

ASSEMBLY, No. 547

STATE OF NEW JERSEY

INTRODUCED JULY 14, 1941

By Mr. SHOLL

(Without Reference)

AN ACT relating to taxation of railroads, and repealing chapters nineteen through twenty-nine, inclusive, of Title 54 of the Revised Statutes, chapter ninety-one of the laws of one thousand eight hundred and eighty-five, chapter two hundred seventy-five of the laws of one thousand eight hundred and eighty-six, chapter three hundred thirty-three of the laws of one thousand nine hundred and twenty-one, and chapter four hundred twenty-three of the laws of one thousand nine hundred and thirty-three.

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

- 1 **Article** **I.** Definitions and General Provisions. (Sections 1-6).
2 **II.** Property Tax. (Sections 7-12).
3 **III.** Franchise Tax. (Sections 13-15).
4 **IV.** Assessment and Disposition. (Sections 16-24).
5 **V.** Reassessment and Omitted Property. (Sections 25-30).
6 **VI.** Appeal and Review. (Sections 31-43).
7 **VII.** Returns and Payment of Taxes. (Sections 44-53).
8 **VIII.** Collection. (Sections 54-61).
9 **IX.** Administration and Procedure. (Sections 62-72).
10 **X.** Miscellaneous Provisions; Repealers. (Sections 73-76).

ARTICLE I

DEFINITIONS AND GENERAL PROVISIONS

- 1 1. Short title.
- 2 2. Definitions.
- 3 3. Exemption of securities.
- 4 4. Property not used for railroad purposes.
- 5 5. Municipal assessment of benefits.
- 6 6. General powers of commissioner.

1 1. Short title. This act shall be known as the "railroad tax law of
2 1941."

1 2. Definitions. As used in this act, unless the context clearly requires
2 a different meaning:

3 "Railroad" means any common carrier by railroad engaged in, owning
3½ or constructing facilities for, the transportation of persons or property in
4 or through this State, other than a street railway or traction company using
5 or occupying the public streets, highways, roads or other public places, the
6 taxation of which is otherwise provided by law.

7 "System" means any independently operating railroad which operates
8 its facilities and those of one or more other railroads as a single utility for
9 furnishing transportation service. A system shall include all companies the
10 property of which is so operated either by virtue of control through direct
11 or indirect ownership of a majority or more of capital stock, or under
12 lease, trackage rights or under any other form of contract, and for which
13 separate operating accounts are not maintained.

14 "Main stem" of a railroad means the roadbed not exceeding one hun-
15 dred feet in width, with its rails and sleepers, and all structures erected
16 thereon and used in connection therewith, not including passenger or freight
17 buildings erected thereon.

18 "Tangible personal property" means the rolling stock, cars, locomotives,
19 ferryboats, all machinery, tools and other tangible personal property of a
20 railroad company, and also the locomotives and cars not belonging to such

21 railroad company but built for its use and actually used in this State, or run
22 under its control in this State by a sleeping car company or other company;
23 but the rolling stock of other persons or corporations temporarily used on
24 any such road, but not forming part of the equipment of such road, shall
25 not be included in the term.

26 "Taxpayer" means any person, railroad or system subject to taxation
27 under the provisions of this act.

28 "Commissioner" means the State Tax Commissioner.

1 3. Exemption of securities. When the real estate and tangible personal
2 property of a taxpayer are assessed and taxed under this act, the shares
3 of stock, bonds and certificates of indebtedness of the taxpayer shall not
4 be taxed in the hands of the shareholders, bondholders or creditors, except as
5 provided in this act.

1 4. Property not used for railroad purposes. All the property of a rail-
2 road company not used for railroad purposes shall be assessed and taxed
3 by the same assessors, in the same manner and at the same rate as the taxable
4 property of other owners in the same taxing district.

1 5. Municipal assessment of benefits. Nothing in this act shall be con-
2 strued to prohibit any municipality from assessing benefits for street, side-
3 walk, sewer or other municipal improvements against any of the property
4 of a railroad in this State, but such assessments shall be made against rail-
5 road property by the same method and by the same officers as are provided
6 by law in the case of assessments against the properties of individuals.

1 6. General Powers of commissioner. The commissioner is hereby au-
2 thorized and empowered to carry into effect the provisions of this act and sub-
3 ject thereto he shall prescribe and publish all needful rules and regulations
4 for its enforcement. He shall keep a record of his proceedings and shall re-
5 port annually to the Legislature.

ARTICLE II

PROPERTY TAX

1 7. Property taxable; rate.

2 8. Lease-d property.

3 9. Movable property.

4 10. Grade crossing improvements exempt.

5 11. Assessment in lieu.

6 12. Assessment procedure.

1 7. Property taxable; rate. There is hereby levied an annual property tax
2 upon all property used for railroad purposes at the rate of three per centum
3 (3%) upon the true value thereof. The tax hereby imposed shall be assessed
4 by the State Tax Commissioner, in the manner hereinafter provided, for the
5 year one thousand nine hundred and forty-one and for each year thereafter.

1 8. Leased property. If the property of a railroad be leased to or oper-
2 ated by another corporation, foreign or domestic, the property of the lessor,
3 or company whose property is operated, shall be subject to taxation in the
4 manner provided in this act.

1 9. Movable property. Tangible personal property which is used or kept
2 but a part of the time in this State by any railroad shall be assessed such
3 proportionate part of its value as the time it is used or kept in this State
4 during the calendar year preceding bears to the whole year.

1 10. Grade crossing improvements exempt. The value of the main stem
2 of each railroad and the other real estate thereof used for railroad purposes
3 shall be ascertained without including any part of the cost of improvement,
4 relocation, reconstruction, elimination or avoidance of highway grade cross-
5 ings, including State highways, made pursuant to Title 48 of the Revised
6 Statutes, or pursuant to the provisions of an agreement for any of such pur-
7 poses with a municipality made after April twenty-seventh, one thousand
8 nine hundred and thirty-one, but such exemptions shall apply only to main
9 lines and branches existing on April twenty-seventh, one thousand nine hun-
10 dred and thirty-one.

1 11. Assessment in lieu. Taxes assessed pursuant to this act shall be in
2 lieu of all other State or local taxation of or measured by property taxable
3 hereunder, other than assessments for benefits.

1 **12. Assessment procedure.** Property taxable under this act shall be
 2 assessed by the commissioner to each system and to each railroad not part
 3 of a system by which such property is used for railroad purposes. The
 4 assessment shall be made in the manner hereinafter provided.

ARTICLE III

FRANCHISE TAX

1 **13. Franchise excise.**

2 **14. Franchise base.**

3 **15. Rate; computation.**

1 **13. Franchise excise.** An annual excise tax is hereby levied upon all rail-
 2 roads operating within this State for the privilege of exercising their respec-
 3 tive franchises, to be computed in the manner hereinafter provided. This
 4 tax shall be in lieu of any other tax or taxes of or upon such franchises.

1 **14. Franchise base.** A "franchise base" shall be computed for each
 2 year, by allocating such part of the next preceding year's net railway operat-
 3 ing income of each system, and railroad not part of a system, to the State
 4 of New Jersey, as the number of miles of all track over which the railroad
 5 or system operates in this State bears to the total number of miles of all
 6 track over which it operates. The franchise base for each year shall be the
 7 amount so allocated capitalized at three per centum (3%).

8 For the purpose of this section, net railway operating income shall be
 9 computed as total railway operating revenues from all sources, including
 10 any revenue whatever derived directly or indirectly from property which is
 11 used for railroad purposes, less costs of railroad maintenance, operation
 12 and depreciation, railway tax accruals, uncollectible railway revenues,
 13 rentals (both debits and credits) for equipment leased for less than one year
 14 or interchanged, and joint facility rents (both debits and credits). Deduc-
 15 tions from operating revenues for depreciation, additions and betterments,
 16 and compensation for personal services shall be subject to regulation by the
 17 commissioner, as to reasonableness of amount and appropriateness of ac-
 18 counting distribution.

1 15. Rate; computation. The franchise tax shall be assessed at the rate
 2 of three per centum (3%) of the excess of the "franchise base," of each
 3 system and of each railroad not part of a system, over the total taxable
 4 valuation of the previous year of all classes of property used by the rail-
 5 road or system for railroad purposes, as finally determined pursuant to
 6 this act.

ARTICLE IV

ASSESSMENT AND DISPOSITION

1 16. Local assessors; information returns.

2 17. Valuation; notice.

3 18. Valuation; determination.

4 19. Assessment; property tax.

5 20. Assessment; franchise tax.

6 21. Tax statements.

7 22. Certification to comptroller.

8 23. Tax for State use.

9 24. Tax for local use.

1 16. Local assessors; information returns. The assessors in all taxing
 2 districts where property of a railroad not used for railroad purposes shall be
 3 assessed, if required so to do by the State Tax Commissioner, shall certify
 4 and send to the commissioner on or before the second Monday in June in
 5 each year, a statement giving the description of such property included in the
 6 local ratables for that year, and showing the assessed valuation thereof. They
 7 shall also, at the same time, certify and send to him a short description of
 8 all the real property in their respective taxing districts, used or owned for
 9 railroad purposes excepting the main stem or roadbed and track, not exceed-
 10 ing one hundred feet in width of each railroad.

1 17. Valuation; notice. On or before November first in each year the
 2 commissioner shall determine the true value, as of the preceding January
 3 first, of all property used for railroad purposes in this State. He shall, in
 4 such determination, ascertain values according to the following classes:

5 I. The length and value of the main stem of each railroad, and the
6 length of such main stem in each taxing district;

7 II. The value of the other real estate used for railroad purposes in
8 each taxing district in this State, including the roadbed (other than main
9 stem), tracks, buildings, water tanks, riparian rights, docks, wharves and
10 piers, and all other real estate, except lands not used for railroad
11 purposes;

12 III. The value of all the tangible personal property of each railroad;

13 IV. The value of the remaining property.

14 Upon completion of his valuation of property used for railroad purposes,
15 but not later than December tenth in each year, the commissioner shall
16 deliver a detailed statement thereof, including the several classes of prop-
17 erty, to each taxpayer. On or before January tenth, in each year, the com-
18 missioner shall certify to the county boards of taxation in the several
19 counties the value of Class II property, situate in each taxing district in
20 the county.

1 18. Valuation; determination. Any taxpayer or the Attorney-General
2 on behalf of the State and of the taxing districts claiming that error has been
3 made in the commissioner's valuations may, on or before the third Monday
4 of January following the completion of such valuations, file a petition for
5 review specifying the grounds of complaint and the relief sought. The peti-
6 tion shall be in such form and shall contain such further information as
7 may from time to time be prescribed by the commissioner for the better
8 understanding and determination of the complaint. The commissioner shall
9 conduct a hearing upon such petition, shall review the valuations of which
10 it complains, shall make his determination thereon and correct the same as
11 shall appear just before the first day of April following the filing of the
12 petition.

1 19. Assessment; property tax. On or before May first in each year the
2 commissioner shall compute the tax upon property used for railroad pur-
3 poses and assess the amount thereof to each taxpayer according to his val-
4 uations of the preceding year as corrected.

1 20. Assessment; franchise tax. On or before May first in each year, the
2 commissioner shall compute the franchise tax payable under this act and
3 assess the amount thereof to each taxpayer.

1 21. Tax statements. Within ten days after completion of his assess-
2 ments, the commissioner shall serve upon each taxpayer a statement of the
3 total amount of tax payable, including separately the franchise tax and
4 the manner of computation thereof, and the assessed valuations of property
5 by classes, as described in section seventeen of this act, the latter arranged
6 according to taxing districts and, in the case of system assessments, accord-
7 ing to railroad ownership of the property. The failure of any taxpayer to
8 receive a statement of assessment as herein required shall not invalidate
9 any such assessment or the lien thereof, nor shall it relieve the taxpayer of
10 the obligation of payment of the assessment as required by this act.

1 22. Certification to Comptroller. Within fifteen days after completion
2 of his assessments, the commissioner shall report and certify all assessments
3 and the statements thereof to the State Comptroller. The several state-
4 ments shall be recorded in books kept in the office of the State Comptroller,
5 to be provided by him for that purpose, and shall be public records open to
6 public inspection.

1 23. Tax for State use. All receipts from taxation of property used for
2 railroad purposes other than from assessments of Class II property, as
3 described in section seventeen of this act, together with one-half the receipts
4 from the franchise tax imposed hereunder shall be applied to the uses of the
5 State according to law.

1 24. Tax for local use. a. The entire amount of tax receipts derived from
2 the assessment of Class II property, as described in section seventeen of
3 this act, and one-half the receipts from the franchise tax imposed hereunder
4 shall be, by the State Comptroller, allotted to and paid over to the local tax-
5 ing districts in which such property is situated. Each taxing district shall
6 receive such proportion of the total aforesaid amount of property and franchise
7 tax receipts as the valuations of second-class railroad property situated

8 within the taxing district bears to the total valuation of such property in
9 the State, as valued by the State Tax Commissioner for the purpose of tax-
10 ation under this act.

11 b. The Comptroller shall transmit to each county treasurer a certificate
12 showing the amounts allotted to the taxing districts therein, and shall, on or
13 before December tenth of the year in which the taxes are payable, draw and
14 transmit his warrant upon the State treasury, in favor of the several county
15 treasurers, for the amounts allotted to their several counties. Each county
16 treasurer shall forthwith, and not later than December fifteenth, pay to the
17 collector or other proper officer of each taxing district the amount allotted
18 thereto, deducting, however, the amount due for county taxes from the taxing
19 district. The amount thus paid to the county and taxing district shall be at
20 the disposal of the proper authorities for public purposes.

ARTICLE V

REASSESSMENT; OMITTED PROPERTY

- 1 25. Reassessment; property omitted.
- 2 26. Review of assessment; notice.
- 3 27. Period of limitations.
- 4 28. Certification to Comptroller.
- 5 29. Credit for taxes paid locally.
- 6 30. Disposition of receipts.

1 25. Reassessment; property omitted. a. Whenever the commissioner
2 shall determine that any tax or taxes assessed pursuant to this act were less
3 than or in excess of the amount thereof lawfully assessable, he may correct
4 such deficiency or error by reassessing such tax, or any part thereof.

5 b. Whenever property subject to taxation under this act has or shall
6 have been omitted from assessment by failure of the taxpayer to include it
7 in a return of information, or otherwise, the commissioner may, if he finds
8 that such property has been omitted from his assessment, cause such prop-
9 erty to be assessed for any omitted years in accordance with the provisions of
10 this act.

1 26. Review of assessments; notice. For the purpose of reviewing the
2 assessments made pursuant to section twenty-five of this act, the commis-
3 sioner shall sit on a day to be fixed by him, not later than twenty days after
4 the making of the assessments, of which immediate notice shall be given by
5 the commissioner to the taxpayers affected thereby. The commissioner may
6 adjourn from time to time until he has finished the hearing. Not more than
7 thirty days shall be spent in the review, and the amount of taxes fixed by
8 him shall be due and payable into the State treasury on or before fifteen days
9 after the time limited for the review of the assessments.

1 27. Period of limitations. The power of the State Tax Commissioner to
2 make reassessments or to assess omitted property under this act shall be
3 limited to the period of five years next preceding the year in which the re-
4 assessment or assessment of omitted property is made.

1 28. Certification to Comptroller. The commissioner shall certify the
2 amount of the assessments to the Comptroller, in detail, and shall divide
3 them into taxing districts so that the amount assessed for each year in each
4 taxing district shall appear. The same remedies shall exist for the collec-
5 tion of these taxes as exist for the collection of taxes regularly assessed
6 under this act.

1 29. Credit for taxes paid locally. Any company having paid any tax for
2 the omitted years under an assessment made upon that property or any part
3 thereof by the local assessors, shall be entitled to receive a credit for such
4 payment upon the assessment made under this act by proving to the satisfac-
5 tion of the State Tax Commissioner, and of the State Board of Tax Appeals
6 when such matter is pending before it, during the time herein authorized for
7 the review of such assessments, that such payment was made.

1 30. Disposition of receipts. Any taxes collected upon assessments for
2 omitted property or reassessments made by the commissioner shall be appor-
3 tioned by the Comptroller for the uses of the State and for local uses in the
4 same manner as provided by the law for taxes levied upon property of the
5 same class for the year in question.

ARTICLE VI

APPEAL AND REVIEW

- 1 31. Appeal to State Board of Tax Appeals.
- 2 32. Complaint and notice.
- 3 33. Hearing upon complaint.
- 4 34. Conclusion of hearings.
- 5 35. Certifications.
- 6 36. Judicial review.
- 7 37. Scope of review.
- 8 38. Payment pending litigation.
- 9 39. Irregularities; collateral attack.
- 10 40. Fees.
- 11 41. State and local assessment of same property.
- 12 42. Hearing; procedure.
- 13 43. Judgment; costs.

1 31. Appeal to State Board of Tax Appeals. Any taxpayer, the At-
 2 torney-General on behalf of the State, or the authorities of a taxing district,
 3 desiring to contest the validity or amount of any assessment or reassessment
 4 made by the commissioner under this act, may, on or before the third Mon-
 5 day of June following the assessment thereof, file a written complaint with
 6 the State Board of Tax Appeals, specifying the grounds of complaint and
 7 the relief sought, which shall be in such form and contain such further in-
 8 formation as may be from time to time prescribed by the rules of the State
 9 Board of Tax Appeals for the better understanding and determination of
 10 the complaint.

1 32. Complaint and notice. If the complaint is made by a taxpayer, a copy
 2 of the complaint and notice of application for hearing thereon shall be served
 3 upon the Attorney-General five days before the filing of the complaint by
 4 leaving a copy of the complaint and notice at his office, and in respect to
 5 second-class property in any taxing district, a copy of the complaint and no-
 6 tice of application for hearing thereon shall be served upon the clerk of such

7 taxing district, by leaving a copy of the complaint and notice at his office.
8 If the complaint is made by the Attorney-General or any taxing district, a
9 copy of the complaint and notice of application for hearing thereon shall
10 be served upon the taxpayer five days before the filing of the complaint by
11 leaving a copy of such complaint and notice at its principal office in this
12 State.

1 33. Hearing upon complaint. The State Board of Tax Appeals shall
2 meet on the third Monday of June in each year at the State House, Trenton,
3 for the purpose of fixing a time and place for the hearing of any complaint
4 filed under section thirty-one of this act. The Attorney-General shall ap-
5 pear on behalf of the State before the State Board of Tax Appeals in per-
6 son or by such deputy as he may appoint and designate for that purpose. If
7 it shall be made to appear upon such hearing that any such assessment or
8 tax is illegal, excessive, insufficient or that there has been illegal discrimina-
9 tion in the assessment, the board shall correct, adjust and equalize such as-
10 sessment or tax.

1 34. Conclusion of hearings. The State Board of Tax Appeals shall con-
2 clude its hearing on or before the fifteenth day of October following the fil-
3 ing of the complaint, and between November first and November fifth follow-
4 ing shall certify to the State Tax Commissioner its final determination.

1 35. Certifications. Whenever a final determination of the State Board of
2 Tax Appeals, as certified to the commissioner, corrects, modifies, or other-
3 wise affects the amount or classification of any assessment of property taxes
4 or amends any assessment of franchise tax made by the commissioner,
5 he shall forthwith certify to the Comptroller all changes and corrections
6 necessary to conform the assessment of tax to the determination of the board
7 of tax appeals.

1 36. Judicial Review. If a taxpayer, or the Attorney-General on behalf
2 of the State, or the authorities of any taxing district shall desire to contest
3 the final determination of the State Board of Tax Appeals, such contest shall
4 be made by certiorari, but the application therefor may not be made after

5 three months from the date of the certification to the State Tax Commis-
6 sioner of the final determination of the State Board of Tax Appeals.

1 37. Scope of review. If it shall be made to appear before the Supreme
2 Court on the writ of certiorari that the final determination of the State
3 Board of Tax Appeals in respect to any such assessment or tax in contro-
4 versy is illegal, excessive, insufficient, or that there has been illegal dis-
5 crimination in the assessment, the court shall correct, adjust and equalize
6 such assessment and tax or refer same back to the State Tax Commissioner
7 who shall correct, adjust and equalize the assessment and tax in accordance
8 with the instructions or decision of the court.

1 38. Payment pending litigation. If the writ shall be allowed to a tax-
2 payer, it shall pay to the State Treasurer, as a condition for prosecuting the
3 writ, the amount of the taxes then not in substantial controversy. If the
4 taxpayer and the Attorney-General or the authorities of the taxing district,
5 as the case may be, are unable to agree on the amount of taxes then not in
6 substantial controversy, such amount shall be determined by the court or
7 justice by whom the writ is allowed, either directly or by a reference to a
8 Supreme Court commissioner. Upon the payment of the amount of taxes
9 then not in substantial controversy, the payment or collection of the re-
10 mainder of the taxes shall be stayed until the final determination by the
11 Supreme Court on the writ of certiorari, notwithstanding any law to the con-
12 trary.

1 39. Irregularities; collateral attack. In any suit or proceeding, except
2 on complaint before the State Board of Tax Appeals or on certiorari, the
3 certificate and report of the commissioner to the State Comptroller shall be
4 conclusive and shall have the force and effect of a judgment of a court of
5 record having competent jurisdiction and the proceeding whereon such cer-
6 tificate and report are founded shall not be inquired into. No assessment
7 or tax shall be set aside for misnomer of the owner of the property as-
8 sessed but the name may be corrected at any time by the State Tax Com-
9 missioner, the State Board of Tax Appeals or the court.

1 40. Fees. The prosecutor of the writ of certiorari shall pay eight cents
2 (\$0.08) per folio to the State Tax Commissioner and the State Comptroller
3 for returns made by them of proceedings under this act.

1 41. State and local assessment of same property. If property of a tax-
2 payer has or shall have been, in any year, assessed by the local authorities
3 of a taxing district, and has or shall have been also assessed by the State
4 Tax Commissioner as property used for railroad purposes, the Supreme
5 Court or any three justices thereof, assigned by the Chief Justice, shall de-
6 termine, in a summary manner, the character of the property and whether
7 used for railroad purposes and by whom it has lawfully been assessed. This
8 determination shall be made whether the taxes in question have been paid or
9 not and whether a certiorari to review either assessment has been granted or
10 not.

1 42. Hearing; procedure. The determination shall be made under an
2 order to show cause at a time and place to be therein designated. The order
3 shall be granted by the Chief Justice of the Supreme Court upon applica-
4 tion ex parte by any of the parties interested, namely, by the Attorney-
5 General on behalf of the State, by the taxpayer, or by the authorities of the
6 taxing district.

7 The order shall be served upon the parties interested not making such
8 application, not less than ten days before the day fixed therein for the hear-
9 ing. Depositions to be used on such hearing may be taken on two days'
10 notice by either party.

1 43. Judgment; costs. The justices before whom the matter shall be
2 heard may if they see fit view the property in dispute, to guide them in their
3 decision. The judgment of the court shall direct the cancellation or reduc-
4 tion of either assessment, as the character of the property may require, and
5 shall make such order as to the return to the taxpayer any tax or portion
6 thereof, that may have been paid to the State, or to any taxing district not
7 entitled thereto, as the court shall deem just. The payment of costs may
8 be directed in such manner as the court may deem equitable. The judgment

9 shall be conclusive and final in all collateral proceedings, but may be reviewed
10 on appeal by the Court of Errors and Appeals.

ARTICLE VII

RETURNS AND PAYMENT OF TAX

- 1 44. Returns of information.
2 45. Returns; form and content.
3 46. Payment; date due.
4 47. Recovery from owner for taxes paid.
5 48. Payment by person interested.
6 49. Payment pending litigation; credits.
7 50. Payment pending litigation; distribution.
8 51. Extension of time.
9 52. Penalties.
10 53. Interest.

1 44. Returns of information. a. On or before March first in each year,
2 every taxpayer shall return to the commissioner statements or schedules
3 showing the character and value of all its property, as it existed on the
4 first day of January preceding, its capitalization and its indebtedness.

5 b. On or before April fifteenth in each year, every taxpayer shall also
6 return to the commissioner statements or schedules showing its railway
7 operating revenues of the preceding year, all deductions therefrom, and the
8 net railway operating income remaining after such deductions.

1 45. Returns; form and content. All statements and schedules required
2 to be returned to the commissioner shall be made and prepared in such
3 detail, and shall contain such additional information necessary or convenient
4 for the proper administration and collection of the taxes imposed by this
5 act, as the commissioner may by regulation prescribe. Returns made by
6 corporations shall be sworn to by the president, vice-president or other
7 principal officer and by the treasurer, assistant treasurer, or chief account-
8 ing officer. Whenever a receiver, trustee or assignee is operating the prop-
9 erty or business of a taxpayer, the receiver, trustee or assignee shall make

10 returns and tax payments in the same manner and form as are required of
11 the taxpayer.

1 46. Payments; due dates. The full amount of franchise tax assessed
2 by the commissioner shall be due and delinquent on November fifteenth in
3 each year.

4 On December first in each year, the full amount of property tax pay-
5 able under this act shall be due and delinquent.

6 All payments shall be made to the State Treasurer.

1 47. Recovery from owner for taxes paid on cars used. Any taxpayer
2 shall pay taxes assessed pursuant to this act upon any cars, hired, leased,
3 run or used in this State, shall have a right of action against the company
4 or person owning the cars, for the taxes so paid with interest thereon from
5 date of payment, and may sue therefor in any court of competent jurisdic-
6 tion. Nothing in this section shall be so construed as to avoid the obligation
7 of a contract relating to the payment of taxes entered into or made, prior
8 to March twenty-seventh, one thousand eight hundred and eighty-eight,
9 between any such company, its agents, or person owning such cars, and any
10 such railroad company.

1 48. Payment by person interested. If a taxpayer shall be in default in
2 the payment of taxes under this act, a person having an interest in a mort-
3 gage or other lien on its franchises or property, may pay the State Treasurer
4 the amount of such State tax and the interest due thereon, and receive from
5 the treasurer a certificate of such payment. He shall thereupon be entitled
6 to be repaid the amount of the tax and interest thereon at the rate of twelve
7 per centum (12%) per annum out of the first proceeds of any sale of the
8 franchises or property of the company, and the tax and interest thereon
9 shall continue a lien on the franchise and property of the company, for the
10 benefit of the holder of or person interested in the mortgage or lien until
11 paid by the company from the sale of its franchises or property. If pro-
12 ceedings have been taken by the Attorney-General to enforce the payment of
13 the tax and interest thereon, the holder of or person interested in a mort-

14 gage or lien paying the tax and interest shall pay each additional amount
15 as a justice of the Supreme Court shall certify to be proper and reasonable
16 for the expenses and services of the proceedings as far as they have
17 progressed for the collection of the tax and interest thereon.

1 49. Payment pending litigation; credits. Any taxpayer may pay the
2 amount of an assessment into the State treasury, notwithstanding litigation
3 may be pending as to the validity of the whole or any part of said tax, and
4 if it shall be determined in any litigation that the whole or any part of the
5 tax so paid has been unlawfully assessed or imposed, the State Treasurer
6 shall give credit for such overpayment to the taxpayer so paying, upon the
7 taxes next legally levied and payable into the State treasury subsequent to
8 the determination of any such litigation.

1 50. Payments pending litigation; distribution. Notwithstanding any law
2 prohibiting the distribution of money received by the treasurer in payment
3 of railroad taxes during the pendency of an action by writ of certiorari
4 involving the legality of such taxes, any money received by the treasurer
5 under the provisions of section forty-nine of this act may be forthwith appor-
6 tioned and disbursed by the treasurer to the agencies which would be entitled
7 thereto if no writ of certiorari were pending.

1 51. Extension of time. The commissioner, for good and sufficient cause,
2 may grant reasonable extensions of time for the filing of returns required
3 by this act on such terms as he may consider advisable.

1 52. Penalties. If any taxpayer shall wilfully neglect to make returns
2 as required by this act, he or it shall forfeit as a penalty not exceeding ten
3 thousand dollars (\$10,000.00) for each offense to be assessed by a jury. The
4 penalty shall be recovered by an action at law in the Supreme Court,
5 brought in the name of the State, and shall be paid into the State treasury.
6 The commissioner shall certify any such default to the Attorney-General, who
7 shall prosecute the action for the penalty.

1 53. Interest. Taxes heretofore imposed pursuant to any law for the
2 taxation of property used for railroad and canal purposes or hereafter im-

3 posed pursuant to this act, or any unpaid portion thereof, shall bear interest
 4 from and after the date upon which they became or may become due and
 5 delinquent at the rate of one per centum (1%) for each month until paid,
 6 notwithstanding the prosecution of a writ of certiorari or other remedy.

ARTICLE VIII

COLLECTION

1 54. Lien of taxes.

2 55. Tax a debt; preference.

3 56. Collection not to be stayed.

4 57. Entry of judgment.

5 58. Suit to enforce lien.

6 59. Parties to proceedings.

7 60. Adjudication and decree.

8 61. Receivership.

1 54. Lien of taxes. The taxes imposed by this act or heretofore imposed
 2 pursuant to any act for the taxation of property used for railroad and canal
 3 purposes shall be and remain a lien paramount to all other liens upon the
 4 revenues and all the real and personal property owned, used or controlled by
 5 the taxpayer within this State. The lien shall take effect as of the first day
 6 of the year in which the tax is payable.

1 55. Tax a debt; preference. The taxes imposed by this act or heretofore
 2 imposed shall be and remain a debt due from the taxpayer to the State for
 3 which an action at law or suit in equity may be maintained, and shall be a
 4 preferred debt in case of insolvency.

1 56. Collection not to be stayed. The payment or collection of taxes here-
 2 tofore or hereafter assessed to any taxpayer shall not be stayed by the writ
 3 or order of any court, except as otherwise provided in section thirty-eight of
 4 this act.

1 57. Entry of judgment. As an additional or alternative remedy, the
 2 State Comptroller may issue a certificate to the clerk of the Supreme Court
 3 that a taxpayer is indebted under this or any former act for the taxation of

4 railroads in such an amount as shall be named in such certificate, and there-
 5 upon the clerk to whom such certificate shall have been issued shall immedi-
 6 ately enter upon his record of docketed judgments the name of such tax-
 7 payer, and of the State, the amount of the debt so certified, a short name of
 8 the tax, and the date of making such entries. The making of the entries
 9 shall have the same force and effect as the entry of a docketed judgment in
 10 the office of such clerk, and the State Comptroller shall have all of the
 11 remedies and may take all of the proceedings for the collection thereof which
 12 may be had or taken upon the recovery of a judgment in an action at law
 13 upon contract, but without prejudice to the taxpayer's right of appeal.

1 58. Suit to enforce lien. In any case, where there has been a refusal or
 2 neglect to pay any tax heretofore or hereafter assessed to any taxpayer
 3 under this or any other act, and it has become necessary to seize and sell
 4 property and rights to property, whether real or personal, to satisfy the
 5 same, the Attorney-General at the request of the State Comptroller may
 6 direct a bill in chancery to be filed, to enforce the lien of the State for the tax
 7 upon any property and rights to property, whether real or personal, or to
 8 subject any such property and rights to property owned by the delinquent
 9 taxpayer or in which it has any right, title, or interest, to the payment of
 10 such tax.

1 59. Parties to proceedings. All persons having liens upon or claiming
 2 any interest in the property or rights to property sought to be subjected as
 3 aforesaid shall be made parties to such proceedings and be brought into
 4 court.

1 60. Adjudication and decree. The court shall, after the parties have
 2 been duly notified of the proceedings, proceed to adjudicate all matters in-
 3 volved therein and finally determine the merits of all claims to and liens
 4 upon the property and rights to property in question, and, in all cases where
 5 a claim or interest of the State therein is established, may decree a sale of
 6 such property and rights to property, by the proper officer of the court, and
 7 a distribution of the proceeds of such sale according to the findings of the
 8 court in respect to the interests of the parties and of the State.

1 61. Receivership. In any such proceeding, at the instance of the At-
 2 torney-General, the court may appoint a receiver to enforce the lien, or, upon
 3 certification by the State Comptroller during the pendency of such proceed-
 4 ings that it is in the public interest, may appoint a receiver with all the
 5 powers of a receiver in equity.

ARTICLE IX

ADMINISTRATION AND PROCEDURE

1 62. Rules and regulations.

2 63. Audits and investigations.

3 64. Hearings; oaths.

4 65. Subpœnas.

5 66. Employment of technical assistants.

6 67. Personal knowledge of commissioner.

7 68. Attendance of Attorney-General.

8 69. Employment of assistant counsel.

9 70. Criminal penalties.

10 71. False swearing.

11 72. Offenses committed at Trenton.

1 62. Rules and regulations. The commissioner is hereby authorized and
 2 empowered to interpret and carry into effect the provisions of this act and
 3 in pursuance thereof to make and enforce such rules and regulations as he
 4 may deem necessary.

1 63. Audits and investigations. For the purpose of administering this
 2 act, the commissioner, whenever he deems it expedient, may make or cause
 3 to be made by an employee of the State Tax Department, engaged in the ad-
 4 ministration of this act, an audit, examination, or investigation of the books,
 5 records, papers, vouchers, accounts, and documents of any taxpayer, and
 6 also field surveys, inspections and examinations of all lands and physical
 7-10 property. It shall be the duty of every taxpayer and of every director,
 11 officer, agent or employee of every taxpayer to exhibit to the commissioner
 12 or to any such employee of the State Tax Department all such books, rec-

13 ords, papers, vouchers, accounts, and documents of the taxpayer and to
14 facilitate any such audit, examination, field examination or investigation so
15 far as it may be in its or their power so to do. It shall be lawful for the
16 commissioner, or any employee in the State Tax Department by him there-
17 unto designated to take the oath of any person signing any application, dep-
18 osition, statement, or report required by the commissioner in the
19 administration of this act. If any returns are not made, the commissioner
20 shall ascertain the necessary facts from the best information he can obtain
21 and in such manner as he may find convenient, using his personal knowledge
22 and judgment.

1 64. Hearings; oaths. The commissioner, or any employee of the State
2 Tax Department he may designate, may conduct hearings, administer oaths
3 to, and examine under oath, any taxpayer and the directors, officers, agents,
4 and employees of any taxpayer and as well all other witnesses relative to
5 the liability of the taxpayer for any taxes pursuant to the provisions of
6 this act.

1 65. Subpenas. The commissioner may issue subpoenas to compel the at-
2 tendance of witnesses and the production of books and papers. He shall
3 have power to administer oaths to ascertain facts to enable him properly to
4 perform his duties, and may reduce the statements of the person sworn to
5 writing and require him to swear and subscribe thereto. The commissioner
6 may, ex parte, apply for and obtain from a justice of the Supreme Court
7 an order to compel a person to submit to examination in reference to such
8 matters, and the justice may punish a person disobeying any such order as
9 for a contempt.

1 66. Employment of technical assistants. In order to obtain the facts
2 necessary for the discharge of his duties under this act, the commissioner
3 may use such lawful means as he may deem necessary. He may employ such
3½ assistants in making his valuations as may be necessary to complete them
4 in due time. All such persons, whose compensation is not fixed by statute
5 or otherwise determinable by authority of law, shall be paid such reason-

6 able compensation as may be fixed by the commissioner with the approval
7 of the Governor, and within the limits of appropriations available therefor.

1 67. Personal knowledge of commissioner. The commissioner shall be
2 entitled to use his personal knowledge and judgment as to the value of any
3 property which he is required to assess, upon original assessment or upon
4 review thereof.

1 68. Attendance of Attorney-General. The Attorney-General shall attend
2 the hearings of the State Tax Commissioner in person or by such deputy as
3 he may appoint for that purpose.

1 69. Employment of assistant counsel. The Attorney-General may, with
2 the approval of the Governor and Comptroller, employ such assistant attor-
3 neys or counsel as may be necessary to protect and properly defend the in-
4 terest of the State, in carrying out the provisions of this act. All such per-
5 sons, whose compensation is not fixed by statute or otherwise determinable
6 by authority of law, shall be paid such compensation by the State as the
7 Attorney-General and the Comptroller shall approve, within the limits of
8 appropriations available therefor.

1 70. Criminal penalties. Any person who shall fail to file any report
2 required to be filed pursuant to the provisions of this act, or shall file or
3 cause to be filed with the commissioner any false or fraudulent report or
4 statement, or shall aid or abet another in the filing with the commissioner
5 of any false or fraudulent report or statement, with the intent to defraud
6 the State or evade the payment of any tax, fee, penalty or interest or any
7 part thereof, which shall be due pursuant to the provisions of this act, shall
8 be guilty of a misdemeanor and, upon conviction, shall be fined not to
9 exceed one thousand dollars (\$1,000.00) or be imprisoned not to exceed three
10 years, or both, at the discretion of the court.

1 71. False swearing. Any person who shall swear to, affirm, or verify
2 any false or fraudulent statement with intent to evade the payment of any
3 tax or who being under oath, shall testify falsely at any hearing held pur-
4 suant to the provisions of this act shall be guilty of perjury.

1 **72. Offenses committed at Trenton.** The failure to do any act required
 2 to be done by, or under the provisions of, this act shall be deemed an act
 3 committed in part at the office of the commissioner in Trenton. The cer-
 4 tificate of the commissioner to the effect that any act required to be done
 5 by, or under the provisions of, this act has not been done, shall be prima
 6 facie evidence that such act has not been done.

ARTICLE X

MISCELLANEOUS PROVISIONS AND REPEALERS

1 **73. Payment and returns for 1941.**

2 **74. Construction; other taxes.**

3 **75. Repealers.**

4 **76. Effective date.**

1 **73. Payment and returns for 1941.** The commissioner is hereby author-
 2 ized and required to accept, without interest or penalty, returns of infor-
 3 mation and payments of taxes for the first year in which this act is opera-
 4 tive within the times specifically limited therefor, or at any time within
 5 thirty days after the effective date of this act, whichever date is later. In
 6 the first year for which this act is operative, valuations made by the com-
 7 missioner for that year under chapters nineteen through twenty-nine, inclu-
 8 sive, of Title 54 of the Revised Statutes shall constitute the basis of prop-
 9 erty assessments under this act. Nothing in this section shall be construed
 10 to relieve any taxpayer of any requirement of payment or collection of taxes
 11 other than by temporary extension of time necessitated by the enactment
 12 hereof after the respective dates for action required hereunder.

1 **74. Construction; other taxes.** All other State and local taxes of or
 2 upon franchises or property used for railroad purposes, which may have
 3 been assessed for the first year in which this act becomes effective upon any
 4 taxpayer subject to taxation hereunder prior to the enactment of this act,
 5 shall abate and be cancelled of record as of the effective date hereof. This
 6 act shall be construed as a revision of chapters nineteen through twenty-
 7 nine, inclusive, of Title 54 of the Revised Statutes, and nothing herein shall
 8 be construed to affect any pending litigation, nor to repeal, abate, cancel,

9 cause to lapse or otherwise affect in any manner any assessment or the lien
 10 or obligation to pay any taxes heretofore assessed to any taxpayer, or the
 11 legal authority to collect taxes, interest and penalties which have accrued
 12 under any provision of law repealed by this act, or under any other law,
 13 except as specifically provided in this act. Nor shall this act affect in any
 14 manner any distribution, allotment or apportionment of tax receipts made or
 15 required to be made under any provision of law repealed by this act.

1 75. Repealers. Chapters nineteen through twenty-nine, inclusive, of Title
 2 54 of the Revised Statutes are hereby repealed.

3 Chapter 91, of the laws of 1885;

4 Chapter 275, of the laws of 1886;

5 Chapter 333, of the laws of 1921; and

6 Chapter 423, of the laws of 1933;

7 are hereby repealed.

1 76. Effective date. This act shall take effect immediately.

STATEMENT

This bill is a complete revision and modernization of the railroad tax law of 1883. All property used for railroad purposes is taxed at a flat rate of 3%, but no change is made in the distribution of the proceeds. A new franchise tax based upon earnings is provided. The proceeds of this new tax are divided equally between the State and the municipalities. The municipal share is distributed in the same proportions as the second-class railroad tax. New and improved devices for administration and collection of the railroad taxes are also provided.

It is the purpose of the bill to give effect to the recommendations of Governor Edison's Committee on Railroad Taxation, as contained in its report submitted to the Governor under date of February 22, 1941.

Three companion bills provide, respectively, for payment in full of all delinquent railroad taxes, for a technical amendment of the school law to include a reference to the proposed new railroad tax law, and for protecting the amount of local ratables from any reduction as a result of the enactment of this bill.

ASSEMBLY, No. 547

STATE OF NEW JERSEY

INTRODUCED JULY 14, 1941

By Mr. SHOLL

(Without Reference)

AN ACT relating to taxation of railroads, and repealing chapters nineteen through twenty-nine, inclusive, of Title 54 of the Revised Statutes, chapter ninety-one of the laws of one thousand eight hundred and eighty-five, chapter two hundred seventy-five of the laws of one thousand eight hundred and eighty-six, chapter three hundred thirty-three of the laws of one thousand nine hundred and twenty-one, and chapter four hundred twenty-three of the laws of one thousand nine hundred and thirty-three.

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

- 1 **Article** **I.** Definitions and General Provisions. (Sections 1-6).
2 **II.** Property Tax. (Sections 7-12).
3 **III.** Franchise Tax. (Sections 13-15).
4 **IV.** Assessment and Disposition. (Sections 16-24).
5 **V.** Reassessment and Omitted Property. (Sections 25-30).
6 **VI.** Appeal and Review. (Sections 31-43).
7 **VII.** Returns and Payment of Taxes. (Sections 44-53).
8 **VIII.** Collection. (Sections 54-61).
9 **IX.** Administration and Procedure. (Sections 62-72).
10 **X.** Miscellaneous Provisions; Repealers. (Sections 73-76).

ARTICLE I

DEFINITIONS AND GENERAL PROVISIONS

- 1 1. Short title.
- 2 2. Definitions.
- 3 3. Exemption of securities.
- 4 4. Property not used for railroad purposes.
- 5 5. Municipal assessment of benefits.
- 6 6. General powers of commissioner.

1 1. Short title. This act shall be known as the "railroad tax law of
2 1941."

1 2. Definitions. As used in this act, unless the context clearly requires
2 a different meaning:

3 "Railroad" means any common carrier by railroad engaged in, owning
3½ or constructing facilities for, the transportation of persons or property in
4 or through this State, other than a street railway or traction company using
5 or occupying the public streets, highways, roads or other public places, the
6 taxation of which is otherwise provided by law.

7 "System" means any independently operating railroad which operates
8 its facilities and those of one or more other railroads as a single utility for
9 furnishing transportation service. A system shall include all companies the
10 property of which is so operated either by virtue of control through direct
11 or indirect ownership of a majority or more of capital stock, or under
12 lease, trackage rights or under any other form of contract, and for which
13 separate operating accounts are not maintained.

14 "Main stem" of a railroad means the roadbed not exceeding one hun-
15 dred feet in width, with its rails and sleepers, and all structures erected
16 thereon and used in connection therewith, not including passenger or freight
17 buildings erected thereon.

18 "Tangible personal property" means the rolling stock, cars, locomotives,
19 ferryboats, all machinery, tools and other tangible personal property of a
20 railroad company, and also the locomotives and cars not belonging to such

21 railroad company but built for its use and actually used in this State, or run
22 under its control in this State by a sleeping car company or other company ;
23 but the rolling stock of other persons or corporations temporarily used on
24 any such road, but not forming part of the equipment of such road, shall
25 not be included in the term.

26 "Taxpayer" means any person, railroad or system subject to taxation
27 under the provisions of this act.

28 "Commissioner" means the State Tax Commissioner.

1 3. Exemption of securities. When the real estate and tangible personal
2 property of a taxpayer are assessed and taxed under this act, the shares
3 of stock, bonds and certificates of indebtedness of the taxpayer shall not
4 be taxed in the hands of the shareholders, bondholders or creditors, except as
5 provided in this act.

1 4. Property not used for railroad purposes. All the property of a rail-
2 road company not used for railroad purposes shall be assessed and taxed
3 by the same assessors, in the same manner and at the same rate as the taxable
4 property of other owners in the same taxing district.

1 5. Municipal assessment of benefits. Nothing in this act shall be con-
2 strued to prohibit any municipality from assessing benefits for street, side-
3 walk, sewer or other municipal improvements against any of the property
4 of a railroad in this State, but such assessments shall be made against rail-
5 road property by the same method and by the same officers as are provided
6 by law in the case of assessments against the properties of individuals.

1 6. General Powers of commissioner. The commissioner is hereby au-
2 thorized and empowered to carry into effect the provisions of this act and sub-
3 ject thereto he shall prescribe and publish all needful rules and regulations
4 for its enforcement. He shall keep a record of his proceedings and shall re-
5 port annually to the Legislature.

ARTICLE II

PROPERTY TAX

1 7. Property taxable; rate.

2 8. Lease-d property.

3 9. Movable property.

4 10. Grade crossing improvements exempt.

5 11. Assessment in lieu.

6 12. Assessment procedure.

1 7. Property taxable; rate. There is hereby levied an annual property tax
2 upon all property used for railroad purposes at the rate of three per centum
3 (3%) upon the true value thereof. The tax hereby imposed shall be assessed
4 by the State Tax Commissioner, in the manner hereinafter provided, for the
5 year one thousand nine hundred and forty-one and for each year thereafter.

1 8. Leased property. If the property of a railroad be leased to or oper-
2 ated by another corporation, foreign or domestic, the property of the lessor,
3 or company whose property is operated, shall be subject to taxation in the
4 manner provided in this act.

1 9. Movable property. Tangible personal property which is used or kept
2 but a part of the time in this State by any railroad shall be assessed such
3 proportionate part of its value as the time it is used or kept in this State
4 during the calendar year preceding bears to the whole year.

1 10. Grade crossing improvements exempt. The value of the main stem
2 of each railroad and the other real estate thereof used for railroad purposes
3 shall be ascertained without including any part of the cost of improvement,
4 relocation, reconstruction, elimination or avoidance of highway grade cross-
5 ings, including State highways, made pursuant to Title 48 of the Revised
6 Statutes, or pursuant to the provisions of an agreement for any of such pur-
7 poses with a municipality made after April twenty-seventh, one thousand
8 nine hundred and thirty-one, but such exemptions shall apply only to main
9 lines and branches existing on April twenty-seventh, one thousand nine hun-
10 dred and thirty-one.

1 11. Assessment in lieu. Taxes assessed pursuant to this act shall be in
2 lieu of all other State or local taxation of or measured by property taxable
3 hereunder, other than assessments for benefits.

1 12. Assessment procedure. Property taxable under this act shall be
 2 assessed by the commissioner to each system and to each railroad not part
 3 of a system by which such property is used for railroad purposes. The
 4 assessment shall be made in the manner hereinafter provided.

ARTICLE III

FRANCHISE TAX

1 13. Franchise excise.

2 14. Franchise base.

3 15. Rate; computation.

1 13. Franchise excise. An annual excise tax is hereby levied upon all rail-
 2 roads operating within this State for the privilege of exercising their respec-
 3 tive franchises, to be computed in the manner hereinafter provided. This
 4 tax shall be in lieu of any other tax or taxes of or upon such franchises.

1 14. Franchise base. A "franchise base" shall be computed for each
 2 year, by allocating such part of the next preceding year's net railway operat-
 3 ing income of each system, and railroad not part of a system, to the State
 4 of New Jersey, as the number of miles of all track over which the railroad
 5 or system operates in this State bears to the total number of miles of all
 6 track over which it operates. The franchise base for each year shall be the
 7 amount so allocated capitalized at three per centum (3%).

8 For the purpose of this section, net railway operating income shall be
 9 computed as total railway operating revenues from all sources, including
 10 any revenue whatever derived directly or indirectly from property which is
 11 used for railroad purposes, less costs of railroad maintenance, operation
 12 and depreciation, railway tax accruals, uncollectible railway revenues,
 13 rentals (both debits and credits) for equipment leased for less than one year
 14 or interchanged, and joint facility rents (both debits and credits). Deduc-
 15 tions from operating revenues for depreciation, additions and betterments,
 16 and compensation for personal services shall be subject to regulation by the
 17 commissioner, as to reasonableness of amount and appropriateness of ac-
 18 counting distribution.

1 15. Rate; computation. The franchise tax shall be assessed at the rate
 2 of three per centum (3%) of the excess of the "franchise base," of each
 3 system and of each railroad not part of a system, over the total taxable
 4 valuation of the previous year of all classes of property used by the rail-
 5 road or system for railroad purposes, as finally determined pursuant to
 6 this act.

ARTICLE IV

ASSESSMENT AND DISPOSITION

1 16. Local assessors; information returns.

2 17. Valuation; notice.

3 18. Valuation; determination.

4 19. Assessment; property tax.

5 20. Assessment; franchise tax.

6 21. Tax statements.

7 22. Certification to comptroller.

8 23. Tax for State use.

9 24. Tax for local use.

1 16. Local assessors; information returns. The assessors in all taxing
 2 districts where property of a railroad not used for railroad purposes shall be
 3 assessed, if required so to do by the State Tax Commissioner, shall certify
 4 and send to the commissioner on or before the second Monday in June in
 5 each year, a statement giving the description of such property included in the
 6 local ratables for that year, and showing the assessed valuation thereof. They
 7 shall also, at the same time, certify and send to him a short description of
 8 all the real property in their respective taxing districts, used or owned for
 9 railroad purposes excepting the main stem or roadbed and track, not exceed-
 10 ing one hundred feet in width of each railroad.

1 17. Valuation; notice. On or before November first in each year the
 2 commissioner shall determine the true value, as of the preceding January
 3 first, of all property used for railroad purposes in this State. He shall, in
 4 such determination, ascertain values according to the following classes:

5 I. The length and value of the main stem of each railroad, and the
6 length of such main stem in each taxing district;

7 II. The value of the other real estate used for railroad purposes in
8 each taxing district in this State, including the roadbed (other than main
9 stem), tracks, buildings, water tanks, riparian rights, docks, wharves and
10 piers, and all other real estate, except lands not used for railroad
11 purposes;

12 III. The value of all the tangible personal property of each railroad;

13 IV. The value of the remaining property.

14 Upon completion of his valuation of property used for railroad purposes,
15 but not later than December tenth in each year, the commissioner shall
16 deliver a detailed statement thereof, including the several classes of prop-
17 erty, to each taxpayer. On or before January tenth, in each year, the com-
18 missioner shall certify to the county boards of taxation in the several
19 counties the value of Class II property, situate in each taxing district in
20 the county.

1 18. Valuation; determination. Any taxpayer or the Attorney-General
2 on behalf of the State and of the taxing districts claiming that error has been
3 made in the commissioner's valuations may, on or before the third Monday
4 of January following the completion of such valuations, file a petition for
5 review specifying the grounds of complaint and the relief sought. The peti-
6 tion shall be in such form and shall contain such further information as
7 may from time to time be prescribed by the commissioner for the better
8 understanding and determination of the complaint. The commissioner shall
9 conduct a hearing upon such petition, shall review the valuations of which
10 it complains, shall make his determination thereon and correct the same as
11 shall appear just before the first day of April following the filing of the
12 petition.

1 19. Assessment; property tax. On or before May first in each year the
2 commissioner shall compute the tax upon property used for railroad pur-
3 poses and assess the amount thereof to each taxpayer according to his val-
4 uations of the preceding year as corrected.

1 20. Assessment; franchise tax. On or before May first in each year, the
2 commissioner shall compute the franchise tax payable under this act and
3 assess the amount thereof to each taxpayer.

1 21. Tax statements. Within ten days after completion of his assess-
2 ments, the commissioner shall serve upon each taxpayer a statement of the
3 total amount of tax payable, including separately the franchise tax and
4 the manner of computation thereof, and the assessed valuations of property
5 by classes, as described in section seventeen of this act, the latter arranged
6 according to taxing districts and, in the case of system assessments, accord-
7 ing to railroad ownership of the property. The failure of any taxpayer to
8 receive a statement of assessment as herein required shall not invalidate
9 any such assessment or the lien thereof, nor shall it relieve the taxpayer of
10 the obligation of payment of the assessment as required by this act.

1 22. Certification to Comptroller. Within fifteen days after completion
2 of his assessments, the commissioner shall report and certify all assessments
3 and the statements thereof to the State Comptroller. The several state-
4 ments shall be recorded in books kept in the office of the State Comptroller,
5 to be provided by him for that purpose, and shall be public records open to
6 public inspection.

1 23. Tax for State use. All receipts from taxation of property used for
2 railroad purposes other than from assessments of Class II property, as
3 described in section seventeen of this act, together with one-half the receipts
4 from the franchise tax imposed hereunder shall be applied to the uses of the
5 State according to law.

1 24. Tax for local use. a. The entire amount of tax receipts derived from
2 the assessment of Class II property, as described in section seventeen of
3 this act, and one-half the receipts from the franchise tax imposed hereunder
4 shall be, by the State Comptroller, allotted to and paid over to the local tax-
5 ing districts in which such property is situated. Each taxing district shall
6 receive such proportion of the total aforesaid amount of property and franchise
7 tax receipts as the valuations of second-class railroad property situated

8 within the taxing district bears to the total valuation of such property in
9 the State, as valued by the State Tax Commissioner for the purpose of tax-
10 ation under this act.

11 b. The Comptroller shall transmit to each county treasurer a certificate
12 showing the amounts allotted to the taxing districts therein, and shall, on or
13 before December tenth of the year in which the taxes are payable, draw and
14 transmit his warrant upon the State treasury, in favor of the several county
15 treasurers, for the amounts allotted to their several counties. Each county
16 treasurer shall forthwith, and not later than December fifteenth, pay to the
17 collector or other proper officer of each taxing district the amount allotted
18 thereto, deducting, however, the amount due for county taxes from the taxing
19 district. The amount thus paid to the county and taxing district shall be at
20 the disposal of the proper authorities for public purposes.

ARTICLE V

REASSESSMENT; OMITTED PROPERTY

- 1 25. Reassessment; property omitted.
- 2 26. Review of assessment; notice.
- 3 27. Period of limitations.
- 4 28. Certification to Comptroller.
- 5 29. Credit for taxes paid locally.
- 6 30. Disposition of receipts.

1 25. Reassessment; property omitted. a. Whenever the commissioner
2 shall determine that any tax or taxes assessed pursuant to this act were less
3 than or in excess of the amount thereof lawfully assessable, he may correct
4 such deficiency or error by reassessing such tax, or any part thereof.

5 b. Whenever property subject to taxation under this act has or shall
6 have been omitted from assessment by failure of the taxpayer to include it
7 in a return of information, or otherwise, the commissioner may, if he finds
8 that such property has been omitted from his assessment, cause such prop-
9 erty to be assessed for any omitted years in accordance with the provisions of
10 this act.

1 26. Review of assessments; notice. For the purpose of reviewing the
2 assessments made pursuant to section twenty-five of this act, the commis-
3 sioner shall sit on a day to be fixed by him, not later than twenty days after
4 the making of the assessments, of which immediate notice shall be given by
5 the commissioner to the taxpayers affected thereby. The commissioner may
6 adjourn from time to time until he has finished the hearing. Not more than
7 thirty days shall be spent in the review, and the amount of taxes fixed by
8 him shall be due and payable into the State treasury on or before fifteen days
9 after the time limited for the review of the assessments.

1 27. Period of limitations. The power of the State Tax Commissioner to
2 make reassessments or to assess omitted property under this act shall be
3 limited to the period of five years next preceding the year in which the re-
4 assessment or assessment of omitted property is made.

1 28. Certification to Comptroller. The commissioner shall certify the
2 amount of the assessments to the Comptroller, in detail, and shall divide
3 them into taxing districts so that the amount assessed for each year in each
4 taxing district shall appear. The same remedies shall exist for the collec-
5 tion of these taxes as exist for the collection of taxes regularly assessed
6 under this act.

1 29. Credit for taxes paid locally. Any company having paid any tax for
2 the omitted years under an assessment made upon that property or any part
3 thereof by the local assessors, shall be entitled to receive a credit for such
4 payment upon the assessment made under this act by proving to the satisfac-
5 tion of the State Tax Commissioner, and of the State Board of Tax Appeals
6 when such matter is pending before it, during the time herein authorized for
7 the review of such assessments, that such payment was made.

1 30. Disposition of receipts. Any taxes collected upon assessments for
2 omitted property or reassessments made by the commissioner shall be appor-
3 tioned by the Comptroller for the uses of the State and for local uses in the
4 same manner as provided by the law for taxes levied upon property of the
5 same class for the year in question.

ARTICLE VI

APPEAL AND REVIEW

- 1 31. Appeal to State Board of Tax Appeals.
- 2 32. Complaint and notice.
- 3 33. Hearing upon complaint.
- 4 34. Conclusion of hearings.
- 5 35. Certifications.
- 6 36. Judicial review.
- 7 37. Scope of review.
- 8 38. Payment pending litigation.
- 9 39. Irregularities; collateral attack.
- 10 40. Fees.
- 11 41. State and local assessment of same property.
- 12 42. Hearing; procedure.
- 13 43. Judgment; costs.

1 31. Appeal to State Board of Tax Appeals. Any taxpayer, the At-
 2 torney-General on behalf of the State, or the authorities of a taxing district,
 3 desiring to contest the validity or amount of any assessment or reassessment
 4 made by the commissioner under this act, may, on or before the third Mon-
 5 day of June following the assessment thereof, file a written complaint with
 6 the State Board of Tax Appeals, specifying the grounds of complaint and
 7 the relief sought, which shall be in such form and contain such further in-
 8 formation as may be from time to time prescribed by the rules of the State
 9 Board of Tax Appeals for the better understanding and determination of
 10 the complaint.

1 32. Complaint and notice. If the complaint is made by a taxpayer, a copy
 2 of the complaint and notice of application for hearing thereon shall be served
 3 upon the Attorney-General five days before the filing of the complaint by
 4 leaving a copy of the complaint and notice at his office, and in respect to
 5 second-class property in any taxing district, a copy of the complaint and no-
 6 tice of application for hearing thereon shall be served upon the clerk of such

7 taxing district, by leaving a copy of the complaint and notice at his office.
8 If the complaint is made by the Attorney-General or any taxing district, a
9 copy of the complaint and notice of application for hearing thereon shall
10 be served upon the taxpayer five days before the filing of the complaint by
11 leaving a copy of such complaint and notice at its principal office in this
12 State.

1 33. Hearing upon complaint. The State Board of Tax Appeals shall
2 meet on the third Monday of June in each year at the State House, Trenton,
3 for the purpose of fixing a time and place for the hearing of any complaint
4 filed under section thirty-one of this act. The Attorney-General shall ap-
5 pear on behalf of the State before the State Board of Tax Appeals in per-
6 son or by such deputy as he may appoint and designate for that purpose. If
7 it shall be made to appear upon such hearing that any such assessment or
8 tax is illegal, excessive, insufficient or that there has been illegal discrimina-
9 tion in the assessment, the board shall correct, adjust and equalize such as-
10 sessment or tax.

1 34. Conclusion of hearings. The State Board of Tax Appeals shall con-
2 clude its hearing on or before the fifteenth day of October following the fil-
3 ing of the complaint, and between November first and November fifth follow-
4 ing shall certify to the State Tax Commissioner its final determination.

1 35. Certifications. Whenever a final determination of the State Board of
2 Tax Appeals, as certified to the commissioner, corrects, modifies, or other-
3 wise affects the amount or classification of any assessment of property taxes
4 or amends any assessment of franchise tax made by the commissioner,
5 he shall forthwith certify to the Comptroller all changes and corrections
6 necessary to conform the assessment of tax to the determination of the board
7 of tax appeals.

1 36. Judicial Review. If a taxpayer, or the Attorney-General on behalf
2 of the State, or the authorities of any taxing district shall desire to contest
3 the final determination of the State Board of Tax Appeals, such contest shall
4 be made by certiorari, but the application therefor may not be made after

5 three months from the date of the certification to the State Tax Commis-
6 sioner of the final determination of the State Board of Tax Appeals.

1 37. Scope of review. If it shall be made to appear before the Supreme
2 Court on the writ of certiorari that the final determination of the State
3 Board of Tax Appeals in respect to any such assessment or tax in contro-
4 versy is illegal, excessive, insufficient, or that there has been illegal dis-
5 crimination in the assessment, the court shall correct, adjust and equalize
6 such assessment and tax or refer same back to the State Tax Commissioner
7 who shall correct, adjust and equalize the assessment and tax in accordance
8 with the instructions or decision of the court.

1 38. Payment pending litigation. If the writ shall be allowed to a tax-
2 payer, it shall pay to the State Treasurer, as a condition for prosecuting the
3 writ, the amount of the taxes then not in substantial controversy. If the
4 taxpayer and the Attorney-General or the authorities of the taxing district,
5 as the case may be, are unable to agree on the amount of taxes then not in
6 substantial controversy, such amount shall be determined by the court or
7 justice by whom the writ is allowed, either directly or by a reference to a
8 Supreme Court commissioner. Upon the payment of the amount of taxes
9 then not in substantial controversy, the payment or collection of the re-
10 mainder of the taxes shall be stayed until the final determination by the
11 Supreme Court on the writ of certiorari, notwithstanding any law to the con-
12 trary.

1 39. Irregularities; collateral attack. In any suit or proceeding, except
2 on complaint before the State Board of Tax Appeals or on certiorari, the
3 certificate and report of the commissioner to the State Comptroller shall be
4 conclusive and shall have the force and effect of a judgment of a court of
5 record having competent jurisdiction and the proceeding whereon such cer-
6 tificate and report are founded shall not be inquired into. No assessment
7 or tax shall be set aside for misnomer of the owner of the property as-
8 sessed but the name may be corrected at any time by the State Tax Com-
9 missioner, the State Board of Tax Appeals or the court.

1 40. Fees. The prosecutor of the writ of certiorari shall pay eight cents
2 (\$0.08) per folio to the State Tax Commissioner and the State Comptroller
3 for returns made by them of proceedings under this act.

1 41. State and local assessment of same property. If property of a tax-
2 payer has or shall have been, in any year, assessed by the local authorities
3 of a taxing district, and has or shall have been also assessed by the State
4 Tax Commissioner as property used for railroad purposes, the Supreme
5 Court or any three justices thereof, assigned by the Chief Justice, shall de-
6 termine, in a summary manner, the character of the property and whether
7 used for railroad purposes and by whom it has lawfully been assessed. This
8 determination shall be made whether the taxes in question have been paid or
9 not and whether a certiorari to review either assessment has been granted or
10 not.

1 42. Hearing; procedure. The determination shall be made under an
2 order to show cause at a time and place to be therein designated. The order
3 shall be granted by the Chief Justice of the Supreme Court upon applica-
4 tion ex parte by any of the parties interested, namely, by the Attorney-
5 General on behalf of the State, by the taxpayer, or by the authorities of the
6 taxing district.

7 The order shall be served upon the parties interested not making such
8 application, not less than ten days before the day fixed therein for the hear-
9 ing. Depositions to be used on such hearing may be taken on two days'
10 notice by either party.

1 43. Judgment; costs. The justices before whom the matter shall be
2 heard may if they see fit view the property in dispute, to guide them in their
3 decision. The judgment of the court shall direct the cancellation or reduc-
4 tion of either assessment, as the character of the property may require, and
5 shall make such order as to the return to the taxpayer any tax or portion
6 thereof, that may have been paid to the State, or to any taxing district not
7 entitled thereto, as the court shall deem just. The payment of costs may
8 be directed in such manner as the court may deem equitable. The judgment

9 shall be conclusive and final in all collateral proceedings, but may be reviewed
10 on appeal by the Court of Errors and Appeals.

ARTICLE VII

RETURNS AND PAYMENT OF TAX

- 1 44. Returns of information.
2 45. Returns; form and content.
3 46. Payment; date due.
4 47. Recovery from owner for taxes paid.
5 48. Payment by person interested.
6 49. Payment pending litigation; credits.
7 50. Payment pending litigation; distribution.
8 51. Extension of time.
9 52. Penalties.
10 53. Interest.

1 44. Returns of information. a. On or before March first in each year,
2 every taxpayer shall return to the commissioner statements or schedules
3 showing the character and value of all its property, as it existed on the
4 first day of January preceding, its capitalization and its indebtedness.

5 b. On or before April fifteenth in each year, every taxpayer shall also
6 return to the commissioner statements or schedules showing its railway
7 operating revenues of the preceding year, all deductions therefrom, and the
8 net railway operating income remaining after such deductions.

1 45. Returns; form and content. All statements and schedules required
2 to be returned to the commissioner shall be made and prepared in such
3 detail, and shall contain such additional information necessary or convenient
4 for the proper administration and collection of the taxes imposed by this
5 act, as the commissioner may by regulation prescribe. Returns made by
6 corporations shall be sworn to by the president, vice-president or other
7 principal officer and by the treasurer, assistant treasurer, or chief account-
8 ing officer. Whenever a receiver, trustee or assignee is operating the prop-
9 erty or business of a taxpayer, the receiver, trustee or assignee shall make

10 returns and tax payments in the same manner and form as are required of
11 the taxpayer.

1 46. Payments; due dates. The full amount of franchise tax assessed
2 by the commissioner shall be due and delinquent on November fifteenth in
3 each year.

4 On December first in each year, the full amount of property tax pay-
5 able under this act shall be due and delinquent.

6 All payments shall be made to the State Treasurer.

1 47. Recovery from owner for taxes paid on cars used. Any taxpayer
2 shall pay taxes assessed pursuant to this act upon any cars, hired, leased,
3 run or used in this State, shall have a right of action against the company
4 or person owning the cars, for the taxes so paid with interest thereon from
5 date of payment, and may sue therefor in any court of competent jurisdic-
6 tion. Nothing in this section shall be so construed as to avoid the obligation
7 of a contract relating to the payment of taxes entered into or made, prior
8 to March twenty-seventh, one thousand eight hundred and eighty-eight,
9 between any such company, its agents, or person owning such cars, and any
10 such railroad company.

1 48. Payment by person interested. If a taxpayer shall be in default in
2 the payment of taxes under this act, a person having an interest in a mort-
3 gage or other lien on its franchises or property, may pay the State Treasurer
4 the amount of such State tax and the interest due thereon, and receive from
5 the treasurer a certificate of such payment. He shall thereupon be entitled
6 to be repaid the amount of the tax and interest thereon at the rate of twelve
7 per centum (12%) per annum out of the first proceeds of any sale of the
8 franchises or property of the company, and the tax and interest thereon
9 shall continue a lien on the franchise and property of the company, for the
10 benefit of the holder of or person interested in the mortgage or lien until
11 paid by the company from the sale of its franchises or property. If pro-
12 ceedings have been taken by the Attorney-General to enforce the payment of
13 the tax and interest thereon, the holder of or person interested in a mort-

14 gage or lien paying the tax and interest shall pay each additional amount
15 as a justice of the Supreme Court shall certify to be proper and reasonable
16 for the expenses and services of the proceedings as far as they have
17 progressed for the collection of the tax and interest thereon.

1 49. Payment pending litigation; credits. Any taxpayer may pay the
2 amount of an assessment into the State treasury, notwithstanding litigation
3 may be pending as to the validity of the whole or any part of said tax, and
4 if it shall be determined in any litigation that the whole or any part of the
5 tax so paid has been unlawfully assessed or imposed, the State Treasurer
6 shall give credit for such overpayment to the taxpayer so paying, upon the
7 taxes next legally levied and payable into the State treasury subsequent to
8 the determination of any such litigation.

1 50. Payments pending litigation; distribution. Notwithstanding any law
2 prohibiting the distribution of money received by the treasurer in payment
3 of railroad taxes during the pendency of an action by writ of certiorari
4 involving the legality of such taxes, any money received by the treasurer
5 under the provisions of section forty-nine of this act may be forthwith appor-
6 tioned and disbursed by the treasurer to the agencies which would be entitled
7 thereto if no writ of certiorari were pending.

1 51. Extension of time. The commissioner, for good and sufficient cause,
2 may grant reasonable extensions of time for the filing of returns required
3 by this act on such terms as he may consider advisable.

1 52. Penalties. If any taxpayer shall wilfully neglect to make returns
2 as required by this act, he or it shall forfeit as a penalty not exceeding ten
3 thousand dollars (\$10,000.00) for each offense to be assessed by a jury. The
4 penalty shall be recovered by an action at law in the Supreme Court,
5 brought in the name of the State, and shall be paid into the State treasury.
6 The commissioner shall certify any such default to the Attorney-General, who
7 shall prosecute the action for the penalty.

1 53. Interest. Taxes heretofore imposed pursuant to any law for the
2 taxation of property used for railroad and canal purposes or hereafter im-

3 posed pursuant to this act, or any unpaid portion thereof, shall bear interest
 4 from and after the date upon which they became or may become due and
 5 delinquent at the rate of one per centum (1%) for each month until paid,
 6 notwithstanding the prosecution of a writ of certiorari or other remedy.

ARTICLE VIII

COLLECTION

1 54. Lien of taxes.

2 55. Tax a debt; preference.

3 56. Collection not to be stayed.

4 57. Entry of judgment.

5 58. Suit to enforce lien.

6 59. Parties to proceedings.

7 60. Adjudication and decree.

8 61. Receivership.

1 54. Lien of taxes. The taxes imposed by this act or heretofore imposed
 2 pursuant to any act for the taxation of property used for railroad and canal
 3 purposes shall be and remain a lien paramount to all other liens upon the
 4 revenues and all the real and personal property owned, used or controlled by
 5 the taxpayer within this State. The lien shall take effect as of the first day
 6 of the year in which the tax is payable.

1 55. Tax a debt; preference. The taxes imposed by this act or heretofore
 2 imposed shall be and remain a debt due from the taxpayer to the State for
 3 which an action at law or suit in equity may be maintained, and shall be a
 4 preferred debt in case of insolvency.

1 56. Collection not to be stayed. The payment or collection of taxes here-
 2 tofore or hereafter assessed to any taxpayer shall not be stayed by the writ
 3 or order of any court, except as otherwise provided in section thirty-eight of
 4 this act.

1 57. Entry of judgment. As an additional or alternative remedy, the
 2 State Comptroller may issue a certificate to the clerk of the Supreme Court
 3 that a taxpayer is indebted under this or any former act for the taxation of

4 railroads in such an amount as shall be named in such certificate, and there-
 5 upon the clerk to whom such certificate shall have been issued shall immedi-
 6 ately enter upon his record of docketed judgments the name of such tax-
 7 payer, and of the State, the amount of the debt so certified, a short name of
 8 the tax, and the date of making such entries. The making of the entries
 9 shall have the same force and effect as the entry of a docketed judgment in
 10 the office of such clerk, and the State Comptroller shall have all of the
 11 remedies and may take all of the proceedings for the collection thereof which
 12 may be had or taken upon the recovery of a judgment in an action at law
 13 upon contract, but without prejudice to the taxpayer's right of appeal.

1 58. Suit to enforce lien. In any case, where there has been a refusal or
 2 neglect to pay any tax heretofore or hereafter assessed to any taxpayer
 3 under this or any other act, and it has become necessary to seize and sell
 4 property and rights to property, whether real or personal, to satisfy the
 5 same, the Attorney-General at the request of the State Comptroller may
 6 direct a bill in chancery to be filed, to enforce the lien of the State for the tax
 7 upon any property and rights to property, whether real or personal, or to
 8 subject any such property and rights to property owned by the delinquent
 9 taxpayer or in which it has any right, title, or interest, to the payment of
 10 such tax.

1 59. Parties to proceedings. All persons having liens upon or claiming
 2 any interest in the property or rights to property sought to be subjected as
 3 aforesaid shall be made parties to such proceedings and be brought into
 4 court.

1 60. Adjudication and decree. The court shall, after the parties have
 2 been duly notified of the proceedings, proceed to adjudicate all matters in-
 3 volved therein and finally determine the merits of all claims to and liens
 4 upon the property and rights to property in question, and, in all cases where
 5 a claim or interest of the State therein is established, may decree a sale of
 6 such property and rights to property, by the proper officer of the court, and
 7 a distribution of the proceeds of such sale according to the findings of the
 8 court in respect to the interests of the parties and of the State.

1 61. Receivership. In any such proceeding, at the instance of the At-
 2 torney-General, the court may appoint a receiver to enforce the lien, or, upon
 3 certification by the State Comptroller during the pendency of such proceed-
 4 ings that it is in the public interest, may appoint a receiver with all the
 5 powers of a receiver in equity.

ARTICLE IX

ADMINISTRATION AND PROCEDURE

1 62. Rules and regulations.

2 63. Audits and investigations.

3 64. Hearings; oaths.

4 65. Subpœnas.

5 66. Employment of technical assistants.

6 67. Personal knowledge of commissioner.

7 68. Attendance of Attorney-General.

8 69. Employment of assistant counsel.

9 70. Criminal penalties.

10 71. False swearing.

11 72. Offenses committed at Trenton.

1 62. Rules and regulations. The commissioner is hereby authorized and
 2 empowered to interpret and carry into effect the provisions of this act and
 3 in pursuance thereof to make and enforce such rules and regulations as he
 4 may deem necessary.

1 63. Audits and investigations. For the purpose of administering this
 2 act, the commissioner, whenever he deems it expedient, may make or cause
 3 to be made by an employee of the State Tax Department, engaged in the ad-
 4 ministration of this act, an audit, examination, or investigation of the books,
 5 records, papers, vouchers, accounts, and documents of any taxpayer, and
 6 also field surveys, inspections and examinations of all lands and physical
 7-10 property. It shall be the duty of every taxpayer and of every director,
 11 officer, agent or employee of every taxpayer to exhibit to the commissioner
 12 or to any such employee of the State Tax Department all such books, rec-

13 ords, papers, vouchers, accounts, and documents of the taxpayer and to
14 facilitate any such audit, examination, field examination or investigation so
15 far as it may be in its or their power so to do. It shall be lawful for the
16 commissioner, or any employee in the State Tax Department by him there-
17 unto designated to take the oath of any person signing any application, dep-
18 osition, statement, or report required by the commissioner in the
19 administration of this act. If any returns are not made, the commissioner
20 shall ascertain the necessary facts from the best information he can obtain
21 and in such manner as he may find convenient, using his personal knowledge
22 and judgment.

1 64. Hearings; oaths. The commissioner, or any employee of the State
2 Tax Department he may designate, may conduct hearings, administer oaths
3 to, and examine under oath, any taxpayer and the directors, officers, agents,
4 and employees of any taxpayer and as well all other witnesses relative to
5 the liability of the taxpayer for any taxes pursuant to the provisions of
6 this act.

1 65. Subpenas. The commissioner may issue subpoenas to compel the at-
2 tendance of witnesses and the production of books and papers. He shall
3 have power to administer oaths to ascertain facts to enable him properly to
4 perform his duties, and may reduce the statements of the person sworn to
5 writing and require him to swear and subscribe thereto. The commissioner
6 may, ex parte, apply for and obtain from a justice of the Supreme Court
7 an order to compel a person to submit to examination in reference to such
8 matters, and the justice may punish a person disobeying any such order as
9 for a contempt.

1 66. Employment of technical assistants. In order to obtain the facts
2 necessary for the discharge of his duties under this act, the commissioner
3 may use such lawful means as he may deem necessary. He may employ such
3½ assistants in making his valuations as may be necessary to complete them
4 in due time. All such persons, whose compensation is not fixed by statute
5 or otherwise determinable by authority of law, shall be paid such reason-

6 able compensation as may be fixed by the commissioner with the approval
7 of the Governor, and within the limits of appropriations available therefor.

1 67. Personal knowledge of commissioner. The commissioner shall be
2 entitled to use his personal knowledge and judgment as to the value of any
3 property which he is required to assess, upon original assessment or upon
4 review thereof.

1 68. Attendance of Attorney-General. The Attorney-General shall attend
2 the hearings of the State Tax Commissioner in person or by such deputy as
3 he may appoint for that purpose.

1 69. Employment of assistant counsel. The Attorney-General may, with
2 the approval of the Governor and Comptroller, employ such assistant attor-
3 neys or counsel as may be necessary to protect and properly defend the in-
4 terest of the State, in carrying out the provisions of this act. All such per-
5 sons, whose compensation is not fixed by statute or otherwise determinable
6 by authority of law, shall be paid such compensation by the State as the
7 Attorney-General and the Comptroller shall approve, within the limits of
8 appropriations available therefor.

1 70. Criminal penalties. Any person who shall fail to file any report
2 required to be filed pursuant to the provisions of this act, or shall file or
3 cause to be filed with the commissioner any false or fraudulent report or
4 statement, or shall aid or abet another in the filing with the commissioner
5 of any false or fraudulent report or statement, with the intent to defraud
6 the State or evade the payment of any tax, fee, penalty or interest or any
7 part thereof, which shall be due pursuant to the provisions of this act, shall
8 be guilty of a misdemeanor and, upon conviction, shall be fined not to
9 exceed one thousand dollars (\$1,000.00) or be imprisoned not to exceed three
10 years, or both, at the discretion of the court.

1 71. False swearing. Any person who shall swear to, affirm, or verify
2 any false or fraudulent statement with intent to evade the payment of any
3 tax or who being under oath, shall testify falsely at any hearing held pur-
4 suant to the provisions of this act shall be guilty of perjury.

1 **72. Offenses committed at Trenton.** The failure to do any act required
 2 to be done by, or under the provisions of, this act shall be deemed an act
 3 committed in part at the office of the commissioner in Trenton. The cer-
 4 tificate of the commissioner to the effect that any act required to be done
 5 by, or under the provisions of, this act has not been done, shall be prima
 6 facie evidence that such act has not been done.

ARTICLE X

MISCELLANEOUS PROVISIONS AND REPEALERS

1 **73. Payment and returns for 1941.**

2 **74. Construction; other taxes.**

3 **75. Repealers.**

4 **76. Effective date.**

1 **73. Payment and returns for 1941.** The commissioner is hereby author-
 2 ized and required to accept, without interest or penalty, returns of infor-
 3 mation and payments of taxes for the first year in which this act is opera-
 4 tive within the times specifically limited therefor, or at any time within
 5 thirty days after the effective date of this act, whichever date is later. In
 6 the first year for which this act is operative, valuations made by the com-
 7 missioner for that year under chapters nineteen through twenty-nine, inclu-
 8 sive, of Title 54 of the Revised Statutes shall constitute the basis of prop-
 9 erty assessments under this act. Nothing in this section shall be construed
 10 to relieve any taxpayer of any requirement of payment or collection of taxes
 11 other than by temporary extension of time necessitated by the enactment
 12 hereof after the respective dates for action required hereunder.

1 **74. Construction; other taxes.** All other State and local taxes of or
 2 upon franchises or property used for railroad purposes, which may have
 3 been assessed for the first year in which this act becomes effective upon any
 4 taxpayer subject to taxation hereunder prior to the enactment of this act,
 5 shall abate and be cancelled of record as of the effective date hereof. This
 6 act shall be construed as a revision of chapters nineteen through twenty-
 7 nine, inclusive, of Title 54 of the Revised Statutes, and nothing herein shall
 8 be construed to affect any pending litigation, nor to repeal, abate, cancel,

9 cause to lapse or otherwise affect in any manner any assessment or the lien
 10 or obligation to pay any taxes heretofore assessed to any taxpayer, or the
 11 legal authority to collect taxes, interest and penalties which have accrued
 12 under any provision of law repealed by this act, or under any other law,
 13 except as specifically provided in this act. Nor shall this act affect in any
 14 manner any distribution, allotment or apportionment of tax receipts made or
 15 required to be made under any provision of law repealed by this act.

1 75. Repealers. Chapters nineteen through twenty-nine, inclusive, of Title
 2 54 of the Revised Statutes are hereby repealed.

3 Chapter 91, of the laws of 1885;

4 Chapter 275, of the laws of 1886;

5 Chapter 333, of the laws of 1921; and

6 Chapter 423, of the laws of 1933;

7 are hereby repealed.

1 76. Effective date. This act shall take effect immediately.

STATEMENT

This bill is a complete revision and modernization of the railroad tax law of 1883. All property used for railroad purposes is taxed at a flat rate of 3%, but no change is made in the distribution of the proceeds. A new franchise tax based upon earnings is provided. The proceeds of this new tax are divided equally between the State and the municipalities. The municipal share is distributed in the same proportions as the second-class railroad tax. New and improved devices for administration and collection of the railroad taxes are also provided.

It is the purpose of the bill to give effect to the recommendations of Governor Edison's Committee on Railroad Taxation, as contained in its report submitted to the Governor under date of February 22, 1941.

Three companion bills provide, respectively, for payment in full of all delinquent railroad taxes, for a technical amendment of the school law to include a reference to the proposed new railroad tax law, and for protecting the amount of local ratables from any reduction as a result of the enactment of this bill.

[OFFICIAL COPY REPRINT]

ASSEMBLY, No. 547

STATE OF NEW JERSEY

INTRODUCED JULY 14, 1941

By Mr. SHOLL

(Without Reference)

AN ACT relating to taxation of railroads, and repealing chapters nineteen through twenty-nine, inclusive, of Title 54 of the Revised Statutes, chapter ninety-one of the laws of one thousand eight hundred and eighty-five, chapter two hundred seventy-five of the laws of one thousand eight hundred and eighty-six, chapter three hundred thirty-three of the laws of one thousand nine hundred and twenty-one, and chapter four hundred twenty-three of the laws of one thousand nine hundred and thirty-three.

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

- 1 **Article** **I.** Definitions and General Provisions. (Sections 1-6).
2 **II.** Property Tax. (Sections 7-12).
3 **III.** Franchise Tax. (Sections 13-15).
4 **IV.** Assessment and Disposition. (Sections 16-24).
5 **V.** Reassessment and Omitted Property. (Sections 25-30).
6 **VI.** Appeal and Review. (Sections 31-43).
7 **VII.** Returns and Payment of Taxes. (Sections 44-53).
8 **VIII.** Collection. (Sections 54-61).
9 **IX.** Administration and Procedure. (Sections 62-72).
10 **X.** Miscellaneous Provisions; Repealers. (Sections 73-76).

ARTICLE I

DEFINITIONS AND GENERAL PROVISIONS

- 1 1. Short title.
- 2 2. Definitions.
- 3 3. Exemption of securities.
- 4 4. Property not used for railroad purposes.
- 5 5. Municipal assessment of benefits.
- 6 6. General powers of commissioner.

1 1. Short title. This act shall be known as the "railroad tax law of
2 1941."

1 2. Definitions. As used in this act, unless the context clearly requires
2 a different meaning:

3 "Railroad" means any common carrier by railroad engaged in, owning
3½ or constructing facilities for, the transportation of persons or property in
4 or through this State, other than a street railway or traction company using
5 or occupying the public streets, highways, roads or other public places, the
6 taxation of which is otherwise provided by law.

7 "System" means any independently operating railroad which operates
8 its facilities and those of one or more other railroads as a single utility for
9 furnishing transportation service. A system shall include all companies the
10 property of which is so operated either by virtue of control through direct
11 or indirect ownership of a majority or more of capital stock, or under
12 lease, trackage rights or under any other form of contract, and for which
13 separate operating accounts are not maintained.

14 "Main stem" of a railroad means the roadbed not exceeding one hun-
15 dred feet in width, with its rails and sleepers, and all structures erected
16 thereon and used in connection therewith, not including passenger or freight
17 buildings erected thereon.

18 "Tangible personal property" means the rolling stock, cars, locomotives,
19 ferryboats, all machinery, tools and other tangible personal property of a
20 railroad company, and also the locomotives and cars not belonging to such

21 railroad company but built for its use and actually used in this State, or run
22 under its control in this State by a sleeping car company or other company;
23 but the rolling stock of other persons or corporations temporarily used on
24 any such road, but not forming part of the equipment of such road, shall
25 not be included in the term.

26 "Taxpayer" means any person, railroad or system subject to taxation
27 under the provisions of this act.

28 "Commissioner" means the State Tax Commissioner.

1 3. Exemption of securities. When the real estate and tangible personal
2 property of a taxpayer are assessed and taxed under this act, the shares
3 of stock, bonds and certificates of indebtedness of the taxpayer shall not
4 be taxed in the hands of the shareholders, bondholders or creditors, except as
5 provided in this act.

1 4. Property not used for railroad purposes. All the property of a rail-
2 road company not used for railroad purposes shall be assessed and taxed
3 by the same assessors, in the same manner and at the same rate as the taxable
4 property of other owners in the same taxing district.

1 5. Municipal assessment of benefits. Nothing in this act shall be con-
2 strued to prohibit any municipality from assessing benefits for street, side-
3 walk, sewer or other municipal improvements against any of the property
4 of a railroad in this State, but such assessments shall be made against rail-
5 road property by the same method and by the same officers as are provided
6 by law in the case of assessments against the properties of individuals.

1 6. General Powers of commissioner. The commissioner is hereby au-
2 thorized and empowered to carry into effect the provisions of this act and sub-
3 ject thereto he shall prescribe and publish all needful rules and regulations
4 for its enforcement. He shall keep a record of his proceedings and shall re-
5 port annually to the Legislature.

ARTICLE II

PROPERTY TAX

- 1 7. Property taxable; rate.
- 2 8. Leased property.
- 3 9. Movable property.
- 4 10. Grade crossing improvements exempt.
- 5 11. Assessment in lieu.
- 6 12. Assessment procedure.

1 7. Property taxable; rate. There is hereby levied an annual property tax
2 upon all property used for railroad purposes at the rate of three per centum
3 (3%) upon the true value thereof. The tax hereby imposed shall be assessed
4 by the State Tax Commissioner, in the manner hereinafter provided, for the
5 year one thousand nine hundred and forty-one and for each year thereafter.

1 8. Leased property. If the property of a railroad be leased to or oper-
2 ated by another corporation, foreign or domestic, the property of the lessor,
3 or company whose property is operated, shall be subject to taxation in the
4 manner provided in this act.

1 9. Movable property. Tangible personal property which is used or kept
2 but a part of the time in this State by any railroad shall be assessed such
3 proportionate part of its value as the time it is used or kept in this State
4 during the calendar year preceding bears to the whole year.

1 10. Grade crossing improvements exempt. The value of the main stem
2 of each railroad and the other real estate thereof used for railroad purposes
3 shall be ascertained without including any part of the cost of improvement,
4 relocation, reconstruction, elimination or avoidance of highway grade cross-
5 ings, including State highways, made pursuant to Title 48 of the Revised
6 Statutes, or pursuant to the provisions of an agreement for any of such pur-
7 poses with a municipality made after April twenty-seventh, one thousand
8 nine hundred and thirty-one, but such exemptions shall apply only to main
9 lines and branches existing on April twenty-seventh, one thousand nine hun-
10 dred and thirty-one.

1 11. Assessment in lieu. Taxes assessed pursuant to this act shall be in
2 lieu of all other State or local taxation of or measured by property taxable
3 hereunder, other than assessments for benefits.

1 12. Assessment procedure. Property taxable under this act shall be
 2 assessed by the commissioner to each system and to each railroad not part
 3 of a system by which such property is used for railroad purposes. The
 4 assessment shall be made in the manner hereinafter provided.

ARTICLE III

FRANCHISE TAX

1 13. Franchise excise.

2 14. Franchise base.

3 15. Rate; computation.

1 13. Franchise excise. An annual excise tax is hereby levied upon all rail-
 2 roads operating within this State for the privilege of exercising their respec-
 3 tive franchises, to be computed in the manner hereinafter provided. This
 4 tax shall be in lieu of any other tax or taxes of or upon such franchises.

1 14. Franchise base. A "franchise base" shall be computed for each
 2 year, by allocating such part of the next preceding year's net railway operat-
 3 ing income of each system, and railroad not part of a system, to the State
 4 of New Jersey, as the number of miles of all track over which the railroad
 5 or system operates in this State bears to the total number of miles of all
 6 track over which it operates. The franchise base for each year shall be the
 7 amount so allocated capitalized at three per centum (3%).

8 For the purpose of this section, net railway operating income shall be
 9 computed as total railway operating revenues from all sources, including
 10 any revenue whatever derived directly or indirectly from property which is
 11 used for railroad purposes, less costs of railroad maintenance, operation
 12 and depreciation, railway tax accruals, uncollectible railway revenues,
 13 rentals (both debits and credits) for equipment leased for less than one year
 14 or interchanged, and joint facility rents (both debits and credits). Deduc-
 15 tions from operating revenues for depreciation, additions and betterments,
 16 and compensation for personal services shall be subject to regulation by the
 17 commissioner, as to reasonableness of amount and appropriateness of ac-
 18 counting distribution.

1 15. Rate; computation. The franchise tax shall be assessed at the rate
 2 of three per centum (3%) of the excess of the "franchise base," of each
 3 system and of each railroad not part of a system, over the total taxable
 4 valuation of the previous year of all classes of property used by the rail-
 5 road or system for railroad purposes, as finally determined pursuant to
 6 this act.

ARTICLE IV

ASSESSMENT AND DISPOSITION

1 16. Local assessors; information returns.

2 17. Valuation; notice.

3 18. Valuation; determination.

4 19. Assessment; property tax.

5 20. Assessment; franchise tax.

6 21. Tax statements.

7 22. Certification to comptroller.

8 23. Tax for State use.

9 24. Tax for local use.

1 16. Local assessors; information returns. The assessors in all taxing
 2 districts where property of a railroad not used for railroad purposes shall be
 3 assessed, if required so to do by the State Tax Commissioner, shall certify
 4 and send to the commissioner on or before the second Monday in June in
 5 each year, a statement giving the description of such property included in the
 6 local ratables for that year, and showing the assessed valuation thereof. They
 7 shall also, at the same time, certify and send to him a short description of
 8 all the real property in their respective taxing districts, used or owned for
 9 railroad purposes excepting the main stem or roadbed and track, not exceed-
 10 ing one hundred feet in width of each railroad.

1 17. Valuation; notice. On or before November first in each year the
 2 commissioner shall determine the true value, as of the preceding January
 3 first, of all property used for railroad purposes in this State. He shall, in
 4 such determination, ascertain values according to the following classes: .

5 I. The length and value of the main stem of each railroad, and the
6 length of such main stem in each taxing district;

7 II. The value of the other real estate used for railroad purposes in
8 each taxing district in this State, including the roadbed (other than main
9 stem), tracks, buildings, water tanks, riparian rights, docks, wharves and
10 piers, and all other real estate, except lands not used for railroad
11 purposes;

12 III. The value of all the tangible personal property of each railroad;

13 IV. The value of the remaining property.

14 Upon completion of his valuation of property used for railroad purposes,
15 but not later than December tenth in each year, the commissioner shall
16 deliver a detailed statement thereof, including the several classes of prop-
17 erty, to each taxpayer. On or before January tenth, in each year, the com-
18 missioner shall certify to the county boards of taxation in the several
19 counties the value of Class II property, situate in each taxing district in
20 the county.

1 18. Valuation; determination. Any taxpayer or the Attorney-General
2 on behalf of the State and of the taxing districts claiming that error has been
3 made in the commissioner's valuations may, on or before the third Monday
4 of January following the completion of such valuations, file a petition for
5 review specifying the grounds of complaint and the relief sought. The peti-
6 tion shall be in such form and shall contain such further information as
7 may from time to time be prescribed by the commissioner for the better
8 understanding and determination of the complaint. The commissioner shall
9 conduct a hearing upon such petition, shall review the valuations of which
10 it complains, shall make his determination thereon and correct the same as
11 shall appear just before the first day of April following the filing of the
12 petition.

1 19. Assessment; property tax. On or before May first in each year the
2 commissioner shall compute the tax upon property used for railroad pur-
3 poses and assess the amount thereof to each taxpayer according to his val-
4 uations of the preceding year as corrected.

1 20. Assessment; franchise tax. On or before May first in each year, the
2 commissioner shall compute the franchise tax payable under this act and
3 assess the amount thereof to each taxpayer.

1 21. Tax statements. Within ten days after completion of his assess-
2 ments, the commissioner shall serve upon each taxpayer a statement of the
3 total amount of tax payable, including separately the franchise tax and
4 the manner of computation thereof, and the assessed valuations of property
5 by classes, as described in section seventeen of this act, the latter arranged
6 according to taxing districts and, in the case of system assessments, accord-
7 ing to railroad ownership of the property. The failure of any taxpayer to
8 receive a statement of assessment as herein required shall not invalidate
9 any such assessment or the lien thereof, nor shall it relieve the taxpayer of
10 the obligation of payment of the assessment as required by this act.

1 22. Certification to Comptroller. Within fifteen days after completion
2 of his assessments, the commissioner shall report and certify all assessments
3 and the statements thereof to the State Comptroller. The several state-
4 ments shall be recorded in books kept in the office of the State Comptroller,
5 to be provided by him for that purpose, and shall be public records open to
6 public inspection.

1 23. Tax for State use. All receipts from taxation of property used for
2 railroad purposes other than from assessments of Class II property, as
3 described in section seventeen of this act, together with one-half the receipts
4 from the franchise tax imposed hereunder shall be applied to the uses of the
5 State according to law.

1 24. Tax for local use. a. The entire amount of tax receipts derived from
2 the assessment of Class II property, as described in section seventeen of
3 this act, and one-half the receipts from the franchise tax imposed hereunder
4 shall be, by the State Comptroller, allotted to and paid over to the local tax-
5 ing districts in which such property is situated. Each taxing district shall
6 receive such proportion of the total aforesaid amount of property and franchise
7 tax receipts as the valuations of second-class railroad property situated

8 within the taxing district bears to the total valuation of such property in
9 the State, as valued by the State Tax Commissioner for the purpose of tax-
10 ation under this act.

11 b. The Comptroller shall transmit to each county treasurer a certificate
12 showing the amounts allotted to the taxing districts therein, and shall, on or
13 before December tenth of the year in which the taxes are payable, draw and
14 transmit his warrant upon the State treasury, in favor of the several county
15 treasurers, for the amounts allotted to their several counties. Each county
16 treasurer shall forthwith, and not later than December fifteenth, pay to the
17 collector or other proper officer of each taxing district the amount allotted
18 thereto, deducting, however, the amount due for county taxes from the taxing
19 district. The amount thus paid to the county and taxing district shall be at
20 the disposal of the proper authorities for public purposes.

ARTICLE V

REASSESSMENT; OMITTED PROPERTY

- 1 25. Reassessment; property omitted.
- 2 26. Review of assessment; notice.
- 3 27. Period of limitations.
- 4 28. Certification to Comptroller.
- 5 29. Credit for taxes paid locally.
- 6 30. Disposition of receipts.

1 25. Reassessment; property omitted. a. Whenever the commissioner
2 shall determine that any tax or taxes assessed pursuant to this act were less
3 than or in excess of the amount thereof lawfully assessable, he may correct
4 such deficiency or error by reassessing such tax, or any part thereof.

5 b. Whenever property subject to taxation under this act has or shall
6 have been omitted from assessment by failure of the taxpayer to include it
7 in a return of information, or otherwise, the commissioner may, if he finds
8 that such property has been omitted from his assessment, cause such prop-
9 erty to be assessed for any omitted years in accordance with the provisions of
10 this act.

1 26. Review of assessments; notice. For the purpose of reviewing the
2 assessments made pursuant to section twenty-five of this act, the commis-
3 sioner shall sit on a day to be fixed by him, not later than twenty days after
4 the making of the assessments, of which immediate notice shall be given by
5 the commissioner to the taxpayers affected thereby. The commissioner may
6 adjourn from time to time until he has finished the hearing. Not more than
7 thirty days shall be spent in the review, and the amount of taxes fixed by
8 him shall be due and payable into the State treasury on or before fifteen days
9 after the time limited for the review of the assessments.

1 27. Period of limitations. The power of the State Tax Commissioner to
2 make reassessments or to assess omitted property under this act shall be
3 limited to the period of five years next preceding the year in which the re-
4 assessment or assessment of omitted property is made.

1 28. Certification to Comptroller. The commissioner shall certify the
2 amount of the assessments to the Comptroller, in detail, and shall divide
3 them into taxing districts so that the amount assessed for each year in each
4 taxing district shall appear. The same remedies shall exist for the collec-
5 tion of these taxes as exist for the collection of taxes regularly assessed
6 under this act.

1 29. Credit for taxes paid locally. Any company having paid any tax for
2 the omitted years under an assessment made upon that property or any part
3 thereof by the local assessors, shall be entitled to receive a credit for such
4 payment upon the assessment made under this act by proving to the satisfac-
5 tion of the State Tax Commissioner, and of the State Board of Tax Appeals
6 when such matter is pending before it, during the time herein authorized for
7 the review of such assessments, that such payment was made.

1 30. Disposition of receipts. Any taxes collected upon assessments for
2 omitted property or reassessments made by the commissioner shall be appor-
3 tioned by the Comptroller for the uses of the State and for local uses in the
4 same manner as provided by the law for taxes levied upon property of the
5 same class for the year in question.

ARTICLE VI

APPEAL AND REVIEW

- 1 31. Appeal to State Board of Tax Appeals.
- 2 32. Complaint and notice.
- 3 33. Hearing upon complaint.
- 4 34. Conclusion of hearings.
- 5 35. Certifications.
- 6 36. Judicial review.
- 7 37. Scope of review.
- 8 38. Payment pending litigation.
- 9 39. Irregularities; collateral attack.
- 10 40. Fees.
- 11 41. State and local assessment of same property.
- 12 42. Hearing; procedure.
- 13 43. Judgment; costs.

1 31. Appeal to State Board of Tax Appeals. Any taxpayer, the At-
 2 torney-General on behalf of the State, or the authorities of a taxing district,
 3 desiring to contest the validity or amount of any assessment or reassessment
 4 made by the commissioner under this act, may, on or before the third Mon-
 5 day of June following the assessment thereof, file a written complaint with
 6 the State Board of Tax Appeals, specifying the grounds of complaint and
 7 the relief sought, which shall be in such form and contain such further in-
 8 formation as may be from time to time prescribed by the rules of the State
 9 Board of Tax Appeals for the better understanding and determination of
 10 the complaint.

1 32. Complaint and notice. If the complaint is made by a taxpayer, a copy
 2 of the complaint and notice of application for hearing thereon shall be served
 3 upon the Attorney-General five days before the filing of the complaint by
 4 leaving a copy of the complaint and notice at his office, and in respect to
 5 second-class property in any taxing district, a copy of the complaint and no-
 6 tice of application for hearing thereon shall be served upon the clerk of such

7 taxing district, by leaving a copy of the complaint and notice at his office.
8 If the complaint is made by the Attorney-General or any taxing district, a
9 copy of the complaint and notice of application for hearing thereon shall
10 be served upon the taxpayer five days before the filing of the complaint by
11 leaving a copy of such complaint and notice at its principal office in this
12 State.

1 33. Hearing upon complaint. The State Board of Tax Appeals shall
2 meet on the third Monday of June in each year at the State House, Trenton,
3 for the purpose of fixing a time and place for the hearing of any complaint
4 filed under section thirty-one of this act. The Attorney-General shall ap-
5 pear on behalf of the State before the State Board of Tax Appeals in per-
6 son or by such deputy as he may appoint and designate for that purpose. If
7 it shall be made to appear upon such hearing that any such assessment or
8 tax is illegal, excessive, insufficient or that there has been illegal discrimina-
9 tion in the assessment, the board shall correct, adjust and equalize such as-
10 sessment or tax.

1 34. Conclusion of hearings. The State Board of Tax Appeals shall con-
2 clude its hearing on or before the fifteenth day of October following the fil-
3 ing of the complaint, and between November first and November fifth follow-
4 ing shall certify to the State Tax Commissioner its final determination.

1 35. Certifications. Whenever a final determination of the State Board of
2 Tax Appeals, as certified to the commissioner, corrects, modifies, or other-
3 wise affects the amount or classification of any assessment of property taxes
4 or amends any assessment of franchise tax made by the commissioner,
5 he shall forthwith certify to the Comptroller all changes and corrections
6 necessary to conform the assessment of tax to the determination of the board
7 of tax appeals.

1 36. Judicial Review. If a taxpayer, or the Attorney-General on behalf
2 of the State, or the authorities of any taxing district shall desire to contest
3 the final determination of the State Board of Tax Appeals, such contest shall
4 be made by certiorari, but the application therefor may not be made after

5 three months from the date of the certification to the State Tax Commis-
6 sioner of the final determination of the State Board of Tax Appeals.

1 37. **Scope of review.** If it shall be made to appear before the Supreme
2 Court on the writ of certiorari that the final determination of the State
3 Board of Tax Appeals in respect to any such assessment or tax in contro-
4 versy is illegal, excessive, insufficient, or that there has been illegal dis-
5 crimination in the assessment, the court shall correct, adjust and equalize
6 such assessment and tax or refer same back to the State Tax Commissioner
7 who shall correct, adjust and equalize the assessment and tax in accordance
8 with the instructions or decision of the court.

1 38. **Payment pending litigation.** If the writ shall be allowed to a tax-
2 payer, it shall pay to the State Treasurer, as a condition for prosecuting the
3 writ, the amount of the taxes then not in substantial controversy. If the
4 taxpayer and the Attorney-General or the authorities of the taxing district,
5 as the case may be, are unable to agree on the amount of taxes then not in
6 substantial controversy, such amount shall be determined by the court or
7 justice by whom the writ is allowed, either directly or by a reference to a
8 Supreme Court commissioner. Upon the payment of the amount of taxes
9 then not in substantial controversy, the payment or collection of the re-
10 mainder of the taxes shall be stayed until the final determination by the
11 Supreme Court on the writ of certiorari, notwithstanding any law to the con-
12 trary.

1 39. **Irregularities; collateral attack.** In any suit or proceeding, except
2 on complaint before the State Board of Tax Appeals or on certiorari, the
3 certificate and report of the commissioner to the State Comptroller shall be
4 conclusive and shall have the force and effect of a judgment of a court of
5 record having competent jurisdiction and the proceeding whereon such cer-
6 tificate and report are founded shall not be inquired into. No assessment
7 or tax shall be set aside for misnomer of the owner of the property as-
8 sessed but the name may be corrected at any time by the State Tax Com-
9 missioner, the State Board of Tax Appeals or the court.

1 40. Fees. The prosecutor of the writ of certiorari shall pay eight cents
2 (\$0.08) per folio to the State Tax Commissioner and the State Comptroller
3 for returns made by them of proceedings under this act.

1 41. State and local assessment of same property. If property of a tax-
2 payer has or shall have been, in any year, assessed by the local authorities
3 of a taxing district, and has or shall have been also assessed by the State
4 Tax Commissioner as property used for railroad purposes, the Supreme
5 Court or any three justices thereof, assigned by the Chief Justice, shall de-
6 termine, in a summary manner, the character of the property and whether
7 used for railroad purposes and by whom it has lawfully been assessed. This
8 determination shall be made whether the taxes in question have been paid or
9 not and whether a certiorari to review either assessment has been granted or
10 not.

1 42. Hearing; procedure. The determination shall be made under an
2 order to show cause at a time and place to be therein designated. The order
3 shall be granted by the Chief Justice of the Supreme Court upon applica-
4 tion ex parte by any of the parties interested, namely, by the Attorney-
5 General on behalf of the State, by the taxpayer, or by the authorities of the
6 taxing district.

7 The order shall be served upon the parties interested not making such
8 application, not less than ten days before the day fixed therein for the hear-
9 ing. Depositions to be used on such hearing may be taken on two days'
10 notice by either party.

1 43. Judgment; costs. The justices before whom the matter shall be
2 heard may if they see fit view the property in dispute, to guide them in their
3 decision. The judgment of the court shall direct the cancellation or reduc-
4 tion of either assessment, as the character of the property may require, and
5 shall make such order as to the return to the taxpayer any tax or portion
6 thereof, that may have been paid to the State, or to any taxing district not
7 entitled thereto, as the court shall deem just. The payment of costs may
8 be directed in such manner as the court may deem equitable. The judgment

9 shall be conclusive and final in all collateral proceedings, but may be reviewed
10 on appeal by the Court of Errors and Appeals.

ARTICLE VII

RETURNS AND PAYMENT OF TAX

- 1 44. Returns of information.
2 45. Returns; form and content.
3 46. Payment; date due.
4 47. Recovery from owner for taxes paid.
5 48. Payment by person interested.
6 49. Payment pending litigation; credits.
7 50. Payment pending litigation; distribution.
8 51. Extension of time.
9 52. Penalties.
10 53. Interest.

1 44. Returns of information. a. On or before March first in each year,
2 every taxpayer shall return to the commissioner statements or schedules
3 showing the character and value of all its property, as it existed on the
4 first day of January preceding, its capitalization and its indebtedness.

5 b. On or before April fifteenth in each year, every taxpayer shall also
6 return to the commissioner statements or schedules showing its railway
7 operating revenues of the preceding year, all deductions therefrom, and the
8 net railway operating income remaining after such deductions.

1 45. Returns; form and content. All statements and schedules required
2 to be returned to the commissioner shall be made and prepared in such
3 detail, and shall contain such additional information necessary or convenient
4 for the proper administration and collection of the taxes imposed by this
5 act, as the commissioner may by regulation prescribe. Returns made by
6 corporations shall be sworn to by the president, vice-president or other
7 principal officer and by the treasurer, assistant treasurer, or chief account-
8 ing officer. Whenever a receiver, trustee or assignee is operating the prop-
9 erty or business of a taxpayer, the receiver, trustee or assignee shall make

10 returns and tax payments in the same manner and form as are required of
11 the taxpayer.

1 46. Payments; due dates. The full amount of franchise tax assessed
2 by the commissioner shall be due and delinquent on November fifteenth in
3 each year.

4 On December first in each year, the full amount of property tax pay-
5 able under this act shall be due and delinquent.

6 All payments shall be made to the State Treasurer.

1 47. Recovery from owner for taxes paid on cars used. Any taxpayer
2 shall pay taxes assessed pursuant to this act upon any cars, hired, leased,
3 run or used in this State, shall have a right of action against the company
4 or person owning the cars, for the taxes so paid with interest thereon from
5 date of payment, and may sue therefor in any court of competent jurisdic-
6 tion. Nothing in this section shall be so construed as to avoid the obligation
7 of a contract relating to the payment of taxes entered into or made, prior
8 to March twenty-seventh, one thousand eight hundred and eighty-eight,
9 between any such company, its agents, or person owning such cars, and any
10 such railroad company.

1 48. Payment by person interested. If a taxpayer shall be in default in
2 the payment of taxes under this act, a person having an interest in a mort-
3 gage or other lien on its franchises or property, may pay the State Treasurer
4 the amount of such State tax and the interest due thereon, and receive from
5 the treasurer a certificate of such payment. He shall thereupon be entitled
6 to be repaid the amount of the tax and interest thereon at the rate of twelve
7 per centum (12%) per annum out of the first proceeds of any sale of the
8 franchises or property of the company, and the tax and interest thereon
9 shall continue a lien on the franchise and property of the company, for the
10 benefit of the holder of or person interested in the mortgage or lien until
11 paid by the company from the sale of its franchises or property. If pro-
12 ceedings have been taken by the Attorney-General to enforce the payment of
13 the tax and interest thereon, the holder of or person interested in a mort-

14 gage or lien paying the tax and interest shall pay each additional amount
 15 as a justice of the Supreme Court shall certify to be proper and reasonable
 16 for the expenses and services of the proceedings as far as they have
 17 progressed for the collection of the tax and interest thereon.

1 49. Payment pending litigation; credits. Any taxpayer may pay the
 2 amount of an assessment into the State treasury, notwithstanding litigation
 3 may be pending as to the validity of the whole or any part of said tax, and
 4 if it shall be determined in any litigation that the whole or any part of the
 5 tax so paid has been unlawfully assessed or imposed, the State Treasurer
 6 shall give credit for such overpayment to the taxpayer so paying, upon the
 7 taxes next legally levied and payable into the State treasury subsequent to
 8 the determination of any such litigation.

1 50. Payments pending litigation; distribution. Notwithstanding any law
 2 prohibiting the distribution of money received by the treasurer in payment
 3 of railroad taxes during the pendency of an action by writ of certiorari
 4 involving the legality of such taxes, any money received by the treasurer
 5 under the provisions of section forty-nine of this act may be forthwith appor-
 6 tioned and disbursed by the treasurer to the agencies which would be entitled
 7 thereto if no writ of certiorari were pending.

1 51. Extension of time. The commissioner, for good and sufficient cause,
 2 may grant reasonable extensions of time for the filing of returns required
 3 by this act on such terms as he may consider advisable.

1 52. Penalties. If any taxpayer shall willfully neglect to make returns
 2 as required by this act, he or it shall forfeit as a penalty not exceeding ten
 3 thousand dollars (\$10,000.00) for each offense to be assessed by a jury. The
 4 penalty shall be recovered by an action at law in the Supreme Court,
 5 brought in the name of the State, and shall be paid into the State treasury.
 6 The commissioner shall certify any such default to the Attorney-General, who
 7 shall prosecute the action for the penalty.

1 53. Interest. Taxes heretofore imposed pursuant to any law for the
 2 taxation of property used for railroad and canal purposes or hereafter im-

3 posed pursuant to this act, or any unpaid portion thereof, shall bear interest
 4 from and after the date upon which they became or may become due and
 5 delinquent at the rate of one per centum (1%) for each month until paid,
 6 notwithstanding the prosecution of a writ of certiorari or other remedy.

ARTICLE VIII

COLLECTION

1 54. Lien of taxes.

2 55. Tax a debt; preference.

3 56. Collection not to be stayed.

4 57. Entry of judgment.

5 58. Suit to enforce lien.

6 59. Parties to proceedings.

7 60. Adjudication and decree.

8 61. Receivership.

1 54. Lien of taxes. The taxes imposed by this act or heretofore imposed
 2 pursuant to any act for the taxation of property used for railroad and canal
 3 purposes shall be and remain a lien paramount to all other liens upon the
 4 revenues and all the real and personal property owned, used or controlled by
 5 the taxpayer within this State. The lien shall take effect as of the first day
 6 of the year in which the tax is payable.

1 55. Tax a debt; preference. The taxes imposed by this act or heretofore
 2 imposed shall be and remain a debt due from the taxpayer to the State for
 3 which an action at law or suit in equity may be maintained, and shall be a
 4 preferred debt in case of insolvency.

1 56. Collection not to be stayed. The payment or collection of taxes here-
 2 tofore or hereafter assessed to any taxpayer shall not be stayed by the writ
 3 or order of any court, except as otherwise provided in section thirty-eight of
 4 this act.

1 57. Entry of judgment. As an additional or alternative remedy, the
 2 State Comptroller may issue a certificate to the clerk of the Supreme Court
 3 that a taxpayer is indebted under this or any former act for the taxation of

4 railroads in such an amount as shall be named in such certificate, and there-
 5 upon the clerk to whom such certificate shall have been issued shall immedi-
 6 ately enter upon his record of docketed judgments the name of such tax-
 7 payer, and of the State, the amount of the debt so certified, a short name of
 8 the tax, and the date of making such entries. The making of the entries
 9 shall have the same force and effect as the entry of a docketed judgment in
 10 the office of such clerk, and the State Comptroller shall have all of the
 11 remedies and may take all of the proceedings for the collection thereof which
 12 may be had or taken upon the recovery of a judgment in an action at law
 13 upon contract, but without prejudice to the taxpayer's right of appeal.

1 58. Suit to enforce lien. In any case, where there has been a refusal or
 2 neglect to pay any tax heretofore or hereafter assessed to any taxpayer
 3 under this or any other act, and it has become necessary to seize and sell
 4 property and rights to property, whether real or personal, to satisfy the
 5 same, the Attorney-General at the request of the State Comptroller may
 6 direct a bill in chancery to be filed, to enforce the lien of the State for the tax
 7 upon any property and rights to property, whether real or personal, or to
 8 subject any such property and rights to property owned by the delinquent
 9 taxpayer or in which it has any right, title, or interest, to the payment of
 10 such tax.

1 59. Parties to proceedings. All persons having liens upon or claiming
 2 any interest in the property or rights to property sought to be subjected as
 3 aforesaid shall be made parties to such proceedings and be brought into
 4 court.

1 60. Adjudication and decree. The court shall, after the parties have
 2 been duly notified of the proceedings, proceed to adjudicate all matters in-
 3 volved therein and finally determine the merits of all claims to and liens
 4 upon the property and rights to property in question, and, in all cases where
 5 a claim or interest of the State therein is established, may decree a sale of
 6 such property and rights to property, by the proper officer of the court, and
 7 a distribution of the proceeds of such sale according to the findings of the
 8 court in respect to the interests of the parties and of the State.

1 61. Receivership. In any such proceeding, at the instance of the At-
 2 torney-General, the court may appoint a receiver to enforce the lien, or, upon
 3 certification by the State Comptroller during the pendency of such proceed-
 4 ings that it is in the public interest, may appoint a receiver with all the
 5 powers of a receiver in equity.

ARTICLE IX

ADMINISTRATION AND PROCEDURE

- 1 62. Rules and regulations.
 2 63. Audits and investigations.
 3 64. Hearings; oaths.
 4 65. Subpoenas.
 5 66. Employment of technical assistants.
 6 67. Personal knowledge of commissioner.
 7 68. Attendance of Attorney-General.
 8 69. Employment of assistant counsel.
 9 70. Criminal penalties.
 10 71. False swearing.
 11 72. Offenses committed at Trenton.

1 62. Rules and regulations. The commissioner is hereby authorized and
 2 empowered to interpret and carry into effect the provisions of this act and
 3 in pursuance thereof to make and enforce such rules and regulations as he
 4 may deem necessary.

1 63. Audits and investigations. For the purpose of administering this
 2 act, the commissioner, whenever he deems it expedient, may make or cause
 3 to be made by an employee of the State Tax Department, engaged in the ad-
 4 ministration of this act, an audit, examination, or investigation of the books,
 5 records, papers, vouchers, accounts, and documents of any taxpayer, and
 6 also field surveys, inspections and examinations of all lands and physical
 7-10 property. It shall be the duty of every taxpayer and of every director,
 11 officer, agent or employee of every taxpayer to exhibit to the commissioner
 12 or to any such employee of the State Tax Department all such books, rec-

13 ords, papers, vouchers, accounts, and documents of the taxpayer and to
 14 facilitate any such audit, examination, field examination or investigation so
 15 far as it may be in its or their power so to do. It shall be lawful for the
 16 commissioner, or any employee in the State Tax Department by him there-
 17 unto designated to take the oath of any person signing any application, dep-
 18 osition, statement, or report required by the commissioner in the
 19 administration of this act. If any returns are not made, the commissioner
 20 shall ascertain the necessary facts from the best information he can obtain
 21 and in such manner as he may find convenient, using his personal knowledge
 22 and judgment.

1 64. Hearings; oaths. The commissioner, or any employee of the State
 2 Tax Department he may designate, may conduct hearings, administer oaths
 3 to, and examine under oath, any taxpayer and the directors, officers, agents,
 4 and employees of any taxpayer and as well all other witnesses relative to
 5 the liability of the taxpayer for any taxes pursuant to the provisions of
 6 this act.

1 65. Subpœnas. The commissioner may issue subpœnas to compel the at-
 2 tendance of witnesses and the production of books and papers. He shall
 3 have power to administer oaths to ascertain facts to enable him properly to
 4 perform his duties, and may reduce the statements of the person sworn to
 5 writing and require him to swear and subscribe thereto. The commissioner
 6 may, ex parte, apply for and obtain from a justice of the Supreme Court
 7 an order to compel a person to submit to examination in reference to such
 8 matters, and the justice may punish a person disobeying any such order as
 9 for a contempt.

1 66. Employment of technical assistants. In order to obtain the facts
 2 necessary for the discharge of his duties under this act, the commissioner
 3 may use such lawful means as he may deem necessary. He may employ such
 3½ assistants in making his valuations as may be necessary to complete them
 4 in due time. All such persons, whose compensation is not fixed by statute
 5 or otherwise determinable by authority of law, shall be paid such reason-

6 able compensation as may be fixed by the commissioner with the approval
7 of the Governor, and within the limits of appropriations available therefor.

1 67. Personal knowledge of commissioner. The commissioner shall be
2 entitled to use his personal knowledge and judgment as to the value of any
3 property which he is required to assess, upon original assessment or upon
4 review thereof.

1 68. Attendance of Attorney-General. The Attorney-General shall attend
2 the hearings of the State Tax Commissioner in person or by such deputy as
3 he may appoint for that purpose.

1 69. Employment of assistant counsel. The Attorney-General may, with
2 the approval of the Governor and Comptroller, employ such assistant attor-
3 neys or counsel as may be necessary to protect and properly defend the in-
4 terest of the State, in carrying out the provisions of this act. All such per-
5 sons, whose compensation is not fixed by statute or otherwise determinable
6 by authority of law, shall be paid such compensation by the State as the
7 Attorney-General and the Comptroller shall approve, within the limits of
8 appropriations available therefor.

1 70. Criminal penalties. Any person who shall fail to file any report
2 required to be filed pursuant to the provisions of this act, or shall file or
3 cause to be filed with the commissioner any false or fraudulent report or
4 statement, or shall aid or abet another in the filing with the commissioner
5 of any false or fraudulent report or statement, with the intent to defraud
6 the State or evade the payment of any tax, fee, penalty or interest or any
7 part thereof, which shall be due pursuant to the provisions of this act, shall
8 be guilty of a misdemeanor and, upon conviction, shall be fined not to
9 exceed one thousand dollars (\$1,000.00) or be imprisoned not to exceed three
10 years, or both, at the discretion of the court.

1 71. False swearing. Any person who shall swear to, affirm, or verify
2 any false or fraudulent statement with intent to evade the payment of any
3 tax or who being under oath, shall testify falsely at any hearing held pur-
4 suant to the provisions of this act shall be guilty of perjury.

1 **72. Offenses committed at Trenton.** The failure to do any act required
 2 to be done by, or under the provisions of, this act shall be deemed an act
 3 committed in part at the office of the commissioner in Trenton. The cer-
 4 tificate of the commissioner to the effect that any act required to be done
 5 by, or under the provisions of, this act has not been done, shall be prima
 6 facie evidence that such act has not been done.

ARTICLE X

MISCELLANEOUS PROVISIONS AND REPEALERS

1 **73. Payment and returns for 1941.**

2 **74. Construction; other taxes.**

3 **75. Repealers.**

4 **76. Effective date.**

1 **73. Payment and returns for 1941.** The commissioner is hereby author-
 2 ized and required to accept, without interest or penalty, returns of infor-
 3 mation and payments of taxes for the first year in which this act is opera-
 4 tive within the times specifically limited therefor, or at any time within
 5 thirty days after the effective date of this act, whichever date is later. In
 6 the first year for which this act is operative, valuations made by the com-
 7 missioner for that year under chapters nineteen through twenty-nine, inclu-
 8 sive, of Title 54 of the Revised Statutes shall constitute the basis of prop-
 9 erty assessments under this act. Nothing in this section shall be construed
 10 to relieve any taxpayer of any requirement of payment or collection of taxes
 11 other than by temporary extension of time necessitated by the enactment
 12 hereof after the respective dates for action required hereunder.

1 **74. Construction; other taxes.** All other State and local taxes of or
 2 upon franchises or property used for railroad purposes, which may have
 3 been assessed for the first year in which this act becomes effective upon any
 4 taxpayer subject to taxation hereunder prior to the enactment of this act,
 5 shall abate and be cancelled of record as of the effective date hereof. This
 6 act shall be construed as a revision of chapters nineteen through twenty-
 7 nine, inclusive, of Title 54 of the Revised Statutes, and nothing herein shall
 8 be construed to affect any pending litigation, nor to repeal, abate, cancel,

9 cause to lapse or otherwise affect in any manner any assessment or the lien
10 or obligation to pay any taxes heretofore assessed to any taxpayer, or the
11 legal authority to collect taxes, interest and penalties which have accrued
12 under any provision of law repealed by this act, or under any other law,
13 except as specifically provided in this act. Nor shall this act affect in any
14 manner any distribution, allotment or apportionment of tax receipts made or
15 required to be made under any provision of law repealed by this act.

1 75. Repealers. Chapters nineteen through twenty-nine, inclusive, of Title
2 54 of the Revised Statutes are hereby repealed.

3 Chapter 91, of the laws of 1885;

4 Chapter 275, of the laws of 1886;

5 Chapter 333, of the laws of 1921; and

6 Chapter 423, of the laws of 1933;

7 are hereby repealed.

1 76. Effective date. This act shall take effect immediately.

[OFFICIAL COPY REPRINT]

ASSEMBLY, No. 547

STATE OF NEW JERSEY

INTRODUCED JULY 14, 1941

By Mr. SHOLL

(Without Reference)

AN ACT relating to taxation of railroads, and repealing chapters nineteen through twenty-nine, inclusive, of Title 54 of the Revised Statutes, chapter ninety-one of the laws of one thousand eight hundred and eighty-five, chapter two hundred seventy-five of the laws of one thousand eight hundred and eighty-six, chapter three hundred thirty-three of the laws of one thousand nine hundred and twenty-one, and chapter four hundred twenty-three of the laws of one thousand nine hundred and thirty-three.

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

- 1 **Article** **I.** Definitions and General Provisions. (Sections 1-6).
2 **II.** Property Tax. (Sections 7-12).
3 **III.** Franchise Tax. (Sections 13-15).
4 **IV.** Assessment and Disposition. (Sections 16-24).
5 **V.** Reassessment and Omitted Property. (Sections 25-30).
6 **VI.** Appeal and Review. (Sections 31-43).
7 **VII.** Returns and Payment of Taxes. (Sections 44-53).
8 **VIII.** Collection. (Sections 54-61).
9 **IX.** Administration and Procedure. (Sections 62-72).
10 **X.** Miscellaneous Provisions; Repealers. (Sections 73-76).

ARTICLE I

DEFINITIONS AND GENERAL PROVISIONS

- 1 1. Short title.
- 2 2. Definitions.
- 3 3. Exemption of securities.
- 4 4. Property not used for railroad purposes.
- 5 5. Municipal assessment of benefits.
- 6 6. General powers of commissioner.

1 1. Short title. This act shall be known as the "railroad tax law of
2 1941."

1 2. Definitions. As used in this act, unless the context clearly requires
2 a different meaning:

3 "Railroad" means any common carrier by railroad engaged in, owning
3½ or constructing facilities for, the transportation of persons or property in
4 or through this State, other than a street railway or traction company using
5 or occupying the public streets, highways, roads or other public places, the
6 taxation of which is otherwise provided by law.

7 "System" means any independently operating railroad which operates
8 its facilities and those of one or more other railroads as a single utility for
9 furnishing transportation service. A system shall include all companies the
10 property of which is so operated either by virtue of control through direct
11 or indirect ownership of a majority or more of capital stock, or under
12 lease, trackage rights or under any other form of contract, and for which
13 separate operating accounts are not maintained.

14 "Main stem" of a railroad means the roadbed not exceeding one hun-
15 dred feet in width, with its rails and sleepers, and all structures erected
16 thereon and used in connection therewith, not including passenger or freight
17 buildings erected thereon.

18 "Tangible personal property" means the rolling stock, cars, locomotives,
19 ferryboats, all machinery, tools and other tangible personal property of a
20 railroad company, and also the locomotives and cars not belonging to such

21 railroad company but built for its use and actually used in this State, or run
22 under its control in this State by a sleeping car company or other company;
23 but the rolling stock of other persons or corporations temporarily used on
24 any such road, but not forming part of the equipment of such road, shall
25 not be included in the term.

26 "Taxpayer" means any person, railroad or system subject to taxation
27 under the provisions of this act.

28 "Commissioner" means the State Tax Commissioner.

1 3. Exemption of securities. When the real estate and tangible personal
2 property of a taxpayer are assessed and taxed under this act, the shares
3 of stock, bonds and certificates of indebtedness of the taxpayer shall not
4 be taxed in the hands of the shareholders, bondholders or creditors, except as
5 provided in this act.

1 4. Property not used for railroad purposes. All the property of a rail-
2 road company not used for railroad purposes shall be assessed and taxed
3 by the same assessors, in the same manner and at the same rate as the taxable
4 property of other owners in the same taxing district.

1 5. Municipal assessment of benefits. Nothing in this act shall be con-
2 strued to prohibit any municipality from assessing benefits for street, side-
3 walk, sewer or other municipal improvements against any of the property
4 of a railroad in this State, but such assessments shall be made against rail-
5 road property by the same method and by the same officers as are provided
6 by law in the case of assessments against the properties of individuals.

1 6. General Powers of commissioner. The commissioner is hereby au-
2 thorized and empowered to carry into effect the provisions of this act and sub-
3 ject thereto he shall prescribe and publish all needful rules and regulations
4 for its enforcement. He shall keep a record of his proceedings and shall re-
5 port annually to the Legislature.

ARTICLE II

PROPERTY TAX

- 1 7. Property taxable; rate.
- 2 8. Leased property.
- 3 9. Movable property.
- 4 10. Grade crossing improvements exempt.
- 5 11. Assessment in lieu.
- 6 12. Assessment procedure.

1 7. Property taxable; rate. There is hereby levied an annual property tax
2 upon all property used for railroad purposes at the rate of three per centum
3 (3%) upon the true value thereof. The tax hereby imposed shall be assessed
4 by the State Tax Commissioner, in the manner hereinafter provided, for the
5 year one thousand nine hundred and forty-one and for each year thereafter.

1 8. Leased property. If the property of a railroad be leased to or oper-
2 ated by another corporation, foreign or domestic, the property of the lessor,
3 or company whose property is operated, shall be subject to taxation in the
4 manner provided in this act.

1 9. Movable property. Tangible personal property which is used or kept
2 but a part of the time in this State by any railroad shall be assessed such
3 proportionate part of its value as the time it is used or kept in this State
4 during the calendar year preceding bears to the whole year.

1 10. Grade crossing improvements exempt. The value of the main stem
2 of each railroad and the other real estate thereof used for railroad purposes
3 shall be ascertained without including any part of the cost of improvement,
4 relocation, reconstruction, elimination or avoidance of highway grade cross-
5 ings, including State highways, made pursuant to Title 48 of the Revised
6 Statutes, or pursuant to the provisions of an agreement for any of such pur-
7 poses with a municipality made after April twenty-seventh, one thousand
8 nine hundred and thirty-one, but such exemptions shall apply only to main
9 lines and branches existing on April twenty-seventh, one thousand nine hun-
10 dred and thirty-one.

1 11. Assessment in lieu. Taxes assessed pursuant to this act shall be in
2 lieu of all other State or local taxation of or measured by property taxable
3 hereunder, other than assessments for benefits.

1 12. Assessment procedure. Property taxable under this act shall be
 2 assessed by the commissioner to each system and to each railroad not part
 3 of a system by which such property is used for railroad purposes. The
 4 assessment shall be made in the manner hereinafter provided.

ARTICLE III

FRANCHISE TAX

1 13. Franchise excise.

2 14. Franchise base.

3 15. Rate; computation.

1 13. Franchise excise. An annual excise tax is hereby levied upon all rail-
 2 roads operating within this State for the privilege of exercising their respec-
 3 tive franchises, to be computed in the manner hereinafter provided. This
 4 tax shall be in lieu of any other tax or taxes of or upon such franchises.

1 14. Franchise base. A "franchise base" shall be computed for each
 2 year, by allocating such part of the next preceding year's net railway operat-
 3 ing income of each system, and railroad not part of a system, to the State
 4 of New Jersey, as the number of miles of all track over which the railroad
 5 or system operates in this State bears to the total number of miles of all
 6 track over which it operates. The franchise base for each year shall be the
 7 amount so allocated capitalized at three per centum (3%).

8 For the purpose of this section, net railway operating income shall be
 9 computed as total railway operating revenues from all sources, including
 10 any revenue whatever derived directly or indirectly from property which is
 11 used for railroad purposes, less costs of railroad maintenance, operation
 12 and depreciation, railway tax accruals, uncollectible railway revenues,
 13 rentals (both debits and credits) for equipment leased for less than one year
 14 or interchanged, and joint facility rents (both debits and credits). Deduc-
 15 tions from operating revenues for depreciation, additions and betterments,
 16 and compensation for personal services shall be subject to regulation by the
 17 commissioner, as to reasonableness of amount and appropriateness of ac-
 18 counting distribution.

1 15. Rate; computation. The franchise tax shall be assessed at the rate
 2 of three per centum (3%) of the excess of the "franchise base," of each
 3 system and of each railroad not part of a system, over the total taxable
 4 valuation of the previous year of all classes of property used by the rail-
 5 road or system for railroad purposes, as finally determined pursuant to
 6 this act.

ARTICLE IV

ASSESSMENT AND DISPOSITION

1 16. Local assessors; information returns.

2 17. Valuation; notice.

3 18. Valuation; determination.

4 19. Assessment; property tax.

5 20. Assessment; franchise tax.

6 21. Tax statements.

7 22. Certification to comptroller.

8 23. Tax for State use.

9 24. Tax for local use.

1 16. Local assessors; information returns. The assessors in all taxing
 2 districts where property of a railroad not used for railroad purposes shall be
 3 assessed, if required so to do by the State Tax Commissioner, shall certify
 4 and send to the commissioner on or before the second Monday in June in
 5 each year, a statement giving the description of such property included in the
 6 local ratables for that year, and showing the assessed valuation thereof. They
 7 shall also, at the same time, certify and send to him a short description of
 8 all the real property in their respective taxing districts, used or owned for
 9 railroad purposes excepting the main stem or roadbed and track, not exceed-
 10 ing one hundred feet in width of each railroad.

1 17. Valuation; notice. On or before November first in each year the
 2 commissioner shall determine the true value, as of the preceding January
 3 first, of all property used for railroad purposes in this State. He shall, in
 4 such determination, ascertain values according to the following classes: .

5 I. The length and value of the main stem of each railroad, and the
6 length of such main stem in each taxing district;

7 II. The value of the other real estate used for railroad purposes in
8 each taxing district in this State, including the roadbed (other than main
9 stem), tracks, buildings, water tanks, riparian rights, docks, wharves and
10 piers, and all other real estate, except lands not used for railroad
11 purposes;

12 III. The value of all the tangible personal property of each railroad;

13 IV. The value of the remaining property.

14 Upon completion of his valuation of property used for railroad purposes,
15 but not later than December tenth in each year, the commissioner shall
16 deliver a detailed statement thereof, including the several classes of prop-
17 erty, to each taxpayer. On or before January tenth, in each year, the com-
18 missioner shall certify to the county boards of taxation in the several
19 counties the value of Class II property, situate in each taxing district in
20 the county.

1 18. Valuation; determination. Any taxpayer or the Attorney-General
2 on behalf of the State and of the taxing districts claiming that error has been
3 made in the commissioner's valuations may, on or before the third Monday
4 of January following the completion of such valuations, file a petition for
5 review specifying the grounds of complaint and the relief sought. The peti-
6 tion shall be in such form and shall contain such further information as
7 may from time to time be prescribed by the commissioner for the better
8 understanding and determination of the complaint. The commissioner shall
9 conduct a hearing upon such petition, shall review the valuations of which
10 it complains, shall make his determination thereon and correct the same as
11 shall appear just before the first day of April following the filing of the
12 petition.

1 19. Assessment; property tax. On or before May first in each year the
2 commissioner shall compute the tax upon property used for railroad pur-
3 poses and assess the amount thereof to each taxpayer according to his val-
4 uations of the preceding year as corrected.

1 20. Assessment; franchise tax. On or before May first in each year, the
2 commissioner shall compute the franchise tax payable under this act and
3 assess the amount thereof to each taxpayer.

1 21. Tax statements. Within ten days after completion of his assess-
2 ments, the commissioner shall serve upon each taxpayer a statement of the
3 total amount of tax payable, including separately the franchise tax and
4 the manner of computation thereof, and the assessed valuations of property
5 by classes, as described in section seventeen of this act, the latter arranged
6 according to taxing districts and, in the case of system assessments, accord-
7 ing to railroad ownership of the property. The failure of any taxpayer to
8 receive a statement of assessment as herein required shall not invalidate
9 any such assessment or the lien thereof, nor shall it relieve the taxpayer of
10 the obligation of payment of the assessment as required by this act.

1 22. Certification to Comptroller. Within fifteen days after completion
2 of his assessments, the commissioner shall report and certify all assessments
3 and the statements thereof to the State Comptroller. The several state-
4 ments shall be recorded in books kept in the office of the State Comptroller,
5 to be provided by him for that purpose, and shall be public records open to
6 public inspection.

1 23. Tax for State use. All receipts from taxation of property used for
2 railroad purposes other than from assessments of Class II property, as
3 described in section seventeen of this act, together with one-half the receipts
4 from the franchise tax imposed hereunder shall be applied to the uses of the
5 State according to law.

1 24. Tax for local use. a. The entire amount of tax receipts derived from
2 the assessment of Class II property, as described in section seventeen of
3 this act, and one-half the receipts from the franchise tax imposed hereunder
4 shall be, by the State Comptroller, allotted to and paid over to the local tax-
5 ing districts in which such property is situated. Each taxing district shall
6 receive such proportion of the total aforesaid amount of property and franchise
7 tax receipts as the valuations of second-class railroad property situated

8 within the taxing district bears to the total valuation of such property in
9 the State, as valued by the State Tax Commissioner for the purpose of tax-
10 ation under this act.

11 b. The Comptroller shall transmit to each county treasurer a certificate
12 showing the amounts allotted to the taxing districts therein, and shall, on or
13 before December tenth of the year in which the taxes are payable, draw and
14 transmit his warrant upon the State treasury, in favor of the several county
15 treasurers, for the amounts allotted to their several counties. Each county
16 treasurer shall forthwith, and not later than December fifteenth, pay to the
17 collector or other proper officer of each taxing district the amount allotted
18 thereto, deducting, however, the amount due for county taxes from the taxing
19 district. The amount thus paid to the county and taxing district shall be at
20 the disposal of the proper authorities for public purposes.

ARTICLE V

REASSESSMENT; OMITTED PROPERTY

- 1 25. Reassessment; property omitted.
- 2 26. Review of assessment; notice.
- 3 27. Period of limitations.
- 4 28. Certification to Comptroller.
- 5 29. Credit for taxes paid locally.
- 6 30. Disposition of receipts.

1 25. Reassessment; property omitted. a. Whenever the commissioner
2 shall determine that any tax or taxes assessed pursuant to this act were less
3 than or in excess of the amount thereof lawfully assessable, he may correct
4 such deficiency or error by reassessing such tax, or any part thereof.

5 b. Whenever property subject to taxation under this act has or shall
6 have been omitted from assessment by failure of the taxpayer to include it
7 in a return of information, or otherwise, the commissioner may, if he finds
8 that such property has been omitted from his assessment, cause such prop-
9 erty to be assessed for any omitted years in accordance with the provisions of
10 this act.

1 26. Review of assessments; notice. For the purpose of reviewing the
2 assessments made pursuant to section twenty-five of this act, the commis-
3 sioner shall sit on a day to be fixed by him, not later than twenty days after
4 the making of the assessments, of which immediate notice shall be given by
5 the commissioner to the taxpayers affected thereby. The commissioner may
6 adjourn from time to time until he has finished the hearing. Not more than
7 thirty days shall be spent in the review, and the amount of taxes fixed by
8 him shall be due and payable into the State treasury on or before fifteen days
9 after the time limited for the review of the assessments.

1 27. Period of limitations. The power of the State Tax Commissioner to
2 make reassessments or to assess omitted property under this act shall be
3 limited to the period of five years next preceding the year in which the re-
4 assessment or assessment of omitted property is made.

1 28. Certification to Comptroller. The commissioner shall certify the
2 amount of the assessments to the Comptroller, in detail, and shall divide
3 them into taxing districts so that the amount assessed for each year in each
4 taxing district shall appear. The same remedies shall exist for the collec-
5 tion of these taxes as exist for the collection of taxes regularly assessed
6 under this act.

1 29. Credit for taxes paid locally. Any company having paid any tax for
2 the omitted years under an assessment made upon that property or any part
3 thereof by the local assessors, shall be entitled to receive a credit for such
4 payment upon the assessment made under this act by proving to the satisfac-
5 tion of the State Tax Commissioner, and of the State Board of Tax Appeals
6 when such matter is pending before it, during the time herein authorized for
7 the review of such assessments, that such payment was made.

1 30. Disposition of receipts. Any taxes collected upon assessments for
2 omitted property or reassessments made by the commissioner shall be appor-
3 tioned by the Comptroller for the uses of the State and for local uses in the
4 same manner as provided by the law for taxes levied upon property of the
5 same class for the year in question.

ARTICLE VI

APPEAL AND REVIEW

- 1 31. Appeal to State Board of Tax Appeals.
- 2 32. Complaint and notice.
- 3 33. Hearing upon complaint.
- 4 34. Conclusion of hearings.
- 5 35. Certifications.
- 6 36. Judicial review.
- 7 37. Scope of review.
- 8 38. Payment pending litigation.
- 9 39. Irregularities; collateral attack.
- 10 40. Fees.
- 11 41. State and local assessment of same property.
- 12 42. Hearing; procedure.
- 13 43. Judgment; costs.

1 31. Appeal to State Board of Tax Appeals. Any taxpayer, the At-
 2 torney-General on behalf of the State, or the authorities of a taxing district,
 3 desiring to contest the validity or amount of any assessment or reassessment
 4 made by the commissioner under this act, may, on or before the third Mon-
 5 day of June following the assessment thereof, file a written complaint with
 6 the State Board of Tax Appeals, specifying the grounds of complaint and
 7 the relief sought, which shall be in such form and contain such further in-
 8 formation as may be from time to time prescribed by the rules of the State
 9 Board of Tax Appeals for the better understanding and determination of
 10 the complaint.

1 32. Complaint and notice. If the complaint is made by a taxpayer, a copy
 2 of the complaint and notice of application for hearing thereon shall be served
 3 upon the Attorney-General five days before the filing of the complaint by
 4 leaving a copy of the complaint and notice at his office, and in respect to
 5 second-class property in any taxing district, a copy of the complaint and no-
 6 tice of application for hearing thereon shall be served upon the clerk of such

7 taxing district, by leaving a copy of the complaint and notice at his office.
8 If the complaint is made by the Attorney-General or any taxing district, a
9 copy of the complaint and notice of application for hearing thereon shall
10 be served upon the taxpayer five days before the filing of the complaint by
11 leaving a copy of such complaint and notice at its principal office in this
12 State.

1 33. Hearing upon complaint. The State Board of Tax Appeals shall
2 meet on the third Monday of June in each year at the State House, Trenton,
3 for the purpose of fixing a time and place for the hearing of any complaint
4 filed under section thirty-one of this act. The Attorney-General shall ap-
5 pear on behalf of the State before the State Board of Tax Appeals in per-
6 son or by such deputy as he may appoint and designate for that purpose. If
7 it shall be made to appear upon such hearing that any such assessment or
8 tax is illegal, excessive, insufficient or that there has been illegal discrimina-
9 tion in the assessment, the board shall correct, adjust and equalize such as-
10 sessment or tax.

1 34. Conclusion of hearings. The State Board of Tax Appeals shall con-
2 clude its hearing on or before the fifteenth day of October following the fil-
3 ing of the complaint, and between November first and November fifth follow-
4 ing shall certify to the State Tax Commissioner its final determination.

1 35. Certifications. Whenever a final determination of the State Board of
2 Tax Appeals, as certified to the commissioner, corrects, modifies, or other-
3 wise affects the amount or classification of any assessment of property taxes
4 or amends any assessment of franchise tax made by the commissioner,
5 he shall forthwith certify to the Comptroller all changes and corrections
6 necessary to conform the assessment of tax to the determination of the board
7 of tax appeals.

1 36. Judicial Review. If a taxpayer, or the Attorney-General on behalf
2 of the State, or the authorities of any taxing district shall desire to contest
3 the final determination of the State Board of Tax Appeals, such contest shall
4 be made by certiorari, but the application therefor may not be made after

5 three months from the date of the certification to the State Tax Commis-
6 sioner of the final determination of the State Board of Tax Appeals.

1 37. **Scope of review.** If it shall be made to appear before the Supreme
2 Court on the writ of certiorari that the final determination of the State
3 Board of Tax Appeals in respect to any such assessment or tax in contro-
4 versy is illegal, excessive, insufficient, or that there has been illegal dis-
5 crimination in the assessment, the court shall correct, adjust and equalize
6 such assessment and tax or refer same back to the State Tax Commissioner
7 who shall correct, adjust and equalize the assessment and tax in accordance
8 with the instructions or decision of the court.

1 38. **Payment pending litigation.** If the writ shall be allowed to a tax-
2 payer, it shall pay to the State Treasurer, as a condition for prosecuting the
3 writ, the amount of the taxes then not in substantial controversy. If the
4 taxpayer and the Attorney-General or the authorities of the taxing district,
5 as the case may be, are unable to agree on the amount of taxes then not in
6 substantial controversy, such amount shall be determined by the court or
7 justice by whom the writ is allowed, either directly or by a reference to a
8 Supreme Court commissioner. Upon the payment of the amount of taxes
9 then not in substantial controversy, the payment or collection of the re-
10 mainder of the taxes shall be stayed until the final determination by the
11 Supreme Court on the writ of certiorari, notwithstanding any law to the con-
12 trary.

1 39. **Irregularities; collateral attack.** In any suit or proceeding, except
2 on complaint before the State Board of Tax Appeals or on certiorari, the
3 certificate and report of the commissioner to the State Comptroller shall be
4 conclusive and shall have the force and effect of a judgment of a court of
5 record having competent jurisdiction and the proceeding whereon such cer-
6 tificate and report are founded shall not be inquired into. No assessment
7 or tax shall be set aside for misnomer of the owner of the property as-
8 sessed but the name may be corrected at any time by the State Tax Com-
9 missioner, the State Board of Tax Appeals or the court.

1 40. Fees. The prosecutor of the writ of certiorari shall pay eight cents
2 (\$0.08) per folio to the State Tax Commissioner and the State Comptroller
3 for returns made by them of proceedings under this act.

1 41. State and local assessment of same property. If property of a tax-
2 payer has or shall have been, in any year, assessed by the local authorities
3 of a taxing district, and has or shall have been also assessed by the State
4 Tax Commissioner as property used for railroad purposes, the Supreme
5 Court or any three justices thereof, assigned by the Chief Justice, shall de-
6 termine, in a summary manner, the character of the property and whether
7 used for railroad purposes and by whom it has lawfully been assessed. This
8 determination shall be made whether the taxes in question have been paid or
9 not and whether a certiorari to review either assessment has been granted or
10 not.

1 42. Hearing; procedure. The determination shall be made under an
2 order to show cause at a time and place to be therein designated. The order
3 shall be granted by the Chief Justice of the Supreme Court upon applica-
4 tion ex parte by any of the parties interested, namely, by the Attorney-
5 General on behalf of the State, by the taxpayer, or by the authorities of the
6 taxing district.

7 The order shall be served upon the parties interested not making such
8 application, not less than ten days before the day fixed therein for the hear-
9 ing. Depositions to be used on such hearing may be taken on two days'
10 notice by either party.

1 43. Judgment; costs. The justices before whom the matter shall be
2 heard may if they see fit view the property in dispute, to guide them in their
3 decision. The judgment of the court shall direct the cancellation or reduc-
4 tion of either assessment, as the character of the property may require, and
5 shall make such order as to the return to the taxpayer any tax or portion
6 thereof, that may have been paid to the State, or to any taxing district not
7 entitled thereto, as the court shall deem just. The payment of costs may
8 be directed in such manner as the court may deem equitable. The judgment

9 shall be conclusive and final in all collateral proceedings, but may be reviewed
10 on appeal by the Court of Errors and Appeals.

ARTICLE VII

RETURNS AND PAYMENT OF TAX

- 1 44. Returns of information.
2 45. Returns; form and content.
3 46. Payment; date due.
4 47. Recovery from owner for taxes paid.
5 48. Payment by person interested.
6 49. Payment pending litigation; credits.
7 50. Payment pending litigation; distribution.
8 51. Extension of time.
9 52. Penalties.
10 53. Interest.

1 44. Returns of information. a. On or before March first in each year,
2 every taxpayer shall return to the commissioner statements or schedules
3 showing the character and value of all its property, as it existed on the
4 first day of January preceding, its capitalization and its indebtedness.

5 b. On or before April fifteenth in each year, every taxpayer shall also
6 return to the commissioner statements or schedules showing its railway
7 operating revenues of the preceding year, all deductions therefrom, and the
8 net railway operating income remaining after such deductions.

1 45. Returns; form and content. All statements and schedules required
2 to be returned to the commissioner shall be made and prepared in such
3 detail, and shall contain such additional information necessary or convenient
4 for the proper administration and collection of the taxes imposed by this
5 act, as the commissioner may by regulation prescribe. Returns made by
6 corporations shall be sworn to by the president, vice-president or other
7 principal officer and by the treasurer, assistant treasurer, or chief account-
8 ing officer. Whenever a receiver, trustee or assignee is operating the prop-
9 erty or business of a taxpayer, the receiver, trustee or assignee shall make

10 returns and tax payments in the same manner and form as are required of
11 the taxpayer.

1 46. Payments; due dates. The full amount of franchise tax assessed
2 by the commissioner shall be due and delinquent on November fifteenth in
3 each year.

4 On December first in each year, the full amount of property tax pay-
5 able under this act shall be due and delinquent.

6 All payments shall be made to the State Treasurer.

1 47. Recovery from owner for taxes paid on cars used. Any taxpayer
2 shall pay taxes assessed pursuant to this act upon any cars, hired, leased,
3 run or used in this State, shall have a right of action against the company
4 or person owning the cars, for the taxes so paid with interest thereon from
5 date of payment, and may sue therefor in any court of competent jurisdic-
6 tion. Nothing in this section shall be so construed as to avoid the obligation
7 of a contract relating to the payment of taxes entered into or made, prior
8 to March twenty-seventh, one thousand eight hundred and eighty-eight,
9 between any such company, its agents, or person owning such cars, and any
10 such railroad company.

1 48. Payment by person interested. If a taxpayer shall be in default in
2 the payment of taxes under this act, a person having an interest in a mort-
3 gage or other lien on its franchises or property, may pay the State Treasurer
4 the amount of such State tax and the interest due thereon, and receive from
5 the treasurer a certificate of such payment. He shall thereupon be entitled
6 to be repaid the amount of the tax and interest thereon at the rate of twelve
7 per centum (12%) per annum out of the first proceeds of any sale of the
8 franchises or property of the company, and the tax and interest thereon
9 shall continue a lien on the franchise and property of the company, for the
10 benefit of the holder of or person interested in the mortgage or lien until
11 paid by the company from the sale of its franchises or property. If pro-
12 ceedings have been taken by the Attorney-General to enforce the payment of
13 the tax and interest thereon, the holder of or person interested in a mort-

14 gage or lien paying the tax and interest shall pay each additional amount
 15 as a justice of the Supreme Court shall certify to be proper and reasonable
 16 for the expenses and services of the proceedings as far as they have
 17 progressed for the collection of the tax and interest thereon.

1 49. Payment pending litigation; credits. Any taxpayer may pay the
 2 amount of an assessment into the State treasury, notwithstanding litigation
 3 may be pending as to the validity of the whole or any part of said tax, and
 4 if it shall be determined in any litigation that the whole or any part of the
 5 tax so paid has been unlawfully assessed or imposed, the State Treasurer
 6 shall give credit for such overpayment to the taxpayer so paying, upon the
 7 taxes next legally levied and payable into the State treasury subsequent to
 8 the determination of any such litigation.

1 50. Payments pending litigation; distribution. Notwithstanding any law
 2 prohibiting the distribution of money received by the treasurer in payment
 3 of railroad taxes during the pendency of an action by writ of certiorari
 4 involving the legality of such taxes, any money received by the treasurer
 5 under the provisions of section forty-nine of this act may be forthwith appor-
 6 tioned and disbursed by the treasurer to the agencies which would be entitled
 7 thereto if no writ of certiorari were pending.

1 51. Extension of time. The commissioner, for good and sufficient cause,
 2 may grant reasonable extensions of time for the filing of returns required
 3 by this act on such terms as he may consider advisable.

1 52. Penalties. If any taxpayer shall willfully neglect to make returns
 2 as required by this act, he or it shall forfeit as a penalty not exceeding ten
 3 thousand dollars (\$10,000.00) for each offense to be assessed by a jury. The
 4 penalty shall be recovered by an action at law in the Supreme Court,
 5 brought in the name of the State, and shall be paid into the State treasury.
 6 The commissioner shall certify any such default to the Attorney-General, who
 7 shall prosecute the action for the penalty.

1 53. Interest. Taxes heretofore imposed pursuant to any law for the
 2 taxation of property used for railroad and canal purposes or hereafter im-

3 posed pursuant to this act, or any unpaid portion thereof, shall bear interest
 4 from and after the date upon which they became or may become due and
 5 delinquent at the rate of one per centum (1%) for each month until paid,
 6 notwithstanding the prosecution of a writ of certiorari or other remedy.

ARTICLE VIII

COLLECTION

1 54. Lien of taxes.

2 55. Tax a debt; preference.

3 56. Collection not to be stayed.

4 57. Entry of judgment.

5 58. Suit to enforce lien.

6 59. Parties to proceedings.

7 60. Adjudication and decree.

8 61. Receivership.

1 54. Lien of taxes. The taxes imposed by this act or heretofore imposed
 2 pursuant to any act for the taxation of property used for railroad and canal
 3 purposes shall be and remain a lien paramount to all other liens upon the
 4 revenues and all the real and personal property owned, used or controlled by
 5 the taxpayer within this State. The lien shall take effect as of the first day
 6 of the year in which the tax is payable.

1 55. Tax a debt; preference. The taxes imposed by this act or heretofore
 2 imposed shall be and remain a debt due from the taxpayer to the State for
 3 which an action at law or suit in equity may be maintained, and shall be a
 4 preferred debt in case of insolvency.

1 56. Collection not to be stayed. The payment or collection of taxes here-
 2 tofore or hereafter assessed to any taxpayer shall not be stayed by the writ
 3 or order of any court, except as otherwise provided in section thirty-eight of
 4 this act.

1 57. Entry of judgment. As an additional or alternative remedy, the
 2 State Comptroller may issue a certificate to the clerk of the Supreme Court
 3 that a taxpayer is indebted under this or any former act for the taxation of

4 railroads in such an amount as shall be named in such certificate, and there-
5 upon the clerk to whom such certificate shall have been issued shall immedi-
6 ately enter upon his record of docketed judgments the name of such tax-
7 payer, and of the State, the amount of the debt so certified, a short name of
8 the tax, and the date of making such entries. The making of the entries
9 shall have the same force and effect as the entry of a docketed judgment in
10 the office of such clerk, and the State Comptroller shall have all of the
11 remedies and may take all of the proceedings for the collection thereof which
12 may be had or taken upon the recovery of a judgment in an action at law
13 upon contract, but without prejudice to the taxpayer's right of appeal.

1 58. Suit to enforce lien. In any case, where there has been a refusal or
2 neglect to pay any tax heretofore or hereafter assessed to any taxpayer
3 under this or any other act, and it has become necessary to seize and sell
4 property and rights to property, whether real or personal, to satisfy the
5 same, the Attorney-General at the request of the State Comptroller may
6 direct a bill in chancery to be filed, to enforce the lien of the State for the tax
7 upon any property and rights to property, whether real or personal, or to
8 subject any such property and rights to property owned by the delinquent
9 taxpayer or in which it has any right, title, or interest, to the payment of
10 such tax.

1 59. Parties to proceedings. All persons having liens upon or claiming
2 any interest in the property or rights to property sought to be subjected as
3 aforesaid shall be made parties to such proceedings and be brought into
4 court.

1 60. Adjudication and decree. The court shall, after the parties have
2 been duly notified of the proceedings, proceed to adjudicate all matters in-
3 volved therein and finally determine the merits of all claims to and liens
4 upon the property and rights to property in question, and, in all cases where
5 a claim or interest of the State therein is established, may decree a sale of
6 such property and rights to property, by the proper officer of the court, and
7 a distribution of the proceeds of such sale according to the findings of the
8 court in respect to the interests of the parties and of the State.

1 61. Receivership. In any such proceeding, at the instance of the At-
 2 orney-General, the court may appoint a receiver to enforce the lien, or, upon
 3 certification by the State Comptroller during the pendency of such proceed-
 4 ings that it is in the public interest, may appoint a receiver with all the
 5 powers of a receiver in equity.

ARTICLE IX

ADMINISTRATION AND PROCEDURE

- 1 62. Rules and regulations.
 2 63. Audits and investigations.
 3 64. Hearings; oaths.
 4 65. Subpoenas.
 5 66. Employment of technical assistants.
 6 67. Personal knowledge of commissioner.
 7 68. Attendance of Attorney-General.
 8 69. Employment of assistant counsel.
 9 70. Criminal penalties.
 10 71. False swearing.
 11 72. Offenses committed at Trenton.

1 62. Rules and regulations. The commissioner is hereby authorized and
 2 empowered to interpret and carry into effect the provisions of this act and
 3 in pursuance thereof to make and enforce such rules and regulations as he
 4 may deem necessary.

1 63. Audits and investigations. For the purpose of administering this
 2 act, the commissioner, whenever he deems it expedient, may make or cause
 3 to be made by an employee of the State Tax Department, engaged in the ad-
 4 ministration of this act, an audit, examination, or investigation of the books,
 5 records, papers, vouchers, accounts, and documents of any taxpayer, and
 6 also field surveys, inspections and examinations of all lands and physical
 7-10 property. It shall be the duty of every taxpayer and of every director,
 11 officer, agent or employee of every taxpayer to exhibit to the commissioner
 12 or to any such employee of the State Tax Department all such books, rec-

13 ords, papers, vouchers, accounts, and documents of the taxpayer and to
 14 facilitate any such audit, examination, field examination or investigation so
 15 far as it may be in its or their power so to do. It shall be lawful for the
 16 commissioner, or any employee in the State Tax Department by him there-
 17 unto designated to take the oath of any person signing any application, dep-
 18 osition, statement, or report required by the commissioner in the
 19 administration of this act. If any returns are not made, the commissioner
 20 shall ascertain the necessary facts from the best information he can obtain
 21 and in such manner as he may find convenient, using his personal knowledge
 22 and judgment.

1 64. Hearings; oaths. The commissioner, or any employee of the State
 2 Tax Department he may designate, may conduct hearings, administer oaths
 3 to, and examine under oath, any taxpayer and the directors, officers, agents,
 4 and employees of any taxpayer and as well all other witnesses relative to
 5 the liability of the taxpayer for any taxes pursuant to the provisions of
 6 this act.

1 65. Subpœnas. The commissioner may issue subpœnas to compel the at-
 2 tendance of witnesses and the production of books and papers. He shall
 3 have power to administer oaths to ascertain facts to enable him properly to
 4 perform his duties, and may reduce the statements of the person sworn to
 5 writing and require him to swear and subscribe thereto. The commissioner
 6 may, ex parte, apply for and obtain from a justice of the Supreme Court
 7 an order to compel a person to submit to examination in reference to such
 8 matters, and the justice may punish a person disobeying any such order as
 9 for a contempt.

1 66. Employment of technical assistants. In order to obtain the facts
 2 necessary for the discharge of his duties under this act, the commissioner
 3 may use such lawful means as he may deem necessary. He may employ such
 3½ assistants in making his valuations as may be necessary to complete them
 4 in due time. All such persons, whose compensation is not fixed by statute
 5 or otherwise determinable by authority of law, shall be paid such reason-

6 able compensation as may be fixed by the commissioner with the approval
7 of the Governor, and within the limits of appropriations available therefor.

1 67. Personal knowledge of commissioner. The commissioner shall be
2 entitled to use his personal knowledge and judgment as to the value of any
3 property which he is required to assess, upon original assessment or upon
4 review thereof.

1 68. Attendance of Attorney-General. The Attorney-General shall attend
2 the hearings of the State Tax Commissioner in person or by such deputy as
3 he may appoint for that purpose.

1 69. Employment of assistant counsel. The Attorney-General may, with
2 the approval of the Governor and Comptroller, employ such assistant attor-
3 neys or counsel as may be necessary to protect and properly defend the in-
4 terest of the State, in carrying out the provisions of this act. All such per-
5 sons, whose compensation is not fixed by statute or otherwise determinable
6 by authority of law, shall be paid such compensation by the State as the
7 Attorney-General and the Comptroller shall approve, within the limits of
8 appropriations available therefor.

1 70. Criminal penalties. Any person who shall fail to file any report
2 required to be filed pursuant to the provisions of this act, or shall file or
3 cause to be filed with the commissioner any false or fraudulent report or
4 statement, or shall aid or abet another in the filing with the commissioner
5 of any false or fraudulent report or statement, with the intent to defraud
6 the State or evade the payment of any tax, fee, penalty or interest or any
7 part thereof, which shall be due pursuant to the provisions of this act, shall
8 be guilty of a misdemeanor and, upon conviction, shall be fined not to
9 exceed one thousand dollars (\$1,000.00) or be imprisoned not to exceed three
10 years, or both, at the discretion of the court.

1 71. False swearing. Any person who shall swear to, affirm, or verify
2 any false or fraudulent statement with intent to evade the payment of any
3 tax or who being under oath, shall testify falsely at any hearing held pur-
4 suant to the provisions of this act shall be guilty of perjury.

1 **72. Offenses committed at Trenton.** The failure to do any act required
 2 to be done by, or under the provisions of, this act shall be deemed an act
 3 committed in part at the office of the commissioner in Trenton. The cer-
 4 tificate of the commissioner to the effect that any act required to be done
 5 by, or under the provisions of, this act has not been done, shall be prima
 6 facie evidence that such act has not been done.

ARTICLE X

MISCELLANEOUS PROVISIONS AND REPEALERS

1 **73. Payment and returns for 1941.**

2 **74. Construction; other taxes.**

3 **75. Repealers.**

4 **76. Effective date.**

1 **73. Payment and returns for 1941.** The commissioner is hereby author-
 2 ized and required to accept, without interest or penalty, returns of infor-
 3 mation and payments of taxes for the first year in which this act is opera-
 4 tive within the times specifically limited therefor, or at any time within
 5 thirty days after the effective date of this act, whichever date is later. In
 6 the first year for which this act is operative, valuations made by the com-
 7 missioner for that year under chapters nineteen through twenty-nine, inclu-
 8 sive, of Title 54 of the Revised Statutes shall constitute the basis of prop-
 9 erty assessments under this act. Nothing in this section shall be construed
 10 to relieve any taxpayer of any requirement of payment or collection of taxes
 11 other than by temporary extension of time necessitated by the enactment
 12 hereof after the respective dates for action required hereunder.

1 **74. Construction; other taxes.** All other State and local taxes of or
 2 upon franchises or property used for railroad purposes, which may have
 3 been assessed for the first year in which this act becomes effective upon any
 4 taxpayer subject to taxation hereunder prior to the enactment of this act,
 5 shall abate and be cancelled of record as of the effective date hereof. This
 6 act shall be construed as a revision of chapters nineteen through twenty-
 7 nine, inclusive, of Title 54 of the Revised Statutes, and nothing herein shall
 8 be construed to affect any pending litigation, nor to repeal, abate, cancel,

9 cause to lapse or otherwise affect in any manner any assessment or the lien
10 or obligation to pay any taxes heretofore assessed to any taxpayer, or the
11 legal authority to collect taxes, interest and penalties which have accrued
12 under any provision of law repealed by this act, or under any other law,
13 except as specifically provided in this act. Nor shall this act affect in any
14 manner any distribution, allotment or apportionment of tax receipts made or
15 required to be made under any provision of law repealed by this act.

1 75. Repealers. Chapters nineteen through twenty-nine, inclusive, of Title
2 54 of the Revised Statutes are hereby repealed.

3 Chapter 91, of the laws of 1885;

4 Chapter 275, of the laws of 1886;

5 Chapter 333, of the laws of 1921; and

6 Chapter 423, of the laws of 1933;

7 are hereby repealed.

1 76. Effective date. This act shall take effect immediately.