

MAINE STATE LEGISLATURE

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CHAPTER 14.

DEPARTMENT OF FINANCE.

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Commissioner of Finance

Sec. 1. Commissioner of finance; bureau chiefs; appointment; duties; employees; salaries. 1931, c. 216, Art. I, §§ 1, 2, 3, 4, 5. 1937, c. 221. 1939, c. 299. 1943, c. 320. The department of finance, as heretofore established, shall exercise such powers and perform such duties as are set forth in this chapter. The head of the department shall be the commissioner of finance who shall be appointed by the governor, with the advice and consent of the council, to serve for a term of 3 years or during the pleasure of the governor and council. Any vacancy in the said office shall be filled by appointment for a like term in the same manner as hereinbefore provided. The commissioner may employ such

bureau chiefs as may be necessary, with the approval of the governor and council. The bureau chiefs shall be under the immediate supervision, direction, and control of the commissioner, and shall perform such duties as he may prescribe, except as otherwise provided by law. The salaries of the commissioner and his bureau chiefs shall be fixed by the governor and council. The commissioner may also employ such deputies, assistants, and employees as may be necessary, subject to the provisions of the personnel law.

In the event of a vacancy in the office of the commissioner because of death, resignation, removal, or other cause, the various bureau chiefs, deputies, and assistants shall continue in office and perform such duties as have been prescribed for or assigned to them, until said vacancy has been filled by the appointment and qualification of a new commissioner.

See § 30, re charging off of uncollectable accounts; § 36, re purchase of supplies; c. 16, § 4, re audit of accounts.

Bonds of State Officials and Employees

Sec. 2. Bonds required of state officials and employees; exception. R. S. c. 2, § 57; c. 125, § 56. 1931, c. 216, Art. I, § 5. 1943, c. 320, §§ 1, 4. The state auditor and commissioner of finance shall, as of March 31 of each year, prepare a list of all state officials and employees, including the treasurers of the examining boards, who handle, have the custody of, or are in any way responsible for the collection, receipt, disbursement, safekeeping, or transfer of either money, negotiable instruments, securities, or other property, either real or personal, belonging to the state, or in which the state has a pecuniary interest, or for which the state is legally liable, or which is held by the state in any capacity whether the state is liable therefor or not. From said list they shall designate those state officials and employees who, in their opinion, should be bonded and the amount of the bond which should be required from each such official and employee. They shall further from time to time designate bonds which should be increased or decreased, and shall designate what if any additional bond should be required either from an official or employee who changes his employment within state departments, or from a newly appointed or elected official or employee. All such designations shall be submitted to the governor for his approval, and within 10 days after the granting of such approval each such designated official or employee shall give a bond, as hereinafter provided, executed by a surety company authorized to do business within the state. The state auditor and commissioner of finance shall select the type of bond, in form prescribed by the insurance commissioner, which shall be given. All said bonds shall be filed with the state auditor for safekeeping.

The treasurer of state, his deputy, and employees shall not be required to give bond under the provisions of this section.

See Const. of Me. Art. V, Part 4, § 2; c. 15, §§ 1-5, re bond of treasurer of state.

Sec. 3. Premiums. R. S. c. 125, § 56. 1943, c. 320, § 2. The premiums necessarily incurred and due and payable on account of any bond required and given by any official or employee of any state department shall be paid out of the state treasury and the amount thereof charged to the appropriation of the particular department in which such official or employee is engaged.

Sec. 4. Form of bonds. 1943, c. 320, § 3. The insurance commissioner shall from time to time prescribe the forms of bonds, and no bonds given by officials

or employees of the state shall be accepted until they comply with the prescribed forms. The insurance commissioner shall prescribe a form of rider, or change notice, to provide for increases and decreases of said bonds, and he is expressly authorized to execute and accept for the state said riders, or change notices, specifying the effective date of such increase or decrease in the bond amounts. The insurance commissioner is expressly authorized to accept a cancellation notice from the surety on any bond, canceling said bond in full or as to any individual, provided the surety gives written notice to said insurance commissioner of such desire and intent, and that said cancellation notice is received by the insurance commissioner at least 30 days before the effective date of such cancellation. The condition of each bond, given by each such official or employee, shall be to faithfully discharge the duties of the office or employment of the principal. The principal and the surety shall not be liable to the state for any default or failure to faithfully discharge the duties of the office or employment by any other principal, or by any person not required to give bond.

See § 2.

Fiscal Year

Sec. 5. Uniform fiscal year. R. S. c. 1, § 11. 1931, c. 216, Art. II, § 13. The fiscal year of the state government shall hereafter commence on the 1st day of July and end on the 30th day of June of each year. This fiscal year shall be followed in making appropriations and in financial reporting, and shall be uniformly adopted by all departments and agencies in the state government.

Budget Officer and Budget

Sec. 6. Budget officer; appointment; salary. R. S. c. 2, § 108. 1931, c. 216, Art. I, § 4; Art. II, § 1. In connection with the department of finance, the governor with the advice and consent of the council shall appoint a state budget officer who may be the commissioner of finance. He shall receive such compensation as shall be determined by the governor and council.

Sec. 7. Powers and duties relative to budgeting. R. S. c. 2, §§ 108, 109. 1931, c. 216, Art. II, § 2. The department of finance, through the state budget officer, shall have the duty and the authority:

I. To prepare and submit to the governor, biennially, a state budget document in accordance with the provisions outlined in this chapter;

II. To examine and recommend for approval the work program and quarterly allotments of each department or agency of the state government, before the appropriations made for such agency shall become available for expenditure;

III. To examine and recommend for approval any changes made in the work program and quarterly allotments of any department or agency during the fiscal year;

IV. To investigate duplication of work of departments and other agencies of the state government, to study the organization and administration of such departments and agencies, and to formulate plans for better and more effective management;

V. To prepare and report to the governor, or to the legislature, when requested, any financial data or statistics which may be required by them, such as monthly or quarterly estimates of the state's income, and cost figures on the current operations of departments and agencies.

Sec. 8. Scope of the budget. R. S. c. 2, § 113. 1931, c. 216, Art. II, § 3. The budget of the state government shall present a complete financial plan for each fiscal year of the ensuing biennium, which shall set forth all proposed expenditures for the administration, operation, and maintenance of the departments and agencies of the state government; all interest and debt redemption charges during each fiscal year; all expenditures for capital projects to be undertaken and executed during each fiscal year of the biennium. In addition thereto, the budget shall set forth the anticipated revenues of the state government and any other additional means of financing the expenditures proposed for each fiscal year of the biennium.

Sec. 9. Form of the budget document. R. S. c. 2, §§ 111, 113. 1931, c. 216, Art. II, § 4. The budget document, setting forth a financial plan for the state government for each fiscal year of the ensuing biennium, shall be set up in 3 parts, the nature and contents of which shall be as follows:

Part 1 shall consist of a budget message by the governor which shall outline the financial policy of the state government for the ensuing biennium, describing in connection therewith the important features of the financial plan; it shall also embrace a general budget summary setting forth the aggregate figures of the budget in such manner as to show the balanced relations between the total proposed expenditures and the total anticipated revenues, together with the other means of financing the budget for each fiscal year of the ensuing biennium, contrasted with the corresponding figures for the last completed fiscal year and the fiscal year in progress. The general budget summary shall be supported by explanatory schedules or statements, classifying the expenditures contained therein by organization units, objects, and funds, and the income by organization units, sources, and funds.

Part 2 shall embrace the detailed budget estimates both of expenditures and revenues as provided in this chapter; it shall also include statements of the bonded indebtedness of the state government, showing the debt redemption requirements, the debt authorized and unissued, and the condition of the sinking funds; in addition thereto, it shall contain any statements relative to the financial plan which the governor may deem desirable, or which may be required by the legislature.

Part 3 shall embrace complete drafts or summary of the budget bills, that is, the legislative measures required to give legal sanction to the financial plan when adopted by the legislature. These bills shall include an appropriation bill, authorizing by departments and agencies, and by funds, all expenditures of the state government for each fiscal year of the ensuing biennium, and such other bills as may be required to provide the income necessary to finance the budget.

Sec. 10. Budget estimates. R. S. c. 2, § 110. 1931, c. 216, Art. II, § 5. 1943, c. 6, § 1. On or before October 1st of the even-numbered years, all departments and other agencies of the state government and corporations and associations receiving or desiring to receive state funds under the provisions of law shall prepare, on blanks furnished them by the state budget officer, and submit to said officer estimates of their expenditure requirements for each fiscal year of the biennium, compared with the corresponding figures of the last completed fiscal year and the estimated figures for the current fiscal year. The expenditure estimates shall be classified to set forth the data by funds, organization units, character, and objects of expenditure; the organization units may be subclassified by functions and activities, or in any other manner, at the discretion of the state budget officer.

Tentative revenue estimates prepared by the state budget officer on October 1st of the even-numbered years shall be revised by this officer on the following January 1st, for inclusion in the budget. The revenue estimates shall be classified so as to show the receipts by funds, organization units, and sources of income.

Sec. 11. Review and revision of estimates. R. S. c. 2, § 112. 1931, c. 216, Art. II, § 6. 1943, c. 6, § 2. The governor and the governor-elect, with the assistance of the state budget officer, shall review the estimates, altering, revising, increasing, or decreasing the items of said estimates as may be deemed necessary in view of the needs of the various departments and agencies and the total anticipated income of the state government during the ensuing biennium. The state budget officer, at the direction of the governor, shall then prepare a budget document in the form required by the provisions of this chapter; the governor shall transmit such document to the legislature not later than the close of the 2nd week of the regular legislative session.

Sec. 12. Advisory committee on budget. R. S. c. 2, § 111. 1931, c. 216, Art. II, § 9. 1943, c. 6, § 3. There shall be an advisory committee on budget consisting of 3 members, one from each house of the legislature selected by the presiding officer thereof prior to October 1st of the even-numbered years. In each case the selection shall be, if practicable, the senior ranking member of the senate and house respectively of the committee on appropriations and financial affairs, who is to serve as a member of the next succeeding legislature, and these two shall select the 3rd member who shall be a member of the next succeeding legislature and a member of the minority party. The members of the committee shall be paid the necessary expenses incurred in the performance of their duties, and in addition thereto, they shall each receive \$5 per day for the time actually spent while the legislature is not in session. This committee shall meet with the governor, or the governor-elect, when so requested by him, during the preparation of the budget, and shall advise with the governor or the governor-elect on any and all matters pertaining to the financial policy of the state government. The governor, however, shall be fully responsible for all budgetary recommendations made to the legislature.

Sec. 13. Form of appropriation bill. R. S. c. 2, § 113. 1931, c. 216, Art. II, § 7. The appropriation bill provided for in section 9 shall be drawn in such form as to authorize only lump sum appropriations to meet the expenditure needs of the various departments and agencies of the state government for each fiscal year of the biennium. For the operation and maintenance expenses of each department or agency, there shall be a single appropriation which shall be allotted before becoming available for expenditure as provided for in section 14. Appropriations for the acquisition of property shall be in such detail under each department or agency as the governor shall determine; provided, however, that such appropriation shall not be segregated in greater detail than the major classes or projects for which they are expendable during each fiscal year of the biennium.

Sec. 14. Work program and allotments. 1931, c. 216, Art. II, § 8. Not later than June 1st of each year, the governor shall require the head of each department and agency of the state government to submit to the department of finance a work program for the ensuing fiscal year, such program shall include all appropriations made available to said department or agency for its operation and maintenance and for the acquisition of property, and it shall show the requested allotments of said appropriations by quarters for the entire fiscal year.

The governor and council, with the assistance of the state budget officer, shall review the requested allotments with respect to the work program of each department or agency and shall, if they deem it necessary, revise, alter, or change such allotments before approving the same. The aggregate of such allotments shall not exceed the total appropriations made available to said department or agency for the fiscal year in question. The state budget officer shall transmit a copy of the allotments as approved by the governor and council to the head of the department or agency concerned, and also a copy to the state controller. The state controller shall thereupon authorize all expenditures to be made from the appropriations on the basis of such allotments and not otherwise.

The head of any department or agency of the state government, whenever he shall deem it necessary by reason of changed conditions, may revise the work program of his department or agency at the beginning of any quarter during the fiscal year, and submit such revised program to the department of finance with his request for a revision of the allotments of the remaining quarters of that fiscal year. If, upon such reexamination of the work program, the state budget officer, with the approval of the governor and council, shall decide to grant the request for the revision of the allotments, the same procedure, so far as it relates to review, approval, and control shall be followed as in the making of the original allotments.

In order to provide some degree of flexibility to meet emergencies arising during each fiscal year in the expenditures for operation and maintenance of the various departments and agencies of the state government, the state budget officer, with the approval of the governor and council, may require the head of each department or agency, in making the original allotments, to set aside a reserve, the exact amount of which shall be determined by the state budget officer, of the total amount appropriated to the department or agency. At any time during the fiscal year this reserve or any portion of it may be returned to the appropriation to which it belongs and may be added to any one or more of the allotments, provided the state budget officer shall deem such action necessary and shall notify the state controller of such action; any unused portion thereof shall remain at the end of the fiscal year as an unexpended balance of appropriation. Any unexpended and unencumbered balance of allotments at the end of each quarter shall be credited to the reserve set up for the fiscal year.

Organization of the Department of Finance

Sec. 15. Organization of department. 1931, c. 216, Art. II, § 1. The department of finance shall be organized into 3 bureaus, as follows:

I. Bureau of accounts and control, the head of which shall be the state controller;

See § 1, re appointment, salary, etc.; §§ 16-34, re powers and duties.

II. Bureau of purchases, the head of which shall be the state purchasing agent;

See § 1, re appointment, salary, etc.; §§ 35-53, re powers and duties.

III. Bureau of taxation, the head of which shall be the state tax assessor.

See § 1, re appointment, salary, etc.; §§ 54-221, re powers and duties.

Bureau of Accounts and Control

Sec. 16. Powers and duties relating to accounting. 1931, c. 216, Art. II, §§ 10, 12. The department of finance, through the bureau of accounts and control, shall have authority:

I. To maintain a system of general accounts embracing all the financial transactions of the state government;

II. To examine and approve all contracts, orders, and other documents, the purpose of which is to incur financial obligations against the state government, to ascertain that moneys have been duly appropriated and allotted to meet such obligations and will be available when such obligations will become due and payable;

III. To audit and approve all bills, invoices, accounts, pay-rolls, and all other evidences of claims, demands, or charges against the state government; and to determine the regularity, legality, and correctness of such claims, demands, or charges;

IV. To inquire into and cause an inspection to be made of articles and materials furnished, or work and labor performed, for the purpose of ascertaining that the prices, quality, and amount of such articles or materials are fair, just, and reasonable, and that all the requirements expressed and implied pertaining thereto have been complied with, and to reject or disallow any excess;

V. To make monthly reports on all receipts and expenditures of the state government to the governor and the state auditor; to make monthly reports on appropriations, allotments, encumbrances, and authorized payments to the governor, to the state auditor, and to the head of the department or agency directly concerned;

VI. To prescribe the forms of receipts, vouchers, bills, or claims to be filed by any and all departments and agencies with the department of finance;

VII. To prescribe such subsidiary accounts, including cost accounts, for the various departments and agencies as may be desired for purposes of administration, supervision, and financial control;

VIII. To examine the accounts of every department or agency receiving appropriations from the state;

IX. To report to the attorney-general for such action, civil or criminal, as he may deem necessary, all facts showing illegality in the expenditure of public moneys or the misappropriation of public properties;

X. (1931, c. 216, Art. II, § 12) To exercise the rights, powers, and duties conferred and imposed by law upon the state auditor which were effective on November 9, 1931 in so far as these relate to financial administration and general accounting control of the state government, involving the keeping of general accounts, the auditing before payment of all bills or vouchers, and the authorizing of all claims against the state for which appropriations have been made. The state controller shall set up and maintain special accounts in the general fund with respect to moneys received for designated purposes from the federal government.

See § 32, re reports of federal funds; c. 11, §§ 14, 15, re permitting state to receive federal grants; c. 37, § 170, re treasurer of state custodian of federal funds received for vocational education; 1943, c. 224, authority to withhold Victory Tax; c. 22, § 15, re appropriations for state pauper assistance, old age assistance, aid to the blind, and aid to dependent children to be carrying accounts; c. 15, § 10, re state money in depositories.

Sec. 17. Records open to public inspection. R. S. c. 2, § 105. 1931, c. 216. The books, accounts, vouchers, affidavits, and other records and papers in the office of the state controller relating to the public business shall be open for inspection to the citizens of this state at all reasonable times and for all proper purposes.

Sec. 18. Handling appropriations; petty cash funds. R. S. c. 2, § 126. 1931, c. 216, Art. II, § 11. No appropriations to any state department or agency shall become available for expenditure until allotted upon the basis of the work program, duly approved by the governor and council as provided in this chapter.

A petty cash fund shall be allowed by the commissioner of finance to each state department or agency, which shall in his opinion require such a fund, and said fund so established shall be reimbursed only upon statements and bills audited by the state controller.

See § 14.

Sec. 19. Reproduction of certain documents authorized. 1941, c. 16, § 2. 1943, c. 73. The state controller is authorized to cause to be made, at the expense of the state, by any photostatic, photographic, microfilm, or other mechanical process which produces a clear, accurate, and permanent copy or reproduction thereof, copies of any part or all of the state canceled checks, vouchers, and other documents on file in the bureau of accounts and control.

See c. 100, §§ 144, 145, re processes for making copies of public records, etc.; c. 100, § 146, re admissibility in evidence.

Sec. 20. Departments to exchange information and records. R. S. c. 2, § 119. 1931, c. 216. No state department, commission, board, or institution shall be charged for information or copies of records furnished by another state department, commission, board, or institution.

Sec. 21. Appropriations for construction of buildings, highways, and bridges to be carried forward to next fiscal year; unexpended balances to revert. R. S. c. 2, § 118. All appropriations by the legislature for the construction of buildings, highways, and bridges shall constitute continuous carrying accounts for the purposes designated by the legislature in such appropriations and the state controller is authorized to carry forward all such appropriations to the succeeding fiscal year; provided, however, that the construction shall have been begun by the letting of a contract or contracts or by actually starting the work during the year for which the appropriation was made, and provided further that any balance remaining after the completion of the object of the appropriations shall revert to the general fund in the state treasury or to the fund from which it was apportioned under existing provisions of law.

Sec. 22. State funds eliminated. 1931, c. 216, Art. II, § 12. The commissioner of finance, with the approval of the governor and council, shall have authority, unless the legislature shall otherwise direct, to discontinue any or all of the special expendable state funds with the exception of the sinking funds and trust funds, and to merge the balance or balances of such fund or funds so discontinued with the general fund.

See c. 15, § 21, re "State Trust Fund"; c. 20, § 105, re general highway fund.

Sec. 23. Unappropriated surplus; how made up; how accumulated balance may be used. R. S. c. 2, § 101. 1943, c. 271. The state controller shall open on the books of the state an account to be known as "Unappropriated Surplus." The balances of all revenue and appropriation accounts not otherwise provided for by law, together with any other necessary adjustments of balances previously closed to unappropriated surplus account, shall be closed to this account at the end of each fiscal year. Any amounts authorized for allocation by the governor and council or representing permanent working capital advances shall be removed from unappropriated surplus and set up in separate accounts so that the balance

of the unappropriated surplus account shall be the amount of free and unencumbered surplus according to generally accepted accounting principles.

Sec. 24. Allocations to and from the state contingent account. R. S. c. 2, § 103. 1943, c. 271. The governor, with the advice and consent of the council, may allocate from the state contingent account amounts not to exceed in total the sum of \$300,000 in any fiscal year. Such allocations may be made to meet any expense necessarily incurred under any requirement of law, or for the maintenance of government within the scope existing at the time of the previous session of the legislature or contemplated by laws enacted thereat, or to pay bills arising out of some emergency requiring an expenditure of money not provided by the legislature. The governor and council shall determine the necessity for such allocations, and all such allocations shall be supported by a statement of facts setting forth the necessity for the allocations. At the close of each fiscal year there shall be transferred from unappropriated surplus an amount sufficient to restore the state contingent account to \$300,000.

Sec. 25. Report of state controller relating to the contingent account and unappropriated surplus account. R. S. c. 2, § 104. 1943, c. 271. The state controller shall include in his annual report at the close of each fiscal year, a statement showing all transfers made from the state contingent account for the prior year, and shall also submit a statement of the unappropriated surplus account, reflecting all changes in this account during the fiscal year, and the balance of this account at the close of the fiscal period.

See § 31; 1943, c. 353, re Maine Post War Public Works Reserve; c. 11, § 2, re governor's expense account.

Sec. 26. No agent or officer of state to exceed appropriations; penalty. R. S. c. 2, § 128. No agent or officer of the state, or of any department thereof, whose duty it is to expend money under an appropriation by the legislature, shall contract any bill or incur any obligation on behalf of the state in excess of the appropriation, and whoever exceeds in his expenditure said appropriation, shall not have any claim for reimbursement. Any such agent or officer who shall violate the provisions of this section shall upon conviction be fined a sum equal to such excess of appropriation by him expended, and imprisoned in the discretion of the court. All prosecutions under this section shall be by indictment and the fines inure to the state.

Sec. 27. Disbursements. 1931, c. 216, Art. II, § 16. 1939, c. 316. No money shall be drawn from the state treasury except in accordance with appropriations duly authorized by law. Every disbursement from the treasury shall be upon the authorization of the state controller, which authorization shall be in the form of a warrant, drawn in favor of the payee, and said warrant shall, upon being countersigned by the treasurer of state and delivered to the payee, become a check against a designated bank or trust company acting as a depository of the state government.

All state officers and employees, except temporary and seasonal employees, shall be paid their salaries or wages fortnightly, the dates of payment to be determined by the state controller; provided, however, that payment may be made once in each calendar month to such state officers and employees as consent to such time of payment. Temporary and seasonal employees of the state shall be paid at such times as the commissioner of finance shall specify.

c. 15, § 27, re fees, expenses, etc., of boards and commissions.

Automobile Travel by State Employees

Sec. 28. Payment per mile for use of privately owned automobiles, regulated. 1939, c. 220, § 1. 1941, c. 92; c. 325, § 4. The state shall pay for the use of privately owned automobiles for travel by employees of the state in the business of the state not more than 5c per mile for the first 3,000 miles actually travelled by such employees on such business in any 1 fiscal year, and not more than 4c for each mile exceeding 3,000 miles; provided, however, that the state shall pay inspectors of seed potatoes 5c for every mile so travelled.

See 1943, c. 311, §§ 1, 2, re rates for auto travel to July 9, 1945.

Sec. 29. Discontinuance of state owned cars, exceptions. 1939, c. 220, § 2. 1941, c. 325, § 4. The state shall provide no automobiles for travel of employees; provided, however, that this section shall not apply to the governor, the state police, department of inland fisheries and game, nor to such heads of departments or members of commissions as the governor and council may from time to time designate. Nothing herein contained shall be deemed to preclude the maintenance of a reasonable and proper number of state owned cars to be operated from the state garage, and these cars may be assigned on a temporary basis to employees of the state upon application to and on approval by the state purchasing agent, notwithstanding the provisions of the preceding sentence.

Disposition of Uncollectable Accounts

Sec. 30. Charging off of accounts due the state. 1941, c. 13. 1943, c. 49. The controller shall charge off the books of account of the state or of any department, institution, or agency thereof, such accounts receivable, including all taxes for the assessment or collection of which the state is responsible, and all impounded bank accounts, as shall be certified to him as impractical of realization by or for said state, department, institution, or agency; said certification to be by the commissioner of finance and state auditor and subject to the approval of the governor; provided, however, that in each such case, the charging off of such accounts shall be recommended by the head of the department, institution, or agency originally responsible for such account.

Annual Financial Statement

Sec. 31. Controller to prepare annual financial statement; newspaper publication. 1939, c. 292, §§ 1, 2, 3. 1943, c. 172, §§ 1, 2, 3. The state controller shall prepare as soon as possible after the close of each fiscal year an explanatory statement in pamphlet form of the financial condition of the state together with such supporting figures for such fiscal year as may be necessary to furnish a comprehensive and concise report.

The controller shall publish a condensed summary of such report on or before September 5 of each year in all daily newspapers and in all weekly newspapers published in the state which are entered as second-class matter with the United States post-office department and which are published regularly at least 52 times a year.. Such condensed summary shall not require newspaper space in excess of a 6-column page or its equivalent.

See § 25.

Financial Reports of Federal Funds

Sec. 32. Reports re federal funds required; penalty. 1939, c. 275, §§ 1, 2. The governor and every state officer and department head who shall be intrusted

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with the expenditure of federal funds in this state shall file in the office of the state controller a detailed report of all disbursements, including the purposes for which such disbursements were made and the persons to whom any money was paid, supported by proper vouchers, said report to be filed from time to time as such disbursements are made and the final report to be filed within 30 days after the entire fund has been disbursed.

Any state officer excepting the governor, whether elected or appointed, and any department head who shall fail or neglect to file such report as herein provided shall be subject to removal from office by authority of the governor, and if the governor of the state shall fail or neglect to file such report, he shall be subject to impeachment in the manner provided in Article IX, section 5, of the constitution of the state of Maine.

See § 16, sub-§ x.

Fees of Public Officers

Sec. 33. Fees not provided for. R. S. c. 126, § 24. In cases not expressly provided for, the fees of all public officers, for any official service, shall be at the same rate as are prescribed by law for like services.

Sec. 34. Account of items in writing may be required. R. S. c. 126, § 26. Every officer or other person upon receiving any fees provided for by law, if required by the person paying them, shall make a particular account thereof in writing, specifying for what they accrued, or he forfeits to such person treble the sum paid, to be recovered in an action of debt.

See c. 98, § 11, re number of words to a written page.

Bureau of Purchases

Sec. 35. Powers and duties pertaining to purchasing. 1931, c. 216, Art. II, § 18. The department of finance, through the bureau of purchases, shall have authority:

I. To purchase all supplies, materials, and equipment required by the state government or by any department or agency thereof subject to the provisions set forth in this chapter;

II. To establish and enforce standard specifications which shall apply to supplies, materials, and equipment purchased for the use of the state government;

III. To purchase or contract for all telephone, telegraph, postal, or electric light and power service for the state departments and agencies;

IV. To lease all grounds, buildings, office or other space required by the state departments or agencies;

V. To have general care and supervision of all central storerooms operated by the state government;

VI. To transfer to or between state departments and agencies, or sell supplies, materials, and equipment which are surplus, obsolete, or unused;

VII. To make an inventory of all removable equipment belonging to the state government and keep it current;

VIII. To list all real estate belonging to or under lease to the state government, showing agency controlling, location, metes and bounds, cost, and when acquired; and

IX. To establish and conduct a central mailing room for the state departments and agencies at the capitol.

Sec. 36. Scope of purchasing authority. R. S. c. 2, § 129. 1931, c. 216, Art. II, § 19. The terms "supplies", "materials", and "equipment", as used in this chapter shall be construed to mean any and all articles or things which shall hereafter be used by or furnished to the state or to any department or agency thereof, and also any and all printing, binding, publication of laws, journals, and reports. Except as provided in this chapter, any or all supplies, materials, and equipment needed by one or more departments or agencies shall be directly purchased or contracted for by the state purchasing agent, as may be determined from time to time by rules adopted pursuant to this chapter, which rules the department of finance is authorized and empowered to make, it being the intent and purpose of this statute that the state purchasing agent shall purchase collectively all supplies for the state or for any department or agency thereof in the manner that will best secure the greatest possible economy consistent with the grade or quality of supplies best adapted for the purposes for which they are needed.

The trustees of the University of Maine, and of the state normal schools, and the directors of the Port of Portland Authority may authorize the department of finance to act for them in any purchases.

See P. & S. L. 1941, c. 5, re Port of Portland Authority.

Sec. 37. Institution supplies to be bid for separately. 1933, c. 124. The state purchasing agent, in requesting bids for institutional supplies, shall list the articles on which bids are requested under the names of the institutions for which they are desired. Bids shall be made on any or all of the articles listed, each bid being made for the supply of a specific article or articles to the particular institution without reference to those otherwise listed.

Sec. 38. Open market and other purchases. 1931, c. 216, Art. II, § 20. 1941, c. 14, § 7. The state purchasing agent may authorize, in writing, an officer of the state or any department or agency thereof to purchase in the open market and without requisition or estimate, specific supplies, materials, and equipment for immediate delivery to meet exigencies arising from unforeseen causes, including delays by contractors, delays in transportation, and unanticipated volume of work.

Sec. 39. Standardization committee. 1931, c. 216, Art. II, § 21. A standardization committee, as heretofore established, shall consist of the governor, or his representative; the chairman of the highway commission, or his representative; the commissioner of health and welfare, or his representative; the commissioner of education, or his representative; and the state purchasing agent. The members of this committee shall serve without additional compensation.

It shall be the duty of the standardization committee to advise the state purchasing agent and the commissioner of finance in the formulation and modification of the rules and regulations which shall prescribe the purchasing policy of the state, and to assist in the formulation, adoption, and modification of standard specifications which shall apply to state purchases.

Sec. 40. Standard specifications. 1931, c. 216, Art. II, § 22. In the formulation, adoption, and modification of any standard specification, the state purchasing agent shall seek the advice, assistance, and cooperation of the state departments or agencies concerned, to ascertain their precise requirements. Each specification adopted for any commodity shall, in so far as possible, satisfy the requirements of the majority of the state agencies which use the same. After its adoption by the state purchasing agent, with the approval of the commissioner

of finance, each standard specification shall, until revised or rescinded, apply alike in terms and effect, to every future purchase of a commodity described in such specifications; provided, however, that the state purchasing agent, with the approval of the commissioner of finance, may exempt any department or agency of the state government from use of the commodity described in such specification.

Sec. 41. Rules and regulations. 1931, c. 216, Art. II, § 23. The state purchasing agent, with the approval of the commissioner of finance, may adopt, modify, or abrogate rules and regulations for the following purposes:

I. Authorizing any state department or agency to purchase directly certain specified supplies, materials, and equipment, limiting their powers in relation thereto, and describing the manner in which purchases shall be made;

II. Prescribing the manner in which the supplies, materials, and equipment shall be purchased, delivered, sorted, and distributed;

III. Requiring monthly reports by state departments or agencies of stocks of supplies, materials, and equipment on hand and prescribing the form of such reports;

IV. Prescribing the dates for making requisitions and estimates, the periods for which they are to be made, the form thereof, and the manner of authentication;

V. Prescribing the manner of inspecting all deliveries of supplies, materials, and equipment, and making chemical and physical tests of samples submitted with bids and samples from deliveries;

VI. Providing for transfer of supplies, materials, and equipment which are surplus from one state department or agency to another which may need them, and for the disposal by private and public sale of supplies, materials, and equipment which are obsolete and unusable;

VII. Prescribing the amount of deposit or bond to be submitted with a bid on a contract and the amount of bond to be given for the faithful performance of a contract;

VIII. Providing for such other matters as may be necessary to give effect to the foregoing rules and to the provisions of this chapter.

Sec. 42. Awards and contracts. 1931, c. 216, Art. II, § 24. Except as otherwise provided by law, orders awarded or contracts made by the state purchasing agent or by any department or agency shall be awarded to the lowest responsible bidder, taking into consideration the qualities of the articles to be supplied, their conformity with the specifications, the purposes for which they are required, and the date of delivery. Bids shall be received only in accordance with such standard specifications as may be adopted by the state purchasing agent, with the approval of the commissioner of finance, and in the manner provided in this chapter. Any or all bids may be rejected.

Each bid, with the name of the bidder, shall be entered on a record, and each record with the successful bid indicated shall, after the award or letting of the contract, be open to public inspection. A bond for the proper performance of each contract may be required in the discretion of the state purchasing agent, with the approval of the commissioner of finance.

Sec. 43. Competitive bids for building contracts. R. S. c. 2, § 32. All contracts for construction or repairs of buildings at the expense of the state involv-

ing a total cost of more than \$3,000 shall be awarded by a system of competitive bids in accordance with the provisions of the following section and such other conditions and restrictions as the governor and council may from time to time prescribe.

Sec. 44. Advertisements for sealed proposals; bond. R. S. c. 2, § 33. The trustees, commissioners, or other persons in charge of such construction shall advertise for sealed proposals not less than 2 weeks in such papers as the governor and council may direct; the last advertisement shall be at least 1 week before the time named therein for the closing of such bids. Sealed proposals submitted in accordance with such advertisement shall be addressed to the trustees, commissioners, or other persons having the construction in charge and shall remain sealed until opened in the presence of a committee of the governor's council at such time as the governor and council may direct. No contract shall be awarded unless the faithful performance thereof shall be secured by a bond in the penal sum of not less than 20% of the amount of the contract, payable to the state, and deposited with the treasurer of state.

Sec. 45. Questionnaire as pre-bid qualification. 1931, c. 159, § 1. In order to facilitate the work of any public official, it shall be lawful for said official to require from any person proposing to bid on public work duly advertised a standard form of questionnaire and financial statement, containing a complete statement of the person's financial ability and experience in performing public work, before furnishing such person with plans and specifications for the proposed public work advertised.

Sec. 46. Procedure if answers are unsatisfactory. 1931, c. 159, § 2. Whenever the public official is not satisfied with the sufficiency of the answers contained in such standard questionnaire and financial statement of such persons, he may refuse to furnish such persons with plans and specifications on public work duly advertised, and the bid of any person to whom plans and specifications have not been issued may be disregarded.

Sec. 47. Procedure of contractor. 1931, c. 159, § 3. Any contractor, after being notified of his classification by the public official and being dissatisfied therewith, may request a hearing before the public official and present such further evidence with respect to his financial responsibility, plant and equipment, or experience as might tend to justify in his opinion a higher classification. After hearing the additional evidence the public official may in his discretion change the classification of the contractor.

Sec. 48. Penalty. 1931, c. 159, § 4. Any contractor who makes or causes to be made any incomplete, false, or fraudulent statement in the application required to be made by section 45 shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than \$100, nor more than \$1,000; or in the case of an individual or the officer or employee charged with the duty of making such application for a person, firm, copartnership, association, or corporation, by imprisonment for not more than 6 months, or by both such fine and imprisonment.

Sec. 49. "Person" defined. 1931, c. 159, § 5. The word "person" as used in sections 45 to 49, inclusive, shall mean and include any individual, copartnership, association, corporation, or joint stock company, their lessees, trustees, or receivers appointed by any court whatsoever.

Sec. 50. Requisitions required. 1931, c. 216, Art. II, § 25. Except as provided in this chapter and in the rules and regulations adopted hereunder, supplies, materials, and equipment shall be purchased by or furnished to the state government or to any department or agency thereof only upon requisition to the state purchasing agent. The agent shall examine each requisition submitted to him by any department or agency and may revise it as to quantity, quality, or estimated cost.

Sec. 51. Maine granite to be considered for construction material for public works and buildings. 1935, c. 103, § 1. Whenever any public work is to be undertaken or repaired by contract by the state, or any county, city, or town, or any public building is to be erected or repaired, not under contract by the state, or any county, city, or town in which concrete may be used, Maine granite shall be set up as an alternative construction material and the officials of the state, county, city, or town shall require alternate bids to be offered, one based on the use of concrete, and the other on the use of granite on all or such part of the building or other project as may be deemed expedient from an engineering standpoint.

Sec. 52. Deliveries. 1931, c. 216, Art. II, § 26. Supplies, materials, and equipment, purchased or contracted for by the state purchasing agent, shall be delivered by him or by the contractor to the department or agency by which or for whom the same are to be used from time to time as required.

Sec. 53. Unlawful purchases. 1931, c. 216, Art. II, § 27. Whenever any department or agency of the state government, required by this chapter and the rules and regulations adopted pursuant thereto applying to the purchase of supplies, materials, or equipment through the state purchasing agent, shall contract for the purchase of such supplies, materials, or equipment contrary to the provisions of this chapter or the rules and regulations made hereunder, such contract shall be void and of no effect. If any such department or agency purchases any supplies, materials, or equipment contrary to the provisions of this chapter or the rules and regulations made hereunder, the head of such department or agency shall be personally liable for the costs thereof, and if such supplies, materials, or equipment are so unlawfully purchased and paid for out of state moneys, the amount thereof may be recovered in the name of the state in an appropriate action instituted therefor.

See c. 23, § 18, re use of out-of-state, prison-made goods; c. 23, §§ 29, 30, re sale of articles made at state prison; c. 74, § 18, re services of professional engineer required on public works; c. 122, § 17, re public officers or officials not to have pecuniary interest in public contracts.

Bureau of Taxation

Sec. 54. State tax assessor; duties. R. S. c. 12, §§ 1, 2, 17. 1931, c. 216, Art. II, §§ 28, 29. 1937, c. 221. The state tax assessor shall have the power to distribute the duties given to the bureau of taxation among such divisions in said bureau as he may deem necessary for economy and efficiency in administration and may add to or eliminate the number of such divisions and may employ such deputies, assistants, and employees as may be necessary, subject to the provisions of the personnel law. He shall have an office in the state house which shall be open for the transaction of business every secular day. Some officer within each division of the bureau shall be designated by the said assessor as director of said division.

See c. 90, §§ 1-11, re emergency municipal finance board; c. 88, § 53, re licenses for public exhibitions; c. 30, § 8, re Farm Lands Loan Commission; c. 88, § 165 et seq., re certificate for sale of oils, etc.; c. 90, § 13, re deorganized towns and plantations.

Sec. 55. State tax assessor to examine method of taxation in other states and incorporate result in report. R. S. c. 12, § 16. 1931, c. 216, Art. II, § 28. The state tax assessor shall investigate and examine into the system and method of taxation of other states, and also make careful and constant inquiry into the practical operation and effect of the laws of this state, in comparison with the laws of other states, with the view of ascertaining wherein the tax laws of this state are defective, inefficient, inoperative, or inequitable. He shall biennially incorporate the result of his investigation and inquiry in his report made prior to each legislative session, and recommend therein such modifications, changes, and additions in the tax laws of this state as may seem advisable or necessary to secure a more just and equitable system of taxation.

Sec. 56. Expenses of convention of town assessors defrayed by bureau of taxation. R. S. c. 12, § 18. 1931, c. 216, Art. II, § 28. 1937, c. 178. 1943, c. 38. The state tax assessor, during any fiscal year, may apply a sum not to exceed \$200 to be taken from the departmental appropriation of the property division, to assist the Maine Municipal Association in defraying the expenses incident to the holding of conventions and meetings of town assessors.

Sec. 57. To report annually to governor and council. R. S. c. 12, § 20. 1931, c. 216, Art. II, § 28; c. 225, § 10. 1943, c. 90. The state tax assessor shall annually, before the 1st day of January, make a report to the governor and council of the proceedings of the bureau of taxation, and shall include therein tabular summaries derived from returns from local assessors, with summaries showing the taxes assessed against corporations, and such statistics and other information concerning revenue and taxation as may be deemed of public interest, and for the years in which the board of equalization shall have equalized the valuation of the state, the report shall include tabular statements of the state valuation by towns.

Sec. 58. Property assessment districts. 1939, c. 280. The state tax assessor may establish property assessment districts not to exceed 6 in number. He may combine two or more counties in order to form such a district, but no county shall be divided between 2 districts. He may rearrange such assessment districts from time to time at his discretion.

Sec. 59. Appointment of supervisors and assistants. 1939, c. 280. The state tax assessor may appoint a supervisor for each of such property assessment districts, and such other assistants as he may deem necessary for the proper discharge of the duties imposed upon him by the provisions of sections 58 to 61, inclusive. When appointed, such supervisors and assistants shall be subject to the provisions of the personnel law. He shall control and direct such supervisors and assistants, prescribe their duties, and fix the compensation of each, but the total compensation for any year shall not exceed the aggregate amount appropriated by the legislature for that purpose. He may transfer supervisors or assistants from their positions to other positions, or abolish or consolidate such positions.

Sec. 60. Expenses. 1939, c. 280. The reasonable and necessary traveling expenses of the state tax assessor and of his employees while actually engaged in the performance of their duties, certified upon vouchers approved by the state tax assessor, shall be paid by the treasurer of state upon warrant of the controller.

Sec. 61. Forms, reports, records. 1939, c. 280. The state tax assessor shall prescribe the form of blanks, reports, abstracts, and other records relating to the

assessment of property for taxation. Assessors and other officers shall use and follow the forms so prescribed and the state tax assessor shall have power to enforce their use.

Sec. 62. Powers of state tax assessor. R. S. c. 12, §§ 2, 3. 1931, c. 216, Art. II, § 28. The state tax assessor, or any agent he may designate, may summon before him and examine on oath any town assessor or other officer, or any officer of any corporation, or any individual whose testimony he shall deem necessary in the proper discharge of his duties, and shall require such witnesses to bring with them for examination any books, records, papers, or documents, belonging to them or in their custody or control, relating to any matter which he may have authority to investigate or determine. The state tax assessor or such agent as he may designate shall have power to administer all oaths required under the provisions of sections 54 to 221, inclusive. In case of failure on the part of any person or persons to comply with any order of the state tax assessor, or on refusal of any witness to testify on any matter regarding which he may lawfully be interrogated before the state tax assessor or his agent, the superior court or any justice thereof may, on application of the attorney-general made at the written request of the state tax assessor, compel obedience by attachment proceedings for contempt as in the case of disobedience of the requirement of a subpoena issued from such court or a refusal to testify therein. Officers who serve summonses or subpoenas and witnesses attending when summoned shall receive like compensation as officers and witnesses in the superior court. He or his agents may hold sessions at any place other than the capitol when deemed necessary in the performance of his duties.

See c. 5, § 64, re lists of residents of unorganized territory, their poll taxes, etc.

Board of Equalization

Sec. 63. Board of equalization. 1931, c. 216, Art. II, § 30. The board of equalization, as heretofore established, shall consist of the state tax assessor as chairman serving without additional salary, and 2 associate members not otherwise connected with the state government or any local government thereof appointed by the governor and council for terms of 4 years. One of the associate members shall be of the minority party. The associate members shall be persons known to possess knowledge of and training in the valuation of property, and shall devote to the duties of their office such time as may be required of them by the chairman. Each associate member shall be paid a per diem, to be fixed by the governor and council, when attending meetings called by the chairman, and shall also receive his actual expenses incurred in the performance of his official duties. The director of the property tax division in the bureau of taxation shall serve as secretary of the board, and he shall maintain all the records and papers of the board, and be in charge of all its clerical work and correspondence.

Sec. 64. Duties of board of equalization. R. S. c. 12, §§ 4, 8. 1931, c. 216, Art. II, §§ 28, 30. The board of equalization shall have the duty of equalizing the state and county taxes among the several towns and unorganized territory. It shall equalize and adjust the assessment list of each town, by adding to or deducting from it such amount as will make it equal to its just value.

See §§ 65, 67, 68, 69, 74, 75, 91, 96.

State Valuation

Sec. 65. State valuation to be filed with secretary of state biennially; appeal; procedure. R. S. c. 12, § 13. 1931, c. 37; c. 216, Art. II, § 16. 1943, c. 144, § 2. A statement of the amount of the assessed valuation for each town, township, and lot or parcel of land in any unorganized township and lot or parcel of land not included in any township, after adjustment as provided by section 64, the aggregate amount for each county, and for the entire state as fixed by the board of equalization, shall be certified by said board and deposited in the office of the secretary of state as soon as completed, and before the 1st day of December preceding the regular sessions of the legislature. The valuation thus determined shall be the basis for the computation and apportionment of the state and county taxes until the next biennial assessment and equalization. If any owner or owners of an unorganized township, or a lot or parcel of land in any unorganized township, or lot or parcel of land not included in any unorganized township, in either case with or without improvements, or right to cut timber and grass from public reserved lots in any township, who has filed the list and answered any and all interrogatories addressed to him under the provisions of section 69, shall deem himself or themselves aggrieved by the assessed valuation certified and deposited as above provided, he or they may appeal therefrom to the superior court for the county within which said lands or interests therein are located. Such appeal shall be entered at the term first occurring not less than 30 days after such statement of assessed valuation shall have been so deposited, and notice thereon shall be ordered by said court in term time or by any justice thereof in vacation; and said appeal shall be tried, heard, and determined by the court without a jury and with the rights provided by law in other civil cases so heard. If upon such appeal it is found that the valuation is excessive, the court hearing the same shall determine the true valuation of said lands or interest therein, and the clerk of said court shall certify its final determination to the board of equalization and to the treasurer of state. The valuation thus determined by the court, instead of the valuation certified and deposited in accordance with the previous provisions of this section, shall be the basis for the computation and apportionment of the state, county, and forestry district taxes until the next biennial assessment and equalization, and the treasurer of state shall in all proceedings relative to the collection of taxes against said lands or interest therein proceed in accordance with the valuation so fixed by the court. In the event that prior to such final decision any owner or owners so appealing shall have paid any tax as fixed by the valuation so appealed from, the controller shall, if said valuation is found excessive, issue his warrant to the treasurer of state for a return of so much of said tax as was based upon the excessive portion of said valuation. Such appeal shall be tried at the term at which the notice is returnable, unless delay shall be granted for good cause, and may be referred by the court in its discretion to a commissioner to hear the parties and to report to the court the facts, or the facts with the evidence, which report shall be prima facie evidence of the facts thereby found. The fees of the commissioner shall be paid in the same manner as those of auditors appointed by the court, and the court may make such order relating to the payment of costs as justice shall require and issue execution therefor. In all such appeals, the state shall be regarded as the appellee; and all notices required by statute, rule, or order of court shall be served upon the chairman of the said board of equalization or upon the attorney-general. Either party may file exceptions to the decisions or rulings of the court on matters of law arising at the trial in the same manner and with the same effect as are allowed in the superior court at a trial without jury. Any and all

liens created by statute on any of said lands or interest therein shall continue until 1 year after final determination of the appeal.

See § 93, re inventory of personal property in unorganized townships not to be included in state valuation.

Sec. 66. Supervision over administration of assessment and taxation laws and over local assessors; notice of meetings; town assessors to attend meetings and answer questions; penalty. R. S. c. 12, § 5. 1931, c. 216, Art. II, § 28. The state tax assessor shall have and exercise general supervision over the administration of the assessment and taxation laws of the state, and over local assessors and all other assessing officers in the performance of their duties, to the end that all property shall be assessed at the just value thereof in compliance with the laws of the state. The state tax assessor, or any agent he may designate, shall visit officially every county in the state at least once each year, and at other times as may be necessary in the performance of his duties, and shall there hold sessions at such times and places as he may deem necessary to inquire into the methods of assessment and taxation and to confer with and give necessary advice and instruction to local assessors as to their duties under the laws of the state, and to secure information to enable him to perform his duties as herein provided. The state tax assessor shall give such public notice of said meetings as he deems proper, and shall give to each board of town assessors in the county in which meetings are to be held a notice by mail of the time and place of such meetings. Each board of town assessors, or some member or members of each of them, shall attend said meeting, having with them the then last lists or books giving the valuation of all taxable property in their respective towns. They shall answer, under oath if required, such questions pertaining to the valuation of the property in their towns as the state tax assessor or such agent may put to them. Said meeting shall be under the general direction of the state tax assessor and governed by such rules of order as said state tax assessor shall make. Any town, whose assessors shall fail to attend said meetings without excuse satisfactory to the state tax assessor, shall be liable to pay the reasonable expenses of the state tax assessor, or of any person appointed by him, incurred in making examination of the lists or books of said town or in getting other evidence pertaining to the valuation of the property in such town. Such expenses shall be reported to the legislature by the state tax assessor and shall be added to the amount of the next state tax levied against such town, or may be recovered in an action of debt against such town in the name of the treasurer of state. Towns shall pay to said town assessors a reasonable compensation and actual expenses incurred in complying with the requirements of this chapter.

See c. 32, § 75, re duties as to taxes in Maine Forestry District.

Sec. 67. If assessors fail to furnish information, board of equalization may report such valuation as it may deem just. R. S. c. 12, § 6. 1931, c. 216, Art. II, § 28. If the assessors of any town or some one of them fail to appear before the state tax assessor or his agent as hereinbefore provided in this chapter, or to transmit to him the lists hereinbefore named within 10 days after the mailing or publication of notice or notices to them to so appear or transmit said lists, the state tax assessor shall so report to the board of equalization and it may in its discretion report the valuation of the estates and property and lists of polls liable to taxation in the town so in default, as it shall deem just and equitable.

Sec. 68. Assessors of towns to annually make return to state tax assessor. R. S. c. 12, § 7. 1931, c. 216, Art. II, § 28; c. 225, § 28. The assessors of each town shall, on or before the 1st day of August, annually, and at such other times

as the state tax assessor may require, make and return on blank lists which shall be seasonably furnished by the said state tax assessor for that purpose, all such information as to the assessment of property and collection of taxes as may be needed in the work of the state tax assessor or the board of equalization, including annually aggregates of polls, the land value, exclusive of buildings and all other improvements, and the valuation of each and every class of property assessed in their respective towns, with the total valuation and percentage of taxation, and itemized lists of property upon which the town has voted to affix a value for taxation purposes.

See c. 80, § 39, re reports of sworn officers not to be verified.

Sec. 69. Forest commissioner to furnish state tax assessor with lists of all lands in unorganized territory; value, when soil and growth are owned by different persons; owners to appear before state tax assessor and render lists. R. S. c. 12, § 9. 1931, c. 216, Art. II, § 28. 1943, c. 144, § 1. The forest commissioner shall prepare and deliver to the state tax assessor full and accurate lists of all townships or parts of townships or lots or parcels of lands in unorganized territory in this state sold and not included in the tax lists, whether conveyed or not, and shall lay before said assessor at his request all information in his possession touching the value and description of lands in unorganized territory; also a statement of all lands on which timber has been sold or a permit to cut timber has been granted by lease or otherwise. All other state officers, when requested shall, in like manner, lay all information in their possession touching said valuation before said assessor. In fixing the valuation of unorganized townships whenever practicable, the lands and other property therein of any owners shall be valued and assessed separately. When the soil of townships or tracts taxed by the state as land in unorganized territory is not owned by the person or persons who own the growth or part of the growth thereon, the board of equalization shall value the soil and such growth separately for purposes of taxation. All owners of lands in unorganized territory or rights of timber and grass on public reserved lots shall, on or before the 1st day of August of each year preceding the regular legislative session of this state, render to the state tax assessor a signed list of all lands in unorganized territory thus owned, either in common or severalty, giving the township, number, range, and county where located; and upon notice in writing any such owner shall either in person or by authorized agent appear before said assessor at such reasonable time and place as he may designate and answer such questions or interrogatories as said assessor may deem necessary in order to obtain a full knowledge of the just value, ownership, and description of said lands. If any owner does not render such list to said assessor on or before said 1st day of August or, after notice, fails or refuses to appear before said assessor and to answer such questions or interrogatories, he is thereby barred of his right of appeal from the assessed valuation of such lands or rights of timber or grass.

See §§ 65, 71; *121 Me. 306; 134 Me. 238.

Sec. 70. To investigate all cases of concealment, and of under valuation; direct proceedings, actions, and prosecutions; order reassessment; appeal. R. S. c. 12, § 10. 1931, c. 216, Art. II, § 28. The state tax assessor shall, at his own instance or on complaint made to him, diligently investigate all cases of concealment of property from taxation, of under valuation, and of failure to assess property liable to taxation. He shall bring to the attention of town assessors all such cases in their respective towns. He shall direct proceedings, actions, and prosecutions to be instituted to enforce all laws relating to the assessment and

taxation of property and to the liability of individuals, public officers, and officers and agents of corporations for failure or negligence to comply with the provisions of the laws governing the assessment or taxation of property, and the attorney-general and county attorneys, upon the written request of the state tax assessor, shall institute such legal proceedings as may be necessary to carry out the provisions of this chapter. The state tax assessor shall have power to order the reassessment of any or all real and personal property, or either, in any town where in his judgment such reassessment is advisable or necessary to the end that all classes of property in such town shall be assessed in compliance with the law. Neglect or failure to comply with such orders on the part of any assessor or other official shall be deemed wilful neglect of duty and he shall be subject to the penalties provided by law in such cases. Provided a satisfactory reassessment is not made by the local assessors, then the state tax assessor may employ assistance from within or without the town where such reassessment is to be made, and said town shall bear all necessary expense incurred. Any person aggrieved because of such reassessment shall have the same right of petition and appeal as from the original assessment.

See § 65, re appeal from original assessment.

Sec. 71. Owners and agents of lands in unorganized territory and of certain lands in towns and plantations to make returns to state tax assessor; on failure, state tax assessor may obtain information and assess expense against lands. R. S. c. 12, §§ 11, 12. 1931, c. 216, Art. II, § 28. The owners or agents of all lands in unorganized territory and in such towns and plantations as the state tax assessor may designate shall return to the state tax assessor, on blanks furnished upon application to said assessor, the amount in board feet of all logs and other timber cut, or if it has been cut into 4-foot lengths, or otherwise, the number of cords of each kind of wood cut from their land the year preceding July 1st of the year in which said return is made. Should any owner or agent whose duty it is to make such return, neglect or refuse to comply with the requirements of this section, the state tax assessor may secure the information as to the amount of such cut by such methods as he deems expedient or advisable, and the expense of securing such information shall be added to the state tax next assessed against the land of such owner or agent, and collected in the same manner as all taxes are collected on lands in unorganized territory.

See § 69; c. 37, § 148, re school tax in unorganized territory.

Sec. 72. State tax assessor may make abatement of taxes and supplemental assessments. R. S. c. 12, § 14. 1931, c. 216, Art. II, § 28. 1943, c. 27. The state tax assessor may, within 3 years from the assessment, if justice requires, make an abatement of any state, county, or forestry district taxes. A list of such abatements and the amount of the same shall be transmitted by the said state tax assessor to the treasurer of state, and such amount or amounts shall be deducted from such taxes.

The state tax assessor may, within 2 years from the assessment, if justice requires, make a supplementary assessment of any tax of which the original assessment is required by law to be made by the state tax assessor. Such supplementary assessment shall be made in the same manner as the original assessment and the taxes so assessed shall be committed and collected accordingly.

See § 30, re charging off of uncollectable taxes.

Sec. 73. May abate tax when property has been doubly taxed. R. S. c. 12, § 15. 1931, c. 216, Art. II, § 28. Whenever it appears to the state tax assessor

that any parcel of property in the state has been doubly taxed in any year, and it appears by the records in the office of the treasurer of state that a moiety of such tax has been paid, the state tax assessor may abate the balance remaining unpaid, and said tax or taxes shall be canceled upon the treasurer's books.

Taxes on Lands in Places not Incorporated

Sec. 74. Lands in places not incorporated may be taxed by the state. R. S. c. 13, § 37. 1931, c. 216, Art. II, § 30. 1943, c. 22. Lands not exempt, and not liable to be assessed in any town, may be taxed by the legislature for a just proportion of all state, county, and forestry district taxes as herein provided for ordering the state, county, and forestry district taxes upon property liable to be assessed in towns. The board of equalization shall make lists thereof, with as many divisions as will secure equitable taxation, conforming as near as convenient to known divisions and separate ownership.

See § 77, re interest on unpaid taxes; §§ 71, 91-96; c. 81, § 3, re buildings on leased land.

Sec. 75. Meaning of letters used in lists of lands in unorganized territory. R. S. c. 13, § 38. 1931, c. 216, Art. II, § 30. In the lists made by the board of equalization, in accordance with the preceding section, for purposes of valuation and assessment, the following initial letters shall be held and construed to mean as follows: The letter "T." when used alone shall be held and construed to mean Township; the letter "R." when used alone, Range; the letter "N." when used alone shall be construed to mean North; "E." East; "S." South; "W." West; the letters "N. W." North West; "N. E." North East; "S. W." South West; "S. E." South East.

The letters "W. E. L. S." West of the East Line of the State; "B. K. P." Bingham's Kennebec Purchase; "B. P. P." Bingham's Penobscot Purchase; "W. B. K. P." West of Bingham's Kennebec Purchase; "N. B. K. P." North of Bingham's Kennebec Purchase; "W. K. R." West of the Kennebec River; "E. K. R." East of the Kennebec River; "E. C. R." East of the Canada Road; "W. C. R." West of the Canada Road; "N. W. P." North of Waldo Patent; "T. S." Titcomb Survey.

See c. 32, § 73, re Maine Forestry District; 119 Me. 315; *121 Me. 306, 318.

Sec. 76. Lands in places not incorporated subject to county taxes. R. S. c. 13, § 39. 1931, c. 216, Art. II, § 16. 1941, c. 139. Lands mentioned in section 74 may be assessed by the county commissioners according to the last state valuation for a due proportion of county taxes. Lists of such taxes shall immediately be certified and transmitted by the county treasurer to the treasurer of state. In the list, each such township and tract shall be sufficiently described, with the date and amount of assessment on each. The treasurer of state shall, in his books, credit the county treasurer for the amount of each such assessment when collected by him and shall certify and pay to said county treasurer the amount of tax and interest so collected on or before the last day of each April, August, and the 15th day of December of the same year, and so much of said tax and interest so collected as may be necessary is appropriated to pay the same to the several county treasurers.

See §§ 91-101; 86 Me. 515.

Sec. 77. Tax notices may be sent by mail to known owners; lists of assessments of unknown owners to be advertised; interest on unpaid taxes. R. S. c. 13, § 40. When the legislature assesses such state tax mentioned in section 74, the treasurer of state shall, within 3 months thereafter, notify in writing the owners

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of such lands so assessed by sending to each by mail at his last known address a statement of such tax containing a brief description of the land assessed and the amount of such tax, together with the amount of the county tax on said lands so certified to him, and the date when payment is required, and shall send like notices of such state, county, and forestry district taxes for the following year within 3 months after 1 year from such assessment. In case the owners of any such lands are unknown, instead of sending the notices by mail he shall cause the lists of such assessments, together with the amounts of county tax on said lands so certified to him, both for the current year, to be advertised for 3 weeks successively in the state paper, and in some newspaper, if any, printed in the county in which the land lies, and shall cause like advertisement of the lists of such state and county taxes for the following year to be made within 3 months after 1 year from such assessment. Said lands are held to the state for payment of such state, county, and forestry district taxes, with interest thereon at the rate of 6% to commence upon the taxes for the year for which such assessment is made at the expiration of 6 months and upon the taxes for the following year at the expiration of 18 months from the date of such assessment.

86 Me. 515; 95 Me. 418; 113 Me. 257; 119 Me. 315.

Sec. 78. Redemption and forfeiture of lands so assessed. R. S. c. 13, § 41. 1931, c. 216, Art. II, § 28. Owners of the lands assessed as provided in section 74 may redeem them by paying to the treasurer of state the taxes with interest thereon within 1 year from the time when such interest commences. Each owner may pay for his interest in any tract, whether in common or not, and upon filing with the state tax assessor a certificate showing the number of acres, and describing the property on which he desires to pay the tax and where the same is located, and paying the amount due, shall receive a certificate from the treasurer of state, discharging the tax on the number of acres or interest upon which such payment is made. Each part or interest of every such township or tract upon which the state or county taxes so advertised are not paid with interest within the time limited in this section for such redemption shall be wholly forfeited to the state, and vest therein free of any claim by any former owner.

See §§ 81, 99; 26 Me. 219; 36 Me. 336; 43 Me. 312; 46 Me. 518; 95 Me. 418; 113 Me. 257; *121 Me. 306, 325.

Sec. 79. Treasurer of state to sell forfeited lands; forest commissioner may bid in behalf of state; disposal of proceeds. R. S. c. 13, § 42. 1931, c. 216, Art. II, § 16. Lands forfeited as provided in section 78 shall annually in November be sold by the treasurer of state at public auction to the highest bidder; but never at a price less than the full amount due thereon for such unpaid state, county, and forestry district taxes, interest, and cost of advertising, except that in case of a sale to the forest commissioner no interest shall be added. Notice of the sale shall be given by publishing a list of the lands to be sold, with the amount of such unpaid taxes, interest, and costs on each parcel and the time and place of sale, in the state paper and in some newspaper, if any, published in the county in which the lands lie, 3 weeks successively within 3 months before the time of sale. No such sale shall be valid against an owner who for the 12 months preceding notice of sale has resided, or maintained a tenant on the land so listed, unless written notice of such sale has been made on such owner or tenant by service, personal or at the last and usual place of abode on such land, by a deputy sheriff of the county where the land lies, said notice to be a copy of so much of the list of the lands to be sold, as describes the land of such owner or tenant, certified by the said treasurer. Such service shall be made within not more than 60 days and not less than 30 days before the time of sale, and the

fees for service and travel shall be the same as in case of service of writs, to be paid by the said treasurer from any moneys not otherwise appropriated. The treasurer shall give to the purchaser a deed of such lands, which shall vest in such purchaser title to the same in fee subject to the right of redemption hereinafter provided. Such deed, before delivery, and all releases and certificates given under the provisions of section 85, shall be recorded in the office of the forest commissioner with appropriate references thereto on the margin of the record of the original deed therein recorded. The forest commissioner shall attend such sales, and may, in behalf of the state, bid for the same the amount of such unpaid taxes and costs. In such case the deed may be made to the inhabitants of the state of Maine and delivered to said forest commissioner; for such deed the forest commissioner shall give his receipt, which shall be a sufficient authority for the state controller to draw his warrant upon the treasurer of state for the amount of such taxes and costs. The proceeds of any tax sales under the provisions of this section shall be credited by the treasurer of state to the several accounts of state, county, and forestry district taxes, interest, and costs of advertising.

See § 83, re payment of county taxes; c. 81, § 145, re stamps affixed to deed part of costs; 60 Me. 270; 68 Me. 317; 86 Me. 515; *95 Me. 418; 113 Me. 258.

Sec. 80. Surplus to be paid to owners. R. S. c. 13, § 43. If any such tract is sold for more than the amount due, the surplus shall be held by the state to be paid to the owner, whose right has been so forfeited, upon proof of ownership produced to the governor and council.

95 Me. 418.

Sec. 81. Owner may pay tax and costs of service before sale, or he may redeem from the purchaser within 1 year after sale; interest to be paid purchaser on redemption. R. S. c. 13, § 44. 1931, c. 216, Art. II, § 16. Any owner may redeem his interest in such lands, by paying to the treasurer of state his part of the sums due, including the cost of serving the notice upon the owner or his tenant, as provided in section 79, at any time before sale; or after sale, by paying or tendering to the purchaser, within a year, his proportion of what the purchaser paid therefor at the sale, with interest at the rate of 20% a year from the time of sale, and \$1 for a release; and the purchaser, on reasonable demand, shall execute such release; and if he refuses or neglects, a bill in equity may be maintained to compel him, with costs and any damages occasioned by such refusal or neglect; or such owner may redeem his interest by paying as aforesaid to the treasurer of state, who, on payment of 50c, shall give a certificate thereof; which certificate, recorded in the registry of deeds in the county or district where the lands lie, shall be a release of such interest, and the title thereto shall revert and be held as if no such sale had been made. The controller may draw his warrant on the treasurer for any money so paid to him, in favor of the purchaser for whom it was paid, or his legal representatives.

See c. 81, § 145, re stamps affixed to deed part of costs; 77 Me. 83; 95 Me. 418.

Sec. 82. Costs; county taxes to be paid over to county treasurer; copy of record of treasurer's doings is made evidence. R. S. c. 13, § 45. The printer's bills for advertising such lands shall be divided in each case by the number of townships and tracts advertised, and each shall be charged with its proportion thereof. All amounts of county taxes and interest so received by the treasurer of state shall be credited by him to the counties to which they belong, and paid to the treasurers thereof. The treasurer of state shall record his doings in every such sale; and a certified copy of such record shall be prima facie evidence, in

any court, of the facts therein set forth. He shall give a deed to the purchaser conveying all the interest of the state in the land sold.

68 Me. 317; 86 Me. 515; 95 Me. 418.

Sec. 83. Owner may pay taxes to county treasurer. R. S. c. 13, § 46. Any owner of lands assessed by the county commissioners for county taxes as provided in section 76 may redeem them by paying to the county treasurer the amount due thereon for such taxes, interest, and charges, and depositing with the treasurer of state the county treasurer's certificate of such payment, at any time before the sale.

Timber and Grass on Public Reserved Lots

Sec. 84. Timber and grass on public reserved lots held for payment of taxes. R. S. c. 13, § 47. The timber and grass on the public reserved lots shall be held to the state for the payment of such state, county, and forestry district taxes as may be lawfully assessed against them after the 26th day of April, 1897, with interest thereon at the rate of 20% a year, to commence upon the taxes for the year in which such assessment is made, at the expiration of 6 months, and upon the taxes for the following year, at the expiration of 18 months from the date of such assessment.

See § 69.

Sec. 85. Owner may pay his proportion of tax; discharge. R. S. c. 13, § 48. Each owner of timber and grass so assessed may pay the part of the tax so assessed proportioned to his interest in any tract, whether in common or not; and shall receive from the treasurer of state a certificate, discharging the tax upon the interest upon which such payment is made.

Sec. 86. Each interest by acreage to be forfeited at annual sale, if tax is not paid. R. S. c. 13, § 49. Each fractional part, or interest represented by acreage, in all such public reserved lots, upon which the state, county, and forestry district taxes and interest are not paid at the time of the annual land sale in November shall be forfeited to the state, the same as in the case of lands sold for taxes; but any owner may redeem his interest in such public reserved lots by tendering to the treasurer of state, within 1 year after the date of the land sale at which said interest was forfeited, his proportional part of all the sums due on such lots, together with interest at 20% a year from the date of the land sale, and \$1 for a release.

See §§ 74-81.

Sec. 87. If land is not redeemed in 1 year, it shall remain forfeited to the state. R. S. c. 13, § 50. If any fractional part or interest represented by acreage in such public reserved lots shall not be redeemed as provided in the preceding section at the expiration of 1 year from the date of the land sale at which such interest was forfeited, then it shall be and remain wholly forfeited to the state, and shall vest in the state free from all claims by any former owner.

Sec. 88. Timber and grass forfeited to be held for the benefit of the townships. R. S. c. 13, § 51. All timber and grass forfeited under the provisions of the preceding section shall be held in trust by the state for the benefit of the townships in which such public reserved lots lie, and shall be under the control of the forest commissioner, as provided in the case of public reserved lots in plantations.

Sec. 89. Forest commissioner to make division of lots partially forfeited. R. S. c. 13, § 52. The forest commissioner shall cause a division to be made, if found necessary from time to time, of the public reserved lots which have been partially forfeited, and shall set off and hold the forfeited portions for the benefit of townships in which they lie, as provided in the preceding section.

Sec. 90. Taxes due from interests forfeited to be deducted from money payable to the township from stumpage. R. S. c. 13, § 53. After such timber and grass shall be wholly forfeited to the state, the treasurer of state shall charge all taxes due from such interests as are forfeited to the several townships in which they lie, to be deducted from such moneys as may be payable to said townships in the future from the sale of stumpage by the forest commissioner.

Duties of Treasurer of State Regarding Taxes

Sec. 91. Treasurer of state may bring action to recover taxes. R. S. c. 14, § 95. The treasurer of state may bring an action of debt in his own name to enforce the lien on real estate created by section 3 of chapter 81, to secure the payment of state and county taxes assessed under sections 74 and 76 upon lands not liable to be assessed in any town. Such action shall be begun after the expiration of 8 months and within 1 year after the last publication of the advertisement named in section 77. The proceedings shall be in accordance with section 94 of chapter 81, except that the preliminary notice and demand for payment of said tax as provided in said section shall not be required.

See c. 81, § 93, re collector or administrator may sue for taxes; c. 81, § 131, re municipal officers may direct suit for taxes.

Sec. 92. Taxes on lands in unorganized townships, collected by treasurer of state in action of debt. R. S. c. 14, § 96. In addition to the methods of collecting state, county, and forestry district taxes provided by law, owners of lands in unorganized townships shall be liable to pay such taxes to the treasurer of state upon demand. If such taxes shall not be paid within 30 days after such demand, the treasurer of state may collect the same, with interest as provided by law, by an action of debt in the name of the state. Such action shall be brought in the superior court in the county where such unorganized townships are located, and the attorney-general may begin and prosecute such actions when thereto requested by the treasurer of state. The demand herein provided for shall be sufficient if made by a writing mailed to such land owner or his agent at his usual post-office address. In case such owner resides without the state and has no agent within the state known to the treasurer of state, such demand shall be sufficient if made upon the forest commissioner. Such action shall be brought not less than 30 days after the giving or mailing of the demand herein provided for. The beginning of such action, obtaining execution, and collecting the same shall be deemed a waiver of the forfeiture provided by section 78.

Sec. 93. Inventory of personal property in unorganized township to be returned to state tax assessor. R. S. c. 14, § 97. 1931, c. 216, Art. II, § 28. Each owner or person in charge or control of personal property such as would not be exempt from taxation if it were located in a city or town of this state, and not otherwise subject to taxation under existing laws of the state of Maine, which on the 1st day of April in each year is situated, whether permanently or temporarily, within an unorganized township, shall, on or before the 1st day of May in each year, return to the state tax assessor a complete list of such property upon blanks furnished by said assessor; and such property shall be assessed by said state tax assessor for a just proportion of all state and county taxes; but

none of the property described in this section shall be included in the state valuation as made for unorganized townships.

See §§ 65, 96, re state valuation.

Sec. 94. Proceedings by state tax assessor when inventory is not made. R. S. c. 14, § 98. 1931, c. 216, Art. II, § 28. Should any owner or person having in his charge or control personal property taxable by said state tax assessor, as provided in section 93, neglect or refuse to comply with the requirements of sections 93 to 96, inclusive, the state tax assessor may secure the necessary information by such methods as he deems advisable, and the necessary expense incurred in securing such information shall be added to the tax assessed against the property of such owner or person and paid to the treasurer of state with the tax.

Sec. 95. Tax to be paid to treasurer of state on or before October 1st, to be turned over to counties; proceedings when taxpayer is delinquent. R. S. c. 14, § 99. 1931, c. 216, Art. II, § 16. Taxes levied under the provisions of section 93 shall be paid to the treasurer of state on or before October 1st of each year, and the treasurer of state shall at once credit the county treasurer with the amount of county tax so received, and this amount, plus interest after October 1st, shall be paid by the treasurer of state to the several county treasurers within 30 days from receipt thereof. A lien is created on all personal property for such taxes and expenses incurred in accordance with the provisions of section 94, and such property may be sold for the payment of such taxes and expenses at any time after October 1st. When the time for the payment of the tax to the treasurer of state has expired, and it is unpaid, the treasurer of state shall give notice thereof to the delinquent property owner, and unless such tax shall be paid within 60 days, the treasurer of state may issue his warrant to the sheriff of the county, requiring him to levy by distress and sale upon the personal property of said property owner, and the sheriff or his deputy shall execute such warrants, but any balance remaining after deducting taxes and necessary additions made in accordance with the provisions of sections 93 to 96, inclusive, shall be returned to the owner or person in possession of such property.

Sec. 96. Tax-lists to be certified. R. S. c. 14, § 100. 1931, c. 216, Art. II, § 28. All lists of property returned to the state tax assessor shall be certified before a justice of the peace, or in such manner as may be determined from time to time by the said state tax assessor.

Sec. 97. Treasurer of state to send warrants for assessment on towns of state tax. R. S. c. 13, § 65. When a state tax is imposed and required to be assessed by the proper officers of towns, the treasurer of state shall send such warrants as he is, from time to time, ordered to issue for the assessment thereof to the assessors, requiring them forthwith to assess the sum apportioned to their town or place, and to commit their assessment to the constable or collector for collection.

See § 98, re warrants and executions against delinquent towns.

Sec. 98. Treasurer to issue warrants for taxes. R. S. c. 2, § 90. The treasurer of state shall issue warrants or executions against delinquent towns, assessors, constables, and collectors to enforce the collection and payment of state taxes in cases prescribed in sections 91 to 96, inclusive, and in chapter 81.

See c. 32, § 76, re tax notices; c. 81, § 30, re warrants for state tax.

Sec. 99. Limitation of action to recover lands in unorganized territory sold and deeded for non-payment of taxes. R. S. c. 13, § 62. When the state has taxed lands in unorganized territory, and the treasurer of state has conveyed it,

or part of it, for non-payment of tax, by deed purporting to convey the interest of the state by forfeiture for such non-payment and his records show that the grantee, his heirs or assigns, has paid the state and county taxes thereon, or on his acres or interest therein as stated in the deed, continuously for the 20 years subsequent to such deed; and when a person claims under a recorded deed describing land in unorganized territory taxed by the state, and the record of the treasurer of state shows that he has, by himself or by his predecessors under such deed, paid the state and county taxes thereon, or on his acres or interest therein as stated in the deed, continuously for 20 years subsequent to recording such deed; and whenever, in either case, it appears that the person claiming under such a deed, and those under whom he claims, have, during such period, held such exclusive, peaceable, continuous, and adverse possession thereof as comports with the ordinary management of lands in unorganized territory in this state, and it further appears that during such period no former owner, or person claiming under him, has paid any such tax, or any assessment by the county commissioners, or done any other act indicative of ownership, no action shall be maintained by a former owner, or those claiming under him, to recover such land or to avoid such deed, unless commenced within said 20 years. Such payment shall give such grantee or person claiming as aforesaid, his heirs or assigns, a right of entry and seizin in the whole, or such part, in common and undivided, of the whole tract as the deed states, or as the number of acres in the deed is to the number of acres assessed.

See §§ 78, 100, 101; 98 Me. 272; *102 Me. 227; 105 Me. 444.

Sec. 100. Action may be commenced within 10 years, after removal of disability. R. S. c. 13, § 63. If any such former owner, or person claiming under him, during said period of 20 years, or any portion thereof, is a minor, insane, imprisoned, or absent from the United States he may, if otherwise entitled, bring such action at any time within 10 years after such disability is removed, notwithstanding said period of 20 years has expired, and if such person dies during the continuance of the disability, and no determination or judgment has been had on his title or right of action, such action may be brought by his heirs, or other person claiming under him, at any time within 10 years after his death, notwithstanding the 20 years have elapsed.

See § 101; 98 Me. 272.

Sec. 101. §§ 99 and 100 not applicable to certain cases. R. S. c. 13, § 64. The provisions of the 2 preceding sections shall not apply to actions between cotenants, nor to actions pending in court on the 27th day of April, 1895, nor to those commenced before the 1st day of January, 1900.

98 Me. 276.

Taxation of Corporate Franchises

Sec. 102. Taxation and rate. R. S. c. 12, § 21. 1931, c. 225, § 21; c. 242. Every corporation incorporated under the laws of this state, having a fixed capital, except such as are excepted by section 39 of chapter 49, shall pay an annual franchise tax of \$5, provided the authorized capital of said corporation does not exceed \$50,000; of \$10, provided said authorized capital exceeds \$50,000, and does not exceed \$200,000; of \$25, provided said authorized capital exceeds \$200,000, and does not exceed \$500,000; of \$50, provided said authorized capital exceeds \$500,000, and does not exceed \$1,000,000; and the further sum of \$25 for each \$1,000,000, or any part thereof, in excess of \$1,000,000; also on all

shares without par value; of \$5, provided the authorized number thereof does not exceed 250 shares; of \$10, provided said authorized number thereof exceeds 250 shares and does not exceed 1,000 shares; of \$20, provided said authorized number thereof exceeds 1,000 shares and does not exceed 3,000 shares; of \$25, provided said authorized number thereof exceeds 3,000 shares and does not exceed 5,000 shares; of \$50, provided said authorized number thereof exceeds 5,000 shares and does not exceed 10,000 shares; and the further sum of \$25 for each 10,000 shares, or any part thereof, authorized in excess of 10,000 shares.

Sec. 103. Taxes, how assessed and when due and payable. R. S. c. 12, § 22. 1931, c. 216, Art. II, § 28. The state tax assessor shall, on or before the 1st day of July, annually, assess the tax provided by the preceding section upon the authorized capital stock of each of said corporations and shall certify the same to the secretary of state, who shall thereupon notify each of said corporations of the amount of said tax assessed to it, and such tax shall become due and payable from said corporation into the state treasury on the 1st day of September thereafter.

108 Me. 275.

Sec. 104. Tax to be a debt due from corporation. R. S. c. 12, § 23. The tax assessed under the provisions of section 103 shall be a debt due from such corporation to the state, for which an action of debt may be maintained after the same shall have been in arrears for the period of 1 month; such tax shall also be a preferred debt in case of insolvency under the laws of this state, or in any process of liquidation in its courts.

108 Me. 275.

Sec. 105. In case of neglect or refusal to pay, charter liable to forfeiture. R. S. c. 12, § 24. If any corporation liable to taxation under the provisions of section 102 shall for 1 year neglect or refuse to pay to the state any tax or penalty assessed against it hereunder, its charter shall be liable to forfeiture as hereinafter provided.

See §§ 106, 107.

Sec. 106. Proceedings when any company shall have been in arrears 6 months. R. S. c. 12, § 25. The treasurer of state, whenever any tax due under the provisions of the 4 preceding sections from any company shall have remained in arrears for a period of 6 months after the same shall have become payable, shall report the same to the attorney-general, who shall forthwith apply to the supreme judicial court or the superior court in equity in the name of the state, for the forfeiture of the charter of such delinquent corporation, and said court shall order such notice to all parties interested as it may deem proper and shall have jurisdiction in said cause to appoint receivers, issue injunctions, and pass interlocutory decrees and orders according to the usual course of proceedings in equity, and to make such final orders and decrees as the nature of the case may require.

Sec. 107. Annual list to be prepared and published as herein provided. R. S. c. 12, § 26. The secretary of state shall annually prepare a list of all corporations that have failed to pay their annual franchise tax for the preceding year, giving the corporate name, the name of the treasurer last filed in the office of the secretary of state, and the amount of the tax due from each corporation, except those from which by reason of having been duly excused as provided by statute, or dissolved by decree of court, no franchise tax is due for such year, which list shall be published 3 times for 3 consecutive weeks in the month of August in

4 places within the state, namely, Lewiston, Bangor, Portland, and Augusta, in such newspapers in each place as the secretary of state may select. If any corporation so advertised shall fail to pay all franchise taxes due the state for such year, and the expenses of advertising the same, on or before the 1st day of December following, its charter shall be suspended, and such corporation shall have no right to use the same.

See § 108.

Sec. 108. Charter may be revived; data as to suspension of charter to be placed on record and certified. R. S. c. 12, § 27. Any charter suspended under the provisions of the preceding section may be revived by payment of all franchise taxes and expenses of advertising as aforesaid due from the corporation at the time of such payment. Any corporation whose charter shall have become suspended as aforesaid shall continue liable for its yearly franchise tax, but while its charter is so suspended, no notice relating to said franchise tax need be sent to the corporation by any state officer. The data covering the suspension of said charter, to wit: the fact of publication and the dates thereof, and the suspension of said charter by reason of such publication and the failure to pay said overdue franchise tax as herein provided, shall be so entered upon the corporation records of the state and be certified by the secretary of state as evidence of the suspension of the charter of such corporation.

Taxation of Railroad Companies

Sec. 109. Annual returns of railroad companies; contents. R. S. c. 12, § 28. Every railroad company incorporated under the laws of the state or doing business therein shall annually, between the 1st and 15th days of April, return to the secretary of state under oath of its treasurer the amount of the capital stock of the corporation, the number and par value of the shares, and a complete list of its shareholders, with their places of residence and the number of shares belonging to each on said 1st day of April. The returns shall also contain a statement of the whole length of its line, the length of its line within the state, and the assessed value in each town of its stations and other property taxed by municipalities.

66 Me. 491; *73 Me. 530; *74 Me. 382; 123 Me. 52; 129 Me. 264.

Sec. 110. Corporations or persons operating railroads to pay annual excise tax; state to pay cities and towns 1% on stock held therein. R. S. c. 12, § 29. 1931, c. 216, Art. II, § 28. Every corporation, person, or association operating any railroad in the state under lease or otherwise shall pay to the treasurer of state, for the use of the state, an annual excise tax for the privilege of exercising its franchises and the franchises of its leased roads in the state, which, with the tax provided for in section 4 of chapter 81, is in place of all taxes upon such railroad, its property, and stock. There shall be apportioned and paid by the state from the taxes received under this and the 6 following sections, to the several cities and towns in which, on the 1st day of April in each year, is held railroad stock of either such operating or operated roads exempted from other taxation, an amount equal to 1% on the value of such stock on that day, as determined by the state tax assessor; provided, however, that the total amount thus apportioned on account of any railroad shall not exceed the sum received by the state as tax on account of such railroad; and provided further, that there shall not be apportioned on account of any railroad and its several parts, if any, operated by lease or otherwise, a greater part of the whole tax received from such railroad and its

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several parts, than the proportion which the amount of capital stock of such railroad and its several parts owned in this state bears to the whole amount of the capital stock of said railroad and its several parts.

See § 155; 66 Me. 492, 514; *74 Me. 382; 78 Me. 93; 97 Me. 269; *103 Me. 428; 123 Me. 48; *125 Me. 350; 136 Me. 525.

Sec. III. Amount of tax on railroads, how ascertained. R. S. c. 12, § 30. The amount of the annual excise tax on railroads shall be ascertained as follows: the amount of the gross transportation receipts as returned to the public utilities commission for the year ended on the 31st day of December preceding the levying of such tax shall be compared with the net railway operating income for that year as returned to the public utilities commission; when the net railway operating income does not exceed 10% of the gross transportation receipts, the tax shall be an amount equal to 3½% of such gross transportation receipts; when the net railway operating income exceeds 10% of the gross transportation receipts but does not exceed 15%, the tax shall be an amount equal to 4% of the gross transportation receipts; when the net railway operating income exceeds 15% of the gross transportation receipts but does not exceed 20%, the tax shall be an amount equal to 4½% of such gross transportation receipts; when the net railway operating income exceeds 20% of the gross transportation receipts but does not exceed 25%, the tax shall be an amount equal to 5% of such gross transportation receipts; when the net railway operating income exceeds 25% of the gross transportation receipts, the tax shall be an amount equal to 5½% of such gross transportation receipts; provided, however, that in the case of railroads operating not over 50 miles of road, the tax shall not exceed 2% of the gross transportation receipts; and provided further, that when the net railway operating income of any narrow gauge railroad located wholly in this state exceeds 5% but does not exceed 10% of its gross transportation receipts, the tax on such railroad shall be ½ of 1% of its gross transportation receipts; and when the net railway operating income of such railroad exceeds 10% of its gross transportation receipts, the tax shall be 1% of its gross transportation receipts; and when the net railway operating income of such a railroad does not exceed 5% of its gross transportation receipts, no excise tax shall be assessed upon it. When a railroad lies partly within and partly without the state, or is operated as a part of a line or system extending beyond the state, the tax shall be equal to the same proportion of the gross transportation receipts in the state as herein provided, and its amount shall be determined as follows:

The gross transportation receipts of such railroad, line or system, as the case may be, over its whole extent, within and without the state, shall be divided by the total number of miles operated to obtain the average gross transportation receipts per mile, and the gross transportation receipts in the state shall be taken to be the average gross transportation receipts per mile multiplied by the number of miles operated within the state, and the net railway operating income within the state shall be similarly determined.

The term "net railway operating income" means the railway operating revenues less the railway operating expenses, tax accruals, and uncollectable railway revenues, including in the computation thereof debits and credits arising from equipment rents and joint facility rents. The public utilities commission, after notice and hearing, may determine the accuracy of any returns required of any railroad, and if found inaccurate, may order proper corrections to be made therein.

142 U. S. 217; 97 Me. 269; 102 Me. 202; 123 Me. 48; 125 Me. 350; 136 Me. 525.

Sec. 112. Tax, how fixed; notice to companies. R. S. c. 12, § 31. 1931, c. 216, Art. II, § 28. 1943, c. 28. The state tax assessor, on or before the 1st day of each May, shall determine the amount of the tax on railroad companies, and report the same to the treasurer of state, who shall forthwith give notice thereof to the corporation, person, or association upon which the tax is levied.

136 Me. 525.

Sec. 113. Time payable. R. S. c. 12, § 32. The tax on railroad companies shall be deemed an asset and credit of the state on the 15th day of June next after the levy is made and shall be payable $\frac{1}{3}$ on the said 15th day of June, $\frac{1}{3}$ on the 15th day of September, and $\frac{1}{3}$ on the 15th day of December next following.

136 Me. 525.

Sec. 114. Aggrieved parties may apply for abatement. R. S. c. 12, § 33. 1931, c. 216, Art. II, §§ 16, 28. Any corporation, person, or association aggrieved by the action of the state tax assessor in determining the tax on railroad companies, through error or mistake in calculating the same, may apply for abatement of any such excessive tax within the year for which such tax is assessed, and if, upon rehearing and reexamination, the tax appears to be excessive through such error or mistake, the said state tax assessor may thereupon abate such excess, and the amount so abated shall be deducted from any tax due and unpaid, upon the railroad upon which the excessive tax was assessed; or, if there is no such unpaid tax, the controller shall draw a warrant for the abatement, to be paid from any money in the treasury not otherwise appropriated.

136 Me. 525.

Sec. 115. Further returns may be required; public utilities commission to have access to books of railroad companies; penalty for refusing to make returns or for making false ones. R. S. c. 12, § 34. 1931, c. 216, Art. II, § 28. If the returns required by law in relation to railroads are found insufficient to furnish the basis upon which the tax on railroads is to be levied, the public utilities commission shall require such additional facts in the returns as may be found necessary; and, until such returns are so required, or, in default of such returns when required, the state tax assessor shall act upon the best information that he may obtain. The public utilities commission shall have access to the books of railroad companies to ascertain if the required returns are correctly made; and any railroad corporation, association, or person operating any railroad in the state, which refuses or neglects to make returns required by law or to exhibit to the public utilities commission its books for the purposes aforesaid, or makes returns which the president, clerk, treasurer, or other person certifying to such returns knows to be false forfeits not less than \$1,000, nor more than \$10,000, to be recovered by indictment, or by an action of debt in any county into which the railroad operated extends.

136 Me. 525.

Taxation of Street Railroad Corporations

Sec. 116. Taxation of street railroad corporations. R. S. c. 12, § 35. 1941, c. 99. Street railroad corporations and associations which own or operate a street railroad are subject to the provisions of the 7 preceding sections and all street railroad corporations and associations are subject to the provisions of section 4 of chapter 81, except that the annual excise tax shall be ascertained as follows: when the gross average receipts per mile do not exceed \$1,000, the tax shall be equal to $\frac{1}{4}$ of 1% on the gross transportation receipts; and for each

\$1,000 additional gross receipts per mile, or fractional part thereof, the rate shall be increased $\frac{1}{4}$ of 1%, provided that the rate shall in no case exceed 4%.

136 Me. 525.

Taxation of Parlor Cars

Sec. 117. Taxation of owners of parlor cars. R. S. c. 12, § 36. Every corporation or person owning or operating parlor or other cars for which extra compensation is charged for riding therein over any of the railroads of the state shall annually, on the 15th day of June, pay to the treasurer of state for the use of the state an annual excise tax for the privilege of exercising its franchise in the state, equal to 9% of its or his gross receipts from business done wholly in the state, for the year ending May 1st next preceding.

See § 155.

Sec. 118. Returns to state tax assessor; tax in place of local taxation. R. S. c. 12, § 37. 1931, c. 216, Art. II, § 28. Every corporation or person owning or operating parlor or other cars for which extra compensation is charged for riding therein over the railroads of the state shall, by its properly authorized agent or officer annually on or before the 15th day of May, make a return under oath to the state tax assessor, stating the amount of such gross receipts; whereupon the said assessor shall on or before the 1st day of June assess the tax herein provided and forthwith certify the same to the treasurer of state, who shall thereupon notify said corporations or persons. Said tax shall be paid into the state treasury on or before the 15th day of June following and is in place of all local taxation upon the cars and equipment of said corporations or persons used in carrying on business in the state.

See § 155.

Sec. 119. Penalty for neglecting to make return. R. S. c. 12, § 38. Any corporation or person neglecting to make returns according to the provisions of the preceding section forfeits \$25 for every day's neglect, to be recovered by an action of debt in the name of the state.

Taxation of Telephone and Telegraph Companies

Sec. 120. Returns of corporations or persons operating telephone or telegraph lines. R. S. c. 12, § 39. 1933, c. 224, § 1. 1943, c. 259, § 1. Every corporation, association, or person operating in whole or in part a telephone or telegraph line for toll or other compensation within the state shall annually, between the 1st and 15th days of April, return to the secretary of state under oath of its treasurer, if a corporation, the amount of the capital stock of the corporation, the number and par value of the shares, and a complete list of its shareholders resident within the state, with their places of residence, and the number of shares belonging to each on said 1st day of April; if a person or association, the owner or owners or one of them shall annually make a return under oath to the secretary of state, between the 1st and 15th days of April, of the names and residences of the owner or owners and the relative interest each owner has in any such association on the 1st day of April; provided that any corporation may include in its return a statement of the whole amount of its capital stock owned in the state and if no apportionment or payment is required to be made by the state to the several cities and towns under the provisions of section 121, it may exclude from its return the list of its shareholders resident within the state and the number of shares belonging to each. The returns shall also contain a statement of the

assessed value in each town of the real estate of such corporation, association, or person used solely for the conduct of a telephone or telegraph business and taxed by any municipality and the gross receipts of such corporation, association, or person collected within this state on account of its telephone or telegraph business during the preceding year ending December 31st.

See § 155; 103 Me. 242.

Sec. 121. State taxation of telephone and telegraph companies; apportionment to cities and towns. R. S. c. 12, § 40. 1931, c. 216, Art. II, § 28. 1933, c. 224, § 2. Every corporation, association, or person operating in whole or in part a telephone or telegraph line within the state for tolls or other compensation shall pay to the treasurer of state, for the use of the state, an annual excise tax for the privilege of conducting such business within the state, which tax, with the tax provided for in section 126, is in place of all taxes upon the property of such corporation, association, or person employed in such business, and of all taxes upon the shares of the capital stock of any such corporation.

There shall be apportioned and paid by the state from the taxes collected under this section to the several cities and towns in which on the 1st day of April in each year is held stock of any such corporation, or in which resides the owner or owners of an interest in any telegraph or telephone lines operated by any association or person not a corporation and taxed under this section, an amount equal to 1% on the value of such stock on that day as determined by the state tax assessor, if a corporation; and if not a corporation, such proportion of the amount of such excise tax paid into the state treasury by the association, person, or persons operating such line as such interest owned by a resident in any such municipality bears to the whole ownership; provided, however, that the total thus apportioned on account of such stock, if a corporation, shall not exceed the sum received by the state as a tax on account of such corporation; and provided further, that there shall not be apportioned on account of any such corporation a greater part of the whole tax received by the state from such corporation than the proportion which the amount of capital stock of such corporation owned in this state bears to the whole amount of the capital stock of such corporation, and that, in the case of any corporation of which not exceeding 2% of the capital stock is owned in the state, no apportionment and payment shall be made unless the amount to be apportioned and paid shall exceed the sum of \$250.

See § 155; *73 Me. 525; 103 Me. 242.

Sec. 122. Computation of tax. R. S. c. 12, § 41. The amount of the annual excise tax on telephone and telegraph companies shall be ascertained as follows: when the gross receipts of such corporation, association, or person collected within this state on account of its telephone or telegraph business during the year for which the tax is assessed on such corporation, association, or person exceed \$1,000 and do not exceed \$5,000, the tax shall be 1¼% of such gross receipts; when such gross receipts exceed \$5,000 and do not exceed \$10,000, the tax shall be 1½% of such gross receipts; when such gross receipts exceed \$10,000 and do not exceed \$20,000, the tax shall be 1¾% of such gross receipts; when such gross receipts exceed \$20,000 and do not exceed \$40,000, the tax shall be 2% of such gross receipts; and so on, increasing the rate of tax ¼ of 1% for each additional \$20,000 or fractional part thereof, of such gross receipts, provided that the rate shall in no event exceed 6% of such gross receipts.

103 Me. 242.

Sec. 123. Tax to be determined and reported to treasurer of state. R. S. c. 12, § 42. 1931, c. 216, Art. II, § 28. The state tax assessor on or before the

1st day of May annually shall determine the amount of the tax on telephone and telegraph companies and report the same to the treasurer of state, who shall forthwith give notice thereof to the corporation, association, or person upon which the tax is levied.

103 Me. 242.

Sec. 124. Payment of tax; lien. R. S. c. 12, § 43. 1943, c. 259, § 3. The tax on telephone and telegraph companies shall be paid to the treasurer of state on or before the 1st day of June annually. Said tax shall be a lien on the property of such corporation, and on its franchise, and upon the property used in operating a telephone or telegraph business by any such association or person, and takes precedence over all other liens.

See § 155; 103 Me. 242.

Sec. 125. Books of corporations to be open to assessors; penalty for refusing to make returns. R. S. c. 12, § 44. 1931, c. 216, Art. II, § 28. The state tax assessor, or his duly authorized agent, shall have access to the books of any corporation, association, or person operating telephone or telegraph lines in this state, to ascertain if the required returns are correctly made; and any corporation, association, or person refusing or neglecting to make the returns required by law or to exhibit to the said assessor, or to his duly authorized agent therefor, its or his books for the purpose aforesaid, or making returns which the president, clerk, treasurer, or other person certifying such returns knows to be false shall forfeit not less than \$1,000, nor more than \$10,000, to be recovered by indictment or by an action of debt in any county into which the said telegraph or telephone lines extend.

103 Me. 242.

Sec. 126. Tax to be in lieu of all taxes. R. S. c. 12, § 45. The excise tax collected under the provisions of the 6 preceding sections shall be in lieu of all taxes upon any corporation therein designated, upon its shares of capital stock, and its property; provided, however, that the land and buildings thereon owned by such corporation, association, or person shall be taxed in the municipality in which the same are situated. The assessment of taxes on such land and buildings shall be legal, whether assessed as resident or non-resident property.

103 Me. 242, 428.

Taxation of Express Companies

Sec. 127. Companies and persons doing express business to apply annually for license and to pay tax. R. S. c. 12, § 46. 1943, c. 21, § 1. Every corporation, company, or person doing express business on any railroad, steamboat, or vessel in the state shall, annually before the 1st day of May, apply to the treasurer of state for a license authorizing the carrying on of said business and any such corporation, company, or person neglecting to make application as aforesaid shall be punished by a fine of \$50, to be recovered by complaint or indictment; every such corporation, company, or person shall pay to the treasurer of state 4% of the gross receipts of said business for each 12 month period. Said 4% shall be on all business done in the state, including a proportional part on all express business coming from other states or countries into this state, and all going from this state to other states or countries, provided, however, that nothing herein applies to goods or merchandise in transit through the state.

See § 155; *100 Me. 278; 103 Me. 428.

Sec. 128. Annual return to state tax assessor; assessment of tax. R. S. c. 12, § 47. 1931, c. 216, Art. II, § 28. 1943, c. 21, § 2. Every such corporation, company, or person coming under the provisions of the preceding section shall, by its properly authorized agent or officer, annually on or before the 1st day of February make a return under oath to the state tax assessor, stating the amount of said receipts for all express matter carried within the state as specified in the preceding section; whereupon the said assessor shall, on or before the 15th day of February following, assess the tax therein provided and forthwith certify the same to the treasurer of state, who shall thereupon notify said corporations, companies, or persons, and said taxes shall be paid into the state treasury on or before the 15th day of March following.

See § 155; 100 Me. 278.

Sec. 129. State tax is in place of local taxation. R. S. c. 12, § 48. The tax assessed upon express corporations, companies, and persons in section 127 is in place of all local taxation, except that real estate owned by such corporations, companies, or persons shall be taxed in the municipality where the same is situated as non-resident real estate.

100 Me. 278; 103 Me. 428.

Sec. 130. Penalty for neglect to make return. R. S. c. 12, § 49. Any corporation, company, or person neglecting to make returns according to section 128 forfeits \$25 for every day's neglect, to be recovered by an action of debt in the name of the state.

100 Me. 278; 103 Me. 428.

Taxation of Insurance Companies

Sec. 131. Domestic insurance companies to be taxed on real estate, premiums, and annuity considerations. R. S. c. 12, § 50. 1939, c. 1, § 1. 1943, c. 179, § 2. Every life insurance company or association, organized under the laws of this state, in lieu of all other taxation, shall be taxed as follows: 1st, its real estate shall be taxed by the municipality in which such real estate is situated, in the same manner as other real estate is taxed therein; 2nd, it shall pay a tax of 1% upon all gross direct premiums including annuity considerations, whether in cash or notes absolutely payable, received from residents of this state during the year preceding the assessment, as hereinafter provided, first deducting therefrom all return premiums and all dividends paid to policyholders in this state on account of said premiums or considerations. Every other insurance company or association organized under the laws of this state, except those mentioned in section 137, including surety companies and companies engaged in the business of credit insurance or title insurance shall, as hereinafter provided, annually pay a tax of 1% upon all gross direct premiums written whether in cash or in notes absolutely payable on contracts made in the state for fire, casualty, and other risks, less return premiums thereon and less all dividends paid to policyholders and less all premiums and assessments on policies of insurance issued on farm property.

See §§ 134, 136, 138, 141, 155; 79 Me. 231; 103 Me. 428.

Sec. 132. To return to insurance commissioner statement of premiums and annuity considerations liable to taxation. R. S. c. 12, § 51. 1939, c. 1, § 2. 1943, c. 179, § 3. Every domestic life insurance company shall include in its annual return to the insurance commissioner a statement of the amount of premiums and annuity considerations liable to taxation as provided in the pre-

ceding section, and of the real estate held by it on the 31st day of the previous December, showing in detail the amount of all premiums including annuity considerations whether in cash or notes absolutely payable, received by said company from residents of this state during the year preceding the assessment, and all dividends paid to policyholders in this state on account of said premiums or annuity considerations as required by blanks furnished by the commissioner. The taxes provided by the preceding section shall be assessed and paid as provided in section 141, and said section and section 138 shall be applicable thereto.

See §§ 131, 134; c. 56, § 7, re annual statement of condition.

Sec. 133. All insurance companies to pay tax on premiums and annuity considerations. R. S. c. 12, § 52. 1933, c. 170. 1939, c. 1, § 3. 1943, c. 179, § 4. Every insurance company or association which does business or collects premiums or assessments including annuity considerations in the state, except those mentioned in sections 131 and 137, including surety companies and companies engaged in the business of credit insurance or title insurance, shall, for the privilege of doing business in this state, and in addition to any other taxes imposed for such privilege, as hereinafter provided, annually pay a tax upon all gross direct premiums including annuity considerations whether in cash or otherwise, on contracts written on risks located or resident in the state for insurance of life, annuity, fire casualty, and other risks, at the rate of 2% a year.

See §§ 134, 136.

Sec. 134. Limitation. 1943, c. 179, § 5. The provisions of sections 131, 132, and 133 shall not apply to the taxation of any annuity consideration on any annuity contract issued prior to August 1, 1943.

Sec. 135. Amount of tax, how determined. R. S. c. 12, § 53. 1939, c. 1, § 4. In determining the amount of tax due under the provisions of section 133, there shall be deducted by each company from the full amount of gross direct premiums, the amount of all direct return premiums thereon, and all dividends paid to policyholders on direct premiums, and the tax shall be computed by said companies or their agents as aforesaid.

Sec. 136. Such companies to make returns. R. S. c. 12, § 54. 1939, c. 1, § 5. Every company or association which by the provisions of sections 131 and 133 is required to pay a tax shall, on or before the 31st day of each January, make a return under oath to the insurance commissioner, stating the amount of all gross direct premiums written by said company, either in cash or otherwise, on risks located or resident in this state during the year ending on the 31st day of December previous, the amount of direct return premiums thereon, and dividends paid to the policyholders on direct premiums during said year.

See c. 56, § 7, re annual statement of condition.

Sec. 137. Tax on mutual fire insurance companies transacting mill insurance; to make return to insurance commissioner. R. S. c. 12, § 55. Mutual fire insurance companies incorporated under the laws of other states, which insure only factories or mills, or property connected with such factories or mills, admitted to do business in this state shall comply with all the requirements of law except that in lieu of all other taxation upon premiums in this state, such companies shall annually pay a tax at the rate of 2% on gross premiums in force on risks in this state, after deducting the unabsorbed portion of such premium, computed at the rate of return actually made on annual policies expiring during the year by said insurance companies. Such companies shall, on or before the 31st day of each January, make a return, under oath, to the insurance commissioner, show-

ing the gross premiums in force on risks in this state on the 31st day of December previous and the unabsorbed portion of such premiums computed at the rate of return actually made on annual policies expiring during the year, by said insurance companies.

See § 131; c. 56, § 39, re assets required of a mutual company.

Sec. 138. Neglecting to make return, how to be assessed; failing to pay, forbidden to do business in state. R. S. c. 12, § 56. 1931, c. 216, Art. II, § 28. If any insurance company or association refuses or neglects to make the return required by the 2 preceding sections, the state tax assessor shall make such assessment on such company or association as he deems just, and unless the same is paid on demand, such company or association shall do no more business in the state, and the insurance commissioner shall give notice accordingly. Whoever, after such notice, does business in the state for such company or association is liable to the penalty provided in section 249 of chapter 56.

Sec. 139. Ratio of tax on certain foreign insurance companies; return and assessment of tax. R. S. c. 12, § 57. 1931, c. 216, Art. II, § 28. 1941, c. 102. Any insurance company incorporated by a state of the United States or province of the Dominion of Canada whose laws impose upon insurance companies chartered by this state any greater tax than is herein provided shall pay the same tax upon business done by it in this state, in place of the tax provided in section 137; and the insurance commissioner may require the return upon which such tax may be assessed to be made to him, and the state tax assessor may assess such tax; and if it is not paid as provided in section 141, the insurance commissioner shall suspend the right of said company to do business in this state. Any insurance company incorporated by another country shall be regarded for the purposes of this section as though incorporated by the state where it has elected to make its deposit and establish its principal agency in the United States.

Sec. 140. Tax on reciprocal contracts of indemnity; return to insurance commissioner. R. S. c. 12, § 58. Every attorney, agent, or other representative by or through whom are issued policies or contracts of indemnity of the kind referred to in sections 210 to 217, inclusive, of chapter 56 in lieu of all other taxation, state, county, or municipal, in this state, shall annually pay a tax at the rate of 2% on gross premiums or deposits actually received during the year after deducting amounts actually returned to policyholders as the unused part of such premium or deposit, or such part as may be credited on the renewal or extension of the indemnity. Such attorney, agent, or other representative shall, on or before the 31st day of each January, make a return, under oath, to the insurance commissioner showing the gross premiums or deposits actually received during the preceding calendar year and such unused part of such premium or deposit as has been returned to policyholders or credited on renewal or extension of the indemnity.

Sec. 141. Assessment of tax; notice; suspension for non-payment. R. S. c. 12, § 59. 1931, c. 216, Art. II, § 28. The taxes imposed by sections 133, 137 and 140, respectively, shall be assessed by the state tax assessor upon the certificate of the insurance commissioner to be seasonably furnished therefor, and certified to the treasurer of state on or before the 1st day of April, and the same shall be paid on or before the 1st day of May following. The treasurer of state shall notify the several companies, and the agent, attorney, or other representative mentioned in the preceding section, and unless the tax is paid as aforesaid, the insurance commissioner shall suspend the right of the company, agent, attor-

ney, or other representative to do any further business in the state until the tax is paid.

See c. 56, § 7, re annual statement of condition.

Taxation of Savings Banks

Sec. 142. Return of assets, loans, investments, and deposits; bank commissioner to fix market values and return to state tax assessor. R. S. c. 12, § 62. 1931, c. 216, Art. II, § 28. Every savings bank incorporated under the laws of the state shall, semiannually, on the last Saturdays of March and September, make a return, signed and sworn to by its treasurer, of the average amount of its deposits, reserve fund, and undivided profits for the 6 months ending on each of said days, together with a statement in detail of its assets, loans, and investments, and its deposits within and without the state, in separate columns. Such return shall also include a statement of the par value, cost to the bank, and the book value of each item of assets claimed to be deductible under the provisions of the following section. Said return shall be made to the bank commissioner on or before the 1st Saturdays of April and October, and within 30 days thereafter, he shall fix and determine the book values of the investments aforesaid and transmit the same with such values so determined to the state tax assessor for the assessment required by the following section.

66 Me. 243; 68 Me. 517, 519.

Sec. 143. State tax assessor to determine value of the several franchises, and assess tax; rate; when payable. R. S. c. 12, § 63. 1931, c. 216, Art. II, § 28. The state tax assessor shall thereupon determine the values of the several franchises of the said banks according to the following rule: from the average amount of deposits, reserve fund, and undivided profits so returned by each bank there shall in each case be deducted an amount equal to the value so determined of United States obligations, all bonds, notes, and other obligations issued after the 1st day of February, 1909, by this state, or any county, municipality, village corporation, light and power district, or water district therein, all shares of stock of any trust companies or national banks located and doing business in this state, and all such shares of stock in other corporations as are by law of this state free from taxation to the stockholders, investments in such notes and bonds secured by mortgages on real estate in this state as are exempt from taxation in the hands of individuals, and the assessed value of real estate owned by the bank, and also an amount equal to $\frac{3}{5}$ of the value so determined of such other assets, loans, and investments as by such statement appear to be loans to persons resident or corporations located and doing business in this state, securities of this state, public or private, bonds issued by corporations located and doing business in this state or guaranteed by such corporations, provided, the corporations issuing such bonds be operated by and physically connected with such guaranteeing corporations, and also an amount equal to $\frac{3}{5}$ of the cash on hand and cash deposited within the state. Upon the value of each of said franchises so ascertained the said state tax assessor shall assess an annual tax of $\frac{1}{2}$ of 1%; $\frac{1}{2}$ of said tax to be assessed on or before the 15th day of May, and $\frac{1}{2}$ on or before the 15th day of November. The state tax assessor shall thereupon certify said assessments to the treasurer of state, who shall forthwith notify the several banks interested. All taxes so assessed shall be paid semiannually within 10 days after the 15th days of May and November.

See § 155; c. 37, § 195, re state school fund.

Sec. 144. Deposits exempt from municipal taxation; but not land held by bank. R. S. c. 12, § 64. All deposits in savings banks in the state are exempt

from municipal taxation to the bank or to the depositor, but real estate owned by the bank, not held as collateral security, may be taxed by the town in which the same is located.

*103 Me. 428.

Taxation of Loan and Building Associations

Sec. 145. Required to make semiannual returns to state tax assessor; penalty for false return; rate of taxation. R. S. c. 12, § 65. 1931, c. 41; c. 216, Art. II, § 28. 1943, c. 52, § 1. Every loan and building association doing business in this state shall semiannually on the last secular days of March and September make a return, signed and sworn to by its secretary, of the monthly capital dues paid in by its shareholders during the 6 months ending on each of said days from which there shall be deducted, however, such amount of said monthly capital dues as may have been credited to real estate loans during said periods. Said returns shall be made to the state tax assessor on or before the 2nd Mondays of April and October, and for wilfully making a false return, the secretary shall be punished by a fine of not less than \$500, nor more than \$5,000, to be recovered by complaint or indictment. The treasurer of such association shall pay to the treasurer of state a tax of $\frac{1}{2}$ of 1% on the amount of monthly capital dues so returned.

See § 155.

Sec. 146. Taxes, how assessed. R. S. c. 12, § 66. 1943, c. 52, § 2. The tax shall be assessed on the April return by the 25th day of April and shall be payable on or before May 10th. The tax shall be assessed on the October return by the 25th day of October and shall be payable on or before November 10th.

See § 155.

Sec. 147. Capital dues exempt from taxation. R. S. c. 12, § 67. All capital dues of such associations are exempt from municipal taxation to the association or to the shareholder, but real estate owned by the association, not held as collateral security, may be taxed by the town in which the same is located.

Taxation of Foreign Banking Associations and Corporations

Sec. 148. Foreign banking corporations doing business in this state, required to pay a tax; rate; amount of business, how ascertained; when payable. R. S. c. 12, § 68. Every banking association or corporation, not incorporated under the laws of this state or of the United States, that maintains a branch or agency in this state for the transaction of a banking business, shall pay to the treasurer of state a tax of $\frac{3}{4}$ of 1% a year on the amount of such business done in this state. One-half of said tax shall be paid on the amount of such business for the 6 months ending on the last Saturday of March, and the other half on the amount for the 6 months ending on the last Saturday of September; or for such portion of such periods as said association or corporation may transact business in this state. The amount of such business done in this state shall be ascertained by first computing the daily average for each month of the period of all the moneys outstanding upon loans and investments and of all other moneys received, used, or employed in connection with such business, and by then dividing the aggregate of such monthly averages by the number of months covered by said return; and the quotient resulting shall be deemed the amount of such business. The amount of such tax so ascertained shall be paid to the treasurer of state semi-annually within 10 days after the 1st Mondays in May and November.

Sec. 149. Report to bank commissioner of amount of business transacted, etc. R. S. c. 12, § 69. Such association or corporation and the manager or agent of such branch or agency shall cause a written report to be made to the bank commissioner on or before the last Saturdays of April and October of each year, verified by the oath of such manager or agent, giving the amount of such business transacted in this state under the rule given in the preceding section, and stating the amount of state tax which such branch or agency is liable to pay, and setting forth in detail the daily average for each month preceding the last Saturdays of March and September; and also giving such further or additional information as to the business of such foreign banking association or corporation done in this state as may be required by the bank commissioner.

Sec. 150. To keep account of money used and deposits made. R. S. c. 12, § 70. Every banking association or corporation taxed under the provisions of section 148, and its managers, agents, and employees shall cause to be kept at all times in the office where such business is transacted in this state a full and accurate account of the moneys used or employed in such business and of the deposits therein, and such account together with the books, papers, and records relating to the business done in this state shall be subject to the inspection and examination of the bank commissioner, or of any clerk designated by him, during business hours of any day on which business may legally be transacted.

Sec. 151. Penalty for violation. R. S. c. 12, § 71. Except as hereinbefore provided, no banking association, unless incorporated under the laws of this state or of the United States, shall maintain any branch or agency in this state for the transaction of banking business. Any officer, agent, or employee of such association or corporation doing business in this state contrary to the provisions of the 3 preceding sections shall be punished by a fine of not less than \$100, nor more than \$500 for each offense, to be recovered by indictment to the use of the state.

Taxation of Trust Companies

Sec. 152. Trust companies to semiannually return the amount of certain deposits; penalty for false returns; valuation of securities. R. S. c. 12, § 72. 1931, c. 216, Art. II, § 28. 1935, c. 50. 1943, c. 175, § 1. Every trust company incorporated under the laws of this state shall, semiannually on the last Saturdays of March and September, make a return signed and sworn to by its treasurer, of the average amount of its time deposits and its deposits bearing any interest for the 6 months preceding each of said dates, together with the statement in detail of the average amount of United States obligations owned for a period of 3 months prior to date of return, and all bonds, notes, and other obligations issued after the 1st day of February, 1909, by this state or any county, municipality, village corporation, light and power district, bridge district, pier site district, school district, or water district therein, the shares of corporation stocks such as are by law of this state free from taxation to the stockholders, and such notes and bonds secured by mortgages on real estate in this state as are exempt from taxation in the hands of individuals. Such returns shall also include a statement of the par value, cost to the bank, and the book value of each item of such assets. For wilfully making a false return, the treasurer of the corporation shall be punished by a fine of not less than \$500, nor more than \$5,000. Said return shall be made to the bank commissioner, on or before the 1st Saturdays of April and October, and within 30 days thereafter, he shall fix and determine the cost to such company of the investments aforesaid, and trans-

mit said returns with such cost so determined to the state tax assessor for the assessment required by the following section.

See §§ 154, 155.

Sec. 153. Assessment of tax; when payable. R. S. c. 12, § 73. 1931, c. 216, Art. II, § 28. 1943, c. 175, § 2. The state tax assessor shall deduct from the average amount of the time and interest-bearing deposits returned as provided for in the preceding section, an amount equal to the cost so determined of all the assets specially returned under the provisions of the preceding section and also an amount equal to the value so determined of investments in such notes and bonds secured by mortgages on real estate in this state as are exempt from taxation in the hands of individuals, and shall assess a tax of $\frac{1}{4}$ of 1% on the balance of said deposits so ascertained for the 6 months ending on and including the last Saturday of March, and shall assess a tax of $\frac{1}{4}$ of 1% on the balance of said deposits so ascertained for the 6 months ending on and including the last Saturday of September. The assessment on the March return shall be made on or before the 15th day of May. The assessment on the September return shall be made on or before the 15th day of November. The said tax assessor shall thereupon certify said assessment to the treasurer of state, who shall forthwith notify the several trust companies interested, and all taxes so assessed shall be paid semiannually within 10 days after the 15th days of May and November.

See § 155.

Sec. 154. Exemption from municipal taxation. R. S. c. 12, § 74. All deposits designated in section 152 are exempt from municipal taxation to the company or the depositor.

103 Me. 428.

Sec. 155. Proceedings in case of failure to make returns and pay tax. R. S. c. 12, § 75. 1931, c. 216, Art. II, § 28. If any corporation, company, or person fails to make the returns required by sections 118, 120, 128, 145, and 152, the state tax assessor shall make an assessment of a state tax upon such corporation, company, or person on such valuation, or on such gross receipts thereof, as the case may be, as he thinks just, with such evidence as he may obtain, and such assessment shall be final. If any corporation, company, association, or person fails to pay the taxes required or imposed by sections 110, 117, 121, 127, 143, 146, and 153, the treasurer of state shall forthwith commence an action of debt, in the name of the state, for the recovery of the same with interest at the rate of 10% a year. In addition to other remedies for the collection of state taxes upon any corporation, such taxes with interest at the rate of 10% a year may be recovered by an action of debt in the name of the state.

See c. 40, §§ 78, 82, re penalty for failure to make returns required by § 111; c. 49, § 40, re penalty for failure to make returns required by § 102; c. 56, § 7, re penalty for failure to make returns required by §§ 131, 141; c. 99, § 15, re proceedings to enforce collection of taxes due the state; 68 Me. 517, 519; *86 Me. 495.

Taxation of Shares of Stock in Trust Companies and National Banking Institutions

Sec. 156. Trust companies and national banking institutions to file list of common stockholders and inventory of real estate and other taxable property, together with memorandum of assessed value. R. S. c. 12, § 76. 1931, c. 216, Art. II, § 28. 1935, c. 96. On or before April 15th of each year, the treasurer of every trust company organized under the laws of this state and the cashier of every banking institution formed under the laws of the United States, doing business in this state, shall send to the state tax assessor a certified list of all

common stockholders and their residences, showing the number of shares owned by each on the 1st day of April, together with the value of the real estate, vaults, and safe deposit plant owned by each trust company or banking institution, which is taxed as other real estate is taxed in the town in which it is located, and the amount for which said real estate, vaults, and safe deposit plant was valued by the assessors of such municipality for the year previous.

133 Me. 521.

Sec. 157. State tax assessor to assess a tax of 15 mills on stock of trust companies and national banking institutions; to pay the tax to treasurer of state; may collect same from stockholders; appeal. R. S. c. 12, § 77. 1931, c. 216, Art. II, § 28. The state tax assessor shall determine the value of shares of stock reported, as provided for in the preceding section, and deduct therefrom the proportionate part of the assessed value of such real estate, vaults, and safe deposit plant. Upon the value of said shares so determined after making said deductions, the said tax assessor shall assess an annual tax of 15 mills for each dollar of such assessed value so determined, and shall, on or before the 1st day of June, certify said assessments to the treasurer of state, who shall forthwith notify said trust companies and banking institutions. All taxes so assessed shall be paid by said trust companies and banking institutions to the treasurer of state on or before the 1st day of July, and said tax shall be in lieu of all municipal or other taxes upon said stock, and said trust companies and banking institutions may charge the tax so paid pro rata to the individual stockholders thereof.

Any party in interest aggrieved by the valuation of the shares of any trust company or national banking institution made by the said tax assessor may claim an appeal to the superior court at any time before said 1st day of July. Such appeal shall be filed in the office of the clerk of said court in the county where such trust company or banking institution is located, and shall be heard and determined at the next term thereof held after said date. Notice and hearing of such appeal shall be given and held in the manner provided by section 43 of chapter 81. The decision of the court upon such appeal shall be certified by the clerk to the said state tax assessor who shall thereupon assess a tax of 15 mills upon the valuation of such shares as fixed by the court, and shall forthwith certify such assessment to the treasurer of state who shall give notice thereof to the trust company or banking institution whose shares are affected thereby, and the tax so assessed, with interest at 6% from July 1st of the year for which the tax is assessed, shall be paid to the treasurer of state within 30 days thereafter.

133 Me. 521.

Sec. 158. Tax upon shares of trust company or national banking institution to be returned to municipality where they are located; tax of resident shareholders to be returned to municipality where shareholder resides; exception. R. S. c. 12, § 78. 1931, c. 253. The tax assessed under the provisions of the preceding two sections upon the shares of such trust company or banking institution owned by non-residents or by corporations shall be returned by the treasurer of state, on or before the 1st day of August, to the municipality in which such trust company or banking institution is located; and the tax so assessed upon the shares of resident stockholders of such trust company or banking institution, except the tax so assessed upon the shares of stock of such trust company or banking institution owned by corporations, shall be returned by the treasurer of state, on or before the 1st day of August, to the municipality in which such stockholders reside.

Gasoline Tax

Sec. 159. Terms defined. R. S. c. 12, § 79. 1931, c. 115; c. 283, § 1. 1937, c. 175, § 1. 1941, c. 227. The terms used in sections 159 to 168, inclusive, shall be construed as follows:

“Internal combustion engine” shall mean any engine operated by explosion or quick burning therein of gasoline, benzol, or other product except kerosene.

“Internal combustion engine fuel” shall mean all products commonly or commercially known or sold as gasoline (including casinghead and absorption or natural gasoline) regardless of their classification or uses; and any liquid prepared, advertised, offered for sale, or sold for use as or commonly and commercially used as a fuel in internal combustion engines, which when subjected to distillation in accordance with the standard method of test for distillation of gasoline, naphtha, kerosene, and similar petroleum products (American Society for Testing Materials Designation D-86) show not less than 10% distilled (recovered) below 347° Fahrenheit (175° Centigrade) and not less than 95% distilled (recovered) below 464° Fahrenheit (240° Centigrade); provided that the term “internal combustion engine fuel” shall not include commercial solvents or naphthas which distil, by American Society for Testing Materials Method D-86, not more than 9% at 176° Fahrenheit and which have a distillation range of 150° Fahrenheit, or less, or liquefied gases which would not exist as liquids at a temperature of 60° Fahrenheit and a pressure of 14.7 pounds per square inch absolute.

“Distributor” shall mean any person, association of persons, firm, or corporation, wherever resident or located, importing or causing to be imported for sale or for use in this state (with the exceptions hereinafter set forth), any internal combustion engine fuel as herein defined; or producing, refining, manufacturing, or compounding within the state any internal combustion engine fuel as herein defined; or purchasing within the state in tank car or ship or barge lots, internal combustion engine fuel as herein defined, for the purpose of sale or use within the state; and also the persons, associations, firms, and corporations described in section 164.

131 Me. 63.

Sec. 160. Tax levied; rebates. R. S. c. 12, § 80. 1931, c. 190, § 1; c. 283, § 2. 1937, c. 175, § 2. 1941, c. 317, § 3. An excise tax is levied and imposed at the rate of 4c per gallon upon internal combustion engine fuel sold or used within this state, including such sales when made to the state or any political subdivision thereof, for any purpose whatsoever, excepting, however, such internal combustion engine fuel sold or used in such form and under such circumstances as shall preclude the collection of this tax by reason of the provisions of the laws of the United States, or sold wholly for exportation from the state, or brought into the state in the ordinary standardized equipment fuel tank attached to and forming a part of a motor vehicle and used in the operation of such vehicle within the state; provided, however, that on the same fuel only 1 tax shall be paid to the state, for which tax the distributor first receiving the fuel in the state shall be primarily liable to the state, except when such fuel has been sold and delivered in tank car or ship or barge lots to another distributor in the state, in which case the purchasing distributor shall be primarily liable to the state for the tax; and provided further, that 3c of the tax so paid, and no more, upon such internal combustion fuel used in motor boats, in tractors used for agricultural purposes not operating on public ways, or in such vehicles as

run only on rails or tracks, or in stationary engines, or in the mechanical or industrial arts, shall be refunded as hereinafter provided.

See § 166; 131 Me. 63.

Sec. 161. Distributors' certificates. R. S. c. 12, § 81. 1931, c. 283, § 3. 1937, c. 175, § 3. Every distributor of internal combustion engine fuel in the state, except distributors described in section 164, shall file a duly acknowledged application for a certificate with the state tax assessor on forms prescribed and furnished by him, which shall contain the name under which such distributor is transacting business within the state, the place or places of business, and location of distributing stations, and agencies of the distributor, the names and addresses of the several persons constituting the firm or partnership, and if a corporation its corporate name, and the names and addresses of its principal officers and agents within the state. No such distributor shall sell or distribute any such internal combustion engine fuel until such certificate is furnished by the state tax assessor and displayed as required by this section. One copy of each such certificate, certified by the state tax assessor, shall be displayed in each place of business of such distributor. The state tax assessor having reasonable cause to believe that the distributor has ceased to do business, or that he has violated any of the provisions of this chapter or of the rules and regulations made thereunder, may on reasonable notice to the distributor suspend the distributor's certificate until satisfied to the contrary. In such case the distributor shall not act as a distributor until his certificate is restored by the state tax assessor either of his own initiative or at the request of the distributor and upon the state tax assessor being satisfied that cause for suspension no longer exists, or upon order of court as hereinafter provided. In case of such suspension all certificates shall at once be surrendered to the state tax assessor upon his request. Notices shall be sufficient if sent by mail, addressed to the distributor at the address designated in the certificate, and appeals may be taken in the same manner as provided in section 219 of chapter 55 for appeals from decisions of the bank commissioner.

See § 165, re penalty; 131 Me. 63.

Sec. 162. Distributor entitled to collect 4c additional. R. S. c. 12, § 83. Each distributor paying or becoming liable to pay the tax imposed by sections 159 to 168, inclusive, shall be entitled to charge and collect 4c per gallon only as a part of the selling price of the internal combustion engine fuels subject to the tax.

See 1941, c. 301 which did not pass on referendum; 131 Me. 63.

Sec. 163. Rules and regulations; reports; assessment of tax. R. S. c. 12, § 84. 1931, c. 190, § 2; c. 283, § 4. 1937, c. 176, § 1. 1941, c. 289. Every distributor shall on or before the last day of each month render a report to the state tax assessor stating the number of gallons of internal combustion engine fuel received, sold, and used in the state by him during the preceding calendar month, on forms to be furnished by the state tax assessor. Such report shall contain such further information pertinent thereto as the state tax assessor shall prescribe, and the state tax assessor may make such other reasonable rules and regulations regarding the administration and enforcement of the provisions of the gasoline tax act as he may deem necessary or expedient, copies of which shall be sent to distributors, and he shall have access during reasonable business hours to the books, invoices, and vouchers of the distributor which may show the fuel handled by the distributor. At the time of the filing of said report each distributor shall pay to the treasurer of state a tax of 4c upon each gallon so

reported as sold, distributed, or used; and if said report is not filed by the last day of the month such distributor shall be liable to a penalty of \$5 a day for each day in arrears, due on demand by the state tax assessor and recoverable in an action of debt. Each distributor shall, within 15 days after demand made on him by the state tax assessor, pay a tax of 4c per gallon upon each gallon of such fuel upon which the tax has not been paid, which upon an audit the state tax assessor may find to have been received into the state during the preceding year by the distributor and not properly accounted for in a distributor's report or in accordance with law. An allowance of not more than 1% from the amount of fuel received by the distributor into the state, plus 1% on all transfers in vessels or tank cars by a distributor in the regular course of his business from one of his places of business to another within the state may be allowed by the tax assessor to cover the loss through shrinkage, evaporation, or handling sustained by the distributor; but the state tax assessor shall make additional allowances for losses sustained by the distributor if the same are necessary to save the distributor from paying the above tax on gasoline neither sold nor used by such distributor within the state. The state tax assessor shall transmit to the treasurer of state such information as shall show all taxes due from each distributor under the provisions of sections 159 to 168, inclusive.

See c. 20, § 105, re payment of tax to general highway fund; 131 Me. 63.

Sec. 164. Application of the tax in certain special cases. R. S. c. 12, § 85. 1931, c. 225, § 12; c. 283, § 5. Whoever shall receive any such internal combustion engine fuel in such form and under such circumstances as shall preclude the collection of this tax from the distributors by reason of the provisions of the laws of the United States, and shall thereafter sell or use any such internal combustion engine fuel in such manner and under such circumstances as may subject such sale or use to the taxing power of this state, shall be considered as a distributor and shall make the same reports, pay the same taxes, and be subject to all other provisions of sections 159 to 168, inclusive, relating to distributors of internal combustion engine fuel; provided, however, that no person shall be considered as a distributor with respect to internal combustion engine fuel brought into the state in the ordinary standardized equipment fuel tank attached to and forming a part of a motor vehicle and used in the operation of such vehicle within the state.

Sec. 165. Penalties; civil action for tax. R. S. c. 12, § 88. 1931, c. 283, § 6. 1937, c. 175, § 5; c. 176, § 2. Any distributor or other person who shall wilfully make any false or fraudulent report or return required by sections 159 to 168, inclusive, or who shall make any false statement in any claim or invoice presented to the state tax assessor, or who shall knowingly present to the state tax assessor any claim or invoice containing any false statement, or who shall knowingly and fraudulently collect or cause to be paid to him or to any other person any refund provided for by the provisions of the gasoline tax act without being entitled thereto, or who shall with intent to defraud, evade, or violate any of the provisions of said sections, or any rules or regulations duly made thereunder, or who shall engage in the business in this state as a distributor without being the holder of an uncanceled certificate to engage in such business; shall be guilty of a misdemeanor and punished by a fine of not more than \$2,000. Whenever any distributor shall fail to pay any tax or penalty due under the provisions of said sections within the time limited herein, the attorney-general shall enforce payment thereof against such distributor in a court of appropriate jurisdiction. In any civil action the number of gallons held by the distributor

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at the beginning of the period covered by the state tax assessor's audit, plus the number of gallons received by such distributor during the period, less the number of gallons on hand at the close of the period, shall be prima facie evidence of the number of gallons sold, distributed, or used by the distributor during the period covered by the distributor's report or the state tax assessor's audit, on which the tax with interest from the date when it was due shall be computed and collected and for which amount with costs judgment shall be rendered. The claims of the state for sums due from the distributor under the provisions of the gasoline tax act shall be preferred and priority claims in the event of the assignment, receivership, or bankruptcy of the distributor and any distributor who has paid said tax to the state shall be subrogated to the state's priority in the event of the assignment, receivership, or bankruptcy of anyone who is liable to such distributor for such tax.

Sec. 166. Provision for refund of $\frac{3}{4}$ of tax collected in certain instances; procedure for obtaining refund; time limit for filing application for refund. R. S. c. 12, § 89. 1931, c. 44; c. 216, Art. II, § 28. 1941, c. 316, § 1. 1943, c. 98. Any person, association of persons, firm, or corporation who shall buy and use any internal combustion engine fuel as defined in sections 159 to 168, inclusive, for the purpose of operating or propelling motor boats, tractors used for agricultural purposes not operating on public ways, or in such vehicles as run only on rails or tracks, or in stationary engines, or in the mechanical or industrial arts, or for any other commercial use except in motor vehicles operated or intended to be operated upon any of the public highways of this state, or except for the use in the operation of aircraft, and who shall have paid any tax on internal combustion engine fuel levied or directed to be paid as provided by sections 159 to 168, inclusive, either directly by the collection of such tax by the vendor from such consumer, or indirectly by adding the amount of such tax to the price of such fuel and paid by such consumer, shall be reimbursed and repaid to the extent of $\frac{3}{4}$ of the amount of such tax paid by him upon presenting to the state tax assessor an affidavit accompanied by the original invoices showing such purchases, which affidavit shall be verified by the oath of such affiant, and shall state the total amount of such fuel so purchased and used by such consumer other than in motor vehicles operated or intended to be operated upon any of the public highways of the state, and in the operation of aircraft.

Provided that applications for refunds as provided herein must be filed with the state tax assessor within 9 months from the date of purchase.

See § 160.

Sec. 167. Aeronautical fund. 1931, c. 239. 1935, c. 148. 1939, c. 166. 1941, c. 316, § 2. Every distributor of internal combustion fuels shall keep a record of sales of such fuels as are sold to be used for aeronautical purposes and shall render a report thereof as provided in section 163. To the aeronautical fund, as heretofore established, shall be credited the tax received by the state on internal combustion engine fuels which are sold to be used for aeronautical purposes. Provided, however, that the necessary expenses of the collection of the tax on such fuels, to be used for aeronautical purposes, shall be deducted. All fees from the registration of aircraft and pilots as provided for by law and all fines as imposed under the provisions of law relating to aircraft and pilots shall accrue to the aeronautical fund. Any unexpended balance from the above apportionments shall not lapse but shall be carried forward to the same fund for the next fiscal year and be available for such uses as indicated in this section. The aeronautics commission is authorized and directed to expend so much of the

aeronautical fund as may be necessary for the purposes of carrying out the duties imposed upon it by law and to expend any unexpended balance in such fund to assist in the maintenance of, and the removal of snow from, municipal, state, and federal airports in this state in such manner and in such amounts as it shall deem equitable. The amounts in said fund are appropriated for the purposes set forth herein.

See c. 21, re Aviation Laws.

Sec. 168. Short title. 1931, c. 283, § 7. Sections 159 to 168, inclusive, shall be known as the "gasoline tax act", and the tax therein imposed shall be known as the "gasoline tax".

Use Fuel Tax

Sec. 169. Short title. 1941, c. 244, § 1. Sections 169 to 185, inclusive, shall be known and may be cited as the "use fuel tax act".

Sec. 170. Definitions. 1941, c. 244, § 2; c. 317, § 1. The following words, terms, and phrases as used in sections 169 to 185, inclusive, are for the purposes thereof defined as follows:

"Motor vehicles" shall mean and include all vehicles, engines, machines, or mechanical contrivances which are propelled by internal combustion engines or motors.

"Fuels" shall mean and include all combustible gases and liquids used in an internal combustion engine for the generation of power to propel vehicles of any kind or character on the public highways, except such fuels as are subject to the tax imposed by the gasoline tax act.

See §§ 159-168, re gasoline tax act.

"Public highways" shall mean and include every way or place, of whatever nature, generally open to the use of the public as a matter of right for the purposes of vehicular travel and notwithstanding that the same may be temporarily closed for the purpose of construction, reconstruction, maintenance, or repair.

"Person" shall mean and include natural persons and partnerships, firms, associations, corporations, both public and private, and municipalities.

"Use" shall mean and include, in addition to its original meaning, the receipt of fuel by any person into a motor vehicle or into a receptacle from which fuel is supplied by such person to his own or other motor vehicles.

"User" shall mean any person who uses and consumes fuel within this state in an internal combustion engine for the generation of power to propel vehicles of any kind or character on the public highways of this state.

"Duly licensed user" shall mean and include any user holding an unrevoked license issued by this state.

Sec. 171. Purpose. 1941, c. 244, § 3. The tax imposed by the provisions of sections 169 to 185, inclusive, is levied for the purpose of providing revenue to be used by this state to defray in whole or in part, the cost of constructing, widening, reconstructing, maintaining, resurfacing, and repairing the public highways of this state and the cost and expense incurred in the administration and enforcement of the provisions of sections 169 to 185, inclusive, and for no other purpose whatsoever.

Sec. 172. Levy of tax and exemptions. 1941, c. 244, § 4. An excise tax is imposed on all users of fuel upon the use of such fuel by any person within this state, only when such fuel is used in an internal combustion engine for the gen-

eration of power to propel motor vehicles of any kind or character on the public highways, at the rate of 4c per gallon, to be computed in the manner set forth in sections 173 to 185, inclusive; provided, however, that no tax is imposed upon the use of any fuel if the constitution of the United States or of this state precludes such tax.

See § 177, re penalty and interest on unpaid taxes.

Sec. 173. Application for license; contents; licensing of users. 1931, c. 216, Art. II, § 28. 1941, c. 244, § 5. It shall be unlawful for any user to use or consume any fuel within this state unless such user is the holder of an uncanceled license issued by the state tax assessor. To procure such license every user shall file with the state tax assessor an application upon oath and in such form as the state tax assessor may prescribe setting forth the name and address of the user.

Concurrently with the filing of an application for a license, every user shall file with the state tax assessor a bond of the character stipulated and in the amount provided for in section 174. No license shall issue upon any application unless accompanied by such a bond.

In the event that any application for a license to use fuel as a user in this state shall be filed by any person whose license shall at any time theretofore have been canceled for cause by the state tax assessor, or in case the state tax assessor shall be of the opinion that such application is not filed in good faith or that such application is filed by some person as a subterfuge for the real person in interest whose license or registration shall theretofore have been cancelled for cause by the state tax assessor, then and in any of said events the state tax assessor, after a hearing of which the applicant shall have been given 5 days' notice in writing and in which said applicant shall have the right to appear in person or by counsel and present testimony, shall have the right and authority to refuse to issue to said person a license certificate in this state.

Upon the filing of the application for a license, a filing fee of \$1 shall be paid to the state tax assessor.

The application in proper form having been accepted for filing, the bond having been accepted and approved, and the other conditions and requirements of this section having been complied with, the state tax assessor shall issue to such user a license certificate and such license shall remain in full force and effect until canceled as provided in sections 169 to 185, inclusive.

The license certificate so issued by the state tax assessor shall not be assignable and shall be valid only for the user in whose name issued and shall be displayed conspicuously by the user.

The state tax assessor shall keep and file all applications and bonds with an alphabetical index thereof, together with a record of all licensed users.

See § 177, re penalty.

Sec. 174. Bond required of licensed users. 1941, c. 244, § 6; c. 317, § 2. Every user, except a municipality, shall file with the state tax assessor a bond, as follows:

- I. In the minimum amount of \$100 and a maximum amount of \$10,000 on a form to be approved by the state tax assessor;
- II. With a surety company authorized to do business within the state as surety thereon;
- III. Upon which such user shall be the principal obligor and this state shall be the obligee; and

IV. Conditioned upon the prompt filing of true reports and the payment by such user to the state tax assessor of any and all fuel excise taxes which are now or which are hereafter levied or imposed by this state, together with any and all penalties and interest thereon and generally upon faithful compliance with the provisions of sections 169 to 185, inclusive.

In the event that the liability upon the bond thus filed by the user with the state tax assessor shall be discharged or reduced, whether by judgment rendered, payment made, or otherwise, or if in the opinion of the state tax assessor any surety on the bond theretofore given shall have become unsatisfactory or unacceptable, then the state tax assessor may require the user to file a new bond with satisfactory sureties in the same form and amount, failing which the state tax assessor shall forthwith cancel the license certificate of said user. If such new bond shall be furnished by such user as above provided, the state tax assessor shall cancel and surrender the bond of said user for which such new bond shall be substituted.

In the event that upon hearing, of which the user shall be given 5 days' notice in writing, the state tax assessor shall decide that the amount of the existing bond is insufficient to insure payment to this state of the amount of the tax and any penalties and interest for which said user is or may at any time become liable, then the user shall forthwith upon the written demand of the state tax assessor file an additional bond in the same manner and form with a surety company thereon approved by the state tax assessor in any amount determined by the state tax assessor to be necessary to secure at all times the payment by such user to this state of all taxes, penalties, and interest due under the provisions of sections 169 to 185, inclusive, failing which, the state tax assessor shall forthwith cancel the license certificate of said user.

Any surety on any bond furnished by any user as heretofore provided shall be released and discharged from any and all liability to this state accruing on such bond after the expiration of 60 days from the date upon which such surety shall have lodged with the state tax assessor a written request to be released and discharged. Provided, however, that such request shall not operate to relieve, release, or discharge such surety from any liability already accrued or which shall accrue, before the expiration of said 60-day period. The state tax assessor shall promptly, on receipt of notice of such request, notify the user to furnish such bond and unless such user shall, on or before the expiration of such 60-day period, file with the state tax assessor a new bond with a surety company satisfactory to the state tax assessor in the amount and form hereinbefore in this section provided, the state tax assessor shall forthwith cancel the license of said user. If such new bond shall be furnished by said user as above provided, the state tax assessor shall cancel and surrender the bond of said user for which such new bond shall be substituted.

In lieu of furnishing a bond executed by a surety company, as surety, as hereinbefore in this section provided, any user may furnish his bond not so executed, provided he shall concurrently therewith deposit and pledge with the state tax assessor direct obligations of the United States, or obligations of any agency of the United States fully guaranteed by it, or bonds of the state of Maine of equal full amount to the amount of the bond required by this section, as collateral security for the payment of such bond.

Sec. 175. Tax reports; computation and payment of tax. 1941, c. 244, § 7. For the purpose of determining the amount of tax herein imposed, each user shall, not later than the 15th day of each calendar month, file with the state tax assessor on forms prescribed by said state tax assessor, monthly reports sworn to by the

user which shall include the total gallonage of fuels used within this state during the next preceding calendar month.

At the time of filing of each monthly report with the state tax assessor, each user shall file with the treasurer of state an executed duplicate thereof and, concurrently therewith, shall pay to the treasurer of state, the full amount of the fuel tax for the next preceding calendar month at the same rate as provided for in section 172.

See §§ 177, 181.

Sec. 176. Power of state tax assessor to cancel licenses; surrender of bond. 1941, c. 244, § 8. If a user shall at any time file a false monthly report of the data or information required by sections 169 to 185, inclusive, or shall fail, refuse, or neglect to file the monthly report required by said sections, or to pay the full amount of the tax as required by said sections, the state tax assessor may forthwith cancel the license of said user and notify such user in writing of such cancellation by registered mail to the last known address of such user appearing on the file of the state tax assessor.

Upon receipt of a written request from any user licensed under the provisions of sections 169 to 185, inclusive, to cancel the license issued to such user, the state tax assessor shall have the power to cancel such license effective 60 days from the date of such written request, but no such license shall be canceled upon the request of any user until and unless the user shall, prior to the date of such cancellation, have paid to this state all excise taxes payable under the laws of this state, together with any and all penalties, interest, and fines accruing under any of the provisions of said sections, and until and unless the user shall have surrendered to the state tax assessor the license certificate theretofore issued to such user. If upon investigation, the state tax assessor shall ascertain and find that any person to whom a license has been issued under the provisions of said sections is no longer engaged in the use of fuel and has not been so engaged for a period of 6 months, the state tax assessor shall have the power to cancel such license by giving such person 60 days' notice of such cancellation mailed to the last known address of such person, in which event the license certificate theretofore issued to such person shall be surrendered to the state tax assessor.

In the event that the license of any user shall be canceled by the state tax assessor as hereinbefore in this section provided and in the further event that said user shall have paid to this state all excise taxes due and payable by said user under the provisions of sections 169 to 185, inclusive, together with any and all penalties accruing under any of the provisions of said sections, then the state tax assessor shall cancel and surrender the bond and any collateral security theretofore filed by said user.

Sec. 177. Penalty for failure to report and pay taxes promptly. 1941, c. 244, § 9. When any user shall fail to file the monthly report with the state tax assessor on or before the time fixed for the filing thereof, or when such user fails to submit data outlined in section 175 in such monthly report, or when such user shall fail to pay to the treasurer of state the amount of excise taxes due this state when the same shall be paid, a penalty of 10% shall be added to the amount of the tax due, and such penalty of 10% shall immediately accrue, and thereafter said tax and penalty shall bear interest at the rate of 1% per month until the same is paid.

Sec. 178. State tax assessor may estimate fuel used. 1941, c. 244, § 10. Whenever any user shall neglect or refuse to make and file any report for any

calendar month as required by sections 169 to 185, inclusive, or shall file an incorrect or fraudulent report, the state tax assessor shall determine after an investigation, the number of gallons of fuel with respect to which the user has incurred liability under the provisions of said sections for any particular month or months and fix the amount of taxes and penalties payable by the user under the provisions of said sections accordingly. The state tax assessor shall forthwith certify the amount so fixed to the treasurer of state for collection by him.

In any action or proceeding for the collection of the use fuel tax and any penalties or interest imposed in connection therewith, an assessment by the state tax assessor of the amount of the tax due and the interest or penalties due to the state shall constitute prima facie evidence of the claim of the state, and the burden of proof shall be upon the user to show the assessment was incorrect and contrary to law.

See § 177.

Sec. 179. Retention of records by users; penalty. 1941, c. 244, § 11. Each user shall maintain and keep for a period of 2 years, such record or records of fuel used within this state by such user, together with invoices, bills of lading, and other pertinent records and papers as may be required by the state tax assessor for the reasonable administration of the provisions of sections 169 to 185, inclusive. Any person wilfully violating any of the provisions of this section shall be guilty of a misdemeanor and shall upon conviction thereof be sentenced to pay a fine of not more than \$2,000.

Sec. 180. Inspection of records; civil action for tax; forms; rules and regulations. 1941, c. 244, § 12. The state tax assessor or any deputy, employee, or agent authorized shall have authority to examine the records, books, papers, and any other equipment of the user pertaining to fuel used, to verify the truth and accuracy of any statement, report, or return, or to ascertain whether or not the tax imposed by the provisions of sections 169 to 185, inclusive, has been paid, and further to examine the records, books, papers, and any other equipment of the user to determine the financial responsibility of the user for the payment of the taxes imposed by the provisions of said sections.

The state tax assessor shall have the power to institute legal proceedings by the attorney-general in a court of appropriate jurisdiction for the purpose of ascertaining the amount due and enforcing the collection thereof, with penalties and interest thereon, and for the purpose of enjoining the business of the delinquent. The claims of the state for sums due under the provisions of sections 169 to 185, inclusive, shall be preferred and priority claims in the event of the assignment, receivership, or bankruptcy of any user.

The state tax assessor shall have the authority to prescribe all forms upon which reports shall be made to the state tax assessor and any other forms required for the proper administration of the provisions of sections 169 to 185, inclusive, and shall prescribe and publish all needful rules and regulations for the enforcement of the provisions of said sections.

Sec. 181. Discontinuance as a licensed user. 1941, c. 244, § 13. Whenever a user ceases to engage in business as a user of fuel within this state, it shall be the duty of such user to notify the state tax assessor in writing within 15 days after discontinuance. All taxes, penalties, and interest under the provisions of sections 169 to 185, inclusive, not yet due and payable under the provisions of said sections shall, together with any and all interest accruing or penalties imposed under the provisions of said sections, notwithstanding any provisions

thereof, become due and payable concurrently with such discontinuance. It shall be the duty of said user to make a report and pay all such taxes, interest, and penalties and to surrender to the state tax assessor the license certificate theretofore issued to such user by the state tax assessor.

Any person violating any of the provisions of this section shall be guilty of a misdemeanor and shall upon conviction thereof be sentenced to pay a fine of not less than \$50, nor more than \$300.

See § 179, re keeping of records, etc. for 2 years.

Sec. 182. Refund of taxes erroneously or illegally collected. 1941, c. 244, § 14. In the event it shall appear to the state tax assessor that any taxes or penalties imposed by the provisions of sections 169 to 185, inclusive, have been erroneously or illegally collected from any user, the state tax assessor shall certify the amount thereof to the controller, who shall thereupon draw his warrant for such certified amount on the treasurer of state to such user. Such refund shall be paid by the treasurer of state to such user forthwith from the general highway fund.

No refunds shall be made under the provisions of this section unless a written claim therefor setting forth the circumstances by reason of which such refund shall be allowed, which claim shall be in such form as the state tax assessor shall prescribe and shall be sworn to by the claimant, shall be filed with the state tax assessor within 9 months from the date of the payment of the taxes erroneously or illegally collected.

Sec. 183. Failure to file statement; false statement; penalties, etc. 1941, c. 244, § 15. Any person who shall refuse or neglect to make any statement, report, or return required by the provisions of sections 169 to 185, inclusive, or who shall knowingly make, or shall aid or assist any other person in making a false statement in a return or report to the state tax assessor, or in connection with an application for refund of any tax, or who shall knowingly collect or attempt to collect, or cause to be paid to him or to any other person, either directly or indirectly, any refund of such tax without being entitled to the same, or who shall use fuel without being the holder of an uncanceled license, shall be guilty of a misdemeanor and upon conviction thereof be punished by a fine of not more than \$2,000. Each day or part thereof during which any person shall engage in business as a user without being the holder of an uncanceled license shall constitute a separate offense within the meaning of this section.

Sec. 184. Allocation of tax. 1941, c. 244, § 16. All taxes collected under the provisions of section 172, after the deduction of such amounts as may be currently appropriated to cover the costs and expenses of the state tax assessor incident to the administration and enforcement of the provisions of sections 169 to 185, inclusive, shall be credited to the general highway fund.

Sec. 185. Exchange of information among the states. 1941, c. 244, § 17. The state tax assessor shall, upon request duly received from the officials to whom are entrusted the enforcement of the fuel tax laws of any other state, forward to such officials any information which he may have in his possession relative to the manufacture, receipt, sale, use, transportation, and shipment of fuel by any person.

Cigarette Tax

Sec. 186. Definitions. 1941, c. 298, § 1. Whenever used in sections 186 to 205, inclusive, unless the context shall otherwise require, the following words and phrases shall have the following meanings:

“Tax assessor” or “assessor” shall mean the state tax assessor;

“Person” shall mean any individual, firm, fiduciary, partnership, corporation, trust, or association, however formed;

“Distributor” shall mean any person engaged in this state in the business of producing or manufacturing cigarettes or importing into the state cigarettes at least 75% of which are purchased directly from the manufacturers thereof;

“Licensed distributor” shall mean a distributor licensed under the provisions of sections 186 to 205, inclusive;

“Dealer” shall mean any person other than a distributor, as defined herein, who is engaged in this state in the business of selling cigarettes;

“Licensed dealer” shall mean a dealer licensed under the provisions of said sections; and

“Sale” or “sell” shall include or apply to gifts, exchanges, and barter.

Sec. 187. Dealers and distributors to be licensed. 1941, c. 298, § 2. Each person engaging in the business of selling cigarettes in this state, including any distributor or dealer, shall secure a license from the tax assessor before engaging in such business. A separate application and license shall be required for each wholesale outlet and for each retail outlet when a person shall own or control more than 1 place of business dealing in cigarettes. Each vending machine shall be considered a retail outlet. Such license shall be issued on forms prescribed by the assessor, and shall contain the name and address of the applicant, the address of the place of business, and such other information as the assessor may require for the proper administration of the provisions of sections 186 to 205, inclusive. Each application for a wholesale outlet license shall be accompanied by a fee of \$25 and each such application for a retail outlet license shall be accompanied by a fee of \$1. Each license so issued shall be prominently displayed on the premises covered by the license and in the case of vending machines there shall be attached to the same a disc or marker to be furnished by the assessor showing it to have been licensed. Any person who shall sell, offer for sale, or possess with intent to sell any cigarettes, without a license as provided in this section, shall be punished by a fine of not more than \$25 for the 1st offense, and not less than \$25, nor more than \$200, for each subsequent offense.

Sec. 188. License to be valid for 1 year. 1941, c. 298, § 3. Each license issued under the provisions of section 187 shall expire on the 31st day of July next succeeding the date of issuance unless sooner revoked by the assessor as provided in section 189, or unless the business with respect to which such license was issued shall be transferred, in either of which cases the holder of the license shall immediately return it to the assessor. In the event that the holder of a license shall remove his business to another location within the state, the license with respect to the former place of business shall be reissued for the new location without the payment of an additional fee for the unexpired term. The holder of each license on application to the assessor, accompanied by the fee prescribed in section 187, may annually before the expiration date of the license then held by him renew his license for a further period of 1 year.

Sec. 189. Revocation of license. 1941, c. 298, § 4. The assessor may revoke or suspend the license of any dealer or distributor for failure to comply with any

provisions of sections 186 to 205, inclusive, or if the person licensed has ceased to act in the capacity for which the license was issued. Any person aggrieved by such revocation or suspension may apply to the assessor for a hearing as provided in section 201, and may further appeal to the courts as provided in section 202.

Sec. 190. One mill tax imposed. 1941, c. 298, § 5. A tax is imposed on all cigarettes held in this state by any person for sale, said tax to be at the rate of 1 mill for each cigarette, and the payment thereof to be evidenced by the affixing of stamps to the packages containing the cigarettes, as hereinafter provided. Any cigarette on which a tax has been paid, such payment being evidenced by the affixing of such stamp, shall not be subject to a further tax under the provisions of sections 186 to 205, inclusive. Nothing contained in said sections shall be construed to impose a tax on any transaction, the taxation of which by this state is prohibited by the constitution of the United States.

Sec. 191. Assessor to provide stamps. 1941, c. 298, § 6. The tax assessor shall secure stamps, of such design and denomination as he shall prescribe, suitable to be affixed to packages of cigarettes as evidence of the payment of the tax imposed by the provisions of sections 186 to 205, inclusive. He shall sell such stamps to licensed distributors at a discount of 7% of their face value and to licensed dealers at their face value. The face value of the stamps when affixed shall be considered as part of the cost of the merchandise. The assessor may, in his discretion, permit a licensed distributor or licensed dealer to pay for such stamps within 30 days after the date of purchase, provided a bond satisfactory to the assessor in an amount not less than the sale price of such stamps shall have been filed with the assessor conditioned upon payment for such stamps. He shall keep accurate records of all stamps sold to each distributor and dealer and shall pay over all receipts from the sale of stamps to the treasurer of state daily.

See § 204, re metering machines.

Sec. 192. Dealers and distributors not to resell stamps; redemption. 1941, c. 298, § 7. 1943, c. 20. No distributor or dealer shall sell or transfer any stamps issued under the provisions of sections 186 to 205, inclusive. The assessor shall redeem any unused, uncanceled stamps presented by any licensed distributor or dealer, at a price equal to the amount paid therefor by such dealer or distributor, and the said assessor may upon proof satisfactory to him, and in accordance with regulations promulgated by him, redeem, at a price equal to the amount paid therefor, Maine cigarette tax stamps affixed to packages of cigarettes which have become unfit for use and consumption, or unsalable, and the treasurer of state shall provide, out of money collected hereunder, the funds necessary for such redemption.

Sec. 193. Distributors to affix stamps. 1941, c. 298, § 8. Each distributor shall affix, or cause to be affixed, in such manner as the assessor may specify in regulations issued pursuant to the provisions of sections 186 to 205, inclusive, to each individual package of cigarettes sold or distributed by him, stamps of the proper denominations, as required by section 190. Such stamps may be affixed by a distributor at any time before the cigarettes are transferred out of his possession.

Sec. 194. Dealers to affix stamps. 1941, c. 298, § 9. Each dealer shall, within 72 hours after coming into possession of any cigarettes not bearing proper stamps evidencing payment of the tax imposed by sections 186 to 205, inclusive,

and before selling such cigarettes, affix or cause to be affixed, in such manner as the assessor may specify in regulations issued pursuant to the provisions of said sections, to each individual package of cigarettes, stamps of the proper denomination, as required by section 190.

Sec. 195. Sale of unstamped cigarettes prohibited. 1941, c. 298, § 10. No distributor shall sell, and no other person shall sell, offer for sale, display for sale, or possess with intent to sell, any cigarettes which do not bear stamps evidencing the payment of the tax imposed by sections 186 to 205, inclusive, provided a licensed dealer may keep on hand unstamped cigarettes for a period not exceeding 72 hours. Any unstamped cigarettes in the possession of a dealer shall be presumed to have been held by him for more than 72 hours unless proof be shown to the contrary. Any person who shall violate any provision of this section shall be punished by a fine of not more than \$100 for the 1st offense and, for each subsequent offense, shall be punished by a fine of not less than \$200, nor more than \$1,000, or by imprisonment for not more than 6 months, or by both such fine and imprisonment.

Sec. 196. Unstamped cigarettes subject to confiscation. 1941, c. 298, § 11. 1943, c. 48, § 1. Any cigarettes found at any place in this state without stamps affixed thereto as required by sections 186 to 205, inclusive, unless such cigarettes shall be in the possession of a licensed distributor, or unless they shall be in course of transit from without this state and consigned to a licensed distributor or licensed dealer, or unless they shall have been received by a licensed dealer within 72 hours, are declared to be contraband goods and are subject to forfeiture to the state; and sheriffs, deputy sheriffs, police officers, and duly authorized agents of the said assessor shall have the power to seize the same with or without process. In case such cigarettes are seized without a warrant, they shall be kept in some safe place for a reasonable time until a warrant can be procured. When such cigarettes are seized as provided herein, the officer or agent seizing them shall immediately file with the magistrate before whom such warrant is returnable, a libel against such cigarettes setting forth the seizure and describing the cigarettes, their containers, and the place of seizure in sufficient manner to reasonably identify them, and that they were kept or intended for unlawful sale or use in violation of law, and pray for a decree of forfeiture thereof and such magistrate shall fix a time for the hearing of such libel and shall issue his monition and notice of the same to all persons interested, citing them to appear at the time and place appointed to show cause why such cigarettes and their containers should not be declared forfeited, by causing true and attested copies of said libel and monition to be posted in 2 public and conspicuous places in the town or place where such cigarettes were seized, 10 days at least before said libel is returnable; provided, however, that in lieu of forfeiture proceedings title to such seized, unstamped cigarettes may be transferred to the state of Maine by the owner thereof. If title to and ownership in such cigarettes is transferred to the state, a receipt for the cigarettes shall be given to the former owner by the state tax assessor or his authorized agent.

Sec. 197. Forfeiture proceedings. 1941, c. 298, § 12. 1943, c. 48, § 2. If no claimant appears, such magistrate shall, on proof of notice as aforesaid, declare the same to be forfeited to the state. If any person appears and claims such cigarettes, or any part thereof, as having a right to the possession thereof at the time when the same were seized, he shall file with the magistrate such claim in writing, stating specifically the right so claimed, the foundation thereof, the

items so claimed, the time and place of the seizure, and the name of the officer or duly authorized agent of the said assessor by whom the same were seized, and in it declare that they were not so kept or deposited for unlawful sale and use, as alleged in said libel and motion, and also state his business and place of residence, and shall sign and make oath to the same before said magistrate. If any person so makes claim, he shall be admitted as a party to the process; and the magistrate shall proceed to determine the truth of the allegations in said claim and libel, and may hear any pertinent evidence offered by the libelant or claimant. If the magistrate is, upon hearing, satisfied that said cigarettes were not so kept or deposited for unlawful sale or use, and that the claimant is entitled to the custody of any part thereof, he shall give him an order in writing, directed to the officer or duly authorized agent of the said assessor having the same in custody, commanding him to deliver to said claimant the cigarettes to which he is so found to be entitled, within 48 hours after demand. If the magistrate finds the claimant entitled to no part of said cigarettes, he shall render judgment against him for the libelant for costs, to be taxed as in civil cases before such magistrate, and issue execution thereon, and shall declare said cigarettes forfeited to the state. The claimants may appeal and shall recognize with sureties as on appeals in civil causes from a magistrate. All cigarettes declared forfeited to the state, or title to which has been transferred to the state in lieu of forfeiture proceedings, shall be sold by the treasurer of state at the approximate wholesale price thereof, and the funds derived from such sales shall be paid into the state treasury.

Sec. 198. Fraudulent stamps. 1941, c. 298, § 13. Any person who shall fraudulently make or utter or shall forge or counterfeit any stamp prescribed by the tax assessor under the provisions of sections 186 to 205, inclusive, or who shall cause or procure the same to be done, or who shall wilfully utter, publish, pass, or render as true, any false, altered, forged, or counterfeited stamp, or who shall knowingly possess any such false, altered, forged, or counterfeited stamp, or who shall use more than once any stamp provided for and required by said sections, for the purpose of evading the tax imposed by said sections, shall be deemed guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than 1 year, nor more than 2 years, or by a fine of not less than \$500, nor more than \$1,000, or by both such imprisonment and fine.

Sec. 199. Taxpayers to keep records; assessor may examine. 1941, c. 298, § 14. Each distributor and each dealer shall keep complete and accurate records of all cigarettes manufactured, produced, purchased, and sold. Such records shall be of such kind and in such form as the tax assessor may prescribe and shall be safely preserved for 2 years in such manner as to insure permanency and accessibility for inspection by the assessor and his authorized agents. The assessor and his authorized agents may examine the books, papers, and records of any distributor or dealer in this state for the purpose of determining whether the tax imposed by sections 186 to 205, inclusive, has been fully paid, and may investigate and examine the stock of cigarettes in or upon any premises where such cigarettes are possessed, stored, or sold for the purpose of determining whether the provisions of said sections are being obeyed.

Sec. 200. Oaths and subpoenas. 1941, c. 298, § 15. The assessor and any agent of the assessor duly authorized to conduct any inquiry, investigation, or hearing hereunder shall have power to administer oaths and take testimony under oath relative to the matter of inquiry or investigation. At any hearing ordered by the assessor, the assessor or his agent authorized to conduct such hearing and

having authority by law to issue such process may subpoena witnesses and require the production of books, papers, and documents pertinent to such inquiry. If any person shall disobey such process or, having appeared in obedience thereto, shall refuse to answer any pertinent question put to him by the assessor or his authorized agent or to produce any books and papers pursuant thereto, the assessor or such agent may apply to the superior court of the county wherein the taxpayer resides or wherein the business has been conducted, or to any justice of said court if the same shall not be in session, setting forth such disobedience to process or refusal to answer, and said court or said justice shall cite such person to appear before said court or such justice to answer such question or to produce such books and papers, and, upon his refusal to do so, may commit him to jail until he shall testify, but not for a longer period than 60 days. Notwithstanding the serving of the term of such commitment by any person, the assessor may proceed in all respects with such inquiry and examination as if the witness had not previously been called upon to testify. Officers who serve subpoenas issued by the assessor or under his authority and witnesses attending hearing conducted by him hereunder shall receive fees and compensation at the same rates as officers and witnesses in the courts of this state, to be paid on vouchers of the assessor on warrant of the controller from the proper appropriation for the administration of the provisions of sections 186 to 205, inclusive.

Sec. 201. Hearings by assessor. 1941, c. 298, § 16. Any person aggrieved by any action under the provisions of sections 186 to 205, inclusive, of the assessor or his authorized agent for which hearing is not elsewhere provided may apply to the assessor, in writing, within 10 days after the notice of such action is delivered or mailed to him, for a hearing, setting forth the reasons why such hearing should be granted and the manner of relief sought. The assessor shall promptly consider each such application and may grant or deny the hearing requested. If the hearing be denied, the applicant shall be notified thereof forthwith; if it be granted, the assessor shall notify the applicant of the time and place fixed for such hearing. After such hearing, the assessor may make such order in the premises as may appear to him just and lawful and shall furnish a copy of such order to the applicant. The assessor may, by notice in writing, at any time, order a hearing on his own initiative and require the taxpayer or any other individual whom he believes to be in possession of information concerning any manufacture, importation, or sale of cigarettes which have escaped taxation to appear before him or his duly authorized agent with any specific books of account, papers, or other documents for examination relative thereto.

Sec. 202. Appeals from decisions of assessor. 1941, c. 298, § 17. Any person aggrieved because of any action or decision of the assessor under the provisions of sections 186 to 205, inclusive, may appeal therefrom to the superior court in the county where the aforesaid person resides. Any person desiring to appeal from any such action or decision shall furnish a bond or recognizance to the state of Maine with sureties to prosecute the appeal to effect and comply with the orders and decrees of the court in the premises. Notice of such appeal and the necessary papers affecting the case shall be forwarded to the said superior court within 5 days after the notice of appeal. The said superior court shall issue a citation to the tax assessor or his duly authorized representative to appear before said court at the return day of the case. The appeal shall be returnable at the same time, and service and return shall be made in the same manner as is provided for civil actions in the superior court.

Sec. 203. Administration by assessor; rulings and regulations. 1937, c. 221. 1941, c. 298, § 18. 1943, c. 320. The administration of the provisions of sections 186 to 205, inclusive, is vested in the state tax assessor. All forms necessary and proper for the enforcement of the provisions of said sections shall be prescribed and furnished by the assessor. The assessor shall appoint such agents, clerks, stenographers, and other assistants as he may deem necessary for effecting the purpose of said sections, subject to the provisions of the personnel law. The tax assessor may prescribe regulations and rulings, not inconsistent with law, to carry into effect the provisions of said sections, which regulations and rulings, when reasonably designed to carry out the intent and purpose of said sections, shall be prima facie evidence of its proper interpretation. The assessor shall, at least annually, and oftener in his discretion, publish for distribution all regulations prescribed hereunder and such rulings as appear to him to be of general interest.

Sec. 204. Use of metering machines. 1941, c. 298, § 19. The tax assessor, if he shall determine that it is practicable to stamp by impression packages of cigarettes by means of a metering machine, may, in lieu of selling stamps under the provisions of section 191, authorize any licensed distributor or licensed dealer to use any metering machine approved by him, such machine to be sealed by the assessor before being used in accordance with regulations prescribed by him. Any licensed distributor or licensed dealer authorized by the tax assessor to affix stamps to packages by means of a metering machine shall file with the assessor a bond issued by a surety company licensed to do business in this state, in such amount as the tax assessor may fix, conditioned upon the payment of the tax upon cigarettes so stamped. The bond shall be in full force and effect for a period of 1 year and a day after the expiration of the bond, unless a certificate be issued by the tax assessor to the effect that all taxes due to the state have been paid. In the discretion of the tax assessor, cash may be accepted in lieu of a surety bond, such cash to be paid over by the tax assessor to the treasurer of state, who may deposit or hold the same subject to further order of the tax assessor. The tax assessor shall cause each metering machine approved by him to be read and inspected at least once a month and shall determine as of the time of each inspection the amount of tax due from the distributor or dealer using such machine after allowing for the discount, if any, provided for in section 191, which tax shall be due and payable upon demand of the tax assessor or his duly authorized agent.

Sec. 205. Allocation of tax. 1941, c. 298, § 20. The revenue derived from the tax imposed by the provisions of sections 186 to 205, inclusive, is appropriated for the payment of old age assistance; provided, however, that all the expenses incurred by the state in carrying out the provisions of said sections shall be paid out of the aforesaid revenue; provided further, that at such time as federal legislation, and enforcement of such legislation, makes it unnecessary for this state to provide for the payment of old age assistance, the revenue derived from the tax herein imposed shall be segregated and held for the purpose of providing for the reduction of the tax on real estate at the discretion of the next ensuing legislature.

Potato Tax

Sec. 206. Purpose. 1937, c. 84, § 1. The production of potatoes is one of the most important agricultural industries of this state and sections 206 to 217, inclusive, were enacted into law to conserve and promote the prosperity and

welfare of this state and of the potato industry of this state by fostering and promoting better methods of production, merchandising, and advertising the said potato industry of this state.

Sec. 207. Terms defined. 1937, c. 84, § 2. The terms used in sections 206 to 217, inclusive, shall be construed as follows:

“Potatoes” shall mean and include all potatoes of the grades as recommended by the bureau of agricultural economics of the United States department of agriculture, and such other grades as may from time to time be promulgated by the department of agriculture of the state of Maine. The records of the department of agriculture of the state of Maine of the grades recommended by said bureau of agricultural economics of the United States department of agriculture shall be prima facie evidence of such grades;

“Barrel” shall mean 165 pounds of potatoes;

“Shipper” shall mean any person, partnership, association, firm, or corporation engaged in the shipping of potatoes or transporting his own potatoes, whether as owner, agent, or otherwise;

“Shipment” shall be deemed to take place when the potatoes are located within the state in the car, boat, truck, or other conveyance in which the potatoes are to be transported.

Sec. 208. Tax of 1c per barrel on potatoes. 1937, c. 84, § 3. A tax is levied and imposed at the rate of 1c per barrel on all potatoes raised in this state, except that no tax shall be imposed upon any potatoes which are retained by the grower to be used by him for seed purposes or for home consumption.

Sec. 209. Time tax is due. 1937, c. 84, § 4. The tax imposed by section 208 shall be due upon any particular lot or quantity of potatoes under the provisions of section 212.

Sec. 210. Shippers to file applications with state tax assessor; contents of application; shippers not to ship until certificate is issued. 1937, c. 84, § 5. 1943, c. 72. Every shipper of potatoes, as defined in section 207, shall file a duly acknowledged application with the state tax assessor, on forms prescribed and furnished by the state tax assessor which shall contain the name under which such shipper is transacting business within the state, the place or places of business and location of loading and shipping places and agents of the shipper; the names and addresses of the several persons constituting a firm or partnership and, if a corporation, the corporate name and the names and addresses of its principal officers and agents within the state. The state tax assessor will then issue a certificate to the shipper and no shipper shall sell or ship any potatoes, as defined in section 207, until such certificate is furnished as required by this section.

Sec. 211. Shipper entitled to deduct tax from selling price. 1937, c. 84, § 6. Each shipper purchasing potatoes and paying, or becoming liable to pay, the tax imposed by section 208 shall charge and collect from the seller a tax at the rate of 1c per barrel, to be deducted from the purchase price of all potatoes subject to the tax, so purchased by such shipper.

Sec. 212. Report of shipments to be made on 15th of each month for preceding month; tax to be paid on or before 1st day of month succeeding filing of report; tax assessor to submit statement to treasurer of state of taxes due. 1937, c. 84, § 7. Every shipper shall keep as a part of his permanent records a record of all purchases, sales, and shipments of potatoes, which said records shall be

open for inspection at all times as hereinafter provided, and every shipper shall, on or before the 15th day of each month, render a report to the state tax assessor stating the quantity of potatoes received, sold, or shipped by him during the preceding calendar month, on forms to be furnished by said tax assessor, and said report shall contain such further information pertinent thereto as said state tax assessor shall prescribe. On or before the 1st day of the calendar month succeeding the filing of said report, each shipper shall pay to the treasurer of state a tax at the rate of 1c per barrel upon all potatoes so reported as purchased, sold, or shipped, as determined by the state tax assessor. On or before the 1st day of each calendar month, the state tax assessor shall transmit to the treasurer of state such information as shall show all taxes due from each shipper under the provisions of sections 206 to 217, inclusive.

Sec. 213. State tax assessor to have authority to inspect. 1937, c. 84, § 8. The state tax assessor shall have authority to enter any place of business of any shipper, or any car, boat, truck, or other conveyance in which potatoes are to be transported, and to inspect any books or records of any shipper for the purpose of determining what potatoes are taxable under the provisions of sections 206 to 217, inclusive, or for the purpose of determining the truth or falsity of any statement or return made by any shipper, and he shall have authority to delegate such power to the commissioner of agriculture, his deputies, agents, servants, or employees.

Sec. 214. Penalty for false return or violation of provisions; tax may be collected by civil action; jurisdiction. 1937, c. 84, § 9. 1943, c. 112. Any shipper of potatoes, as defined in section 207, who shall make any false or fraudulent report or return required by sections 206 to 217, inclusive, or who shall evade or violate any of the provisions of said sections, shall be punished by a fine of not more than \$500. Whenever any shipper shall fail to pay any tax due under the provisions of said sections, within the time limited herein, the attorney-general shall enforce payment of such tax by civil action against such shipper for the amount of such tax, either in the superior court or municipal court in and for the county in which such shipper has his residence or established place of business.

Sec. 215. Appropriation of moneys received. 1937, c. 84, § 10. 1941, c. 199, § 1. Moneys received through the provisions of sections 206 to 217, inclusive, by the treasurer of state shall be appropriated and used for the following purposes:

I. For the collection of the tax provided for by section 208 and the enforcement of all the provisions of sections 206 to 217, inclusive.

II. A sum which shall equal at least 25% of the money collected shall be used and applied for the purpose of investigating and determining better methods of production, shipment, and merchandising of potatoes, and for the manufacture and merchandising of potato by-products by the Maine agricultural experiment station under the supervision of the Maine development commission.

III. A sum which shall equal at least 25% of the money collected shall be used for the general purpose of merchandising and advertising Maine potatoes for food and for seed purposes under the direction of the Maine development commission.

IV. The funds remaining over and above the expenses of carrying out the provisions of sections 206 to 217, inclusive, including the expenditures authorized

under the provisions of subsections II and III of this section, may be expended by the commission to carry out the purposes outlined in said subsections as it may determine.

Sec. 216. Maine potato tax committee. 1937, c. 84, § 11. 1941, c. 199, § 2. The Maine potato tax committee, as heretofore established, shall consist of 5 members to be appointed by the commissioner of agriculture from representatives of the potato industry in this state. Four of these members shall be residents of Aroostook county and one a resident of central Maine, so called. Each member shall be appointed for a term of 2 years, or until his successor is duly appointed and qualified. In case of a vacancy caused by death, resignation, or otherwise, the vacancy shall be filled by the commissioner for the unexpired period of the term. The said committee shall work with the Maine development commission in an advisory capacity to assist the commission in the carrying out of the provisions of sections 206 to 217, inclusive. The members of the committee shall serve without compensation, but shall be reimbursed for expenses incurred in the performance of their duties.

Sec. 217. Tax in addition to other taxes. 1937, c. 84, § 12. All taxes imposed and collected under the provisions of sections 206 to 217, inclusive, shall be in addition to any other taxes legally imposed or collected under any other provision of the law of the state now or hereafter in force.

Oleomargarine Tax

Sec. 218. Provisions for imposing an excise tax on oleomargarine and collection of the tax by state tax assessor. 1935, c. 54, § 1. An excise tax of 10c per pound is imposed on all oleomargarine sold, offered, or exposed for sale, or exchanged in this state, containing any fat and/or oil ingredient other than any of the following fats and/or oils; oleo oil from cattle, oleo stock from cattle, oleo stearine from cattle, neutral lard from hogs, peanut oil, corn oil, cottonseed oil, soya bean oil, or milk fat. Such excise tax shall be in the form of a revenue stamp in such denominations as will best carry out the provisions of the law. Said stamps shall be properly safeguarded as to their manufacture, preservation, and distribution and shall be in the charge of the state tax assessor.

Sec. 219. Rules and regulations for enforcement. 1935, c. 54, § 2. The state tax assessor is empowered to promulgate such rules and regulations as are consistent with and will aid in carrying out the provisions of sections 218 to 221, inclusive.

Sec. 220. Penalty for violation. 1935, c. 54, § 3. Any person violating any of the provisions of sections 218 to 221, inclusive, or any of the rules or regulations promulgated by the state tax assessor for the purpose of carrying out the provisions of said sections, shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than \$25, nor more than \$200, or by imprisonment for not more than 2 months, or by both such fine and imprisonment.

Sec. 221. Disposition of revenue. 1935, c. 54, § 4. All moneys derived from the sale of revenue stamps under the provisions of sections 218 to 221, inclusive, shall be paid into the state treasury.

See c. 124, § 6 et seq., re sales of oleomargarine, etc.