R.S. 32:1-42

September 16, 1966

Legislative History of the definition of "real property" in condemnation statutes containing the phrase - and also claims for damages to real estate -

The definition as described in the title appears in the following statutes:

R.S. 32:1-42 (1924)
R.S. 32:1-78 (1925)
R.S. 32:1-101 (1925)
R.S. 32:2-17 (1930)
R.S. 32:1-135 (1931)
R.S. 32:2-6 (1931)
R.S. 32:8-4 (1934)
R.S. 32:13A-6 (1937)
R.S. 32:1-141.2 (1945)
R.S. 32:20-17 (1951)

COPY NO.

1) R.S. 32:1-42 Port of New York Authority. Article 3. Arthur Kill Bridges.

L. 1924, Chapter 125, sec. 14 - A478 - Mr. Hanson.

The original bill was reported out by Committee Substitute. It was amended by Second Committee Substitute. No statement.

Section 14 was part of the original bill, it was not amended.

The original bill also contained a section 8 which spelled out requirements for a public notice. The notice contained the following phrase (page 5 top line).

> ... setting out in full the nature of your claim or interest in the said lands, and likewise the amount of damages claimed or sustained by you by reason of the taking of said lands.

This notice was deleted in the final form of the bill.

2) R.S. 32:1-78 Port of New York Authority. George Washington Bridge.

L. 1925, Chapter 41, sec. 8 - S1 - Mackay.

The original bill was twice amended. No statement.

The original bill as well as the first amendment contained the same form of notice as 1924 A. 478. The notice was eliminated in the second amendment. Sec. 8 was part of the original bill, it was not amended.

3) R.S. 32:1-101 New York Port Authority. Bayonne Bridge.

L. 1925, Chapter 97, sec. 8 - S19 - Mr. Simpson.

The bill was amended three times. The statement does not refer to the definition.

The original bill contained the same form of notice as 1924 A. 478. The notice was eliminated in the final form.

Section 8 was part of the original bill and not amended.

4) R.S. 32:2-17 Port of New York Authority. Article 4. Acquisition of property for Jersey City Marine Terminal.

L. 1930, Chapter 115, sec. 1.4, pp. 365,367 - A332

The bill had a statement which does not refer to the definition section except for stating that "... The purpose of the present bill is to make effective to the Port Authority simple procedure for condemnation of private property ..."

The bill was reported by Committee Substitute. The definition section, sec. 1.4, was not changed.

5) R.S. 32:1-135 Port of New York Authority. Article 6. Interstate Bridges and Tunnels.

L. 1931, Chapter 4, sec. 18 - S114 - Mr. Pierson.

The bill had a statement which does not refer to the definition section.

The bill was amended, the amendment did not affect the definition section.

6) R.S. 32:3-6 Delaware River Joint Toll Commission.

L. 1931, Chapter 391, Art. V - 1st SSA 1

The compact had no statement. Was not amended.

7) R.S. 32:8-4 Delaware River Joint Toll Bridge Commission.

L. 1934, Chapter 215, Art. III - S36 - Mr. Stout.

The bill has a statement which does not refer to the definition section. The bill passed without amendment.

8) R.S. 32:13A-6 Gloucester County Tunnel.

L. 1937, Chapter 180, sec. 6 - S18 - Hendrickson.
Bill was amended twice, but Sec. 6 definition was not amended.
The statement only refers to the title of the bill.

9) R.S. 32:1-141.2 Port of New York Authority (Acquisition of property for truck terminal).

L. 1945, Chapter 197, p. 681, sec. 4 - S136
The bill was amended three times, however, the definition was not changed.
The statement does not refer to the definition.

10) R.S. 32:20-17 Interstate Cooperation of Water Resources in Delaware River Basin.

L. 1951, Chapter 283 - S135 - Littell.
The bill was amended four times, but the Article VI 4 remained unchanged.

11) As far as we could ascertain the phrase "and also claims for damages to real estate" appears for the first time in 1924 in the N.J. statutes.

12) The N.J. Eminent domain law R.S. 20:1-9 based on L. 1900, C. 53, sec. 6, p. 81 (copy enclosed) refers to damages but does not use the same wording as the definition discussed.

13) The N.Y. Condemnation Law has a very short definition of "real estate".

New York Condemnation Law sec. 2 McKinney Cons. Laws, Volume 9A.

Sec. 2 "... the term 'real property', any right, interest or easement therein or appurtenances thereto ..."

This definition was in the original Condemnation law in 1900 and has not been changed.

We could find no discussion of the term.

14) In the following sections containing condemnation provisions, the term "real property" does not contain the damages phrase:

R.S. 32:2-23.8 Narrows Bridge. L. 1956, c. 12, sec. 3.
R.S. 32:1-23 Port of New York Authority Compact.
L. 1921, c. 151, Art. XXII.
R.S. 32:1-35.3 Port of N.Y. Authority Air Terminals.
L. 1947, c. 43, sec. 3.
R.S. 32:1-35.30 Port of N.Y. Authority Marine Terminals.
L. 1947, c. 44, sec. 3.
R.S. 32:1-35.51 Port of N.Y. Authority Railroad Facilities and World Trade Center. L. 1962, c. 8, sec. 2.
R.S. 32:1-35.19 Port of N.Y. Authority Teterboro Airport.
L. 1949, c. 81, sec. 2.
R.S. 32:1-59 Port of N.Y. Authority Goethals Bridge.
L. 1925, c. 195, sec. 1 (expressly refers to general condemnation law).
R.S. 32:1-132 Port of N.Y. Authority Interstate Bridges and Tunnels. L. 1931, c. 4, sec. 15. L. 1956, c. 156, sec. 5 (expressly refers to condemnation law).

HP/PC

SENATE, No. 114

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 2, 1931

By Mr. PIERSON

Referred to Committee on Finance

AN ACT declaring the policy of the States of New York and New Jersey in regard to certain vehicular bridges and tunnels within the Port of New York District; and in furtherance of the said policy, transferring the control and operation of the Holland Tunnel to the Port of New York Authority, authorizing the Port Authority to construct an additional interstate vehicular tunnel, and regulating the construction and operation of bridges and tunnels by the Port Authority.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. The State of New York by appropriate legislation concurring herein, the States of New Jersey and New York hereby declare and agree that the vehicular traffic moving across the interstate waters within the Port of New York district, created by the Compact of April thirtieth, one thousand nine hundred and twenty-one, between the said States (which said phrase "interstate waters" as used in this act shall include the portion of the Hudson River within the said Port of New York district north of the New Jersey state line), constitutes a general movement of traffic which follows the most accessible and practicable routes, and that the users of each bridge or tunnel over or under the said waters benefit by the existence of every other bridge or tunnel since all such bridges and tunnels as a group facilitate the movement of such traffic and relieve congestion at each of the several bridges and tunnels. Accordingly, the two said States, in the interest of the users of such bridges and tunnels and the general public, hereby agree that the construction, maintenance, operation and control of all such bridges and tunnels, heretofore or hereafter authorized by the two said States, shall be unified under the Port of New

York Authority (hereinafter called the Port Authority), to the end that the tolls and other revenues therefrom shall be applied so far as practicable to the costs of the construction, maintenance and operation of said bridges and tunnels as a group and economies in operation effected, it being the policy of the two said States that such bridges and tunnels shall as a group be in all respects self-sustaining.

2. In furtherance of the aforesaid policy, and in partial effectuation of the comprehensive plan heretofore adopted by the two said States for the development of the said Port of New York district, the control, operation, tolls and other revenues of the vehicular tunnel, known as the Holland Tunnel, under the Hudson River between the city of Jersey City and the city of New York, shall be vested in the Port Authority as hereinafter provided; and the Port Authority is hereby authorized and empowered to construct, own, maintain and operate an interstate vehicular tunnel or tunnels (hereinafter called the Midtown Hudson Tunnel) under the Hudson River, together with such approaches thereto and connections with highways as the Port authority may deem necessary or desirable.

The Port Authority shall from time to time make studies, surveys and investigations to determine the necessity and practicability of additional vehicular bridges and tunnels over or under interstate waters within the said Port of New York district, and report to the Governors and Legislatures of the two States thereon. The Port Authority shall not proceed with the construction of any additional vehicular bridges and tunnels over or under said interstate waters until hereafter expressly authorized by the two said States.

3. The entrances, exits and approaches to the said Midtown Hudson Tunnel, on the New York side, shall be between West 35th Street and West 41st Street and in the vicinity of 9th Avenue and to the west thereof, in the borough of Manhattan, city of New York. The approaches to the said Midtown Hudson Tunnel on the New Jersey side shall be so located and constructed as to permit tunnel traffic to pass over or under the tracks of the New York, Susquehanna and Western Railroad Company and the Northern Railroad Company of New Jersey, immediately west of the Palisades, without crossing the said tracks at grade, and as to permit connections with New Jersey State Highway routes in the vicinity of the said tracks.

The said Midtown Hudson Tunnel shall have an appropriate entrance or exit in the township of Weehawken, county of Hudson, State of New Jersey.

4. The Port Authority shall, so far as it deems it practicable, treat as a single unified operation the construction, maintenance and operation of the said Midtown Hudson Tunnel, the said Holland Tunnel, the two vehicular bridges over the Arthur Kill, the vehicular bridge over the Kill van Kull, the vehicular bridge over the Hudson River at Fort Lee, and any other vehicular bridges or tunnels which it may construct or operate, raising moneys for the construction thereof and for the making of additions and improvements thereto in whole or in part upon its own obligations, and establishing and levying such tolls and other charges as it may deem necessary to secure from all of such bridges and tunnels as a group, at least sufficient revenue to meet the expenses of the construction, maintenance and operation of such bridges and tunnels as a group, and to provide for the payment of the interest upon and amortization and retirement of and the fulfillment of the terms of all bonds and other securities and obligations which it may have issued or incurred in connection therewith.

5. The control, operation, tolls and other revenues of the said Holland Tunnel and its entrance and exit plazas and all real and personal property appurtenant thereto or used in connection therewith, shall vest in the Port Authority upon the making of the following payments by the Port Authority to each of the said two States:

(a) An amount equal to the moneys contributed by such State toward the cost of construction of the said Holland Tunnel, with interest thereon at the rate of four and one-quarter per centum (4¼%) per annum from the date or dates on which such moneys were contributed by such State to the date of the payment to such State;

(b) Less, however, the share of such State in the net revenues of the said tunnel to the date of the said payment, and less interest on such net revenues at the rate of four and one-quarter per centum (4¼%) per annum from the dates on which the said net revenues were received by such State to the date of the said payment;

(c) And in the case of the payment to the State of New York, less an amount equal to the moneys which the said State has agreed to advance to the Port Authority (but which have not as yet been advanced to the Port Authority) in aid of bridge construction, during the fiscal years commencing in one thousand nine hundred and thirty-one and one thousand nine hundred and thirty-two, pursuant to chapter seven hundred and sixty-one of the Laws of New York of one thousand nine hundred and twenty-six and chapter three hundred of the Laws of New York of one thousand nine hundred and twenty-seven and acts amendatory thereof and supplemental thereto, discounted, however, in the case of each advance at the rate of four and one-quarter per centum (4¼%) per annum, from the date of the said payment to the State of New York to the date upon which such advance is to be available pursuant to the aforesaid statutes.

In computing interest as aforesaid upon the moneys contributed by each of the said two States toward the cost of construction of the said Holland Tunnel, such moneys shall be deemed to have been contributed by such State upon the first day of the month following the month during which there were presented to the Comptroller of such State for audit and payment, the schedules and vouchers pursuant to which such moneys were paid. In computing interest as aforesaid upon the net revenues reveived by each of the said two States, such net revenues shall be deemed to have been received by such State upon the date when such revenues were credited to such State or to the commission of such State pursuant to paragraph eleven of Article XIV of the Compact of December thirtieth, one thousand nine hundred and nineteen, between the two said States.

6. If the amount paid by the Port Authority to the State of New Jersey pursuant to the preceding section of this act shall be less than an amount which, together with the moneys then in the sinking fund established by chapter three hundred and fifty-two of the Laws of New Jersey of one thousand nine hundred and twenty and chapter two hundred and sixty-two of the Laws of New Jersey of one thousand nine hundred and twenty-four, hereinafter called the New Jersey Camden Bridge-Holland Tunnel sinking fund, (other than moneys set apart to pay interest for the then current year upon the bonds of the State of New Jersey authorized by the aforesaid acts of the State of New Jersey, hereinafter called New Jersey Camden Bridge-Holland Tunnel bonds), will be equal to the principal amount of the then outstanding New Jersey Camden Bridge-Holland Tunnel Bonds, then and in such event, the Port Authority shall in addition pay to the State of New Jersey an amount which, together with the amount paid under and pursuant to the preceding section hereof and the

moneys then in said New Jersey Camden Bridge-Holland Tunnel sinking fund, will be equal to the principal amount of the then outstanding New Jersey Camden Bridge-Holland Tunnel bonds; and shall, moreover, pay to the State of New York a like amount.

7. The amount payable by the Port Authority to the State of New York pursuant to sections five and six of this act shall be paid by the Port Authority into the treasury of the State of New York upon the thirtieth day of June, one thousand nine hundred and thirty-one, or at an earlier date at the option of the Port Authority on five days' notice to the Comptroller of the State of New York, upon a voucher signed and audited by the said Comptroller, who is hereby authorized to consummate the said transaction.

8. The amount payable by the Port Authority to the State of New Jersey pursuant to sections five and six of this act shall be paid by the Port Authority to the sinking fund commission created by said chapter three hundred and fifty-two of the Laws of New Jersey of one thousand nine hundred and twenty, and said chapter two hundred and sixty-two of the Laws of New Jersey of one thousand nine hundred and twenty-four hereinafter called the New Jersey Camden Bridge-Holland Tunnel sinking fund commission, upon the thirtieth day of June, one thousand nine hundred and thirty-one, or such other date as may be agreed upon by the chairman of the said sinking fund commission and the Port Authority, upon a voucher signed and audited by the chairman of the said sinking fund commission, which said commission is hereby authorized to consummate said transaction; and the said moneys shall be deposited in the said New Jersey Camden Bridge-Holland Tunnel sinking fund, and shall for all purposes be deemed to be a part thereof and subject to the appropriation of the moneys in the said sinking fund, made by the aforesaid statutes of the State of New Jersey.

The income and interest received from or accruing upon the moneys in the aforesaid New Jersey Camden Bridge-Holland Tunnel sinking fund, and from the investment thereof, shall be set apart and held by the said New Jersey Camden Bridge-Holland Tunnel sinking fund commission for the payment of interest on New Jersey Camden Bridge-Holland Tunnel bonds, and shall be subject to the appropriation made of moneys so set apart and held, by the aforesaid statutes of the State of New Jersey, and shall be applied to the payment of such interest.

9. Nothing herein contained shall be construed to affect, diminish or impair the rights and obligations created by, or to repeal any of the provisions of, chapter three hundred and fifty-two of the Laws of New Jersey of one thousand nine hundred and twenty and chapter two hundred and sixty-two of the Laws of New Jersey of one thousand nine hundred and twenty-four.

If, however, any loss shall be suffered by or accrue to the said sinking fund, and if, after the making of the payment by the Port Authority to the State of New Jersey as hereinbefore provided, the moneys in the said sinking fund shall at any time be or become less than an amount equal to the principal amount of the then currently outstanding New Jersey Camden Bridge-Holland Tunnel bonds, or if the income and interest currently received from or currently accruing upon the moneys in the said sinking fund shall be or become insufficient to pay the interest currently accruing upon or currently payable in connection with the aforesaid New Jersey Camden Bridge-Holland Tunnel bonds, the State of New Jersey represents and agrees that it will make good such deficits out of sources other than revenues from the said Holland Tunnel.

The said payment by the Port Authority to the State of New Jersey constitutes repayment for all moneys contributed by the said State toward the cost of construction of the said Holland Tunnel, including the moneys diverted and appropriated by chapter three hundred and nineteen of the Laws of New Jersey of one thousand nine hundred and twenty-six and chapter fifty-eight of the Laws of New Jersey of one thousand nine hundred and twenty-seven from the Road Fund, created by chapter fifteen of the Laws of New Jersey of one thousand nine hundred and seventeen. The requirement of chapter fifty-eight of the Laws of New Jersey of one thousand nine hundred and twenty-seven that the said moneys diverted and appropriated by the said statutes of the State of New Jersey shall be returned and credited to the said Road Fund, with interest, shall be and shall be deemed to be satisfied and discharged so far as it relates to the revenues arising from the operation of the said Holland Tunnel.

The provisions of this section shall constitute a covenant and agreement by the State of New Jersey with the State of New York, the Port Authority and the holders of any bonds or other obligations of the Port Authority, as security for which the tolls and revenues of said Holland Tunnel may be pledged.

10. Upon the making of the foregoing payments by the Port Authority to the two said States, the provisions of the compact of December thirtieth, one thousand nine hundred and twenty-nine, between the said two States, relating to the construction and operation of the said Holland Tunnel, as amended, so far as inconsistent herewith or with the rules, practice and procedure or general authority of the Port Authority, shall be and shall be deemed to be abrogated, and chapter four hundred and twenty-one of the Laws of New York of one thousand nine hundred and thirty, and chapter two hundred and forty-seven of the Laws of New Jersey of one thousand nine hundred and thirty, making the Port Authority the agent of the two States in connection with the operation of the said Holland Tunnel shall cease to be effective.

11. The plans of the connections with State or municipal highways of any vehicular bridge or tunnel which the Port Authority may hereafter construct, (including the plans of any additional connections of existing bridges or tunnels with State or municipal highways), shall be subject to the approval of the Governor of the State in which such connections shall be located and subject to the approval of the municipality in which they shall be located. The approval of such municipality shall be given as provided in Article XII of the said compact of April thirtieth, one thousand nine hundred and twenty-one. Except as limited herein, the Port Authority shall determine all matters pertaining to such bridges and tunnels.

12. The Port Authority is hereby authorized to make and enforce such rules and regulations and to establish, levy and collect such tolls and other charges in connection with any vehicular bridges and tunnels which it may now or hereafter be authorized to own, construct, operate or control (including the said Holland Tunnel and the said Midtown Hudson Tunnel), as it may deem necessary, proper or desirable, which said tolls and charges shall be at least sufficient to meet the expenses of the construction, operation and maintenance thereof, and to provide for the payment of, with interest upon, and the amortization and retirement of bonds or other securi-

ties or obligations issued or incurred for bridge or tunnel purposes; and the Port Authority is hereby authorized and empowered to pledge such tolls and other revenues or any part thereof as security for the repayment with interest of any moneys borrowed by it or advanced to it for the purposes of this act and as security for the satisfaction of other obligations assumed by it in connection with such loans or advances. Such moneys may be borrowed on bonds or other securities or obligations issued or incurred pursuant to Article VI of the compact of April thirtieth, one thousand nine hundred and twenty-one. There shall be allocated to the cost of the construction, operation and maintenance of such bridges and tunnels, such proportion of the general expenses of the Port Authority as it shall deem properly chargeable thereto.

13. The two said States covenant and agree with each other and with the holders of any bonds or other securities or obligations of the Port Authority, issued or incurred for bridge or tunnel purposes and as security for which there may or shall be pledged the tolls and revenues or any part thereof of any vehicular bridge or tunnel (including the said Holland Tunnel and the said Midtown Hudson Tunnel), that the two said States will not, so long as any of such bonds or other obligations remain outstanding and unpaid, diminish or impair the power of the Port Authority to establish, levy and collect tolls and other charges in connection therewith; and that the two said States will not, so long as any of such bonds or other obligations remain outstanding and unpaid, authorize the construction of any vehicular bridges or tunnels over or under interstate waters as herein defined within the said Port of New York District, by any person or body other than the Port Authority, in competition with those whose tolls or other revenues are pledged as aforesaid; *provided*, that nothing herein contained shall be deemed to refer to the bridge authorized by the Act of Congress of July 11, 1890, Chapter 669, and acts amendatory thereof and supplemental thereto; *and provided further*, that nothing herein contained shall preclude the authorization of the construction of such competitive tunnels or bridges by other persons or bodies if and when adequate provision shall be made by law for the protection of those advancing money upon such obligations.

14. The bonds or other securities or obligations which may be issued by the Port Authority pursuant to this Act, and as security for which there may be pledged the

tolls and other revenues or any part thereof of any vehicular bridge or tunnel (including the said Holland Tunnel and the said Midtown Hudson Tunnel) now or hereafter authorized by the two said States, are hereby made securities in which all State and municipal officers and bodies, all banks, bankers, trust companies, savings banks, saving and loan associations, investment companies and other persons carrying on a banking business, all insurance companies, insurance associations and other persons carrying on an insurance business, and all administrators, executors, guardians, trustees and other fiduciaries and all other persons whatsoever who are now or may hereafter be authorized to invest in bonds or other obligations of the State, may properly and legally invest any funds, including capital, belonging to them or within their control; and said obligations are hereby made securities which may properly and legally be deposited with and shall be received by any municipal officer or agency for any purpose for which the deposit of bonds or other obligations of this State is now or may hereafter be authorized.

15. The construction, maintenance and operation of vehicular bridges and tunnels within the said Port of New York District (including the said Holland Tunnel and the said Midtown Hudson Tunnel), are and will be in all respects for the benefit of the people of the States of New York and New Jersey, for the increase of their commerce and prosperity and for the improvement of their health and living conditions; and the Port Authority shall be regarded as performing an essential governmental function in undertaking the construction, maintenance and operation thereof and in carrying out the provisions of law relating thereto, and shall be required to pay no taxes or assessments upon any of the property acquired or used by it for such purposes.

16. If for any of the purposes of this Act, (including temporary construction purposes, and the making of additions or improvements to bridges or tunnels already constructed), the Port Authority shall find it necessary or convenient to acquire any real property as herein defined or, in this State, whether for immediate or future use, the Port Authority may find and determine that such property, whether a fee simple absolute or a lesser interest, is required for a public use, and upon such determination, the said property shall be and shall be deemed to be required for such public use until otherwise determined by the Port Authority; and with the excep-

is hereinafter specifically noted, the said determination shall not be affected by the fact that such property has theretofore been taken, for, or is then devoted to, a public use; but the public use in the hands or under the control of the Port Authority shall be deemed superior to the public use in the hands of any other person, association or corporation.

If the Port Authority is unable to agree for the acquisition of any such real property for any reason whatsoever, then the Port Authority may acquire and is hereby authorized to acquire such property, whether a fee simple absolute or a lesser interest, by condemnation or the exercise of the right of eminent domain under and pursuant to the provisions of the act entitled "An act to regulate the ascertainment and payment of compensation for property condemned or taken for public use" (Revision of 1900), approved March 20, 1900, and acts amendatory thereof and supplemental thereto, including Chapter 142 of the Laws of 1927, except as other provision is made by the terms of this Act.

The power of the Port Authority to acquire real property by condemnation hereunder shall be a continuing power, and no exercise thereof shall be deemed to exhaust it.

17. Anything in this act to the contrary notwithstanding, no property now or hereafter vested in or held by any county, city, borough, village, township or other municipality shall be taken by the Port Authority, without the authority or consent of such county, city, borough, village, township or other municipality as provided in said Compact of April 30, 1921, nor shall anything herein impair or invalidate in any way any bonded indebtedness of the State, or such county, city, borough, village, township or other municipality, nor impair the provisions of law regulating the payment into sinking funds of revenue derived from municipal property, or dedicating the revenues derived from municipal property, to a specific purpose. The Port Authority is hereby authorized and empowered to acquire from any such county, city, borough, village, township or other municipality, or from any other public agency or commission having jurisdiction in the premises, by agreement therewith, and such county, city, borough, village, township, municipality, public agency or commission, notwithstanding any contrary provision of law, is hereby authorized and empowered to grant and convey upon reasonable terms and conditions any real

property, which may be necessary for the construction, operation and maintenance of such bridges and tunnels, including such real property as has already been devoted to a public use. Each of the two said States hereby consents to the use and occupation of the real property of such State necessary for the construction, operation and maintenance of bridges and tunnels constructed or operated pursuant to the provisions of this act, including lands of the State lying under water.

18. The Port Authority and its duly authorized agents and employees may enter upon any land in this State for the purpose of making such surveys, maps, or other examinations thereof as it may deem necessary or convenient for the purposes of this act.

19. The term "real property" as used in this act is defined to include lands, structures, franchises and interests in land, including lands under water and riparian rights, and any and all things and rights usually included within the said term, and includes not only fees simple absolute but also any and all lesser interests, such as easements, rights of way, uses, leases, licenses and all other incorporeal hereditaments and every estate, interest or right, legal or equitable, including terms of years, and liens thereon by way of judgments, mortgages or otherwise, and also claims for damage to real estate.

20. Nothing herein contained shall be construed to authorize or permit the Port Authority to undertake the construction of any vehicular bridge or tunnel over or under the Arthur Kill, unless or until adequate provision has been made by law for the protection of those advancing money upon the obligations of the Port Authority for the construction of the bridges mentioned in Chapter 37 of the Laws of 1925, or the construction of any vehicular bridge or tunnel over or under the Hudson River, at or north of Sixtieth Street in the borough of Manhattan, city of New York, unless or until adequate provision has been made by law for the protection of those advancing money upon the obligations of the Port Authority for the construction of the bridge mentioned in Chapter 6 of the Laws of 1926, or the construction of any vehicular bridge or tunnel over or under the Kill van Kull unless or until adequate provision has been made by law for the protection of those advancing money upon the obligations of the Port Authority for the construction of the bridge mentioned in Chapter 3 of the Laws of 1927.

21. Any powers granted to the Port Authority by this act shall be deemed to be in aid of and supplemental to and in no case a limitation upon the powers heretofore vested in the Port Authority by the two said States and/or by Congress.

22. This act shall take effect upon the enactment into law by the State of New York of legislation having an identical effect with this act, but if the State of New York shall have already enacted such legislation this act shall take effect immediately.

STATEMENT

The purpose of this bill is to unify under the Port of New York Authority the construction, maintenance and operation of all interstate vehicular bridges and tunnels within the Port of New York District. To that end it authorizes the Port Authority to construct and operate the proposed Midtown Hudson Tunnel, which together with its approaches, will provide a highway facility extending from the vicinity of Thirty-eighth Street and Ninth Avenue, in Manhattan, to Homestead, New Jersey, with appropriate exits and entrances in Weehawken. To the same end it authorizes the transfer of the Holland Tunnel to the Port Authority, upon the repayment to the two States of their investment therein, less, however, the revenues received by the States therefrom to the date of the transfer.

The moneys necessary to finance the Midtown Hudson Tunnel, and the moneys to be paid to the two States in connection with the transfer of the Holland Tunnel, are to be raised by the Port Authority upon its own bonds which will be amortized from the tolls.

The bill does not affect any of the rights created by the statutes authorizing the issuance of State bonds to raise moneys for the construction of the Camden Bridge and Holland Tunnel.

[SECOND OFFICIAL COPY REPRINT.]

SENATE, No. 114

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 2, 1931

By Mr. PIERSON

Referred to Committee on Finance

AN ACT declaring the policy of the States of New York and New Jersey in regard to certain vehicular bridges and tunnels within the Port of New York District; and in furtherance of the said policy, vesting the control and operation of the Holland Tunnel in the Port of New York Authority, authorizing the Port Authority to construct an additional interstate vehicular tunnel, and regulating the construction and operation of bridges and tunnels by the Port Authority.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. The State of New York by appropriate legislation concurring herein, the States of New Jersey and New York hereby declare and agree that the vehicular traffic moving across the interstate waters within the Port of New York district, created by the Compact of April thirtieth, one thousand nine hundred and twenty one, between the said States (which said phrase "interstate waters" as used in this act shall include the portion of the Hudson River within the said Port of New York district north of the New Jersey state line), constitutes a general movement of traffic which follows the most accessible and practicable routes, and that the users of each bridge or tunnel over or under the said waters benefit by the existence of every other bridge or tunnel since all such bridges and tunnels as a group facilitate the movement of such traffic and relieve congestion at each of the several bridges and tunnels. Accordingly, the two said States, in the interest of the users of such bridges and tunnels and the general public, hereby agree that the construction, maintenance, operation and control of all such bridges and tunnels, heretofore or hereafter authorized by the two said States, shall be unified under the Port of New

York Authority (hereinafter called the Port Authority), to the end that the tolls and other revenues therefrom shall be applied so far as practicable to the costs of the construction, maintenance and operation of said bridges and tunnels as a group and economies in operation effected, it being the policy of the two said States that such bridges and tunnels shall as a group be in all respects self-sustaining.

2. In furtherance of the aforesaid policy, and in partial effectuation of the comprehensive plan heretofore adopted by the two said States for the development of the said Port of New York district, the control, operation, tolls and other revenues of the vehicular tunnel, known as the Holland Tunnel, under the Hudson River between the city of Jersey City and the city of New York, shall be vested in the Port Authority as hereinafter provided; and the Port Authority is hereby authorized and empowered to construct, own, maintain and operate an interstate vehicular tunnel or tunnels (hereinafter called the Midtown Hudson Tunnel) under the Hudson River, together with such approaches thereto and connections with highways as the Port authority may deem necessary or desirable.

The Port Authority shall from time to time make studies, surveys and investigations to determine the necessity and practicability of additional vehicular bridges and tunnels over or under interstate waters within the said Port of New York district, and report to the Governors and Legislatures of the two States thereon. The Port Authority shall not proceed with the construction of any additional vehicular bridges and tunnels over or under said interstate waters until hereafter expressly authorized by the two said States.

3. The entrances, exits and approaches to the said Midtown Hudson Tunnel, on the New York side, shall be between West 35th Street and West 41st Street and in the vicinity of 9th Avenue and to the west thereof, in the borough of Manhattan, city of New York. The approaches to the said Midtown Hudson Tunnel on the New Jersey side shall be so located and constructed as to permit tunnel traffic to pass over or under the tracks of the New York, Susquehanna and Western Railroad Company and the Northern Railroad Company of New Jersey, immediately west of the Palisades, without crossing the said tracks at grade, and as to permit connections with New Jersey State Highway routes in the vicinity of the said tracks.

The said Midtown Hudson Tunnel shall have an appropriate entrance and exit in the township of Weehawken, county of Hudson, State of New Jersey.

4. The Port Authority shall, so far as it deems it practicable, treat as a single unified operation the construction, maintenance and operation of the said Midtown Hudson Tunnel, the said Holland Tunnel, the two vehicular bridges over the Arthur Kill, the vehicular bridge over the Kill van Kull, the vehicular bridge over the Hudson River at Fort Lee, and any other vehicular bridges or tunnels which it may construct or operate, raising moneys for the construction thereof and for the making of additions and improvements thereto in whole or in part upon its own obligations, and establishing and levying such tolls and other charges as it may deem necessary to secure from all of such bridges and tunnels as a group, at least sufficient revenue to meet the expenses of the construction, maintenance and operation of such bridges and tunnels as a group, and to provide for the payment of the interest upon and amortization and retirement of and the fulfillment of the terms of all bonds and other securities and obligations which it may have issued or incurred in connection therewith.

5. The control, operation, tolls and other revenues of the said Holland Tunnel and its entrance and exit plazas and of all real and personal property appurtenant thereto or used in connection therewith, shall vest in the Port Authority upon the making of the following payments by the Port Authority to each of the said two States

(a) An amount equal to the moneys contributed by such State toward the cost of construction of the said Holland Tunnel, with interest thereon at the rate of four and one-quarter per centum (4¼%) per annum from the date or dates on which such moneys were contributed by such State to the date of the payment to such State;

(b) Less, however, the share of such State in the net revenues of the said tunnel to the date of the said payment, and less interest on such net revenues at the rate of four and one-quarter per centum (4¼%) per annum from the dates on which the said net revenues were received by such State to the date of the said payment;

(c) And in the case of the payment to the State of New York, less an amount equal to the moneys which the said State has agreed to advance to the Port Authority (but which have not as yet been advanced to the Port Authority) in aid of bridge construction, during the fiscal years commencing in one thousand nine hundred and thirty-one and one thousand nine hundred and thirty-two, pursuant to chapter seven hundred and sixty-one of the Laws of New York of one thousand nine hundred and twenty-six and chapter three hundred of the Laws of New York of one thousand nine hundred and twenty-seven and acts amendatory thereof and supplemental thereto, discounted, however, in the case of each advance at the rate of four and one-quarter per centum (4¼%) per annum, from the date of the said payment to the State of New York to the date upon which such advance is to be available pursuant to the aforesaid statutes.

In computing interest as aforesaid upon the moneys contributed by each of the said two States toward the cost of construction of the said Holland Tunnel, such moneys shall be deemed to have been contributed by such State upon the first day of the month following the month during which there were presented to the Comptroller of such State for audit and payment, the schedules and vouchers pursuant to which such moneys were paid. In computing interest as aforesaid upon the net revenues received by each of the said two States, such net revenues shall be deemed to have been received by such State upon the date when such revenues were credited to such State or to the commission of such State pursuant to paragraph eleven of Article XIV of the Compact of December thirtieth, one thousand nine hundred and nineteen, between the two said States.

6. If the amount paid by the Port Authority to the State of New Jersey pursuant to the preceding section of this act shall be less than an amount which, together with the moneys then in the sinking fund established by chapter three hundred and fifty-two of the Laws of New Jersey of one thousand nine hundred and twenty and chapter two hundred and sixty-two of the Laws of New Jersey of one thousand nine hundred and twenty-four, hereinafter called the New Jersey Camden Bridge-Holland Tunnel sinking fund, (other than moneys set apart to pay interest for the then current year upon the bonds of the State of New Jersey authorized by the aforesaid acts of the State of New Jersey, hereinafter called New Jersey Camden Bridge-Holland Tunnel bonds), will be equal to the principal amount of the then outstanding New Jersey Camden Bridge-Holland Tunnel Bonds, then and in such event, the Port Authority shall in addition pay to the State of New Jersey an amount which, together with the amount paid under and pursuant to the preceding section hereof and the

moneys then in said New Jersey Camden Bridge-Holland Tunnel sinking fund, will be equal to the principal amount of the then outstanding New Jersey Camden Bridge-Holland Tunnel bonds; and shall, moreover, pay to the State of New York a like amount.

7. The amount payable by the Port Authority to the State of New York pursuant to sections five and six of this act shall be paid by the Port Authority into the treasury of the State of New York upon the thirtieth day of June, one thousand nine hundred and thirty-one, or at an earlier date at the option of the Port Authority on five days' notice to the Comptroller of the State of New York, upon a voucher signed and audited by the said Comptroller, who is hereby authorized to consummate the said transaction.

8. The amount payable by the Port Authority to the State of New Jersey pursuant to sections five and six of this act shall be paid by the Port Authority to the sinking fund commission created by said chapter three hundred and fifty-two of the Laws of New Jersey of one thousand nine hundred and twenty, and said chapter two hundred and sixty-two of the Laws of New Jersey of one thousand nine hundred and twenty-four hereinafter called the New Jersey Camden Bridge-Holland Tunnel sinking fund commission, upon the thirtieth day of June, one thousand nine hundred and thirty-one, or such other date as may be agreed upon by the said sinking fund commission and the Port Authority, upon a voucher signed and audited by the said sinking fund commission, which said commission is hereby authorized to consummate said transaction, and the said moneys shall be deposited in the said New Jersey Camden Bridge-Holland Tunnel sinking fund, and shall for all purposes be deemed to be a part thereof and subject to the appropriation of the moneys in the said sinking fund, made by the aforesaid statutes of the State of New Jersey.

The income and interest received from or accruing upon the moneys in the aforesaid New Jersey Camden Bridge-Holland Tunnel sinking fund, and from the investment thereof, shall be set apart and held by the said New Jersey Camden Bridge-Holland Tunnel sinking fund commission for the payment of interest on New Jersey Camden Bridge-Holland Tunnel bonds, and shall be subject to the appropriation made of moneys so set apart and held, by the aforesaid statutes of the State of New Jersey, and shall be applied to the payment of such interest.

9. Upon the making of the foregoing payments by the Port Authority to the two said States, the provisions of the compact of December thirtieth, one thousand nine hundred and nineteen, between the said two States, relating to the construction and operation of the said Holland Tunnel, as amended, so far as inconsistent herewith or with the rules, practice and procedure or general authority of the Port Authority, shall be and shall be deemed to be abrogated, and chapter four hundred and twenty-one of the Laws of New York of one thousand nine hundred and thirty, and chapter two hundred and forty-seven of the Laws of New Jersey of one thousand nine hundred and thirty, making the Port Authority the agent of the two States in connection with the operation of the said Holland Tunnel shall cease to be effective.

10. The plans of the connections with State or municipal highways of any vehicular bridge or tunnel which the Port Authority may hereafter construct, (including the plans of any additional connections of existing bridges or tunnels with State or municipal highways), shall be subject to the approval of the Governor of the State in which such connections shall be located and subject to the approval of the municipality in which they shall be located. The approval of such municipality shall be given as provided in Article XII of the said compact of April thirtieth, one thousand nine hundred and twenty-one. Except as limited herein, the Port Authority shall determine all matters pertaining to such bridges and tunnels.

11. The Port Authority is hereby authorized to make and enforce such rules and regulations and to establish, levy and collect such tolls and other charges in connection with any vehicular bridges and tunnels which it may now or hereafter be authorized to own, construct, operate or control (including the said Holland Tunnel and the said Midtown Hudson Tunnel), as it may deem necessary, proper or desirable, which said tolls and charges shall be at least sufficient to meet the expenses of the construction, operation and maintenance thereof, and to provide for the payment of, with interest upon, and the amortization and retirement of bonds or other securities or obligations issued or incurred for bridge or tunnel purposes; and the Port Authority is hereby authorized and empowered to pledge such tolls and other revenues

or any part thereof as security for the repayment with interest of any moneys borrowed by it or advanced to it for the purposes of this act and as security for the satisfaction of other obligations assumed by it in connection with such loans or advances. Such moneys may be borrowed on bonds or other securities or obligations issued or incurred pursuant to Article VI of the compact of April thirtieth, one thousand nine hundred and twenty-one. There shall be allocated to the cost of the construction, operation and maintenance of such bridges and tunnels, such proportion of the general expenses of the Port Authority as it shall deem properly chargeable thereto.

12. The two said States covenant and agree with each other and with the holders of any bonds or other securities or obligations of the Port Authority, issued or incurred for bridge or tunnel purposes and as security for which there may or shall be pledged the tolls and revenues or any part thereof of any vehicular bridge or tunnel (including the said Holland Tunnel and the said Midtown Hudson Tunnel), that the two said States will not, so long as any of such bonds or other obligations remain outstanding and unpaid, diminish or impair the power of the Port Authority to establish, levy and collect tolls and other charges in connection therewith; and that the two said States will not, so long as any of such bonds or other obligations remain outstanding and unpaid, authorize the construction of any vehicular bridges or tunnels over or under interstate waters as herein defined within the said Port of New York District, by any person or body other than the Port Authority, in competition with those whose tolls or other revenues are pledged as aforesaid; *provided*, that nothing herein contained shall be deemed to refer to the bridge authorized by the Act of Congress of July 11, 1890, Chapter 669, and acts amendatory thereof and supplemental thereto; *and provided further*, that nothing herein contained shall preclude the authorization of the construction of such competitive tunnels or bridges by other persons or bodies if and when adequate provision shall be made by law for the protection of those advancing money upon such obligations.

13. The bonds or other securities or obligations which may be issued by the Port Authority pursuant to this Act, and as security for which there may be pledged the tolls and other revenues or any part thereof of any vehicular bridge or tunnel (including the said Holland Tunnel and the said Midtown Hudson Tunnel) now or

hereafter authorized by the two said States, are hereby made securities in which all State and municipal officers and bodies, all banks, bankers, trust companies, savings banks, saving and loan associations, investment companies and other persons carrying on a banking business, all insurance companies, insurance associations and other persons carrying on an insurance business, and all administrators, executors, guardians, trustees and other fiduciaries and all other persons whatsoever who are now or may hereafter be authorized to invest in bonds or other obligations of the State, may properly and legally invest any funds, including capital, belonging to them or within their control; and said obligations are hereby made securities which may properly and legally be deposited with and shall be received by any municipal officer or agency for any purpose for which the deposit of bonds or other obligations of this State is now or may hereafter be authorized.

14. The construction, maintenance and operation of vehicular bridges and tunnels within the said Port of New York District (including the said Holland Tunnel and the said Midtown Hudson Tunnel), are and will be in all respects for the benefit of the people of the States of New York and New Jersey, for the increase of their commerce and prosperity and for the improvement of their health and living conditions; and the Port Authority shall be regarded as performing an essential governmental function in undertaking the construction, maintenance and operation thereof and in carrying out the provisions of law relating thereto, and shall be required to pay no taxes or assessments upon any of the property acquired or used by it for such purposes.

15. If for any of the purposes of this Act, (including temporary construction purposes, and the making of additions or improvements to bridges or tunnels already constructed), the Port Authority shall find it necessary or convenient to acquire any real property as herein defined in this State, whether for immediate or future use, the Port Authority may find and determine that such property, whether a fee simple absolute or a lesser interest, is required for a public use, and upon such determination, the said property shall be and shall be deemed to be required for such public use until otherwise determined by the Port Authority; and with the exceptions hereinafter specifically noted, the said determination shall not be affected by the fact that such property has theretofore been taken for, or is then devoted to, a public

use; but the public use in the hands or under the control of the Port Authority shall be deemed superior to the public use in the hands of any other person, association or corporation.

If the Port Authority is unable to agree for the acquisition of any such real property for any reason whatsoever, then the Port Authority may acquire and is hereby authorized to acquire such property, whether a fee simple absolute or a lesser interest, by condemnation or the exercise of the right of eminent domain under and pursuant to the provisions of the act entitled "An act to regulate the ascertainment and payment of compensation for property condemned or taken for public use" (Revision of 1900), approved March 20, 1900, and acts amendatory thereof and supplemental thereto, including Chapter 142 of the Laws of 1927, except as other provision is made by the terms of this Act.

The power of the Port Authority to acquire real property by condemnation hereunder shall be a continuing power, and no exercise thereof shall be deemed to exhaust it.

16. Anything in this act to the contrary notwithstanding, no property now or hereafter vested in or held by any county, city, borough, village, township or other municipality shall be taken by the Port Authority, without the authority or consent of such county, city, borough, village, township or other municipality as provided in said Compact of April 30, 1921, nor shall anything herein impair or invalidate in any way any bonded indebtedness of the State, or such county, city, borough, village, township or other municipality, nor impair the provisions of law regulating the payment into sinking funds of revenue derived from municipal property, or dedicating the revenues derived from municipal property, to a specific purpose. The Port Authority is hereby authorized and empowered to acquire from any such county, city, borough, village, township or other municipality, or from any other public agency or commission having jurisdiction in the premises, by agreement therewith, and such county, city, borough, village, township, municipality, public agency or commission, notwithstanding any contrary provision of law, is hereby authorized and empowered to grant and convey upon reasonable terms and conditions any real property, which may be necessary for the construction, operation and maintenance of such bridges and tunnels, including such real property as has already been devoted

to a public use. Each of the two said States hereby consents to the use and occupation of the real property of such State necessary for the construction, operation and maintenance of bridges and tunnels constructed or operated pursuant to the provisions of this act, including lands of the State lying under water.

17. The Port Authority and its duly authorized agents and employees may enter upon any land in this State for the purpose of making such surveys, maps, or other examinations thereof as it may deem necessary or convenient for the purposes of this act.

18. The term "real property" as used in this act is defined to include lands, structures, franchises and interests in land, including lands under water and riparian rights, and any and all things and rights usually included within the said term, and includes not only fees simple absolute but also any and all lesser interests, such as easements, rights of way, uses, leases, licenses and all other incorporeal hereditaments and every estate, interest or right, legal or equitable, including terms of years, and liens thereon by way of judgments, mortgages or otherwise, and also claims for damage to real estate.

19. Nothing herein contained shall be construed to authorize or permit the Port Authority to undertake the construction of any vehicular bridge or tunnel over or under the Arthur Kill, unless or until adequate provision has been made by law for the protection of those advancing money upon the obligations of the Port Authority for the construction of the bridges mentioned in Chapter 37 of the Laws of 1925, or the construction of any vehicular bridge or tunnel over or under the Hudson River, at or north of Sixtieth Street in the borough of Manhattan, city of New York, unless or until adequate provision has been made by law for the protection of those advancing money upon the obligations of the Port Authority for the construction of the bridge mentioned in Chapter 6 of the Laws of 1926, or the construction of any vehicular bridge or tunnel over or under the Kill van Kull unless or until adequate provision has been made by law for the protection of those advancing money upon the obligations of the Port Authority for the construction of the bridge mentioned in Chapter 3 of the Laws of 1927.

20. Any powers granted to the Port Authority by this act shall be deemed to be in aid of and supplemental to and in no case a limitation upon the powers here-

tofore vested in the Port Authority by the two said States and or by Congress, except as herein otherwise provided.

21. Nothing herein contained shall be construed to affect, diminish or impair the rights and obligations created by, or to repeal any of the provisions of, chapter three hundred and fifty-two of the Laws of New Jersey of one thousand nine hundred and twenty and chapter two hundred and sixty-two of the Laws of New Jersey of one thousand nine hundred and twenty-four.

If, however, any loss shall be suffered by or accrue to the said sinking fund, and if, after the making of the payment by the Port Authority to the State of New Jersey as hereinbefore provided, the moneys in the said sinking fund shall at any time be or become less than an amount equal to the principal amount of the then currently outstanding New Jersey Camden Bridge-Holland Tunnel bonds, or if the income and interest currently received from or currently accruing upon the moneys in the said sinking fund shall be or become insufficient to pay the interest currently accruing upon or currently payable in connection with the aforesaid New Jersey Camden Bridge-Holland Tunnel bonds, the State of New Jersey represents and agrees that it will make good such deficits out of sources other than revenues from the said Holland Tunnel.

The said payment by the Port Authority to the State of New Jersey constitutes repayment for all moneys contributed by the said State toward the cost of construction of the said Holland Tunnel, including the moneys diverted and appropriated by chapter three hundred and nineteen of the Laws of New Jersey of one thousand nine hundred and twenty six and chapter fifty eight of the Laws of New Jersey of one thousand nine hundred and twenty seven from the Road Fund, created by chapter fifteen of the Laws of New Jersey of one thousand nine hundred and seventeen. The requirement of chapter fifty eight of the Laws of New Jersey of one thousand nine hundred and twenty-seven that the said moneys diverted and appropriated by the said statutes of the State of New Jersey shall be returned and credited to the said Road Fund, with interest, shall be and shall be deemed to be satisfied and discharged so far as it relates to the revenues arising from the operation of the said Holland Tunnel.

The provisions of this section shall constitute a covenant and agreement by the State of New Jersey with the State of New York, the Port Authority and the holders of any bonds or other obligations of the Port Authority, as security for which the tolls and revenues of said Holland Tunnel may be pledged.

22. Nothing herein contained shall be construed to impair in any way the obligation of the Port Authority to repay to the two States any or all advances paid by them to the Port Authority in aid of bridge construction.

23. This act shall take effect upon the enactment into law by the State of New York of legislation having an identical effect with this act, but if the State of New York shall have already enacted such legislation this act shall take effect immediately.