

month, and in addition thereto, each member of the county board shall receive three dollars per day for committee work and mileage of five cents per mile for official duties performed in his capacity as a member of the county board, and such salary and mileage shall be in lieu of all other compensation for the performance of the duties of said office.

Approved April 20, 1939.

CHAPTER 338—H. F. No. 1542

An act relating to inheritance taxes, and amending the 1938 Supplement to Mason's Minnesota Statutes of 1927, Section 2292, also Section 2293 as amended by Laws 1931, Chapter 208 and by Special Session Laws 1937, Chapter 50; also Mason's Minnesota Statutes of 1927, Sections 2294, 2295, 2296, 2303, 2304, 2309, 2311; and repealing Mason's Minnesota Statutes of 1927, Section 2310; and adding new provisions.

Be it enacted by the Legislature of the State of Minnesota :

Section 1. **Law amended.**—The 1938 Supplement to Mason's Minnesota Statutes of 1927, Section 2292, is hereby amended so as to read as follows :

"2292. **Subsection 1. Inheritance tax imposed.**—A tax shall be and is hereby imposed upon any transfer of property, real, personal or mixed, or any interest therein, or income therefrom in trust or otherwise, to any person, association or corporation, except county, town or municipal corporation within the state, for strictly county, town or municipal purposes, in the following cases :

(a) When the transfer is by will or by the *intestate* laws of this state from any person dying possessed of the property while a resident of the state.

(b) When a transfer is by will or *intestate* law, of property within the state or within its jurisdiction and the decedent was a nonresident of the state at the time of his death.

(c) When the transfer is of property made by a resident or by a nonresident when such nonresident's property is within this state, or within its jurisdiction, by deed, grant, bargain, sale or gift, made in contemplation of the death of the grantor, vendor or donor, or intended to take effect in possession or enjoyment at or after such death. *Any transfer of a material*

part of the property of a deceased in the nature of a final disposition or distribution thereof, made within two years prior to death, without adequate and full consideration in money or money's worth, shall, unless shown to the contrary, be deemed to have been made in contemplation of death within the meaning of this act.

Subsection 2. When tax shall be enforceable.—Such tax shall be imposed when any such person or corporation becomes beneficially entitled, in possession or expectancy, to any property or the income thereof, by any such transfer whether made before or after the passage of this act.

Subsection 3. What shall be deemed transfer.—Whenever any person or corporation shall exercise a power of appointment derived from any disposition of property made either before or after the passage of this act, such appointment when made shall be deemed a transfer taxable under the provisions of this act in the same manner as though the property to which such appointment relates belonged absolutely to the donee of such power and had been bequeathed or devised by such donee by will; and whenever any person or corporation possessing such a power of appointment so derived shall omit or fail to exercise the same within the time provided therefor, in whole or in part a transfer taxable under the provisions of this act shall be deemed to take place to the extent of such omission or failure, in the same manner as though the persons or corporations thereby becoming entitled to the possession or enjoyment of the property to which such power related had succeeded thereto by a will of the donee of the power failing to exercise such power, taking effect at the time of such omission or failure.

Subsection 4. (a) Tax on jointly owned property. —
(a) Whenever any property, real or personal, is held in the joint names of two or more persons, or is deposited in banks or in other institutions or depositaries in the joint names of two or more persons payable to either or the survivor, upon the death of one of such persons the right of the survivor or survivors, to the immediate ownership or possession and enjoyment of such property, shall be deemed a transfer and subject to the inheritance tax imposed by this act, except such part thereof as may be shown to have originally belonged to the survivor or survivors and never to have been received or acquired by them from the decedent for less than an adequate and full consideration in money or money's worth; in which case there shall be excepted only such part as is proportionate

to the consideration furnished by the survivor or survivors. Where any property has been acquired *prior to April 29, 1935, or has been acquired at any time* by gift, bequest, devise, or inheritance by the decedent and spouse, as joint tenants, one-half of the value thereof shall be taxable. Provided, where property has been so acquired by the decedent and any other person or persons, as joint tenants, and their interests are not otherwise specified or fixed by law, the taxable portion shall be the value of a fractional part of said property to be determined by dividing the value of the property by the number of joint tenants.

(b) Every tax imposed upon any property taxable under *subsection (4)* of this *section* shall be a lien upon the interest of the deceased joint tenant until paid, and the survivor or survivors shall be personally liable for such tax to the extent of the value of such property. Such lien shall be limited to a period of ten years from the date of recording a copy of the death record of the deceased joint tenants.

(c) The attorney general shall determine the inheritance tax, if any, under *this subsection (4)*. When the tax is paid or if there is no tax, the attorney general shall make and deliver, to the surviving joint tenant, his certificate to that effect, and the said certificate may be recorded as other instruments affecting the title to real estate.

Subsection 5. (a) Tax on life insurance policies.—The proceeds of all life or accident insurance policies taken out by decedent and payable on account of his death in excess of \$32,500, receivable by named beneficiaries, shall be subject to the tax herein imposed, as follows:

(1) The proceeds of all such policies hereafter issued payable to named beneficiaries.

(2) The proceeds of all such policies now in force payable to named beneficiaries in which the insured has the right to change the beneficiary or under which he has cash surrender right.

(b) Such proceeds in excess of \$32,500 shall be deemed a transfer within the meaning of that term as used in this act and a part of decedent's estate, and shall be taxable to the person or persons entitled thereto. In the computation of the tax, the proceeds upon which no tax is imposed shall be credited as follows:

(1) To the surviving spouse, the amount of such proceeds received by such spouse, not in excess, however, of \$32,500.

(2) To each minor child of the decedent the amount of such proceeds received by such child, not in excess, however, of \$32,500, less the amount, if any, allowable to the surviving spouse.

(3) To each adult child of the decedent the amount of such proceeds received by such child, not in excess, however, of \$32,500, less the amounts, if any, allowable to the surviving spouse and minor child or children of decedent.

(4) To any person, the amount of such proceeds received by such person, not in excess, however, of \$32,500, less the amount, if any, allowable to the surviving spouse and children of the decedent.

(c) If the amount otherwise allowable to any class of persons, as aforesaid, together with the amounts allowable to prior classes, shall aggregate more than \$32,500, the difference between the aggregate of the amounts allowable to prior class or classes and \$32,500 shall be prorated among the members of such class in proportion to the amount of such proceeds received by each.

(d) Every corporation, partnership, association, individual, order or society authorized to transact life, accident, fraternal, mutual benefit or death benefit insurance business which shall pay to any named beneficiary any insurance or death benefit upon the death of a resident of this state, shall give notice of such payment to the attorney general within ten days from the date of such payment. Such notice shall be given on the forms prescribed by the attorney general, and such notice shall set forth such information as the attorney general shall prescribe.

(e) The receipt of any such proceeds upon which no tax is imposed shall not affect the right to any exemption otherwise provided in this act.

(f) *The attorney general shall determine the tax, if any, under subdivision (5).*

Sec. 2. Law amended.—Mason's Minnesota Statutes of 1927, Section 2293, as amended by Laws 1931, Chapter 208, and by Special Session Laws 1937, Chapter 50, is hereby amended so as to read as follows:

"2293. Rate of tax.—The tax so imposed shall be com-

puted upon the true and full value in money of such property at the rates hereinafter prescribed and only upon the excess of the exemptions hereinafter granted.

Section 2a. When the property or any beneficial interest therein passes by any such transfer where the amount of the property shall exceed in value the exemption hereinafter specified and shall not exceed in value \$15,000 the tax hereby imposed shall be:

(1) Where the person entitled to any beneficial interest in such property shall be the wife, or lineal issue, or any child adopted as such in conformity with the laws of this state, or any lineal issue of such adopted child at the rate of one per cent of the clear value of such interest in such property.

(2) Where the person or persons entitled to any beneficial interest in such property shall be the husband, lineal ancestor of the decedent or any child to whom such decedent for not less than ten years prior to such transfer stood in the mutually acknowledged relation of a parent; provided, however, such relationship began at or before the child's 15th birthday, and was continuous for said ten years thereafter, or any lineal issue of such mutually acknowledged child, at the rate of one and one-half per cent of the clear value of such interest in such property.

(3) Where the person or persons entitled to any beneficial interest in such property shall be the brother or sister or a descendant of a brother or sister of the decedent, a wife or widow of a son, or the husband of a daughter of the decedent, at the rate of three per cent of the clear value of such interest in such property.

(4) Where the person or persons entitled to any beneficial interest in such property shall be the brother or sister of the father or mother or a descendant of a brother or sister of the father or mother of the decedent, at the rate of four per cent of the clear value of such interest in such property.

(5) Where the person or persons entitled to any beneficial interest in such property shall be in any other degree of collateral consanguinity than is hereinbefore stated, or shall be a stranger in blood to the decedent, or shall be a body politic or corporate, except as hereinafter provided, at the rate of five per cent of the clear value of such interest in such property.

Sec. 2b. **Primary rates.**—The foregoing rates in section 2a are for convenience termed the primary rates.

When the amount of the clear value of such property or interest exceeds \$15,000, the rates of tax upon such excess shall be as follows:

(1) Upon all in excess of \$15,000 and up to \$30,000, two times the primary rates.

(2) Upon all in excess of \$30,000 and up to \$50,000, three times the primary rates.

(3) Upon all in excess of \$50,000 and up to \$100,000, three and one-half times the primary rates.

(4) Upon all in excess of \$100,000 and up to \$200,000, four times the primary rates.

(5) Upon all in excess of \$200,000 and up to \$300,000, five times the primary rates.

(6) Upon all in excess of \$300,000 and up to \$400,000, six times the primary rates.

(7) Upon all in excess of \$400,000 and up to \$500,000, seven times the primary rates.

(8) Upon all in excess of \$500,000 and up to \$600,000, eight times the primary rates.

(9) Upon all in excess of \$600,000 and up to \$700,000, nine times the primary rates.

(10) Upon all in excess of \$700,000 and up to \$900,000, ten times the primary rates.

(11) Upon all in excess of \$900,000 and up to \$1,100,000, eleven times the primary rates.

(12) Upon all in excess of \$1,100,000, twelve times the primary rates.

Provided the tax imposed hereby shall in no case exceed 35 per cent of the true and full value of the property transferred in excess of the applicable specific exemptions.

Sec. 2c. Exemptions.—The following exemptions from the tax are hereby allowed: (1) Any devise, bequest, gift, or transfer to or for the use of the state of Minnesota or any political division thereof for public purposes exclusively, and any devise, bequest, gift or transfer to or for the use within this state of any corporation or association operated within this state for religious, charitable, scientific, literary, education or public cemetery purposes exclusively, including the encourage-

ment of art within this state, and the prevention of cruelty to children or animals within this state, no part of which devise, bequest, gift or transfer inures to the profit of any private stockholder or individual, any bequest or transfer to a trustee or trustees exclusively for such purposes shall be exempt.

The homestead of a decedent, and the proceeds thereof if sold during administration, transferred to the spouse or issue of a decedent, shall be exempt to the extent of \$30,000 of the appraised value thereof.

(2) Property of the clear value of \$10,000 transferred to the widow and to each child of the decedent or any legally adopted child who is a minor or dependent at the death of the decedent, shall be exempt.

Property of the clear value of \$5,000 transferred to husband of the decedent, an adult child or other lineal descendant of the decedent, any adult adopted child, or any child to whom the decedent for not less than *ten* years prior to his death, stood in the mutually acknowledged relation of a parent; provided, however, such relationship began at or before the child's *15th* birthday, and was continuous for ten years thereafter, or any lineal issue of such adopted or mutually acknowledged child, shall be exempt.

(3) Property of the clear value of \$3,000 transferred to each of the lineal ancestors of the decedent shall be exempt.

(4) Property of the clear value of \$1,000 transferred to each of the persons described in the third subdivision of section 2a shall be exempt.

(5) Property of the clear value of \$250.00 transferred to each of the persons described in the fourth subdivision of section 2a shall be exempt.

(6) Property of the clear value of \$100.00 transferred to each of the persons and corporations described in the fifth subdivision of section 2a shall be exempt.

Sec. 2d. Exemptions.—*Where property is transferred to any person described in subdivision (1) and (2) of section 2a which can be identified as having been transferred to the decedent from a person who died within five years prior to the death of the decedent, and such transfer to the decedent was within the class of transfers described in said subdivisions (1) and (2) of section 2a such property shall be exempt to the extent of the value thereof at the date of death of the prior de-*

cedent. Provided, however, that no such exemption shall be allowed unless an inheritance tax was determined and paid to this state on the transfer thereof from the said prior decedent; provided, further, that unless such previously transferred property is specifically devised or bequeathed, the exempt property for purposes of taxation shall be considered as belonging to the residue of the estate.

Sec. 2e. Expenses of administration.—*Reasonable expenses of administration, funeral expenses, expenses of last sickness, claims against the decedent duly allowed as such, family maintenance to the extent provided by the 1938 Supplement to Mason's Minnesota Statutes, Section 2293-1, and allowances to the surviving spouse, Federal estate taxes and taxes which have accrued or are a lien on property in the estate at the date of death, shall be allowed as deductions, in the amount allowed by the probate court having jurisdiction, before computing the tax.*

Sec. 2f. Apportionment of expense.—*Where any tax is due on the transfer of any property or interest therein owned by a nonresident, the exemptions provided in subdivisions (3), (4), (5) and (6) shall be allowed in the proportion which such property bears to the total property of the decedent wherever situated. No deductions except those actually incurred within this state shall be allowed.*

Sec. 2g. Determination of tax.—*Except as otherwise herein provided the tax upon any transfers by a nonresident of real property within this state or personal property having a situs within this state shall be determined by the probate court in all cases where the estate is probated in this state. In all cases where the tax is not determined by the probate court it shall be determined by the attorney general."*

Sec. 3. Law amended.—*Mason's Minnesota Statutes of 1927, Section 2294, is hereby amended so as to read as follows:*

"2294. Effective upon death.—(1). *All taxes imposed by this act shall take effect at and upon the death of the person from whom the transfer is made and shall be due and payable at the expiration of one year from such death, except as otherwise provided in this act.*

(2). *The value of every future or limited estate, income, interest or annuity dependent upon any life or lives in being, shall be determined by the rule, method and standard of mortality and value employed by the commissioner of insurance in*

ascertaining the value of policies of life insurance and annuities for the determination of liabilities of life insurance companies, *except that for every future or limited estate, income, interest or annuity, the value of which is not based upon an assumed or fixed rate of interest, the rate of interest and the discount rate, for making such computation, shall be four per cent per annum.*

(3). When any transfer is made in trust for any person or persons or corporation or corporations, and the right of the beneficiaries of said trust to receive the property embraced in said trust is susceptible of present valuation, then and in such case the tax thereon shall be paid at the same time and in the same manner, and in like amount, that would be the case if the beneficiaries of such trust received the same directly from the decedent or the persons from whom the property is transferred.

(4). Where an estate for life or for years can be divested by the act or omission of the legatee or devisee, it shall be taxed as if there were no possibility of such divesting.

(5). When property is transferred in trust or otherwise, and the rights, interest or estates of the transferee are dependent upon contingencies or conditions whereby they may be wholly or in part created, defeated, extended or abridged, a tax shall be imposed upon said transfer at the highest rate which, on the happening of any of said contingencies or conditions, would be possible under the provisions of this act, and such tax so imposed shall be due and payable forthwith by the executors or trustees out of the property transferred; provided, however, that on the happening of any contingency whereby the said property, or any part thereof, is transferred to a person or corporation exempt from taxation under the provisions of this act, or to any person taxable at a rate less than the rate imposed and paid, such person or corporation shall be entitled to a return of so much of the tax imposed and paid as is the difference between the amount paid and the amount which said person or corporation should pay under the provisions of this article, with interest thereon at the rate of three per cent per annum from the time of payment. Such return of overpayment shall be made in the manner provided by section 21c; (section 9 of this act.)

(6). In estimating the value of any estate or interest in property, to the beneficial enjoyment or possession whereof there are persons or corporations presently entitled thereto, no

allowance shall be made on account of any contingent incumbrance thereon, nor on account of any contingency upon the happening of which the estate or property, or some part thereof or interest therein might be abridged, defeated or diminished; provided, however, that in the event of such incumbrance taking effect as an actual burden upon the interest of the beneficiary or in the event of the abridgement, defeat or diminution of said estate or property, or interest therein, as aforesaid, a return shall be made to the person properly entitled thereto of a proportionate amount of such tax on account of the incumbrance when taking effect, or so much as will reduce the same to the amount which would have been assessed on account of the actual duration or extent of the estate or interest enjoyed: Such return of tax shall be made in the manner provided by Section 21c; (section 9 of this act).

(7). Where any property shall, after the passage of this act, be transferred subject to any charge, estate or interest, determinable by the death of any person, or at any period ascertainable only by reference to death, the increase accruing to any person or corporation upon the extinction or determination of such charge, estate or interest, shall be deemed a transfer of property taxable under the provisions of this act in the same manner as though the person or corporation beneficially entitled thereto had then acquired such increase from the person from whom the title to their respective estates or interest is derived.

(8). The tax on any devise, bequest, legacy, gift or transfer limited, conditioned, dependent or determinable upon the happening of any contingency or future event, by reason of which the full and true value thereof cannot be ascertained as provided for by the provisions of this act at or before the time when the taxes become due and payable as hereinbefore provided, shall accrue and become due and payable when the person or corporation beneficially entitled thereto shall come into actual possession or enjoyment thereof.

(9). Estates in expectancy which are contingent or defeasible and in which proceedings for the determination of the tax have not been taken or where the taxation thereof has been held in abeyance, shall be appraised at their full, undiminished value when the persons entitled thereto shall come into the beneficial enjoyment or possession thereof, without diminution for or on account of any valuation theretofore made of the particular estates for purposes of taxation, upon which said estates in expectancy may have been limited."

Sec. 4. Law amended.—Mason's Minnesota Statutes of 1927, Section 2295, is hereby amended so as to read as follows:

"2295. Collection of tax.—(1) Any administrator, executor or trustee having in charge or in trust any property for distribution embraced in or belonging to any inheritance, devise, bequest, legacy or gift, subject to the tax thereon as imposed by this act, shall deduct the tax therefrom, *before paying or distributing the same*. If such property be not in money, he shall collect the tax on such inheritance, devise, bequest, legacy, or gift upon the appraised value thereof, from the person entitled thereto. He shall not deliver, or be compelled to deliver, any property embraced in any inheritance, devise, bequest, legacy or gift, subject to tax under this act, to any person until he shall have collected the tax thereon. *All taxes so collected, together with interest thereon, if any, shall be paid to the county treasurer as herein provided, and no administrator, executor or trustee shall be entitled to a discharge of his duties and liabilities until such tax is paid.*

(2). *Every representative shall, at the time of filing the inventory as required by law, file with the Probate Court a return under oath, in such form as may be prescribed by the attorney general, of all property within his knowledge and the value thereof at the date of the decedent's death, (a) which the decedent has at any time transferred and which is or may be subject to an inheritance tax, (b) which the decedent held in joint tenancy, (c) which was subject to the exercise of a power of appointment by the decedent. The return shall also contain a list of all policies of insurance on the life of the decedent payable to named beneficiaries, and the amounts thereof, if the total amount thereof exceeds \$32,500."*

Sec. 5. Law amended.—Mason's Minnesota Statutes of 1927, Section 2296, is hereby amended so as to read as follows:

"2296. Payment to County Treasurer.—The tax imposed by this act upon inheritances, devises, bequests, legacies, *gifts and other transfers* shall be paid to the treasurer of the county in which the probate court having jurisdiction is located or, *where there are no probate proceedings in this state to the state treasurer upon determination thereof by the attorney general*. The treasurer to whom the tax is paid shall give the executor, administrator, trustee or person paying such tax, duplicate receipts therefor, one of which shall be immediately transmitted to the state auditor, whose duty it shall be to charge the treasurer so receiving the tax with the amount thereof; *the state auditor shall seal said receipt with the seal*

of his office and countersign the same and return it to the executor, administrator or trustee, or *other person paying such tax*, whereupon it shall be a proper voucher in the settlement of his accounts. No executor, administrator, or trustee shall be entitled to a final accounting of an estate, in the settlement of which a tax may become due under the provisions of this act, until he shall produce a receipt, so sealed and countersigned by the state auditor, or a certified copy of the same. All taxes paid into the county treasury under the provisions of this act shall immediately be paid into the state treasury upon the warrant of the state auditor and shall belong to and be a part of the revenue fund of the state."

Sec. 6. **Law amended.**—Mason's Minnesota Statutes of 1927, Section 2303, is hereby amended so as to read as follows:

"2303. Safety deposit companies, etc., not to transfer funds.—(1). No safe deposit company, bank or other institution, person, or persons holding securities or assets of a decedent, shall deliver or transfer the same to the executors, administrators or legal representatives of said decedent, or upon their order or request, unless notice of the time and place of such intended transfer be served upon the county treasurer, personally or by representative, to examine said securities at the time of such delivery or transfer. If upon such examination the county treasurer or his said representative shall for any cause deem it advisable that such securities or assets should not be immediately delivered or transferred, he may forthwith notify in writing such company, bank, institution or person to defer delivery or transfer thereof for a period not to exceed ten days from the date of such notice, and thereupon it shall be the duty of the party notified to defer such delivery or transfer until the time stated in such notice or until the revocation thereof within such ten days. Failure to serve the notice first above mentioned, or to allow such examination, or to defer the delivery of such securities or assets for the time stated in the second of said notices, shall render said safe deposit company, trust company, bank or other institution, person or persons, liable to the payment of the tax due upon said security or assets, pursuant to the provisions of this act.

(2) *The county treasurer shall within ten days deliver a written report of the property examined by him to the probate court and the attorney general.*

(3) *No corporation organized under the laws of this state shall transfer on its books or on its records kept as transfer agent for any corporation any shares of stock standing in the*

name of a decedent who is known to have been a resident of this state or of a foreign country at the time of his death without the written consent of the attorney general. Any corporation violating the provisions of this section shall be liable to the state for the amount of any tax due on the transfer of such transfer of such shares of stock."

Sec. 7. **Law amended.**—Mason's Minnesota Statutes of 1927, Section 2304, is hereby amended so as to read as follows :

"2304. Attorney General to receive list of property.—

(1) The county treasurers of the several counties, and the attorney general, shall have the same rights to apply for letters of administration as are conferred upon creditors by law.

(2). *In all estates where it appears from the inventory, appraisal and return that an inheritance tax may be imposed, the representative shall, upon the filing thereof, under direction of the court, deliver a copy of each, and of the petition, and will, if any, to the attorney general.*

(3). *The values shown by such inventory, appraisal, and return shall be deemed conclusive and final in the computation of inheritance taxes unless within ninety days after the filing thereof with the probate court the representative of the estate, or the attorney general, or any party in interest, shall file objections thereto with the probate court as to any specific item or items therein. If such objections are filed the probate court shall fix a time and place for the determination of the tax and shall give thirty days' written notice thereof to the attorney general and to the representative of the estate and to any party who has filed objections, and upon such hearing shall determine the values of the items objected to and determine the tax. If no objections are filed the court shall make its order determining the tax on the values set forth in the appraisal and the return as herein provided.*

(4). *Upon making and filing the order determining the tax a copy thereof shall be served on the state auditor, the county treasurer, the attorney general and the representatives of the estate. Within 30 days thereafter the attorney general or any other interested party may file written objections thereto with the probate court, and apply for a reassessment and redetermination of the tax. The court shall thereupon set a time for hearing thereof, and give at least ten days notice to the attorney general, the county treasurer and other interested parties. Upon such hearing the court may set aside or amend its order, or any part thereof. Notice of the order made after*

such hearing shall be served in the same manner as the original order."

Sec. 8. Law repealed.—Mason's Minnesota Statutes of 1927, Section 2310, is hereby repealed.

Sec. 9. Law amended.—Mason's Minnesota Statutes of 1927, Section 2309, is hereby amended so as to read as follows:

"2309. Probate Court to report to Attorney General and State Auditor.—*The probate court upon serving a copy of the order determining the tax, as herein provided shall deliver to the attorney general and the state auditor, a full report showing such other matters in connection therewith as may be required by the attorney general upon such forms as may be furnished by him to said court or as may be particularly requested. The county board may allow the county treasurer and the judge of probate to employ such additional clerical assistance for all or part of the time as may be necessary to properly perform the additional duties imposed upon such officers by the inheritance tax law."*

Sec. 10. Law amended.—Mason's Minnesota Statutes of 1927, Section 2311, is hereby amended so as to read as follows:

"2311. Collection of tax.—*(1) If any tax is due and unpaid under the provisions of this act, the representative of the estate, the county attorney of the county in which an estate is probated or the attorney general may apply to the probate court for a citation, citing the persons liable to pay such tax to appear before the court on a day specified, not more than three months from the date of such citation, and show cause why the tax should not be paid. The judge of the probate court, upon such application, and whenever it shall appear to him that any such tax accruing under this act has not been paid as required by law, shall issue such citation, and the service of such citation, and the time, manner and proof thereof, and the hearing and determination thereon, shall conform as near as may be to the provisions of the probate code of this state, and whenever it shall appear that any such tax is due and payable and the payment thereof cannot be enforced under the provisions of this act in said probate court, the person or corporation from whom the same is due is hereby made liable to the state for the amount of such tax*

(2). Any tax due and unpaid under the provisions of this act may be enforced and collected by action in a court of general jurisdiction by the representative of any estate, or by ac-

tion in the name of the state brought by the attorney general or the county attorney.

(3). Any property which for any cause is omitted from an appraisal or inventory, so that its value is not taken into consideration in the determination of the inheritance taxes, may be subsequently taxed against the persons receiving the same, or any part thereof, to the same effect as if included in the original appraisal and determination, except that any representative of an estate discharged from his trust in the meantime shall not be liable for the payment of such tax. When any property has been thus omitted in the determination of an inheritance tax, such taxes thereon may be determined and recovered in a civil action brought by the attorney general in the name of the state in any court of general jurisdiction, or may be prosecuted to collection by citation and subsequent proceedings in the probate court wherein the estate was administered."

Sec. 11. Application of act.—*This act shall take effect from and after its passage, and shall apply to all transfers, estates, and proceedings, except as follows:*

(a) *Section 1 shall apply to transfer after its passage.*

(b) *Section 5 shall apply to transfers, the tax on which has not been determined prior to its passage.*

(c) *Sections 2, 3, 4, 5, 6, and 7 shall apply to transfers from decedents whose death occurs after its passage, and to the determination of the tax on such transfers:*

(d) *The provisions of all prior laws shall remain in full force and effect so far as necessary to preserve any liability for taxes incurred prior to its passage, and to enforce the collection thereof.*

Sec. 12. Provisions severable.—*If any part of this act shall be declared unconstitutional no other part shall be affected thereby.*

Approved April 20, 1939.

CHAPTER 339—H. F. No. 1518

An act to appropriate money for the conservation and development of the state's natural resources; for maintenance