

MAINE STATE LEGISLATURE

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Chapter 36.

Forestry.

Sections 1- 17. Forest Commissioner. Powers and Duties. Surveyors.
Sections 18- 19. Entomology and Pest Control.
Sections 20- 27. Insects and Diseases of Trees.
Sections 28- 32. National Forests.
Sections 33- 41. Park Commission. State Parks.
Sections 42- 47. Baxter State Park.
Sections 48- 64. Public Reserved Lots.
Section 65. Forest Nurseries.
Sections 66- 67. Shade, Ornamental or Forest Trees.
Sections 68- 73. White Pine Blister Rust.
Sections 74- 88. Fire Patrol and Preservation of Forests.
Sections 89- 94. Fire Prevention and Control in Organized Towns.
Sections 95-112. Maine Forestry District. Proclamations re Forest Fires.

Forest Commissioner. Powers and Duties. Surveyors.

Sec. 1. Forest commissioner; appointment; qualifications; duties in respect to public lands; salary.—A forest commissioner, as heretofore appointed by the governor with the advice and consent of the council, hereinafter in this chapter called the “commissioner,” shall be a trained forester or a person of skill and experience in the care and preservation of forest lands and shall hold his office for a term of 4 years. The commissioner shall superintend and manage the sale and settlement of the public lands. He shall not when appointed, or while in office, be directly or indirectly concerned in the lumber business on the state lands, or in the purchase thereof, or of any timber or grass growing or cut thereon. The commissioner shall receive an annual salary of \$9,000, of which amount \$6,000 shall be paid from funds raised and created by the tax assessed under the provisions of section 96. (R. S. c. 32, § 1. 1945, c. 372. 1949, c. 370. 1951, c. 271, § 1.)

See § 8, re deputy forest commissioner; duties as to timber and grass on public § 109, re forest commissioner’s salary from reserved lots forfeited for taxes; c. 96, forestry district funds; c. 16, §§ 90-91, re § 13, re public shade trees.

Sec. 2. Receiving moneys; traveling expenses; clerks.—The commissioner shall receive all moneys and securities accruing to the state from the sale of lands, timber and grass, or in payment for timber or grass cut by trespassers, and shall pay to the treasurer of state all moneys so received and found due from him on settlement. All securities shall be made payable to said treasurer. He shall personally attend to the duties of his office, so far as practicable; no commission shall be allowed him for his disbursements or collections, and nothing shall be allowed him for traveling expenses from his home to the forest commissioner’s office, unless on official business, nor for transportation of the official records, unless money is paid out specifically therefor. All persons employed by him shall be sworn to the faithful discharge of their duties, and they shall not be concerned directly or indirectly in the purchase of lands, or of timber or grass on lands belonging to the state. He may employ such clerical labor as may be necessary, subject to the provisions of the personnel law. (R. S. c. 32, § 2.)

See § 100, re Maine forestry district employees; § 109, re Maine forestry district expenses.

Sec. 3. Supervision and control of certain state lands.—All lands owned by the state, the management and control of which is not otherwise provided for by law, shall be under the supervision and control of, and shall be administered by the forest commissioner; and he shall have full power in the control and management of the same. The commissioner may make recommendations to the legislature for the sale of lands, giving proper descriptions and appraisals, on which no applications for purchase have been received.

The commissioner shall, after approval by the legislature, sell and convey any such lands, but shall, in all cases, unless otherwise directed by the legislature, give public notice of the proposal to sell such lands and shall ask for competitive bids and shall sell to the highest bidder with the right to reject all bids.

The commissioner is authorized and directed to prosecute cases of trespass on any such lands while under his control and management. No sales of such lands shall be made by the commissioner except by authorization of the legislature.

The commissioner is authorized, with the approval of the governor and council, to grant leases and rights to cut timber and grass on such lands, on such terms as they may approve.

Nothing in this section shall be held to repeal or modify any existing statutes authorizing the commissioner to sell lands or rights in lands not included within the express provisions hereof. (R. S. c. 32, § 3, 1951, c. 182.)

See § 61, re trespass.

Sec. 4. Lands owned by state.—All lands, title to which was acquired by the state under the provisions of chapter 30 of the revised statutes of 1944 shall be under the supervision and control of the forest commissioner, as provided in this chapter.

The commissioner may, with the advice of the governor and council, sell and convey all such lands acquired by virtue of the foreclosure of mortgages under the provisions of the 2nd paragraph of section 25 of chapter 177.

Whenever the title to any property mortgaged under the provisions of chapter 30 of the revised statutes of 1944 shall have been acquired by the state, either by foreclosure of said mortgage or by conveyance, the commissioner, on warrant of the controller, may pay to the town or plantation in which such property is situated such sum as may be determined, as hereinafter provided, toward compensating said town or plantation for the loss of taxes on such property. The amount of said payment shall be determined by the commissioner of agriculture, the state tax assessor and the attorney general, and in determining said amount said state officials shall take into consideration the amount of income, if any, derived by the state from any lease or tenancy of said property, the expense incurred by said town in opening and maintaining highways to said property, the number of pupils, if any, who are residing on said property and attending the public schools of said town or plantation and the cost of transporting them to and from such schools, which amount to be paid shall not in any 1 year exceed the revenue derived by said town or plantation from its tax on said property during the year preceding acquisition of title thereto by the state. (1947, c. 55, § 2.)

Sec. 5. Deeds executed.—The commissioner shall execute deeds in behalf of the state, conveying lands which have been granted by the legislature or sold by lawful authority, as soon as the grantees have complied with the conditions of their respective grants. (R. S. c. 32, § 4.)

Cited in *Hinckley v. Haines*, 69 Me. 76.

Sec. 6. Certified copies of records; filed; evidence.—A copy from the records in the office of the commissioner of a deed from the state of the land of the state, or of a deed from the state and from the commonwealth of Massachusetts of the undivided lands of the state and of said commonwealth, or a deed from said commonwealth of the lands of said commonwealth in Maine, certified

by the commissioner or other legal custodian of such records as a true copy thereof, may be filed and recorded in the registry of deeds in the county or registry district where the land lies, with the same effect as if the deed itself had been recorded, whether said deed shall or not have been acknowledged by the agent or other person making the same; and such record shall have all the force and effect of a record of deeds duly acknowledged, and certified copies thereof from such registry shall be evidence when the original would be. (R. S. c. 32, § 5.)

By this section, copies of deeds from the commonwealth of Massachusetts, of land in Maine, may be certified by the commissioner to the registry of deeds where the land is situated, and certified copies from such registry may be used in evidence whenever the original deeds could be. *Chandler v. Wilson*, 77 Me. 76.

Sec. 7. Plans and field notes.—An accurate plan or map of all lands surveyed shall be returned to the commissioner's office and entered upon the plan books within 3 months after the survey is completed, on which shall be laid down all lakes, ponds, rivers, streams, falls, mill sites and roads. The field notes of such surveys shall be deposited in the commissioner's office within 3 months and shall contain a description of the growth, soil and general character of the township, and of every lot, if surveyed into lots. Said plans and field notes shall be kept at the office in Augusta, open for inspection at all times when the commissioner or his deputy is there; he shall aid in furnishing information about the public lands to all who seek for it at his office. (R. S. c. 32, § 6.)

Sec. 8. Preservation of forests; report; deputy forest commissioner; tenure; compensation.—The commissioner shall make a collection and classification of statistics relating to the forests and connected interests of the state, and institute an inquiry into the extent to which the forests of the state are being destroyed by fires and by wasteful cutting, and ascertain so far as he can as to the diminution of the wooded surface of the land upon the watersheds of the lakes, rivers and water powers of the state and the effect of such diminution upon the water powers and on the natural conditions of the climate. The information so gathered by him, together with his suggestions relative thereto, shall be included in the report to be made by him biennially to the governor on or before the 1st day of July. The chief clerk to the commissioner shall be deputy forest commissioner. He shall hold office during the pleasure of the commissioner and perform such duties as the latter may prescribe. The amount of \$700 of the salary of the deputy forest commissioner shall be paid from funds raised and created by the tax assessed under the provisions of section 96. (R. S. c. 32, § 7.)

Sec. 9. Elementary instruction in forestry in public schools.—The commissioner shall take such measures as the commissioner of education and the president of the University of Maine may approve for awakening an interest in behalf of forestry in the public schools, academies and colleges of the state and of imparting some degree of elementary instruction upon this subject therein. (R. S. c. 32, § 8.)

Sec. 10. Copies of law printed, distributed and posted.—The commissioner, at the expense of the state, may cause copies of such sections or parts of sections of this chapter as he may deem desirable, and all other laws of the state relating to forest fires, to be printed and freely distributed to the forest fire wardens of all the towns of the state, who shall post them up in schoolhouses, sawmills, logging camps and other places; and similar copies shall be furnished to owners of forest lands, who may apply for them, to be posted up at the expense of such owners. Whoever tears down, destroys or defaces any notice relative to protection against forest fires posted over the name and title of the commissioner, or the name of any association organized for the protection of the forests of the state from fire, shall on conviction thereof be punished by a fine of not less than \$25, nor more than \$50. (R. S. c. 32, § 9.)

See § 112, re penalty in § 10, not substitute for existing liabilities.

Sec. 11. Acceptance of gifts to state of land for park and forest purposes.—The commissioner may, with the advice and consent of the governor and council, accept on the part of the state gifts of land for forest and park purposes. The title to lands acquired under the provisions of this section shall be investigated and approved by the attorney general.

The purpose of acquisition of land is declared to be the preservation of scenic beauty, facility for recreation as nearly unrestricted and general as is practicable by the people of this state and those whom they admit to the privilege, and the production of timber for watershed protection and as a crop. The lands acquired within the limits described in this section shall never be sold. They shall be protected from fire and damage from other sources in an efficient and economical way. They may be improved by roads and trails and also reforested under direction of the commissioner according to his best knowledge and judgment when funds are available for that purpose. Timber may be sold and camp sites leased by the commissioner with the approval of the governor and council when in accordance with the purposes of this section as previously stated; no contract of either character to be for a term of more than 5 years. Revenues derived from these uses shall be paid to the treasurer of state by the said commissioner and constitute a fund to be applied to the care and improvement of these lands or to the acquisition of other lands for similar purposes. (R. S. c. 32, § 10.)

See § 34, sub-§ VII, re acceptance of gifts of personal property, etc.

Sec. 12. Granting rights to cut timber; leasing camp sites and mill privileges; preference to Maine people.—The commissioner, under the direction of the governor and council, shall sell at public or private sale and grant rights to cut timber and grass belonging to the state, and may lease camp sites, mill privileges, dam sites, flowage rights, the right to set poles and maintain utility service lines and the right to construct and maintain roads, on lands belonging to the state, on such terms as they direct; also the right to cut timber and grass and lease camp sites, mill privileges, dam sites, flowage rights, the right to set poles and maintain utility service lines and the right to construct and maintain roads, on public reserved lots in any township or tract of land until the same is incorporated, on such terms as they direct. Preference in such sales or leases shall be given to persons, firms or corporations of this state. (R. S. c. 32, § 11. 1949, c. 152. 1951, c. 146.)

See § 50, re public reserved lots; c. 25, § 373, re timber on Indian township; c. 37, § 37, re license required for maintain-

ing sporting camp in unorganized territory.

Sec. 13. Permits; bond; timber held for payment.—The commissioner may grant permits to individuals to cut and haul timber of all kinds upon lands owned by the state, on such terms and conditions as he thinks proper. Persons obtaining such permits shall give bond to the commissioner with satisfactory sureties for payment of stumpage and the performance of all conditions of the permit. All timber cut under permits is the property of the state until the stumpage is paid in full. (R. S. c. 32, § 12.)

The bond required by this section is a matter subsequent to, and independent of the permit. *Mason v. Sprague*, 47 Me. 18.

Necessity of bond.—Whether the requirement as to bond is to be regarded as absolutely essential to the validity of the permit, or as directory only, may be a matter of doubt. The provision is, that all persons obtaining permits shall give a bond for the payment of the stumpage,

and performance of all the conditions of the permit. The section does not, in terms, declare the permit void unless such bond is given. *Mason v. Sprague*, 47 Me. 18.

Presumption that bond taken.—The permit is evidence of a license to cut, from the authorized agent of the state, and, in the absence of all evidence to the contrary, it may be presumed that that offi-

cer has done his duty, and has taken the bond which the law requires. *Mason v. Sprague*, 47 Me. 18.

Former provisions as to assignment.—

For a consideration of former statutory provisions concerning the right to assign permits issued under this section, see *Mason v. Sprague*, 47 Me. 18.

Sec. 14. Surveyors, appointment, oath and duty.—Surveyors or scalers shall be appointed by the commissioner, and sworn; they shall scale all timber cut under permits, superintend the cutting thereof and make return to the commissioner of the number and quality of the logs cut, whether hauled or not, and the number of feet board measure, and shall see that the timber is cut clean and without strip or waste. (R. S. c. 32, § 13.)

Sec. 15. Foresters.—The commissioner shall appoint foresters in Maine to give technical guidance and service to small woodland owners and processors to bring about improvement in the growing, harvesting, marketing and utilization of forest products. All appointed foresters shall hold office under the rules of the personnel board; they shall be sworn to the faithful discharge of their duties and a certificate thereof shall be returned and filed in the office of the commissioner; they shall receive such compensation as determined by the commissioner and the personnel board, with allowance for actual necessary expenses of travel. (1949, c. 436, § 1.)

Sec. 16. Forest insects and diseases.—The commissioner or his duly authorized agent may take measures for the prevention and control of forest insects and diseases and when deemed necessary use control measures such as aeroplane spraying or similar methods. (1949, c. 124. 1951, c. 266, § 38.)

Sec. 17. Report.—The commissioner shall on the 1st day of July biennially report to the governor a particular account of all the doings of his office for the 2 preceding years. (R. S. c. 32, § 14.)

Entomology and Pest Control.

Sec. 18. State entomologist.—The commissioner shall appoint, subject to the provisions of the personnel law, a trained entomologist to be known as the state entomologist. (R. S. c. 32, § 15.)

Sec. 19. Duties.—The duties of the state entomologist shall be to answer calls for information on insect control and identification, to supervise necessary control work not already provided for by law and to assist other departments in work along this line. (R. S. c. 32, § 16.)

See § 67, re board for licensing persons to work on trees.

Insects and Diseases of Trees.

Sec. 20. Survey work.—The state entomologist or his agents, under the supervision of the commissioner, may go on any lands for the purpose of surveying and inspecting any shade, ornamental and forest trees whenever he may suspect that any dangerous native or exotic insect or disease may be present, and may do any work involved in ascertaining the presence of such organisms. If the survey work requires the placing of so called "trap" material on developed lands in incorporated areas he must first notify the owner of his plans. (1953, c. 65, § 2.)

Sec. 21. Information and recommendations.—If sufficient problem is found resulting from any insect or disease attack on trees, the state entomologist or his agents, under the supervision of the commissioner, shall give this information to the owner of the land involved, and to the municipal officials if in a municipality. He or his agents may or shall upon request also make recommendations

to landowners and municipal officials if further inspection or control work is needed. This will include information on life cycles or phases of the insect or disease. (1953, c. 65, § 2.)

Sec. 22. Control measures.—Any public agency or group of owners carrying on or planning a control project may appeal to the commissioner for permission to carry out the project, in case the owner or owners of property in or adjacent to the control area refuses to do control work or to allow control work to be done on his property. The state entomologist or his agents, under the supervision of the commissioner may, after careful inspection and survey has shown a serious problem exists, grant authority for control measures to be carried out on the protestors' lands. (1953, c. 65, § 2.)

Sec. 23. Advice.—For the purpose of improving the over-all health of trees, the state entomologist or his agents, under the supervision of the commissioner, may advise municipalities or private owners on their forest, shade or ornamental tree problems and recommend programs for the general improvement of such trees. (1953, c. 65, § 2.)

Sec. 24. Research.—Research work to find the best methods of control may be carried on by the state entomologist or his agents under the supervision of the commissioner. (1953, c. 65, § 2.)

Sec. 25. Emergencies.—Responsibility for control of insect and disease outbreaks shall, in all but emergencies, rest with the owners of the property whether private or public.

Emergencies shall be so considered when in the opinion of the commissioner the infestation or infection is likely to kill or seriously injure trees in large numbers, or so localized that immediate control will prevent a large possible outbreak, or of recent foreign origin or apt to create a public health nuisance.

In emergencies the state entomologist or his agents, under the supervision of the commissioner, may enter into agreement with municipal officials to pay up to $\frac{1}{2}$ the cost of control if state funds are available for this purpose. Whenever the state does contribute funds for this purpose it shall have the authority to determine the control methods to be used. The state may make similar agreements with groups of private owners if the project is approved by municipal officials.

In emergency control programs spraying, dusting, eradication or other control measures may be done directly by the state or may be done on a contract basis with responsible private companies or individuals. (1953, c. 65, § 2.)

Sec. 26. Gypsy and brown-tail moths public nuisances.—For the purpose of the following sections the gypsy moth and brown-tail moths are declared public nuisances, and their suppression is authorized but no owner or occupant of real estate infested by such nuisances shall by reason thereof be liable to an action civil or criminal.

The state entomologist or his agents, under the supervision of the commissioner, may assist in enforcing gypsy and brown-tail moth quarantine laws using such funds in the division of entomology as may be available. (1953, c. 65, § 2.)

Sec. 27. Control of gypsy moth and brown-tail moth.—Whenever any city or town shall appropriate or raise a sum of money and shall pay the same into the state treasury for the purpose of controlling the gypsy and brown-tail moths within its borders, the commissioner shall cause such amount to be expended in such city or town as herein provided, together with such sum as may be determined by the commissioner from the state appropriation made therefor. However, if the commissioner finds it to be unnecessary or impracticable to expend such entire amount or any part thereof during the year following such payment to the treasurer of state, the unexpended proportion shall be reimbursed to such city or town. (1953, c. 65, § 2.)

National Forests.

Sec. 28. Federal government to acquire land for national forestry purposes; concurrent jurisdiction.—The consent of the state of Maine is given to the acquisition by the United States of America by purchase or gift, but not by condemnation, of such lands in the state as in the opinion of the federal government may be needed for the establishment, consolidation and extension of national forests in the state; provided that the state shall retain a concurrent jurisdiction with the United States in and over lands so acquired so far that civil process in all cases, and such criminal process as may issue under the authority of the state against any person charged with the commission of crime without or within said jurisdiction, may be executed thereon in like manner as if this section and sections 29 and 30 had not passed, and further provided that the state of Maine shall retain exclusive jurisdiction over all matters referred to in the proviso contained in section 29. (R. S. c. 32, § 17.)

Sec. 29. Rules and regulations by federal government.—Power is conferred upon the congress of the United States to pass such laws and to make or provide for the making of such rules and regulations, of both a civil and criminal nature, not inconsistent with any of the provisions of this section and sections 28 and 30, and provide punishment therefor, as in its judgment may be necessary for the administration, control and protection of such lands as are acquired by the United States under the provisions of said sections; provided, however, that such laws, rules and regulations shall not in any way supersede, invalidate or modify any of the laws of the state of Maine respecting the storage, control, use or development of water resources in the state, or the Mill Act, so called. Said laws of the state of Maine as existing on March 20, 1934, or thereafter enacted, are made applicable to all lands acquired under the provisions of this section and sections 28 and 30, notwithstanding the title thereto shall be in the United States of America, nor shall such laws, rules and regulations, nor shall anything in said sections, in any way limit the power of the state through its legislature to pass any legislation, either general or specific, respecting the storage, control, use or development of the water resources thereon, or respecting the laws of the state pertaining to fishing and hunting, nor shall it prevent the flowage of lands acquired under the provisions of this section and sections 28 and 30 in accordance with the provisions of the Mill Act, or special charter, or other general laws of the state, upon payment of compensation therefor as therein provided, nor shall any consent of the United States of America be required to enable action to be taken under or in accordance with said laws; and the state expressly reserves the jurisdiction of the courts of the state with respect to the determination of questions arising under said laws respecting lands so acquired by the United States of America. (R. S. c. 32, § 18.)

See c. 180, § 1 et seq., re Mill Act.

Sec. 30. Limitations of consent.—The consent of the state of Maine to the United States of America to the acquisition of lands within the state by the United States of America for the establishment, consolidation and extension of national forests or any lands of a riparian nature or any lands with riparian rights appurtenant thereto or which are necessary for any hydraulic development within this state is limited to the consent granted by the provisions of this section and sections 28 and 29 and when such lands are acquired by the United States of America they shall be held subject to all of the provisions of said sections so long as the ownership thereof is retained by the United States of America. (R. S. c. 32, § 19.)

Sec. 31. Acquisition of national forests.—Subject to the provisions of the act of congress of March 1, 1911, 36 statutes 961, known as the Weeks act, and acts amendatory thereof and supplemental thereto, the consent of the state

of Maine is given for the United States to acquire by purchase upon the payment of adequate compensation not exceeding 300,000 acres of land within the counties of Hancock and Washington and that part of Penobscot county easterly of the Penobscot and Mattawamkeag rivers, and not exceeding 300,000 acres of land in that part of Aroostook county which lies south of the following line, to wit: Commencing at the northwest corner of township 7, range 5 in Aroostook county, and running thence easterly along the north line of said township and the continuation thereof easterly to the east line of Aroostook county or international boundary line, and such lands within that portion of Oxford county included or within 5 miles of the purchase unit boundaries of the White Mountain National Forest on July 5, 1935, all in this state as are suitable for national forest purposes, and not over 2,000 acres in Cumberland county, in said state, for preserves for the protection and conservation of migratory birds; but no such acquisition shall be made against the protest of any owner. The provisions of sections 28, 29 and 30 shall not apply to any lands acquired under the provisions of this and the following section.

The provisions of this section as they relate to Oxford county shall be limited to such acquisition as shall have been actually acquired prior to April 27, 1951, and no further land in Oxford county shall be acquired after such date. (R. S. c. 32, § 20. 1951, c. 233. 1953, c. 308, § 57.)

Sec. 32. Jurisdiction.—The jurisdiction of this state, both civil and criminal, over persons upon any lands acquired under the provisions of the preceding section shall not be affected or changed by the permanent reservation and administration of such lands as national forest lands, except so far as the punishment of offenses against the United States is concerned; the intent and meaning of this section being that this state shall not by reason of such reservation and administration lose its jurisdiction, nor the inhabitants thereof their rights and privileges as citizens, nor be absolved from their duties as citizens of this state. (R. S. c. 32, § 21.)

Park Commission. State Parks.

Sec. 33. Definitions.—As used in sections 33 to 39, inclusive, the term “park” shall mean:

- I.** Any area of considerable extent, but not exceeding 10,000 acres, in which are combined either superlative or distinctive scenic characteristics and either a reasonably varied or extensive or exceptional opportunity for active recreation.
- II.** Any area not exceeding 1,000 acres, with or without distinctive characteristics but containing such natural features as afford ample opportunity for development and use as an active recreational area.
- III.** Any area included above within easy access of any road or highway, except extensions to road or highway right-of-ways, turn-outs, loops or other additions to roads or highways the primary purpose of which is to preserve the natural beauty of lands bordering such roads or highways or to afford temporary stopping points along such roads or highways.
- IV.** Any strip or strips of land, with or without roads, highways or improvements required for ingress and egress to or from any of the areas above described and not exceeding in length the distance required to connect such areas with the nearest arterial or trunk-line highway, railroad line or terminal, or other public transportation facility or way.

The term “memorial” shall mean any area of land, with or without buildings, improvements or other structures established as hereinafter provided for public use wholly or primarily because of its historical, archeological or scientific interest or value. (R. S. c. 32, § 22.)

Sec. 34. Park commission; powers.—The Maine state park commission,

as heretofore established, shall consist of 5 members, namely, the commissioner of inland fisheries and game and the forest commissioner, ex officio, and 3 citizen members. Not more than 2 of the citizen members shall be of the same political party. They shall be appointed by the governor and approved by the council for terms of 3 years. Vacancies or removals shall be filled as above provided for the unexpired term of the retiring member. For cause the governor and council may, upon notice and hearing, remove any member of the board for misconduct, incompetency, neglect of duty or for any other sufficient cause. The headquarters of the commission shall be at Augusta, but the commission may meet and transact its business at any other place within the state. Each member shall be paid the sum of \$10 per diem for the time actually spent by each in transacting official business of the commission, payment to be made as hereinafter provided for.

The commission shall have jurisdiction, custody and control in, over and upon all state parks and memorials and national parks which are under control and management of the state, excepting however, Baxter State Park. It is not the intention of the legislature to include under the provisions of sections 33 to 39, inclusive, any national parks now existing or which may be hereafter created under national management or control. Said commission shall have and exercise the following powers and authority:

I. With the consent of the governor and council, to acquire in behalf of the state, land or any interests therein within this state, with or without improvements, by purchase or gift, and by eminent domain subject to proviso hereinafter set forth and with like consent to sell and convey such lands or interests therein, or lease the same, or by revocable license or agreement, or grant to any person, firm or corporation exclusive rights and privileges to the use and enjoyment of portions of such lands; provided, however, that no lease hereunder shall be for a term longer than 1 year, and any such license, lease or agreement granted or entered into hereunder shall be canceled or revoked after due notice of intention to cancel or revoke the same by action of the commission, when the use for which said license was given shall have been abandoned, materially modified, or whenever the conditions imposed in any license, lease or agreement shall have been broken; provided, however, that the right of eminent domain shall not be exercised to take any area or areas in any 1 park which singly or collectively exceed 200 acres, nor shall it be exercised to take any developed or undeveloped mill site or water power privilege in whole or in part or any land used or useful in connection therewith, or any land being utilized for any industrial enterprise.

II. To study and ascertain as nearly as possible and report to the governor and council from time to time:

A. The state's actual and potential outdoor recreational park resources and facilities,

B. The needs of the people of this state and out-of-state visitors for such park resources and facilities,

C. The kinds of resources and facilities best suited to and required for such park needs,

D. The extent to which such park needs are being currently met whether by publicly owned or privately owned facilities,

E. The location and probable cost of acquisition, development and operation of parks, which if acquired, developed and operated under the provisions of sections 33 to 39, inclusive, could satisfy such needs, and

F. The several public purposes to which such parks or portions thereof might be put.

Such studies and reports shall be accompanied by other information, statistics and charts as will adequately inform the governor and council of the character, condition and needs of this state of park recreational resources and facilities, and may be accompanied by specific recommendations for new legislation or other action to be taken with respect to the same.

III. With the consent of the governor and council, to set apart and publicly proclaim areas of land in this state including improvements, or other structures thereon, title to which has been acquired under the provisions of sections 33 to 39, inclusive, as parks or memorials within the meaning of said sections, and the commission may from time to time establish such rules and regulations as it deems necessary:

A. For the protection and preservation of state parks and parks under state control,

B. For the protection and safety of the public, and

C. For observances of the conditions and restrictions expressed in deeds of trust, or otherwise, of the parks of the state and of monuments thereon.

Before promulgating such rules and regulations, they shall submit them to the attorney general, and if he shall certify that in his opinion they are in conformity with the law, they shall thereupon, together with section 37, be published once a week for 2 successive weeks in a newspaper published in the towns or counties of this state wherein parks are located and posted in at least 3 conspicuous places in or about said park or parks whereupon they shall take effect, and a certificate of such publication and posting shall be executed by one of the members of said commission and filed with the secretary of state, who shall record the same.

IV. To exercise police supervision over all state parks and memorials; and the agents or representatives of the state park commission designated for that purpose by said commission are authorized and empowered to arrest with or without warrant any person within the state who is committing, or to detain until a warrant has been obtained, any person within the state who has been seen by said agents or representatives committing any offense against the state laws, or any violation of any rule or regulation of the state park commission within a state park or memorial, but no dwelling house shall be searched for the purpose of such arrest without a warrant, and then only in the daytime, and no sealed railroad car shall be entered for the purpose of such arrest without such warrant.

V. With approval of the governor and council, to establish and maintain adequate provisions for the prevention, suppression and control of fires within said park areas.

VI. With the consent of the governor and council, to negotiate and execute any lease or other agreement for the administration, maintenance, supervision, use and development of state parks, within the meaning of sections 33 to 39, inclusive, acquired and owned by the government of the United States, upon such terms and conditions as may be deemed advantageous to the people of this state and consistent with the provisions of said sections; and with like consent, to accept on behalf of the state, deeds of gift or other conveyances to lands or interests therein suitable for administration, maintenance, supervision, use and development as state parks or memorials under the provisions of sections 33 to 39, inclusive. Such lands or interest therein, when so acquired, whether title thereto be in the United States or otherwise, shall be and remain subject to administration, maintenance, supervision, use and development by said commission under the provisions of sections 33 to 39, inclusive, during the terms of any such lease or agreement, provided, however, that with respect

to lands or interest therein, included in any park or parks acquired and owned by the government of the United States and administered under the provisions of sections 33 to 39, inclusive, the state of Maine shall retain concurrent jurisdiction with the United States in and over all such lands. Any civil and criminal process issuing under the authority of this state may be executed on said lands in the same manner and to the same effect as if the same were privately owned, and exclusive jurisdiction in and to said lands shall revert to the state of Maine when said lands shall cease to be owned by the United States, and provided further, that such lands owned by the United States shall be exempt from all taxes and assessments so long as the same shall be the property of the United States.

VII. To fix the duties of and to employ permanently or part time such employees and other personnel, subject to the provisions of the personnel law, as the commission may from time to time deem necessary in the discharge of its duties under the provisions of sections 33 to 39, inclusive; and to accept gifts and bequests of money or other personal property to be used in advancing the recreational and conservation interests in state parks.

See § 11, re acceptance of land for park and forest purposes.

VIII. To have and use an official seal which shall be in custody of the secretary of said commission.

See § 42, re Baxter State Park.

IX. When land is taken by eminent domain, the proceedings for such purpose shall be in accordance with the provisions of sections 12 to 22, inclusive, of chapter 52. [1947, c. 2.] (R. S. c. 32, § 23. 1947, c. 2. 1949, c. 75.)

Sec. 35. Restrictions.—The powers and duties of the Maine state park commission as set forth in sections 33 to 39, inclusive, shall not be so construed as to interfere or conflict in any way with the powers and duties of the United States and its national park areas under national control, Baxter State Park, department of inland fisheries and game or the forestry department and their duly appointed wardens, and the enforcement of the inland fisheries and game and forestry laws in respect to state parks or to the state generally. (R. S. c. 32, § 24.)

See § 42, re Baxter State Park.

Sec. 36. Allocation of funds.—All moneys received by the commission shall be deposited with the treasurer of state, who shall maintain a separate fund which shall be used for the continued maintenance and development of said park areas. (R. S. c. 32, § 25.)

Sec. 37. Violation of rules and regulations.—Whoever violates any of the rules and regulations, or any notices posted by said commission in conformity with the provisions of sections 33 to 39, inclusive, or willfully mutilates, defaces or destroys any monument or marker lawfully erected within the borders of said parks shall be punished by a fine of not more than \$50 and costs, or by imprisonment for not more than 30 days, or by both such fine and imprisonment. (R. S. c. 32, § 26.)

Sec. 38. Jurisdiction.—Trial justices within their county shall have concurrent jurisdiction with municipal courts and the superior court in all prosecutions under any provision of sections 33 to 39, inclusive. Any person arrested as a violator of the provisions of said sections may be taken before any trial justice or any municipal court in the county where the offense was committed, or in any adjoining county. Jurisdiction in such cases is granted to all trial justices and all other courts to be exercised in the same manner as if the offense had been committed in that county. (R. S. c. 32, § 27.)

Sec. 39. Real estate subject to flowage.—All real estate acquired under the provisions of sections 33 to 39, inclusive, shall be and remain subject to flowage under the provisions of the Mill Act, so called, or under any special charter heretofore or hereafter granted by this state, notwithstanding title thereto may be in the state. (R. S. c. 32, § 28.)

See c. 180, § 1 et seq., re Mill Act.

Sec. 40. State parks.—All that portion of the state lands comprising Fort Machias at Machiasport; Fort Knox at Prospect; Fort Edgecomb at Edgecomb; Fort St. George's at St. George; Fort McClary at Kittery; Fort Baldwin, Fort Popham, and the North and South Sugar Loaf Islands at Phippsburg; Fort William Henry at Pemaquid, including all the property in Pemaquid to which the state now has title; and Lamoine Naval Coaling Station, to be known as Lamoine State Park, shall be maintained as public parks under the supervision, direction and control of the state park commission. (R. S. c. 32, § 29. 1945, c. 221, § 2; c. 378, § 31. 1949, c. 309, § 1. 1951, c. 266, § 39.)

See § 47, re Baxter State Park designated.

Sec. 41. State park at Kittery.—The state park at Kittery, situate between Hunter Avenue and Newmarch Street and between Water and Government Streets in the town of Kittery, county of York, shall forever be known and designated as "John Paul Jones Memorial Park" in memory of the commander of the first American warship. (R. S. c. 32, § 30.)

Baxter State Park.

Sec. 42. Baxter State Park; payments to Maine Forestry District.—All the lands in townships 3, 4, 5 and 6, range 9 W.E.L.S. and in townships 3, 4 and 5, range 10 W.E.L.S., Piscataquis county, and township 6, range 8 W.E.L.S., Penobscot county, that have been donated and conveyed to the state of Maine in trust by Percival Proctor Baxter and all lands in said townships 3, 4, 5 and 6, range 9 and in townships 3, 4 and 5, range 10, and in township 6, range 8 and all lands in Piscataquis and Penobscot counties that hereafter shall be donated and conveyed to the said state by said Baxter in trust for state forest, public park and public recreational purposes shall be under the joint supervision and control of, and shall be administered by the forest commissioner, the commissioner of inland fisheries and game and the attorney general, and the said commissioners and attorney general shall have full power in the control and management of the same. They shall make payments to the Maine Forestry District in lieu of taxes on the basis of 3¢ per acre per year for all land within the Baxter State Park area for the prevention, control and extinguishment of forest fires. (R. S. c. 32, § 31. 1945, c. 130, § 1. 1949, c. 70.)

Sec. 43. Rules and regulations.—The Baxter State Park authority may from time to time establish such rules and regulations as it deems necessary for the protection and preservation of said park and of the monuments or structures thereon, for the protection and safety of the public and for the proper observance of the conditions and restrictions expressed in the deeds of trust of the park to the state. Before promulgating the same, they shall be submitted to the attorney general, and if he shall certify that in his opinion they are in conformity with the law, they shall thereupon, together with paragraphs 2 and 3 of this section, be published once a week for 2 successive weeks in a newspaper published and printed in whole or in part in either Penobscot county or Piscataquis county, and posted in at least 4 places within said park, whereupon they shall take effect. A certificate of such publication and posting shall be executed by a majority of the members of said park authority and filed with the secretary of state, who shall record the same.

Whoever violates any of the rules and regulations of said park authority, promulgated in conformity with the provisions of this section, shall be punished by a fine of not more than \$50 and costs, or by imprisonment for not more than 30 days, or by both such fine and imprisonment.

Whoever willfully mutilates, defaces or destroys any structure, monument or marker lawfully erected within the boundaries of said park, or any notice, rule or regulation of said park authority, posted in conformity with the provisions of this section, shall be punished by a fine of not more than \$50 and costs, or by imprisonment for not more than 30 days, or by both such fine and imprisonment. (1949, c. 78.)

Sec. 44. Police supervision; power to arrest.—Said authority shall exercise police supervision over Baxter State Park. The agents or representatives of the Baxter State Park authority, designated for that purpose by said park authority are authorized and empowered to arrest with or without warrant any person within the state who is committing, or to detain, until a warrant has been obtained, any person within the state who has been seen by said agents or representatives committing any offense against the state laws, or any violation of any rule or regulation of the Baxter State Park authority within said park, but no dwelling house shall be searched for the purpose of such arrest without a warrant, and then only in the daytime, and no sealed railroad car shall be entered for the purpose of such arrest without such warrant. (1949, c. 78.)

Sec. 45. Jurisdiction.—Trial justices and municipal courts within their counties shall have original and concurrent jurisdiction with the superior court in all prosecutions under any provisions of sections 43 to 46, inclusive. Any person, arrested as a violator of said sections, shall with reasonable diligence be taken before the municipal court nearest to where the offense is alleged to have been committed for a warrant and trial, and in such case jurisdiction is granted to all municipal courts in adjoining counties to be exercised in the same manner as if the offense had been committed in that county. Provided, however, that if a trial justice whose usual place of holding court in the county where the offense is alleged to have been committed is nearer to where the offense is alleged to have been committed than is any municipal court, such violator may be taken before such trial justice for warrant and trial. (1949, c. 78.)

Sec. 46. Limitation.—The powers and duties of the Baxter State Park authority shall not be so construed as to interfere or conflict in any way with the powers and duties of the Maine state park commission, department of inland fisheries and game or the forestry department and their duly appointed wardens, and the enforcement of the inland fisheries and game and forestry laws in respect to Baxter State Park or to the state generally. (1949, c. 78.)

Sec. 47. Baxter State Park designated.—All the lands described in section 42 in townships 3, 4 and 5, range 9 W. E. L. S. and in townships 3, 4 and 5, range 10 W. E. L. S., Piscataquis county that have been donated and conveyed to the state of Maine in trust by Percival Proctor Baxter, and all lands in said townships 3, 4 and 5, range 9, and in townships 3, 4 and 5, range 10, and all lands in Piscataquis and Penobscot counties that hereafter shall be donated and conveyed to the said state by said Baxter in trust for state forest, public park and public recreational purposes are named and shall hereafter be named "Baxter State Park" in honor of the donor, and the same hereafter shall forever be so designated on the official maps and records of the state. (R. S. c. 32, § 32.)

Public Reserved Lots.

Sec. 48. Public reserved lots located by agreement.—In every township there shall be reserved, as the legislature may direct, 1,000 acres of land,

and at the same rate in all tracts less than a township, for the exclusive benefit of such township or tract, to average in quality, situation and value as to timber with the other lands therein. In townships or tracts sold and not incorporated, the public reserved lots may be selected and located by the commissioner and the proprietors, by a written agreement, describing the reserved lands by metes and bounds, signed by said parties and recorded in the commissioner's office. The plan or outline of the lands so selected shall be entered on the plan of the township or tract in the commissioner's office, which shall be a sufficient location thereof. (R. S. c. 32, § 33.)

Cross reference.—See c. 57, § 50 et seq., re ministerial and school lands.

The state has placed no limitation upon its power to designate the uses, or to control thereafter the title vested in the beneficiaries, only that they are to be public and for the benefit of the town. *State v. Mullen*, 97 Me. 331, 54 A. 841.

By this section the state constituted itself a trustee, retaining as such the legal title, but subjecting the land to such future public uses, for the benefit of the town, as the state itself might afterwards direct, until the town should be incorpo-

rated. *Dillingham v. Smith*, 30 Me. 370; *Mace v. Ship Pond Land & Lumber Co.*, 112 Me. 420, 92 A. 486. Until incorporation the reserved lands and the funds arising therefrom are therefore under the general control of the state. *State v. Mullen*, 97 Me. 331, 54 A. 841; *Mace v. Ship Pond Land & Lumber Co.*, 112 Me. 420, 92 A. 486.

Quoted in part in *Farrar v. Loring*, 26 Me. 202.

Cited in *Hammond v. Morrell*, 33 Me. 300; *Petition of Ring*, 104 Me. 544, 72 A. 548.

Sec. 49. Location without agreement.—When the commissioner and proprietors of a township or tract described in the preceding section cannot agree on such location and if the right to cut the timber and grass thereon has not been sold and until the township or tract is incorporated as a town or organized as a plantation, the commissioner may petition the superior court for the appointment of commissioners to make the location as hereinafter provided. The petition may be filed and the proceedings under it had in any county. (R. S. c. 32, § 34.)

Cited in *State v. Mullen*, 97 Me. 331, 54 A. 841.

Sec. 50. Care of lots; sale of timber, grass and gravel; permits.—The commissioner shall have the care of the public reserved lots in all townships or tracts until they are incorporated and the fee becomes vested in the town. He may from time to time sell for cash for such sum as may be consented to by the assessors of any plantation or by the county commissioners in the county in which any unorganized territory is situated, the timber and grass thereon, or the right to cut the same, and also any gravel existing in the soil of such lands, and excepting further that such gravel shall be sold only for the construction of public highways or other public works in the vicinity of the location of the land from which the gravel is taken, and then only when, in the opinion of the commissioner, there will be an increase in the value of said lands by reason of the construction of said public highways or public works. Until incorporated into a town, except the grass growing on improvements made by an actual settler, and excepting further that when so sold he shall give the purchaser a permit under his hand and seal, setting forth the terms of the contract, which permit shall be recorded in his office; provided, however, that no timber shall be so sold until the same has been advertised for sale and a notice thereof published for 3 weeks successively in some newspaper published in the county where the land is situated, and if no such paper is published in such county then in the state paper. This section shall not apply to cases where the public reserved lots have not been located. (R. S. c. 32, § 35.)

Cross references.—See c. 37, § 82, re re erecting of shelters and tents; c. 57, §§ building of fires in unorganized territory; 50-64, re ministerial and school lands and

funds; c. 79, § 11, re pollution of brooks, tidal waters, etc.; c. 97, §§ 36, 37, re building of fires.

Authority to sell ceases on incorporation. — The commissioner's authority to sell the timber and grass on reserved lots ceases upon their being incorporated. *Bragg v. Burleigh*, 61 Me. 444.

As does right of grantee to cut timber. — The right of a grantee to cut timber on reserved lands is terminated by the incorporation as a town of a portion only of the township, but in which portion the reserved lands were located. *State v. Mullen*, 97 Me. 331, 54 A. 841.

When a portion of a township is incorporated, and no exception or provision is made with reference to the reserved lands, it is to be deemed that the legislature intended the reserved lands within the portion incorporated to follow that portion and vest in it; and it did not intend the right to cut timber to continue in a grantee thereof, under this section after title to the land itself had vested in the town by incorporation. *State v. Mullen*, 97 Me. 331, 54 A. 841.

What constitutes tract. — It is evident from the context, that the word "tract" in the clause which contains the right to cut

until the tract or township shall be incorporated does not refer to the reserved lands themselves, but to the larger territory sold or granted out of which lands are reserved. In terms the right is to continue until the larger territory or the township is incorporated. *State v. Mullen*, 97 Me. 331, 54 A. 841.

Recital in deed cannot exceed commissioner's authority. — The authority of the commissioner to give a deed for timber and grass is conferred by this section. He cannot exceed that authority by any recitals in his deed. *Bragg v. Burleigh*, 61 Me. 444.

Former provisions of section. — For a consideration of this section when its language was mandatory as to the sale of timber and grass, see *Walker v. Lincoln*, 45 Me. 67.

This section formerly included the words "or organized into plantations" following "incorporated" in the first sentence. For a construction of these words, see *Bragg v. Burleigh*, 61 Me. 444.

Applied in *State v. Smith*, 78 Me. 260, 4 A. 412.

Stated in *Coe v. Bradley*, 49 Me. 388.

Cited in *Dillingham v. Smith*, 30 Me. 370; *Hammond v. Morrell*, 33 Me. 300.

Sec. 51. Commissioner to keep account.—The commissioner shall keep an account with each township and tract wherein there are public reserved lots, in which shall be entered all expenditures made on account thereof and all sums received therefrom. In making deposits with the treasurer of state, he shall specify each township and tract from which such deposits were received. (R. S. c. 32, § 36.)

Stated in *Bragg v. Burleigh*, 61 Me. 444.

Cited in *State v. Mullen*, 97 Me. 331, 54 A. 841.

Sec. 52. Treasurer to keep account.—The treasurer of state shall keep a separate account with each such township or tract wherein there are public reserved lots, in which account he shall enter all sums by him received and paid on account thereof; and the balance shall remain in the treasury until such township or tract is by law authorized to receive it; and thereupon it shall be paid to the proper officers thereof. (R. S. c. 32, § 37.)

Stated in *Bragg v. Burleigh*, 61 Me. 444.

Cited in *State v. Mullen*, 97 Me. 331, 54 A. 841.

Sec. 53. Funds for school purposes; disposition of unorganized townships fund.—The money arising from the sale of timber and grass or from trespasses on public reserved lots, paid into the treasury of the county in which the township is situated or into the state treasury, shall be held by the treasurer of state in 2 separate funds, the income of which only shall be expended and applied as is by law provided for school purposes. Upon the first fund to be known as the unorganized townships fund, the state shall allow interest annually as earned. The income from said fund shall be allocated as follows:

I. \$5,000 allocated annually for the use of the commissioner in managing and improving the growth of public reserved lots; and (1953, c. 308, § 58)

II. the balance then remaining shall be added to the unorganized territory school fund; the treasurer of state shall file with the commissioner of finance and administration, on or before January 15 of each year, a list of interest earned by the unorganized townships fund during the preceding calendar year; such list shall be arranged to show the principal amount held for each unorganized township and the interest earned thereon; the commissioner of finance and administration shall thereupon transfer the total amount of such list, less the allocation provided for in subsection I, to the unorganized territory school fund for the fiscal year following the date of such list; a copy of said list shall be transmitted to the commissioner of education by the treasurer of state. (1951, c. 260, § 1. 1953, c. 265, § 6.)

Upon the second fund to be known as the organized townships fund, the state shall allow interest annually as earned, the income from said fund to be dealt with as provided in the following section. (R. S. c. 32, § 38. 1947, c. 328. 1951, c. 167, § 1; c. 260, § 1. 1953, c. 265, § 6; c. 308, § 58.)

Stated in part in *Bragg v. Burleigh*, 61 Me. 444; *State v. Mullen*, 97 Me. 331, 54 A. 841.

Sec. 54. Organized townships fund, disposition.—The income of the organized townships fund, as provided in the preceding section, shall be added to the principal of the funds, respectively, until the inhabitants of such township or tract are incorporated into a town or organized as a plantation and establish in such plantation one or more schools, and until the 1st day of January next preceding the date upon which the treasurer of said plantation shall call for such interest, unless previously expended according to law. When any such township is incorporated as a town, said funds belonging to it shall be paid by the treasurer of state to the treasurer of the trustees of the ministerial and school funds therein, to be added to the funds of that corporation and held and managed as other school funds of that town are required to be held and managed. If such township or tract is organized as a plantation, the interest of said fund shall be paid annually by the treasurer of state to the treasurer of such plantation to be applied toward the support of schools according to the number of scholars in each school. Said interest shall be computed to the 1st day of each January by the treasurer of state. The commissioner of education shall file in the office of the state controller a list of such plantations with the amount due for interest for the preceding year according to a record of such amounts to be furnished to him by the treasurer of state. The commissioner of education shall be satisfied that all such plantations are organized, and that schools have been established therein according to law, that assessors are sworn and qualified and that the treasurers of such plantations have given bonds as required by law. The state controller shall thereupon insert the name and amount due such plantations in one of the first warrants drawn in that year. (R. S. c. 32, § 39. 1951, c. 167, § 2.)

Stated in part in *Bragg v. Burleigh*, 61 Me. 444. **Cited** in *State v. Mullen*, 97 Me. 331, 54 A. 841.

Sec. 55. Control when school lands revert to state.—When the incorporation of a town is repealed, the care and custody of the school lands therein revert to the commissioner and he has the same powers in relation thereto which he would have if such town had never been incorporated; and the school funds of such town shall be collected and transmitted to the treasurer of state and by him made a part of the permanent school fund belonging to such township or tract. The commissioner is charged with the duty of enforcing the provisions of this section, and is authorized to commence and maintain suits in the name of the state for this purpose. (R. S. c. 32, § 40.)

Sec. 56. Locations of land where portions reserved on grant.—When in the grant of townships or parts thereof, certain portions of them are reserved

for such townships or for public uses, and they have not been lawfully located in severalty by the grantee for the purposes expressed in the grant, the superior court in the county where the land lies, on application of the commissioner, may appoint 3 disinterested persons, and issue to them a warrant, under the seal of the court, requiring them, as soon as may be, to locate in separate lots the portions reserved for such purposes and to designate the use for which each lot is so reserved and located, such lots to be of average quality with the residue of lands therein. (R. S. c. 32, § 41.)

Cross reference.—See c. 176, § 28, re location of reserved lands.

The proceedings under this section and § 57 are originated and conducted by official persons acting in their official character and the sections do not contemplate or provide for any examination, trial or decision of adverse rights. If the owners of a township had any title whatever to lands reserved for public uses, these proceedings, to which they are not a party, cannot have any effect to destroy or impair it. The design of these sections is to cause the proceedings to take place upon an apparent state of facts for the public good, and the especial benefit of the future, if not present, owners of the lands within the township. The legislature for such a purpose and duty might by the act have selected its own permanent agents, and might at its discretion entrust their appointment to a court of justice, and provide the mode, by which its power should be called into exercise. In such cases no person having a private interest is supposed to be present, or to be heard in the selection of the agents, the whole proceedings in the selection being conducted by official persons. *Farrar v. Loring*, 26 Me. 202.

The manner of location is left to the committee, subject to the approval of their proceedings by the court. Should they appear to have acted in a manner injurious to or destructive of the rights of any party interested, it would be the duty of the court to refuse to accept their proceedings, and without its sanction, they would be inoperative. *Dillingham v. Smith*, 30 Me. 370.

Presumption of existence of facts necessary for court to exercise power.—From

a proceeding to appoint a committee to perform the duties required by this section, the presumption arises that the court had become satisfied of the existence of all the facts necessary to enable it to exercise that power. *Farrar v. Loring*, 26 Me. 202.

“Disinterested” defined.—The word “disinterested” in this section was used to exclude those persons who are interested in or owners of the lands from being appointed on the committee. *Farrar v. Loring*, 26 Me. 202.

Acts of officers conclusive on rights of state. — A location of the one thousand acres upon the earth, in the manner prescribed by the legislature, according to the provisions of this section, must conclusively determine the extent of the rights preserved by the reservation. The state could never be permitted to allege that the acts of its own officers, performed in the manner prescribed, were not conclusive upon its rights. *Dillingham v. Smith*, 30 Me. 370.

Commissioner must show lands not located. — The application of the commissioner can be granted only in case a legal location has not been made and the burden rests upon him to prove this fact. Although negative in form it is in substance the affirmation of the commissioner's statutory authority to apply for the appointment of a committee for the location of the lots in question. *Petition of Ring*, 104 Me. 544, 72 A. 548.

Applied in *Argyle v. Dwinel*, 29 Me. 29; *Dyer v. Lowell*, 30 Me. 217; *Hammond v. Morrell*, 33 Me. 300; *Scammon v. Scammon*, 41 Me. 561; *Mace v. Ship Pond Land & Lumber Co.*, 112 Me. 420, 92 A. 486.

Sec. 57. Proceedings by committee; record.—The members of the said committee mentioned in the preceding section, before acting, shall be sworn before a justice of the peace; and a certificate thereof shall be indorsed on the warrant. They shall also give notice of their appointment and of the time and place of their meeting to execute it, by publishing it in some newspaper in the state, to be designated by the court, and by posting written notification in 2 or more public places in the same plantation or town, if so ordered by the court, at least 30 days next prior to their meeting. They shall make return of said warrant and their doings thereon, under their hands, to the next superior court in the county after having completed service; which, being accepted by the court and recorded

in the registry of deeds, in the county or registry district where the land is situated, within 6 months, shall be a legal assignment and location of such reserved portions for the uses designated. (R. S. c. 32, § 42.)

This section requires no notice to the owners of the township. The committee has no power to take private property, or to impose a servitude upon it. So far as it might be just or necessary to secure to the owners of the township an opportunity to be heard upon the question whether the lots were run out and located equitably it is accomplished by the notice to be given by the committee, before they proceeded to the performance of their duties. This notice would enable them to be present to counsel them, to inspect their proceedings and to present their own claims for consideration. They might thus become informed of the time, when their services were completed, and the law would inform them, that they must be presented to the superior court in the county, for acceptance where they might appear and be heard with respect to their acceptance. *Farrar v. Loring*, 26 Me. 202.

Proceedings void if required notice not given.—The notice required by this section is special as to time and manner and if it is entirely disregarded the proceedings must be quashed. *State v. Baring*, 8

Me. 135.

Where a warrant for the location of public lots under this section directed the committee to give notice to all persons concerned, who were known and living within the state, instead of requiring them to publish and post up general notifications to all persons, in the terms of the section, and they returned that they had given the notice required by their warrant, the location was held bad, and the proceedings quashed. *State v. Baring*, 8 Me. 135.

Notice held sufficient. — See *Farrar v. Loring*, 26 Me. 202, 204.

Recording necessary for legal location. —The recording of the proceedings of the committee in the registry of deeds, within six months after their completion in court, is made by this section an essential element of "a legal assignment and location." And if no such record is made within that time, a tenant's title, under the assignment and location, fails. *Scammon v. Scammon*, 41 Me. 561.

Applied in *Hammond v. Morrell*, 33 Me. 300.

Sec. 58. Location by grantee.—When the grantee of any such land mentioned in section 56 severs and locates such reserved portions thereof for the purposes mentioned in the grant, designating the use for which each lot is located, and presents it to said court, the court may confirm it, and such location shall then be legal and conclusive, being recorded as mentioned in section 57. (R. S. c. 32, § 43.)

See c. 176, § 28, re location of reserved lands.

Sec. 59. Location on partition. — The severance and location provided for in section 58 may also be made and completed in the manner prescribed in section 28 of chapter 176. (R. S. c. 32, § 44.)

Sec. 60. Exceptions filed.—Any person aggrieved by the opinion, direction or judgment of said court in matter of law, in a proceeding for the location of such public reserved lots as provided for in sections 56 to 59, inclusive, may allege exceptions thereto as in other actions. (R. S. c. 32, § 45.)

See c. 123, § 1, re review of proceedings for location of lands reserved for public uses; c. 173, § 8, re in cases of inquests of

office, plan to be filed in office of forest commissioner.

Sec. 61. Trespasses; damages; assessors to police. — If any person unlawfully enters and trespasses upon the public lands or upon any public reserved lots, while under care of the commissioner, and cuts, takes or carries away any trees or grass upon said lands, he and all persons who furnish teams, implements, apparatus, or supplies of provisions or of other articles used in committing and carrying on such trespasses, are trespassers, jointly and severally liable in damages for such trespasses, and they may be sued therefor in any county. The measure of damages is the highest price which such timber, logs or other lum-

ber or hay would bring at the usual place of sale thereof. Nothing in this section affects the right of the state to seize and sell any timber, logs, lumber or hay cut as aforesaid. At such sale, no person who was in any way concerned in committing such trespass, or in supplying or aiding those who committed it, shall become a purchaser directly or indirectly.

The assessors in the organized plantations of the state shall help police the said reserved public lots within the boundaries of their respective plantations without any expense to the commissioner. Any cutting or removal of timber or other materials of value will immediately be reported to the commissioner in writing. (R. S. c. 32, § 46. 1947, c. 148.)

Cross reference. — See c. 124, § 9, re trespass.

Under this section, those who authorize the commission of a trespass are equally responsible as those by whose acts the trespass is committed. *State v. Smith*, 78 Me. 260, 4 A. 412.

Intent of trespass immaterial.—Whatever may have been the intention of the defendant is immaterial in a suit for trespass under this section. *State v. Smith*, 78 Me. 260, 4 A. 412.

State's right of action terminates on in-

corporation of township. — Although the state is the trustee of reserved lands, and may maintain trespass for injury to them, it is such trustee only until the township is incorporated (see note to § 50), and its interest in the reserved lands is terminated by the incorporation of the township and it cannot maintain an action for trespass thereafter. *State v. Mullen*, 97 Me. 331, 54 A. 841.

Applied in *Walker v. Lincoln*, 45 Me. 67.

Sec. 62. Damages, if suit for benefit of individual.—When an action for such trespass is prosecuted in the name of the state for the benefit of an individual, the principles of decision and the measure of damages shall be the same as in like actions between individuals. (R. S. c. 32, § 47.)

See c. 124, § 9, re trespass and damages.

Sec. 63. Title to certain islands in great ponds reserved to state.—The title to all islands located in great ponds within the state, except such as have been previously granted away by the state or are now held in private ownership, shall remain in the state and be reserved for public use. (R. S. c. 32, § 48.)

Sec. 64. Title to certain islands in sea reserved to state.—The title to all islands located in the sea within the jurisdiction of the state, except such as have been previously granted away by the state or are now held in private ownership, shall remain in the state and be reserved for public use. (R. S. c. 32, § 49.)

Forest Nurseries.

Sec. 65. Circulars for care of woodlands; forest nurseries; seedlings.—The commissioner shall prepare tracts or circulars of information, giving plain and concise advice for the care of woodlands and for the preservation of forest growth. These publications shall be furnished to any citizen of the state upon application. He may also establish within the state one or more forest nurseries, the maintenance of which shall be paid from the appropriation for that purpose, the object of which is declared to be to furnish forest tree seedlings and transplants at cost of production for use in planting the waste and cut over lands of the state. (R. S. c. 32, § 50.)

See c. 96, §§ 23-28, re municipal forests; c. 96, § 19, re distribution of trees for roadside planting.

Shade, Ornamental or Forest Trees.

Sec. 66. Qualification to work on trees.—No person, firm or corporation shall advertise, solicit or contract to improve the condition of shade, forest

or ornamental trees by pruning, trimming or filling cavities, or to protect such trees from damage by insects or disease, either by spraying or any other method, or to spray such trees for control of any insect, without having secured a certificate as specified in section 67; except that any person may improve or protect any trees on his own premises or on the property of his employer without securing such a certificate. (R. S. c. 32, § 51. 1949, c. 149, § 1.)

Sec. 67. Certificate; examination and forms; fees; rates; application.—The forest commissioner, state entomologist and a botanist, to be appointed by the forest commissioner, shall constitute a board which shall, upon application from any person, firm or corporation, determine the qualifications of the applicant to improve, protect or preserve shade, ornamental or forest trees, or to spray such trees, and if satisfied that the applicant is qualified, may issue a certificate so stating; which certificate shall be valid for 1 year from the date of its issue, unless sooner revoked as provided in this section, and may be renewed by the board for succeeding years without further examination, upon payment of the fee hereinafter required, provided any person, firm or corporation receiving such certificate shall be responsible for the acts of all employees in the performance of such work.

Said board shall prepare all necessary forms and prescribe all rules and regulations governing examinations, and any certificate issued under the provisions of this section may be revoked by it upon proof that improper methods have been used or for other sufficient cause.

Each applicant for an examination shall pay a fee of \$10 in advance, and a fee of \$3 for each certificate of renewal issued; which fees shall be credited to the appropriation for entomology, and which may be expended by the board for any expense incurred by it in making examinations, issuing certificates or carrying out the purposes of the law.

In case of accident, sickness or entering the armed services, a demit for 2 years, which may be extended at the discretion of the board, may be obtained if requested on or before the expiration date of the current certificate.

Any certified tree surgeon who fails to renew his certificate or obtain a demit during any license year may in subsequent years renew his certificate only after payment of all unpaid renewal fees or by payment of \$10 and submitting to an examination.

For all work to be performed a fixed hourly rate must be stated and, if involving a sum in excess of \$50, must be done under a written contract form describing the work and fixing the maximum cost.

The provisions of this and the preceding section shall not apply to state, county or municipal employees while engaged in their regular line of duty.

Any person, firm or corporation failing to comply with the terms of this and the preceding section shall be punished by a fine of not more than \$100 and costs, or not more than 60 days in jail. (R. S. c. 32, § 52. 1949, c. 149, § 2. 1953, c. 84.)

White Pine Blister Rust.

Sec. 68. White pine blister rust dangerous pest. — The fungus disease commonly known as the white pine blister rust is declared to be a dangerous pest in all its stages; and it is the duty of the officials hereinafter named to prosecute the measures hereinafter specified for the control of this pest. (R. S. c. 32, § 53.)

Sec. 69. Information; areas to control.—The commissioner is authorized and empowered to promulgate by letter, publication, poster or other means information concerning the white pine blister rust and to designate, by the aforesaid means of promulgation, areas within the state in which control measures are necessary or advisable. It shall be the duty of every landowner within such

designated area to carry out such control measures as are ordered by the commissioner, including the removal and destruction of any or all plants of the genus *ribes*, commonly known as currants and gooseberries, and any white pine tree or trees which are found to be infected with the disease. If the owner fails to destroy the above-named plants or trees within the time specified by the commissioner, the commissioner shall cause said plants or trees to be destroyed and shall charge the actual expense of same to the city, town or plantation within which said plants or trees are found. Such amount shall be collected as a state tax and credited to the appropriation for said purpose. The city, town or plantation wherein such plants or trees are found may assess the cost of the removal of said plants or trees to the owner of the real estate wherein the said plants or trees are found. The amount so assessed shall be collected in the form of a tax. (R. S. c. 32, § 54.)

See c. 16, § 67 et seq., re state taxes; c. 16, § 74, and c. 92, § 30, re supplemental assessments and abatements.

Sec. 70. Lands entered; cooperation.—The commissioner or his authorized agents shall have the right to enter upon any private or public lands to determine the presence or absence of the white pine blister rust in any of its stages and to carry out the necessary eradication measures. The commissioner may cooperate with departments of the federal government, the state department of agriculture and the agricultural experiment station for the control or eradication of said disease in the state and for the carrying out of such investigations as he deems advisable. (R. S. c. 32, § 55.)

Sec. 71. Diseased trees and shrubs destroyed; owners reimbursed when same not infected. — Any white pine trees or currant or gooseberry bushes which are found to be infected with *cronartium ribicola* are declared to be a public menace, and any such diseased trees or plants and any and all wild plants of the genus *ribes* may be destroyed by order of the commissioner or his authorized agents. If, within any designated area as specified in section 69, currant or gooseberry bushes or white pine trees which are not infected with *cronartium ribicola* are designated by the commissioner or his agents for destruction and destroyed by their specific order, the owner may be compensated therefor; the damages to be assessed by the commissioner or his agents at not to exceed the actual value of the material destroyed, and paid to said owner by the treasurer of state upon authorization of the commissioner. In lieu of money damages for any trees or bushes destroyed under the provisions of sections 68 to 73, inclusive, the commissioner may offer and the owner may accept forest planting stock to be furnished from the state forest nursery, and to be paid for at cost by the commissioner. (R. S. c. 32, § 56.)

See § 65, re state forest nursery.

Sec. 72. State nursery inspector; authority. — The state nursery inspector, under direction of the commissioner of agriculture, is authorized and empowered to enter upon any land contiguous to or within the vicinity of any nursery within the state, for the purpose of determining the presence or absence of *cronartium ribicola* in any of its stages or other threatening fungous disease or insect pest, and within such area he shall have the same power and duties for control and eradication of the white pine blister rust or its hosts as are vested in the forest commissioner or his agents, and shall have the power to enforce and carry out necessary measures for the control or eradication of other threatening fungous diseases or insect pests. (R. S. c. 32, § 57.)

See § 73, re payment for inspection of nursery stock for white pine blister rust, etc.

Sec. 73. Shipment prohibited. — The commissioner is authorized and empowered to prohibit and prevent or to regulate the entry into the state or movement within the state from any part thereof to any other part, of any living five-leaved pine trees, or any plants of the genus ribes or other nursery stock or plants, which in his judgment may cause the introduction or spread of a dangerous plant disease or insect pest. The said commissioner is authorized to issue such orders, notifications and permits as may be necessary to carry out the provisions of this section, and any person violating any of the provisions of this and the preceding section shall be punished by a fine of not more than \$20 for each and every offense. The expenses necessary for carrying out the provisions of section 72 shall be paid from the appropriation for nursery inspection or other funds of the department of agriculture. (R. S. c. 32, § 58.)

Fire Patrol and Preservation of Forests.

Cross Reference.—See c. 37, § 82, re kindling fires in unorganized townships.

Sec. 74. Fire patrol along railroads.—Whenever in the judgment of the commissioner the woodlands along the railroads traversing the forest lands of the state are in a dry and dangerous condition, he shall maintain a competent and efficient fire patrol along the right-of-way or lands of such railroads. (R. S. c. 32, § 59.)

See § 112, re penalty in § 10, not substitute for existing liabilities.

Sec. 75. Fires reported.—All fires started upon the right-of-way of any railroad or lands adjacent thereto shall be immediately reported to the commissioner upon blanks to be furnished by him, by the patrolman within whose limits the fire originated, setting forth the origin of such fire, the quantity and quality of the land burned over and, if the fire was started by a locomotive, the number thereof. (R. S. c. 32, § 60.)

See § 112, re penalty in § 10, not substitute for existing liabilities.

Sec. 76. Expense of fire patrol paid by railroad company.—The commissioner shall keep, or cause to be kept, an account of the cost of maintaining such fire patrol along the line of such railroad, including therein the wages and expenses of the employees engaged in maintaining such fire patrol, and the total cost thereof shall be paid to the commissioner by the railroad company along whose land or right-of-way such patrol is maintained, such payment to be made monthly or on the presentation of the bills therefor. All such funds received by said commissioner shall be credited to the fund for the protection of the forests against fire from which it was drawn. (R. S. c. 32, § 61.)

See § 112, re penalty in § 10, not substitute for existing liabilities.

Sec. 77. Railroad company not released from damages.—Nothing in the 3 preceding sections shall be construed as releasing any railroad company from any damage caused by fires set by their locomotives or employees. (R. S. c. 32, § 62.)

See § 112, re penalty in § 10, not substitute for existing liabilities.

Sec. 78. Railroad companies to remove all inflammable material from right-of-way.—Every railroad company whose road passes through waste or forest lands shall during each year cut and burn off or remove from its right-of-way all grass, brush or other inflammable material, but under proper care and at times when fires are not liable to spread beyond control; but no railroad em-

ployee shall build a fire to burn rubbish along the right-of-way through forest lands when forbidden to do so by the commissioner or his wardens. (R. S. c. 32, § 63.)

See § 81, re penalty; § 112, re penalty in § 10, not substitute for existing penalties.

Sec. 79. Locomotives provided with spark arresters. — All locomotives which shall be run through forest lands shall be provided with approved and efficient arrangements for preventing the escape of fire and sparks. The commissioner may petition the public utilities commission, setting forth that there is danger of fire to lands within the Maine forestry district from the operation of locomotives on any railroad; and said commission may, after notice and hearing thereon, make such orders and regulations relating to the equipment and operation of locomotives, during times of drought or danger of forest fires, as they deem necessary for the prevention of fires on said lands. (R. S. c. 32, § 64.)

See § 81, re penalty; § 112, re penalty in § 10, not substitute for existing penalties.

Sec. 80. Railroad companies liable for damages caused by employees; smoking-car windows screened.—No railroad company shall permit its employees to deposit fire, live coals or ashes upon its track in the immediate vicinity of woodlands or lands liable to be overrun by fires, and any railroad company operating a railroad running through the Maine forestry district shall between the 1st day of May and the 10th day of November following in each year, fasten down or secure screens or other obstructions in the windows of all cars or apartments of cars in which smoking is allowed, to prevent the throwing of burning matches, burning cigars, burning cigarettes or parts thereof from the windows of such cars. When engineers, conductors or trainmen discover that fences along the right-of-way or woodlands adjacent to the railroads are burning or in danger from fire, they shall report the same at their next stopping place which shall be a telegraph station. (R. S. c. 32, § 65.)

See § 81, re penalty; § 112, re penalty in § 10, not substitute for existing penalties.

Sec. 81. Penalty for violation of §§ 78-80. — Any railroad company violating any of the provisions of the 3 preceding sections shall be punished by a fine of \$100 for each offense. (R. S. c. 32, § 66.)

See § 112, re penalty in § 10, not substitute for existing liabilities.

Sec. 82. Railroads under construction, liable for all damages to forest growth caused by employees; failure to extinguish fires set along line.—For all damages caused to forest growth by any person employed in the construction of any railroad built in this state, the company owning such road shall be primarily liable to the person or persons so damaged. During the construction of such roads through woodland, there shall be kept posted in conspicuous places on each line of the roadways at distances of 200 feet, abstracts of the laws relating to forest fires. Any person employed in the construction of such railroads, who shall set or cause to be set any fire along the line of said roads shall, before leaving the same, totally extinguish said fires, and upon failure to do so, such person shall be punished by a fine of not more than \$500, or by imprisonment for not more than 60 days, or by both such fine and imprisonment. All persons having charge of men in the construction of such railroads shall see that the provisions of this section are carefully complied with, and for any negligence or want of ordinary care on their part in relation to the same, they shall be liable to the penalties imposed by this section. (R. S. c. 32, § 67.)

See § 112, re penalty in § 10, not substitute for existing liabilities.

Sec. 83. Disposal of slash and brush.—

I. Highways and roads. Whoever, as stumpage owner, operator, landowner or agent, cuts, causes or permits to be cut any forest growth on lands which are within or border upon the right-of-way of any public highway within the state shall dispose of the slash and brush in the manner hereinafter described: All slash and brush resulting from such cutting of forest growth shall not remain on the ground within 50 feet of the nearer side of the wrought portion of any state highway or within 50 feet of any other public road.

II. Railroads, electric power, telegraph, telephone and pipe lines. Whoever, as stumpage owner, operator, landowner or agent, cuts, causes or permits to be cut any forest growth on lands which are within or border upon the rights-of-way of any railroad, electric power, telegraph, telephone or pipe lines within the state shall dispose of the slash and brush in the manner hereinafter described: All slash and brush resulting from such cutting of forest growth shall not remain on the ground within 25 feet of all such rights-of-way.

III. Land bordering on another. Whoever, as stumpage owner, operator, landowner or agent, cuts, causes or permits to be cut any forest growth on land which borders forest growth of another within the state outside the limits of the Maine forestry district or within the Maine forestry district which borders property outside shall dispose of the slash and brush in the manner hereinafter described: All slash and brush resulting from such cutting of forest growth shall not remain on the ground within 25 feet of the property line, provided that the commissioner on his own initiative or upon written complaint of another declares that the situation constitutes a fire hazard.

IV. Portable sawmills. All owners or operators of primary woodusing portable sawmills cutting forest growth within the state shall observe the slash and brush provisions of this section when on or after change of location.

V. Dwellings. The commissioner or his representatives by written notice to any stumpage owner, operator, landowner or agent, cutting forest growth within the state outside the limits of the Maine forestry district may require the removal of slash or brush within 100 feet of dwellings when in his or their judgment such slash and brush constitutes an unusual hazard endangering other property through the setting or spreading of forest fires.

VI. Manner of removal or disposal. All slash and brush resulting from cutting of forest growth shall be removed the required distances under the provisions of this section and scattered and not piled in windrows, within 30 days after cutting or 30 days of notification to remove by the commissioner or his representatives.

Whoever violates any of the provisions of this section shall on conviction be punished by a fine of not exceeding \$100, or by imprisonment for not more than 30 days, or by both such fine and imprisonment. The failure of any person to comply with the provisions of this section shall constitute a continuing offense and he shall be subject to the penalties herein provided until he complies therewith. (R. S. c. 32, § 68. 1947, c. 81, § 1. 1949, c. 363, § 1. 1951, c. 266, § 40.)

See § 112, re penalty in § 10, not substitute for existing liabilities; c. 97, § 32 et seq., re prevention of fires, etc.

Sec. 84. Slash and brush burning permits.—It shall be unlawful for any person to kindle a fire for purposes of clearing land or burning logs, stumps, roots, brush, slash, fields of dry grass, pasture and blueberry lands, except when the ground is covered with snow, without first obtaining a written permit. Requests for permits to burn under provisions of this section may be obtained from

state forest fire wardens within the state and from town forest fire wardens outside of the limits of the Maine forestry district. For this purpose the commissioner shall prepare and cause to be furnished to all such state and town forest fire wardens blank permits signed by him. They shall have authority to countersign and grant such permits signed by the commissioner but shall not delegate such authority to subordinates except by written approval of the commissioner. State forest fire wardens working in the incorporated sections of the state shall have authority to countersign and grant such permits signed by the commissioner for any deorganized town or plantation not a part of the Maine forestry district and for state parks. The provisions of this section shall not exempt any person from securing a permit to burn on his own land. Moisture, wind, time of day, length of burning period needed, sufficient force and equipment and any other condition deemed necessary for granting such permits for burning shall be at the discretion of state and town forest fire wardens. Whenever possible town forest fire wardens of towns and plantations outside the limits of the Maine forestry district shall notify their state forest fire warden of any permit issued and particularly of any special burning job. Whenever in the opinion of the commissioner there is a serious forest fire hazard, due to dry weather conditions, he may prohibit all burning under the provisions of this section and in such periods state and town forest fire wardens shall refuse all requests to burn and declare void all permits already issued. Any person to whom a burning permit is granted is in no way relieved of legal responsibility if the fire is allowed to escape or causes damage to property of another. Nothing herein contained shall limit restrictions of any town or plantation ordinance regulating burning of refuse or debris. This section shall not apply to the rights of state forest fire wardens to set a backfire for the purpose of stopping a forest fire actually burning. This section shall not conflict with the laws on kindling fires on land of another.

Whoever violates any of the provisions of this section shall on conviction be punished by a fine not exceeding \$100, or by imprisonment for not more than 30 days, or by both such fine and imprisonment. (1949, c. 363, § 2.)

See § 112, re penalty in § 10 not substitute for existing liabilities.

Sec. 85. Town or private dumps; hazard clearance; posted.—Any town or private dump within the state established and maintained for the disposal of waste, rubbish or debris of any nature which might facilitate either the origin or spread of forest fires shall observe the following prevention measures: A cleared strip 10 feet wide to mineral soil must be constructed on all sides of the dump, except when bordering on or near a large constant supply of water sufficient for protection to be determined by state and town forest fire wardens; all grass, weeds, slash, brush and debris and other inflammable material shall be removed for a distance of 100 feet in all directions from the cleared mineral soil strip; live trees need not be removed except that dead and green branches of conifers or evergreen trees shall be pruned to a height of 10 feet above the ground; dead snags shall also be removed. Dumps without a nearby supply of water shall be provided with piles of sand or barrels filled with water and shall be equipped with a tool box containing 2 pails, 2 axes and 2 shovels or any other hand tools deemed necessary by the town forest fire warden during the forest fire season. During periods of high forest fire hazard if a dump is burning municipal officers of towns and plantations shall maintain a guard or watchman at such dumps.

Such town or private dumps within the state not carrying out the provisions of this section shall be posted as "Closed to Dumping" by town forest fire warden, commissioner or his representatives. Thereafter no person shall deposit refuse of any kind within, along the road or adjacent to such closed dump.

No person shall deposit refuse of any kind on land not his own without the consent of the owner or the public authority having custody or maintenance responsibility of such land.

Any person violating the provisions of this section shall be subject to a fine of not less than \$10, nor more than \$100, or by imprisonment for not more than 30 days, or by both such fine and imprisonment. (1949, c. 363, § 2. 1951, c. 41.)

See § 112, re penalty in § 10 not substitute for existing liabilities.

Sec. 86. Disposal of slash and brush on construction and maintenance of railroads, highways, electric power, telegraph, telephone or pipe lines.—Slash and brush accumulating by the construction and maintenance of railroads, highways, electric power, telegraph, telephone or pipe lines shall not be left on the ground. Disposal of slash and brush resulting from the construction and maintenance of railroads, highways, electric power, telegraph, telephone or pipe lines may be done by either hauling away or burning. However, any burning must comply with the provisions of section 84 governing permits and conditions suitable to burn.

Any violation of the provisions of this section by the person responsible therefor, or his employer, whether individual, firm or corporation shall be punished by a fine of not more than \$100, or by imprisonment for not more than 30 days, or by both such fine and imprisonment. (R. S. c. 32, § 69. 1949, c. 363, § 3.)

See § 112, re penalty in § 10 not substitute for existing liabilities.

Sec. 87. Licenses for primary wood-using portable sawmills.—

I. Definition. This section shall apply to primary wood-using portable sawmills or portable plants which use wood products in log or bolt form and saws or processes them. All such mills which have not been in one location at least 1 year shall be termed portable. Location changes within the previous year shall have no effect on this definition. Furthermore, all such mills are subject to license whether operated by steam power, internal combustion motors or electricity.

II. License fee, change of location and ownership. It shall be unlawful for any primary wood-using portable sawmill in the state to operate without first obtaining a license from the commissioner. Application shall be made upon blanks prepared by the commissioner for this purpose, giving the name of the owner or owners, the location and type of mill, name and location of lot to be cut and such other pertinent information as may be required. A proper record of all applications for licenses and all licenses issued shall be kept by the commissioner at his office and shall be open to inspection of any person during reasonable business hours. When said mill is located in towns or organized plantations of the state, outside the limits of the Maine forestry district, copy of licenses will be sent town forest fire wardens. The fee for such license shall be \$25, which shall be deposited at the time of making the application and made payable to the treasurer of state, and all such licenses shall expire 1 year from the date of their issue. The commissioner or his representatives within the state, or town forest fire wardens within their towns, may at any time suspend or revoke any license for the violation of the slash laws; and the above officials may suspend such license in time of drought if the operation creates an extra forest fire hazard. The commissioner shall be notified by written application of changes of location or ownership and shall approve and grant such permits; failure to make application within 10 days shall mean suspension of license until rectified. The owner or operator of any primary wood-using portable sawmill can move one or more times within

the year of the license issued or show transfer of ownership without any additional fee. The commissioner shall authorize his representatives and town forest fire wardens of their towns to periodically inspect all primary wood-using portable sawmills. Such inspection shall be in the nature of friendly public forest fire prevention contacts and to correct or report any violation of the provisions of this section. Any primary wood-using portable sawmill so operated without a license shall be deemed a public nuisance without other proof than its use.

All money accruing from the issuance of licenses as provided for in this subsection shall be added to and become a part of the fund for general forestry purposes.

Whoever operates a primary wood-using portable sawmill without first obtaining a license from the commissioner as provided in this subsection shall be punished by a fine of not more than \$100, or by imprisonment for 30 days, or by both such fine and imprisonment.

III. Hazard clearance. The granting and holding of such licenses is conditional on keeping any slash, caused by wood and timber cutting, removed for a distance of 50 feet in all directions from the mill, sawdust pile and incinerator; live trees need not be removed from the cleared area except that dead and green branches of conifers or evergreen trees shall be pruned to a height of 10 feet above the ground; dead snags shall also be removed. The area for the sawdust pile shall be clear of all trees and located not less than 25 feet from an incinerator. The sawdust pile shall be reasonably free of slabs and edgings.

IV. Forest fire tool cache. All primary wood-using portable sawmills, subject to license hereunder, shall be equipped with such forest fire fighting equipment as the commissioner shall specify, provided that the cost to the owner or operator does not exceed \$25 for each mill. All such forest fire fighting tools shall be kept in good condition in a tool cache within 50 feet of the mill. (R. S. c. 32, § 72. 1945, c. 49. 1949, c. 423.)

See § 112, re penalty in § 10 not substitute for existing liabilities.

Sec. 88. Yearly timber cut report.—Owners or operators of all primary wood-using sawmills, stationary or portable, shall render an annual report to the commissioner during the month of January of each year of the amount of softwoods and hardwoods sawed within the state by or for them during the preceding calendar year. Forms for this report shall be provided by the commissioner. Information contained in said reports shall not be made public in so far as the same applies to individuals. (1949, c. 423.)

Fire Prevention and Control in Organized Towns.

Sec. 89. Purpose.—The purpose of sections 89 to 94, inclusive, is to place forest fire control under the forestry department for the entire state. This is a step-up plan from present state cooperation with towns to provide state forest fire control in all organized towns, cities and plantations. This will give incorporated areas, as well as the Maine forestry district, an unbroken chain of command from town forest fire warden to forest commissioner. A maximum amount of responsibility and authority will remain with each local community. However, sections 89 to 94, inclusive, will provide state authority whenever the town system breaks down. (1949, c. 355, § 1. 1951, c. 266, § 41.)

Sec. 90. Forest fire control districts.—The commissioner shall be responsible for the prevention, control and extinguishment of forest fires in all areas

of the state. He shall divide the organized towns, cities and plantations of the state, outside the limits of the Maine forestry district, into major forest fire control districts. The major districts shall be subdivided into as many smaller units as deemed necessary for effective protection against loss or damage by forest fires. The commissioner may also establish lookout stations connected by telephone or radio, and construct, equip and maintain office-storehouse headquarters for necessary supplies, tools and equipment and provide for any other construction essential for forest fire prevention and control work. (1949, c. 355, § 1. 1951, c. 266, § 41.)

Sec. 91. State forest fire wardens.—The commissioner shall appoint an organized town forest fire supervisor, a full-time state forest fire warden for each major district and seasonal state forest fire wardens for each sub-district and such others as in his judgment may be required to carry out the provisions of sections 89 to 94, inclusive. All appointed state forest fire wardens shall hold office during the pleasure of the commissioner, under rules of the personnel law; they shall be sworn to the faithful discharge of their duties and a certificate thereof shall be returned and filed in the office of the commissioner. (1949, c. 355, § 1. 1951, c. 266, § 41.)

Sec. 92. Duties of state district forest fire wardens and sub-district wardens.—

I. State district forest fire wardens. The state district forest fire wardens, under the direction of the commissioner, shall have supervision of state personnel and equipment in their respective districts for the prevention, control and extinguishment of forest fires. They shall enforce all laws relating to forests and forest preservation, cause to arrest all violators thereof; prosecute all offenses against the same and in this connection shall have the same power to serve criminal processes against such offenders as a sheriff or his deputy and shall have and enjoy the same rights as a sheriff to require aid in executing the duties of his office.

They shall be responsible for carrying out a program of forest fire prevention-education, such as the preparation and distribution of material and contacting individuals and groups to gain cooperation of the people. They shall conduct forest fire training schools on all command levels in their districts for town forest fire wardens, paid and volunteer fire departments, sawmill crews, highway crews, construction crews, college and high school students, and other interested groups. All training shall be conducted in accordance with the state forest fire plan. This will make trained men useful in an emergency on a forest fire anywhere within the state.

They shall be required to prepare and revise annually a forest fire plan for their districts. District forest fire plans shall provide for inspection of cutting operations, primary wood-using portable sawmills and town dumps; include a forest fire map; lists of emergency manpower and equipment reserves; and a list of job assignments for all district personnel. They shall correlate town forest fire plans with that of their district. They shall carry out any other duties pertinent to their work including reports assigned to them by the commissioner.

They shall receive such compensation for each and every day as determined by the commissioner, with approval of the state personnel board, with allowance for actual necessary expenses of travel.

II. Seasonal forest fire wardens. Seasonal forest fire wardens shall be responsible to their district state forest fire warden and at such times and under such rules and regulations as the commissioner or their state district forest fire warden may prescribe, and each shall receive compensation for each and every day as determined by the commissioner, with approval of the state per-

sonnel board, with allowance for actual necessary expenses of travel. (1949, c. 355, § 1. 1951, c. 266, § 41.)

Sec. 93. Town and state forest fire wardens to take action to control forest fires.—State and town forest fire wardens shall take immediate charge to control and extinguish forest fires, using and coordinating all forest fire protection facilities at their disposal. The management of town forest fires shall be the responsibility of the town forest fire warden until in the judgment of a state forest fire warden the situation makes it advisable for him to take over. Final authority and responsibility on forest fires shall be that of the state forest fire warden. Town fire department personnel and equipment are an important part of the state forest fire plan. However, they shall not be moved within or outside town limits except with the approval of the fire chief or proper town official. Such officials shall have the authority to determine whether town fire department personnel or equipment is needed on a forest fire or to protect buildings.

State forest fire wardens shall have the authority to set backfires to extinguish a forest fire actually burning. (1949, c. 355, § 1. 1951, c. 266, § 41.)

Sec. 94. Coordinating protective agencies.—The department shall formulate emergency plans of action to establish manpower pools, equipment reserves, facilities for feeding, transportation and communication on forest fires. In preparing the plan other agencies and organizations having needed facilities should be contacted such as fire chiefs, Red Cross, sheriffs, American Legion, state police, national guard, state highway, state fish and game department, state grange, colleges, civil air patrol and any other protective group so determined by the commissioner. Whenever or wherever a major forest fire occurs or threatens, the department shall be the coordinating agency until the governor declares an emergency. (1949, c. 355, § 1. 1951, c. 266, § 41.)

Maine Forestry District. Proclamations re Forest Fires.

Purpose of act.—The purpose of the act creating the Maine forestry district was the protection from fire of the forests within that district. The act creating the district specifies the lots and plantations included in the district, and fixes the

rate of taxation for all land in the district, which is to be in addition to the general tax upon all property within the state. *Sandy River Plantation v. Lewis*, 109 Me. 472, 84 A. 995.

Sec. 95. Maine Forestry District.—The administrative district known as the Maine Forestry District, heretofore established and incorporated, shall include the following territory:

Aroostook county. Township A, R. 2, W. E. L. S.; Hammond plantation; C, R. 2, W. E. L. S.; D, R. 2, W. E. L. S.; E plantation; 3, R. 2, W. E. L. S.; Cox Patent; Reed plantation; Glenwood plantation; 3, R. 3, W. E. L. S.; 4, R. 3, W. E. L. S.; 7, R. 3, W. E. L. S.; 8, R. 3, W. E. L. S.; 9, R. 3, W. E. L. S.; 10, R. 3, W. E. L. S.; 17, R. 3, W. E. L. S.; Macwahoc plantation; 1, R. 4, W. E. L. S.; 2, R. 4, W. E. L. S.; 3, R. 4, W. E. L. S.; 7, R. 4, W. E. L. S.; 8, R. 4, W. E. L. S.; 9, R. 4, W. E. L. S.; 10, R. 4, W. E. L. S.; 11, R. 4, W. E. L. S.; Westmanland plantation; 16, R. 4, W. E. L. S.; 17, R. 4, W. E. L. S.; A, R. 5, W. E. L. S.; 1, R. 5, W. E. L. S.; Silver Ridge township; 7, R. 5, W. E. L. S.; 8, R. 5, W. E. L. S.; 9, R. 5, W. E. L. S.; 13, R. 5, W. E. L. S.; 14, R. 5, W. E. L. S.; 15, R. 5, W. E. L. S.; 16, R. 5, W. E. L. S.; 17, R. 5, W. E. L. S.; Oxbow plantation; 10, R. 6, W. E. L. S.; Garfield plantation; Nashville plantation; 14, R. 6, W. E. L. S.; 15, R. 6, W. E. L. S.; 16, R. 6, W. E. L. S.; 9, R. 7, W. E. L. S.; 10, R. 7, W. E. L. S.; 11, R. 7, W. E. L. S.; 12, R. 7, W. E. L. S.; 13, R. 7, W. E. L. S.; 14, R. 7, W. E. L. S.; Winterville plantation; Wallagrass plantation; 9, R. 8, W. E. L. S.; 10, R. 8, W. E. L. S.; 11, R. 8, W. E. L. S.

S.; 12, R. 8, W. E. L. S.; 13, R. 8, W. E. L. S.; 14, R. 8, W. E. L. S.; 15, R. 8, W. E. L. S.; 16, R. 8, W. E. L. S.; 11, R. 9, W. E. L. S.; 12, R. 9, W. E. L. S.; 13, R. 9, W. E. L. S.; 14, R. 9, W. E. L. S.; 15, R. 9, W. E. L. S.; 16, R. 9, W. E. L. S.; 11, R. 10, W. E. L. S.; 12, R. 10, W. E. L. S.; 13, R. 10, W. E. L. S.; 14, R. 10, W. E. L. S.; 15, R. 10, W. E. L. S.; Allagash plantation; 18, R. 10, W. E. L. S.; 11, R. 11, W. E. L. S.; 12, R. 11, W. E. L. S.; 13, R. 11, W. E. L. S.; 14, R. 11, W. E. L. S.; 15, R. 11, W. E. L. S.; 18, R. 11, W. E. L. S.; 19, R. 11, W. E. L. S.; 11, R. 12, W. E. L. S.; 12, R. 12, W. E. L. S.; 13, R. 12, W. E. L. S.; 14, R. 12, W. E. L. S.; 15, R. 12, W. E. L. S.; 16, R. 12, W. E. L. S.; 17, R. 12, W. E. L. S.; 18, R. 12, W. E. L. S.; 19, R. 12, W. E. L. S.; 20, R. 11 and 12, W. E. L. S.; 11, R. 13, W. E. L. S.; 12, R. 13, W. E. L. S.; 13, R. 13, W. E. L. S.; 14, R. 13, W. E. L. S.; 15, R. 13, W. E. L. S.; 16, R. 13, W. E. L. S.; 17, R. 13, W. E. L. S.; 18, R. 13, W. E. L. S.; 11, R. 14, W. E. L. S.; 12, R. 14, W. E. L. S.; 13, R. 14, W. E. L. S.; 14, R. 14, W. E. L. S.; 15, R. 14, W. E. L. S.; 16, R. 14, W. E. L. S.; 17, R. 14, W. E. L. S.; 11, R. 15, W. E. L. S.; 12, R. 15, W. E. L. S.; 13, R. 15, W. E. L. S.; 14, R. 15, W. E. L. S.; 15, R. 15, W. E. L. S.; 11, R. 16, W. E. L. S.; 12, R. 16, W. E. L. S.; 13, R. 16, W. E. L. S.; 14, R. 16, W. E. L. S.; 11, R. 17, W. E. L. S.; 12, R. 17, W. E. L. S.; in Aroostook county. (1949, c. 28.)

Franklin county. Township Number 4, Washington plantation; Freeman township; Salem township; Sandy River plantation; Rangeley plantation; 4, R. 1, B. K. P., W. K. R.; 4, R. 2, B. K. P., W. K. R.; 4, R. 3, B. K. P., W. K. R.; D, R. 1; 1, R. 2, W. B. K. P.; Dallas plantation; Coplin plantation; Lang plantation; 3, R. 3, W. B. K. P.; 3, R. 2, B. K. P., W. K. R.; 2, R. 4, W. B. K. P.; 3, R. 4, W. B. K. P.; 1, R. 5, W. B. K. P.; 2, R. 5, W. B. K. P.; 3, R. 5, W. B. K. P.; 1, R. 6, W. B. K. P.; 2, R. 6, W. B. K. P.; 3, R. 6, W. B. K. P.; 1, R. 7, W. B. K. P.; 2, R. 7, W. B. K. P.; 1, R. 8, W. B. K. P.; 2, R. 8, W. B. K. P.; Gore north of T. numbers 2 and 3, R. 6, W. B. K. P.; number 6 north of Weld; Gore north of T. 1, R. 8, W. B. K. P.; township E; Perkins; in Franklin county. (1949, c. 28.)

Hancock county. Township No. 3, North Division; No. 4, North Division; Two Mile Strip North of No. 3, North Division; Strip North of No. 4, North Division; No. 7, South Division; No. 8 Plantation; No. 9, South Division; No. 10, South Division; No. 16, Middle Division; No. 21 Plantation; No. 22, Middle Division; No. 28, Middle Division; No. 32, Middle Division; No. 33 Plantation; No. 34, Middle Division; No. 35, Middle Division; No. 39, Middle Division; No. 40, Middle Division; No. 41, Middle Division; Butter Island; Eagle Island; Spruce Head Island; Bear Island; Beach Island; Hog Island; Bradbury's Island; Pond Island; Western Island; Little Spruce Island; Marshall's Island; Pickering's Island; Resolution Island; in Hancock county.

Oxford county. Albany township; Mason township; T. A, Number 1; Andover North Surplus; Andover West Surplus; T. C.; C. Surplus; 4, R. 1, W. B. K. P.; Magalloway plantation; 4, R. 2, W. B. K. P.; Lincoln plantation; 4, R. 3, W. B. K. P.; 5, R. 3, W. B. K. P.; 4, R. 4, W. B. K. P.; 5, R. 4, W. B. K. P.; 4, R. 5, W. B. K. P.; 4, R. 6, W. B. K. P.; 5, R. 5, W. B. K. P.; the township of Grafton, in Oxford county. (1949, c. 28.)

Penobscot county. Township 3, R. 1, N. B. P. P.; Lakeville plantation; 5, R. 1, N. B. P. P.; Webster plantation; Kingman township; Drew plantation; Medway; 1, R. 7, N. W. P.; 2, R. 8, N. W. P.; Seboeis plantation; 2, R. 9, N. W. P.; 3, R. 9, N. W. P.; 1, R. 6, W. E. L. S.; 2, R. 6, W. E. L. S.; 6, R. 6, W. E. L. S.; 7, R. 6, W. E. L. S.; 8, R. 6, W. E. L. S.; A, R. 7, W. E. L. S.; 1, R. 7, W. E. L. S.; 2, R. 7, W. E. L. S.; 3, R. 7, W. E. L. S.;

4, R. 7, W. E. L. S.; 5, R. 7, W. E. L. S.; 6, R. 7, W. E. L. S.; 7, R. 7, W. E. L. S.; 8, R. 7, W. E. L. S.; Hopkins Academy grant; 8, R. 8, W. E. L. S.; A, R. 8 and 9, W. E. L. S.; Veazie Gore; number 3, Indian purchase; number 4, Indian purchase; 1, R. 8, W. E. L. S.; 2, R. 8, W. E. L. S.; 3, R. 8, W. E. L. S.; 4, R. 8, W. E. L. S.; 5, R. 8, W. E. L. S.; 6, R. 8, W. E. L. S.; 7, R. 8, W. E. L. S.; number 1, North Division; Grand Falls plantation; in Penobscot county. (1949, c. 28.)

Piscataquis county. Orneville township; Medford township; Lakeview plantation; Williamsburg township; Barnard plantation; Bowerbank; 4, R. 9, N. W. P.; 5, R. 9, N. W. P.; 6, R. 9, N. W. P.; 7, R. 9, N. W. P.; Elliottsville plantation; 3, R. 5, B. K. P., E. K. R.; 2, R. 6, B. K. P., E. K. R.; 1, R. 9, W. E. L. S.; 2, R. 9, W. E. L. S.; 3, R. 9, W. E. L. S.; 4, R. 9, W. E. L. S.; 5, R. 9, W. E. L. S.; 6, R. 9, W. E. L. S.; 7, R. 9, W. E. L. S.; 8, R. 9, W. E. L. S.; 9, R. 9, W. E. L. S.; 10, R. 9, W. E. L. S.; A. R. 10, W. E. L. S.; B. R. 10, W. E. L. S.; 1, R. 10, W. E. L. S.; 2, R. 10, W. E. L. S.; 3, R. 10, W. E. L. S.; 4, R. 10, W. E. L. S.; 5, R. 10, W. E. L. S.; 6, R. 10, W. E. L. S.; 7, R. 10, W. E. L. S.; 8, R. 10, W. E. L. S.; 9, R. 10, W. E. L. S.; 10, R. 10, W. E. L. S.; A. R. 11, W. E. L. S.; B. R. 11, W. E. L. S.; 1, R. 11, W. E. L. S.; 2, R. 11, W. E. L. S.; 3, R. 11, W. E. L. S.; 4, R. 11, W. E. L. S.; 5, R. 11, W. E. L. S.; 6, R. 11, W. E. L. S.; 7, R. 11, W. E. L. S.; 8, R. 11, W. E. L. S.; 9, R. 11, W. E. L. S.; 10, R. 11, W. E. L. S.; 7, R. 10, N. W. P.; 8, R. 10, N. W. P.; A. R. 12, W. E. L. S.; 1, R. 12, W. E. L. S.; 2, R. 12, W. E. L. S.; 3, R. 12, W. E. L. S.; 4, R. 12, W. E. L. S.; 5, R. 12, W. E. L. S.; 6, R. 12, W. E. L. S.; 7, R. 12, W. E. L. S.; 8, R. 12, W. E. L. S.; 9, R. 12, W. E. L. S.; 10, R. 12, W. E. L. S.; A. R. 13, W. E. L. S.; A. 2, R. 13 and 14, W. E. L. S.; 1, R. 13, W. E. L. S.; 2, R. 13, W. E. L. S.; 3, R. 13, W. E. L. S.; 4, R. 13, W. E. L. S.; 5, R. 13, W. E. L. S.; 6, R. 13, W. E. L. S.; 7, R. 13, W. E. L. S.; 8, R. 13, W. E. L. S.; 9, R. 13, W. E. L. S.; 10, R. 13, W. E. L. S.; A. R. 14, W. E. L. S.; X, R. 14, W. E. L. S.; 3, R. 14 and 15, W. E. L. S.; 1, R. 14, W. E. L. S.; 4, R. 14, W. E. L. S.; 5, R. 14, W. E. L. S.; 6, R. 14, W. E. L. S.; 7, R. 14, W. E. L. S.; 8, R. 14, W. E. L. S.; 9, R. 14, W. E. L. S.; 10, R. 14, W. E. L. S.; East Middlesex canal; Day's academy; 4, R. 15, W. E. L. S.; 5, R. 15, W. E. L. S.; 6, R. 15, W. E. L. S.; 7, R. 15, W. E. L. S.; 8, R. 15, W. E. L. S.; 9, R. 15, W. E. L. S.; 10, R. 15, W. E. L. S.; all islands in Moosehead lake; Cove Point; Harford's Point; Kingsbury plantation; in Piscataquis county. (1949, c. 28.)

Somerset county. Concord township; Lexington plantation; Pleasant Ridge plantation; Highland plantation; 1, R. 3, B. K. P., W. K. R.; 2, R. 3, B. K. P., W. K. R.; Dead River plantation; Bigelow plantation; 1, R. 4, B. K. P., W. K. R.; 2, R. 4, B. K. P., W. K. R.; 3, R. 4, B. K. P., W. K. R.; Flagstaff plantation; West Forks plantation; 2, R. 5, B. K. P., W. K. R.; 3, R. 5, B. K. P., W. K. R.; 4, R. 5, B. K. P., W. K. R.; 1, R. 6, B. K. P., W. K. R.; 2, R. 6, B. K. P., W. K. R.; 3, R. 6, B. K. P., W. K. R.; 4, R. 6, B. K. P., W. K. R.; 5, R. 6, B. K. P., W. K. R.; 1, R. 7, B. K. P., W. K. R.; 2, R. 7; B. K. P., W. K. R.; 3, R. 7, B. K. P., W. K. R.; 4, R. 7, B. K. P., W. K. R.; 5, R. 7, B. K. P., W. K. R.; 6, R. 7, B. K. P., W. K. R.; Gore North of numbers 1, 2, 3, R. 7, B. K. P., W. K. R.; Mayfield plantation; Moscow; 2, R. 3, B. K. P., E. K. R.; Caratunk plantation; The Forks plantation; 2, R. 4, B. K. P., E. K. R.; 1, R. 5, B. K. P., E. K. R.; 2, R. 5, B. K. P., E. K. R.; 1, R. 6, B. K. P., E. K. R.; 1, R. 1, N. B. K. P. (Rockwood Strip); 1, R. 1, N. B. K. P. (Taunton and Raynham); 2, R. 1, N. B. K. P. (Rockwood Strip); 2, R. 1, N. B. K. P. (Sandwich Academy Grant); 3, R. 1, N. B. K. P.; 5, R. 1, N. B. K. P.; 6, R. 1, N. B. K. P.; 1, R. 2, N. B. K. P.; 2, R. 2, N. B. K. P.; 3, R. 2, N. B. K. P.; Moose River plantation; Dennis-

town plantation; 6, R. 2, N. B. K. P.; Big W, N. B. K. P.; Little W, N. B. K. P.; 1, R. 3, N. B. K. P.; 2, R. 3, N. B. K. P.; 3, R. 3, N. B. K. P.; 4, R. 3, N. B. K. P.; 5, R. 3, N. B. K. P.; Seboomook; 1, R. 4, N. B. K. P.; 2, R. 4, N. B. K. P.; 3, R. 4, N. B. K. P.; 4, R. 4, N. B. K. P.; 5, R. 4, N. B. K. P.; 3, R. 5, N. B. K. P.; 4, R. 5, N. B. K. P.; 4, R. 16, W. E. L. S.; 5, R. 16, W. E. L. S.; 6, R. 16, W. E. L. S.; 7, R. 16, W. E. L. S.; 8, R. 16, W. E. L. S.; 9, R. 16, W. E. L. S.; 10, R. 16, W. E. L. S.; 4, R. 17, W. E. L. S.; 5, R. 17, W. E. L. S.; 6, R. 17, W. E. L. S.; 7, R. 17, W. E. L. S.; 8, R. 17, W. E. L. S.; 9, R. 17, W. E. L. S.; 10, R. 17, W. E. L. S.; 4, R. 18, W. E. L. S.; 5, R. 18, W. E. L. S.; 6, R. 18, W. E. L. S.; 7, R. 18, W. E. L. S.; 8, R. 18, W. E. L. S.; 9, R. 18, W. E. L. S.; 5, R. 19, W. E. L. S.; 6, R. 19, W. E. L. S.; 7, R. 19, W. E. L. S.; 8, R. 19, W. E. L. S.; 5, R. 20, W. E. L. S.; Sand Bar Tract; in Somerset county. (1949, c. 28.)

Washington county. Trescott township; Edmunds township; Marion township; Cooper; Township No. 18, East Division; No. 19, East Division; Crawford; Centerville; Northfield; Wesley; No. 26, East Division; No. 27, East Division; Topsfield township; Brookton township; Deblois; No. 18, Middle Division; No. 19, Middle Division; Beddington; No. 24, Middle Division; No. 25, Middle Division; No. 29, Middle Division; No. 30, Middle Division; No. 31, Middle Division; No. 36, Middle Division; No. 37, Middle Division; No. 42, Middle Division; No. 43, Middle Division; No. 5, North Division; strip north of No. 5, North Division; No. 6, North Division; strip north of No. 6, North Division; No. 1, R. 1, Titcomb's survey; Grand Lake Stream plantation; 1, R. 2, Titcomb's survey; 1, R. 3, Titcomb's survey; 6, R. 1, N. B. P. P.; 7, R. 2, N. B. P. P.; 8, R. 3, N. B. P. P.; 9, R. 4, N. B. P. P.; 10, R. 3, N. B. P. P.; 11, R. 3, N. B. P. P.; 8, R. 4, N. B. P. P.; Indian township; Codyville plantation; No. 14 plantation; No. 21 plantation; in Washington county. (1949, c. 28.)

Whenever it shall appear to the state tax assessor that any part of the unorganized territory of the state, including any areas previously incorporated but which have been deorganized by act of the legislature, is in need of fire protection, the state tax assessor with the approval of the commissioner and the attorney general may declare such territory to be a part of the Maine forestry district. (R. S. c. 32, § 73. 1945, c. 41, § 24. 1949, c. 28.)

See c. 16, § 80, re meaning of letters district; c. 37, § 37, re sporting camps in used in lists of lands in unorganized territory; c. 19, § 3, re audit of Maine forestry unorganized territory.

Sec. 96. Annual tax. — A tax of 5½ mills on the dollar is assessed upon all the property in the Maine forestry district, including rights in public reserved lots, to be used for the protection thereof. Such tax shall be paid on or before the 1st day of October, annually. The valuation as determined by the board of equalization, and set forth in the statement filed by it as provided by section 67 of chapter 16, shall be the basis for the computation and apportionment of the tax assessed. The state tax assessor shall determine, in accordance with the provisions of section 79 of chapter 16, the amount of such taxes due from the owners of lands in each unorganized township and lot or parcel of land not included in any township and rights in public reserved lots, and such amounts shall be included in the statements referred to in section 82 of chapter 16. The tax assessed shall be valid, and all remedies herein provided shall be in full force if said property is described with reasonable accuracy, whether the ownership thereof is correctly stated or not. (R. S. c. 32, § 74. 1945, c. 41, § 25. 1949, c. 103. 1951, c. 90. 1953, c. 2.)

Cross references. — See § 42, re payments of Baxter State Park § 100, re use of funds and audit; c. 16, § 78, re lands in places not incorporated may be taxed by the state. **The forestry tax is not a tax for public**

purposes, but for the special benefit of the forest lands within the district. It is a tax for a local purpose, and is assessed according to the maxim that, "he who receives the advantage ought to sustain the burden." Land within this district has special

benefits that no other forest land in the state has, and it ought to bear the burdens caused by the receipt of those special benefits. *Sandy River Plantation v. Lewis*, 109 Me. 472, 84 A. 995.

Sec. 97. Certificate filed.—The state tax assessor shall, on or before the 1st day of May of each year, prepare and file with the treasurer of state a certificate setting forth the name of each municipality in the Maine forestry district and the amount of forestry district taxes due from such municipality computed at the rate fixed in the preceding section. (R. S. c. 32, § 75. 1945, c. 41, § 26.)

Sec. 98. Tax notices sent to known owners; publication; payment.—The state tax assessor shall, on or before the 1st day of July annually, notify the owners of such lands so assessed in accordance with the provisions of section 82 of chapter 16. Such lands are held to the state for payment of the tax so assessed with interest thereon at the rate of 6% per year to commence on October 1st upon the taxes for the year for which such assessment is made. Payment and collection of such forestry district taxes shall be in accordance with the provisions of sections 83 to 85, inclusive, of chapter 16. (R. S. c. 32, § 76. 1945, c. 41, § 27.)

Cross reference.—See c. 16, § 78, et seq., re state and county taxes.

Stated in *Sandy River Plantation v. Lewis*, 109 Me. 472, 84 A. 995.

Sec. 99. Assessment of taxes on plantations.—The treasurer of state shall annually send his warrant, together with a copy of the assessment of taxes upon the plantations in the Maine forestry district, directed to the municipal officers of said plantations, requiring them respectively to assess, in dollars and cents, the sum so charged according to the provisions of law for the assessment of such taxes, and to add to the amount of such tax the amount of state, county and plantation taxes to be by them assessed in each plantation respectively. (R. S. c. 32, § 78.)

Sec. 100. Use of funds; when insufficient, payments from state treasury; audit of accounts.—The tax assessed by authority of section 96 shall be recorded on the books of the state in a separate account as a fund to be used to protect from fire the forests situated upon and within the district, and to pay expenses incidental thereto and for no other purpose, except that upon receipt of information from the commissioner that there is in said fund a certain sum in excess of the amount necessary for the protection of the forests in said district from fire, the governor and council may authorize the state controller to refund proportionately to the landowners paying the tax assessed as aforesaid, such sum or sums as shall be recommended by the commissioner. If the tax assessed by authority of section 96 for any reason is not available for the purpose aforesaid or if said tax proves insufficient in any year to properly carry out said purpose, the governor and council may make available for said purposes from any moneys then in the treasury not otherwise appropriated, such sum or sums of money as they may deem necessary for such purpose. Annually on February 1st a petty cash advance of \$10,000 from the proceeds of said tax shall be made by the state controller to the commissioner who shall set the same aside as an "Emergency Fire Fighting Fund" and who may expend therefrom for fire fighting purposes of an emergency nature. He shall make to the state controller accountings as necessary, but in any event monthly, of such expenditures and thereupon the state controller shall, upon audit, promptly reimburse therefor so that said petty cash advance shall be always available to the commissioner as above provided. Except as above provided, the expenditures of forestry district funds shall be in accordance with the provisions of chapters 16, 18 and 19. The provisions of said chapters shall, however, not otherwise apply to said forestry district. The commissioner may employ from time to time such clerks in his office as will enable him to carry out the provisions hereof

and the compensation of such clerks shall be paid from the funds provided for the district. (R. S. c. 32, § 79.)

Cross references.—See § 110, re appropriation; c. 19, § 3, sub-§ V, re audit of Maine forestry district accounts. **Quoted** in part in *Sandy River Plantation v. Lewis*, 109 Me. 472, 84 A. 995.

Sec. 101. Prevention, control and extinguishment of fires; lookout stations.—The commissioner shall take measures for the prevention, control and extinguishment of forest fires in said forestry district, and to this end he shall establish such subforestry districts as he may deem necessary for effective protection against loss or damage by fire. He may establish lookout stations connected by telephone and equip and maintain depots for necessary tools for the extinguishment of forest fires, and for the purposes mentioned in this section only may construct and maintain trails and roads, and may assume the maintenance, operation and utilization of forest truck-trails built for the purpose of preventing and suppressing forest fires constructed by the Civilian Conservation Corps or other agency of the United States government. (R. S. c. 32, § 80.)

Sec. 102. Chief forest fire warden; deputy forest fire wardens; tenure.—The commissioner shall appoint in and for each of the subforestry districts a chief forest fire warden and such number of deputy forest fire wardens as in his judgment may be required to carry out the provisions of sections 95 to 104, inclusive, and sections 109 to 111, inclusive, assigning to each of the latter the territory over and within which he shall have jurisdiction. All chief and deputy forest fire wardens, so appointed, shall hold office during the pleasure of the commissioner; they shall be sworn to the faithful discharge of their duties and a certificate thereof shall be returned to the office of the commissioner. (R. S. c. 32, § 81.)

Sec. 103. Duties of fire wardens and deputy wardens; assistants.—The chief forest fire wardens, under the direction of the commissioner, shall have general supervision of their respective districts and of the deputy forest fire wardens therein. Each chief forest fire warden, when directed by the commissioner, shall patrol the forests of his district for the purpose of searching out, extinguishing and guarding against forest fires. He shall investigate and gather evidence regarding the causes of forest fires, enforce all laws relating to forests and forest preservation, arrest all violators thereof, prosecute all offenses against the same, and in this connection shall have the same power to serve criminal processes against such offenders and shall be allowed the same fee as a sheriff or his deputy for like services, and shall have and enjoy the same right as a sheriff to require aid in executing the duties of his office. The chief forest fire wardens shall perform such other duties, at such times, and under such rules and regulations as the said commissioner may prescribe, and each shall receive as compensation an amount set by said commissioner, with the approval of the governor and council, for each and every day of actual service, with an allowance for actual necessary expenses of travel. Deputy forest fire wardens shall perform such duties, at such times and under such rules and regulations, as the commissioner, or the chief fire warden of the district with the approval of the commissioner, may prescribe. They shall receive as compensation an amount set by said commissioner, with the approval of the governor and council, for each and every day of actual service, with an allowance for actual necessary expenses of travel. (R. S. c. 32, § 82. 1945, c. 231, § 1.)

See c. 37, § 25, re fish and game wardens as fire wardens.

Sec. 104. Chief and deputies to control fires; assistance; expenses; report.—Whenever a fire occurs on or is likely to do damage to forest lands within the district of any chief forest fire warden, he shall take immediate action to control and extinguish the same. If such fire occurs upon or is likely to do dam-

age to forest lands within the territory of a deputy forest fire warden and the chief fire warden of the district is not present, the deputy forest fire warden having jurisdiction of the territory shall forthwith proceed to control and extinguish the same, and he shall meanwhile, with all consistent dispatch, cause the said chief fire warden of the district to be notified of the occurrence of such fire. Until the arrival of the chief warden at the place of fire, the deputy warden shall be in charge of the control and extinguishment of the same. For the purpose of controlling and extinguishing fires, chief forest fire wardens and deputy forest fire wardens, when in charge of the control and extinguishment of forest fires or when so directed by the chief warden, may summon to their assistance any person found within the state and each person so summoned and assisting shall be paid at a rate set by the commissioner with the approval of the governor and council and be provided with subsistence during such service. Immediately after the extinguishment of a fire, the deputy forest fire warden, who for any time may have been in charge of the same, shall make return to the chief warden of the district of the expense thereof during the period of his being in charge, including the names of the persons so summoned and assisting, with their post-office addresses and the hours of labor actually performed by each under his direction. The return shall be made upon oath and the chief warden is authorized and empowered to administer such oath. Upon receipt of such return, the chief fire warden shall carefully examine and audit the same, and he may direct the deputy to amend and correct any return found to be incomplete, incorrect or insufficient in form. If upon examination and auditing of said return and investigation of the subject matter thereof, the chief fire warden believes said return to be just and correct, he shall indorse his written approval thereon and forward the same so approved to the commissioner. The chief fire warden of every district burned by a forest fire shall, upon the extinguishment of such fire, promptly forward an exact and detailed statement of the expense, if any, which he may have incurred in connection with the extinguishment of such fire, to the commissioner, who may confirm, reject or recommit, either or both, the approved return of said deputy or the detailed statement of the chief fire warden, if justice so requires. (R. S. c. 32, § 83.)

Sec. 105. Proclamation by governor to aid in preventing forest fires.—Whenever, during periods of drought, it shall appear to the governor that hunting or fishing is likely to be a menace to the forests of this state, he may by proclamation suspend the open season for hunting or fishing for such time and in such sections of the state as he may in such proclamation designate, or prohibit smoking or building fires out-of-doors in the woods for any such time and sections. The type and manner of fishing prohibited shall be designated in the proclamation and public camp sites maintained by the department shall not be closed. (1945, c. 344, § 1.)

Sec. 106. Proclamation published and posted; copy. — Such proclamation shall be published in such newspapers of the state and posted in such places as the governor deems necessary and a copy of such proclamation shall be filed with the secretary of state. A like attested copy shall be furnished to the commissioner, who shall attend to the posting and publication of the proclamation. All expense thereof and all the expense of enforcing the provisions of the proclamation shall be paid by said commissioner, after allowance by the state controller, from the appropriation for general forestry purposes. (1945, c. 344, § 1.)

Sec. 107. Proclamation annulled. — If after issuing the proclamation provided for in section 105, by reason of rains or otherwise, the governor is satisfied that the occasion for the issuance of the proclamation has passed, he may annul it by another proclamation affecting the sections covered by the original proclamation, or any part thereof, which said proclamation shall be published and posted in the same manner as provided for the issuance of the original proclamation. (1945, c. 344, § 1.)

Sec. 108. Failure to observe proclamation.—Whoever, while the proclamation provided for in section 105, is in effect, violates any provision thereof shall be punished by a fine of not less than \$10 nor more than \$100 and costs for each offense. (1945, c. 344, § 1.)

Sec. 109. Expenses; salary of commissioner and deputy forest commissioner.—All expenses incurred under the provisions of sections 95 to 104, inclusive, and sections 109 to 111, inclusive, shall be paid from the funds raised and created by the tax assessed under the provisions of section 96. The deputy forest commissioner shall receive annually the sum of \$700, to be paid from the funds provided under said section, in addition to the salary now provided for the clerk to the commissioner. The commissioner shall also receive from said funds the sum of \$6,000 per year in addition to the salary as now provided by law. (R. S. c. 32, § 84. 1945, c. 378, § 32. 1951, c. 271, § 2.)

See § 1, re salary of forest commissioner;
§ 8, re salary of deputy forest commissioner.

Sec. 110. Appropriation.—So much of the funds raised by the tax imposed and paid into the treasury, as may be necessary to pay the claims, accounts and demands arising under the provisions of sections 95 to 104, inclusive, and sections 109 to 111, inclusive, is appropriated to pay the same, and the governor and council may authorize the state controller to draw his warrant therefor at any time. Any balance remaining shall continue from year to year as a fund available for the purpose defined in section 100. (R. S. c. 32, § 85. 1951, c. 266, § 42.)

Sec. 111. Adjacent town or plantation part of forestry district.—Any incorporated town or organized plantation adjoining any part of the Maine forestry district may, by vote at any meeting of its inhabitants duly called and held, become a part of said forestry district and subject to all the provisions of sections 95 to 104, inclusive, and sections 109 to 111, inclusive. A copy of such vote, certified by the town clerk or plantation assessors, shall be forwarded forthwith to the state tax assessor, to the treasurer of state and to the commissioner, and from the time such certified copy is filed in the office of the treasurer of state, the town or plantation so voting shall be and continue a part of said forestry district. All incorporated towns or organized plantations which shall become a part of said district and all officers of such towns or plantations shall be and are exempt from the duties and obligations imposed by the provisions of sections 59 and 60 of chapter 97. (R. S. c. 32, § 86. 1945, c. 41, § 29. 1949, c. 349, § 58. 1951, c. 266, § 43.)

Sec. 112. Penalties not substitutes for existing liabilities.—None of the penalties imposed by the provisions of section 10 and sections 74 to 87, inclusive, shall be considered as substitutes for or as repealing the provisions of existing laws making persons guilty of acts of trespass or liable for civil damages to persons injured by such acts. (R. S. c. 32, § 87.)