

# MAINE STATE LEGISLATURE

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December 27, 1919

To A. W. Gordon, Education  
Re: School Poll Taxes in Unorganized Territory

You have asked us to advise you with reference to the proper formalities to be observed in the assessment and collection of school poll taxes in unorganized territory under the provisions of Sections 4 and 5 of Chapter 127 of the Public Laws of 1919. We understand that at present the functions of assessing and collecting the tax are combined in the local agent, the State Superintendent taking no direct part except to direct in writing, after the assessment is made, that the taxes be collected and the amount transmitted to the State Superintendent on or before the first day of July.

It appears by the provisions of Section 5 of the act referred to that these local agents or collectors are given the same power and authorized to use the same methods as collectors in towns, and it is quite obvious that, in the ordinary case of a poll tax, the only practical remedy is the arrest of the delinquent tax payer, which, in the case of towns, is authorized after twelve days previous demand, by the provisions of Section 20 of Chapter 11 of the Revised Statutes.

There are some quite serious obstacles in the way of applying municipal procedure to your system, and of course, in anything so carefully guarded as the right of personal liberty, it is quite important that in any procedure involving a possible arrest you should proceed with the utmost caution. In ordinary municipal taxation, the functions of assessing and collecting taxes are kept wholly distinct, the one being regarded as a semi-judicial function and the other as an administrative duty. Municipal taxes are assessed by a board of assessors and by them committed under a process ordinarily designated a warrant, which affords to the collector his protection for enforcing the collection of taxes and constitutes the evidence of his authority therefor. It not only protects him but it is notice to the person taxed and also protects any persons that the collector may call to his assistance and the sheriff or jailer who may be asked to take into custody the person arrested. Under your procedure as it is now followed your local agent or collector has no process of any kind, properly speaking, directing or authorizing the arrest of anyone, and seems to have the entire machinery centered almost entirely in his own hands. This is not in harmony with our ordinary system of collecting taxes and it might raise some very troublesome questions, if any individual should attempt to resist enforcement of a poll tax by arrest. We are not entirely certain that it is possible under the present law to evolve a procedure which will accord with the provisions of the law itself and at the same time harmonize with legal requirements for the protection of the individual, but we would make the following suggestions with reference to procedure as being in our judgment much better designed to meet conditions than the procedure now followed.

First. We would have the local agent make a census or survey or report of the individuals subject to taxation within his jurisdic-

tion and report the same to your office. This is substantially what is now being done by the "Statement of Per Capita Taxes" which your agents send you, with the exception of the fact that at present this statement is not sent in until after the assessment has been made by the local agent.

Second: We would recommend that the assessment be made by the State Superintendent of Schools himself. You will note that under the provisions of Section 4 of Chapter 127, Public Laws of 1919, it does not state by whom the tax shall be assessed. Under the provisions of Section 5, the agents are to perform such duties as the State Superintendent may authorize or delegate. In other words, the law does not require the assessment by local agents and quite clearly implies that whatever functions are not delegated to him are necessarily vested in the State Superintendent. We recommend that the assessment be entered in a book specially kept for that purpose as it ought to be a public record and municipalities invariably use a bound volume for this purpose. The assessment should be in substantially the following form:

"Under the provisions of Section 4 of Chapter 127 of the Public Laws of 191, there is hereby assessed upon each of the make residents of Township \_\_\_\_\_ in the County of \_\_\_\_\_ for the year of 19\_\_\_\_, the sum of Three Dollars (\$3.00) as a school tax for the purposes of said Chapter.

State Superintendent of Public Schools

Third: After the assessment of taxes, we would recommend that the State Superintendent issue to each local agent or collector a warrant insubstantially the following language:

"STATE OF MAINE  
EDUCATIONAL DEPARTMENT

To \_\_\_\_\_, Agent for schooling of children in unorganized Township \_\_\_\_\_ within the County of \_\_\_\_\_:

In the name of the State of Maine, you are hereby required to levy and collect on each of the several persons named in the list herewith committed to you, the amount of the tax against their respective names and to transmit the amount so collected to the State Superintendent of Schools on or before the first day of July next, making all checks or money orders payable to the Treasurer of State. And if any person refuses or neglects to pay the sum which he is assessed in said list, you will distrain his goods and chattels to the value thereof, as particularly provided by law; and for want for twelve days of goods and chattels whereon to make distress, except any such as are by statute exempt from attachment for debt, you shall take the body of such person so refusing or neglecting and him commit to the jail of the county, there to remain until he pays the same or such part thereof as may not be abated in conformity with law.

Dated at Augusta, Maine, this \_\_\_\_\_ day of \_\_\_\_\_ A.D. 19\_\_.

State Superintendent of Public  
Schools

This warrant in each case should be accompanied by a list of the names, residences and amounts assessed to each tax payer in that jurisdiction. The two documents should be fastened together, or together constitute a single document. They should be kept by the local agent as his protection.

Fourth: After the collection has been made, the local agent can report his collections to you in any form which may best suit your office system, as that is a matter largely of your own convenience. Your records, however, should show in each case what taxes have been paid and the steps which may be necessary to enforce unpaid taxes.

We have gone over this matter somewhat carefully, because you are dealing with one of the most carefully guarded rights of the individual when you attempt to make an arrest and your machinery must be adapted to that end.

If we have not covered the entire ground or if for any reason you feel my suggestions impracticable, I should be glad to discuss the matter with you again.

Fred F. Lawrence  
Deputy Attorney General

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