

# MAINE STATE LEGISLATURE

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# FIFTY-FOURTH LEGISLATURE.

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SENATE.

No. 20.

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## STATE OF MAINE.

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IN THE YEAR OF OUR LORD ONE THOUSAND EIGHT HUNDRED AND  
SEVENTY-FIVE.

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[S. 66.] AN ACT to enforce the collection of taxes upon  
railroad companies.

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*Be it enacted by the Senate and House of Representatives  
in Legislature assembled, as follows :*

SECTION 1. In addition to the remedy already pro-  
2 vided for the collection of any tax assessed upon any  
3 railroad corporation, or the stock thereof, agreeably to  
4 chapter two hundred and fifty-eight of the public laws  
5 of eighteen hundred and seventy-four, in case said tax  
6 is not paid agreeably to the provisions thereof, the  
7 treasurer of the state may issue his warrant for the col-  
8 lection of said tax, directed to the sheriff of any county  
9 in the state. Said warrant shall be in substance as  
10 follows :

11 A. B., Treasurer of the State of Maine, to the Sheriff  
12 of the County of———, Greeting :

13 Whereas, the governor and council of the State of  
14 Maine, on the —— day of ——, assessed a  
15 tax of —— dollars and —— cents upon the ——  
16 railroad company, and the secretary of state duly cer-  
17 tified the same to the state treaeurer; and whereas, by  
18 force of the statute in such cases made and provided,  
19 one-half of said tax was payable on or before the first  
20 day of July then next ensuing, and one-half on or be-  
21 fore the first day of January then next ensuing; and  
22 whereas, the said railroad company has failed to pay  
23 the —— installment of said tax within the time re-  
24 quired by law, and there now remains due upon said  
25 installment the sum of —— dollars and —— cents :  
26 You are hereby required, in the name of the State of  
27 Maine, forthwith to distrain the goods, chattels and  
28 franchise of said railroad company to the amount of  
29 said unpaid tax and costs of distraint; and the distress  
30 so taken to keep for the space of four days at the cost  
31 and charge of said railroad company; and if said rail-  
32 road company does not pay the said unpaid tax and  
33 costs of distraint and keeping within the said four days,  
34 then you are to sell at public vendue such distress for  
35 the payment thereof, with charges of sale; first giving

36 forty-eight hours' notice of such sale by posting up  
37 advertisements thereof in the city, town or plantation  
38 where said distraint is made; and the amount of said  
39 unpaid tax you are forthwith to pay to the treasurer of  
40 the State of Maine; and the overplus arising by such  
41 sale, if any, besides the said unpaid tax, costs of dis-  
42 traint and keeping and costs of sale, you are within  
43 ten days from such sale to restore to the treasurer of  
44 said railroad company.

45 Hereof fail not, and make due return of this warrant  
46 with your doings thereon, to the treasurer of the State  
47 of Maine within ninety days from the date hereof.

48 Given under my hand this —— day of ——.

49 A. B., Treasurer of the State of Maine.

SECT. 2. The sheriff to whom said warrant is directed  
2 shall faithfully obey its directions. For the purposes  
3 of distraint and sale on said warrant, the franchise,  
4 engines, cars, rolling stock and other property used in  
5 operating said railroad, shall be deemed goods and  
6 chattels. The sheriff to whom said warrant is directed  
7 may serve the same in any county in the state. The  
8 goods and chattels seized by virtue of said warrant  
9 shall be held irrepleviable. No action shall be main-  
10 tained against said officer for his doings by virtue of  
11 said warrant, provided he faithfully obeys its direc-

12 tions, and acts in conformity to law in seizing and sell-  
13 ing property by virtue thereof. And any interest the  
14 sheriff who serves the warrant may at any time have in  
15 the property distrained shall not disqualify him from  
16 serving said warrant.

SECT. 3. If the railroad company deems said tax  
2 illegal, their remedy shall be an action for money had  
3 and received against the state treasurer, which action  
4 is hereby authorized for the purpose of testing the  
5 legality of said tax, to recover back so much of said  
6 tax as may be decided to be illegal, with interest and  
7 costs of suit; and the writ may be by original sum-  
8 mons, and be served by delivering to the state treas-  
9 urer an attested copy thereof. And said action may be  
10 brought in the supreme judicial court in any county in  
11 which said railroad company has an established place  
12 of business. If the tax is voluntarily paid, the same  
13 remedy and proceedings may be had to test the validity  
14 of said tax as in cases of distress. The state treasurer  
15 shall notify the attorney general of the pendency of  
16 any such suit, and it shall be his duty to defend it.  
17 And in either case the judgment thus recovered, if any,  
18 against the state treasurer, shall be forthwith certified  
19 by the clerk of the court where said judgment is re-  
20 covered to the governor, and thereupon the governor

21 shall draw his warrant upon the treasurer of the state  
22 for the amount of the judgment so recovered, with in-  
23 terest from the date of the warrant.

SECT. 4. The warrant herein provided for may be  
2 issued to enforce the collection of taxes heretofore as-  
3 sessed as well as taxes that shall hereafter be assessed.

SECT. 5. This act shall take effect when approved  
2 by the governor.



STATE OF MAINE.

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In SENATE, February 5, 1875.

Reported by Mr. FOSTER, from the Committee on the Judiciary, and laid over to be printed under the Joint Rule.

SAMUEL W. LANE, *Secretary.*