

# MAINE STATE LEGISLATURE

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STATE OF MAINE

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REPORT

OF THE

ATTORNEY GENERAL

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for the calendar years

1941--1942

Under the circumstances, the act of the Governor in signing Chapters 72 and 205 of the laws of 1941 may have been the last legislative act, but it was not the last act that could be applied to the bills. The people of the State had spoken since the decision in *Stuart vs. Chapman* and had set up a supplementary procedure which could veto the acts of the legislature and of the Governor. For the above reason, I feel that the argument concerning the signature by the Governor, which we find in the case of *Stuart vs. Chapman*, does not apply to the present situation.

The words of the court that the two statutes "went into effect the same moment of time", which we find on page 23 of the *Stuart vs. Chapman* opinion, seem to me to be the controlling words in our present situation. We can go on from those words and follow through the reasoning in *Stuart vs. Chapman* and find it will apply logically to the case we are considering.

On page 24, we find the court using the following language: "Force and effect can, and therefore should, be given to both amendments, and both must stand as statutes of the State. Section twenty-three reads, as thus amended by both statutes, with the words stricken out by chapter 131 and the words inserted by chapter 134. We apprehend that no man can have any doubt that this is precisely what the legislature intended to accomplish. The means it adopted were appropriate to the end, and we know of no iron rule of statutory interpretation which, under the circumstances of this case, must render its efforts abortive."

On the basis of the above reasoning, it is my opinion that both the amendments to Section 1 of Chapter 169 of the Public Laws of 1939 (those included in Chapter 72 of the laws of 1941 as well as those included in Chapter 205 of the laws of 1941) took effect and that the inspection of the automobiles shall be made during the months of April and October of each year.

FRANK I. COWAN

Attorney General

October 16, 1941

From:  
Frank I. Cowan, Attorney General

To:  
George E. Hill, State Tax Assessor

I have your letter of October 15th asking me to inform you to what extent, if any, your bureau is legally charged with the duty of issuing tax bills, receiving tax payments, taking steps for the collection of the same, including conduct of sales and forfeiture of real estate for non-payment of taxes.

I will answer your questions in the order in which you ask them.

1. State, County and Forestry District taxes on wild lands.  
Your duty ends with the assessment of the taxes. All steps in connection with the collection are responsibilities of the Treasurer of State.
2. Personal property in unorganized townships.  
The same rule applies here as in No. 1.
3. Road repair tax.  
The same rule applies here as in No. 1.
4. School tax in unorganized territory.  
The same rule applies as in No. 1.
5. Debt Retirement tax.  
The same rule applies as in No. 1.
6. Gasoline tax.  
The State Tax Assessor procures the information as to the amount of taxes due from each distributor and forwards the information to the State Treasurer. The State Treasurer is responsible for the collection of taxes.
7. Use fuel tax.  
The State Tax Assessor has the duty of ascertaining the amount due from each user. The burden of collecting the tax is entirely on the State Treasurer.
8. The statutory provisions in regard to the collection of poll taxes in unorganized territory and the funds from the cigarette tax seem to place the burden of collection on you. Whether or not you are collecting actually as agent for the State Treasurer is a question that may at some time be passed upon by the law court. However, no matter what may be the technical nature of your position in taking in the funds from these two sources, there is no question but what it is your duty to get them and make remittance to the Treasurer, except such portion of the poll tax as, under Chapter 20 of the Public Laws of 1941, is paid by the State Tax Assessor to towns in which electors living in unorganized territories actually vote.

FRANK I. COWAN

Attorney General