

This policy stems from the old English doctrine that "the King can do no wrong." In modern parlance its application is that the State may not be sued.

There is perhaps some question as to whether this doctrine should ever have been transferred to the several states in the United States. Whatever may be answer to this question, it is a fact that most states, at least in part, use the doctrine.

The application of this doctrine raises also the possibility that an individual may sustain serious injury at the hands of a public employee and then have no recovery.

Another unsatisfactory aspect of the whole problem is the vague distinction between governmental and proprietary functions. This uncertain distinction adds point to the entire study, as suits are permitted if a governmental function is involved but are not permitted if a proprietary function is involved.

In Maryland the system of compensation by the State has usually resulted in the introduction of a resolution in one or both houses of the General Assembly asking the executive branch to inquire into the facts of a claim and to provide compensation in the budget if a claim is deemed meritorious.

A better approach would be a court of claims. This is followed by the Federal Government under the Federal Tort Claims Act. It also is followed by a number of states in the Union, including the State of New York, which has waived sovereign immunity. In addition, a number of other states, with restrictions of one kind or another, will permit the state to be sued.

A bill modeled upon the Federal Tort Claims Act was introduced into the General Assembly as House Bill No. 128 of 1951. It was vetoed by the Governor and could be a basis for a broader study of the entire subject; now, therefore, be it

*Resolved by the General Assembly of Maryland, That the Legislative Council is requested during 1966 to study the doctrine of sovereign immunity and to make recommendations to the General Assembly in 1967 concerning a possible modification of this doctrine for the State and for its several political subdivisions.*

Approved May 6, 1966.

---

No. 12

(Senate Joint Resolution 10)

Senate Joint Resolution requesting the Legislative Council to study the impact of reapportionment upon the rules, procedures, and organization of the General Assembly of Maryland.

The General Assembly requests the Legislative Council during 1966 to study various aspects of the impact of reapportionment upon the rules, procedures, and organization of the General Assembly.

While the issue is not yet firmly resolved, a preliminary court test of the reapportionment bill enacted at the Special Session of October