REVISED STATUTES

OF THE

STATE OF MAINE

1954

1963 CUMULATIVE SUPPLEMENT

ANNOTATED

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THE MICHIE COMPANY
CHARLOTTESVILLE, VIRGINIA
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Sec. 5. Definitions.—For the purposes of this chapter, the following terms shall have the meanings, respectively, ascribed to them below:

I. Development plan. "Development plan" shall mean a plan proposed by an educational institution of higher learning or a private redevelopment corporation for the redevelopment and renewal of a project area and, which plan shall conform to the general plan of the locality as a whole, and shall conform to the requirements of chapter 90-B with respect to the content of redevelopment or renewal plans.

II. Educational institution of higher learning. "Educational institution of higher learning" shall mean educational institution, no part of the net earnings of which shall inure to the benefit of any private shareholder or individual, which provides an educational program for which it awards a baccalaureate or more advanced degree, or provides for not less than a 2-year program which is acceptable for full credit towards such a degree, and is accredited by a national accrediting agency or association or, if not so accredited, an educational institution whose credits are accepted, on transfer, by not less than 3 such accredited educational institutions for credit on the same basis as if transferred from an educational institution so accredited.

III. Municipality. "Municipality" shall mean any municipality which pursuant to chapter 90-B is authorized, directly or through its urban renewal authority, to undertake and carry out redevelopment or renewal projects.

IV. Private redevelopment corporation. "Private redevelopment corporation" shall mean any corporation which is wholly owned or controlled by one or more educational institutions of higher learning or a corporation which operates in behalf of an educational institution on a nonprofit basis.

V. Project area. "Project area" shall mean a slum area or a blighted, deteriorated or deteriorating area. (1961, c. 203.)

Chapter 91.

General Provisions Relating to Towns.

Secs. 1-177. Repealed by Public Laws 1957, c. 405, § 2.

Cross reference.—For present law relating to municipalities, see c. 90-A.

Chapter 91-A.

Property Tax Laws.

General Provisions Respecting Taxation.

Sec. 1. Definitions. — The following words and phrases as used in this chapter shall, unless a different meaning is plainly required by the context, have the following meaning:

I. The term "municipality" shall include cities, towns and plantations.
II. The term "place" shall include municipalities, townships and any other unorganized area.
III. The term "municipal officers" shall mean the mayor and aldermen of cities, the selectmen of towns and the assessors of plantations.
IV. The term "tax collector" shall mean any person chosen, appointed or designated by a municipality or the officers thereof to collect any tax due a municipality; or his successor in office.
V. The term "mortgagee" shall be construed to include the heirs and assigns of the mortgagee.
VI. The terms "reside" or "resident" shall have reference to place of domicile.
VII. The term "estates" shall be construed to mean both real estate and personal property.
VIII. The term "property" shall be construed to mean both real estate and personal property.
IX. The term "person" may include a body corporate or an association.
X. The term "registered mail" shall be construed to include certified mail. (1955, c. 399, § 1. 1957, c. 271.)

Effect of amendment. — The 1957 amendment added subsection X.

Sec. 2. Poll tax.—A poll tax of $3 shall be assessed upon every male resident of the state between the ages of 21 and 70 years, whether a citizen of the United States or an alien, in the place where he resides on the first day of each April, unless he is exempted therefrom by this chapter. No person shall be considered a resident of a place merely on account of being present there as a student in an educational institution. (1955, c. 399, § 1. 1961, c. 59, § 1.)

Effect of amendment.—The 1961 amendment substituted "between the ages of 21 and 70 years" for "above the age of 21 years" in the first sentence.

Sec. 3. Real estate and personal property taxable; employed in trade; taxable year.—All real estate within the state, all personal property of residents of the state, and all personal property within the state of persons not residents of the state is subject to taxation on the first day of each April as provided; and the status of all taxpayers and of such taxable property shall be fixed as of that date. Personal property employed in trade and manufacturers' inventories of raw materials, unfinished and finished goods, shall be taxed on the average amount kept on hand for sale or for processing during the preceding taxable year, or any portion of that period when the business has not been carried on for a year. The taxable year shall be from April 1st to April 1st. (1955, c. 399, § 1. 1959, c. 343.)

Effect of amendment.—Prior to the 1959 amendment, the present second sentence was a proviso at the end of the first sentence. The amendment also deleted "hereinafter" preceding "provided" in the first sentence and added "and manufacturers' inventories of raw materials, unfinished and finished goods" and "or for processing" in the present second sentence.

Purpose of "average amount" formula.—See N. J. Gendron Lumber Co. v. Hiram, 151 Me. 450, 120 A. (2d) 560.

The purpose of establishing the "average amount" formula was to establish a reasonable and sensible formula equally applicable to the finished product and to the materials which make up the finished product. Emple Knitting Mills v. Bangor, 155 Me. 270, 153 A. (2d) 118.

The "average amount" formula is not inapplicable merely because lumber is not employed in trade in the town where it is taxable. The legislature in enacting the formula has not so limited it and to construe the statute so narrowly would defeat the purpose which was intended. No limitation being imposed, the words "employed in trade" may properly be construed as meaning "employed in trade anywhere." N. J. Gendron Lumber Co. v. Hiram, 151 Me. 450, 120 A. (2d) 560, decided under former § 13 of chapter 92.

The phrase "employed in trade" as used in our taxing statutes has a well defined meaning. Personal property is not "employed in trade" merely because it would

have been sold under certain conditions which never occurred and which were not even anticipated. It has been said that all property is for sale at a price, an exaggeration which nevertheless has some validity in the realm of commerce. N. J. Gendron Lumber Co. v. Hiram, 151 Me. 450, 120 A. (2d) 560.

Applies to manufacturer of articles of trade.—The term "employed in trade" is applicable to a manufacturer of articles of trade, as well as to a wholesale or retail dealer in such articles. Emple Knitting Mills v. Bangor, 155 Me. 270, 153 A. (2d) 118.

Finished merchandise in inventory of a manufacturer is personal property "kept on hand for sale" within the meaning of this section, and should be valued under the "average amount" formula. Emple Knitting Mills v. Bangor, 155 Me. 270, 153 A. (2d) 118.

And unfinished products and materials to be incorporated into finished merchandise are employed in trade.—Where a company was engaged in the business of manufacturing merchandise for sale, the finished product, the unfinished product, and all materials which were kept on hand for the purpose of ultimate incorporation into the finished merchandise, were employed in trade within the meaning of the statute. Emple Knitting Mills v. Bangor, 155 Me. 270, 153 A. (2d) 118.

Sec. 4. Real estate; tax definition.—Real estate, for the purposes of taxation, shall include all lands in the state and all buildings, house trailers and other things affixed to the same, together with the water power, shore privileges and rights, forests and mineral deposits appertaining thereto; interests and improvements in land, the fee of which is in the state; interests by contract or otherwise in real estate exempt from taxation; and lines of electric light and power companies. Buildings and house trailers on leased land or on land not owned by the owner of the buildings, when situated in any municipality, shall be considered real estate for purposes of taxation and shall be taxed in the municipality where said land is located; but when such buildings and house trailers are located in the unorganized territory they shall be assessed and taxed as personal property in the place where located. (1955, c. 399, § 1. 1957, c. 55. 1963, c. 304, § 2.)

Effect of amendments. — The 1957 amendment substituted the words "real estate" for the word "land" in the first sentence of this section.

The 1963 amendment made the section applicable to house trailers.

Interest by contract or otherwise in land exempt is taxable as real estate. Owls Head v. Dodge, 151 Me. 473, 121 A. (2d) 347.

Former provisions.—For case decided under former § 3 of chapter 92, defining real estate, which did not contain the words "and other things," see Brunswick v. W. H. Hinman, Inc., 151 Me. 397, 120 A. (2d) 287, discussing the intent of the legislature in revising the statute in 1883 so as to omit the words "and other things." Note now that the definition of real estate in the present section contains the words "and other things."—Ed. note.

Sec. 5. Real estate; tax lien.—There shall be a lien to secure the payment of all taxes legally assessed on real estate as defined in section 4, provided, however, that in the inventory and valuation upon which the assessment is made there shall be a description of the real estate taxed sufficiently accurate to identify it. Such lien shall take precedence over all other claims on said real estate, and shall continue in force until the taxes are paid, or until said lien is otherwise terminated by law. (1955, c. 399, § 1.)

Sec. 6. Real estate; where taxed.—All real estate shall be taxed in the place where it is, to the owner or person in possession, whether resident or nonresident. (1955, c. 399, § 1.)

Person in possession liable.—A person in possession of real estate is liable for taxes thereon. Owls Head v. Dodge, 151 Me. 473, 121 A. (2d) 347.

Sec. 7. Personal property; tax definition.—Personal property for the purposes of taxation includes all tangible goods and chattels wheresoever they are and all vessels, at home or abroad. (1955, c. 399, § 1. 1961, c. 223, § 4.)

Effect of amendment.—The 1961 amendment rewrote this section, which formerly included money, securities and other intangibles in the definition.

Sec. 8. Personal property; where taxed.—All personal property within or without the state, except in cases enumerated in the following section, shall be taxed to the owner in the place where he resides. (1955, c. 399, § 1.)

Sec. 9. Exceptions.—The excepted cases referred to in the preceding section are the following:

I. All personal property employed in trade, in the erection of buildings or vessels, or in the mechanic arts shall be taxed in the place where so employed, except as otherwise provided for in this subsection; provided that the owner, his servant, subcontractor or agent occupies any store, storehouse, shop, mill, wharf, landing place or shipyard therein for the purpose of such employment.

A. For the purposes of this subsection, "personal property employed in trade" shall include liquefied petroleum gas installations together with tanks or other containers used in connection therewith.

B. All manufactured merchandise, except products either intended for manufacture into other merchandise or used or for use in connection therewith and except merchandise in the possession of a transportation company or other carrier for the purpose of transporting the same, shall be taxed in the place where situated.

II. Personal property enumerated in this subsection shall be taxed in the place where situated.

A. Portable mills, logs in any place to be manufactured therein, and all manufactured lumber excepting lumber in the possession of a transportation company and in transit.

B. All potatoes stored awaiting sale or shipment, except as otherwise provided in paragraph B of subsection V of section 10.

C. All store fixtures, office furniture, furnishings, fixtures and equipment.

D. Professional libraries, apparatus, implements and supplies.

E. Coin-operated vending or amusement devices.

F. All boats other than those used exclusively in tidal waters.

G. All house trailers except those taxed as stock in trade.

H. Television and radio transmitting equipment. (1955, c. 129)

III. Personal property which is within the state and owned by persons residing out of the state shall be taxed either to the owner, or to the person having the same in possession, or to the person owning or occupying any store, storehouse, shop, mill, wharf, landing, shipyard or other place therein where such property is.

A. A lien is created on said property for the payment of the tax, which may be enforced by the tax collector to whom the tax is committed, by a sale of the property as hereinafter provided.

B. A lien is also created on said property in behalf of the person in possession, which he may enforce, for the repayment of all sums by him lawfully paid in discharge of the tax; and if such person pays more than his proportionate part of such tax, or if his own goods or property are applied to the payment and discharge of the whole tax, he may recover of the owner such owners proper share thereof.

III-A. The business of raising domestic fowl exclusively for meat purposes shall be taxed in the place where found on the basis of the value of the average number of fowl so kept during the preceding taxable year, or any portion of that period when the business has not been carried on for one year.

A. The average number of fowl so kept shall be determined on the basis of one bird per square foot of house capacity, or 25% of the total number of birds kept during the preceding period. House capacity shall be used unless the taxpayer shall have complied with the provisions of section 34.

A-1. The value to be used for a fowl, in determining the value of the average number of fowl, shall be based upon ½ the average value during the preceding taxable year of a mature bird.

B. If the business has been carried on for less than one year the following formula shall be used: The number of square feet of house capacity divided by 12, times the number of months or part thereof that the business has been carried on. The business shall be considered as being carried on during normal clean-out periods. The formula set forth in this paragraph shall not apply where 4 or more successive lots of fowl have been grown in the house during the year.

C. The tax shall be assessed upon the owner of the domestic fowl raised exclusively for meat purposes or may be assessed upon the person in possession. If assessed upon the person in possession, he shall have the same right to recover said tax as is provided for in paragraph B of subsection III.

D. When the business is so taxed, domestic fowl raised exclusively for meat purposes shall not be taxed under the provisions of subsection IV.

E. The absence of fowl on April 1st shall not be conclusive evidence as to the non-operation of the business of raising domestic fowl exclusively for meat purposes.

F. The term "fowl" and "domestic fowl", as used in this subsection, shall include only that kind of fowl commonly known as chickens, genus gallus domesticus, and shall not include other kinds of fowl such as turkeys, ducks and geese. (1957, c. 297. 1959, c. 249, §§ 1, 2. 1963, c. 61)

IV. Mules, horses, neat cattle and domestic fowl shall be taxed in the municipality where they are regularly kept to the owner or person who has them in possession. Presence in a place for pasturing or other temporary purposes shall not be considered as regularly kept therein.

If a municipal line so divides a farm that the dwelling house is in one municipality and the barn or outbuildings or any part of them is in another, such animals kept for the use of said farm, shall be taxed in the municipality where the house is.

V. Personal property belonging to minors under guardianship shall be taxed to the guardian in the place where the guardian resides. The personal property of all other persons under guardianship shall be taxed to the guardian in the place where the ward resides.

VI. Repealed by Public Laws 1961, c. 223, § 5.

VII. Repealed by Public Laws 1961, c. 223, § 5.

VIII. Personal property of partners in business, when subject to taxation under the provisions of subsections I and II above, may be taxed to the partners jointly under their partnership name; and in such cases they shall be jointly and severally liable for the tax.

IX. Repealed by Public Laws 1961, c. 223, § 5.

X. Personal property owned by persons unknown shall be taxed to the person having the same in possession. A lien is created on said property in behalf of the person in possession, which he may enforce for the repayment of all sums by him lawfully paid in discharge of the tax.

XI. The personal property of manufacturing, mining, smelting, agricultural and stock raising corporations, and corporations organized for the purpose of buying, selling and leasing real estate shall be taxed to the corporation or to the persons having possession of such property in the place where situated, except as provided in subsection I. (1955, c. 399, § 1. 1957, c. 297. 1959, c. 249, §§ 1, 2. 1961, c. 223, § 5. 1963, c. 61.)

Effect of amendments. — The 1957 amendment inserted subsection III-A.

This section was amended twice by P. L. 1959, c. 249. Section 1 of c. 249, added paragraph A-1 of subsection III-A and section 2 added a new sentence at the end of paragraph B of that subsection.

The 1961 amendment repealed subsections VI, VII and IX.

The 1963 amendment, effective on its approval, March 12, 1963, added paragraph F in subsection III-A.

The word "trade," as used in this section and defined in Gower v. Inhabitants of

Jonesboro, 83 Me. 142, 21 A. 846, embraces any sort of dealings by way of sale or exchange, commerce, or traffic. Emple Knitting Mills v. Bangor, 155 Me. 270, 153 A. (2d) 118.

Sec. 10. Exemptions. — The following property and polls are exempt from taxation.

I. Public property.

A. The property of the United States so far as the taxation of such property is prohibited under the constitution and laws of the United States.

B. The property of the state of Maine.

C. All property which by the articles of separation is exempt from taxation.

D. Repealed by Public Laws 1961, c. 223, § 6.

E. The property of any public municipal corporation of this state appropriated to public uses, if located within the corporate limits and confines of such public municipal corporation.

F. The pipes, fixtures, hydrants, conduits, gatehouses, pumping stations, reservoirs and dams, used only for reservoir purposes, of public municipal corporations engaged in supplying water, power or light, if located outside of the limits of such public municipal corporation. (1961, c. 395, § 33)

G. All airports and landing fields and the structures erected thereon or contained therein of public municipal corporations whether located within or without the limits of such public municipal corporations; provided, however, that any structures or land contained within such airport not used for airport or aeronautical purposes shall not be entitled to this exemption; and provided further that any public municipal corporation which is required to pay taxes to another such corporation under this paragraph with respect to any airport or landing field shall be reimbursed by the county wherein the airport is situated. (1955, c. 131.)

II. Property of institutions and organizations.

A. The real estate and personal property owned and occupied or used solely for their own purposes by benevolent and charitable institutions incorporated by this state, and none of these shall be deprived of the right of exemption by reason of the source from which its funds are derived or by reason of limitation in the classes of persons for whose benefit such funds are applied.

1. No such institution shall be entitled to tax exemption if it is in fact conducted or operated principally for the benefit of persons who are not residents of Maine and if stipends or charges for its services, benefits or advantages in excess of an equivalent of $15 per week are made or taken. The provisions of this subparagraph shall not apply to institutions incorporated as non-profit corporations for the sole purpose of conducting medical research.

B. The real estate and personal property owned and occupied or used solely for their own purposes by literary and scientific institutions.

C. Further conditions to the right of exemption under paragraphs A and B of this subsection are that:

1. Any corporation claiming exemption under paragraph A of this subsection shall be organized and conducted exclusively for benevolent and charitable purposes;

2. No director, trustee, officer or employee of any organization claiming exemption shall receive directly or indirectly any pecuniary profit from the operation thereof, excepting reasonable compensation for services in effecting its purposes or as a proper beneficiary of its strictly benevolent or charitable purposes; and that

3. All profits derived from the operation thereof and the proceeds from

the sale of its property are devoted exclusively to the purposes for which it is organized; and that

4. The institution, organization or corporation claiming exemption under the provisions of this subsection shall file with the tax assessors upon their request a report for its preceding fiscal year in such detail as the tax assessors may reasonably require;

5. No exemption shall be allowed under this subsection in favor of an agricultural fair association holding pari-mutuel racing meets unless it has qualified the next preceding year as a recipient of the "stipend fund" provided in section 17 of chapter 32.

D. The real estate and personal property owned and occupied or used solely for their own purposes by the American national red cross and its chapters in this state.

E. The real estate and personal property owned and occupied or used solely for their own purposes by posts of the American legion, veterans of foreign wars, grand army of the republic, Spanish war veterans, disabled American veterans and navy clubs of the U. S. A.

F. The real estate and personal property owned and occupied or used solely for their own purposes by chambers of commerce or boards of trade in this state.

G. Houses of religious worship, including vestries, and the pews and furniture within the same; tombs and rights of burial; and property owned and used by a religious society as a parsonage to the value of $6,000, and personal property not exceeding $6,000 in value, but so much of any parsonage as is rented, is liable to taxation.

G-1. Real estate and personal property owned by or held in trust for fraternal organizations, except college fraternities, operating under the lodge system which shall be used solely by fraternal organizations for meetings, ceremonials, religious or moralistic instruction, including all facilities appurtenant to such use and used in connection therewith. If any building shall not be used in its entirety for such purposes, but shall be used in part for such purposes and in part for any other purpose, exemption shall be of the part used for such purposes. (1963, c. 229)

H. Any college in this state authorized to confer the degree of bachelor of arts or of bachelor of science and having real estate liable to taxation shall, on the payment of such tax and proof of the same to the satisfaction of the governor and council, be reimbursed from the state treasury to the amount of the tax so paid; provided, however, that the aggregate amount reimbursed to any college in any one year shall not exceed $1,500 and that this right of reimbursement shall not apply to real estate bought after April 12, 1889.

I. The real and personal property owned by one or more of the foregoing organizations and occupied or used solely for their own purposes by one or more other such organizations. (1955, c. 73. 1957, c. 319)

III. Polls and estates of veterans and servicemen.

A. The polls of persons in active service in the armed forces of the United States of America.

B. The polls of all veterans who served in the armed forces of the United States in the Philippine insurrection or any federally recognized war period prior thereto; or who receive a state pension; or who served in World Wars I or II or the Korean campaign and are receiving retirement pay or compensation or vocational training from the United States government on account of disability incurred in or aggravated by service in said wars.

C. The estates up to the value of $3,500, having a taxable situs in the place of residence, of veterans who served in the armed forces of the United States during any federally recognized war period, including the Korean

campaign, when they shall have reached the age of 62 years or when they are receiving any form of pension or compensation from the United States government for total disability, service connected or non-service connected, as a veteran. The exemption provided in this paragraph shall apply to the property of such veteran including property held in joint tenancy with his or her spouse. (1961, c. 112, § 1.)

D. The estates up to the value of $3,500, having a taxable situs in the place of residence, of the unremarried widow or minor child of any veteran who would be entitled to such exemption if living, or who is in receipt of a pension or compensation from the federal government as the widow or minor child of a veteran.

The estates up to the value of $3,500, having a taxable situs in the place of residence, of the mother of a deceased veteran who is 62 years of age or older and is an unremarried widow who is in receipt of a pension or compensation from the federal government based upon the service connected death of her son. (1961, c. 112, § 2; c. 155)

E. The word "veteran" as used in this subsection shall mean any person, male or female who was in active service in the armed forces of the United States during any federally recognized war period or the Korean campaign; and who if discharged, retired or separated from the armed forces, was discharged, retired or separated under other than dishonorable conditions.

F. To be eligible for exemption under the provisions of this subsection:

1. A veteran must have been a resident of this state at the time of his entry into service; or have been a resident of this state for at least 10 years prior to making the claim for exemption; and

2. A survivor of a deceased veteran must have been a resident of this state for at least 10 years prior to making the claim for exemption; or must show that the deceased veteran under whom the survivor claims would have been eligible for exemption as required above; and

3. No exemption shall be granted to any person under the provisions of this subsection unless such person is a resident of this state.

G. Any person who desires to secure exemption under this subsection shall make written application and file written proof of entitlement on or before the first day of April, in the year in which the exemption is first requested, with the assessors of the place in which the person resides. The assessors shall thereafter grant such exemption to any person while he is so qualified and continues a resident of that place or until they are notified of reason or desire for discontinuance. (1961, c. 112, § 3)

H. Any municipality granting exemptions under this subsection shall have a valid claim against the state to recover 90% of the taxes lost by reason of such exemptions as exceeds 3% of the total local tax levy, upon proof of the facts in form satisfactory to the commissioner of finance and administration. Such claims shall be presented to the legislature next convening. (1963, c. 397, § 1)

I. No property conveyed to any person for the purpose of obtaining exemption from taxation under the provisions of this subsection shall be so exempt, excepting property conveyed between husband and wife, and the obtaining of such exemption by means of fraudulent conveyance shall be punished by a fine of not less than $100 and not more than 2 times the amount of the taxes evaded by such fraudulent conveyance whichever amount is greater. (1957, c. 155. 1959, c. 285. 1961, c. 112, § 4)

IV. Polls and estates of certain persons.

A. The polls of persons under guardianship.

B. The polls of persons who are blind.

C. The polls and estates of only those Indians who reside on tribal reservations.

D. The polls and estates of all persons who by reason of infirmity or poverty are in the judgment of the assessors unable to contribute toward the public charges. (1961, c. 59, § 2)

E. The estates up to the value of $3,500 of all persons determined to be blind within the definition provided by section 298 to 318, inclusive, of chapter 25 who are receiving aid under the provisions of those sections.

F. No property conveyed to any person for the purpose of obtaining exemption from taxation under the provisions of paragraphs D and E of this subsection shall be so exempt, and the obtaining of such exemption by means of fraudulent conveyance shall be punished by a fine of not less than $100 and not more than two times the amount of the taxes evaded by such fraudulent conveyance whichever amount is greater; and in case any person entitled to such exemption has property taxable in more than one place in the state, such proportion of such total exemption shall be made in each place as the value of the property taxable in such place bears to the value of the whole of the property of such person taxable in the state.

V. Personal property.

A. The household furniture, excluding television sets, of each person, in any one household; and his wearing apparel, farming utensils and mechanics' tools necessary for his business.

B. Hay, grain, potatoes, orchard products and wool owned by and in possession of the producer.

C. Mules and horses less than 6 months old; colts of draught type less than 3 years old; neat cattle less than 18 months old; sheep to the number of 35 and all lambs under one year old; swine to the number of 10 and all swine under 4 months old; domestic fowl to the number of 50; goats to the number of 35 and all kids less than one year old. (1963, c. 55)

D. All radium used in the practice of medicine.

E. Repealed by Public Laws 1961, c. 223, § 7.

F. Property in the possession of a common carrier while in interstate transportation or held en route awaiting further transportation to the destination named in a through bill of lading.

G. Food products while stored in the custody of a warehouseman as defined in chapter 44, awaiting shipment outside the state, provided that such food products were packed in this state and that the principal ingredients thereof were grown or produced in the state or brought to the state directly from the sea.

H. Vessels built, in the process of construction, or undergoing repairs, which are within the state on the 1st day of each April and are owned by persons residing out of the state. "Vessels" as used in this paragraph shall not be construed to include pleasure vessels and boats.

I. Pleasure vessels and boats in the state on the first day of each April whose owners reside out of the state, and which are left in this state temporarily by the owners for the purposes of repair or storage and for a consideration. (1963, c. 359)

J. All hides and the leather, the product thereof, which are owned by persons residing out of the state, when it appears that the hides were sent into the state to be tanned and to be carried out of the state when tanned.

K. Personal property in another state or country and legally taxed there. (1963, c. 414, § 102)

L. Repealed by Public Laws 1961, c. 223, § 7.

M. Repealed by Public Laws 1961, c. 223, § 7.

N. Vehicles exempt from excise tax in accordance with section 125. (1959, cc. 187, 237; c. 308, § 2)

VI. Real estate.

A. The aqueducts, pipes and conduits of any corporation supplying a municipality with water are exempt from taxation, when such municipality takes water therefrom for the extinguishment of fires without charge.

B. Mines of gold, silver or of baser metals, when opened and in the process of development, are exempt from taxation for 10 years from the time of such opening; but this exemption does not apply to the taxation of the lands or the surface improvements of such mines.

C. The landing area of a privately owned airport, the use of which is approved by the Maine aeronautics commission, shall be exempt from taxation when the owner grants free use of that landing area to the public.

D. Whenever a land owner plants or sets apart for the growth and production of forest trees any cleared land or land from which the forest has been removed, and successfully cultivates the same for 3 years, the trees being not less than 640 on each acre and well distributed, then, on application of the owner to the assessors of the place in which such land is situated, in which is set forth his statement that such land is set apart for the sole purpose of reforestation for the benefit of the state, and if the assessors find, upon hearing and inspection, that such is the exclusive purpose, the same shall be exempted from taxation for 20 years, after the expiration of said 3 years, provided that the applicant at that time files with the assessors a correct plan of such land with a description of its location and a statement of all the facts in relation to the growth and cultivation of such trees; provided further, that such grove of trees is during the 20 year period kept alive and in thriving condition.

E. Industrial disposal systems that produce no by-products which are marketed or used in the process of production.

F. Any real property constructed, altered or improved as, or to include, a fallout shelter facility complying with the specifications of the office of civil defense of the department of defense of the United States government to the extent that the increase in value of real property is attributable to the fallout shelter facility; provided that no exemption shall be allowed in an amount greater than $200 multiplied by the number of occupants which such fallout shelter facility is designed to accommodate in accordance with such specifications. [1961, c. 404. 1963, c. 414, § 103] (1955 c. 399, § 1. 1957, cc. 155, 319. 1959, cc. 187, 237, 285; c. 308, § 2. 1961, c. 112, §§ 1, 2, 3, 4; c. 155; c. 223, §§ 6, 7; c. 333; c. 395, § 33; c. 404. 1963, cc. 55, 229, 359; c. 397, § 1; c. 414, §§ 102, 103.)

Effect of amendments.—The first 1957 amendment added the exception as to property conveyed between husband and wife in paragraph I of subsection III and made other minor changes in such paragraph. The second 1957 amendment inserted subparagraph 1 of paragraph A under subsection II.

The first 1959 amendment added the words "and all lambs under one year old" in paragraph C of subsection V. The second 1959 amendment deleted the words "radios and", formerly appearing after the word "excluding" and substituted "in" for "not exceeding $500 to" in paragraph A of subsection V. The third 1959 amendment added a new sentence at the end of paragraph C of subsection III. The fourth 1959 amendment added paragraph N to subsection V.

Chapter 59, P. L. 1961, deleted "polls of all persons who have attained the age of 70 years and the" following "The" at the beginning of paragraph D of subsection IV. Chapter 112, P. L. 1961, which amended subsection III, inserted "having a taxable situs in the place of residence" near the beginning of paragraph C, rewrote the second sentence of that paragraph, formerly applying to the veteran's domicile held in joint tenancy, inserted "having a taxable situs in the place of residence" in paragraph D, divided paragraph G into two sentences, inserted "and continues a resident of that place" in the present second sentence of that paragraph, deleted the former second sentence of paragraph I, relating to prorating exemptions of persons with property taxable in more than one place, and made other minor

changes. Chapter 155, P. L. 1961, added the second paragraph of paragraph D of subsection III. Chapter 223, P. L. 1961, repealed paragraph D of subsection I and also paragraphs E, L and M of subsection V. Chapter 333, P. L. 1961, added paragraph E to subsection VI. Chapter 395, P. L. 1961, effective on its approval, June 17, 1961, corrected the spelling of "fixtures" near the beginning of paragraph F of subsection I. Chapter 404, P. L. 1961, added paragraph F to subsection VI.

Chapter 55, P. L. 1963, added "and all swine under 4 months old" in paragraph C of subsection V. Chapter 229, P. L. 1963, added paragraph G-1 in subsection II. Chapter 359, P. L. 1963, added "or storage and for a consideration" at the end of paragraph I of subsection V. Chapter 397, P. L. 1963, divided paragraph H of subsection III into two sentences, deleted "the provisions of" preceding "this subsection" in the present first sentence of that paragraph and substituted "90%" for "70%" in such sentence. Chapter 414, P. L. 1963, deleted "except as provided in subsection IX of section 9" at the end of paragraph K of subsection V and deleted "to include" following "improved as" near the beginning of paragraph F of subsection VI.

Effective date.—P. L. 1963, c. 397, which amended this section, provided in § 2 as follows: "This act shall become effective for the taxes lost in 1963 by reason of exemption of veterans."

Exemptions in tax statutes are strictly construed. Owls Head v. Dodge, 151 Me. 473, 121 A. (2d) 347.

Taxation is the rule and exemption the exception. Green Acre Baha'i Institute v. Eliot, 150 Me. 350, 110 A. (2d) 581, decided under c. 92, § 6, now repealed, which covered the same subject matter as this section.

The property of a municipality not devoted to public use is not exempt from taxation. Owls Head v. Dodge, 151 Me. 473, 121 A. (2d) 347, decided under former § 6 of chapter 92.

Where exemption is claimed by a charitable institution there should be a careful examination to determine: (1) whether in fact the institution is organized and conducting its operation for purely benevolent and charitable purposes in good faith; (2) whether there is any profit motive revealed or concealed; (3) whether there is any pretense to avoid taxation; and (4) whether any production of revenue is purely incidental to a dominant purpose which is benevolent and charitable. Green Acre Baha'i Institute v. Eliot, 150 Me. 350, 110 A. (2d) 581, decided under c. 92, § 6, now repealed, which covered the same subject matter as this section.

Exemption is not defeated by occasional or incidental letting of property.—Tax exemption will not be defeated by occasional or purely incidental letting or renting of the property of a charitable institution where the dominant use by such institution is for its own purposes. Green Acre Baha'i Institute v. Eliot, 150 Me. 350, 110 A. (2d) 581, decided under c. 92, § 6, now repealed, which covered the same subject matter as this section.

Or by fact that use by charitable institution is seasonal. — Exemption is not defeated by the fact that the use by the charitable institution for its own purpose is seasonal. Green Acre Baha'i Institute v. Eliot, 150 Me. 350, 110 A. (2d) 581, decided under c. 92, § 6, now repealed, which covered the same subject matter as this section.

Sec. 11. Mortgaged real estate; taxes, payment. — In cases of mortgaged real estate, the mortgagor, for the purposes of taxation, shall be deemed the owner, until the mortgagee takes possession, after which the mortgagee shall be deemed the owner. Any mortgagee of real estate on which any taxes remain unpaid for a period of 8 months after the taxes are assessed, may pay such taxes, and the amount so paid together with interest and costs thereon shall become a part of the mortgage debt and shall bear interest at the same rate as the lowest rate of interest provided for in any of the notes secured by any mortgage on that real estate held by such mortgagee. (1955, c. 399, § 1.)

Sec. 12. Mortgaged personal property; taxes.—When personal property is mortgaged, pledged or conveyed with the seller retaining title for security purposes, it shall, for the purposes of taxation, be deemed the property of the person who has it in possession, and it may be distrained for the tax thereon. (1955, c. 399, § 1.)

Sec. 13. Real estate; tax on tenants in common, severalty.—A tenant in common or a joint tenant may be considered sole owner for the purposes of

taxation, unless he notifies the assessors what his interest is; but when a tax is assessed on lands owned or claimed to be owned in common, or in severalty, any person may furnish the tax collector an accurate description of his interest in the land and pay his proportion of such tax; and thereafter his land or interest shall be free of all lien created by such tax. (1955, c. 399, § 1.)

Sec. 14. Real estate; tax on landlord and tenant. — When a tenant paying rent for real estate is taxed therefor, he may retain out of his rent half of the taxes paid by him; and when a landlord is taxed for such real estate, he may recover half of the taxes paid by him and his rent in the same action against the tenant, unless there is an agreement to the contrary. (1955, c. 399, § 1.)

A leasehold is an interest in land for the purpose of taxation. Owls Head v. Dodge, 151 Me. 473, 121 A. (2d) 347.

Sec. 15. Assessment; continued until notice of transfer.—When assessors continue to assess real estate to the person to whom it was last assessed, such assessment is valid, although the ownership or occupancy has changed, unless previous written notice to the assessors has been given of such change and of the name of the person to whom it has been transferred or surrendered. (1955, c. 399, § 1.)

Sec. 16. Taxes; prorated between seller and purchaser.—Whenever a purchaser of real estate assumes and agrees with the previous owner or party to whom the real estate was formerly taxed to pay the pro rata or proportional share of taxes, the taxable year shall be from April to April. (1955, c. 399, § 1.)

Sec. 17. Real estate; deceased persons.—Until notice is given to the assessors of the division of the estate and the names of the several heirs or devisees, the undivided real estate of a deceased person may be taxed to his heirs or devisees, or may be taxed to his executor or administrator.

I. A tax to the heirs or devisees may be made without designating any of them by name and each heir or devisee shall be liable for the whole of such tax; and any heir or devisee so taxed may recover of the other heirs or devisees their portions thereof when paid by him. In an action to recover the tax paid, the undivided shares of such heirs or devisees in the real estate, upon which such tax has been paid, may be attached on mesne process or taken on execution issued on a judgment recovered in an action therefor.

II. A tax to the executor or administrator shall be collected of him the same as a tax assessed against him in his private capacity. Such tax shall be a charge against the estate and shall be allowed by the judge of probate; but when the executor or administrator notifies the assessors that he has no funds of the estate to pay such tax and gives them the names of the heirs or devisees, and the proportions of their interests in the real estate to the best of his knowledge, the real estate shall no longer be taxed to him. (1955, c. 399, § 1.)

Sec. 18. Personal property; deceased persons.—The personal property of a deceased person shall be assessed to the executor or administrator in the place where the deceased last resided, and such assessment shall continue until the executor or administrator gives notice to the assessors that such property has been distributed. If the deceased at the time of his death did not reside in the state, such personal property shall be assessed to the executor or administrator in the place where such property is situated. Before the appointment of an executor or administrator, the personal property of a deceased person shall be assessed to the estate of the deceased in the place where he last resided, if in the state, otherwise in the place where such property is situated, and the executor or administrator subsequently appointed shall be liable for the tax. (1955, c. 399, § 1.)

Sec. 19. Personal property; deceased persons; tax priority.—If a personal property tax has been assessed upon the estate of a deceased person, or if a person assessed for a personal property tax has died, the executor or administrator, after he has paid the funeral expenses, the reasonable expense of administration, and satisfied the first 3 priorities set forth in section 1 of chapter 157, shall, from any money which has come to his hands in such capacity if such money is sufficient therefor, pay the personal property tax so assessed; and in default of such payment the executor or administrator shall be personally liable for the tax to the extent of the money which passed through his hands. (1955, c. 399, § 1.)

Sec. 20. Personal property; insolvent persons; tax priority.—If a person assessed for a personal property tax has made an assignment for the benefit of creditors, or has gone into receivership before the payment thereof, the assignee or receiver shall, from any money which has come to his hands in such capacity, over and above the reasonable expense of administration, pay the personal property tax so assessed to the extent of such money; and in default of such payment the assignee or receiver shall be personally liable for the tax to the extent of the money which passed through his hands. (1955, c. 399, § 1.)

Sec. 21. Real estate; tax on banks.—All real estate, including vaults and safe deposit plants, in the state owned by any bank incorporated by this state, or by any national bank or banking association, or by any corporation organized under the laws of this state for the purpose of doing a loan, trust or banking business and having a capital divided into shares shall be taxed in the place where that property is situated, to said bank, banking association or corporation. This section does not apply to loan and building associations. (1955, c. 399, § 1.)

Sec. 22. Railroad buildings; how taxed.—The buildings of every railroad corporation or association, whether within or without the located right-of-way, and its lands and fixtures outside of its located right-of-way, are subject to taxation in the places in which the same are situated, as other property is taxed therein, and shall be regarded as nonresident land. (1955, c. 399, § 1. 1963, c. 92.)

Effect of amendment.—The 1963 amendment substituted "in the places" for "by the cities and towns."

Sec. 23. Standing wood, bark and timber; taxed to purchaser.—Whenever the owner of real estate notifies the assessors that any part of the wood, bark and timber standing thereon has been sold by contract in writing, and exhibits to them proper evidence, they shall tax such wood, bark and timber to the purchaser. A lien is created on such wood, bark and timber for the payment of such taxes; and may be enforced by the collector by a sale thereof when cut, as provided in section 98. (1955, c. 399, § 1.)

Sec. 24. Blooded animals.—Blooded animals, brought into the state and kept for improvement of the breed, shall not be taxed at a higher rate than animals of the same quality and kind bred in the state. (1955, c. 399, § 1.)

Sec. 25. Sailing vessels and barges; tax rate.—All sailing vessels and barges registered or enrolled under the laws of the United States or foreign governments, owned wholly or in part by inhabitants of this state, shall be taxed upon an appraised value of $20 a ton, gross tonnage, for new vessels and barges completed on or before the 1st day of April of each year. Vessels or barges 1 year old or more shall be reduced in value at the rate of $1 a ton a year for each additional year of age, until they shall have reached the age of 17 years, at and after which time said vessels and barges shall be taxed upon an appraised value

of $3 a ton, gross tonnage. The provisions of this section shall not apply to steam barges. (1955, c. 399, § 1.)

Sec. 26. Rebuilt vessels and barges; tax rate. — Vessels and barges when rebuilt shall be taxed on the same valuation as vessels and barges of ½ the age of such rebuilt vessels or barges. A vessel or barge shall be regarded as rebuilt only on an expenditure being made of not less than 40% of the cost of such vessel or barge if built entirely new. Vessels and barges if repaired to the extent of 25% of the cost of such vessel or barge if built entirely new, shall be taxed upon the same valuation as vessels and barges of ⅝ the age of such repaired vessel or barge. The provisions of this section shall not apply to steam barges. (1955, c. 399, § 1.)

Sec. 26-A. Equipment tax. — Machinery and other personal property brought into this state after April 1st and prior to December 31st, by any person upon whom no personal property tax was assessed on April 1st in the state of Maine, shall be taxed as other personal property in the town in which it is used for the first time in this state.

When the assessors are informed by the owner or otherwise of the presence within the town of such personal property, the assessors shall give notice in writing to the owner to furnish to the assessors a true and perfect list of such property within 15 days from the receipt of such notice, and except as otherwise provided in this section, section 34 shall be applicable to this section.

The assessors shall assess a tax upon such property and such tax shall be due and payable 30 days from the date of assessment.

Except as otherwise provided in this section, the collection of such taxes shall be in accordance with this chapter. (1959, c. 304, § 1.)

Effective date.—Section 2 of P. L. 1959, c. 304, adding this section, makes the act effective January 1, 1960.

Assessors and Assessment.

Sec. 27. Rules for assessment.—In the assessment of all taxes, assessors shall govern themselves by the provisions of this chapter, and shall obey all warrants received by them while in office. (1955, c. 399, § 1.)

Sec. 28. Assessors' liability.—Assessors of municipalities are not responsible for the assessment of any tax which they are by law required to assess; but the liability shall rest solely with the municipality for whose benefit the tax was assessed, and the assessors shall be responsible only for their own personal faithfulness and integrity. (1955, c. 399, § 1.)

Sec. 29. Selectmen to act as assessors.—If any municipality does not choose assessors, the selectmen shall be the assessors, and each of them shall be sworn as an assessor. (1955, c. 399, § 1.)

Sec. 30. Delinquent assessors; penalty.—Any assessor who refuses to assess a state, county or municipal tax as required by law, or who shall willfully omit or fail to perform any duty imposed upon him by law, shall be punished by a fine of not more than $100. (1955, c. 399, § 1.)

Sec. 31. County commissioners may appoint assessors; procedure. —If for 3 months after any warrant for a state or county tax has been issued, a municipality has neglected to choose assessors, or the assessors chosen have neglected to assess and certify such tax, the treasurer of state or of the county may so notify the county commissioners.

On receipt of such notification the county commissioners shall appoint 3 or more suitable persons in the county to be assessors for such municipality. New

warrants shall be issued to such assessors, which said warrants shall supersede the state and county warrants originally issued to the assessors of the delinquent municipality.

Assessors appointed under the provisions of this section shall be duly sworn; shall be subject to the same duties and penalties as other assessors; and shall assess upon the polls and estates of the municipality its due proportion of state and county taxes, and such reasonable charges for time and expense in making the assessment as the county commissioners may approve, which said charges shall be paid from the county treasury. (1955, c. 399, § 1.)

Sec. 32. Warrant for state tax; issuance.—When a state tax is ordered by the legislature, the treasurer of state shall send his warrants directed to the assessors of each municipality, as soon after the 1st day of April as is practicable, requiring them to assess upon the polls and estates of such municipality its proportion of the state tax for the current year; and shall in a like manner for the succeeding year, send like warrants for the state tax. (1955, c. 399, § 1.)

Sec. 33. Warrant for state tax; requirements.—The treasurer of state in his warrant shall require the assessors of each municipality to make a fair list of their assessments, as required by the provisions of this chapter; to commit such list to the tax collector of such municipality in accordance with the provisions of section 37; and to return a certificate thereof in accordance with the provisions of section 40. (1955, c. 399, § 1.)

Sec. 34. Taxpayers to list property, notice, penalty, verification.—Before making an assessment, the assessors shall give seasonable notice in writing to all persons, liable to taxation in the municipality, to furnish to the assessors true and perfect lists of their polls and all their estates, not by law exempt from taxation, of which they were possessed on the 1st day of April of the same year.

The notice to residents may be given by posting notifications in some public place in the municipality, or in such other way as the municipality directs.

The notice to nonresident owners may be by mail directed to the last known address of the taxpayer, or by any other method that provides reasonable notice to the taxpayer.

If any person after such notice does not furnish such list, he is thereby barred of his right to make application to the assessors or the county commissioners for any abatement of his taxes, unless he furnishes such list with his application and satisfies them that he was unable to furnish it at the time appointed.

The assessors or any of them may require the person furnishing the list to make oath to its truth, which oath any of them may administer, and any of them may require him to answer in writing all proper inquiries as to the nature, situation and value of his property liable to be taxed in the state; and a refusal or neglect to answer such inquiries and subscribe the same bars an appeal to the county commissioners, but such list and answers shall not be conclusive upon the assessors. (1955, c. 399, § 1.)

This section requires that a property list be filed. Maine Lumber Co., Inc. v. Inhabitants of Town of Mechanic Falls, 157 Me. 347, 172 A. (2d) 638.

And without such list being filed there can be no applications to the assessors or the county commissioners. Maine Lumber Co., Inc. v. Inhabitants of Town of Mechanic Falls, 157 Me. 347, 172 A. (2d) 638.

Where the taxpayer fails to furnish a property list neither the assessors nor the county commissioners have jurisdiction to entertain an application for the abatement of the taxes unless the taxpayer satisfies them that he was unable to furnish it at the time appointed. Maine Lumber Co., Inc. v. Inhabitants of Town of Mechanic Falls, 157 Me. 347, 172 A. (2d) 638.

It also requires proof that applicant "was unable" to furnish list. Maine Lumber Co., Inc. v. Inhabitants of Town of Mechanic Falls, 157 Me. 347, 172 A. (2d) 638.

And reasonable excuse, or good cause,

is not sufficient to excuse failure to file a property list. Maine Lumber Co., Inc. v. Inhabitants of Town of Mechanic Falls, 157 Me. 347, 172 A. (2d) 638.

The time appointed for furnishing the list referred to in this section is before the assessment is made from which an abatement is requested. Maine Lumber Co., Inc. v. Inhabitants of Town of Mechanic Falls, 157 Me. 347, 172 A. (2d) 638.

Cited in Public Service Co. of New Hampshire v. Assessors of Town of Berwick, 158 Me. 285, 183 A. (2d) 205.

Sec. 35. Exempt property; inventory required. — Assessors shall include in their inventory, but not in the tax list, every 5 years beginning in 1963:

I. Neat cattle. The number and value of all neat cattle 18 months old and under;

II. Property of veterans. The value of the real property of veterans, their widows and minor children not taxed;

III. Houses of religious worship. The value of the real estate of all houses of religious worship and parsonages not taxed;

IV. Property of benevolent and charitable institutions. The value of all real property of benevolent and charitable institutions not taxed;

V. Property of literary institutions. The value of all real property of literary and scientific institutions not taxed;

VI. Property of governmental units. The value of the real property of the United States, the state of Maine and any public municipal corporation;

VII. Other property. The value of all other real property not taxed. (1955, c. 399, § 1. 1961, c. 321.)

Effect of amendment.—Prior to the 1961 amendment, this section only provided for including neat cattle 18 months old and under in the inventories.

Sec. 36. Assessors to value real estate and personal property.—The assessors shall ascertain as nearly as may be, the nature, amount and value as of the 1st day of each April of the real estate and personal property subject to be taxed, and shall estimate and record separately the land value, exclusive of buildings, of each parcel of real estate. (1955, c. 399, § 1.)

Legislative intent.—By this section the legislature was careful that, so far as it could be done, each parcel of land should be exclusively holden for the tax with which it was charged; that no unnecessary inconvenience should arise from advertising and selling in gross different parcels of estate in which different interests might exist; that on a redemption of the title conveyed upon such a sale, each individual might obtain his own land by the payment of the tax thereon, and the expense arising from the sale, thereby avoiding the disputes which would grow out of claims for contributions, where one tract was burdened with the taxes upon itself and others also. McCarty v. Greenlawn Cemetery Ass'n, 158 Me. 388, 185 A. (2d) 127.

Where separate and distinct real estates belong to the same owner, they are to be considered as distinct subjects of taxation, and must be separately valued and assessed, and each estate is subject to a lien for the payment of that portion only of the owner's tax which shall be assessed upon such particular estate. McCarty v. Greenlawn Cemetery Ass'n, 158 Me. 388, 185 A. (2d) 127.

Sec. 37. Assessment and commitment; list of residents.—The assessors shall assess upon the polls and estates in their municipality all municipal taxes and their due proportion of any state or county tax, make perfect lists thereof and commit the same, when completed and signed by a majority of them, to the tax collector of their municipality, if any, otherwise to the sheriff of the county or his deputy, with a warrant under their hands, in the form prescribed by section 58.

In making the list of polls in a municipality which has more than one voting district, the assessors shall also make a list of the names and street addresses of each male and female resident 21 years of age or over. They shall give the

registrar of voters a certified copy of this list of residents annually, on or before July 1st. (1955, c. 399, § 1. 1961, c. 360, § 15.)

Effect of amendment.—The 1961 amendment added the second paragraph.

Sec. 38. Overlay.—The assessors may assess on the polls and estates such sum above the sum committed to them to assess, not exceeding 5% thereof as a fractional division renders convenient, and certify that fact to their municipal treasurer. (1955, c. 399, § 1.)

Sec. 39. Assessment record.—The assessors shall make a record of their assessment and of the invoice and valuation from which it was made; and before the taxes are committed to the officer for collection, they shall deposit such record, or a copy of it, in the assessors' office, if any, otherwise with the municipal clerk, there to remain; and any place where the assessors usually meet to transact business and keep their papers or books shall be considered their office. (1955, c. 399, § 1.)

Sec. 40. Certificate of assessment.—When the assessors have assessed any tax and committed it to the tax collector, they shall return to the appropriate treasurer a certificate thereof with the name of such officer. (1955, c. 399, § 1.)

Sec. 41. Supplemental assessments.—Supplemental assessments may be made within 5 years from the last assessment date whenever it is determined that any polls or estates liable to taxation have been omitted from assessment or any tax on polls or estates is invalid or void by reason of illegality, error or irregularity in assessment. The assessors for the time being may, by a supplement to the invoice and valuation and the list of assessments, assess such polls and estates for their due proportion of such tax, according to the principles on which the previous assessment was made.

Such supplemental assessments shall be committed to the collector for the time being with a certificate under the hands of the assessors stating that they were invalid or void or omitted and that the powers in the previous warrant, naming the date of it, are extended thereto. The tax collector has the same power, and is under the same obligation to collect them, as if they had been contained in the original list.

All assessments shall be valid, notwithstanding that by such supplemental assessment the whole amount exceeds the sum to be assessed by more than 5%.

The lien on real estate created by section 5 may be enforced as provided in section 94.

Persons subjected to a tax under the provisions of this section shall be deemed to have received sufficient notice if the notice required by section 34 was given. (1955, c. 399, § 1. 1963, c. 46.)

Effect of amendment.—The 1963 amendment deleted "or alters the proportion of tax allowed by law to be assessed on the polls" formerly appearing at the end of the third paragraph.

Former provisions.—For case decided under former statutory provisions with regard to supplemental assessments, see Owls Head v. Dodge, 151 Me. 473, 121 A. (2d) 347.

Sec. 42. Forest land; policy.—It is declared to be the public policy of the state, by which all officials of the state and of its municipal subdivisions are to be guided in the performance of their official duties, to encourage by the maintenance of adequate incentive the operation of all forest lands on a sustained yield basis by their owners, and to establish and maintain uniformity in methods of assessment for purposes of taxation according to the productivity of the land, giving due weight in the determination of assessed value to location and public facilities as factors contributing to advantage in operation. (1955 c. 399, § 1.)

Sec. 43. Forest land; assessment.—An assessment of forest land for purposes of taxation shall be held to be in excess of just value by any court of com-

petent jurisdiction, upon proof by the owner that the tax burden imposed by the assessment creates an incentive to abandon the land, or to strip the land, or otherwise to operate contrary to the public policy declared in section 42. In proof of his contention the owner shall show that by reason of the burden of the tax he is unable by efficient operation of the forest land on a sustained yield basis to obtain an adequate annual net return commensurate with the risk involved.

For the purposes of this section forest land shall be held to include any single tract of land exceeding 25 acres in area under one ownership which is devoted to the growing of trees for the purpose of cutting for commercial use. (1955, c. 399, § 1.)

Sec. 44. Repealed by Public Laws 1957, c. 397, § 44.

Sec. 45. Town taxes; legality.—The assessment of a tax by a town is illegal unless the sum assessed is raised by vote of the voters at a meeting legally called and notified (1955, c. 399, § 1.)

Sec. 46. Illegal assessment; recovery of tax.—If money not raised for a legal object is assessed with other moneys legally raised, the assessment is not void; nor shall any error, mistake or omission by the assessors, tax collector or treasurer render it void; but any person paying such tax may bring his action against the municipality in the superior court for the same county, and shall recover the sum not raised for a legal object, with 25% interest and costs, and any damages which he has sustained by reason of mistakes, errors or omissions of such officers. (1955, c. 399, § 1.)

Sec. 47. Taxes; payment, powers of municipalities.—At any meeting, when it votes to raise a tax, a municipality may, with respect to such tax, by vote determine:

I. The date when the lists named in section 37 shall be committed.

II. The date when property taxes shall become due and payable.

III. The date when poll taxes shall become due and payable.

IV. The date from and after which interest shall be collected. The rate of interest shall be specified in the vote and shall not exceed 8% per year. Such interest shall be added to and become part of the taxes.

V. That all taxpayers who pay their taxes prior to specified times shall be entitled to abatement thereon, which abatement shall not exceed 10%, and shall be specified in the vote. A notification of such vote shall be posted by the treasurer in one or more public places in the municipality within 7 days after the commitment of the taxes. (1955, c. 399, § 1.)

Abatement.

Sec. 48. Abatement by assessors; procedure.—The assessors for the time being, on written application, stating the grounds therefor, within 1 year from date of commitment, may make such reasonable abatement as they think proper, provided the taxpayer has complied with the provisions of section 34. Appeals from the decision of the assessors shall be taken in accordance with the provisions of sections 50 and 51. Notwithstanding failure to comply with the provisions of section 34, the assessors for the time being, on written application, within one year from the date of commitment, may make such abatement as they think proper in the case of the unremarried widow or minor child of a veteran, which widow or child would be entitled to an exemption under paragraph D of subsection III of section 10 except for her or his failure to make application and file proof within the time set by paragraph G of said subsection III, provided that said veteran died during the 12-month period preceding the April 1st for which the tax was committed.

If after 2 years from the date of assessment a collector is satisfied that a poll tax or tax upon personal property, or any portion of any tax, committed to him

for collection, cannot be collected by reason of the death absence, poverty, insolvency, bankruptcy or other inability of the person assessed to pay he shall notify the assessors thereof in writing, under oath, stating the reason why such tax cannot be collected The assessors, after due inquiry, may abate such tax or any part thereof.

Whenever an abatement is made, the assessors shall certify the same in writing to the collector, and such certificate shall discharge the collector from further obligation to collect the tax so abated. When such abatement is made, a record thereof setting forth the name of the party or parties benefited, the amount of the abatement, and the reasons for the abatement, shall, within 30 days, be made and kept in suitable book form open to the public at reasonable times; and a report of the same shall be made to the municipality at its annual meeting, or to the mayor and aldermen of cities by the 1st Monday in each March. (1955, c. 399, § 1. 1957, c. 213.)

Effect of amendment. — The 1957 amendment added the last sentence of the first paragraph.

Quoted in Public Service Co. of New Hampshire v. Assessors of Town of Berwick, 158 Me. 285, 183 A. (2d) 205.

Sec. 49. Notice of decision.—The assessors shall give to any person applying to them for an abatement of taxes notice in writing of their decision upon such application within 10 days after they take final action thereon. If a board of assessors, before which an application in writing for the abatement of a tax is pending, fails to give written notice of their decision within 90 days from the date of filing of such application, the application shall be deemed to have been denied, and the applicant may appeal as hereinafter provided; unless the applicant shall in writing have consented to further delay. (1955, c. 399, § 1.)

Quoted in Public Service Co. of New Hampshire v. Assessors of Town of Berwick, 158 Me. 285, 183 A. (2d) 205.

Sec. 49-A. Appeal to board of assessment review. — Where the municipality has adopted a board of assessment review, if the assessors refuse to make the abatement asked for, the applicant may apply in writing to the board of assessment review within 30 days after notice of the decision from which such appeal is being taken or after the application shall be deemed to have been denied, and if the board thinks he is over-assessed, he shall be granted such reasonable abatement as the board thinks proper. Either party may appeal from the decision of the board of assessment review directly to the superior court, under the conditions provided for in section 52. (1963, c. 299, § 5.)

Existing boards of assessment review.—
See note to c. 90-A, § 36.

Sec. 50. Appeal to county commissioners.—Except where the municipality has adopted a board of assessment review, if the assessors refuse to make the abatement asked for, the applicant may apply to the county commissioners at their next meeting occurring after notice of the decision from which such appeal is being taken or after the application shall be deemed to have been denied, and if they think that he is over-assessed, he shall be granted such reasonable abatement as they think proper, and if he has paid the tax he shall be reimbursed out of the municipal treasury, with costs in either case. If the applicant fails, the commissioners shall allow costs to the municipality, taxed as in a civil action in the superior court, and issue their warrant of distress against him for collection of such amount as may be due the municipality. The commissioners may require the assessors or municipal clerk to produce the valuation by which the assessment was made, or a copy of it. Either party may appeal from the decision of said county commissioners to the superior court, under the conditions provided for in section 52. (1955, c. 399, § 1. 1963, c. 299, § 6; c. 414, § 104.)

Effect of amendments.—Chapter 299, P. L. 1963, added "Except where the municipality has adopted a board of assessment review" at the beginning of the first sen-

tence. Chapter 414, P. L. 1963, substituted "civil action" for "suit" in the second sentence.

Existing boards of assessment review. —See note to c. 90-A, § 36.

Cited in Maine Lumber Co. v. Inhabitants of Town of Mechanic Falls, 157 Me. 347, 172 A. (2d) 638.

Sec. 51. Appeal to superior court.—Any person entitled to appeal to a board of assessment review or to the county commissioners for an abatement of his taxes may, if he so elect, appeal under the same terms and conditions from the decision of the assessors of the superior court in and for that county. (1955, c. 399, § 1. 1963, c. 299, § 7.)

Effect of amendment.—The 1963 amendment added "to a board of assessment review or" in the section.

Existing boards of assessment review. —See note to c. 90-A, § 36.

Sec. 52. Appeal; hearing.—The appeal provided for in sections 50 and 51 shall be taken within 30 days after notice of the decision from which the appeal is being taken, or within 30 days after the application shall be deemed to have been denied. Notice thereon shall be ordered by said court, and said appeal shall be tried, heard and determined by the court without a jury in the manner and with the rights provided by law in other civil cases so heard. (1955, c. 399, § 1. 1959, c. 317, § 54. 1961, c. 417, § 178.)

Effect of amendments. — The 1959 amendment substituted "taken within" for "entered at the term first occurring not less than" in the first sentence and deleted "in term time or by any justice thereof in vacation" following "said court" in the second sentence.

The 1961 amendment substituted "within" for "not less than" preceding "30 days after the application."

Effective date and applicability of Public Laws 1959, c. 317. — Section 420, chapter 317, Public Laws 1959, provides as follows: "This act shall become effective December 1, 1959. It shall apply to all actions brought after December 1, 1959 and also to all further proceedings in actions at law or suits in equity then pending, except to the extent that in the opinion of the court the application of this act in a particular action pending on December 1, 1959 would not be feasible or would work injustice, in which event the laws in effect prior to December 1, 1959 would prevail."

Sec. 53. Commissioner appointed to hear the parties and report.—The court may in its discretion appoint a commissioner to hear the parties and to report to the court the facts or the facts with the evidence. Such report shall be prima facie evidence of the facts thereby found. The fees of the commissioner shall be paid in the same manner as those of auditors appointed by the court. (1955, c. 399, § 1. 1963, c. 32.)

Effect of amendment.—The 1963 amendment deleted the former first sentence and part of the former second sentence, relating to referring appeals to the state tax assessor.

Sec. 54. Appeal; trial.—The appeal provided for in sections 50 and 51 shall be tried at the first term held not less than 10 days after the notice has been given, unless delay shall be granted at the request of the municipality for good cause, and said court shall, if requested by the municipality, advance the case upon the docket so that it may be tried and decided with as little delay as possible. Either party may appeal from the decisions and rulings of the court upon matters of law arising upon the trial, in the same manner and with the same effect as is allowed in the superior court in the trial of cases without a jury. (1955, c. 399, § 1. 1959, c. 317, § 55.)

Effect of amendment.—The 1959 amendment, effective December 1, 1959, substituted "first term held not less than 10 days after the notice has been given" for "term to which the notice is returnable" in the first sentence and substituted "appeal from" for "file exceptions to" in the second sentence.

Sec. 55. Appeal; judgment and execution.—If upon the trial provided for in the preceding sections it appears that the applicant has complied with all provisions of law, he may be granted such abatement as the court deems reasonable, under the same circumstances as an abatement may be granted by the county commissioners.

If no abatement is granted, judgment shall be rendered in favor of the municipality, and for its costs, to be taxed by the court. If an abatement is granted, judgment shall be rendered in favor of the municipality for such amount, if any, as may be due, after deducting the abatement, and the court may make such order relating to the payment of costs as justice shall require. In either case execution shall issue.

If it shall be alleged in the application that the applicant has paid the taxes for which he has been assessed, and if the court shall so find, judgment for the amount of the abatement granted shall be rendered against the municipality, and for such costs as may be awarded, and execution therefor shall issue as in civil actions.

Claims for abatement on several parcels of real estate may be embraced in one appeal, but judgment shall be rendered and execution shall issue for the amount of taxes due on each several parcel.

The final judgment of the court shall be forthwith certified by the clerk to the assessors of the municipality where such tax was assessed.

The lien created by statute on real estate to secure the payment of taxes shall be continued for 60 days after the rendition of judgment, and may be enforced by sale of said real estate on execution, in the same manner as attachable real estate may be sold under chapter 171, section 31, and with the same right of redemption. (1955, c. 399, § 1. 1959, c. 317, § 56.)

Effect of amendment.—The 1959 amendment, effective December 1, 1959, substituted "60" for "30" and "chapter 171, section 31" for "the provisions of section 31 of chapter 171" in the last paragraph.

Applied in Maine Lumber Co. v. Inhabitants of Town of Mechanic Falls, 157 Me. 347, 172 A. (2d) 638.

Tax Collector's Duties and Liabilities.

Sec. 56. Collection of state and county taxes.—State and county taxes shall be collected by the tax collector and paid by him to the treasurer of his municipality as other taxes are paid. (1955, c. 399, § 1.)

Sec. 57. Payment of state and county taxes.—On or before the 1st day of September in each year, the treasurer of state shall issue his warrant to the treasurer of each municipality requiring him to transmit and pay to the treasurer of state, on or before the time fixed by law, that municipality's proportion of the state tax for the current year. Warrants for county taxes shall be issued by the county treasurers in the same manner with proper changes. (1955, c. 399, § 1.)

Sec. 58. Collector's warrant; form.—Every tax collector shall receive a warrant from the assessors for the collection of taxes, and shall faithfully obey its directions. Said warrants shall be in substance as follows:

STATE OF MAINE COUNTY OF ....., ss.

To ....., tax collector of the municipality of ....., within this county.

GREETINGS:

In the name of the state of Maine, you are hereby required to collect of each person named in the list herewith committed to you the amount set down on said list as payable by him, the total of such amounts payable by all persons on the list being

$ ..... poll taxes

$ ..... real and personal property taxes

(Instructions: If this warrant is not for both poll and property taxes, strike out the inapplicable.)

The total poll and property tax assessments are based on the following:

$ ....., being said municipality's proportion of state tax for the year A. D. 19.....; And

$ ....., being said municipality's proportion of the forestry district tax for the year A. D. 19.....; And

$ ....., being said municipality's proportion of the .... district tax for the year A. D. 19.....; And

$ ....., being this municipality's proportion of a tax or assessment granted by resolve of the legislature of the state passed at the last session upon an estimate made by the court of county commissioners at their session begun and held in and for said county of sums necessary for defraying the charges of the county for the said year on ..... A. D. 19.....; And

$ ....., being the amount voted and raised at the annual town meeting or the annual appropriation meeting of the city council, held ..... A. D. 19....., for the support of the schools and of the poor and other current expenses; And

$ ....., being the overlay authorized by law.

$ ....., Total amount required to be assessed, from which is deducted

$ ....., (here deduct such specific amounts, if any, as may be granted by law)
Or a net total of

$ .....

(Instructions: If this warrant is issued for poll taxes only, disregard the material opposite or cross it out.)

You are to pay to ....., the treasurer of your municipality, or to his successor in office, the taxes herewith committed, paying on the last day of each month all money collected by you hereabove, and you are to complete and make an account of your collections of the whole sum on or before ....., A. D. 19.....

And if any person refuses or neglects to pay the sum which he is assessed in said list, you shall distrain the goods or chattels of such person in the mode prescribed by law; and for want of goods and chattels, whereon to make distress, except implements, tools and articles of furniture exempt from attachment for debt, you shall, in the mode prescribed by law, take the body of such person so refusing or neglecting and him commit to the jail of the county, there to remain until discharged according to law.

In case of the neglect of any person to pay the sum required by said list until after ....., A. D. 19.....; you will add interest to so much thereof as remains unpaid at the rate of ..... per cent per annum, commencing ..... A. D. 19..... to the time of payment, and collect the same with the tax remaining unpaid.

Given under our hands, as provided by warrants from the state treasurer and from the county commissioners of said county and as provided by a legal vote of

the municipality and the statutes in such case made and provided, this .....
..... A. D. 19.....

..... Assessors of
.....
....

And a certificate of the commitment of taxes shall be in substance as follows:

CERTIFICATE OF COMMITMENT

To ....., tax collector of the municipality of ....., aforesaid.

Herewith are committed to you true lists of the assessments of the polls or estates, or both, of the persons therein named; You are to levy and collect the same, of each one his respective amount, therein set down, of the sum total of $ ..... (being the amount of the lists contained herein), according to the tenor of the foregoing warrant.

Given under our hands this ..... A. D. 19.....

..... Assessors of
.....
....

No error or informality in the warrant so far as it relates to the description of the officer to whom any tax is to be paid by the tax collector shall render the same invalid, or relieve the tax collector from the duty of complying with the provisions of the statute in that behalf, or from liability on account of failure to do so. (1955, c. 399, § 1. 1959, c. 195.)

Effect of amendment.—The 1959 amendment rewrote this section.

Sec. 59. Collector's warrant; lost or destroyed.—When a warrant for the collection of taxes has been lost or destroyed, the assessors may issue a new warrant, which shall have the same force as the original. (1955, c. 399, § 1.)

Sec. 60. Collector's bond.—The assessors shall require each tax collector to give a corporate surety bond for the faithful discharge of his duty, to the inhabitants of the municipality, in the sum, and with such sureties, as the municipal officers approve; provided, however, that the tax collector may furnish a bond signed by individuals if such individuals submit to the municipal officers a detailed sworn statement as to their personal financial ability, which shall be found acceptable by the municipal officers.

Such bond shall, after its approval and acceptance, be recorded by the clerk in the municipal records, and such record shall be prima facie evidence of the contents of such bond, but a failure to so record shall be no defense in any action upon such bond. (1955, c. 399, § 1.)

Sec. 61. Collector's compensation. — When municipalities choose tax collectors, they may agree what sum shall be allowed for performance of their duties. Provided, however, that if the basis of compensation agreed upon is a percentage of tax collections, such percentage shall be computed only upon the cash collections of taxes committed to him. Tax liens filed but not discharged prior to the time that the tax collector is to perfect his collections and the amounts paid by the municipality to the tax collector upon the sale of tax deeds shall not be included in computing such percentage. Nothing herein shall be construed as relieving the tax collector from the duty of perfecting liens for the benefit of the municipality by one of the methods prescribed by law in all cases where taxes on real estate remain unpaid. (1955, c. 399, § 1.)

Applied in Lucerne-in-Maine Village Corp. v. Bennoch, 158 Me. 396, 185 A. (2d) 124.

Sec. 62. Receipts for taxes.—When a tax is paid to a tax collector, he shall prepare a receipt for each payment; and upon reasonable request therefor, shall furnish a copy of such receipt to the taxpayer. (1955, c. 399, § 1.)

Sec. 63. Poll tax receipts.—In order to facilitate the issuance of motor vehicle operators' licenses and the registration of motor vehicles, in accordance with the provisions of sections 15 and 61 of chapter 22, the tax collector shall issue a separate poll tax receipt. If any resident is exempt from payment of a poll tax or if his poll tax has been abated, the assessors of the municipality where he resides shall on request issue, or authorize the tax collector to issue, a certificate that he is exempt from payment of a poll tax, or that it has been abated. Such receipt or requested certificate shall be either delivered or mailed to the person within 48 hours. (1955, c. 399, § 1.)

Sec. 64. Prepayment of taxes.—Municipalities at any properly called meeting may authorize their tax collectors or treasurers to accept prepayment of taxes not yet due or assessed and to pay thereon interest at not exceeding the rate of 8% per annum. Any excess paid in over the amount finally assessed shall be repaid, with the interest due on the whole transaction, at the date that the tax finally assessed is due and payable. (1955, c. 399, § 1.)

Sec. 65. Collectors to notify assessors of invalid tax.—Tax collectors and municipal treasurers on receipt of information that a tax may be invalid by reason of error, omission or irregularity in assessment shall at once notify the assessors in writing stating the name of the proper party to be assessed, if known, and the reason why such tax is believed to be invalid, in order that a supplemental assessment may be made. (1955, c. 399, § 1.)

Sec. 66. Collectors to account; penalty.—Every tax collector shall, on the last day of each month, pay to the municipal treasurer all moneys collected by him, and once in 2 months at least shall exhibit to the municipal officers a just and true account of all moneys received on taxes committed to him and excise taxes collected by him, and produce the treasurer's receipt for money by him paid. For each neglect, he forfeits to the municipality $100 to be recovered by the municipal officers thereof in a civil action. (1955, c. 399, § 1. 1961, c. 317, § 246.)

Effect of amendment.—The 1961 amendment divided this section into two sentences and substituted "a civil action" for "an action of debt" at the end of the present second sentence.

Sec. 67. Collectors to perfect collections.—Municipal assessors shall specify in the collector's warrant the date on or before which the tax collector shall perfect his collections. Such date shall not be less than 1 year from the date of the commitment of taxes. In the event that no time is specified in the collector's warrant, tax collectors shall perfect their collections within 2 years after the date of the commitment of taxes. (1955, c. 399, § 1.)

Sec. 67-A. Actions for failure to perfect collections.—An action against a tax collector for failure to perfect his tax collections shall be commenced within 6 years after the date of such collector's warrant. (1963, c. 263.)

Sec. 68. New collectors to complete collections.—When new tax collectors are chosen and sworn before the former officers have perfected their collections, the latter shall complete the same, as if others had not been chosen and sworn. (1955, c. 399, § 1.)

Sec. 69. Sheriff may collect taxes.—If at the time of the completion of the assessment a tax collector has not been chosen or appointed, or if the tax collector neglects to collect a state or county tax, the sheriff of the county shall collect it, on receiving an assessment thereof, with a warrant under the hands

of the municipal assessors, or the assessors appointed in accordance with the provisions of section 31, as the case may be. (1955, c. 399, § 1.)

Sec. 70. Proceedings by sheriff.—The sheriff or his deputy, on receiving the assessment and warrant for collection provided for in the preceding section, shall forthwith post in some public place in the municipality assessed, an attested copy of such assessment and warrant, and shall make no distress for any of such taxes until after 30 days therefrom; and any person paying his tax to such sheriff within that time shall pay 5% over and above his tax for sheriff's fees, but those who do not pay within that time shall be distrained or arrested by such officer, as by tax collectors; and the same fees shall be paid for travel and service of the sheriff, as in other cases of distress. (1955, c. 399, § 1.)

Sec. 71. Collectors to settle when removing from municipality; procedure.—When a tax collector has removed, or in the judgment of the municipal officers is about to remove, from the municipality before the time set for perfecting his collections, said officers may settle with him for the money that he has received on his tax lists, demand and receive of him such lists, and discharge him therefrom. Said officers may appoint another tax collector, and the assessors shall make a new warrant and deliver it to him with said lists, to collect the sums due thereon, and he shall have the same power in their collection as the original tax collector.

If such tax collector refuses to deliver the tax lists and to pay all moneys in his hands collected by him, when duly demanded, he shall be subject to section 78, and is liable to pay what remains due on the tax lists, said sum to be recovered by the municipal officers in a civil action. (1955, c. 399, § 1. 1957, c. 9. 1961, c. 317, § 247.)

Effect of amendments. — Prior to the 1957 amendment the first paragraph required that the officers might call a meeting to appoint a committee with power to settle, etc. This committee was deleted and the officers were granted such powers.

The 1961 amendment deleted "the provisions of" preceding "section 78" and substituted "a civil action" for "an action of debt" in the last paragraph of this section.

Sec. 72. Collectors becoming incapacitated; settlement procedure.—When a tax collector becomes insane, has a guardian, or by bodily infirmities is incapable of performing the duties of his office before completing the collection, the municipal officers may demand and receive the tax lists from any person in possession thereof, settle for the money received thereon, and discharge said tax collector from further liability. The tax lists may be committed to a new tax collector. (1955, c. 399, § 1.)

Sec. 73. Deceased collectors; settlement procedure.—If a tax collector dies without perfecting the collection of taxes committed to him, his executor or administrator, within 2 months after his acceptance of the trust, shall settle with the municipal officers for what was received by the deceased in his lifetime; and for the amount so received, such executor or administrator is chargeable as the deceased would be if living; and if he fails to so settle, when he has sufficient assets in his hands, he shall be chargeable with the whole sum committed to the deceased for collection. (1955, c. 399, § 1.)

Sec. 74. Warrant for completion of collection of taxes; form.—The warrant to be issued by the assessors for the completion of the collection of taxes under the provisions of the preceding sections shall be in substance as follows:

STATE OF MAINE COUNTY OF , ss.

To A. B. , tax collector of the municipality of , within this county:

In the name of the state of Maine, you are hereby required to levy and collect

of each of the several persons named in the list herewith committed unto you, his respective proportion therein set down, of the sum total of such list, amounting in the aggregate to dollars and cents, it being the unpaid portion of the taxes assessed in the municipality of for the year A. D. 19.., for state, county and municipal purposes, and to pay the same to , treasurer of said municipality, or to his successor in office, and to complete and make an account of your collections of the whole sum on or before the day of A. D. 19... If any person refuses or neglects to pay the sum which he is assessed in said list, you shall distrain the goods or chattels of such person in the mode prescribed by law; and for want of goods and chattels, whereon to make distress, except implements, tools and articles of furniture exempt from attachment for debt, you shall, in the mode prescribed by law, take the body of such person so refusing or neglecting and him commit to the jail of the county, there to remain until discharged according to law.

Given under our hands, by virtue of the law in such cases provided, this day of A. D. 19...

..... Assessors of
.....
....

(1955, c. 399, § 1.)

Delinquent Tax Collectors.

Sec. 75. Collection of delinquent state and county taxes.—When the time for the payment of a state or county tax has expired and it is unpaid, the treasurer of state or of the county shall give notice thereof to the treasurer of any delinquent municipality, and unless such tax shall be paid within 60 days, the treasurer of state or of the county may issue his warrant to the sheriff of the county, returnable in 90 days, requiring him to levy by distress and sale upon the real and personal property of any of the inhabitants of the municipality; and the sheriff or his deputy shall execute such warrants, observing the regulations provided for satisfying warrants against delinquent collectors prescribed by sections 80. 81 and 82. (1955, c. 399, § 1.)

Sec. 76. Interest on delinquent state and county taxes.—Beginning with the 1st day of January, following the date on which state or county taxes are levied, interest at ½% per month or fraction thereof shall accrue on any unpaid balances that are then due. All provisions of law that relate to the collection of such taxes shall apply to the collection of interest on overdue taxes. (1955, c. 399, § 1.)

Sec. 77. Collector liable to inhabitants.—A delinquent tax collector shall at all times be answerable to the inhabitants of his municipality for all sums which they have been obliged to pay by means of his deficiency, and for all consequent damages. (1955, c. 399, § 1.)

Sec. 78. Delinquent tax collectors; penalty.—Any tax collector who refuses to collect a state, county or municipal tax as required by law, or who shall willfully omit or fail to perform any duty imposed upon him by law, shall be punished by a fine of not more than $100. (1955, c. 399, § 1.)

Sec. 79. Delinquent tax collectors; warrant form.—If the tax collector of any municipality neglects to collect and pay the taxes to the treasurer named in the assessors' warrant by the time therein stated, such treasurer may issue his warrant, returnable in 90 days, and in substance as follows, to the sheriff of the county or his deputy, who shall execute it.

A. B., treasurer of the municipality of ....., in the county of ....., to the sheriff of said county, or his deputy,

Whereas C. D., of ....., being chosen or appointed tax collector of said

municipality on ....., 19...., for the year 19.., had a list of assessments duly made by the assessors of the said municipality, amounting to the sum of $....., committed to him with a warrant under their hands, dated ...., directing and empowering him to collect the several sums in said assessment mentioned, and pay the same to the treasurer of the said municipality by the ..... day of ....., 19...., but the said C. D. has been remiss in his duty by law required, and has neglected to collect the several sums aforesaid, and pay them to the said treasurer; and there still remains due thereon the sum of $....., and the said C. D. still neglects to pay it: You are hereby, in the name of the state, required forthwith to levy the aforesaid sum of $....., by distress and sale of the estate, real or personal, of said C. D., and pay the same to the treasurer of said municipality, returning the overplus, if any, to said C. D. And for want of such estate, to take the body of said C. D., and him commit to the jail in the county aforesaid, there to remain until he has paid the said sum of $....., with forty cents for this warrant, together with your fees, or he is otherwise discharged therefrom by order of law; and make return of this warrant to myself, or my successor, as treasurer of said municipality, within 90 days from this time, with your doings therein.

Given under my hand, this ..... day of ....., in the year nineteen hundred and .....

....., Treasurer of .....

(1955, c. 399, § 1.)

Sec. 80. Sheriff's duty respecting such warrant; alias warrant.—On each execution or warrant of distress issued in accordance with the provisions of sections 75 and 79, and delivered to a sheriff or his deputy, he shall make return of his doings to such treasurer, with such money, if any, that he has received by virtue thereof; and if he neglects to comply with any direction of such warrant or execution, he shall pay the whole sum mentioned therein. When it is returned unsatisfied, or satisfied in part only, such treasurer may issue an alias for the sum remaining due on the return of the first; and so on, as often as occasion occurs.

An officer executing an alias warrant against a delinquent tax collector may arrest the tax collector and proceed as on execution for debt; and such delinquent tax collector shall have the same rights and privileges as a debtor arrested or committed on execution in favor of a private creditor. (1955, c. 399, § 1.)

Sec. 81. Personal property distrained; sold as on execution.—Any officer selling personal property, distrained under a treasurer's warrant against a tax collector or against the inhabitants of a municipality, shall proceed as in the sale of such property on execution. (1955, c. 399, § 1.)

Sec. 82. Real estate levied on; sold as on execution.—When a treasurer's warrant of distress is levied on the real estate of a delinquent tax collector or against the inhabitants of a municipality, the officer shall proceed as in the sale of such property on execution. (1955, c. 399, § 1.)

Sec. 83. Collector to account when taken on execution.—When any tax collector is taken on execution under the provisions of section 79, the municipal officers may demand of him a true copy of the tax lists, with the evidence of all payments made thereon; and if he complies with this demand, he shall receive such credit as the municipal officers, on inspection of the tax lists, adjudge him entitled to, and account for the balance; but if he refuses, he shall forthwith be committed to jail by the officer who so took him or by a warrant from a justice of the peace, there to remain until he complies. (1955, c. 399, § 1.)

Sec. 84. Municipalities may choose another tax collector.—The same municipality may, at any time, proceed to the choice of another collector, to

complete the collection of taxes, who shall be sworn and give the security required of the 1st collector; and the assessors shall deliver to him the uncollected assessments, with a proper warrant for their collection, and he shall proceed as before prescribed. (1955, c. 399, § 1.)

Sec. 85. Procedure when payments to former collector are in dispute.—When the tax of any person named in said tax lists does not thereby appear to have been paid, but such person declares that it was paid to the former tax collector, the new tax collector shall not distrain or commit him without a vote of the municipal officers. (1955, c. 399, § 1.)

Sec. 86. Remedy of owners of property taken for default of others.—When the estate of an inhabitant of a municipality, who is not a tax collector thereof, is levied upon and taken as mentioned in section 75, he may maintain an action against such municipality, and recover the full value of the estate so levied on, with interest at the rate of 20% from the time it was taken, with costs; and such value may be proved by any other legal evidence, as well as by the result of the sale under such levy. (1955, c. 399, § 1.)

Collection of Taxes by Enforcement of Lien on Real Estate.

Sec. 87. Civil action with special attachment; procedure.—The lien on real estate created by the provisions of section 5 may be enforced in the following manner:

The tax collector may, after the expiration of 8 months and within 1 year from the date of original commitment of the tax, give to the person against whom said tax is assessed, or leave at his last and usual place of abode, or send by registered mail to his last known address, a notice in writing signed by said tax collector stating the amount of the tax, describing the real estate on which the tax is assessed, and demanding the payment of such tax within 10 days after service of such notice.

After the expiration of said 10 days a civil action for the collection of the tax may be brought in the county where the real estate lies, against the person to whom said tax is assessed. Such action may be brought in the name of the tax collector, or the municipal officers may in writing direct the action to be brought in the name of the municipality. Such action shall be begun by a writ of attachment commanding the officer serving it to specially attach the real estate upon which the lien is claimed, which shall be served as other writs of attachment to enforce liens on real estate.

The complaint in such action shall contain a statement of such tax, a description of the real estate contained in said notice and an allegation that a lien is claimed on said real estate to secure the payment of the tax. If no service is made upon the defendant, or if it shall appear that other persons are interested in such real estate, the court shall order such notice of said action as appears proper and shall allow such other persons to become parties thereto.

If it shall appear upon trial of said action that the tax was legally assessed on said real estate, and is unpaid, and that there is an existing lien on said real estate for the payment of the tax, judgment shall be rendered for the tax, interest and costs of suit against the defendants and against the real estate attached, and execution shall issue thereon to be enforced by the sale of such real estate in the manner provided for in a sale on execution of real estate attached on original writs. In all actions brought in the superior court under the provisions of this section or of section 93 of chapter 16, full costs shall be recovered notwithstanding the amount of the judgment be $20 or less.

Any person interested in said real estate may redeem the same at any time within 1 year after the sale thereof by the officer on such execution, by paying the amount for which it was sold with interest at the rate of 6% a year.

This section shall not affect any other provision of law for the enforcement and collection of taxes upon real estate. (1955, c. 399, § 1. 1963, c. 414, § 105.)

Effect of amendment.—The 1963 amendment substituted "complaint" for "declaration" near the beginning of the fourth paragraph.

Sec. 88. Tax lien certificate; procedure.—Liens on real estate created by section 5, in addition to other methods established by law, may be enforced in the following manner:

The tax collector may, after the expiration of 8 months and within 1 year after the date of original commitment of a tax, give to the person against whom said tax is assessed, or leave at his last and usual place of abode, or send by registered mail to his last known address, a notice in writing signed by said tax collector stating the amount of such tax, describing the real estate on which the tax is assessed, alleging that a lien is claimed on said real estate to secure the payment of the tax and demanding the payment of said tax within 10 days after service or mailing of such notice with $1 for said tax collector for making the demand. In the case of taxes supplementally assessed, said tax collector may give such notice after the expiration of 8 months and within 1 year after the date of commitment of such supplementally assessed taxes. If an owner or occupant of real estate to whom said real estate is taxed shall die before such demand is made on him, such demand may be made upon the executor or administrator of his estate or upon any of his heirs or devisees.

After the expiration of said 10 days and within 10 days thereafter, the tax collector shall record in the registry of deeds of the county or registry district where said real estate is situated, a tax lien certificate signed by said tax collector setting forth the amount of such tax, a description of the real estate on which the tax is assessed and an allegation that a lien is claimed on said real estate to secure the payment of said tax, that a demand for payment of said tax has been made in accordance with the provisions of this section, and that said tax remains unpaid. When the undivided real estate of a deceased person has been assessed to his heirs or devisees without designating any of them by name it will be sufficient to record in said registry a tax lien certificate in the name of the heirs or the devisees of said decedent without designating them by name.

At the time of the recording of the tax lien certificate in the registry of deeds as herein provided, in all cases the tax collector shall file with the municipal treasurer a true copy of the tax lien certificate and shall send by registered mail to each record holder of a mortgage on said real estate, to his last known address, a true copy of the tax lien certificate. If the real estate has not been assessed to its record owner the tax collector shall send by registered mail a true copy of the tax lien certificate to the record owner.

The costs to be paid by the taxpayer shall be $4 plus the registered mail fees paid for sending the true copies of the tax lien certificate. Upon redemption the municipality shall prepare and record a discharge of the tax lien mortgage.

The municipality shall pay the tax collector $1 for the notice, $1 for filing the tax lien certificate and the amount paid for registered mail fees; and the fees for recording the tax lien certificate and for discharging the tax lien mortgage shall be paid by the municipality to the register of deeds. (1955, c. 399, § 1.)

Effect of amendment.—The 1961 amendment substituted "a civil action" for "an action of debt" in the first sentence of the third paragraph of this section.

A lien certificate must contain a description of the real estate on which the respective tax has been assessed. McCarty v. Greenlawn Cemetery Ass'n, 158 Me. 388, 185 A. (2d) 127.

And the description must be such as to enable a person to identify the real estate and to apply the description to the face of the earth. The description of the real estate must be certain or refer to that by which it can be made certain. Gray v. Hutchins, 150 Me. 96, 104 A. (2d) 423, decided under c. 92, § 98, now repealed, which covered the same subject matter as this section.

Certificate need not refer to buildings.—Although the land must be valued separately from the buildings, reference to

buildings is not demanded by the statute in the lien certificate. Gray v. Hutchins, 150 Me. 96, 104 A. (2d) 423, decided under c. 92, § 98, now repealed, which covered the same subject matter as this section.

The collector must obtain his information from the assessment. He has no authority to add to or take from it; nor can the assessors, after the completion of the tax, add to the description so as to make that certain which was before uncertain. The assessment must be complete in and of itself as much as a deed or contract. Parol proof may be resorted to for the purpose of applying the terms of the description to the face of the earth, but no further. It cannot supply any deficiency in the buts or bounds. These must be ascertained from what is written and from that alone. McCarty v. Greenlawn Cemetery Ass'n, 158 Me. 388, 185 A. (2d) 127.

Where separate and distinct real estates belong to the same owner, they are to be considered as distinct subjects of taxation and must be separately valued and assessed, and each estate is subject to a lien for the payment of that portion only of the owner's tax which shall be assessed upon such particular estate. McCarty v. Greenlawn Cemetery Ass'n, 158 Me. 388, 185 A. (2d) 127.

Sec. 89. Tax lien mortgage; creation, redemption, notice, discharge, automatic foreclosure.—The filing of the tax lien certificate in the registry of deeds shall create a tax lien mortgage on said real estate to the municipality in which the real estate is situated having priority over all other mortgages, liens, attachments and encumbrances of any nature, and shall give to said municipality all the rights usually incident to a mortgagee, except that the municipality shall not have any right of possession of said real estate until the right of redemption hereinafter provided for shall have expired.

The filing of the tax lien certificate in the registry of deeds shall be sufficient notice of the existence of the tax lien mortgage.

In the event that said tax, interest and costs shall be paid within the period of redemption the municipal treasurer or assignee of record shall prepare and record a discharge of the tax lien mortgage in the same manner as is now provided for the discharge of real estate mortgages.

If the tax lien mortgage, together with interest and costs, shall not be paid within 18 months after the date of the filing of the tax lien certificate in the registry of deeds, the said tax lien mortgage shall be deemed to have been foreclosed and the right of redemption to have expired.

After the expiration of the 18 months period for redemption hereinabove provided, the mortgagee of record of said real estate or his assignee and the owner of record if the said real estate has not been assessed to him or the person claiming under him shall, in the event the notice provided for said mortgagee and said owner has not been given as provided in section 88, have the right to redeem the said real estate within 3 months after receiving actual knowledge of the recording of the tax lien certificate by payment or tender of the amount of the tax lien mortgage, together with interest and costs, and the tax lien mortgage shall then be discharged by the owner thereof in the manner hereinabove provided.

The tax lien mortgage shall be prima facie evidence in all courts in all proceedings by and against the municipality, its successors and assigns, of the truth of the statements therein and after the period of redemption has expired, of the title of the municipality to the real estate therein described, and of the regularity and validity of all proceedings with reference to the acquisition of title by such tax lien mortgage and the foreclosure thereof.

Whenever the person against whom the tax is assessed shall have died after the tax has been committed and prior to the expiration of the 18 months period of foreclosure and such person shall have left a will offered for probate, the probate judge of the county wherein said will is offered upon petition of any devisee of the real estate on which said tax is unpaid may grant a period of redemption not to exceed 60 days following the final allowance or disallowance of said will. Notice of said petition shall be given to the tax collector of the town

wherein said property is located and a certified copy of the court order shall be filed in the registry of deeds of the county wherein the property is located. (1955, c. 399, § 1.)

The tax mortgage statutes are constitutional as to resident taxpayers. Lincolnville v. Perry, 150 Me. 113, 104 A. (2d) 884, decided under c. 92, § 99, now repealed, which covered the same subject matter as this section.

Mortgage is prima facie evidence of truth of all statements therein.—The filing of a tax lien certificate under this section creates a mortgage to the town which is prima facie evidence in all proceedings by and against the town, its successors and assigns of the truth of the statements therein. Gray v. Hutchins, 150 Me. 96, 104 A. (2d) 423, decided under c. 92, § 99, now repealed, which covered the same subject matter as this section.

A tax lien certificate is prima facie evidence of title, therefore it is unnecessary for one asserting such title to lay a foundation for introduction into evidence of the certificate by first proving the proper steps in the tax procedure. Lincolnville v. Perry, 150 Me. 113, 104 A. (2d) 884, decided under c. 92, § 99, now repealed, which covered the same subject matter as this section.

Period of redemption not tolled by restraining order.—An ex parte restraining order issued during the redemption period of a tax lien foreclosure restraining the town and its officers from "acquiring title, conveying or alienating said property" and later vacated, cannot operate to toll the statutory period of redemption. Lincolnville v. Perry, 150 Me. 113, 104 A. (2d) 884, decided under c. 92, § 99, now repealed, which covered the same subject matter as this section.

Sec. 90. Foreclosure in equity, procedure.—A tax lien mortgage filed in accordance with sections 88 and 89 may be foreclosed by an action for equitable relief in the following manner:

I. The municipal treasurer, when so authorized by the inhabitants of the municipality, or in the case of a city by the legislative body thereof, may waive the foreclosure of a tax lien mortgage by recording a waiver of foreclosure in the registry of deeds in which the tax lien certificate is recorded before the right of redemption therefrom shall have expired.

The tax lien mortgage, after the recording of such waiver, shall then continue to be in full force and effect.

II. The waiver of foreclosure shall be substantially in the following form:

The foreclosure of the tax lien mortgage on real estate for a tax assessed against ..... to ..... dated ..... and recorded in
(name) (name of municipality)
..... registry of deeds in book ....., page .... is hereby waived.

Dated this ..... day of ..... 19...

..... A. B. .....
Treasurer of .....

State of Maine
..... ss.

..... 19....

Then personally appeared the above named ..... A. B. ....., treasurer and acknowledged the foregoing instrument to be his free act and deed in his said capacity.

Before me,

.....
Justice of the Peace
Notary Public

There shall be included in the amount secured by the tax lien mortgage a charge to the municipality of 50¢ for the waiver of foreclosure and the charges of the registry of deeds for the recording thereof not in excess of 50¢.

III. Foreclosure of tax lien mortgage. If said tax lien mortgage together with interest and costs shall not be paid within 6 months after the date of

recording the waiver of foreclosure thereof, the tax lien mortgage may be foreclosed in an action for equitable relief. (1961, c. 317, § 250)

IV. In such action the court shall provide a period for the exercise of the right of redemption from the tax lien mortgage which shall expire in not less than 90 days from the decree of the court and in no event before the expiration of 18 months from the date of filing of the tax lien certificate in the registry of deeds as provided in section 88. (1955, c. 399, § 1. 1961, c. 317, §§ 249, 250.)

Effect of amendment.—The 1961 amendment deleted "the provisions of" preceding "sections 88 and 89" in the first sentence and substituted "for equitable relief" for "in equity" in that sentence and at the end of subsection III of this section.

Sec. 91. Foreclosure in action for equitable relief; alternative procedure; class action.—In addition to and as an alternative to the proceedings for foreclosure of a tax lien mortgage under section 90 a municipality may, provided a waiver of foreclosure thereof has been recorded in accordance with section 90, foreclose any tax lien mortgage held by the municipality for a period of at least 4 years from the date of filing of the tax lien certificate in the registry of deeds by an action in rem for equitable relief in the following manner:

I. Action in rem for equitable relief. Such actions may be commenced on or before the first day of April in each year and each such action shall relate only to tax lien mortgages arising from taxes assessed in a given year. The action in rem for equitable relief shall be entitled substantially as follows: (Name of municipality) against all persons having, or claiming to have, an interest in sundry parcels of real estate in (name of municipality) for the foreclosure of tax lien mortgages arising from taxes assessed in the year .... the defendants in said action shall be described as aforesaid in lieu of naming them.

II. Complaint. The municipality shall set forth in substance in the complaint the following:

A. That the municipality holds the tax lien mortgages referred to in the complaint;

B. That the tax lien mortgages arose from taxes assessed in a given year;

C. That the real estate described in the tax lien mortgages is located in (name of municipality), and the tax lien mortgages are recorded in a named registry of deeds.

D. The municipality shall further set forth in the complaint with respect to each tax lien mortgage in substance the following:

That a tax of $..... was duly assessed against .....
(name of person)
on real estate bounded and described as follows: .....
.....
for the year .....; that on ..... a tax lien certificate thereon was
(date)
recorded in ..... county registry of deeds in book .....,
page .....; that on ..... a waiver of foreclosure thereof
(date)
was recorded in said registry of deeds in book ....., page .....;
that said tax of $....., costs to date of $....., together with interest at ..... per cent per annum from ..... is and still
(date)
remains unpaid.

III. Notice. The court shall order that notice of the pendency of the complaint be given to the defendants:

A. By publication of a true copy of the complaint and the order of notice thereon, attested by the clerk of courts, in a newspaper published or printed

in whole or in part in the county where the municipality is situated, if any, or if none, in the state paper, once a week for 3 successive weeks with the last publication not less than 30 days before the time set for appearance of the defendants;

B. By posting a true copy of the complaint and the order of notice thereof, attested by the clerk of courts, in at least 3 public places within the municipality not less than 30 days before the time set for appearance of the defendants; and

C. By mailing a copy of the published notice to the defendants at their last known addresses.

IV. No personal judgment. In such action, no personal judgment against a defendant shall be entered. Each person answering the complaint shall have the right to the severance of the action as to the parcel of real estate in which he is interested. (1955, c. 399, § 1. 1959, c. 317, § 57. 1961, c. 317, § 251.)

Effect of amendments. — The 1959 amendment deleted "bill of" preceding "complaint" in the first paragraph of subsection III, substituted "complaint" for "bill" in paragraphs A and B of that subsection and added paragraph C.

The 1961 amendment deleted "the provisions of" preceding "section 90" in two places in the opening paragraph of this section, substituted "for equitable relief" for "in equity" in such opening paragraph and in subsection I, deleted "bill of" preceding "complaint" in the opening paragraph of subsection II, in paragraph D of such subsection, and in subsection IV, and substituted "complaint" for "bill" at the end of paragraph A of subsection II.

Effective date and applicability of Public Laws 1959, c. 317.—Section 420, chapter 317, Public Laws 1959, provides as follows: "This act shall become effective December 1, 1959. It shall apply to all actions brought after December 1, 1959 and also to all further proceedings in actions at law or suits in equity then pending, except to the extent that in the opinion of the court the application of this act in a particular action pending on December 1, 1959 would not be feasible or would work injustice, in which event the laws in effect prior to December 1, 1959 would prevail."

Sec. 92. Action for equitable relief after period of redemption; procedure.—A municipality which has become the purchaser at a sale of real estate for nonpayment of taxes or which as to any real estate has pursued the alternative method for the enforcement of liens for taxes provided in sections 88 and 89, whether in possession of such real estate or not, after the period of redemption from such sale or lien has expired, may maintain an action for equitable relief against any and all persons who claim or may claim some right, title or interest in the premises adverse to the estate of such municipality.

Any purchaser from a municipality of real estate or lien thereon acquired by a municipality as a purchaser at a sale thereof for non-payment of taxes, or acquired under the alternative method for the enforcement of liens for taxes provided in sections 88 and 89, whether in possession of such real estate or not, after the period of redemption from such sale or lien has expired, may maintain an action for equitable relief against any and all persons who claim or may claim some right, title or interest in the premises adverse to the estate of such municipality or purchaser.

I. Service. Service shall be made as in other actions on all defendants who can with due diligence be personally served within the state. If any defendants cannot be so served or are described in the complaint as being unascertained, service shall be made by publication as in other actions in which publication is required. A copy of the published notice shall be mailed to all known defendants at their last known addresses if they have not been personally served.

II. Decree; effect. The plaintiff in such action shall pray the court to establish and confirm its title to the premises described in the complaint as against all the defendants named or described therein, and if upon hearing the court shall find the plaintiff's title so to be good it shall make and enter its decree

accordingly, which decree when recorded in the registry of deeds for the county or district where the real estate lies shall have the effect of a deed of quitclaim of the premises involved in the action from all the defendants named or described therein to the plaintiff.

III. Jury. At the trial of the cause, issues of fact may be framed upon application of any party to be tried by a jury whose verdict shall have the same effect as the verdict of a jury in civil actions. (1955, c. 399, § 1. 1959, c. 317, § 58. 1961, c. 317, § 252. 1963, c. 112, §§ 1, 2.)

Effect of amendments. — The 1959 amendment effective December 1, 1959, rewrote subsection I of this section.

The 1961 amendment substituted "an action for equitable relief" for "a suit in equity" in the opening paragraph of this section, substituted "action" for "suit" in two places and "complaint" for "bill" in one place in subsection II and substituted "in civil actions" for "in actions at law" at the end of subsection III.

The 1963 amendment added the present second paragraph and deleted "municipality" following "plaintiff" near the beginning and near the end of subsection II.

Sec. 93. Presumption of validity.—In an action to foreclose a tax lien mortgage under sections 90, 91 or 92, the proceedings from and including the assessment of the tax upon which such tax lien mortgage is based to and including the time of filing the complaint in such action need not be set forth in the complaint, pleaded or proved and shall be presumed to be valid. A defendant alleging any invalidity or defect in such proceedings must specify in his answer such invalidity or defect and must establish such defense. (1955, c. 399, § 1. 1961, c. 317, § 253.)

Effect of amendment.—The 1961 amendment deleted "the provisions of" preceding "sections 90, 91 or 92", substituted "the complaint" for "the bill of complaint" and substituted "complaint" for "bill" in the first sentence of this section.

Court will incline to interpretation most favorable to citizen.—Notwithstanding the presumption of validity conferred upon tax mortgage liens by this section, in assaying established defenses to such liens, the court must apply to such forfeiture process the principle that when a statute imposing or enforcing a tax or other burden on the citizen, even in behalf of the state, is fairly susceptible of more than one interpretation, the court will incline to the interpretation most favorable to the citizen. McCarty v. Greenlawn Cemetery Ass'n, 158 Me. 388, 185 A. (2d) 127.

And it must apply to the forfeiture process the principle that strict compliance with statutory requirements is necessary to divest property owners of their titles for nonpayment of taxes. McCarty v. Greenlawn Cemetery Ass'n, 158 Me. 388, 185 A. (2d) 127.

Sec. 94. Supplemental assessments; enforcement of lien. — When taxes are assessed under the provisions of section 41, the lien upon real estate shall be enforced as provided in sections 87, 88 and 89; except that if real estate shall have been transferred to a bona fide purchaser for value since the assessment was omitted or invalidly made with the transfer duly recorded, prior to the date of the supplemental assessment, the lien shall terminate. (1955, c. 399, § 1.)

Sec. 95. Amendments permitted in actions to collect taxes.—At the trial of any action for the collection of taxes, or of any civil action involving the validity of any sale of real estate for nonpayment of taxes, or involving any tax lien certificate under sections 88 and 89 and the title to real estate acquired upon foreclosure of the tax lien mortgage, if it shall appear that the tax in question was lawfully assessed, the court may permit the tax collector or other officer to amend his record, return, deed or certificate in accordance with the fact, when circumstantial errors or defects appear therein, provided the rights of 3rd parties are not injuriously affected thereby. If a deed be so amended, and the amended deed be thereupon recorded, it shall have the same effect as if it

had been originally made in its amended form. (1955, c. 399, § 1. 1961, c. 317, § 254.)

Effect of amendment.—The 1961 amendment substituted "civil action" for "action at law or in equity" and made other minor changes in the first sentence of this section.

Errors must be circumstantial.—Where errors were deemed essential, rather than circumstantial, amendment was not possible. McCarty v. Greenlawn Cemetery Ass'n, 158 Me. 388, 185 A. (2d) 127.

Sec. 96. Defendants not to deny title in actions to collect taxes; exception.—In all civil actions to enforce the collection of a tax on real estate, if it appears that on April 1st of the year for which such tax was assessed, the record title to the real estate listed was in the defendant, he shall not deny his title thereto. If any owner of real estate who has conveyed the same shall forthwith file a copy of the description as given in his deed with the date thereof and the name and last known address of his grantee, in the registry of deeds where such deed should be recorded, he shall be free from any liability under this section. (1955, c. 399, § 1. 1963, c. 414, § 106.)

Effect of amendment.—The 1963 amendment divided the section into two sentences and substituted "civil actions" for "suits" near the beginning of the section.

Sec. 97. Treasurer's receipt; as evidence of redemption.—The municipal treasurer's receipt or certificate of payment of a sufficient sum to redeem any real estate taxed shall be legal evidence of such payment and redemption. (1955, c. 399, § 1.)

Collection of Taxes by Distraint or Arrest.

Sec. 98. Distraint for taxes; procedure, sale.—If any resident or nonresident taxpayer after a reasonable demand refuses or neglects to pay any part of the tax assessed against him in accordance with the provisions of this chapter the tax collector may distrain him in any part of the state by any of his goods and chattels not exempt from attachment for debt, for the whole or any part of his tax, and may keep such distress for not less than 4 days nor more than 7 days at the expense of the owner, and if he does not pay his tax within that time, the distress shall be openly sold at vendue by the tax collector after the 4th day but on or before the 7th day. The place of sale may be other than where the tax was assessed or where the property was seized. Notice of such sale shall be posted in some public place in the municipality where the tax was assessed and in the place where the sale is to be held at least 48 hours before the time set for sale. (1955, c. 399, § 1.)

Sec. 99. Disposition of surplus.—The officer, after deducting the tax and expense of sale, shall restore the balance to the former owner, with a written account of the sale and charges. For distress for nonpayment of taxes the officer shall have the same fees as for levying executions, but his travel shall be computed only from his dwelling house to the place where it is made. (1955, c. 399, § 1.)

Sec. 100. Arrest; notice, procedure, fees. — If any resident or nonresident taxpayer assessed in accordance with the provisions of this chapter, for 12 days after demand, refuses or neglects to pay his tax and to show the tax collector sufficient goods and chattels to pay it, such officer may arrest him in the county where found and commit him there to jail, until he pays it or is discharged by law.

If the tax collector thinks that there are just grounds to fear that such person may abscond before the end of said 12 days, the tax collector may demand immediate payment and, on failure to pay, he may commit such person as aforesaid.

For commitment for nonpayment of taxes, the tax collector shall have the same

fees as sheriffs have for levying executions, but his travel shall be computed only from his dwelling house to the place of commitment. (1955, c. 399, § 1.)

Sec. 101. Collector may issue warrant of distress to sheriff.—Any tax collector after 3 months from the date of commitment may issue his warrant to the sheriff of any county, or his deputy, or to a constable of his municipality, directing him to distrain the person or property of any taxpayer not paying his taxes, which warrant shall be of the same tenor as that prescribed to be issued by municipal assessors to tax collectors with the appropriate changes returnable to the tax collector issuing the same in 30, 60 or 90 days. (1955, c. 399, § 1. 1957, c. 8.)

Effect of amendment. — The 1957 amendment became effective on its approval, March 1, 1957. Prior to the amendment this section required the time to be within three months from the date of commitment rather than after three months from such date, as now appears.

Sec. 102. Warrant of distress; service, notice, fees.—Before the officer serves any such warrant, he shall deliver to the taxpayer or leave at his last and usual place of abode a summons from said tax collector stating the amount of tax due, and that it must be paid within 10 days from the time of leaving such summons; but if not so paid, the officer shall serve such warrant the same as tax collectors may do, and shall receive the same fees as for levying executions in personal actions.

For the service of such warrant, the officer shall have the same fees as sheriffs have for serving warrants, but his travel shall be computed only from his place of abode to place of service. (1955, c. 399, § 1.)

Sec. 103. Distraint before tax due to prevent loss.—When a tax collector has reason to believe that there is danger of losing, by delay, a tax assessed upon any taxpayer, at any time after commitment:

I. He may issue the warrant provided for in section 101 prior to the expiration of the 3 month period; or

II. He may in the warrant authorized by section 101, or in subsection I above, direct the officer to demand immediate payment, and if not so paid, the officer shall serve such warrant without further notice; or

III. He may, after the issuance of such warrant, in writing direct the officer to whom the warrant has been issued to demand immediate payment, and if not so paid to serve such warrant without further notice notwithstanding any unexpired portion of the 10 day notice period required by section 102; or

IV. He may himself demand immediate payment and upon failure he may destrain the property or arrest the person of such taxpayer. (1955, c. 399, § 1.)

Sec. 104. Arrest and commitment; procedure.—When a tax collector or any officer by virtue of a warrant, for want of property, arrests any person and commits him to jail, he shall give an attested copy of his warrant to the jailer and certify, under his hand, the sum that such person is to pay as his tax and the costs of arresting and committing, and that for want of goods and chattels whereon to make distress, he has been arrested; and such copy and certificate are a sufficient warrant to require the jailer to receive and keep such person in custody until he pays his tax, charges and 33¢ for the copy of the warrant; but such person shall have the same rights and privileges as a debtor arrested or committed on execution in favor of a private creditor. (1955, c. 399, § 1.)

Sec. 105. Collector liable unless he commits within 1 year.—When a person imprisoned for not paying his tax is discharged, the tax collector committing him shall not be discharged from such tax without a vote of the municipality, unless the taxpayer was imprisoned within 1 year after the date of commitment of such tax. (1955, c. 399, § 1.)

Sec. 106. Municipalities may set off moneys due against taxes.—Subject to the approval of the municipal officers, the treasurer or any disbursing officer of any municipality may, and if so requested by the tax collector shall withhold payment of any money then due and payable to any taxpayer whose taxes are due and wholly or partially unpaid, to an amount not in excess of the unpaid taxes together with any interest and costs. The sum withheld shall be paid to the tax collector, who shall, if required, give a receipt in writing therefor to the officer withholding payment and to the taxpayer. The tax collector's rights under the provisions of this section shall not be affected by any assignment or trustee process. (1955, c. 399, § 1.)

Collection of Taxes by Action of Debt.

Sec. 107. Collector may bring an action in own name.—Any tax collector or his executor or administrator may bring a civil action in his own name for any tax, and no judge of any district court before whom such action is brought is incompetent to try the same by reason of his residence in the municipality assessing said tax. No defendant is liable for any costs of the action, unless it appears by the complaint and by proof that payment of said tax had been duly demanded before the action. (1955, c. 399, § 1. 1961, c. 317, § 255. 1963, c. 402, § 115.)

Effect of amendments. — The 1961 amendment substituted "bring a civil action" for "sue", deleted "in an action of debt" following "for any tax, and no" and substituted "action" for "suit" in the first sentence of this section. It also substituted "the action" for "suit" in two places in the second sentence.

The 1963 amendment substituted "judge of any district court" for "trial justice or judge of any municipal court" in the first sentence and substituted "complaint" for "declaration" in the second sentence.

Application of amending act.—Section 280 of c. 402, P. L. 1963, provides that the act shall apply only to the district court when established in a district and that the laws in effect prior to the effective date of the act shall apply to all municipal and trial justice courts.

Sec. 108. Action may be brought in name of municipality. — In addition to other provisions for the collection of taxes, the municipal officers of any municipality to which a tax is due may in writing direct a civil action to be commenced in the name of such municipality against the party liable; but no such defendant is liable for any costs of the action, unless it appears by the declaration and by proof that payment of said tax had been duly demanded before the action. (1955, c. 399, § 1. 1961, c. 317, § 256.)

Effect of amendment.—The 1961 amendment substituted "a civil action" for "an action of debt" in this section and also substituted "the action" for "suit" in two places therein.

Collection of Taxes by Sale of Real Estate.

Sec. 109. Collector's tax auction sale; notice, procedure.—If any tax on real estate remains unpaid on the 1st Monday in February next after said tax was assessed, the tax collector shall sell at public auction so much of such real estate as is necessary for the payment of said tax, interest, and all the charges, at 9 o'clock in the forenoon of said 1st Monday in February, at the office of the tax collector or at the place where the last preceding annual municipal meeting was held. In case of the absence or disability of the tax collector, the sale shall be made by some constable of the municipality who shall have the same powers as the tax collector.

In the case of the real estate of resident owners, the tax collector may give notice of the sale and of his intention to sell so much of said real estate as is necessary for the payment of delinquent taxes and all charges by posting notices thereof in the same manner and at the same places that warrants for municipal meet-

ings are therein required to be posted, at least 6 weeks and not more than 7 weeks before such 1st Monday in February, designating the name of the owner if known, the right, lot and range, the number of acres as nearly as may be, the amount of tax due, and such other short description as is necessary to render its identification certain and plain.

In the case of taxes assessed on the real estate of nonresident owners, he shall cause said notices to be published in some newspaper, if any, published in the county where said real estate lies, 3 weeks successively; such publication to begin at least 6 weeks before said 1st Monday in February; if no newspaper is published in said county, said notices shall be published in like manner in the state paper; he shall, in the advertisements so published, state the name of the municipality and if within 3 years it has been changed for the whole or a part of the territory, both the present and former name shall be stated; and that, if the taxes, interest and charges are not paid on or before such 1st Monday in February, so much of the estate as is sufficient to pay the amount due therefor with interest and charges will be sold without further notice, at public auction, on said 1st Monday in February, at 9 o'clock in the forenoon, at the office of the tax collector or at the place where the last preceding annual municipal meeting was held. The date of the commitment shall be stated in the advertisement.

In all cases, said tax collector shall lodge with the municipal clerk a copy of each such notice, with his certificate thereon that he has given notice of the intended sale as required by law. Such copy and certificate shall be recorded by said clerk and the record so made shall be open to the inspection of all persons interested. The clerk shall furnish to any person desiring it an attested copy of such record, on receiving payment or tender of payment of a reasonable sum therefor; but notice of sales of real estate within any village corporation for unpaid taxes of said corporation may be given by notices thereof, posted in the same manner, and at the same places as warrants for corporation meetings, and by publication, as aforesaid.

No irregularity, informality or omission in giving the notices required by this section, or in lodging copy of any of the same with the municipal clerk, as herein required, shall render such sale invalid, but such sale shall be deemed to be legal and valid, if made at the time and place herein provided, and in other respects according to law, except as to the matter of notice. For any irregularity, informality or omission in giving notice as required by this section, and in lodging copy of the same with the municipal clerk, the tax collector shall be liable to any person injured thereby. (1955, c. 399, § 1.)

Sec. 110. Collector's tax auction sale; notice form.—The notice for posting, or the advertisement, as the case may be, of the tax collector required by section 109 shall be in substance as follows:

Unpaid taxes on real estate situated in the municipality of ....., in the county of ....., for the year ..... The name of the municipality was formerly ....., (to be stated in the case of change of name, as mentioned in the preceding section). The following list of taxes on real estate of resident (or nonresident, as the case may be,) owners in the municipality of ....., for the year ....., committed to me for collection for said municipality on the ..... day of ....., remain unpaid; and notice is hereby given that if said taxes, interest and charges are not previously paid, so much of the real estate taxed as is sufficient to pay the amount due therefor, including interest and charges, will be sold at public auction at ....., in said municipality, on the first Monday of February, 19...., at nine o'clock A. M. (Here follows the list, a short description of each parcel taken from the inventory, to be inserted in an additional column.)

C. D. tax collector of the municipality of .....

(1955, c. 399, § 1.)

Sec. 111. Notice to owners of time and place of sale.—After the real estate is so advertised, and at least 10 days before the day of sale, the tax collector shall notify the owner, if resident, or the occupant thereof, if any, of the time and place of sale by delivering to him in person, or by registered mail with receipt demanded, or by leaving at his last and usual place of abode, a written notice signed by him stating the time and place of sale and the amount of taxes due. In case of nonresident owners of real estate, such notice shall be sent by mail to the last and usual address, if known to the tax collector, at least 10 days before the day of sale. If such tax is paid before the time of sale, the amount to be paid for such advertisement and notice shall not exceed $1, in addition to the sum paid the printer, if any. (1955, c. 399, § 1.)

Sec. 112. Sale; procedure, costs.—When no person appears to discharge the taxes duly assessed on any such real estate of resident or nonresident owners, with costs of advertising, on or before the time of sale, the tax collector shall proceed to sell at public auction, to the highest bidder, so much of such real estate as is necessary to pay the tax due, in the case of each person assessed, with $3 for advertising and selling it, the sum paid to the printer, 25¢ for each copy required to be lodged with the municipal clerk, 25¢ for the return required to be made to the municipal clerk, and 67¢ for the deed thereof and certificate of acknowledgment. If the bidding is for less than the whole, it shall be for a fractional part of the estate, and the bidder who will pay the sum due for the least fractional part shall be the purchaser. If more than one right, lot or parcel of real estate assessed to the same person is so advertised and sold, said charge of $3, the 25¢ for each copy lodged with the municipal clerk, and the 25¢ for the return made to the municipal clerk, shall be divided equally among the several rights, lots or parcels advertised and sold at any one time; and in addition, the sum paid to the printer shall be divided equally among the nonresident rights, lots or parcels so advertised and sold; and the tax collector shall receive in addition, 50¢ on each parcel of real estate so advertised and sold, when more than one parcel is advertised and sold. The tax collector may, if necessary to complete the sales, adjourn the auction from day to day. (1955, c. 399, § 1.)

Sec. 113. Collector's return of sale; form. — The tax collector making any sale of real estate for nonpayment of taxes shall, within 30 days after such sale make a return, with a particular statement of his doings in making such sale, to the municipal clerk who shall receive and file it; and said return shall be evidence of the facts therein set forth in all cases where such tax collector is not personally interested. The tax collector's return to the municipal clerk shall be in substance as follows:

Pursuant to law, I caused the taxes assessed on the real estate of nonresident owners described herein, situated in the municipality of ..... for the year ....., to be advertised according to law by advertising in the ..... three weeks successively, the first publication being on the .... day of ....., and at least six weeks before the day of sale; and caused the taxes assessed on the real estate of resident owners described herein, situated in the municipality of ..... for the year ....., to be advertised according to law by posting notice as required by law, at the following places, six weeks before the day of sale, being public and conspicuous places in said municipality. I also, at least ten days before the day of sale, gave to each resident owner of said real estate, or the occupant thereof, if any, in hand, or forwarded to him by registered mail with receipt demanded, or left at his last and usual place of abode, and sent by mail to the last and usual address of each nonresident owner of said real estate, whose address was known to me, written notice of the time and place of said sale, in the manner provided by law; and afterwards on the first Monday of February, 19...., at nine o'clock A. M., being the time and place of sale, I pro-

ceeded to sell, according to the tenor of the advertisement, the estates upon which the taxes so assessed remained unpaid; and in the schedules following is set forth each parcel of the estate so offered for sale, the amount of taxes and the name of the purchaser; and I have made and executed deeds of the several parcels to the several persons entitled thereto, and placed them on file in the municipal treasurer's office, to be disposed of as the law requires.

SCHEDULE NO. 1

Nonresident Owners

Name of owner	Description of property	Amount of tax, interest and charges	Quantity sold	Name of purchaser

SCHEDULE NO. 2

Resident Owners

Name of owner	Description of property	Amount of tax, interest and charges	Quantity sold	Name of purchaser

In witness whereof I have hereunto subscribed my name, this ..... day of ....., 19.....

C. D. tax collector of the municipality of .....

(1955, c. 399, § 1.)

Failure to comply with statute requiring return.—A statement showing sales for nonpayment of taxes, bearing no date and lacking the signature of the tax collector, was not in compliance with the provision of R. S. 1930, ch. 14, § 79, requiring a return by the tax collector of the making of the tax sales, and deed from tax collector was therefore a nullity. Dudley v. Varney, 152 Me. 164, 126 A. (2d) 285.

Sec. 114. Purchaser to notify mortgagee of sale; right of redemption.—When real estate is so sold for taxes, the tax collector shall, within 30 days after the day of sale, lodge with the municipal treasurer a certificate under oath, designating the quantity of real estate sold, the names of the owners of each parcel, and the names of the purchasers; what part of the amount of each was tax and what was cost and charges; also a deed of each parcel sold, running to the purchasers. The treasurer shall not at that time deliver the deeds to the grantees, but put them on file in his office, to be delivered at the expiration of 2 years from the day of sale, and the treasurer shall after the expiration of 2 years deliver said deed to the grantee or his heirs, provided the owner, the mortgagee, or any person in possession or other person legally taxable therefor does not within such time redeem the estate from such sale, by payment or tender of the taxes, all the charges and interest on the whole at the rate of 8% a year from the date of sale to the time of redemption, and costs as above provided, with 67¢ for the deed and certificate of acknowledgment.

If there is an undischarged mortgage duly recorded on the real estate sold for taxes, the purchaser at such sale shall notify the holder of record of each such mortgage within 60 days from the date of said sale, by sending a notice in writing by registered letter addressed to the record holder of such mortgage at the residence of such holder as given in the registry of deeds in the county where said real estate is situated, stating that he has purchased the estate at a tax sale on such date and request the mortgagee to redeem the same. If such

notice is not given, the holder of record of any mortgage, which mortgage was on record in the registry of deeds at the time of said sale, may redeem the real estate sold at any time within 3 months after receiving actual notice of such sale, by the payment or tender of the amounts, interest and costs as above specified, and the registry fee for recording and discharging the deed, if the deed has been recorded, and the deed shall be discharged by the grantee therein, or the owner under the tax deed at the time of redemption, in manner provided for the discharge of mortgages of real estate.

If any owner of real estate which is assessed to any former owner who was not the owner on April 1st of the taxable year as assessed, or to owners unknown, does not have actual notice of the sale of his real estate for taxes within said 2 years, he may, at any time within 3 months after he has had actual notice, redeem the real estate sold from such sale although the deed may have been recorded, by payment or tender of the amounts, interest and cost as above specified and the registry fee for recording and discharging the deed, in case the deed has been recorded, and the deed shall be discharged by the grantee therein, or the owner under the tax deed at the time of redemption, in manner provided for the discharge of mortgages on real estate.

If the real estate is redeemed before the deed is delivered, the municipal treasurer shall give the owner, mortgagee or party to whom the real estate is assessed or other person legally taxable therefor a certificate thereof, cancel the deed, and pay to the grantee on demand the amount so received from him. If the amounts, interest and costs above specified are not paid to the treasurer within the time as above specified, he shall deliver to the grantee his deed upon the payment of the fees aforesaid for the deed and acknowledgment and 30¢ more for receiving and paying out the proceeds of the sale, but all tax deeds of real estate upon which there is an undischarged mortgage duly recorded shall carry no title except subject to such mortgage, unless the purchaser at such tax sale gives to the record holder of the mortgage, notice as above provided. For the fidelity of the treasurer in discharging his duties herein required, the municipality is responsible, and has a remedy on his bond in case of default. (1955, c. 399, § 1.)

Sec. 115. Purchaser to pay within 20 days or sale void.—If the purchaser of real estate sold for taxes under the provisions of section 112 fails to pay the tax collector within 20 days after the sale of the amount bid by him, the sale shall be void, and the municipality in which such sale was made shall be deemed to be the purchaser of the real estate so sold, the same as if purchased by some one in behalf of the municipality under the provisions of section 120. If a municipality becomes a purchaser under the provisions of this section, the deed to it shall set forth the fact that a sale was duly made, the amount bid for the real estate included in said deed, and that the purchaser failed to pay the amount bid within 20 days after the sale; and the said deed shall confer upon said municipality the same rights and duties as if it had been the purchaser under the provisions of section 120. (1955, c. 399, § 1.)

Sec. 116. Owner's right to redeem.—Any person to whom the right by law belongs may, at any time within 2 years from the day of sale, redeem any real estate sold for taxes, on paying into the municipal treasury for the purchaser the full amount certified to be due, including taxes, costs and charges, with interest on the whole at the rate of 8% a year from the date of the sale, which shall be received and held by said treasurer as the property of the purchaser aforesaid; and the treasurer shall pay it to said purchaser, his heirs or assigns, on demand; and if not paid when demanded, the purchaser may recover it in any court of competent jurisdiction, with costs and interest at the rate of 8%, after such demand. The sureties of the treasurer shall pay the same on failure of said treasurer. In default of payment by either, the municipality shall pay the same with costs and interest as aforesaid. (1955, c. 399, § 1.)

Sec. 117. Refund of taxes paid by purchaser.—Any person interested in the estate, by the purchase at the sale, may pay any tax assessed thereon, before or after that so advertised, and for which the estate remains liable, and on filing with the municipal treasurer the receipt of the officer to whom it was paid, the amount so paid shall be added to that for which the estate was liable, and shall be paid by the owner redeeming the estate, with interest at the same rate as on the other sums. (1955, c. 399, § 1.)

Sec. 118. Delivery of deed to purchaser after 2 years.—If the estate is not redeemed within the time specified by payment of the full amount required by this chapter, the municipal treasurer shall deliver to the purchaser the deeds lodged with him by the tax collector. If he willfully refuses to deliver such deed to said purchaser, on demand, after said 2 years and forfeiture of the land, he forfeits to said purchaser the full value of the property so to be conveyed, to be recovered in a civil action, with costs and interest as in other cases. The sureties of said treasurer shall make good the payment required in default of payment by the principal. On the failure of both, the municipality is liable. (1955, c. 399, § 1. 1961, c. 317, § 257.)

Effect of amendment.—The 1961 amendment divided this section into four sentences, substituted "a civil action" for "an action of debt" in the present second sentence and made other minor changes in the section.

Sec. 119. Nonresident owner's action; time limit. — Any nonresident owner of real estate sold under section 112, having paid the taxes, costs, charges and interest as provided, may, at any time within one year after making such payment, commence a civil action against the municipality to recover the amount paid, and if on trial it appears that the money raised was for an unlawful purpose, he shall have judgment for the amount so paid. If not commenced within the year, the claim shall be forever barred. The action may be in the superior court and the plaintiff recovering judgment therein shall have full costs, although the amount of damages is less than $20. (1955, c. 399, § 1. 1961, c. 317, § 258.)

Effect of amendment.—The 1961 amendment substituted "a civil action" for "a suit" in the first sentence of this section and made other minor changes in such sentence. It also substituted "action" for "suit" in the third sentence.

Sec. 120. Municipal officers may bid at sale.—The municipal officers may employ one of their own number, or some other person, to attend the sale for taxes of any real estate in which their municipality is interested, and bid therefor a sum sufficient to pay the amount due and charges, in behalf of the municipality, and the deed shall be made to it. (1955, c. 399, § 1.)

Sec. 121. Collector's deed; prima facie evidence of validity of sale. —In the trial of any civil action, involving the validity of any sale of real estate for nonpayment of taxes, it shall be sufficient for the party claiming under it, in the first instance to produce in evidence the tax collector's deed, duly executed and recorded, which shall be prima facie evidence of his title, and if the other party claims and offers evidence to show that such sale was invalid and ineffectual to convey the title, the party claiming under it shall have judgment in his favor so far as relates to said tax title, if he then produces the assessment, signed by the assessors, and their warrant to the tax collector, and proves that such tax collector complied with the requirements of law in selling such real estate. In all civil actions involving the validity of such sales the tax collector's return to the municipal clerk shall be prima facie evidence of all facts therein set forth. (1955, c. 399, § 1. 1961, c. 317, § 259.)

Effect of amendment.—The 1961 amendment divided this section into two sentences, substituted "civil action" for "action at law or in equity" in the present first sentence and inserted "civil" preceding "actions" near the beginning of the present second sentence.

Sec. 122. Posting notices; evidence of.—The affidavit of any disinterested person as to posting notifications required for the sale of any real estate to be sold by the sheriff or his deputy, constable or tax collector, in the execution of his office, may be used in evidence in any trial to prove the fact of notice; if such affidavit, made on one of the original advertisements, or on a copy of it, is filed in the registry of the county where the real estate lies, within 6 months. (1955, c. 399, § 1.)

Excise Tax on Aircraft, House Trailers and Motor Vehicles.

Sec. 123. Definitions.—The following words and phrases as used in sections 4 and 123 to 132 shall have the following meanings:

I. "House trailer" means:

A. A trailer or semi-trailer which is designed, constructed and equipped as a permanent or temporary dwelling place, living abode or sleeping place and is equipped for use as a conveyance on highways, or

B. A trailer or semi-trailer whose chassis and exterior shell is designed and constructed for use as a house trailer, as defined in paragraph A, but which is used instead permanently or temporarily for the advertising, sales, display or promotion of merchandise or services, or for any other commercial purpose except the transportation of property for hire or the transportation of property for distribution by a private carrier.

C. Repealed by Public Laws 1963, c. 304, § 4.

II. "Maker's list price" in the case of vehicles manufactured in the United States means the retail price at the point of manufacture, less the federal manufacturer's tax.

"Maker's list price" in the case of vehicles manufactured outside the United States means the retail price at the nearest port of entry.

III. "Motor vehicle" means any self-propelled vehicle not operated exclusively on tracks, including motorcycles, but not including aircraft. "Motor vehicle" shall not include any vehicle prohibited by law from operating on the public highways.

III-A. "Stock race car" means a one-time factory produced vehicle equipped with roll bars or bracing welded or attached to the frame in a permanent manner and special safety belts, firewalls and having a certain amount of the body removed.

IV. "Vehicle" means any motor vehicle or house trailer, and heavier and lighter than air aircraft. (1959, c. 308, § 1; c. 378, § 64. 1963, c. 304, §§ 3, 4.)

Effect of amendments.—Chapter 378, P. L. 1959, effective on its approval, January 29, 1960, added subsection III-A.

The 1963 amendment added "4 and" in the first paragraph and repealed paragraph C of subsection I, providing that house trailer should not include certain trailers or semi-trailers.

Editor's note.—P. L. 1959, c. 308, adding §§ 123-132 to this chapter, provided in section 6 thereof for the repeal of R. S., c. 22, §§ 49-59, and in section 7 thereof for the repeal of P. L. 1959, c. 194, amending the first paragraph of § 51-A, c. 22, R. S., which formerly provided for an annual excise tax on house trailers.

Sec. 124. Excise tax.—

I. An excise tax shall be levied annually with respect to each calendar year in the following cases:

A. Aircraft: For the privilege of operating aircraft within this state, each heavier and lighter than air aircraft so operated and owned or controlled by a resident of this state, or a nonresident operating for compensation or hire within this state and required to register under chapter 24, shall be subject to such excise tax as follows: a sum equal to 23 mills on each dollar of the maker's list price for the first or current year of model, 16½ mills for the

2nd year, 12½ mills for the 3rd year, 9 mills for the 4th year, 5½ mills for the 5th year and 3 mills for the 6th and succeeding years. The minimum tax shall be $10.

B. House trailers. For the privilege of operating a house trailer upon the public ways, each house trailer to be so operated shall be subject to such excise tax as follows: A sum equal to 25 mills on each dollar of the maker's list price for the first or current year of model, 20 mills for the 2nd year, 16 mills for the 3rd year and 12 mills for the 4th year and succeeding years. The minimum tax shall be $15. (1963, c. 349, § 2)

C. Motor vehicles: For the privilege of operating a motor vehicle upon the public ways, each motor vehicle, other than a stock race car, to be so operated shall be subject to such excise tax as follows: a sum equal to 23 mills on each dollar of the maker's list price for the first or current year of model, 16½ mills for the 2nd year, 12½ mills for the 3rd year, 9 mills for the 4th year, 5½ mills for the 5th year and 3 mills for the 6th and succeeding years. The minimum tax for a motor vehicle other than bicycle with motor attached shall be $5, for bicycle with motor attached, $2.50. The excise tax on a stock race car shall be $5. The maximum tax on and after the 7th year of model for a passenger vehicle, including a so-called station wagon, but not a bus, shall be $15. (1959, c. 378, § 65)

II. The excise tax levied in this section shall be ½ of the sum named in subsection I from September 1st to December 31st.

III. Whenever an excise tax has been paid for the previous calendar year by the same person on the same vehicle, the excise tax for the new calendar year shall be assessed as if the vehicle was in its next year of model.

IV. The maker's list price of a vehicle to be used shall be obtained from sources approved by the state tax assessor. Where the maker's list price of a vehicle is not readily obtainable the state tax assessor shall prescribe the maker's list price to be used or the manner in which the maker's list price shall be determined.

V. Any owner who has paid the excise tax for a vehicle the ownership of which is transferred, or which is subsequently totally lost by fire, theft or accident or which is subsequently totally junked or abandoned, in the same calendar year, shall be entitled to a credit to the maximum amount of the tax previously paid in such year for any one vehicle toward the tax for such other vehicles, regardless of the number of transfers, which may be required of him in the same calendar year.

A. Such credit shall be allowed in any place in which the excise tax is payable.

B. For each transfer made in the same calendar year the owner shall pay $1 to the place in which the excise tax is payable.

C. From September 1st to December 31st such credit shall not exceed ½ the amount of the maximum tax.

D. No portion of any excise tax once paid shall be repaid to any person by reason of the transfer of vehicles or discontinuance of the use of a vehicle.

VI. Payment of excise tax before property taxes are committed.

A. Where the person seeking to pay the excise tax owned the vehicle on or before April 1st, the excise tax must be paid before property taxes for the year in question are committed to the collector, otherwise the owner is subject to a personal property tax.

B. Where the person seeking to pay the excise tax acquired the vehicle after April 1st, or, being a nonresident, brought the vehicle into this state after April 1st, the excise tax may be paid at any time.

C. Where a property tax is paid in accordance with this section and later registration of the vehicle is desired, a personal property or real estate tax

receipt shall be accepted by the registering agency in lieu of an excise tax receipt, provided such tax receipt contains sufficient information to identify the vehicle. (1963, c. 304, § 5)

D. Where an excise tax is paid on a house trailer and said house trailer is later in the same year assessed as real estate, the excise tax paid shall be allowed as a credit on the real estate tax. [1963, c. 304, § 6] (1959, c. 308, § 1; c. 378, § 65. 1963, c. 304, §§ 5, 6; c. 349, § 2.)

Effect of amendments.—P. L. 1959, c. 378, effective on its approval, January 29, 1960, added "other than a stock race car" in the first sentence of paragraph C, subsection I, and added the next to last sentence in that paragraph.

Chapter 349, P. L. 1963, increased all the amounts in paragraph B of subsection I. Chapter 304, P. L. 1963, deleted "personal" preceding "property" near the beginning of paragraph C of subsection VI, added "or real estate" near the middle of that paragraph and added paragraph D in that subsection.

Sec. 125. Exemptions.—The following are exempt from the excise tax:

I. Vehicles owned by this state and political subdivisions thereof;

II. Motor vehicles registered by municipalities for use in driver education in the secondary schools;

III. Motor vehicles owned by volunteer fire departments;

IV. Vehicles owned by bona fide dealers or manufacturers of the vehicles, which vehicles are held solely for demonstration and sale and constitute stock in trade;

V. Vehicles to be lawfully operated on transit registration certificates;

VI. Vehicles owned by telephone and telegraph companies, express companies and railroad companies subject to the excise taxes set forth in chapter 16, sections 113 to 136;

VII. Benevolent and charitable institutions. Vehicles owned and used solely for their own purposes by benevolent and charitable institutions incorporated by this state and entitled to property tax exemption in accordance with section 10, subsection II;

VIII. Literary and scientific institutions. Vehicles owned and used solely for their own purposes by literary and scientific institutions and entitled to property tax exemption in accordance with section 10, subsection II;

VIII-A. Religious societies. Vehicles owned and used solely for their own purposes by houses of religious worship or religious societies entitled to exemption under section 10, subsection II, paragraph G.

IX. Certain nonresidents. Motor vehicles permitted to operate without Maine registration under chapter 22, section 67;

X. Vehicles traveling in the state only in interstate commerce, and owned in a state wherein an excise or property tax shall have been paid on the vehicle, and which grants to Maine owned vehicles the exemption contained in this subsection;

XI. Automobiles owned by veterans who are granted free registration of such vehicles by the secretary of state under chapter 22, section 13;

XII. Buses used for the transportation of passengers for hire in interstate or intrastate commerce, or both, by carriers granted certificates of public convenience and necessity, or permits, by the Maine public utilities commission, provided such buses may be subject to the excise tax provided in section 124 at the option of the appropriate municipality. (1959, c. 308, § 1. 1961, c. 89. 1963, c. 256, §§ 1, 2.)

Effect of amendments. — The 1961 amendment substituted "permitted to operate without Maine registration" for "registered" in subsection IX.

The 1963 amendment added "and entitled to property tax exemption in accordance with section 10, subsection II" at the end of subsections VII and VIII and added subsection VIII-A.

Sec. 126. Where excise tax is to be paid.—The excise tax on a vehicle shall be paid in accordance with the following:

I. Aircraft. The excise tax on aircraft shall be paid in the place where the aircraft is customarily kept, or if there be no such customary place of keeping, to the state.

A. An aircraft is "customarily kept" in the place in Maine where it has been hangared, parked, tied down or moored more nights than in any other place in Maine during the last 30 days active flying period prior to payment of the excise tax; or, if it has not been excised in Maine for the previous year by the same owner, in the place in Maine where it will be hangared, parked, tied down or moored more nights than in any other place in Maine during the next 30 days active flying period.

B. The excise tax on aircraft customarily kept at a municipally owned airport or seaplane base shall be paid to the municipality which owns the airport or seaplane base.

II. House trailers.

A. If paid prior to April 1st, or if the house trailer is acquired or is brought into this state after April 1st, the excise tax shall be paid in the place where the trailer is located.

B. If paid on or after April 1st, the excise tax shall be paid in the place where the trailer was located on April 1st.

III. Motor vehicles.

A. If the motor vehicle is owned by an individual resident of this state, or a domestic corporation, the excise tax shall be paid in the place where the owner resides; the excise tax for motor vehicles owned by members of the Penobscot tribe of Indians living on the reservation shall be paid to the tribal clerk thereof.

B. If the motor vehicle is owned by a nonresident person the excise tax shall be paid in the place where he is temporarily or occasionally residing, or, if there is no such residing place, to the state.

C. If the motor vehicle is owned by a partnership or a foreign corporation, the excise tax shall be paid in the place where the motor vehicle is customarily kept; or if there is no such customary place of keeping, to the state.

IV. When an excise tax is to be paid to the state under this section it shall be paid to the aeronautics commission in the case of aircraft and to the secretary of state in the case of motor vehicles. (1959, c. 308, § 1. 1963, c. 256, § 3; c. 341, § 3.)

Effect of amendments.—Chapter 256, P. L. 1963, substituted "an individual" for "a" near the beginning of paragraph A of subsection III, added "or a domestic corporation" in that paragraph and added "partnership or" in paragraph C of subsection III. Chapter 341, P. L. 1963, which did not refer or give effect to c. 256, added the portion of paragraph A of subsection III that follows the semicolon therein.

Sec. 127. Exempt from personal property taxation. — Any vehicle owner who has paid the excise tax on his vehicle in accordance with sections 124 and 126 shall be exempt from personal property taxation of such vehicle for that year. (1959, c. 308, § 1.)

Sec. 128. Tax paid before registration.—No vehicle shall be registered under chapter 22 or chapter 24 until the excise tax or personal property tax or real estate tax has been paid in accordance with sections 124 and 126.

I. Exempt status. Where a personal property or real estate tax is to be paid as a prerequisite to registration, the exempt status of the vehicles shall be determined by section 125. (1959, c. 308, § 1. 1963, c. 304, § 7.)

Effect of amendment.—The 1963 amendment added "or real estate tax" in the first paragraph and added "or real estate" in subsection I.

Sec. 129. Collection of tax.—

I. In municipalities the municipal tax collector or such other person as the municipality may designate shall collect such excise tax and shall deposit the money received with the municipal treasurer monthly.

A. Such collector shall report to the municipal officers at the end of the municipal year, showing the total amount of excise tax collected by him and the amounts applying to each year.

II. In unorganized places the county commissioners shall appoint agents to collect the excise tax. Such agents shall be allowed a fee of 30¢ for each tax receipt issued and shall deposit the remainder promptly with the county treasurer.

III. Tribal clerk. Excise taxes of members of the Penobscot tribe of Indians who live on the reservation shall be collected by the tribal clerk who shall hold and disburse the proceeds for the benefit of the tribe in accordance with chapter 25, section 368-A. (1959, c. 308, § 1. 1963, c. 341, § 4.)

Effect of amendment.—The 1963 amendment added subsection III.

Sec. 130. Receipts issued in duplicate.—Receipts for payment of the excise tax shall be in the form prescribed by the secretary of state. They shall be issued in duplicate, and one copy shall be filed with the application at the time application is made for registration of the vehicle. (1959, c. 308, § 1.)

Sec. 131. Crediting and apportionment of tax received.—

I. In municipalities the treasurer shall credit money received from excise taxes to an excise tax account, from which it may be appropriated by the municipality for any purpose for which a municipality may appropriate money.

II. Excise taxes collected in unorganized places shall be credited by the county treasurer as undedicated funds for the unorganized place in which the tax was payable. (1959, c. 308, § 1.)

Sec. 132. False statements to any person receiving tax.—Any person willfully making any false statement to any person charged with the duty of receiving this tax and issuing the receipt therefor, when making statement for the purpose of the levy of said tax hereunder, shall be punished by a fine of not more than $25. (1959, c. 308, § 1.)

Chapter 92.

Taxation Laws Relating to Towns.

Secs. 1-172. Repealed by Public Laws 1955, c. 399, § 2.

Editor's note. — Section 7 of this chapter was also repealed by P. L. 1955, c. 405, § 42. For present property tax laws, see c. 91-A.

Chapter 93.

Maine Housing Authorities.

Editor's note.—P. L. 1957, c. 395, amending this chapter, provided in sections 10, 11 and 12 thereof as follows:

"Sec. 10. Ratification and validation. The creation and establishment of housing authorities pursuant to, or purporting to be pursuant to, the provisions of the Maine Housing Authorities Act, chapter 93 of the Revised Statutes as enacted by chapter 441 of public laws of 1949, together with all proceedings, acts and things undertaken, performed or done with reference thereto, including the appointment of commissioners, officers and employees, are hereby validated, ratified, confirmed, approved and declared legal in all respects, notwithstanding any want of statutory authority or defect irregu-