present study, the requirements of c. 153 reflect concern for information bearing on the problem of indemnification of the uninsured motorist victim. No definite or special emphasis has been placed by the Legislature by virtue of this resolve upon such matters as: (a)

highway safety and accident prevention, (b) driver education and licensing, (c) judicial and traffic law enforcement, and (d) traffic planning. While thorough legislative review of the overall problem of highway safety could properly include study in these and other areas, this has not been done. The Committee has accepted the proposition that ". . .there are two problems. The first is the problem of reducing motor vehicle accidents. The second is the problem of providing indemnity to those who are injured, or who have property damaged through motor vehicle accidents. Although connected with each other they are, in fact, independent. Much is said about the inter-relationship between the highway safety and insurance, but we are not convinced of the validity of this approach."[1] The Committee, in conforming to what it believes to be a proper interpretation of legislative intent, has purposely restricted the scope of its inquiry under the authority of c. 153 to the problem of providing compensation for injury and property losses caused by financially irresponsible motorists. No consideration has been given by the Committee to those measures whose sole objective is to promote safety upon the highways.

Authorization of this study by the 98th Legislature follows years of intermittent activity during which a number of proposals have been introduced in the Maine Legislature dealing with the problem of indemnification of the uninsured motorist victim. During this time, a great many studies, reports and writings have explored and widely publicized the varied problems created

by the uninsured or financially irresponsible motorist. The unnecessary repetition of such material has been purposely avoided by the Committee in this report. It should be noted that legislation dealing with different phases of the problem has been enacted in this State and elsewhere.

The Committee in resolving its study of the State's uninsured motorist problem has attempted to do so in terms of the problem created by the financially irresponsible Maine motorist. To stress "the need for future legislation contemplates the existence of a social problem, and also assumes that the State has an obligation to eliminate the problem by making sure that everyone who drives is financially responsible. . ."[2] While it is possible that ". . .if proper analysis can be made of data which are significant, relevant and unbiased, the problem of the financially irresponsible motorist need not be veiled with general sweeping conclusions, which presuppose that a problem does exist of the magnitude that requires further action by the State."[3] The importance of such an analysis has been emphasized by the Committee, which during the past several years has come to realize the great significance of the problem and made every possible effort to collect and study all available materials on the subject.

LEGISLATIVE SIGNIFICANCE

As to the gravity of the State problem, if estimates prepared by the State Financial Responsibility Section are a reliable indication, approximately 22% of the State's registered motor

vehicles are presently uninsured. Numerically, of a total of 354,781 motor vehicles registered during 1957, this percentage represents an approximate 78,051 uninsured vehicles operating on the highways of the State. While the number of accidents involving uninsured Maine motorists cannot be accurately determined, it would seem reasonable to assume that at least one-fourth of the 32,488 accidents reported for 1957 involved uninsured motorists. This percentage (representing approximately 8,000 reported accidents involving uninsured motorists) applied against the total direct losses of $6,755,703 paid for combined automobile liability and property damage indicates an uninsured economic loss for 1957 of over 1 1/2 million dollars. If these estimates are reasonably valid, it may be inferred that the financially irresponsible motorist has created a substantial problem in Maine. At the risk of making "general sweeping conclusions" as to the problem's gravity, the Committee has concluded that it is sufficiently serious to urge the upmost legislative effort to provide a realistic means whereby the uncompensated accident losses caused by such motorists may be eliminated or substantially reduced.

FINANCIAL RESPONSIBILITY LAW

The present approach to the uninsured motorist problem in this State is provided under the Financial Responsibility Law (R. S., c. 22, §§75-82). This law which is basically similar to those now in effect in most of the 48 states provides for the suspension of the driver's license and vehicle registration

of any person involved in an accident for which he is unable to present evidence of sufficient financial security to satisfy any judgment for damages recovered against him resulting from the accident. While the law further provides that the driver in order to retain the privilege of operating his motor vehicle may be required to furnish proof of financial responsibility for future accidents, the Financial Responsibility Law at best provides no adequate protection to the first victim of the uninsured motorist.

The Committee has carefully reviewed legislative proposals designed to strengthen the Financial Responsibility Law, particularly those advanced by the insurance industry in its current legislative program to combat the uninsured motorist. While enactment of such proposals together with various "companion devices" would undoubtedly reduce the number of uninsured motorists, obviously the real problem has not been solved. "To meet the need, requires. . .legislation applicable to the first, as well as succeeding accidents." The Committee regards". . .the issue as concrete and clear cut. Financial responsibility laws do not meet it."[4]

Irrespective of whether state needs for reducing the margin of uninsured motorists are sufficiently compelling for enactment of more stringent legislation, there can be little argument that virtual elimination of the problem can be more nearly attained under compulsory insurance or a combination of financial responsibility and unsatisfied judgment fund laws. "It should be

noted that it is not the design of such legislation to establish liability where no liability exists at present, but only to make it possible for persons entitled to judgments under existing laws to collect the damages awarded them."[5] If the Legislature determines that it is sufficiently within the public interest to have as many motorists as possible to be financially able to compensate their victims, and in its judgment decides that legislation for this purpose is necessary, the Committee feels that this can be accomplished through (1) compulsory insurance, (2) an unsatisfied judgment fund, or (3) the uninsured motorist endorsement.

UNSATISFIED JUDGMENT FUND

The following analysis of the principal features of the unsatisfied judgment fund law is quoted in full from a report made by the Institute of Judicial Administration:[6]

> Two states, New Jersey and North Dakota, and eight Canadian provinces, Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland, Nova Scotia, Ontario and Prince Edward Island, have established unsatisfied judgment funds. The purpose of these funds is to provide some degree of recovery for those who have obtained a judgment against a financially irresponsible motorist.
>
> New Jersey. The fund (effective in 1955) is created by an additional charge of three dollars for registering an uninsured motor vehicle and one dollar for registering an insured motor vehicle. Insurance companies are assessed one-half of one percent of the automobile liability and property damage premiums written in New Jersey. The fund is thereafter maintained by annual assessments against the insurance companies-subject to the limitation of one-half of one percent of New Jersey premiums. In case this amount is insufficient, vehicle owners will pay annually the additional charge stated above.
>
> Administration of the fund is by a board consisting of the State Treasurer and four representatives of insurance companies, with expenses of the board being paid by the insurers subject

to deduction from their basic assessments. All claims have to be filed within 30 days following an accident, thus giving notice of intention to claim against the fund should a judgment be otherwise uncollectible. Claims are to be assigned by the board to the various insurers for investigation and defense when necessary, which work the companies will do at their own expense. The court may order a defendant to cooperate. In claims of less than $1,000, settlement may be made by the assigned company with the approval of the State Treasurer and one board member; other settlements must be approved by a court. For any damage exceeding $200-which is considered deductible-the fund will pay up to $5,000/$10,000 for injury or death and up to $1,000 for property damage. The amount payable is subject to reduction by any other amounts which the claimant may have received or can collect. Assignment of the judgment to the State Treasurer must be made by the claimant; the treasurer may sue thereon and any amount recovered in excess of the amount paid by the fund goes to the judgment creditor (claimant).

Claims may be presented to the fund by anyone who: is not covered by workman's compensation; is not a spouse, parent, or child of the judgment debtor; was not a guest in the motor vehicle at the time of the accident; was not riding in an uninsured vehicle at the time of the accident; is not acting on behalf of any insurer; and who has obtained a judgment and made all reasonable efforts to collect it. A nonresident cannot collect from the fund unless he owns a vehicle registered in New Jersey.

In case of hit-and-run accidents, the injured person can, with the court's permission, sue the State Treasurer, who is subrogated (for the benefit of the fund) to the plaintiff's cause of action.

The registration and license of the judgment debtor is not to be restored until the fund is reimbursed and proof of future financial responsibility is established. Provision is made for installment payments of the amount to be reimbursed.

North Dakota. This fund does not cover property damage and does not deny benefits to claimants who are not themselves carrying insurance to protect others. The fund is created and maintained by an additional fee of one dollar for every motor vehicle registered. Payments into the fund will be suspended when the fund exceeds $175,000 and resumed when the fund has less than $100,000. The maximum amounts recoverable are $5,000 for the personal injury or death of one person and $10,000 for two or more persons. Any other amounts realized by the claimant are to be deducted from the payment made by the fund.

Any resident who has obtained an uncollectible judgment for more than $300 may recover from the fund, and he must assign the judgment to the State Treasurer. The law applies to default

judgments if notice prior to entry thereof is given to the State Highway Commissioner and Attorney General-the latter may defend the action. The victim of a hit-and-run driver may sue the fund if notice of the accident was given to a police officer.

Before registration and driving privileges are restored to the judgment debtor, the fund must be reimbursed and proof of future financial responsibility established. As in New Jersey, provision is made for installment payments to the fund.

Either the plaintiff or the Attorney General may appeal from the court's decision as to whether the fund must pay or not.

Canadian Provinces. The operations of the Canadian funds are fairly similar to the funds of New Jersey and North Dakota. Special features will be noted. In Alberta, in addition to other remedies, hospital and medical expenses may be recovered (1) if not recovered in a judgment or (2) if they are in the nature of special damages. Payments into the British Columbia fund will be suspended when it exceeds $250,000 and resumed if less than $150,000. The Manitoba fund permits suspension of payments at $100,000 and requires suspension at $175,000, payments to be resumed if less than $100,000. The Manitoba limits of recovery are higher than in previously mentioned funds: $10,000 and $20,000 in case of personal injury or death; property damage is not covered.

In New Brunswick the source of the fund is an additional fee of one dollar upon issuance or re-issuance of drivers' licenses. Payment in New Brunswick to nonresidents is subject to reciprocity. The source of the Newfoundland fund is the same as in New Brunswick, except the amount is determined by the Lieutenant Governor in council. Payments into the fund are suspended at $150,000 and resumed at $100,000.

The source of the Nova Scotia fund is an extra 50¢ fee upon obtaining a driver's license, and payment into the fund may be suspended at $150,000 and resumed at $100,000. In Ontario, there is a one dollar additional charge on obtaining a driver's license. Payment by the fund to nonresidents is subject to reciprocity.

Prince Edward Island gets its fund from a surcharge of one dollar on drivers' licenses. Payments into the fund may be suspended at $100,000 and resumed at $50,000. The limits of recovery are very low: $2,000 and $4,000 for personal injury or death and $1,000 for property damage.

Comments on unsatisfied judgment funds.

These funds provide at least a partial remedy for victims of hit-and-run drivers, drivers of stolen vehicles, and financially

irresponsible motorists. They provide a supplement to the financial responsibility laws. Financially irresponsible motorist who have not repaid the fund are kept off the highways until they do. And the laws can provide an incentive (as in New Jersey) to carry liability insurance so that recovery may be had from the fund. The costs to the motorist are nominal.

It is argued that it is inequitable to require all motorists to share the expenses of a fund set up because of the irresponsible few. Other arguments against such a fund include a fear of putting private insurance companies out of business, the possibility of reducing the number of insured drivers, and opening the way to fraudulent and exaggerated claims.

The Virginia Advisory Legislative Council in its recent report proposing the adoption of an unsatisfied judgment fund has outlined its recommended plan as follows: [7]

Under the proposed bill, the insured motorist will bear no direct part of the cost of the system. There may be some administrative costs reflected in insurance rates, but the main charge is placed by the bill where it belongs-on the person who buys a license for a motor vehicle without having liability insurance on it. This cost will still be less to that motorist than would be the cost of liability insurance, but he would not get the same protection as from insurance, and it is believed that the plan will tend to encourage the voluntary carrying of insurance by those who are able to obtain it. We feel that this is a desirable end. The uninsured motorist would be induced to take out insurance coverage by the fact that he cannot participate in the benefits of the plan. Thus it would in no sense be a substitute for the carrying of insurance. . .

It will be noted. . .that the ten dollar charge should be more than adequate to cover the estimated costs of the plan. If this proves correct in practice, the charge might well be reduced. It appears best, however, to err on the conservative side initially, to ensure that those who are entitled to protection from the fund receive it.

In this connection it should also be noted that the limits suggested under the proposed bill include a maximum of $5,000 property damage, rather than $1,000, the coverage required by the Safety Responsibility Law. All available information indicates that the increased total cost to the fund will be negligible. . .

The bill also provides for a contribution by the insurance companies to the extent of one-half of one percent of their premium volumes. This provision is contained in the New Jersey

statute and was not objected to by those representatives of the insurance industry who advocated the unsatisfied claim and judgment fund plan in preference to compulsory insurance. This will further ensure the solvency of the fund.

The funds derived from the charge above referred to against the uninsured motorist and the insurance company contribution would be placed in the State Treasury and administered by a board which would have representatives of the State Government, stock and mutual insurance companies, insurance agents, and the public. Thus, while it would be a State fund, we do not feel that the frequently voiced criticism that "the State would be going in the insurance business" would be justified, since the insurance industry would have equal representation with state officials in the administration of the plan.

Furthermore, it is contemplated that the actual administration of the plan would be done by the insurers. This has been the system adopted in New Jersey and it serves a two-fold purpose. It gives protection against the creation of a State bureaucracy which would tend to compete with the insurance companies and it makes available to assist in the administration of the fund, the trained personnel who serve in similar capacities for the insurance companies. Representatives of the stock insurance companies who appeared at the public hearing favored this type of administration organization and did not appear to feel that it would be an undue burden on the insureres.

The mechanics through which the fund would operate conform very closely to current practices by those now seeking to recover for damages done to them through the negligent operations of a motor vehicle. The injured party would in most cases be required to proceed through the courts to obtain a judgment against the person causing the injury. If the latter is not insured and the injured party intends to avail himself of the benefits of the fund, he would be required to give notice to the board of his intention. The board would then assign the case to an insurer who would be empowered to take such action as would be necessary to protect the interest of the public. When the injured party obtains a judgment and finds that it cannot be satisfied in whole or in part in the normal manner, he may then apply to the court which may order the judgment paid from the fund. Thus the fund is in essence only a last resort and it is felt that recourse to it would be had only in cases which are thoroughly justified. As a precautionary measure, default judgments are eliminated from participation in the fund unless the board has had an opportunity to protect the interest of the public.

As noted above, the plan contemplates as little departure from existing practices in the law of torts and insurance as possible. For this reason a provision is made in the bill for

the settlement of a claim, without requiring recourse to costly litigation, by the board in the same manner that an insurance company may settle a claim. It is felt this provision will be valuable both in reducing the administrative burden incident to the operation of the fund and in keeping down the cost to the person seeking indemnification.

Another feature of the proposed bill will reduce the administrative burden and the cost without affecting the major purpose of the plan-the reduction of the social problem which results from heavy losses sustained by innocent persons from the irresponsible motorists. This feature is the "$200 deductible" provision which would eliminate from participation in the fund any person suffering damages below this figure. A tremendous number of minor accidents would thus be eliminated.

COMPULSORY INSURANCE

The following extract taken from the report of the Institute of Judicial Administration outlines the principal features of compulsory insurance: [8]

New York, by enacting the Motor Vehicle Financial Security Act in April 1956 (effective in 1957), became the second state to provide a compulsory motor vehicle responsibility law. Massachusetts had enacted its law in 1925, effective in 1927, and was formerly the only jurisdiction in the United States and Canada having compulsory automobile insurance. These laws do not provide for compensation to all persons injured in automobile accidents regardless of fault, but operate within the framework of the law of civil liability and require, before a motor vehicle is registered, proof in statutory amounts of ability to respond in damages for any judgment that might be rendered against the owner of the vehicle.

Massachusetts. Motor vehicle owners, before they are permitted to register their vehicles, must file a certificate with the Registrar of Motor Vehicles, of having obtained either an approved insurance policy or an approved surety company bond or certificate of having deposited either cash or securities in certain amounts. Nonresident owners of motor vehicles who operate in the state for more than 30 days in any year also come within the law. The insurance contract or bond must provide indemnity to the amounts of $5,000 for one person and $10,000 for two or more persons injured or killed in a single accident, and the contract for indemnity must continue and be at least coterminous with the period of registration. Failure to maintain assurance of financial responsibility results in revocation of the registration. The deposit of cash or securities must be in the amount of $5,000. This proof of financial responsibility

must be furnished for each motor vehicle or trailer registered, and covers the damages for personal injury and death caused by the negligence of the owner, his servants or agents, and other persons if the motor vehicle is being operated with the express or implied consent of the owner. The law does not require security for property damage. The law also applies solely to claims arising out of the operation of automobiles registered within Massachusetts upon the highways of the Commonwealth and not to claims arising out of the operation of automobiles on private property or outside the Commonwealth. Guest coverage is expressly excluded.

The insurance is provided by private companies, and the premium rates for death or personal injury liability insurance only are regulated by the insurance commissioner. Provision is also made for an assigned risk plan to apportion among the companies applicants who are in good faith and are unable to procure insurance through the ordinary methods. In regard to termination of insurance, the insurer must give 20 days notice of cancellation, with reasons, to the insured and to the Registrar of Motor Vehicles. Notice of intent not to renew must be given by the insurer before November 16. Review is provided by the Board of Appeal and the courts for cancellation or refusal to renew. The cost of the administration of the act is paid out of the general funds of the state appropriated by the legislature.

Operation of a motor vehicle without insurance, in violation of the law, makes the violator subject to either a fine of $100 to $500 or imprisonment for one year or both. Supplementing the compulsory law are provisions for suspension of operators' licenses for failure to satisfy property damage judgments, and provisions authorizing courts to require uninsured nonresidents to furnish security after an accident.

New York. The New York compulsory law has the same basic requirement of the Massachusetts law that proof of financial responsibility must be shown before a motor vehicle can be registered. It differs substantially, however, in the scope of its coverage, and certain procedures vary slightly.

Proof must be given by insurance coverage, security bond or deposit, or self-insurance in minimum amounts of $10,000 and $20,000 for personal injury and death liability and $5,000 for property damage. All owners of motor vehicles registered in the state, and all owners and operators of motor vehicles used in the state, resident or nonresident, come under the law. The proof requirements apply to accidents occurring throughout the United States and Canada. Although proof of financial responsibility need not be coterminous with the registration period, it must be maintained during that period. After proof is given at the initial registration of a motor vehicle, at

subsequent renewals a statement by the registrant that acceptable proof is being maintained is sufficient. Where an insurer cancels or fails to renew a policy, 10 days advance notice must be given to the insured. Upon termination by cancellation or failure to renew by insurer or insured, notice to the Commissioner of Motor Vehicles must be filed within 30 days after the effective date. There is no review of cancellations or terminations. If proof is not maintained, the registration will be revoked, and the vehicle will not be registered or re-registered in the same name or in any other name where it will have the effect of defeating the purposes of the act. No other motor vehicle will be registered in the same name for a period of 30 days.

The premium rates are established by insurance companies through the regular rate making procedure. The cost of administration of the act is assessed against the insurers. As in Massachusetts, provision is made for an assigned risk plan.

Licenses to drive in the state will be revoked for one year in the following cases: where a resident or nonresident, not the owner and not having an operator's policy of automobile liability insurance, operates a motor vehicle registered in New York with knowledge that financial security is not in effect; where a nonresident, other than the owner, and not having an operator's liability policy operates a motor vehicle not registered in New York with knowledge that proof was not in effect. If the owner of a motor vehicle not registered in New York operates the vehicle in the state while proof of financial security was not in effect, his privilege to operate any motor vehicle in the state and the privilege of operation within the state of any motor vehicle owned by him will be revoked for one year. Where the registration of a motor vehicle or the license of its operator, or both, have been revoked after an accident, neither shall be restored until one year has passed and (1) no suit has been brought within the year or (2) a release has been given or (3) no judgment remains unsatisfied.

In addition to the above sanctions, violations are punishable as misdemeanors by a fine of $100 to $1,000 or imprisonment for not more than one year or both.

The new compulsory law does not supersede the prior safety responsibility law, and the latter remains in effect along with the new law.

Comments on compulsory insurance

The Massachusetts law has been attacked on several counts. The claim is made that political pressure affects the premium rates, resulting in inadequate premiums for the insurance companies. A further objection is that it has created an atmosphere of "claim consciousness," leading to a great increase in

trivial or actually fraudulent claims. The limited coverage of the law is also criticized. Inasmuch as the New York law is new and has not yet been tried, it is too early to say whether the same claims may be made against it as have been raised against the Massachusetts law. Proponent of the law say that politics can be kept out of the rate-making procedures under the New York law. The coverage in New York also is greater in territorial scope and persons covered.

The great advantage to a compulsory law is that nearly 100 percent of the motorists will be insured. However, without a supplementing unsatisfied judgment fund, victims of hit-and-run drivers are still unprotected.

UNINSURED MOTORIST ENDORSEMENT

The remaining solution considered by the Committee as a possible means of substantially reducing the uninsured motorist problem in Maine would make the uninsured motorist endorsement a mandatory coverage of the standard automobile liability insurance policy. This coverage, which is now made available by various insurance carriers in the State (at a cost ranging from $4 to $8) and has been recommended by the insurance industry as a solution to the problem, provides that the insured by virtue of such coverage will receive compensation for injuries caused by a negligent uninsured motorist in an amount not less than that which he would have been legally entitled to recover from the uninsured motorist. The endorsement generally limits the insured's protection to bodily injury, sickness, disease or consequential death which results from an accident caused by the owner or operator of an uninsured, hit-and-run or stolen motor vehicle. An example of the statutory requirement of this endorsement is found in New Hampshire. There RSA 268:15 (1957, 305:8) provides that ". . .no such

policy shall be issued or delivered in this State with respect to a motor vehicle, trailer or semi-trailer registered in this State unless coverage is provided therein or supplemental thereto in amounts or limits prescribed for bodily injury or death for a liability policy under this chapter, under provisions approved by the insurance commissioner, for the protection of persons insured thereunder who are legally entitled to recover damages from owners or operators of uninsured motor vehicles, trailers or semi-trailers because of bodily injury, sickness or disease, including death resulting therefrom." It should be noted, however, that while ". . .it is possible for the prudent motorist to protect himself to some extent by carrying life, property damage, and accident and sickness insurance, as well as by the uninsured motorist endorsement to the insurance policy. . .the cost is borne, not by the person who is responsible for the evil, but by his victim." [9]

RECOMMENDATIONS

Based on study and consideration of the problem outlined under Resolves, 1957, c. 153, the following legislation is recommended by the members of the Committee indicated:

COMPULSORY INSURANCE

From the Senate

Robert N. Haskell, Bangor

Alton A. Lessard, Lewiston

J. Hollis Wyman, Milbridge

UNSATISFIED JUDGMENT FUND

From the Senate

Clarence W. Parker, Sebec

Norman R. Rogerson, Houlton

From the House

Harold Bragdon, Perham

Dana W. Childs, Portland

Lucia M. Cormier, Rumford

Joseph T. Edgar, Bar Harbor

Albert W. Emmons, Kennebunk

Robert W. Maxwell, Winthrop

Rodney E. Ross, Jr., Bath

Robert G. Wade, Auburn

UNINSURED MOTORIST ENDORSEMENT

From the Senate

William R. Cole, Liberty

Earl W. Davis, Harrison

Senator Miles F. Carpenter of Skowhegan believes that the facts are insufficient to warrant legislation and that present laws are adequate.

Legislation to carry out the foregoing recommendations will be introduced at the incoming session of the 99th Legislature.

FOOTNOTES

1. Kline, George H., Pearson, Carl O. The problem of the uninsured motorist. State of New York Insurance Department (1951).

2. Rauch, Raymond C. Master's thesis on the problem of the
3. uninsured motorist in Oregon. Commented upon in the National Underwriter. November, 1958.

4. Report of the Recess Committee on compulsory liability
5. insurance for motor vehicles. 88th Maine Legislature, L. D. No. 297 (1937).

6. Compulsory automobile insurance. Institute of Judicial
8. Administration (1956).

7. Report of the Virginia Advisory Legislative Council on
9. the problem of the irresponsible motorist (1957).

LEGISLATIVE RESEARCH COMMITTEE STUDIES

Ninety-Eight Series

NO. 1. MILK CONTROL (1957).
NO. 2. SCHOOL FINANCES AND NEEDS (1957).
NO. 3. LOGGING AND LUMBERING INDUSTRY; SHELLFISH AND MARINE WORM LAWS (1957).
NO. 4. COUNTY SALARIES (1957).
NO. 5. EMPLOYEE RECRUITMENT AND RETENTION AT STATE MENTAL INSTITUTIONS (1957).
NO. 6. MAINE FEDERAL INTERSTATE HIGHWAY SYSTEM (1958).