

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

ACTS AND RESOLVES

OF THE

FIFTY-FOURTH LEGISLATURE

OF THE

STATE OF MAINE.

1875.

Published by the Secretary of State, agreeably to Resolves of June 28, 1820,
February 28, 1840, and March 16, 1842.

AUGUSTA:
SPRAGUE, OWEN & NASH, PRINTERS TO THE STATE.
1875.

PUBLIC LAWS

OF THE

STATE OF MAINE.

1875.

An act to enforce the collection of taxes upon railroad companies.

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

Taxes on railroad corporations, collection of, how enforced.

SECT. 1. In addition to the remedy already provided for the collection of any tax assessed upon any railroad corporation, or the stock thereof, agreeably to chapter two hundred and fifty-eight of the public laws of eighteen hundred and seventy-four, in case said tax is not paid agreeably to the provisions thereof, the treasurer of the state may issue his warrant for the collection of said tax, directed to the sheriff of any county in the state. Said warrant shall be in substance as follows :

A. B., treasurer of the State of Maine, to the sheriff of the county of _____, greeting :

Form of warrant.

Whereas, the governor and council of the State of Maine, on the _____ day of _____, assessed a tax of _____ dollars and _____ cents upon the _____ railroad company, and the secretary of state duly certified the same to the state treasurer ; and whereas, by force of the statute in such cases made and provided, one-half of said tax was payable on or before the first day of July then next ensuing, and one-half on or before the first day of January then next ensuing ; and whereas, the said railroad company has failed to pay the _____ installment of said tax within the time required by law, and there now remains due upon said installment the sum of _____ dollars and _____ cents : You are hereby required, in the name of the State of Maine, forthwith to distrain the goods, chattels and franchise of said railroad company, to the amount of said unpaid tax and costs of distraint ; and the distress so taken to keep for the space of four days at the cost and charge of said railroad company ; and if said railroad company does not pay the said unpaid tax and costs of distraint and keeping within the said four days, then you are to sell at public vendue such distress for the payment thereof, with charges of sale ; first giving forty-eight hours' notice of such sale by posting up advertisements thereof in the city, town or plantation where said distraint is made ; and the amount of said unpaid tax you are forthwith to pay to the treasurer of the State of Maine ; and the overplus arising by such sale, if any, besides the said unpaid tax, costs of distraint and keeping, and costs of sale, you are, within ten days from such sale, to restore to the treasurer of said railroad company.

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

Given under my hand this _____ day of _____.

A. B., treasurer of the State of Maine.

CHAP. 16.

SECT. 2. The sheriff to whom said warrant is directed shall faithfully obey its directions. For the purposes of distraint and sale on said warrant, the franchise, engines, cars, rolling stock and other property used in operating said railroad, shall be deemed goods and chattels. The sheriff to whom said warrant is directed may serve the same in any county in the state. The goods and chattels seized by virtue of said warrant shall be held irrepleviable. No action shall be maintained against said officer for his doings by virtue of said warrant, provided he faithfully obeys its directions, and acts in conformity to law in seizing and selling property by virtue thereof. And any interest the sheriff who serves the warrant may at any time have in the property distrained shall not disqualify him from serving said warrant.

Duty of sheriff. What deemed goods and chattels.

Sheriff may serve warrant in any county in the state.

Goods seized, held irrepleviable. Officer not liable to action.

SECT. 3. If the railroad company deems said tax illegal, their remedy shall be an action for money had and received, against the state treasurer, which action is hereby authorized for the purpose of testing the legality of said tax, to recover back so much of said tax as may be decided to be illegal, with interest and costs of suit; and the writ may be by original summons, and be served by delivering to the state treasurer an attested copy thereof. And said action may be brought in the supreme judicial court, in any county in which said railroad company has an established place of business. If the tax is voluntarily paid, the same remedy and proceedings may be had to test the validity of said tax as in cases of distress. The state treasurer shall notify the attorney general of the pendency of any such suit, and it shall be his duty to defend it. And in either case the judgment thus recovered, if any, against the state treasurer, shall be forthwith certified by the clerk of the court where said judgment is recovered, to the governor, and thereupon the governor shall draw his warrant upon the treasurer of the state for the amount of the judgment so recovered, with interest from the date of the warrant.

Remedy of railroad company.

—action for, how brought.

Attorney general, duty to defend suits.

Judgment recovered, how satisfied.

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

SECT. 5. This act shall take effect when approved.

Approved February 18, 1875.