

# MAINE STATE LEGISLATURE

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ACTS AND RESOLVES  
OF THE  
SEVENTY-FIFTH LEGISLATURE

OF THE  
STATE OF MAINE.

1911

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PUBLIC LAWS

OF THE

STATE OF MAINE

As Passed by the Seventy-fifth  
Legislature

*1911*

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## CHAP. 119

## Chapter 119.

An Act to amend and unify the laws regulating the sale of agricultural seeds, commercial feeding stuffs, commercial fertilizers, drugs, foods, fungicides and insecticides.

*Be it enacted by the People of the State of Maine, as follows:*

Sale of certain adulterated articles prohibited.

Section 1. It shall be unlawful for any person within this state to manufacture, sell, distribute, transport, offer or expose for sale, distribution, or transportation, any article of agricultural seed, commercial feeding stuff, commercial fertilizer, drug, food, fungicide or insecticide which is adulterated or misbranded within the meaning of this act.

Term "agricultural seed" defined.

Section 2. The term "agricultural seed" as used in this act shall be held to include the seeds of alfalfa, barley, Canadian blue grass, Kentucky blue grass, brome grass, buckwheat, alsike clover, crimson clover, red clover, medium clover, white clover, field corn, Kaffir corn, meadow fescue flax, Hungarian, millet, oats, orchard grass, rape, redtop, rye, sorghum, timothy and wheat.

Term "commercial feeding stuff" defined.

The term "commercial feeding stuff" as used herein, shall be held to include all articles of food used for feeding live stock, and poultry, except hays and straws, the whole seeds, and the unmixed meals made directly from the entire grains of wheat, rye, barley, oats, Indian corn, buckwheat, flax seed and broom corn.

Term "commercial fertilizer" defined.

The term "commercial fertilizer" as used herein, shall be held to include all materials used for fertilizing purposes, the price of which exceeds ten dollars a ton.

Term "drug" defined.

The term "drug" as used herein, shall be held to include all medicines and preparations recognized in the United States pharmacopœia or national formulary for internal or external use, and any substance or mixture of substances intended to be used for the cure, mitigation, or prevention of disease of man or other animals.

Term "food" defined.

The term "food" as used herein, shall be held to include all articles, whether simple, mixed or compound, used for food, drink, confectionery, or condiment by man or other animals.

Term "fungicide" defined.

The term "fungicide" as used herein shall be held to include any substance or mixture of substances intended to be used for preventing, destroying, repelling, or mitigating any and all fungi that may infest vegetation, or be present in any environment whatsoever.

Term "insecticide" defined.

The term "insecticide" as used herein shall include Paris green, lead, arsenate, and any substance or mixture of substances intended to be used for preventing, destroying, repelling,

or mitigating any insect which may infest vegetation, man or other animals, or houses, or be present in any environment whatsoever.

Section 3. Every lot or package of agricultural seed which is sold, distributed, transported, offered or exposed for sale, distribution, or transportation for seed, in the state by any person shall have affixed in a conspicuous place on the outside thereof, a plainly written or printed statement clearly and truly giving the name thereof and its minimum percentage of purity and freedom from foreign matter.

Every package of seed shall be plainly marked, giving name and purity.

Section 4. Every lot or package of commercial feeding stuff, which is manufactured, sold, distributed, transported, offered or exposed for sale, distribution or transportation in the state by any person, shall have affixed in a conspicuous place on the outside thereof, a plainly printed statement, clearly and truly giving the number of net pounds in the package; the name, brand or trademark under which the article is sold; the name and principal address of the manufacturer or shipper; a chemical analysis stating the maximum percentage of crude fiber, the minimum percentage of crude fat, and the minimum percentage of crude protein (allowing one per cent. of nitrogen to equal six and one-fourth per cent. of protein) which it contains, all three constituents to be determined by the methods adopted by the association of official agricultural chemists; if the feeding stuff is a compound feed, the name of each ingredient contained therein; and if artificially colored, the name of the material used for that purpose. If the feeding stuff is sold in bulk or put up in packages belonging to the purchaser, the seller shall upon the request of the purchaser furnish him with a copy of the statements named in this section.

Every package of commercial feeding stuff shall be labelled, giving net weight, brand or trade mark.

Section 5. Any person who shall manufacture, sell, distribute, transport, offer or expose for sale, distribution or transportation, in the state, any commercial feeding stuff shall before so doing file with the director of the Maine agricultural experiment station for each and every commercial feeding stuff bearing a distinguishing name or trademark, a certified copy of the statements required by section four. Said certified copy shall be accompanied when said director shall so request, by a sealed package containing not less than one pound of the commercial feeding stuff. The person who shall file said certificate shall pay annually to the director of the Maine agricultural experiment station a registration fee of ten dollars, this fee to be assessed on any brand offered for sale, distribution or transportation in the state. Provided, however, that a brand of commercial feeding stuff may be re-registered for the following year

Sale and manufacture of commercial feeding stuff, regulated.

—registration fee.

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without the payment of the fee upon the establishment by the person who paid said fee that the total sales within the state during the year for which said fee was paid did not exceed fifty tons. Whenever any person shall have filed such certificate and paid such registration fee, no other person shall be required to file such statement or pay such fee.

Every pack-  
age of com-  
mercial fer-  
tilizer shall  
be labelled,  
giving net  
weight, name  
or trade  
mark.

Section 6. Every lot or package of commercial fertilizer, which is manufactured, sold, distributed, transported, offered or exposed for sale, distribution or transportation in the state by any person shall have affixed in a conspicuous place on the outside thereof a plainly printed statement clearly and truly giving the number of net pounds in the package; the name or trademark under which the article is sold; the name and principal address of the manufacturer or shipper and a chemical analysis stating the minimum percentage of nitrogen, or its equivalent in ammonia in available form, of potash soluble in water, of phosphoric acid in available form, soluble and reverted, and of total phosphoric acid, the constituents to be determined by the methods adopted by the association of official agricultural chemists. If the fertilizer is sold in bulk or put up in packages belonging to the purchaser, the seller shall, upon request of the purchaser, furnish the purchaser with a copy of the statements named in this section.

Sale and  
manufacture  
of commercial  
fertilizer,  
regulated.

Section 7. Any person who shall manufacture, sell, distribute, transport, offer or expose for sale, distribution or transportation in the state any commercial fertilizer shall before so doing file with the director of the Maine agricultural experiment station for each and every fertilizer bearing a distinguishing name or trademark, a certified copy of the statements named in section six. Said certified copy shall be accompanied when said director shall so request by a sealed package containing not less than two pounds of the commercial fertilizer. The person who shall file said certificate shall pay annually to the director of the Maine agricultural experiment station a registration fee as follows: Ten dollars each for the nitrogen and the phosphoric acid and five dollars for the potash, contained or said to be contained in the fertilizer, this fee to be assessed on any brand offered for sale, distribution or transportation in the state. Whenever any person shall have filed said certificate and paid said registration fee, no other person shall be required to file such statement or pay such fee.

—registra-  
tion fee.

Every pack-  
age of fungi-  
cide shall be  
labelled, giv-  
ing net  
weight, name  
or trade  
mark.

Section 8. Every lot or package of a fungicide or an insecticide which is manufactured, sold, distributed, transported, offered or exposed for sale, distribution or transportation in the state by any person, shall have affixed in a conspicuous place

on the outside thereof a plainly printed statement clearly and truly stating the number of net pounds in the package, the name or trademark under which the article is sold, the name and address of the manufacturer or shipper, and a chemical analysis stating the minimum percentage of total arsenic and the maximum percentage of water soluble arsenic which it contains, the constituents to be determined by the methods adopted by the association of official agricultural chemists.

Section 9. Any person who shall manufacture, sell, distribute, transport, offer or expose for sale, distribution or transportation in the state any fungicide or insecticide shall before so doing file with the director of the Maine agricultural experiment station for each and every fungicide or insecticide bearing a distinguishing name or trademark, a certified copy of the statements made in section eight. Said certified copy shall be accompanied when said director shall so request by a sealed package containing not less than one pound of fungicide or insecticide. The person who shall file such certificate shall pay annually to the director of the Maine agricultural experiment station, a registration fee of ten dollars, this fee to be assessed on any brand offered for sale, distribution or transportation in the state. Whenever any person shall have filed said certificate and paid said registration fee, no other person shall be required to file such statement or pay such fee.

Sale and manufacture of fungicide, etc., regulated.

—registration fee.

Section 10. The director of the Maine agricultural experiment station shall have power to refuse to register any commercial feeding stuff, commercial fertilizer, bearing a name, brand or trademark which is misleading or deceptive or which would tend to mislead or deceive as to materials of which it is composed, and in the case of commercial feeding stuff when the specific name of each and all of the ingredients used in its manufacture are not stated. He shall also have power to cancel the registration of any feeding stuff, commercial fertilizer, fungicide or insecticide that he deems to be manufactured, sold, distributed, transported, offered or exposed for sale, distribution or transportation in violation of any of the provisions of this act. The registration of each brand of commercial feeding stuff, commercial fertilizer, fungicide or insecticide shall terminate on the thirty-first day of December of each year.

Director of experiment station may refuse to register, when name or trademark is misleading.

Section 11. For the purpose of this act an article shall be deemed to be adulterated.

When seed shall be deemed to be adulterated.

In case of agricultural seed:

First. If its purity falls below its accompanying guaranty.

Second. If it contains the seed of any poisonous plant.

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In case of commercial feeding stuff:

First. If its weight, composition, quality, strength or purity do not conform in each particular to the claims made upon the affixed guaranty.

Second. If it be colored, coated, or stained in a manner whereby damage or inferiority is concealed.

Third. If it contains any poisonous or deleterious ingredients which may render such article injurious to the health of live stock or poultry.

Fourth. If any milling or manufactured offals or any foreign substance whatever have been added to any whole or ground grain or other commercial feeding stuff, unless the true composition, mixture or adulteration is plainly marked or indicated upon the container thereof.

In case of commercial fertilizer:

When fertilizer shall be deemed to be adulterated. First. If its weight, composition, quality, strength or purity do not conform in each particular to the claims made upon the affixed guaranty.

Second. If it contains any material deleterious to growing plants.

In case of drug:

When drugs shall be deemed to be adulterated. First. If when a drug is sold under or by a name recognized in the United States pharmacopœia or national formulary, it differs from the standard of strength, quality, or purity, as laid down in the United States pharmacopœia, or national formulary official at the time of investigation, or as fixed by the director of the Maine agricultural experiment station: Provided, that no drug defined in the United States pharmacopœia, the national formulary or by said director shall be deemed to be adulterated under this provision if the standard of strength, quality, or purity be plainly stated, so as to be understood by the non-professional person, upon the bottle, box or other container thereof, although the standard may differ from that laid down in the United States pharmacopœia, national formulary, or that fixed by said director.

—proviso.

Second. If its strength or purity differs from the professed standard or quality under which it is sold.

In case of confectionery:

When confectionery shall be deemed to be adulterated. If it contains terra alba, barytes, talc, chrome yellow, or other mineral substances, or poisonous color or flavor, or other ingredients deleterious or detrimental to health, or any vinous, malt, or spirituous liquor or compound, or narcotic drug.

In case of food:

When food shall be deemed to be adulterated. First. If any substance has been mixed and packed with it so as to reduce or lower or injuriously affect its quality or strength.



Second. If any substance has been substituted wholly or in part for the article.

Third. If any valuable constituents of the article have been wholly or in part abstracted.

Fourth. If it be mixed, colored, powdered, coated, or stained in a manner whereby damage or inferiority is concealed.

Fifth. If it contain any poisonous or other added deleterious ingredient which may render such article injurious to health.

Sixth. If it consists in whole or in part of a filthy, decomposed or putrid animal or vegetable substance, or any portion of an animal unfit for food, whether manufactured or not, or if it is the product of a diseased animal, or one that has died otherwise than by slaughter.

Seventh. If in the manufacture, sale, distribution, transportation, or in the offering or exposing for sale, distribution or transportation, it is not at all times securely protected from filth, flies, dust or other contamination, or other unclean, unhealthful or unsanitary conditions.

Eighth. If it does not conform to the standards of strength, quality, and purity, now or hereafter to be established by statute or fixed by the director of the Maine agricultural experiment station: Provided, that a food shall not be deemed to be adulterated under this provision if the standard of strength, quality or purity be plainly stated, so as to be understood by the non-professional person, upon the container thereof, although the standard may differ from that established by statute or fixed by said director. —proviso.

Ninth. If its strength or quality or purity fall below the professed standard or quality under which it is sold.

In case of fungicide or insecticide:

In the case of Paris green:

First. If it does not contain at least fifty per centum of arsenious oxide ( $As_2O_3$ ).

Second. If it contains arsenic in water-soluble forms equivalent to more than three and one-half per centum of arsenious oxide ( $As_2O_3$ ).

Third. If any substance has been mixed and packed with it so as to reduce or lower or injuriously affect its quality or strength.

In the case of lead arsenate:

First. If it contains more than fifty per centum of water.

Second. If it contains total arsenic equivalent to less than twelve and one-half per centum of arsenic oxide ( $As_2O_5$ ).

Third. If it contains arsenic in water-soluble forms equiv-

Fungicide, insecticide and Paris green, when deemed adulterated.

Lead arsenate.

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alent to more than seventy-five one-hundredths per centum of arsenic oxide ( $As_2O_5$ ).

Fourth. If any substances have been mixed and packed with it so as to reduce, lower, or injuriously affect its quality or strength: Provided, however, that extra water may be added to lead arsenate if the resulting mixture is labeled lead arsenate and water, the percentage of extra water being plainly and correctly stated on the label.

In the case of fungicide or insecticide other than Paris green and lead arsenate:

First. If its strength or purity fall below the professed standard or quality under which it is sold.

Second. If any substance has been substituted wholly or in part for the article.

Third. If any valuable constituent of the article has been wholly or in part abstracted.

Fourth. If it is intended for use on vegetation and shall contain any substance or substances injurious to such vegetation.

Term "misbranded" defined.

Section 12. The term "misbranded" as used herein, shall apply to all articles of agricultural seed, commercial feeding stuff, commercial fertilizer, drug, food, fungicide and insecticide, the package or label of which shall bear any statement, design, or device regarding such article, or the ingredients or substances contained therein which shall be false or misleading in any particular, or which is falsely branded in any particular.

For the purpose of this act an article shall also be deemed to be misbranded.

Seed, when deemed to be misbranded.

In case of agricultural seed:

If any lot or package fail to bear all the statements required by section three.

In case of commercial feeding stuff:

Commercial feeding stuff, when deemed to be misbranded.

First. If any package fails to bear all of the statements required by section four.

Second. If the printed statements required by section four to be affixed to the package differ from the statements required by section five.

Third. If any brand is manufactured, transported, distributed, sold, offered or exposed for sale, distribution, or transportation upon which the registration fee required by section five has not been paid.

Commercial fertilizer, when deemed to be misbranded.

In case of commercial fertilizer:

First. If any package fail to bear all the statements required by section six.

Second. If the printed statements required by section six to be affixed to the package differ from the statement required by section seven.

Third. If any brand is manufactured, distributed, transported, sold, offered or exposed for sale, distribution or transportation upon which the registration fee required by section seven has not been paid.

In case of drug:

First. If it be an imitation of or offered for sale under the name of another article.

Drugs, when deemed to be misbranded.

Second. If the contents of the package as originally put up shall have been removed, in whole or in part, and other contents shall have been placed in such package, or, except in the case of a physician's prescription compounded by a physician or a registered pharmacist, if the package fail to bear a statement on the label of the quantity or proportion of any alcohol, morphine, opium, cocaine, heroin, alpha or beta eucaine, chloroform, cannabis indica, chloral hydrate or acetanilide or any derivative or any preparation of any such substances contained therein.

In case of food:

First. If it be an imitation of or offered for sale under the distinctive name of another article.

Food, when deemed to be misbranded.

Second. If the contents of the package as originally put up shall have been removed in whole or in part and other contents shall have been placed in such package, or if it fail to bear a statement on the label of the quantity or proportion of each and any added coloring matter, preservative, chemical or drug contained therein.

Third. If the package containing it or its label shall bear any statement, design, or device regarding the ingredients or the substances contained therein, which statement, design, or device shall be false or misleading in any particular: Provided, that an article of food which does not contain any added poisonous or deleterious ingredients shall not be deemed to be adulterated or misbranded in the following cases:

First. In the case of mixtures or compounds which may be now or from time to time hereafter known as articles of food, under their own distinctive names, and not an imitation of or offered for sale under the distinctive name of another article, if the name be accompanied on the same label or brand with a statement of the place where said article has been manufactured or produced.

Second. In the case of articles labeled, branded, or tagged so as to plainly indicate that they are compounds, imitations,

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or blends, and the word "compound," "imitation," or "blend," as the case may be, is plainly stated on the package in which it is offered for sale: Provided, that the term "blend" as used herein shall be construed to mean a mixture of like substances, not excluding harmless coloring or flavoring ingredients used for the purpose of coloring and flavoring only, and whose presence is declared upon the label. And provided further, that nothing in this act shall be construed as requiring or compelling proprietors or manufacturers of proprietary goods which contain no unwholesome added ingredient to disclose their trade formulas except in so far as the provisions of this act may require to secure freedom from adulteration or misbranding.

In case of fungicide and insecticide:

Fungicide and insecticide, when deemed to be misbranded.

First. If any lot or package fail to bear all the statements required by section eight.

Second. If the printed statements required by section eight to be affixed to the lot or package differ from the statements required by section nine.

Third. If any brand is manufactured, transported, distributed, sold or offered or exposed for sale, distribution or transportation upon which the registration fee required by section nine has not been paid.

Fourth. If it be an imitation of or offered for sale under the name of another article.

Fifth. If it be labeled or branded so as to deceive or mislead the purchaser, or if the contents of the package as originally put up shall have been removed in whole or in part, and other contents shall have been placed in such packages.

Sixth. If it consists partially or completely of an inert substance or substances which do not prevent, destroy, repel, or mitigate insects or fungi and does not have the percentage amount of such inert ingredient plainly and correctly stated on the label.

Uniform rules and regulations and standards of purity, by whom made.

Section 13. The director of the Maine agricultural experiment station shall make uniform rules and regulations for carrying out the provisions of this act. The said director may also fix standards of purity, quality or strength when such standards are not specified or fixed by law and shall publish them together with such other information concerning articles of agricultural seed, commercial feeding stuff, commercial fertilizer, drug, food, fungicide and insecticide as he may deem to be of public benefit.

Annual analysis, by whom made.

Section 14. The director of the Maine agricultural experiment station shall annually analyze, or cause to be analyzed, samples of articles of agricultural seed, commercial feeding

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stuff, commercial fertilizer, drug, food, fungicide and insecticide, at such time and to such extent as said director may determine. And said director, in person or by deputy, shall have free access, ingress and egress at all reasonable hours to any place or any building wherein articles of agricultural seed, commercial feeding stuff, commercial fertilizer, drug, food, fungicide, insecticide are manufactured, stored, transported, sold, offered or exposed for sale. He shall also have power, in person or by deputy to open any case, package or other container, and may, upon tendering the market price, take samples for analysis. The results of all analyses of articles of agricultural seed, commercial feeding stuff, commercial fertilizer, drug, food, fungicide and insecticide made by said director shall be published by him in the bulletins or reports of the experiment station, together with the names of the persons from whom the samples were obtained, the names of the manufacturers thereof, and such additional information as to him may seem advisable.

—results of analyses to be published.

Section 15. When the said director becomes cognizant of the violation of any of the provisions of this act he shall cause notice of such fact, together with a copy of the findings, to be given to the person from whom the sample was obtained, and the person whose name appears upon the label. The persons so notified shall be given an opportunity to be heard under such rules and regulations as may be prescribed by said director. Notices shall specify the date, hour and place of the hearing.

Proceedings in case of violation of this act.

Section 16. Any person who adulterates or misbrands within the meaning of this act, any article of agricultural seed, commercial feeding stuff, commercial fertilizer, drug, food, fungicide or insecticide, or any person who manufactures, sells, distributes, transports, offers or exposes for sale, distribution or transportation any article or agricultural seed, commercial feeding stuff, commercial fertilizer, drug, food, fungicide or insecticide in violation of any of the provisions of this act, shall be punished by a fine not exceeding one hundred dollars for the first offense, and by a fine not exceeding two hundred dollars for each subsequent offense.

Penalty for adulterating or misbranding.

Section 17. No person shall be prosecuted under the provisions of this act when he can establish proof of purchase and a guaranty signed by the person residing in the United States, from whom the purchase was made, to the effect that the article in question is not adulterated or misbranded within the meaning of this act.

No prosecutions under this act.

Section 18. The word "person" as used in this act shall be construed to import both the plural and the singular, as the

The word "person," how construed.

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case demands, and shall include corporations, companies, societies and associations. When construing and enforcing the provisions of this act, the act, omission, or failure of any officer, agent, or other person acting for or employed by any corporation, company, society, or association, within the scope of his employment or office, shall in every case be also deemed to be the act, omission, or failure of such corporation, company, society, or association as well as that of the person.

Director of experiment station, to enforce this act.

Section 19. The director of the Maine agricultural experiment station shall diligently enforce all of the provisions of this act, and, in this connection, he shall be entitled to have and receive the advice, counsel and assistance of the attorney general and of the attorney for the state in the several counties.

—penalties, by whom recovered.

The said director in his discretion, may recover the penalties for the violation of the provisions of this act in an action on the case in his own name, the venue to be as in other civil actions, and the plaintiff prevailing in any such action shall recover full costs; or he may prosecute violators by complaint or indictment in the name of the state, and such prosecution may be commenced in the county in which the offense was committed, or in any adjoining county. All fines received under this act by county treasurers shall be paid by them to the director of the Maine agricultural experiment station.

—fines, how disposed of.

All money received by the director of the Maine agricultural experiment station under this act shall be paid by him to the treasurer of the Maine agricultural experiment station and shall be expended in carrying out the provisions of this act.

—money received by director, how disposed of.

—court jurisdiction.

Trial justices and municipal and police courts are hereby invested with original jurisdiction, concurrent with the supreme judicial and superior courts, to hear, determine, enter, and by appropriate process enforce judgment in actions commenced for the recovery of the penalties aforesaid, and to try, and, upon conviction, to punish, for offenses against the provisions of this act.

Every certificate signed by director shall be presumptive evidence.

Section 20. Every certificate duly signed and acknowledged by the director of the Maine agricultural experiment station, relating to the collection and analysis of any sample of agricultural seed, commercial feeding stuff, commercial fertilizer, drug, food, fungicide, or insecticide, shall be presumptive evidence of the facts herein stated.

Certain sections and all acts inconsistent repealed.

Section 21. Sections sixteen to thirty-three inclusive of chapter thirty-nine of the revised statutes, and all amendments and additions thereto, chapter sixty-six of the public laws of nineteen hundred and five, chapter one hundred and twenty-

four of the public laws of nineteen hundred and seven and all other acts or parts of acts inconsistent herewith, are hereby repealed.

**CHAP. 120**

Approved March 28, 1911.

### Chapter 120.

An Act to amend Chapter nine of the Revised Statutes, relative to the property of the Public Municipal Corporations situated outside their corporate limits.

*Be it enacted by the People of the State of Maine, as follows:*

Sub-section one of section six of chapter nine of the revised statutes of Maine is hereby amended by adding after the word "uses" at the end of said sub-section the following: 'If located within the corporate limits and confines of such public municipal corporation, and also the pipes, fixtures, hydrants, conduits, gate-houses, pumping stations, reservoirs, and dams used only for reservoir purposes, of public municipal corporations engaged in supplying water, power and light if located outside of the limits of such public municipal corporations,' so that said section as amended will read as follows:

Sub-section 1,  
section 6,  
chapter 9, R.  
S., amended.

'Section 6. The following property and polls are exempt from taxation:

Exemptions.

I. The property of the United States and of this state and the property of any public municipal corporation of this state appropriated to public uses if located within the corporate limits and confines of such public municipal corporation, and also the pipes, fixtures, hydrants, conduits, gate-houses, pumping stations, reservoirs, and dams used only for reservoir purposes, of public municipal corporations engaged in supplying water power or light if located outside of the limits of such public municipal corporations, but nothing herein contained shall abridge any power of taxation possessed by any city or town by virtue of any special act.'

U. S. and  
Maine prop-  
erty.

Approved March 28, 1911.