PROPERTY OF
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CITY OF JERSEY CITY, a municipal corporation,
et al., Prosecutors-Appellees,

vs

WILLIAM D. KELLY, State Tax Commissioner of
New Jersey, et al., Respondent-Appelles,

and

LEHIGH VALLEY RAILROAD SYSTEM? ERIE RAILROAD
SYSTEM, DELAWARE, LACKAWANNA and WESTERN
RAILROAD SYSTEM, HUDSON and MANHATTAN RAIL-
ROAD SYSTEM, PENNSYLVANIA RAILROAD SYSTEM
and NEW YORK CENTRAL RAILROAD SYSTEM,
Respondents-Appellants.

JAMES T. OWENS, Prosecutor-Appellee,

vs

WILLIAM D. KELLY, State Tax Commissioner of
New Jersey, et al., Respondents-A ppellees,

and

LEHIGH VALLEY RAILROAD SYSTEM, ERIE RAIL-
ROAD SYSTEM, DELAWARE, LACKAWANNA nad
WESTERN RAILRAOD SYSTEM, HUDSON and
MANHATTAN RAILROAD SYSTEM, PENNSYLVANIA
RAILROAD SYSTEM and NEW YORK CENTRAL
RAILROAD SYSTEM, Respondents-Appellants.

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Pleadings On Certiorari to Review Assessments Under Chapter 291, Laws of 1941.

Writ of Certiorari.

(Filed December 23, 1941.)

THE STATE OF NEW JERSEY,

To: WILLIAM D. KELLY, State Commissioner of the State of New Jersey; HOMER C. ZINK, Comptroller of the State of New Jersey; and WILLIAM H. ALBRIGHT, Treasurer of the State of New Jersey, GREETING:

(L.S.)

We being willing for certain reasons to be certified of and concerning all assessments for taxation made under and pursuant to Chapter 291 of the Laws of 1941, for the year 1941, as well as of all assessments of railroad property made under R. S. Section 54:19–1 et seq., for the year 1941, and of all records and proceedings relating to such assessments, we command you, the said William D. Kelly, State Tax Commissioner, you, Homer C. Zink, the said State Comptroller, and you, William H. Albright, Treasurer of the State of New Jersey, that the said assessments, records and proceedings and all things touching and concerning the same as fully and as entirely before you remain or are in your custody and control, you do certify and send, together with this writ, to our Justices of our Supreme Court of Judicature at Trenton, New Jersey, on the 12th day of January, 1942, that therein may be caused to be done what of right and according to law ought to be done.

Writ of Certiorari.

WITNESS, HONORABLE THOMAS J. BROGAN, Chief Justice of our said Supreme Court at Trenton, this 23rd day of December, 1941.

FRED L. BLOODGOOD,
Clerk.

CHARLES A. ROONEY,
Attorney for Prosecutors, City of Jersey City, Janice Realty Corporation, William A. Nolan, Elmer A. Davison, Albert Burleigh, and Anna Pfitzner.

JOHN J. FALLON,
Attorney for Prosecutor, The Mayor and Council of the City of Hoboken, and August Eggert.

JOHN N. PLATOFF,
Attorney for Prosecutors, Township of Weehawken, and Harry C. Moore.

IRWIN RUBENSTEIN,
Attorney for Prosecutors, Town of West New York, and Bert Newman.

CHARLES HERSHENSTEIN,
Of Counsel with Prosecutors.

A true copy,
FRED L. BLOODGOOD,
Clerk.

Writ of Certiorari.

(Endorsed on Back)

NEW JERSEY SUPREME COURT.

City of Jersey City, a municipal corporation; The Mayor and Council of the City of Hoboken, a municipal corporation; Town of West New York, Hudson County, New Jersey, a municipal corporation; Township of Weehawken, in the County of Hudson, a municipal corporation; Janice Realty Corporation, a corporation; William Nolan; Elmer A. Davison; August Eggert; Harry C. Moore; Bert Newman; Albert Burleigh; and Anna Pfitzner, *Prosecutors,*

vs.

William D. Kelly, State Tax Commissioner of New Jersey, and the other respondents who are named on page 2 of the backing annexed hereto and made a part hereof,

Respondents.

WRIT OF CERTIORARI.

Charles A. Rooney,
Attorney for Prosecutors,
City Hall, Jersey City, N. J.

Charles Hershenstein, of Counsel.

This writ is allowed. Let it be sealed. Depositions may be taken on four days' notice. Notwithstanding the allowance of this writ, the defendant taxpayers are hereby permitted to pay

to the Treasurer of the State of New Jersey the amount of taxes assessed against such taxpayers for the year 1941 under Chapter 291 of the Laws of 1941; and the Comptroller of the State of New Jersey are permitted forthwith to distribute the tax receipts heretofore paid, derived from the assessments of Class II railroad property for the year 1941, and to distribute hereafter all other tax moneys paid under and pursuant to Chapter 291 of the Laws of 1941, in accordance with law. The payment of the moneys by the taxpayers, the distribution by the Comptroller and Treasurer, and the receipt of such moneys by any taxing district shall be without prejudice to the determination of the issues raised on this writ of certiorari, or to any rights of the taxpayers with respect to any taxes so paid. The allowance of this writ shall be without prejudice to any right of the parties hereto to take and prosecute appeals from any railroad tax assessments to the State Board of Tax Appeals with respect to valuation of property and computation of taxes.

NEWTON H. PORTER, J.S.C.

December 22, 1941.

A true copy,
FRED L. BLOODGOOD,
Clerk.

The following are additional respondents to this writ:

Homer C. Zink, Comptroller of the State of New Jersey;

William H. Albright, Treasurer of the State of New Jersey;

The Pennsylvania Railroad Company, a corporation of Pennsylvania;

The Belvidere Delaware Railroad Company, a corporation of New Jersey and Pennsylvania;

Camden and Burlington County Railway Company, a corporation of New Jersey;

Delaware River Railroad and Bridge Company, a corporation of New Jersey and Pennsylvania;

The Freehold & Jamesburg Agricultural Railroad Company, a corporation of New Jersey;

Harrison and East Newark Connecting Railroad Company, a corporation of New Jersey;

The New York Bay Railroad Company, a corporation of New Jersey;

Pennsylvania and Atlantic Railroad Company, a corporation of New Jersey;

Pennsylvania Tunnel and Terminal Railroad Company, a corporation of New Jersey and New York;

Perth Amboy and Woodbridge Railroad Company, a corporation of New Jersey;

The Rocky Hill Railroad and Transportation Company, a corporation of New Jersey;

The United New Jersey Railroad and Canal Company, a corporation of New Jersey;

Pennsylvania-Reading Seashore Lines, a corporation of New Jersey;

West Jersey and Seashore Railroad Company, a corporation of New Jersey;

Atlantic City Railroad Company of New Jersey, a corporation;

The Delaware and Bound Brook Railroad Company, a corporation of New Jersey;

The East Trenton Railroad Company, a corporation of New Jersey;

The Port Reading Railroad Company, a corporation of New Jersey;

The Dover and Rockaway Railroad Company, a corporation of New Jersey;

Mount Hope Mineral Railroad Company, a corporation of New Jersey;

The New York and Long Branch Railroad Company, a corporation of New Jersey;

The Golden Mine Railroad Company, a corporation of New Jersey;

Wharton and Northern Railroad Company, a corporation of New Jersey;

The Delaware, Lackawanna and Western Railroad Company, a corporation of Pennsylvania;

The Chester Railroad Company, a corporation of New Jersey;

The Lackawanna Railroad Company of New Jersey, a corporation of New Jersey;

The Morris and Essex Railroad Company, a corporation of New Jersey;

The Morris and Essex Extension Railroad Company, a corporation of New Jersey;

The Newark and Bloomfield Railroad Company, a corporation of New Jersey;

The Passaic and Delaware Railroad Company, a corporation of New Jersey;

The Passaic and Delaware Extension Railroad Company, a corporation of New Jersey;

The Sussex Railroad Company, a corporation of New Jersey;

The Warren Railroad Company, a corporation of New Jersey;

The Arlington Railroad Company, a corporation of New Jersey;

The Bergen County Railroad Company, a corporation of New Jersey;

Bergen and Dundee Railroad Company, a corporation of New Jersey;

The Caldwell Railway Company, a corporation of New Jersey;

The Docks Connecting Railway Company, a corporation of New Jersey;

The Long Dock Company, a corporation of New Jersey;

Newark and Hudson Railroad Company, a corporation of New Jersey;

The New York and Greenwood Lake Railway Company, a corporation of New Jersey;

New York, Lake Erie and Western Docks and Improvement Company, a corporation of New Jersey;

The Paterson and Hudson River Railroad Company, a corporation of New Jersey;

The Paterson, Newark and New York Railroad Company, a corporation of New Jersey;

The Paterson and Ramapo Railroad Company, a corporation of New Jersey;

Penhorn Creek Railroad Company, a corporation of New Jersey;

The Roseland Railway Company, a corporation of New Jersey;

Lehigh Valley Railroad Company, a corporation of Pennsylvania;

Bay Shore Connecting Railroad Company, a corporation of New Jersey;

Lehigh Valley Harbor Terminal Railway Company, a corporation of New Jersey;

Lehigh Valley Railroad Company of New Jersey, a corporation of New Jersey;

The New York Central Railroad Company, a corporation;

New Jersey Junction Railroad Company, a corporation of New Jersey;

New York and Fort Lee Railroad Company, a corporation of New Jersey;

West Shore Railroad Company, a corporation;

The Hackensack and Lodi Railroad Company, a corporation of New Jersey;

The Lodi Branch Railroad Company, a corporation of New Jersey;

Passaic and New York Railroad Company, a corporation of New Jersey;

Atlantic City & Ocean City Railroad Company, a corporation of New Jersey;

Atlantic City & Shore Railroad Company, a corporation of New Jersey;

Baltimore & New York Railway Company, a corporation of New Jersey;

The Baltimore and Ohio Railroad Company, a corporation;

East Jersey Railroad and Terminal Company, a corporation of New Jersey;

Ferromonte Railroad Company, a corporation of New Jersey;

Hoboken Manufacturers Railroad Company, a corporation of New Jersey;

Hoboken Railroad Warehouse and Steamship Connecting Company, a corporation of New Jersey;

Hudson & Manhattan Railroad Company, a corporation of New Jersey;

Hudson Railroad and Transportation Company, a corporation of New Jersey;

The Lehigh and Hudson River Railway Company, a corporation of New Jersey;

Lehigh and New England Railroad Company, a corporation of New Jersey;

The Lucaston Railroad Company, a corporation of New Jersey;

Morristown & Erie Railroad Company, a corporation;

The Pohatcong Railroad Company, a corporation of New Jersey;

Rahway Valley Railroad Company, a corporation of New Jersey;

Rahway Valley Company, Lessee, a corporation of New Jersey;

Rahway Valley Line, a corporation of New Jersey;

Raritan River Railroad Company, a corporation of New Jersey;

Southern New Jersey Railroad Company, a corporation of New Jersey;

The Union Transportation Company, a corporation of New Jersey;

The Pemberton and Hightstown Railroad Company, a corporation of New Jersey;

Erie Terminals Railroad Company, a corporation of New Jersey;

Raritan Terminal & Transportation Company, a corporation of New Jersey;

Reading Company, a corporation;

Staten Island Rapid Transit Railway Company, a corporation.

A true copy,
FRED L. BLOODGOOD,
Clerk.

Writ of Certiorari.

(Filed December 23, 1941.)

THE STATE OF NEW JERSEY,

To: WILLIAM D. KELLY, State Tax Commissioner of the State of New Jersey; HOMER C. ZINK, Comptroller of the State of New Jersey; WILLIAM H. ALBRIGHT, Treasurer of the State of New Jersey; CITY OF NEWARK, a municipal corporation of the State of New Jersey; and VINCENT J. MURPHY, Collector of Taxes of the City of Newark,

(L.S.)

GREETING:

We being willing for certain reasons to be certified of and concerning all assessments for taxation made under and pursuant to Chapter 291 of the Laws of 1941, for the year 1941, as well as all assessments of railroad property made under R. S. Section 54:19-1, et seq., for the year 1941, and of all records and proceedings relating to such assessments, and also of an assessment for taxation made for the year 1941 by the City of Newark, a municipal corporation, upon real property owned by James T. Owens, assessed as Lot No. 41, Block 1793, in the City of Newark, New Jersey, we command you, the said William D. Kelly, State Tax Commissioner, you Homer C. Zink, the said State Comptroller, and you William H. Albright, Treasurer of the State of New Jersey, that the assessments, records and proceedings concerning all assessments for taxation made under and pursuant to Chapter 291 of the Laws of 1941, for the year 1941, and all assessments of railroad property made under R. S. Section 54:19–1, et seq., for the year 1941, and

all records and proceedings relating to such assessments, and all things touching and concerning the same as fully and as entirely before you remain or are in your custody and control, you do certify and send, together with this writ, to our Justices of our Supreme Court of Judicature at Trenton, New Jersey, on the 12th day of January, 1942, that therein may be caused to be done what of right and according to law ought to be done; and we command you, City of Newark, a municipal corporation, and you, Vincent J. Murphy, Collector of Taxes of the City of Newark, that the said assessment of property of James T. Owens, made for the year 1941, hereinabove more particularly described, the records and proceedings, and all things touching and concerning the same, as fully and as entirely before you remain or are in your custody and control, you do certify and send, together with this writ, to our Justices of our Supreme Court of Judicature at Trenton, New Jersey, on the 12th day of January, 1942, that therein may be caused to be done what of right and according to law ought to be done.

WITNESS, HONORABLE THOMAS J. BROGAN, Chief Justice of our said Supreme Court at Trenton, this 23rd day of December, 1941.

FRED L. BLOODGOOD,
Clerk.

RAYMOND C. CONNELL,
Attorney for Prosecutor.

A true copy,
FRED L. BLOODGOOD,
Clerk.

Writ of Certiorari.

(Endorsed on Back)

NEW JERSEY SUPREME COURT.

James T. Owens,

Proseutor,

vs.

William D. Kelly, State Tax Commissioner of the State of New Jersey, and the other respondents who are named on page 2 of the backing annexed hereto and made part hereof.

Respondents.

WRITE OF CERTIORARI.

Raymond C. Connell,
Attorney for Prosecutor,
516 Bloomfield Avenue,
Montclair, N. J.

This writ is allowed. Let it be sealed. Depositions may be taken on four days' notice. Nowithstanding the allowance of this writ, the defendant taxpayers are hereby permitted to pay to the Treasurer of the State of New Jersey the amount of taxes assessed against such taxpayers for the year 1941 under Chapter 291 of the Laws of 1941; and the Comptroller of the State of New Jersey and the Treasurer of the State of New Jersey are permitted forthwith to distribute the tax receipts heretofore paid, derived from the assessments of Class II railroad property for the year 1941, and to distribute hereafter all other tax moneys paid

under and pursuant to Chapter 291 of the Laws of 1941, in accordance with law. The payment of the moneys by the taxpayers, the distribution by the Comptroller and Treasurer, and the receipt of such moneys by any taxing district shall be without prejudice to the determination of the issues raised on this writ of certiorari, or to any rights of the taxpayers with respect to any taxes so paid. The allowance of this writ shall be without prejudice to any right of the parties hereto to take and prosecute appeals from any railroad tax assessments to the State Board of Tax Appeals with respect to valuation of property and computation of taxes.

NEWTON H. PORTER, J.S.C.

December 22, 1941.

A true copy,
FRED L. BLOODGOOD,
Clerk.

The following are additional respondents to this writ:

Homer Z. Zink, Comptroller of the State of New Jersey;

William H. Albright, Treasurer of the State of New Jersey;

City of Newark, a municipal corporation of the State of New Jersey;

Vincent J. Murphy, Collector of Taxes of the City of Newark;

The Pennsylvania Railroad Company, a corporation of Pennsylvania;

The Belvidere Delaware Railroad Company, a corporation of New Jersey and Pennsylvania;

Camden and Burlington County Railway Company, a corporation of New Jersey;

Delaware River Railroad and Bridge Company, a corporation of New Jersey and Pennsylvania;

The Freehold & Jamesburg Agricultural Railroad Company, a corporation of New Jersey;

Harrison and East Newark Connecting Railroad Company, a corporation of New Jersey;

The New York Bay Railroad Company, a corporation of New Jersey;

Pennsylvania and Atlantic Railroad Company, a corporation of New Jersey;

Pennsylvania Tunnel and Terminal Railroad Company, a corporation of New Jersey and New York;

Perth Amboy and Woodbridge Railroad Company, a corporation of New Jersey;

The Rocky Hill Railroad and Transportation Company, a corporation of New Jersey;

The United New Jersey Railroad and Canal Company, a corporation of New Jersey;

Pennsylvania-Reading Seashore Lines, a corporation of New Jersey;

West Jersey and Seashore Railroad Company, a corporation of New Jersey;

Atlantic City Railroad Company of New Jersey, a corporation;

The Delaware and Bound Brook Railroad Company, a corporation of New Jersey;

The East Trenton Railroad Company, a corporation of New Jersey;

The Port Reading Railroad Company, a corporation of New Jersey;

The Dover and Rockaway Railroad Company, a corporation of New Jersey;

Mount Hope Mineral Railroad Company, a corporation of New Jersey;

The New York and Long Branch Railroad Company, a corporation of New Jersey;

The Ogden Mine Railroad Company, a corporation of New Jersey;

Wharton and Northern Railroad Company, a corporation of New Jersey;

The Delaware, Lackawanna and Western Railroad Company, a corporation of Pennsylvania;

The Chester Railroad Company, a corporation of New Jersey;

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The Paterson and Ramapo Railroad Company, a corporation of New Jersey;

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Hoboken Railroad Warehouse and Steamship Connecting Company, a corporation of New Jersey;

Hudson & Manhattan Railroad Company, a corporation of New Jersey;

Hudson Railroad and Transportation Company, a corporation of New Jersey;

The Lehigh and Hudson River Railway Company, a corporation of New Jersey;

Lehigh and New England Railroad Company, a corporation of New Jersey;

The Lucaston Railroad Company, a corporation of New Jersey;

Morristown & Erie Railroad Company, a corporation;

The Pohatcong Railroad Company, a corporation of New Jersey;

Rahway Valley Railroad Company, a corporation of New Jersey;

Rahway Valley Company, Lessee, a corporation of New Jersey;

Rahway Valley Line, a corporation of New Jersey;

Raritan River Railroad Company, a corporation of New Jersey;

Southern New Jersey Railroad Company, a corporation of New Jersey;

The Union Transportation Company, a corporation of New Jersey;

The Pemberton and Hightstown Railroad Company, a corporation of New Jersey;

Erie Terminals Railroad Company, a corporation of New Jersey;

Raritan Terminal & Transportation Company, a corporation of New Jersey;

Reading Company, a corporation;

Staten Island Rapid Transit Railway Company, a corporation.

A true copy,
FRED L. BLOODGOOD,
Clerk.

Rule Consolidating Cases.

(Filed December 26, 1941.)

NEW JERSEY SUPREME COURT.

CITY OF JERSEY CITY, a municipal corporation, et al.,
Prosecutors,
vs.
WILLIAM D. KELLY, State Tax Commissioner of New Jersey, et al.,
Respondents.

JAMES T. OWENS,
Prosecutor,
vs.
WILLIAM D. KELLY, State Tax Commissioner of New Jersey, et al.,
Respondents.

On Certiorari.
Rule.

A writ of certiorari having been allowed in each of the above-entitled proceedings, on notice to all of the respondents endorsed upon the said writs, and it appearing to the Court that this rule should be made;

It is, thereupon, on this 22nd day of December, 1941, on motion of Charles A. Rooney, Charles Hershenstein and Raymond C. Connell, attorneys for prosecutors, ORDERED that the above-entitled proceedings be and they hereby are consolidated; and

Rule Consolidating Cases.

It is FURTHER ORDERED that the rules of this court be and they hereby are suspended, for the purposes of these proceedings, to the end that all the prosecutors who are the moving parties in the above-entitled proceedings be and they hereby are permitted jointly to prosecute their respective claims in said proceedings against all the assessments described in the said writs; and

It is FURTHER ORDERED that a single return be made to both writs of certiorari, as consolidated, by the respondents William D. Kelly, State Tax Commissioner of the State of New Jersey; Homer C. Zink, Comptroller of the State of New Jersey, and William H. Albright, Treasurer of the State of New Jersey, which return may be made by said respondents jointly, and that the return of the respondents, City of Newark, a municipal corporation of the State of New Jersey, and Vincent J. Murphy, Collector of Taxes of the City of Newark, be made to a certified copy of the writ allowed in the second of the above-entitled proceedings, which said copy may be certified as a true copy by counsel for the prosecutor; and

It is FURTHER ORDERED that prosecutors have leave to join as parties respondents to each of said writs such railroad companies as are in federal bankruptcy, receivership or reorganization proceedings and the trustee, trustees, receiver or receivers of any of such railroad companies upon leave being granted for that purpose by the court or courts which appoint said trustee, trustees, receiver or receivers; and

It is FURTHER ORDERED that true but uncertified copies of said writs of certiorari and of this order

(which copies may be printed), be served upon each of the respondents to their respective writs within ten days from the date hereof, said service to be made either personally, or upon the attorneys who appeared for such parties on the return of the application for the writs of certiorari, or upon the registered agent of any corporate respondent, or, where a registered agent cannot be found, upon the agent for such company who, for the year 1941, filed a tax return for such company with the State Tax Commissioner of New Jersey, which service in said last-mentioned case may be made by leaving a copy thereof at the office of such agent in this State, or, where out of the State, by mailing as hereinafter directed, or, in the case of non-resident trustees who are respondents, by mailing as hereinafter directed; and in such case as service by mail is permitted herein, same shall be by first class mail, addressed to such persons at their respective business or home Post Office addresses, and same shall be made by enclosing such copies of said writ and order in sealed envelopes with sufficient postage thereon fully prepaid; and

It is FURTHER ORDERED that the consolidated writs be and the same hereby are set down for argument before this Court at the State House Annex, Trenton, on Tuesday, May 5, 1942, at 11:00 o'clock in the forenoon, and that no other or further notice of argument need be given.

NEWTON H. PORTER,
J. S. C.

Return to Writs of Certiorari.

(Filed January 14, 1942.)

NEW JERSEY SUPREME COURT.

CITY OF JERSEY CITY, a municipal corporation, et al., *Prosecutors,* *vs.* WILLIAM D. KELLY, State Tax Commissioner of New Jersey, et al., *Respondents.*	On Certiorari.
JAMES T. OWENS, *Prosecutor,* *vs.* WILLIAM D. KELLY, State Tax Commissioner of New Jersey, et al., *Respondents.*	

IN OBEDIENCE TO THE COMMAND of the within writs in the above-entitled proceedings, consolidated by rule of this Court dated December 22, 1941, and as a joint return thereto, we, William D. Kelly, State Tax Commissioner of the State of New Jersey, Homer C. Zink, Comptroller of the State of New Jersey, and William H. Albright, Treasurer of the State of New Jersey, do hereby certify and send to the Honorable Justices of the Supreme Court of New Jersey the assessments of franchise and property taxes for the year 1941

against all railroad systems and railroads not a part of a system engaged in, owning or constructing facilities for the transportation of persons or property in or through this state, under and pursuant to the Railroad Tax Law of 1941, the assessments of property tax against all railroad systems and railroads not a part of a system aforesaid, under and pursuant to the provisions of R. S. 54:19 through 29, and the apportionment of property taxes under and pursuant to the provisions of the Railroad Tax Law of 1941, together with all things touching and concerning said assessments and apportionments, as fully as before us they remain, together with the writs aforesaid.

IN WITNESS WHEREOF we have hereunto set our hands and affixed our seals this fourteenth day of January, 1942.

WILLIAM D. KELLY,
(SEAL) State Tax Commissioner of the State of New Jersey.

HOMER C. ZINK,
(SEAL) State Comptroller of the State of New Jersey.

WM. H. ALBRIGHT,
Treasurer of the State of New Jersey.

SECOND CLASS RAILROAD PROPERTY IN ALL MUNICIPALITIES IN NEW JERSEY

COUNTY MUNICIPALITY	Valuation After Review by State Tax Commissioner	Tax Rate
ATLANTIC		
Absecon City	$ 11,120	$ 7.61
Atlantic City	780,843	5.98
Buena Vista Township	3,947	8.07
Corbin City	626	6.697
Egg Harbor City	1,404	8.509
Egg Harbor Township	831	10.15
Estell Manor City	396	8.01
Folsom Borough	2,015	4.12
Galloway Township	12,155	7.05
Hamilton Township	4,611	8.60
Hammonton, Town of	32,420	6.36
Linwood City	1,211	9.56
Longport Borough	10,384	9.584
Margate City	1,157	11.802
Mullica Township	562	6.92
Northfield City	3,397	10.30
Pleasantville City	85,980	7.76
Somers Point City	5,069	8.733
Ventnor City	22,485	7.21
Weymouth Township	450	8.86
Total	$ 981,063	
BERGEN		
Allendale Borough	$ 7,233	$ 3.73
Bergenfield Borough	12,950	5.55
Bogota Borough	23,946	5.47
Carlstadt Borough	1,105	5.32
Closter Borough	7,399	5.25
Cresskill Borough	1,958	5.39
Demarest Borough	1,830	4.18
Dumont Borough	56,094	6.38
East Paterson Borough	2,359	5.63
East Rutherford Borough	23,198	4.83
Edgewater Borough	1,575,445	3.51
Emerson Borough	3,105	5.32
Englewood City	55,462	4.50
Fair Lawn Borough	13,655	4.31
Fairview Borough	2,016	5.44

Franklin Lakes Borough	1,166	3.23
Garfield City	6,622	5.33
Glen Rock Borough	19,158	4.32
Hackensack City	57,642	4.72
Harrington Park Borough	9,368	6.22
Hasbrouck Heights Borough	5,565	5.20
Haworth Borough	6,186	4.91
Hillsdale Borough	11,464	4.81
Hohokus Borough	12,656	3.46
Hohokus Township	9,240	3.57
Leonia Borough	6,653	4.88
Lodi Borough	3,766	5.85
Lyndhurst Township	411,346	5.16
Maywood Borough	1,271	5.23
Midland Park Borough	9,007	4.01
Montvale Borough	2,299	4.65
North Arlington Borough	2,570	6.18
Northvale Borough	2,640	6.78
Norwood Borough	6,294	5.81
Oakland Borough	1,844	4.01
Oradell Borough	3,484	4.81
Palisade Park Borough	969	5.91
Park Ridge Borough	995	4.30
Ramsey Borough	7,165	3.57
Ridgefield Borough	264,232	5.17
Ridgefield Park Township	116,495	5.85
Ridgewood Township	36,004	3.84
River Edge Borough	5,033	4.50
Rochelle Park Township	1,165	5.18
Rutherford Borough	13,384	4.72
Saddle River Township	6,613	5.76
Teaneck Township	63,989	5.30
Tenafly Borough	3,679	4.18
Waldwick Borough	25,965	5.07
Wallington Borough	1,390	5.97
Westwood Borough	17,754	5.50
Woodcliff Lakes Borough	813	3.86
Woodbridge Borough	4,393	5.54
Wyckoff Township	3,445	4.23
Total	$ 2,951,479	

	BURLINGTON		
	Beverly City	$ 3,084	$ 5.02
	Bordentown City	8,951	5.22
	Bordentown Township	1,992	2.30
	Burlington City	31,279	4.66
	Burlington Township	747	4.94
10	Chester Township	3,889	7.06
	Delanco Township	1,993	6.00
	Delran Township	212	4.72
	Eastampton Township	2,040	5.74
	Edgewater Park Township	9,467	4.38
	Fieldsboro Borough	304	5.54
	Florence Township	6,339	4.28
	Hainesport Township	1,890	5.60
	Lumberton Township	1,017	5.26
	Mansfield Township	915	3.88
	Medford Township	1,258	4.70
	Moorestown Township	11,586	4.86
	Mt. Holly Township	24,388	5.80
20	Mt. Laurel Township	825	4.74
	New Hanover Township	553	5.24
	North Hanover Township	120	5.18
	Palmyra Borough	8,117	4.80
	Pemberton Borough	614	4.12
	Pemberton Township	9,840	3.62
	Riverside Township	13,051	6.62
	Riverton Borough	7,241	4.22
	Shamong Township	833	5.02
	Southampton Township	3,080	4.22
	Springfield Township	531	4.68
	Tabernacle Township	23	6.22
	Woodland Township	985	7.98
30	Wrightstown Borough	216	5.24
	Total	$ 157,380	
	CAMDEN		
	Audubon Borough	$ 16,156	$ 4.76
	Barrington Borough	675	5.53
	Bellmawr Borough	1,237	5.30
	Berlin Borough	6,533	3.85
	Brooklawn Borough	590	4.16
	Camden City	2,798,994	4.88
	Clementon Borough	1,678	5.68
40	Collingswood Borough	9,677	3.82

Delaware Township	1,872	5.60	
Gibbsboro Borough	1,074	3.08	
Gloucester City	33,276	4.60	
Gloucester Township	3,743	5.00	
Haddonfield Borough	18,023	4.20	
Haddon Heights Borough	5,400	4.60	
Haddon Township	14,933	3.84	10
Hi-Nella Borough	30	5.23	
Laurel Springs Borough	1,273	5.00	
Lindenwold Borough	4,394	5.70	
Magnolia Borough	1,080	5.90	
Merchantville Borough	9,567	4.78	
Mt. Ephraim Borough	1,875	5.51	
Oaklyn Borough	16,414	5.35	
Pennsauken Township	23,578	4.62	
Pine Hill Borough	1,845	5.66	
Somerdale Borough	315	6.52	
Stratford Borough	1,335	4.25	
Voorhees Township	1,023	5.09	
Waterford Township	4,136	5.11	20
Winslow Township	17,142	6.47	
Total	$ 2,997,868		

CAPE MAY

Cape May City	$ 31,256	$ 5.25	
Dennis Township	17,649	4.04	
Lower Township	45,652	3.80	
Middle Township	17,641	4.76	
North Wildwood City	23,561	6.92	
Ocean City	150,893	6.89	
Sea Isle City	6,325	5.90	
Upper Township	3,628	3.30	30
West Cape May Borough	1,561	5.46	
Wildwood City	101,853	4.90	
Wildwood Crest Borough	919	5.24	
Woodbine Borough	6,677	4.54	
Total	$ 407,615		

CUMBERLAND

Bridgeton City	$ 101,277	$ 4.514	
Commercial Township	20,504	6.478	
Deerfield Township	316	4.08	
Downe Township	654	3.955	40

	Fairfield Township	998	4.37
	Greenwich Township	2,466	3.094
	Hopewell Township	529	3.891
	Landis Township	29,578	3.74
	Lawrence Township	1,928	4.17
	Maurice River Township	8,444	4.00
10	Millville City	51,648	4.36
	Upper Deerfield Township	8,914	3.00
	Vineland Borough	30,911	3.91
	Total	$ 258,167	
	ESSEX		
	Belleville, Town of	$ 30,408	$ 4.62
	Bloomfield, Town of	238,619	3.87
	Caldwell Borough	9,101	3.89
	Cedar Grove Township	628	3.78
	East Orange City	227,085	4.07
20	Essex Fells Borough	12,416	3.06
	Glen Ridge Borough	15,421	3.93
	Irvington, Town of	417,656	4.19
	Maplewood, Township	23,381	3.88
	Millburn, Township	55,115	3.61
	Montclair, Town of	266,982	4.63
	Newark City	8,482,069	5.75
	Nutley, Town of	14,481	4.53
	Orange City	251,942	3.80
	Roseland Borough	4,476	2.65
	South Orange Village	142,372	4.02
	Verona Borough	1,221	4.08
	West Orange, Town of	24,405	3.85
30	Total	$ 10,217,778	
	GLOUCESTER		
	Clayton Borough	$ 7,441	$ 4.98
	Deptford Township	165	5.52
	East Greenwich Township	3,077	3.60
	Elk Township	233	5.00
	Franklin Township	556	4.42
	Glassboro Borough	48,615	5.82
	Greenwich Township	479	2.58
	Harrison Township	2,640	2.72
	Logan Township	437	3.72
40	Mantua Township	3,398	4.94

Monroe Township	4,196	5.40
Newfield Borough	16,871	5.14
Paulsboro Borough	3,425	5.52
Pitman Borough	8,938	4.60
South Harrison Township	12	4.04
Swedesboro Borough	9,013	4.60
Wenonah Borough	3,965	4.02
Westville Borough	78,065	4.18
Woodbury City	25,747	4.60
Woodbury Heights Borough	2,790	6.00
Woolwich Township	483	4.82
Total	$ 220,546	

HUDSON

Bayonne City	$ 1,292,381	$ 5.272
Harrison, Town of	931,606	3.691
Hoboken City	9,028,524	4.54
Jersey City	104,967,581	5.218
Kearny, Town of	2,624,124	3.797
North Bergen Township	736,282	5.983
Secaucus, Town of	870,940	4.613
Union City	20,662	5.077) 5.219)
Weehawken Township	12,516,706	4.601
West New York, Town of	6,543,208	5.741
Total	$139,532,014	

HUNTERDON

Alexandria Township	$ 54	$ 2.86
Bethlehem Township	6,592	2.61
Bloomsbury Borough	10,230	4.58
Califon Borough	1,636	3.32
Clinton, Town of	6,421	2.70
Clinton, Township	7,440	2.43
Delaware Township	930	3.20
East Amwell Township	850	2.91
Flemington Borough	23,750	0.74
Franklin Township	4,391	2.59
Frenchtown Borough	2,748	3.72
Glen Gardner Borough	2,860	3.96
Hampton Borough	16,806	4.56
High Bridge Borough	18,746	3.36
Holland Township	5,501	0.68

	Kingwood Township	1,073	2.56
	Lebanon Borough	4,475	2.34
	Lebanon Township	355	2.85
	Lambertville City	48,565	4.09
	Milford Borough	5,873	1.82
	Raritan Township	13,867	2.10
10	Readington Township	19,317	3.54
	Stockton Borough	1,171	2.77
	Tewksbury Township	1,582	2.75
	Union Township	8,517	2.65
	West Amwell Township	33	2.37
	Total	$ 213,783	
	MERCER		
	East Windsor Township	$ 3,403	$ 3.25
	Ewing Township	71,456	3.63
	Hamilton Township	241,186	4.04
	Hightstown Borough	16,530	4.17
20	Hopewell Borough	19,857	3.83
	Hopewell Township	6,442	3.54
	Lawrence Township	5,997	3.69
	Pennington Borough	15,694	4.17
	Princeton Borough	52,078	3.46
	Princeton Township	89,978	2.96
	Trenton City	1,835,371	4.76
	Washington Township	1,740	3.54
	West Windsor Township	171,927	2.38
	Total	$ 2,531,659	
30	MIDDLESEX		
	Carteret Borough	$ 226,848	$ 6.43
	Cranbury Twp.	1,297	4.54
	Dunellen Borough	87,380	5.62
	East Brunswick Twp.	9,182	5.29
	Helmetta Borough	1,037	3.23
	Highland Park Borough	6,024	5.57
	Jamesburg Borough	7,097	6.38
	Madison Twp.	57,541	3.95
	Metuchen Borough	173,311	5.56
	Middlesex Borough	28,336	4.55
	Milltown Borough	7,394	4.30
	Monroe Twp.	10,501	4.68
40	New Brunswick City	348,410	4.95

North Brunswick Twp.	4,437	5.75
Perth Amboy City	2,092,847	5.51
Piscataway Twp.	3,730	6.09
Plainsboro Twp.	18,205	2.56
Raritan Twp.	30,135	6.96
Sayreville Borough	59,426	4.56
South Amboy City	799,623	5.21
South Brunswick Twp.	152,382	4.32
South Plainfield Borough	57,278	6.95
South River Borough	3,923	4.84
Spottswood Borough	87,819	5.12
Woodbridge Twp.	1,539,527	6.96
Total	$ 5,813,690	

MONMOUTH

Allenhurst Borough	$ 26,310	$ 4.627
Asbury Park City	135,045	5.08
Atlantic Highlands Borough	100,743	4.70
Avon-by-the-Sea Borough	14,243	5.11
Belmar Borough	26,713	5.42
Bradley Beach Borough	16,010	5.173
Brielle Borough	646	4.94
Deal Borough	12,655	4.62
Eatontown Borough	3,757	4.365
Englishtown Borough	1,560	4.33
Farmingdale Borough	11,242	4.54
Freehold Borough	36,396	4.29
Freehold Township	592	3.685
Highlands Borough	7,985	4.73
Howell Township	3,739	5.45
Interlaken Borough	10,604	4.99
Keansburg Borough	4,079	4.418
Keyport Borough	6,214	4.79
Little Silver Borough	6,011	3.53
Long Branch City	162,387	6.945
Manalapon Township	1,910	4.19
Manasquan Borough	12,167	4.68
Mallboro Township	5,307	4.25
Matawan Borough	5,997	4.19
Middletown Township	9,182	4.96
Monmouth Beach Borough	9,494	5.79
Neptune Township	25,266	7.957
Oceanport Borough	640	4.082
Ocean Township	4,676	5.274
Raritan Township	1,413	4.798

Red Bank Borough	69,012	5.38
Sea Bright Borough	20,028	5.94
Sea Girt Borough	11,013	4.50
Shrewsbury Borough	833	3.36
Spring Lake Borough	17,162	3.84
Spring Lake Heights Borough	1,418	7.99
Union Beach Borough	4,174	8.10
Upper Freehold Township	1,198	3.36
Wall Township	934	4.54
Total	$ 794,794	

MORRIS

Boonton, Town of	$ 23,948	$ 5.34
Butler Borough	10,647	4.48
Chatham Borough	43,967	4.31
Chester Borough	90	3.28
Denville Township	81,477	5.26
Dover, Town of	52,719	5.34
East Hanover Township	2,401	4.01
Hanover Township	14,852	4.64
Jefferson Township	10,713	2.19
Kinnelon Borough	150	3.45
Lincoln Park Borough	3,934	5.72
Madison Borough	70,838	3.77
Mine Hill Township	168	6.75
Montville Township	9,956	4.98
Morris Plains Borough	11,937	5.00
Morris Township	14,743	4.85
Morristown, Town of	135,496	4.90
Mt. Arlington Borough	947	4.94
Mt. Olive Township	2,447	4.52
Mountain Lakes Borough	10,241	5.24
Netcong	8,481	4.61
Parsippany-Troy Hills Twp.	316	4.51
Passaic Twp.	6,983	5.24
Pequannock Twp.	3,026	5.76
Randolph Township	5,638	6.49
Riverdale Borough	3,021	4.76
Rockaway Borough	8,881	6.37
Rockaway Township	1,948	6.11
Roxbury Township	152,869	5.10
Washington Township	4,287	4.12
Wharton Borough	6,030	5.41
Total	$ 703,151	

OCEAN

Bay Head Borough	$ 102,336	$ 4.23
Beachwood Borough	90	5.04
Berkeley Township	1,147	5.85
Brick Township	52	4.44
Dover Township	2,281	5.61
Jackson Township	824	7.02
Lacey Township	1,407	4.22
Lakehurst Borough	6,185	7.27
Lakewood Township	23,959	6.29
Lavallette Borough	1,020	5.52
Manchester Township	4,736	6.99
Mantoloking Borough	270	2.92
Ocean Township	700	5.96
Ocean Gate Borough	1,295	5.00
Pine Beech Borough	3,444	4.30
Plumsted Township	3,506	5.75
Pt. Pleasant Beach Borough	21,156	6.02
Sea Side Heights Borough	6,479	5.75
Sea Side Park Borough	13,262	6.23
South Toms River Borough	7,694	4.33
Tuckerton Borough	614	7.12
Union Township	5,622	8.35
Total	$ 207,719	

PASSAIC

Bloomingdale Borough	$ 1,526	$ 5.09
Clifton City	106,841	4.75
Hawthorne Borough	46,682	4.05
Little Falls Township	10,571	4.99
Passaic City	328,524	4.96
Paterson City	862,173	4.54
Pompton Lakes Borough	13,397	3.52
Ringwood Borough	6,194	3.52
Totowa Borough	4,324	4.04
Wanaque Borough	10,036	5.95
Wayne Township	6,434	3.08
West Milford Township	2,400	2.71
West Paterson Borough	350	4.72
Total	$ 1,399,452	

	SALEM		
	Alloway Township	$ 1,076	$ 4.22
	Elmer Borough	9,368	4.01
	Mannington Township	1,858	2.34
	Oldsman Township	1,814	3.42
	Pennsgrove Borough	34,789	4.96
10	Pilesgrove Township	828	2.96
	Pittsgrove Township	1,895	3.05
	Quinton Township	430	3.70
	Salem City	19,208	3.82
	Upper Pittsgrove Township	747	3.04
	Woodstown Borough	5,163	3.45
	Total	$ 77,176	
	SOMERSET		
	Bernards Township	$ 9,492	$ 4.86
	Bernardsville Borough	83,342	4.82
20	Bound Brook Borough	107,352	4.88
	Branchburg Township	8,953	2.38
	Bridgewater Township		3.36
	Raritan Corp.	161,324	5.58
	Bridgewater Township	6,032	3.36
	Far Hills Borough	10,275	3.36
	Franklin Township	3,337	4.36
			4.60
	Hillsborough Township	13,977	3.10
	Manville Borough	102,760	4.46
	Montgomery Township	46,083	3.34
	Peapack Gladstone Borough	7,189	3.42
	Somerville	124,584	4.50
30	Total	$ 684,700	
	SUSSEX		
	Andover Borough	$ 3,415	$ 4.938
	Andover Twp.	473	3.029
	Branchville Borough	2,125	3.842
	Byram Twp.	606	3.397
	Frankford Twp.	3,622	2.562
	Franklin Borough	21,466	4.080
	Fredon Twp.	839	4.321
	Green Twp.	3,934	4.267
	Hamburg Borough	2,736	6.793
40	Hampton Twp.	516	3.327

Hardyston Twp.	4,463	4.655
Lafayette Twp.	1,043	4.395
Newton, Town of	14,050	4.929
Ogdensberg Borough	2,710	3.320
Sparta Twp.	4,599	3,965
Stillwater Twp.	10	3.872
Sussex Borough	5,302	4.483
Vernon Twp.	5,042	3.363
Wantage Twp.	4,367	4.863
Total	$ 81,318	

UNION

Clark Twp.	$ 3,889	$ 3.90
Cranford Twp.	436,336	4.29
Elizabeth City	2,934,368	4.45
Fanwood Borough	25,046	5.05
Garwood Borough	41,722	5.10
Hillside Twp.	27,193	4.84
Kenilworth Borough	10,617	5.78
Linden City	213,823	3.38
New Providence Borough	1,454	4.44
New Providence Twp.	500	4.02
Plainfield City	286,945	4.23
Rahway City	357,466	4.46
Roselle Borough	27,393	4.58
Roselle Park Borough	61,250	4.16
Scotch Plains Twp.	148	4.97
Springfield Twp.	4,241	4.93
Summit City	172,430	4.15
Union Twp.	12,937	4.02
Westfield, Town of	127,393	3.83
Total	$ 4,745,151	

WARREN

Allamuchy Twp.	$ 1,374	$ 4.20
Alpha Borough	8,169	4.67
Belvidere, Town of	10,658	4.12
Blairstown Twp.	11,500	4.41
Franklin Twp.	2,493	2.92
Frelinghuysen Twp.	2,306	3.69
Greenwich Twp.	4,020	3.23
Hackettstown, Town of	6,767	3.48
Hardwick Twp.	20	4.55

Harmony Twp.	3,218	4.80
Independence Twp.	5,913	4.33
Knowlton Twp.	5,717	3.85
Liberty Twp.	168	3.38
Lopatcong Twp.	44,580	3.43
Mansfield Twp.	1,498	3.47
Oxford Twp.	2,165	5.73
Parkequarry Twp.	16	4.43
Phillipsburg, Town of	558,047	4.54
Pohatcong Twp.	10,510	3.20
Washington Borough	35,045	3.82
Washington Twp.	2,283	3.13
White Twp.	5,713	3.47
Total	$ 722,180	
Grand Total	$175,698,683	

SUMMARY
1941 ASSESSMENT
BASED ON VALUES DETERMINED AFTER REVIEW BY THE STATE TAX COMMISSIONER

June 3, 1941
Sheet 1 of 11 B-R

Name of Group	Line Miles in New Jersey	VALUATION: Assessed Value of Main Stem	Assessed Value of Franchise	Assessed Value of Tangible Personal Property	Total Assessable for State Uses	Assessed Value of Second Class Property	Aggregate Assessed Valuation	TAX: Tax for State Uses @ $4.818	Tax for Local Uses	Total Tax
nnsylvania Railroad	421.940	$40,379,211	$1,028,526	$18,693,922	$60,101,659	$43,748,362	$103,850,021	$2,895,697.93	$2,219,781.11	$5,115,479.04
nn-Reading Seashore Lines	418.226	7,358,676	22,000	1,065,187	8,445,863	2,751,131	11,196,994	406,921.68	149,499.54	556,421.22
ntral R.R. Co. of New Jersey	467.274	25,169,241	630,000	9,760,067	35,559,308	35,291,755	70,851,063	1,713,247.46	1,815,491.93	3,528,739.39
ading Co.	55.446	4,265,847	96,000	1,977,466	6,339,313	2,390,600	8,729,913	305,428.10	152,258.57	457,686.67
e Railroad	155.403	13,505,141	252,149	4,126,841	17,884,131	23,281,133	41,165,264	861,657.43	1,164,917.43	2,026,574.86
laware, Lackawanna & Western R.R.	222.472	20,482,194	372,647	5,144,580	25,999,421	30,299,003	56,298,424	1,252,652.10	1,511,079.31	2,763,731.41
w York, Susquehanna & Western R.R.	122.351	3,447,361	4,000	379,592	3,830,953	2,044,106	5,875,059	184,575.32	78,273.84	262,849.16
igh Valley Railroad	127.138	14,142,866	292,467	4,098,945	18,534,278	17,870,782	36,405,060	892,981.51	943,277.67	1,836,259.18
w York Central Railroad	25.819	5,775,809	15,200	1,482,482	7,273,491	15,340,243	22,613,734	350,436.80	793,612.16	1,144,048.96
classified Railroads	167.982	7,812,848	159,100	2,353,980	10,325,928	2,681,568	13,007,496	497,503.21	132,871.23	630,374.44
TOTAL	2,184.051	$142,339,194	$2,872,089	$49,083,062	$194,294,345	$175,698,683	$369,993,028	$9,361,101.54	$8,961,062.79	$18,322,164.33

June 3, 1941
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PENNSYLVANIA RAILROAD GROUP
1941 ASSESSMENT
BASED ON VALUES DETERMINED AFTER REVIEW BY THE STATE TAX COMMISSIONER

Name of Company	Line Miles in New Jersey	VALUATION: Assessed Value of Main Stem	Assessed Value of Franchise	Assessed Value of Tangible Personal Property	Total Assessable for State Uses	Assessed Value of Second Class Property	Aggregate Assessed Valuation	TAX: Tax for State Uses @ $4.813	Tax for Local Uses	Total Tax
videre-Delaware Railroad Co.	82.143	$2,759,621	$1,000	.....	$2,760,621	$401,399	$3,162,020	$133,006.72	$17,490.62	$150,497.34
mden & Burlington County Ry. Co.	28.685	312,985	1,000	.....	313,985	68,202	382,187	15,127.80	3,576.55	18,704.35
laware River Railroad & Bridge Co.	7.789	761,854	1,000	.....	762,854	14,602	777,456	36,754.31	665.82	37,420.13
eehold & Jamesburg Agricultural R.R. Co.	27.516	275,887	1,000	.....	276,887	42,727	319,614	13,340.41	1,912.45	15,252.86
rrison & East Newark Connecting R.R. Co.	0.199	10,401	1,000	.....	11,401	350	11,751	549.30	12.92	562.22
w York Bay R.R. Co.	12.896	3,289,773	1,000	.....	3,290,773	9,903,201	13,193,974	158,549.44	518,365.99	676,915.43
nnsylvania & Atlantic R.R. Co.	80.589	525,495	1,000	$3,115	529,610	49,614	579,224	25,516.61	2,654.41	28,171.02
nnsylvania Tunnel & Terminal R.R. Co.	8.274	4,641,212	1,000	.....	4,642,212	622,708	5,264,920	223,661.77	28,676.18	252,337.95
rth Amboy & Woodbridge R.R. Co.	6.950	819,227	1,000	.....	820,227	101,790	922,017	39,518.54	6,699.40	46,217.94
cky Hill R.R. & T. Co.	2.873	7,681	1,000	.....	8,681	1,365	10,046	418.25	59.49	477.74
N. J. R.R. & C. Co.	164.026	26,975,075	1,018,526	.....	27,993,601	32,542,404	60,536,005	1,348,731.70	1,639,667.28	2,988,398.98
R.R. Co., Lessee	.....	.....	.....	18,690,807	18,690,807	.....	18,690,807	900,523.08	.....	900,523.08
TOTAL	421.940	$40,379,211	$1,028,526	$18,693,922	$60,101,659	$43,748,362	$103,850,021	$2,895,697.93	$2,219,781.11	$5,115,479.04

TOTAL .....

PENNSYLVANIA-READING SEASHORE LINES
1941 ASSESSMENT
BASED ON VALUES DETERMINED AFTER REVIEW BY THE STATE TAX COMMISSIONER

June 3, 1941
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B-R

Name of Company	Line Miles in New Jersey	VALUATION: Assessed Value of Main Stem	Assessed Value of Franchise	Assessed Value of Tangible Personal Property	Total Assessable for State Uses	Assessed Value of Second Class Property	Aggregate Assessed Valuation	TAX: Tax for State Uses @ $4.818	Tax for Local Uses	Total Tax
st Jersey & Seashore R.R. Co.	281.377	$5,606,103	$10.000	$1,012,472	$6,628,575	$2,046,358	$8,674,933	$319,364.74	$113,431.92	$432,796.66
antic City Railroad Co.	128.290	1,695,316	10,000	.....	1,705,316	634,400	2,339,716	82,162.13	32,621.42	114,783.55
nn-Reading Seashore Lines (formerly Stone Harbor R.R. Co.)	4.528	9,973	1,000	.....	10,973	126	11,099	528.68	6.00	534.68
nn-Reading Seashore Lines (formerly W. & D. B. S. L. R.R. Co.)	4.031	47,284	1,000	65	48,349	70,247	118,596	2,329.45	3,440.20	5,769.65
nn-Reading Seashore Lines	.....	.....	.....	52,650	52,650	.....	52,650	2,536.68	.....	2,536.68
TOTAL	418.226	$7,358,676	$22,000	$1,065,187	$8,445,863	$2,751,131	$11,196,994	$406,921.68	$149,499.54	$556,421.22

June 3, 1941
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CENTRAL RAILROAD COMPANY OF NEW JERSEY GROUP
1941 ASSESSMENT
BASED ON VALUES DETERMINED AFTER REVIEW BY THE STATE TAX COMMISSIONER

Name of Company	Line Miles in New Jersey	VALUATION: Assessed Value of Main Stem	Assessed Value of Franchise	Assessed Value of Tangible Personal Property	Total Assessable for State Uses	Assessed Value of Second Class Property	Aggregate Assessed Valuation	TAX: Tax for State Uses @ $4.813	Tax for Local Uses	Total Tax
R. R. Co. of N. J.	391.215	$22,650,936	$625,000	$9,720,095	$32,996,031	$34,635,261	$67,631,292	$1,589,748.77	$1,780,010.57	$3,369,759.34
ver & Rockaway R.R. Co.	4.637	68,533	1,000	-------	69,533	9,433	78,966	3,350.10	527.24	3,877.34
Hope Mineral R.R. Co.	3.653	26,949	1,000	100	28,049	796	28,845	1,351.40	43.14	1,394.54
v York & Long Branch R.R. Co.	37.799	2,331,162	1,000	7,258	2,339,420	634,129	2,973,549	112,713.26	34,533.71	147,246.97
den Mine R.R. Co.	9.693	23,022	1,000	-------	24,022	8,354	32,376	1,157.38	191.22	1,348.60
arton & Northern R.R. Co.	20.277	68,639	1,000	32,614	102,253	3,782	106,035	4,926.55	186.05	5,112.60
TOTAL	467.274	$25,169,241	$630,000	$9,760,067	$35,559,308	$35,291,755	$70,851,063	$1,713,247.46	$1,815,491.93	$3,528,739.39

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READING COMPANY
1941 ASSESSMENT
BASED ON VALUES DETERMINED AFTER REVIEW BY THE STATE TAX COMMISSIONER

Name of Company	Line Miles in New Jersey	VALUATION						TAX		
		Assessed Value of Main Stem	Assessed Value of Franchise	Assessed Value of Tangible Personal Property	Total Assessable for State Uses	Assessed Value of Second Class Property	Aggregate Assessed Valuation	Tax for State Uses @ $4.818	Tax for Local Uses	Total Tax
Delaware & Bound Brook R.R. Co.	30.869	$3,314,101	$53,000	.....	$3,367,101	$415,519	$3,782,620	$162,226.93	$17,759.77	$179,986.70
West Trenton R.R. Co.	3.041	102,740	1,000	.....	103,740	39,417	143,157	4,998.19	1,867.62	6,865.81
Port Reading R.R. Co.	21.536	849,006	42,000	$335,149	1,226,155	1,704,463	2,930,618	59,076.15	121,348.57	180,424.72
Reading Co. Lessee	.....	.....	.....	1,642,317	1,642,317	231,201	1,873,518	79,126.83	11,282.61	90,409.44
TOTAL	55.446	$4,265,847	$96,000	$1,997,466	$6,339,313	$2,390,600	$8,729,913	$305,428.10	$152,258.57	$457,686.67

ERIE RAILROAD GROUP
1941 ASSESSMENT
BASED ON VALUES DETERMINED AFTER REVIEW BY THE STATE TAX COMMISSIONER

Name of Company	Line Miles in New Jersey	VALUATION: Assessed Value of Main Stem	VALUATION: Assessed Value of Franchise	VALUATION: Assessed Value of Tangible Personal Property	VALUATION: Total Assessable for State Uses	VALUATION: Assessed Value of Second Class Property	VALUATION: Aggregate Assessed Valuation	TAX: Tax for State Uses @ $4.813	TAX: Tax for Local Uses	TAX: Total Tax
lington Railroad Co.	0.976	$11,683	$1,000	.....	$12,683	.....	$12,683	$611.07	.....	$611.07
rgen County Railroad Co.	9.741	442,128	13,000	.....	455,128	44,976	500,104	21,928.07	2,183.47	24,111.54
rgen & Dundee Railroad Co.	1.875	88,687	1,000	.....	89,687	19,567	109,254	4,321.12	972.16	5,293.28
ldwell Railway Co.	4.543	106,642	1,000	.....	107,642	11,549	119,191	5,186.19	462.36	5,648.55
cks Connecting Railway Co.	0.278	230,276	1,000	.....	231,276	1,049,724	1,281,000	11,142.88	54,756.97	65,899.85
ie Terminals Railroad Co.	1.768	144,733	1,000	.....	145,733	12,023	157,756	7,021.41	422.01	7,443.42
ng Dock Company	2.802	1,903,869	112,149	.....	2,016,018	13,829,706	15,845,724	97,131.75	721,515.66	818,647.41
wark & Hudson Railroad Co.	7.879	550,564	4,000	.....	554,564	216,458	771,022	26,718.89	11,096.95	37,815.84
w Jersey & New York R.R. Co.	17.523	374,592	1,000	$214,359	589,951	72,151	662,102	28,423.84	3,597.91	32,021.75
w York & Greenwood Lake Ry. Co.	42.582	1,986,456	5,000	.....	1,991,456	394,912	2,386,368	95,948.35	16,776.20	112,724.55
Y., L.E. & W.D. & I. Co.	0.505	223,598	12,000	.....	235,598	5,636,318	5,871,916	11,351.11	259,020.47	270,371.58
rthern R.R. Co. of N.J.	19,858	529,083	1,000	.....	530,083	95,800	625,883	25,539.40	4,624.48	30,163.88
terson & Hudson River R.R. Co.	13.966	2,456,177	42,000	.....	2,498,177	1,307,079	3,805,256	120,362.17	60,814.59	181,176.76
terson, Newark & New York R.R. Co.	10.780	618,234	4,000	.....	622,234	123,223	745,457	29,979.23	6,477.11	36,456.34
terson & Ramapo R.R. Co.	14.431	1,820,028	29,000	.....	1,849,028	210,966	2,059,994	89,086.17	9,071.97	98,158.14
nhorn Creek R.R. Co.	4.852	1,978,991	23,000	.....	2,001,991	244,265	2,246,256	96,455.93	12,745.19	109,201.12
seland Railway Co.	1.044	39,400	1,000	.....	40,400	12,416	52,816	1,946.47	379.93	2,326.40
ie R.R. Co., Lessee	.....	.....	.....	3,912,482	3,912,482	.....	3,912,482	188,503.38	.....	188,503.38
TOTAL	155.403	$13,505,141	$252,149	$4,126,841	$17,884,131	$23,281,133	$41,165,264	$861,657.43	$1,164,917.43	$2,026,574.86

ie R.R. Co., Lessee	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
TOTAL	155.403	$13,505,141	$252,149	$4,126,841	$17,884,131	$23,281,133	$41,165,264	$861,657.43	$1,164,917.43	$2,026,574.86

DELAWARE, LACKAWANNA & WESTERN RAILROAD GROUP
1941 ASSESSMENT
BASED ON VALUES DETERMINED AFTER REVIEW BY THE STATE TAX COMMISSIONER

June 3, 1941
Sheet 7 of 11.
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Name of Company	Line Miles in New Jersey	VALUATION: Assessed Value of Main Stem	Assessed Value of Franchise	Assessed Value of Tangible Personal Property	Total Assessable for State Uses	Assessed Value of Second Class Property	Aggregate Assessed Valuation	TAX: Tax for State Uses @ $4.813	Tax for Local Uses	Total Tax
ester Railroad Co.	3.693	$17,705	$1,000	.....	$18,705	$447	$19,152	$901.21	$22.80	$924.01
ckawanna R.R. Co. of New Jersey	27.380	4,624,014	33,000	.....	4,657,014	22,298	4,679,312	224,374.93	1,018.33	225,393.26
rris & Essex R.R. Co.	123.972	13,951,704	290,647	.....	14,242,351	28,645,752	42,888,103	686,196.47	1,436,446.96	2,122,643.43
rris & Essex Extension R.R. Co.	1.885	171,966	5,000	.....	176,966	77,889	254,855	8,526.22	3,576.23	12,102.45
wark & Bloomfield R.R. Co.	4.168	735,766	9,000	.....	744,766	336,507	1,081,273	35,882.83	15,181.61	51,064.44
ssaic & Delaware R.R. Co.	13.814	260,648	10,000	.....	270,648	186,018	456,666	13,039.82	8,420.86	21,460.68
ssaic & Delaware Extension R.R. Co.	7.405	108,015	5,000	.....	113,015	18,115	131,130	5,445.06	622.48	6,067.54
ssex Railroad Co.	21.362	126,990	1,000	.....	127,990	20,582	148,572	6,166.56	944.12	7,110.68
arren Railroad Co.	18.792	485,386	18,000	.....	503,386	24,309	527,695	24,253.14	940.22	25,193.36
L. & W. R.R. Co. Lessee	.....	.....	.....	$5,144,580	5,144,580	967,086	6,111,666	247,865.86	43,905.70	291,771.56
TOTAL	222.472	$20,482,194	$372,647	$5,144,580	$25,999,421	$30,299,003	$56,298,424	$1,252,652.10	$1,511,079.31	$2,763,731.41

June 3, 1941
Sheet 8 of 11
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NEW YORK, SUSQUEHANNA & WESTERN RAILROAD GROUP
1941 ASSESSMENT
BASED ON VALUES DETERMINED AFTER REVIEW BY THE STATE TAX COMMISSIONER

Name of Company	Line Miles in New Jersey	VALUATION: Assessed Value of Main Stem	VALUATION: Assessed Value of Franchise	VALUATION: Assessed Value of Tangible Personal Property	VALUATION: Total Assessable for State Uses	VALUATION: Assessed Value of Second Class Property	VALUATION: Aggregate Assessed Valuation	TAX: Tax for State Uses @ $4.818	TAX: Tax for Local Uses	TAX: Total Tax
ckensack & Lodi R.R. Co.....	1.340	$12,681	$1,000	.....	$13,681	.....	$13,681	$659.15	.....	$659.15
li Branch Railroad Co.....	0.564	9,422	1,000	.....	10,422	$3,486	13,908	502.13	$203.23	705.36
., S.&W. R.R. Co.	117.370	3,298,826	1,000	$379,592	3,679,418	2,012,149	5,691,567	177,274.36	76,658.45	253,932.81
ssaic & New York R.R. Co.	3.077	126,432	1,000	.....	379,592	28,471	155,903	6,139.68	1,412.16	7,551.84
TOTAL	122.351	$3,447,361	$4,000	$379,592	$3,830,953	$2,044,106	$5,875,059	$184,575.32	$78,273.84	$262,849.16

LEHIGH VALLEY RAILROAD GROUP
1941 ASSESSMENT
BASED ON VALUES DETERMINED AFTER REVIEW BY THE STATE TAX COMMISSIONER

June 3, 1941
Sheet 9 of 11
B-R

Name of Company	Line Miles in New Jersey	VALUATION: Assessed Value of Main Stem	Assessed Value of Franchise	Assessed Value of Tangible Personal Property	Total Assessable for State Uses	Assessed Value of Second Class Property	Aggregate Assessed Valuation	TAX: Tax for State Uses @ $4.813	Tax for Local Uses	Total Tax
y Shore Conn. R.R. Co.	1.207	$42,433	$1,000	.....	$43,433	$3,891	$47,324	$2,092.60	$223.73	$2,316.33
V. R.R. Co. of N. J.	124.646	13,757,275	290,467	.....	14,047,742	13,343,096	27,390,838	676,820.21	707,002.32	1,936,259.18
igh Valley Harbor Terminal Ry. Co.	1.285	343,158	1,000	.....	344,158	4,523,795	4,867,953	16,581.53	236,051.62	252,633.15
V. R.R. Co. Lessee of the L. V. R.R. Co. of N. J.	.....	.....	.....	$4,098,945	4,098,945	.....	4,098,945	197,487.17	.....	197,487.17
TOTAL	127.138	$14,142,866	$292,467	$4,098,945	$18,534,278	$17,870,782	$36,405,060	$892,981.51	$943,277.67	$1,836,259.18

June 3, 1941
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NEW YORK CENTRAL GROUP
1941 ASSESSMENT
BASED ON VALUES DETERMINED AFTER REVIEW BY THE STATE TAX COMMISSIONER

Name of Company	Line Miles in New Jersey	VALUATION: Assessed Value of Main Stem	Assessed Value of Franchise	Assessed Value of Tangible Personal Property	Total Assessable for State Uses	Assessed Value of Second Class Property	Aggregate Assessed Valuation	TAX: Tax for State Uses @ $4.818	Tax for Local Uses	Total Tax
ew Jersey Junction R.R. Co.	5.450	$2,133,382	$2,400	-------	$2,135,782	$1,248,112	$3,383,894	$102,901.98	$59,891.22	$162,793.20
ew York & Fort Lee R.R. Co.	1.028	559,898	1,000	-------	560,898	-------	560,898	27,024.07	-------	27,024.07
est Shore Railroad Co.	19.341	3,082,529	11,800	$1,482,482	4,576,811	14,092,131	18,668,942	220,510.75	733,720.94	954,231.69
TOTAL	25.819	$5,775,809	$15,200	$1,482,482	$7,273,491	$15,340,243	$22,613,734	$350,436.80	$793,612.16	$1,144,048.96

UNCLASSIFIED RAILROADS

June 3, 1941

UNCLASSIFIED RAILROADS
1941 ASSESSMENT
BASED ON VALUES DETERMINED AFTER REVIEW BY THE STATE TAX COMMISSIONER

June 3, 1941
Sheet 11 of 11

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Name of Company	Line Miles in New Jersey	VALUATION: Assessed Value of Main Stem	Assessed Value of Franchise	Assessed Value of Tangible Personal Property	Total Assessable for State Uses	Assessed Value of Second Class Property	Aggregate Assessed Valuation	TAX: Tax for State Uses @ $4.813	Tax for Local Uses	Total Tax
lantic City & Ocean City R.R. Co.	2.624	$23,136	$1,000	.....	$24,136	.....	$24,136	$1,162.87	.....	$1,162.87
lantic City & Shore R.R. Co.	2.231	10,216	1,000	$4,596	15,812	$3,664	19,476	761.82	$219.11	980.93
ltimore & New York R.R. Co.	5.300	404,249	1,000	3,346	408,595	65,303	473,898	19,686.11	2,787.42	22,473.53
ltimore & Ohio R.R. Co.	.....	.....	.....	275,159	275,159	.....	275,159	13,257.16	.....	13,257.16
st Jersey R. R. & Terminal Co.	0.874	64,164	1,000	37,619	102,783	77,291	180,074	4,952.09	4,074.78	9,026.87
rro Monte R.R. Co.	0.898	1,394	1,000	.....	2,394	528	2,922	115.34	29.70	145.04
boken Manufacturers R.R. Co.	0.062	18,145	1,000	136,358	155,503	390,060	545,563	7,492.13	17,708.72	25,200.85
R.R., W. & S. C. Co.	1.514	359,554	1,000	740	361,294	147,285	508,579	17,407.14	6,686.74	24,093.88
dson & Manhattan R.R. Co.	4.572	4,563,841	100,000	1,382,911	6,046,752	1,576,863	7,623,615	291,332.51	81,588.34	372,920.85
dson Railroad & Transportation Co.	0.265	39,479	1,000	9,448	49,927	.....	49,927	2,405.48	.....	2,405.48
high & Hudson River Railway Co.	48.856	1,168,755	30,000	196,854	1,395,609	89,526	1,485,135	67,240.44	3,431.51	70,671.95
high & New England R.R. Co.	23.582	455,853	12,000	161,122	628,975	8,553	637,528	30,304.02	338.43	30,642.45
caston Railroad Co.	1.464	7,551	1,000	.....	8,551	1,366	9,917	411.99	49.72	461.71
rristown & Erie R.R. Co.	12.321	74,588	1,000	15,330	90,918	44,771	135,689	4,380.43	2,120.17	6,500.60
w York, Ontario & Western R.R. Co.	.....	.....	.....	63,916	63,916	.....	63,916	3,079.47	.....	3,079.47
hatcong R.R. Co.	1.550	9,737	1,000	1,300	12,037	1,073	13,110	579.94	61.48	641.42
hway Valley R.R. Co.	8.574	102,227	1,000	16,823	120,050	28,853	148,903	5,784.01	1,378.60	7,162.61
hway Valley Co., Lessee	0.170	410	1,000	.....	1,410	1,550	2,960	67.93	89.59	157.52
hway Valley Line	2.978	46,701	1,000	420	48,121	3,992	52,113	2,318.47	157.85	2,476.32
ritan River R.R. Co.	20.436	385,524	1,000	47,038	433,562	239,963	673,525	20,889.02	12,082.73	32,971.75
ritan Terminal & Transportation Co.	0.605	20,447	1,000	.....	21,447	.....	21,447	1,033.32	.....	1,033.32
uthern New Jersey R.R. Co.	29.029	12,100	100	1,000	13,200	927	14,127	635.98	66.34	702.32
ten Island Rapid Transit Co.	0.077	44,777	1,000	.....	45,777	.....	45,777	2,205.54	.....	2,205.54
TOTAL	167.982	$7,812,848	$159,100	$2,353,980	$10,325,928	$2,681,568	$13,007,496	$497,503.21	$132,871.23	$630,374.44

Return to Writs of Certiorari.

PROPERTY TAX

November 5, 1941
Sheet 1 of 11

B-R
Property Tax

SUMMARY
1941 ASSESSMENT OF THE PROPERTY TAX
PURSUANT TO CHAPTER 291, P. L. 1941

Name of System	Length of Main Stem Miles	VALUATION: Class I Assessed Value of Main Stem	Class III Assessed Value of Tangible Personal Property	Class IV Value of the Remaining Property	Total Class I, III and IV Assessable for State Uses	Class II Value of Other Real Estate Used for R.R. Purposes Assessable for Local Uses	Aggregate Assessed Valuation of the Property Taxed	TAX: Tax for State Use 3 %	Tax for Local Use 3 %	Total Property Tax State and Local Use
nsylvania Railroad	459.739	$41,544,792	$18,697,551	$11,500	$60,253,843	$44,065,426	$104,319,269	$1,807,615.29	$1,321,962.78	$3,129,578.07
n-Reading S. Lines	418.226	7,358,676	1,065,187	4,000	8,427,863	2,751,131	11,178,994	252,835.89	82,533.93	335,369.82
.R. Co. of N.J.	468.481	24,024,877	9,756,438	6,000	33,787,315	34,976,636	68,763,951	1,013,619.45	1,049,299.08	2,062,918.53
ading Company	55.446	4,265,847	1,977,466	4,000	6,247,313	2,390,600	8,637,913	187,419.39	71,718.00	259,137.39
e Railroad	153.635	13,360,408	4,126,841	16,000	17,503,249	23,269,110	40,772,359	525,097.47	698,073.30	1,223,170.77
L. & W. R.R.	222.472	20,482,194	5,144,580	10,000	25,636,774	30,299,003	55,935,777	769,103.22	908,970.09	1,678,073.31
Y. S. & W. R.R.	124.119	3,592,094	379,592	5,000	3,976,686	2,056,129	6,032,815	119,300.58	61,683.87	180,984.45
igh Valley R.R.	127.743	14,142,096	4,098,945	3,500	18,244,541	17,868,837	36,113,378	547,336.23	536,065.11	1,083,401.34
w York Central R.R.	25.819	5,775,809	1,482,482	3,000	7,261,291	15,340,243	22,601,534	217,838.73	460,207.29	678,046.02
classified Railroads	167.377	7,792,401	2,353,980	20,000	10,166,381	2,681,568	12,847,949	304,991.43	80,447.04	385,438.47
TOTAL	2,223.057	$142,339,194	$49,083,062	$83,000	$191,505,256	$175,698,683	$367,203,939	$5,745,157.68	$5,270,960.49	$11,016,118.17

Approved: .....
State Tax Commissioner.

Date: .....

PROPERTY TAX

PENNSYLVANIA RAILROAD SYSTEM
1941 ASSESSMENT OF THE PROPERTY TAX
PURSUANT TO CHAPTER 291, P. L. 1941

Name of Company	Length of Main Stem Miles	VALUATION: Class I Assessed Value of Main Stem	VALUATION: Class III Assessed Value of Tangible Personal Property	VALUATION: Class IV Value of the Remaining Property	VALUATION: Total Class I, III and IV Assessable for State Uses	VALUATION: Class II Value of Other Real Estate Used for R.R. Purposes Assessable for Local Uses	VALUATION: Aggregate Assessed Valuation of the Property Taxed	TAX: Tax for State Use 3 %	TAX: Tax for Local Use 3 %	TAX: Total Property Tax State and Local Use
videre-Delaware R.R. Co.	82.143	$2,759,621	.....	$1,000	$2,760,621	$401,399	$3,162,020	$82,818.63	$12,041.97	$94,860.60
mden & Burl. Co. Ry. Co.	28.685	312,985	.....	1,000	313,985	68,202	382,187	9,419.55	2,046.06	11,465.61
laware River R.R. & B. Co.	7.789	761,854	.....	1,000	762,854	14,602	777,456	22,885.62	438.06	23,323.68
ehold & J'burg Agr. R.R. Co.	27.516	275,887	.....	1,000	276,887	42,727	319,614	8,306.61	1,281.81	9,588.42
rrison & E. Newark Conn. R.R. Co.	0.199	10,401	.....	1,000	11,401	350	11,751	342.03	10.50	352.53
w York Bay Railroad Co.	12.896	3,289,773	.....	1,000	3,290,773	9,903,201	13,193,974	98,723.19	297,096.03	395,819.22
York & L. Branch R.R. Co.	37.799	1,165,581	$3,629	500	1,169,710	317,064	1,486,774	35,091.30	9,511.92	44,603.22
nna. Tunnel & Terml. R.R. Co.	8.274	4,641,212	.....	1,000	4,642,212	622,708	5,264,920	139,266.36	18,681.24	157,947.60
Amboy & Woodbridge R.R. Co.	6.950	819,227	.....	1,000	820,227	101,790	922,017	24,606.81	3,053.70	27,660.51
cky Hill R.R. & T. Co.	2.873	7,681	.....	1,000	8,681	1,365	10,046	260.43	40.95	301.38
N. J. R.R. & C. Co.	164.026	26,975,075	.....	1,000	26,976,075	32,542,404	59,518,479	809,282.25	976,272.12	1,785,554.37
R.R. Co. Lessee	.....	.....	18,690,807	.....	18,690,807	.....	18,690,807	560,724.21	.....	560,724.21
TAL, Excl. Penna. & Atl. R.R. & Union Trans. Co.	379.150	41,019,297	18,694,436	10,500	59,724,233	44,015,812	103,740,045	1,791,726.99	1,320,474.36	3,112,201.35
nna. & Atl. R.R. (excl. of Pemberton & H'town R.R. Co.)	56.215	432,286	.....	1,000	433,286	44,124	477,410	12,998.58	1,323.72	14,322.30
ion Trans. Co. (lessee of the Pemberton & H'town R.R. Co.)	24.374	93,209	3,115	*	96,324	5,490	101,814	2,889.72	164.70	3,054.42
TOTAL FOR SYSTEM	459.739	$41,544,792	$18,697,551	$11,500	$60,253,843	$44,065,426	$104,319,269	$1,807,615.29	$1,321,962.78	$3,129,578.07

* Included with the Pennsylvania & Atlantic Railroad Co.

New York & Long Branch Railroad Co., total valuation $2,973,549, 50% assessable to the Pennsylvania Railroad System, or $1,486,774.

PROPERTY TAX

November 5, 1941
Sheet 3 of 11

B-R
Property Tax

PENNSYLVANIA-READING SEASHORE LINES
1941 ASSESSMENT OF THE PROPERTY TAX
PURSUANT TO CHAPTER 291, P. L. 1941

Name of Company	Length of Main Stem Miles	VALUATION: Class I Assessed Value of Main Stem	VALUATION: Class III Assessed Value of Tangible Personal Property	VALUATION: Class IV Value of the Remaining Property	VALUATION: Total Class I, III and IV Assessable for State Uses	VALUATION: Class II Value of Other Real Estate Used for R.R. Purposes Assessable for Local Uses	VALUATION: Aggregate Assessed Valuation of the Property Taxed	TAX: Tax for State Use 3 %	TAX: Tax for Local Use 3 %	TAX: Total Property Tax State and Local Use
J. & S. R.R. Co.	281.377	$5,606,103	$1,012,472	$1,000	$6,619,575	$2,046,358	$8,665,933	$198,587.25	$61,390.74	$259,977.99
lantic City R.R. Co.	128.290	1,695,316	.....	1,000	1,696,316	634,400	2,330,716	50,889.48	19,032.00	69,921.48
-Read. S. Lines (formerly Stone Harbor R.R. Co.)	4.528	9,973	.....	1,000	10,973	126	11,099	329.19	3.78	332.97
-Read. S. Lines (formerly W. & D. F. S. L. R.R. Co.)	4.031	47,284	65	1,000	48,349	70,247	118,596	1,450.47	2,107.41	3,557.88
-Read. Seashore Lines	.....	.....	52,650	.....	52,650	.....	52,650	1,579.50	.....	1,579.50
TOTAL for P.-Read. S. Lines	418.226	$7,358,676	$1,065,187	$4,000	$8,427,863	$2,751,131	$11,178,994	$252,835.89	$82,533.93	$335,369.82

CENTRAL RAILROAD COMPANY OF NEW JERSEY SYSTEM
1941 ASSESSMENT OF THE PROPERTY TAX
PURSUANT TO CHAPTER 291, P. L. 1941

November 5, 1941
Sheet 4 of 11

B-R
Property Tax

Name of Company	Length of Main Stem Miles	VALUATION: Class I Assessed Value of Main Stem	VALUATION: Class III Assessed Value of Tangible Personal Property	VALUATION: Class IV Value of the Remaining Property	VALUATION: Total Class I, III and IV Assessable for State Uses	VALUATION: Class II Value of Other Real Estate Used for R.R. Purposes Assessable for Local Uses	VALUATION: Aggregate Assessed Valuation of the Property Taxed	TAX: Tax for State Use 3 %	TAX: Tax for Local Use 3 %	TAX: Total Property Tax State and Local Use
y Shore Connec. R.R.	1.207	$21,217	-------	$500	$21,717	$1,945	$23,662	$651.51	$58.35	$709.86
R.R. Co. of N. J.	391.215	22,650,936	$9,720,095	1,000	32,372,031	34,635,261	67,007,292	971,160.93	1,039,057.83	2,010,218.76
ver & Rockaway R.R. Co.	4.637	68,533	-------	1,000	69,533	9,433	78,966	2,085.99	282.99	2,368.98
York & L. Branch R.R. Co.	37.799	1,165,581	3,629	500	1,169,710	317,065	1,486,775	35,091.30	9,511.95	44,603.25
den Mine Railroad Co.	9.693	23,022	-------	1,000	24,022	8,354	32,376	720.66	250.62	971.28
tal, Excl. Mt. Hope Min. R.R. & W. & N. R.R. Co.	444.551	23,929,289	9,723,724	4,000	33,657,013	34,972,058	68,629,071	1,009,710.39	1,049,161.74	2,058,872.13
. Hope Mineral R.R. Co.	3.653	26,949	100	1,000	28,049	796	28,845	841.47	23.88	865.35
harton & Northern R.R. Co.	20.277	68,639	32,614	1,000	102,253	3,782	106,035	3,067.59	113.46	3,181.05
TOTAL FOR SYSTEM	468.481	$24,024,877	$9,756,438	$6,000	$33,787,315	$34,976,636	$68,763,951	$1,013,619.45	$1,049,299.08	$2,062,918.53

Bay Shore Connecting Railroad Co., total valuation $47,324, 50% assessable to the C. R. R. Co. of N. J. System, or $23,662.
New York & Long Branch Railroad Co., total valuation $2,973,549, 50% assessable to the C. R. R. Co. of N. J. System, or $1,486,775.

PROPERTY TAX

November 5, 1941
Sheet 5 of 11

B-R
Property Tax

READING COMPANY
1941 ASSESSMENT OF THE PROPERTY TAX
PURSUANT TO CHAPTER 291, P. L. 1941

Name of Company	Length of Main Stem Miles	VALUATION: Class I Assessed Value of Main Stem	Class III Assessed Value of Tangible Personal Property	Class IV Value of the Remaining Property	Total Class I, III and IV Assessable for State Uses	Class II Value of Other Real Estate Used for R.R. Purposes Assessable for Local Uses	Aggregate Assessed Valuation of the Property Taxed	TAX: Tax for State Use 3 %	Tax for Local Use 3 %	Total Property Tax State and Local Use
aware & B. Brook R.R. Co.....	30.869	$3,314,101	.....	$1,000	$3,315,101	$415,519	$3,730,620	$99,453.03	$12,465.57	$111,918.60
st Trenton Railroad Co.	3.041	102,740	.....	1,000	103,740	39,417	143,157	3,112.20	1,182.51	4,294.71
rt Reading Railroad Co.	21.536	849,006	$335,149	1,000	1,185,155	1,704,463	2,889,618	35,554.65	51,133.89	86,688.54
ading Co., Lessee	.....	.....	1,642,317	1,000	1,643,317	231,201	1,874,518	49,299.51	6,936.03	56,235.54
TOTAL FOR READING CO.	55.466	$4,265,847	$1,977,466	$4,000	$6,247,313	$2,390,600	$8,637,913	$187,419.39	$71,718.00	$259,137.39

PROPERTY TAX

November 5, 1941
Sheet 6 of 11

B-R
Property Tax

ERIE RAILROAD SYSTEM

ERIE RAILROAD SYSTEM
1941 ASSESSMENT OF THE PROPERTY TAX
PURSUANT TO CHAPTER 291, P. L. 1941

Name of Company	Length of Main Stem Miles	VALUATION: Class I Assessed Value of Main Stem	VALUATION: Class III Assessed Value of Tangible Personal Property	VALUATION: Class IV Value of the Remaining Property	VALUATION: Total Class I, III and IV Assessable for State Uses	VALUATION: Class II Value of Other Real Estate Used for R.R. Purposes Assessable for Local Uses	VALUATION: Aggregate Assessed Valuation of the Property Taxed	TAX: Tax for State Use 3 %	TAX: Tax for Local Use 3 %	TAX: Total Property Tax State and Local Use
ington R.R. Co.	0.976	$11,683	.....	$1,000	$12,683	.....	$12,683	$380.49	.....	$380.49
rgen County R.R. Co.	9.741	442,128	.....	1,000	443,128	$44,976	488,104	13,293.84	$1,349.28	14,643.12
rgen & Dundee R.R. Co.	1.875	88,687	.....	1,000	89,687	19,567	109,254	2,690.61	587.01	3,277.62
dwell Railway Co.	4.543	106,642	.....	1,000	107,642	11,549	119,191	3,229.26	346.47	3,575.73
cks Conn. Railway Co.	0.278	230,276	.....	1,000	231,276	1,049,724	1,281,000	6,938.28	31,491.72	38,430.00
ng Dock Company	2.802	1,903,869	.....	1,000	1,904,869	13,829,706	15,734,575	57,146.07	414,891.18	472,037.25
wark & Hudson R.R. Co.	7.879	550,564	.....	1,000	551,564	216,458	768,022	16,546.92	6,493.74	23,040.66
York & G. Lakes Ry. Co.	42.582	1,986,456	.....	1,000	1,987,456	394,912	2,382,368	59,623.68	11,847.36	71,471.04
Y., L. E. & W. D. & I. Co.	0.505	223,598	.....	1,000	224,598	5,636,318	5,860,916	6,737.94	169,089.54	175,827.48
t. & Hudson River R.R. Co.	13.966	2,456,177	.....	1,000	2,457,177	1,307,079	3,764,256	73,715.31	39,212.37	112,927.68
t., Newark & N. Y. R.R. Co.	10.780	618,234	.....	1,000	619,234	123,223	742,457	18,577.02	3,696.69	22,273.71
terson & Ramapo R.R. Co.	14.431	1,820,028	.....	1,000	1,821,028	210,966	2,031,994	54,630.84	6,328.98	60,959.82
nhorn Creek R.R. Co.	4.852	1,978,991	.....	1,000	1,979,991	244,265	2,224,256	59,399.73	7,327.95	66,727.68
seland Railway Co.	1.044	39,400	.....	1,000	40,400	12,416	52,816	1,212.00	372.48	1,584.48
e R.R. Co., Lessee	.....	.....	3,912,482	.....	3,912,482	.....	3,912,482	117,374.46	.....	117,374.46
tal, excl. of N. J. & N. Y. R.R. & Northern R.R. Co. of N. J.	116.254	12,456,733	3,912,482	14,000	16,383,215	23,101,159	39,484,374	491,496.45	693,034.77	1,184,531.22
J. & N. York R.R. Co.	17.523	374,592	214,359	1,000	589,951	72,151	662,102	17,698.53	2,164.53	19,863.06
rthern R.R. Co. of N. J.	19.858	529,083	.....	1,000	530,083	95,800	625,883	15,902.49	2,874.00	18,776.49
TOTAL FOR SYSTEM	153.635	$13,360,408	$4,126,841	$16,000	$17,503,249	$23,269,110	$40,772,359	$525,097.47	$698,073.30	$1,223,170.77

e Terminals Railroad Co., formerly listed with the Erie Railroad System, transferred to the New York, Susquehanna & Western Railroad System.

Return to Writs of Certiorari.

PROPERTY TAX

November 5, 1941 B-R
Sheet 7 of 11 Property Tax

DELAWARE, LACKAWANNA & WESTERN RAILROAD SYSTEM
1941 ASSESSMENT OF THE PROPERTY TAX
PURSUANT TO CHAPTER 291, P. L. 1941

Name of Company	Length of Main Stem Miles	VALUATION: Class I Assessed Value of Main Stem	VALUATION: Class III Assessed Value of Tangible Personal Property	VALUATION: Class IV Value of the Remaining Property	VALUATION: Total Class I, III and IV Assessable for State Uses	VALUATION: Class II Value of Other Real Estate Used for R.R. Purposes Assessable for Local Uses	VALUATION: Aggregate Assessed Valuation of the Property Taxed	TAX: Tax for State Use 3 %	TAX: Tax for Local Use 3 %	TAX: Total Property Tax State and Local Use
ester Railroad Co.	3.693	$17,705	.....	$1,000	$18,705	$447	$19,152	$561.15	$13.41	$574.56
ckawanna R.R. Co. of N. J.	27,380	4,624,014	.....	1,000	4,625,014	22,298	4,647,312	138,750.42	668.94	139,419.36
orris & Essex R.R. Co.	123.972	13,951,704	.....	1,000	13,952,704	28,645,752	42,598,456	418,581.12	859,372.56	1,277,953.68
& Essex Ext. R.R. Co.	1.885	171,966	.....	1,000	172,966	77,889	250,855	5,188.98	2,336.67	7,525.65
& Bloomfield R.R. Co.	4.168	735,766	.....	1,000	736,766	336,507	1,073,273	22,102.98	10,095.21	32,198.19
& Delaware R.R. Co.	13,814	260,648	.....	1,000	261,648	186,018	447,666	7,849.44	5,580.54	13,429.98
& Delaware Ext. R.R. Co.	7.406	108,015	.....	1,000	109,015	18,115	127,130	3,270.45	543.45	3,813.90
ssex Railroad Co.	21.362	126,990	.....	1,000	127,990	20,582	148,572	3,839.70	617.46	4,457.16
arren Railroad Co.	18.792	485,386	.....	1,000	486,386	24,309	510,695	14,591.58	729.27	15,320.85
L. & W. R.R. Co. Lessee	.....	.....	$5,144,580	1,000	5,145,580	967,086	6,112,666	154,367.40	29,012.58	183,379.98
TOTAL FOR SYSTEM	222.472	$20,482,194	$5,144,580	$10,000	$25,636,774	$30,299,003	$55,935,777	$769,103.22	$908,970.09	$1,678,073.31

PROPERTY TAX

November 5, 1941
Sheet 8 of 11

B-R
Property Tax

NEW YORK, SUSQUEHANNA & WESTERN RAILROAD SYSTEM
1941 ASSESSMENT OF THE PROPERTY TAX
PURSUANT TO CHAPTER 291, P. L. 1941

Name of Company	Length of Main Stem Miles	VALUATION					TAX		
		Class I Assessed Value of Main Stem	Class III Assessed Value of Tangible Personal Property	Class IV Value of the Remaining Property	Total Class I, III and IV Assessable for State Uses	Class II Value of Other Real Estate Used for R.R. Purposes Assessable for Local Uses	Aggregate Assessed Valuation of the Property Taxed	Tax for State Use 3 %	Tax for Local Use 3 %	Total Property Tax State and Local Use
Erie Terminals R.R. Co.	1.768	$144,733	.....	$1,000	$145,733	$12,023	$157,756	$4,371.99	$360.69	$4,732.68
Hackensack & Lodi R.R. Co.	1.340	12,681	.....	1,000	13,681	.....	13,681	410.43	.....	410.43
Lodi Branch R.R. Co.	0.564	9,422	.....	1,000	10,422	3,486	13,908	312.66	104.58	417.24
N. Y. S. & W. R.R. Co.	117.370	3,298,826	379,592	1,000	3,679,418	2,012,149	5,691,567	110,382.54	60,364.47	170,747.01
Passaic & N. York R.R. Co.	3.077	126,432	.....	1,000	127,432	28,471	155,903	3,822.96	854.13	4,677.09
TOTAL FOR SYSTEM	124.119	$3,592,094	$379,592	$5,000	$3,976,686	$2,056,129	$6,032,815	$119,300.58	$61,683.87	$180,984.45

* Erie Terminals Railroad Co. transferred from the Erie Railroad System.

November 5, 1941
Sheet 9 of 11

B-R
Property Tax

LEHIGH VALLEY RAILROAD SYSTEM
1941 ASSESSMENT OF THE PROPERTY TAX
PURSUANT TO CHAPTER 291, P. L. 1941

Name of Company	Length of Main Stem Miles	VALUATION: Class I Assessed Value of Main Stem	VALUATION: Class III Assessed Value of Tangible Personal Property	VALUATION: Class IV Value of the Remaining Property	VALUATION: Total Class I, III and IV Assessable for State Uses	VALUATION: Class II Value of Other Real Estate Used for R.R. Purposes Assessable for Local Uses	VALUATION: Aggregate Assessed Valuation of the Property Taxed	TAX: Tax for State Use 3 %	TAX: Tax for Local Use 3 %	TAX: Total Property Tax State and Local Use
ay Shore Conn. R.R. Co.	1.207	$21,216	-------	$500	$21,716	$1,946	$23,662	$651.48	$58.38	$709.86
aritan Terml. & Trans. Co.	0.605	20,447	-------	1,000	21,447	-------	21,447	643.41	-------	643.41
V. R.R. Co. of N. J.	124.646	13,757,275	-------	1,000	13,758,275	13,343,096	27,101,371	412,748.25	400,292.88	813,041.13
V. Harbor Terml. Ry. Co.	1.285	343,158	-------	1,000	344,158	4,523,795	4,867,953	10,324.74	135,713.85	146,038.59
V. R.R. Co., Lessee of the L. V. R.R. Co. of N. J.	-------	-------	$4,098,945	-------	4,098,945	-------	4,098,945	122,968.35	-------	122,968.35
TOTAL FOR SYSTEM	127.743	$14,142,096	$4,098,945	$3,500	$18,244,541	$17,868,837	$36,113,378	$547,336.23	$536,065.11	$1,083,401.34

aritan Terminal & Transportation Co. transferred from the Unclassified Railroads.

ay Shore Connecting Railroad Co., total valuation $47,324, 50% assessable to the Lehigh Valley Railroad System, or $23,662.

PROPERTY TAX

NEW YORK CENTRAL RAILROAD SYSTEM
1941 ASSESSMENT OF THE PROPERTY TAX
PURSUANT TO CHAPTER 291, P. L. 1941

November 5, 1941
Sheet 10 of 11

B-R
Property Tax

Name of Company	Length of Main Stem Miles	VALUATION: Class I Assessed Value of Main Stem	Class III Assessed Value of Tangible Personal Property	Class IV Value of the Remaining Property	Total Class I, III and IV Assessable for State Uses	Class II Value of Other Real Estate Used for R.R. Purposes Assessable for Local Uses	Aggregate Assessed Valuation of the Property Taxed	TAX: Tax for State Use 3 %	Tax for Local Use 3 %	Total Property Tax State and Local Use
J. Junction R.R. Co.	5.450	$2,133,382	.....	$1,000	$2,134,382	$1,248,112	$3,382,494	$64,031.46	$37,443.36	$101,474.82
w York & Fort Lee R.R. Co.	1.028	559,898	.....	1,000	560,898	.....	560,898	16,826.94	.....	16,826.94
st Shore R.R. Co.	19.341	3,082,529	$1,482,482	1,000	4,566,011	14,092,131	18,658,142	136,980.33	422,763.93	559,744.26
TOTAL FOR SYSTEM	25.819	$5,775,809	$1,482,482	$3,000	$7,261,291	$15,340,243	$22,601,534	$217,838.73	$460,207.29	$678,046.02

PROPERTY TAX

UNCLASSIFIED RAILROADS
1941 ASSESSMENT OF THE PROPERTY TAX
PURSUANT TO CHAPTER 291, P. L. 1941

Name of Company	Length of Main Stem Miles	VALUATION: Class I Assessed Value of Main Stem	VALUATION: Class III Assessed Value of Tangible Personal Property	VALUATION: Class IV Value of the Remaining Property	VALUATION: Total Class I, III and IV Assessable for State Uses	VALUATION: Class II Value of Other Real Estate Used for R.R. Purposes Assessable for Local Uses	VALUATION: Aggregate Assessed Valuation of the Property Taxed	TAX: Tax for State Use 3 %	TAX: Tax for Local Use 3 %	TAX: Total Property Tax State and Local Use
City & O. City R.R. Co.	2.624	$23,136	.....	$1,000	$24,136	.....	$24,136	$724.08	.....	$724.08
City & Shore R.R. Co.	2.231	10,216	$4,596	1,000	15,812	$3,664	19,476	474.36	$109.92	584.28
tal, A. C. & O. City R.R. Co. and A. City & Shore R.R. Co.	4.855	33,352	4,596	2,000	39,948	3,664	43,612	1,198.44	109.92	1,308.36
t. & New York R.R. Co.	5.300	404,249	3,346	1,000	408,595	65,303	473,898	12,257.85	1,959.09	14,216.94
t. & Ohio R.R. Co.	.....	.....	275,159	.....	275,159	.....	275,159	8,254.77	.....	8,254.77
Total, Balt. & N. Y. R.R. Co. and Balt. & Ohio R.R. Co.	5.300	404,249	278,505	1,000	683,754	65,303	749,057	20,512.62	1,959.09	22,471.71
Jersey R.R. & T. Co.	0.874	64,164	37,619	1,000	102,783	77,291	180,074	3,083.49	2,318.73	5,402.22
ro Monte R.R. Co.	0.898	1,394	.....	1,000	2,394	528	2,922	71.82	15.84	87.66
boken Manuf. R.R. Co.	0.062	18,145	136,358	1,000	155,503	390,060	545,563	4,665.09	11,701.80	16,366.89
R. R. W. & S. C. Co.	1.514	359,554	740	1,000	361,294	147,285	508,579	10,838.82	4,418.55	15,257.37
tal, H. Manuf. R.R. Co. and H. R. R. W. & S. C. Co.	1.576	377,699	137,098	2,000	516,797	537,345	1,054,142	15,503.91	16,120.35	31,624.26
dson & Manhattan R.R. Co.	4.572	4,563,841	1,382,911	1,000	5,947,752	1,576,863	7,524,615	178,432.56	47,305.89	225,738.45
dson R.R. & T. Co.	0.265	39,479	9,448	1,000	49,927	.....	49,927	1,497.81	.....	1,497.81
high & H. River Ry. Co.	48.856	1,168,755	196,854	1,000	1,366,609	89,526	1,456,135	40,998.27	2,685.78	43,684.05
high & N. England R.R. Co.	23.582	455,853	161,122	1,000	617,975	8,553	626,528	18,539.25	256.59	18,795.84
caston R.R. Co.	1.464	7,551	.....	1,000	8,551	1,366	9,917	256.53	40.98	297.51
rristown & Erie R.R. Co.	12.321	74,588	15,330	1,000	90,918	44,771	135,689	2,727.54	1,343.13	4,070.67
Y. O. & W. R.R. Co.	.....	.....	63,916	.....	63,916	.....	63,916	1,917.48	.....	1,917.48
natcong R.R. Co.	1.550	9,737	1,300	1,000	12,037	1,073	13,110	361.11	32.19	393.30
hway Valley R.R. Co.	8.574	102,227	16,823	1,000	120,050	28,853	148,903	3,601.50	865.59	4,467.09
hway Valley Co., Lessee	0.170	410	.....	1,000	1,410	1,550	2,960	42.30	46.50	88.80
hway Valley Line	2.978	46,701	410	1,000	48,121	3,992	52,113	1,443.63	119.76	1,563.39
tal, R. V. R.R. Co.; R. V. Co., Lessee; and R. Valley Line	11.722	149,338	17,243	3,000	169,581	34,395	203,976	5,087.43	1,031.85	6,119.28
ritan River R.R. Co.	20.436	385,524	47,038	1,000	433,562	239,963	673,525	13,006.86	7,198.89	20,205.75
uthern N. J. R.R. Co.	29.029	12,100	1,000	1,000	14,100	927	15,027	423.00	27.81	450.81
ten Island R. T. Co.	0.077	44,777	.....	1,000	45,777	.....	45,777	1,373.31	.....	1,373.31
TOTAL FOR UNCLASSIFIED R.R.'s	197.377	$7,792,401	$2,253,980	$20,000	$10,166,381	$2,681,568	$12,847,949	$304,991.43	$80,447.04	$385,438.47

Return to Writs of Certiorari.

A List of Amounts Received for the Taxing Districts in the Several Counties as and for the Proportionate Share of Second Class Railroad Property Tax for 1941, Pursuant to Chapter 291, P. L. 1941, and Paid to the Treasurer of Said Counties

ATLANTIC COUNTY

Absecon City	333.25	
Atlantic City	23,400.87	
Corbin City	18.76	
Egg Harbor City	42.08	
Estell Manor City	11.87	
Linwood City	36.29	
Margate City	34.67	
Northfield City	101.80	
Pleasantville City	2,576.71	
Somers Point City	151.91	
Ventnor City	673.85	
Hammonton, Town of	971.59	
Folsom Borough	60.39	
Longport Borough	311.20	
Buena Vista Township	118.29	
Egg Harbor Township	24.90	
Galloway Township	364.27	
Hamilton Township	138.19	
Mullica Township	16.84	
Weymouth Township	13.48	
		$29,401.21

BERGEN COUNTY

Englewood City	1,662.13	
Garfield City	198.45	
Hackensack City	1,727.46	
Allendale Borough	216.76	
Bergenfield Borough	388.10	
Bogota Borough	717.63	
Carlstadt Borough	33.12	
Closter Borough	221.74	
Cresskill Borough	58.68	
Demarest Borough	54.84	
Dumont Borough	1,681.07	
East Paterson Borough	70.70	
East Rutherford Borough	695.21	

	Edgewater Borough	47,214.08	
	Emerson Borough	93.05	
	Fair Lawn Borough	409.22	
	Fairview Borough	60.42	
	Franklin Lakes Borough	34.94	
	Glen Rock Borough	574.14	
10	Harrington Park Borough	280.75	
	Hasbrouck Heights Borough	166.78	
	Haworth Borough	185.39	
	Hillsdale Borough	343.56	
	Hohokus Borough	379.28	
	Leonia Borough	199.38	
	Lodi Borough	112.86	
	Maywood Borough	38.09	
	Midland Park Borough	269.93	
	Montvale Borough	68.90	
	North Arlington Borough	77.02	
	Northvale Borough	79.12	
	Norwood Borough	188.62	
20	Oakland Borough	55.26	
	Oradell Borough	104.41	
	Palisades Park Borough	29.04	
	Park Ridge Borough	29.82	
	Ramsey Borough	214.73	
	Ridgefield Borough	7,918.70	
	River Edge Borough	150.83	
	Rutherford Borough	401.10	
	Tenafly Borough	110.26	
	Waldwick Borough	778.14	
	Wallington Borough	41.66	
	Westwood Borough	532.06	
	Woodcliff Lake Borough	24.36	
30	Woodridge Borough	131.65	
	Hohokus Township	276.91	
	Lyndhurst Township	12,327.52	
	Ridgefield Park Township	3,491.21	
	Ridgewood Township	1,078.99	
	Saddle River Township	198.18	
	Teaneck Township	1,917.67	
	Rochelle Park Township	34.91	
	Wyckoff Township	103.24	
			$88,452.07

40

BURLINGTON COUNTY

Beverly City	92.42	
Bordentown City	268.25	
Burlington City	937.39	
Fieldsboro Borough	9.11	
Palmyra Borough	243.26	
Pemberton Borough	18.40	
Riverton Borough	217.01	
Wrightstown Borough	6.48	
Bordentown Township	59.70	
Burlington Township	22.39	
Chester Township	116.55	
Delanco Township	59.73	
Delran Township	6.35	
Eastampton Township	61.14	
Edgewater Park Township	283.71	
Florence Township	189.97	
Hainesport Township	56.64	
Lumberton Township	30.48	
Mansfield Township	27.42	
Medford Township	37.70	
Moorestown Township	347.22	
Mount Holly Township	730.88	
Mount Laurel Township	24.72	
New Hanover Township	16.57	
North Hanover Township	3.60	
Pemberton Township	294.89	
Riverside Township	391.12	
Shamong Township	24.96	
Southampton Township	92.30	
Springfield Township	15.91	
Tabernacle Township	.69	
Woodland Township	29.52	
		$4,716.48

CAMDEN COUNTY

Camden City	83,882.29	
Gloucester City	997.24	
Audubon Borough	484.17	
Barrington Borough	20.23	
Belmawr Borough	37.07	
Berlin Borough	195.79	
Brooklawn Borough	17.68	
Clementon Borough	50.29	
Collingswood Borough	290.01	

	Gibbsboro Borough	32.19	
	Haddonfield Borough	540.13	
	Haddon Heights Borough	161.83	
	Hi-Nella Borough	.90	
	Laurel Springs Borough	38.15	
	Magnolia Borough	32.37	
10	Lindenwold Borough	131.68	
	Merchantville Borough	286.71	
	Mt. Ephraim Borough	56.19	
	Oaklyn Borough	491.91	
	Pine Hill Borough	55.29	
	Somerdale Borough	9.44	
	Stratford Borough	40.01	
	Delaware Township	56.10	
	Gloucester Township	112.17	
	Haddon Township	447.52	
	Pensauken Township	706.60	
	Voorhees Township	30.66	
	Waterford Township	123.95	
20	Winslow Township	513.72	
			$89,842.29

CAPE MAY COUNTY

	Cape May City	936.70	
	North Wildwood City	706.09	
	Ocean City	4,522.07	
	Sea Isle City	189.55	
	Wildwood City	3,052.41	
	West Cape May Borough	46.78	
	Wildwood Crest Borough	27.54	
	Woodbine Borough	200.10	
30	Dennis Township	528.92	
	Lower Township	1,368.13	
	Middle Township	528.68	
	Upper Township	108.73	
			$12,215.70

CUMBERLAND COUNTY

	Bridgeton City	3,035.14
	Millville City	1,547.83
	Vineland Borough	926.36
	Commercial Township	614.48
	Deerfield Township	9.47
40	Downe Township	19.60

Fairfield Township	29.91	
Greenwich Township	73.90	
Hopewell Township	15.85	
Landis Township	886.42	
Lawrence Township	57.78	
Maurice River Township	253.06	
Upper Deerfield Township	267.14	
		$7,736.94

ESSEX COUNTY

East Orange City	6,805.44	
Newark City	254,196.81	
Orange City	7,550.38	
Belleville, Town of	911.28	
Bloomfield, Town of	7,151.11	
Irvington, Town of	12,516.62	
Montclair, Town of	8,001.11	
Nutley, Town of	433.98	
West Orange, Town of	731.39	
South Orange, Village of	4,266.71	
Caldwell Borough	272.75	
Essex Fells Borough	372.09	
Glen Ridge Borough	462.15	
Roseland Borough	134.14	
Verona Borough	36.59	
Cedar Grove Township	18.82	
Maplewood Township	700.70	
Millburn Township	1,651.73	
		$306,213.80

GLOUCESTER COUNTY

Woodbury City	771.61	
Clayton Borough	223.00	
Glassboro Borough	1,456.93	
Newfield Borough	505.60	
Paulsboro Borough	102.64	
Pitman Borough	267.86	
Swedesboro Borough	270.11	
Wenonah Borough	118.83	
Westville Borough	2,339.51	
Woodbury Heights Borough	83.61	
Deptford Township	4.94	
East Greenwich Township	92.21	
Elk Township	6.98	

	Franklin Township	16.66	
	Greenwich Township	14.36	
	Harrison Township	79.12	
	Logan Township	13.10	
	Mantua Township	101.83	
	Monroe Township	125.75	
10	South Harrison Township	.36	
	Woolwich Township	14.47	
			$6,609.48

HUDSON COUNTY

	Bayonne City	38,731.01	
	Hoboken City	270,573.37	
	Jersey City	3,145,744.82	
	Union City	619.22	
	Harrison, Town of	27,919.05	
	Kearny, Town of	78,641.66	
	Secaucus, Town of	26,100.96	
20	West New York, Town of	196,091.62	
	North Bergen Township	22,065.43	
	Weehawken Township	375,109.75	
			$4,181,596.89

HUNTERDON COUNTY

	Lambertville City	1,455.43	
	Clinton, Town of	192.43	
	Bloomsbury Borough	306.58	
	Califon Borough	49.03	
	Flemington Borough	711.76	
	Frenchtown Borough	82.35	
	Glen Gardner Borough	85.71	
30	Hampton Borough	503.65	
	High Bridge Borough	561.79	
	Lebanon Borough	134.11	
	Milford Borough	176.01	
	Stockton Borough	35.09	
	Alexandria Township	1.62	
	Bethlehem Township	197.55	
	Clinton Township	222.97	
	Delaware Township	27.67	
	East Amwell Township	25.47	
	Franklin Township	131.59	
	Holland Township	164.86	
40	Kingwood Township	32.16	

Lebanon Township	10.64		
Raritan Township	415.58		
Readington Township	578.91		
Tewksbury Township	47.41		
Union Township	255.24		
West Amwell Township	.99		
		$6,406.80	10

MERCER COUNTY

Trenton City	55,003.73		
Hightstown Borough	495.38		
Hopewell Borough	595.09		
Princeton Borough	1,560.71		
Princeton Township	1,560.71		
East Windsor Township	101.98		
Ewing Township	2,141.45		
Hamilton Township	7,228.04		
Hopewell Township	193.06		
Lawrence Township	179.72		20
Princeton Township	2,696.53		
Washington Township	52.15		
West Windsor Township	5,152.43		
		$75,870.60	

MIDDLESEX COUNTY

New Brunswick City	10,441.41		
Perth Amboy City	62,719.96		
South Amboy City	23,963.68		
Carteret Borough	6,798.35		
Dunellen Borough	2,618.67		
Helmetta Borough	31.08		
Highland Park Borough	180.53		30
Jamesburg Borough	212.69		
Metuchen Borough	5,193.91		
Middlesex Borough	849.19		
Milltown Borough	221.59		
Sayreville Borough	1,780.92		
South Plainfield Borough	1,716.55		
South River Borough	117.57		
Spotswood Borough	2,631.83		
Cranbury Township	38.87		
East Brunswick Township	275.17		
Madison Township	1,724.43		
Monroe Township	314.70		40

New Jersey State Library

North Brunswick Township	132.97	
Piscataway Township	111.78	
Plainsboro Township	545.58	
Raritan Township	903.11	
South Brunswick Township	4,566.69	
Woodbridge Township	46,137.66	
		$174,228.89

MONMOUTH COUNTY

Asbury Park City	4,047.13	
Long Branch City	4,866.53	
Allenhurst Borough	788.48	
Atlantic Highlands Borough	3,019.14	
Avon-by-the-Sea Borough	426.85	
Belmar Borough	800.56	
Bradley Beach Borough	479.80	
Brielle Borough	19.36	
Deal Borough	379.26	
Eatontown Borough	112.59	
Englishtown Borough	46.75	
Farmingdale Borough	336.91	
Freehold Borough	1,090.74	
Highlands Borough	239.30	
Interlaken Borough	317.79	
Keansburg Borough	122.24	
Keyport Borough	186.23	
Little Silver Borough	180.14	
Manasquan Borough	364.63	
Matawan Borough	180.98	
Monmouth Beach Borough	284.52	
Oceanport Borough	19.18	
Red Bank Borough	2,068.20	
Seabright Borough	600.21	
Sea Girt Borough	330.05	
Shrewsbury Borough	24.96	
Spring Lake Borough	514.32	
Spring Lake Heights Borough	42.50	
Union Beach Borough	125.09	
Freehold Township	17.74	
Howell Township	112.05	
Manalapan Township	57.24	
Marlboro Township	159.04	
Matawan Township	179.72	
Middletown Township	275.17	
Neptune Township	757.19	

Ocean Township	140.13	
Raritan Township	42.35	
Upper Freehold Township	35.90	
Wall Township	27.99	
		$23,818.96

MORRIS COUNTY

Boonton, Town of	717.69	
Dover, Town of	1,579.92	
Morristown, Town of	4,060.64	
Butler Borough	319.08	
Chatham Borough	1,317.64	
Chester Borough	2.70	
Kinnelon Borough	4.50	
Lincoln Park Borough	117.90	
Madison Borough	2,122.92	
Morris Plains Borough	357.74	
Mount Arlington Borough	28.38	
Mountain Lakes Borough	306.91	
Netcong Borough	254.16	
Riverdale Borough	90.54	
Rockaway Borough	266.15	
Wharton Borough	180.71	
Denville Township	2,441.76	
East Hanover Township	71.95	
Hanover Township	445.10	
Jefferson Township	321.05	
Mine Hill Township	5.03	
Montville Township	298.37	
Morris Township	441.83	
Mount Olive Township	73.33	
Parsipanny Troy Hills Township	9.47	
Passaic Township	209.27	
Pequannock Township	90.69	
Randolph Township	168.96	
Rockaway Township	58.38	
Roxbury Township	4,581.29	
Washington Township	128.48	
		$21,072.54

OCEAN COUNTY

Bay Head Borough	3,066.87	
Beechwood Borough	2.70	
Lakehurst Borough	185.36	
Lavalette Borough	30.57	

Mantoloking Borough	8.09	
Ocean Gate Borough	38.81	
Pine Beach Borough	103.21	
Point Pleasant Beach Borough	634.02	
Sea Side Heights Borough	194.17	
Sea Side Park Borough	397.45	
South Toms River Borough	230.58	
Tuckerton Borough	18.40	
Berkeley Township	34.37	
Brick Township	1.56	
Dover Township	68.36	
Jackson Township	24.69	
Lacey Township	31.38	
Lakewood Township	718.02	
Manchester Township	141.93	
Ocean Township	20.98	
Plumstead Township	105.07	
Union Township	168.48	
		$6,225.07

PASSAIC COUNTY

Clifton City	3,201.89	
Passaic City	9,845.45	
Paterson City	25,838.23	
Bloomingdale Borough	45.73	
Hawthorne Borough	1,399.00	
Pompton Lakes Borough	401.49	
Ringwood Borough	185.63	
Totowa Borough	129.58	
Wanaque Borough	300.77	
West Paterson Borough	10.49	
Little Falls Township	316.80	
Wayne Township	192.82	
West Milford Township	71.92	
		$41,939.80

SALEM COUNTY

Salem City	575.64	
Elmer Borough	280.75	
Pennsgrove Borough	1,042.58	
Woodstown Borough	154.73	
Alloway Township	32.25	
Mannington Township	55.68	
Oldmans Township	54.30	
Pilesgrove Township	24.81	

Pittsgrove Township	56.79	
Quinton Township	12.89	
Upper Pittsgrove Township	22.39	
		$2,312.87

SOMERSET COUNTY

Bernardsville Borough	2,497.65	
Bound Brook Borough	3,217.20	
Far Hills Borough	307.93	
Manville Borough	3,079.59	
Peapack-Gladstone Borough	215.45	
Somerville Borough	3,733.62	
Bernards Township	284.46	
Branchburg Township	268.31	
Bridgewater Township	2,895.79	
Franklin Township	100.01	
Hillsborough Township	418.87	
Montgomery Township	1,381.05	
Raritan Corporation	2,119.66	
		$20,519.59

SUSSEX COUNTY

Newton, Town of	421.06	
Andover Borough	102.34	
Branchville Borough	63.68	
Franklin Borough	643.31	
Hamburg Borough	81.99	
Ogdensburg Borough	81.22	
Sussex Borough	158.89	
Andover Township	14.18	
Byram Township	18.16	
Frankford Township	108.55	
Fredon Township	25.14	
Green Township	117.90	
Hampton Township	15.46	
Hardyston Township	133.75	
Lafayette Township	31.26	
Sparta Township	137.83	
Stillwater Township	.30	
Vernon Township	151.10	
Wantage Township	130.87	
		$2,436.99

UNION COUNTY

	Elizabeth City	87,939.27	
	Linden City	6,408.00	
	Plainfield City	8,599.38	
	Rahway City	10,712.80	
	Summit City	5,167.51	
	Westfield, Town of	3,817.81	
	Fanwood Borough	750.60	
	Garwood Borough	1,250.36	
	Kenilworth Borough	318.18	
	New Providence Borough	43.57	
	Roselle Borough	820.93	
	Roselle Park Borough	1,835.58	
	Clark Township	116.55	
	Cranford Township	13,076.43	
	Hillside Township	814.94	
	New Providence Township	14.98	
	Scotch Plains Township	4.44	
	Springfield Township	127.10	
	Union Township	387.71	
			$142,206.14

WARREN COUNTY

	Belvidere, Town of	319.41	
	Hackettstown, Town of	202.80	
	Phillipsburg, Town of	16,723.96	
	Alpha Borough	244.81	
	Washington Borough	1,050.25	
	Allamuchy Township	41.18	
	Blairstown Township	344.64	
	Franklin Township	74.71	
	Frelinghuysen Township	69.11	
	Greenwich Township	120.48	
	Hardwick Township	.60	
	Harmony Township	96.44	
	Independence	177.21	
	Knowlton Township	171.33	
	Liberty Township	5.03	
	Lopatcong Township	1,336.01	
	Mansfield Township	44.89	
	Oxford Township	64.88	
	Pahaquarry Township	.48	
	Pohatcong Township	314.97	
	Washington Township	68.42	
	White Township	171.21	
			$21,642.82
	Total Amount Disbursed		$5,265,465.93

HOMER C. ZINK,
Comptroller of the Treasury.

11-5-41

1941 ASSESSMENT
SUMMARY OF FRANCHISE EXCISE TAXES
PURSUANT TO PROVISIONS OF CHAPTER 291,
P. L. 1941

	Railroad System	1941 Franchise Excise Taxes
2	Penna. R.R. System, excl. of Penna. & Atl. R.R. and of Union Trans. Co.	$1,870,168.65
3	Penna. & Atlantic R.R.	0.00
4	Union Transportation Co.	0.00
5	Pennsylvania-Reading Seashore Lines	0.00
6	C. R.R. Co. of N. J., excl. of Mt. Hope Mineral R.R. and Wharton & Northern R.R.	0.00
7	Mt. Hope Mineral R.R.	17,194.65
8	Wharton & Northern R.R.	161,687.94
9	Reading Company	506,782.62
10	Erie R.R., excl. of Erie Terminals R.R., N. J. & N. Y. R.R. and Northern R.R. Co. of N. J.	0.00
11	New Jersey & New York R.R.	0.00
12	Northern Railroad Co. of N. J.	0.00
13	Delaware, Lackawanna & Western R.R.	227,693.70
14	New York, Susquehanna & Western R.R., incl. Erie Terminals R.R.	249,186.54
15	Lehigh Valley R.R., incl. Raritan Terminal & Transportation Co.	85,376.67
16	New York Central R.R.	0.00
17	Atlantic City & Shore R.R., incl. Atlantic City & O. City R.R.	8,904.63
18	Baltimore & Ohio R.R., incl. Baltimore & New York R.R.	305,146.29
19	East Jersey R.R. & Terminal Co.	24,004.77
20	Ferro Monte R.R. (Not Operated)	0.00
21	Hoboken Manufacturers R.R., incl. H. R.R. W. & S. Conn. Co.	0.00
22	Hudson & Manhattan Railroad	370,766.55
23	Hudson R.R. & Transportation Co. (Not a Common Carrier)	0.00
24	Lehigh & Hudson River Railway	62,687.94
25	Lehigh & New England R.R.	125,716.17
26	Lucaston Railroad (Not a Common Carrier)	0.00

	27	Morristown & Erie Railroad	15,272.34
	28	New York, Ontario & Western R.R.	0.00
	29	Pohatcong Railroad (Not a Common Carrier)	0.00
	30	Rahway Valley Co., Lessee, incl. Rahway Valley Line and R. Valley R. R.	9,544.71
10	31	Raritan River Railroad	122,974.26
	32	Southern N. J. R.R. (Abandoned Operation in 1940)	0.00
	33	Staten Island Rapid Transit Railway Co.	0.00
		Total 1941 Railroad Franchise Excise Taxes in New Jersey	$4,163,108.43

Approved: WILLIAM D. KELLY,
State Tax Commissioner.
Date: November 5th, 1941.

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11-5-41

FRANCHISE EXCISE TAX
1941 ASSESSMENT
AS DETERMINED BY THE STATE TAX COMMISSIONER
PURSUANT TO CHAPTER 291, P. L. 1941

PENNSYLVANIA RAILROAD SYSTEM, EXCLUSIVE OF
PENNA. & ATLANTIC R.R. AND UNION TRANSPORTATION CO.

The 1941 Franchise Tax levied against the Penna. R.R. Co. includes all of its operations in the State of New Jersey, and the operations of the railroads embraced in the following list:

Belvidere-Delaware Railroad
Camden & Burlington County Railway
Delaware River R.R. & Bridge Co.
Freehold & Jamesburg Agricultural R.R.
Harrison & East Newark Connecting R.R.
New York Bay Railroad
Pennsylvania Tunnel & Terminal R.R.
Perth Amboy & Woodbridge Railroad
Rocky Hill R.R. & Transportation Co.
United New Jersey R.R. & Canal Co.
Pennsylvania R.R. Co., Lessee
New York & Long Branch R.R. (50%)

FRANCHISE COMPUTATIONS — 1941 ASSESSMENT

Line No.	Description		
	Miles of All Tracks Operated, as of December 31, 1940		
1	Miles of All Tracks Operated by System		24,928.20 Mi.
2	" " " " " in New Jersey		1,435.25 "
3	Per Cent of Operated Track Miles in N. J., Line 2 ÷ Line 1		5.76%
	Computation of Franchise Excess and Taxes for 1941 Assessment		
4	Net Ry. Oper. Income of System for year ended Dec. 31, 1940		$86,499,486
5	Allocation Factor to N. J., based on Track Miles—Same as Line 3		5.76%
6	1940 Net Ry. Operating Income Allocated to N. J. — Line 4 × Line 5		4,982,370
7	1941 Franchise Base, Line 6 capitalized at 3%		166,079,000
	Deduction for Physical Property, as per 1941 Assmt. (made in 1940)		
	Penna. R.R. System, excl. of N. Y. & L. B. R.R.	$102,253,271	
	New York & Long Branch R.R., 50% to Penna. R.R.	1 486,774	
8	Total Deduction for Phys. Prop., as per 1941 Assessment		103,740,045
9	1941 Excess of Franchise Base over property valuation for 1941, Line — Line 8		62,338,955
10	Franchise Excise Tax for 1941, 3% of Line 9		1,870,168.75

Approved: WILLIAM D. KELLY,
State Tax Commissioner.

Date: November 5, 1941.

11-5-

FRANCHISE EXCISE TAX
1941 ASSESSMENT
AS DETERMINED BY THE STATE TAX COMMISSIONER
PURSUANT TO CHAPTER 291, P. L. 1941

PENNSYLVANIA & ATLANTIC RAILROAD
EXCLUSIVE OF UNION TRANSPORTATION CO.

The 1941 Franchise Excise Tax levied against the Pennsylvania & Atlan Railroad includes all its operations, embracing

Pennsylvania & Atlantic R.R., exclusive of
former Pemberton & Hightstown R.R., leased to Union Transportation Co.

FRANCHISE COMPUTATIONS — 1941 ASSESSMENT

Line No.	Description	
	Miles of All Tracks Operated, as of December 31, 1940	
1	Miles of All Tracks Operated by Penna. & Atlantic R.R.	64.71
2	" " " " " in New Jersey	64.71
3	Per Cent of Operated Track Miles in N. J., Line 2 ÷ Line 1	100
	Computation of Franchise Excess and Taxes for 1941 Assessment	
4	Net Ry. Oper. Income of Penna. & Atlantic R.R., for year ended Dec. 31, 1940	Def. 202
5	Allocation Factor to N. J., based on Track Miles—Same as Line 3	100
6	1940 Net Ry. Oper. Income Allocated to N. J. — Line 4 × Line 5	Def. 202
7	1941 Franchise Base, Line 6 capitalized at 3%	Nega
8	Deduction for Physical Property as per 1941 Assmt. (made in 1940) (Exclusive of Pemberton & Hightstown R.R., leased to Union Transp. Co.)	477
9	1941 Excess of Franchise Base over property valuation for 1941— Line 7 — Line 8	Nega
10	Franchise Excise Tax for 1941, based on Franchise Excess in Line 9	0

Note: 1941 Assessment under former law included in one assessment both property operated by Penna. & Atlantic R.R., and the property oper by Union Transportation Co. (Pemberton & Hightstown R.R.)

Approved: WILLIAM D. KELLY
State Tax Commissi

Date: November 5, 1941.

11-5-41

FRANCHISE EXCISE TAX
1941 ASSESSMENT
AS DETERMINED BY THE STATE TAX COMMISSIONER
PURSUANT TO CHAPTER 291, P. L. 1941

THE UNION TRANSPORTATION CO.

The 1941 Franchise Excise Tax levied against the Union Transportation Co. includes all its operations, embracing

Former Pemberton & Hightstown R.R., consolidated with the Pennsylvania & Atlantic R.R., Feb. 25, 1915.
Leased by the Union Transportation Co. from the Penna. & Atlantic R.R.

FRANCHISE COMPUTATION — 1941 ASSESSMENT

Line No.	Description	
	Miles of All Tracks Operated, as of December 31, 1940	
1	Miles of All Tracks Operated by Union Transportation Co.	27.87 Mi.
2	" " " " " in New Jersey	27.87 "
3	Per Cent of Operated Track Miles in N. J., Line 2 ÷ Line 1	100%
	Computation of Franchise Excess and Taxes for 1941 Assessment	
4	Net Ry. Oper. Income of Union Transportation Co. for year ended Dec. 31, 1940	$1,191
5	Allocation Factor to N. J., based on Track Miles–Same as Line 3	100%
6	1940 Net Ry. Oper. Income Allocated to N. J. — Line 4 × Line 5	1,191
7	1941 Franchise Base, Line 6 capitalized at 3%	39,700
8	Deduction for Physical Property, as per 1941 Assmt. (made in 1940)	$101,814
9	1941 Excess of Franchise Base over property valuation for 1941, Line 7 — Line 8	Negative
10	Franchise Excise Tax for 1941, based on Franchise Excess in Line 9	0

Note: 1941 Assessment under former law included in one assessment both the property operated by Union Transportation Co. (Pemberton & Hightstown R.R.) and the property operated by Pennsylvania & Atlantic R.R.

Approved: WILLIAM D. KELLY,
State Tax Commissioner.

Date: November 5, 1941.

FRANCHISE EXCISE TAX
1941 ASSESSMENT
AS DETERMINED BY THE STATE TAX COMMISSIONER
PURSUANT TO CHAPTER 291, P. L. 1941

PENNSYLVANIA-READING SEASHORE LINES

The 1941 Franchise Excise Tax levied against the Penn-Reading Seashore Li includes all of its operations and the operations of the railroads embraced in following list:

West Jersey & Seashore Railroad
Atlantic City Railroad
Penn-Reading S. Lines (formerly Wildwood & Del. Bay
Penn-Reading S. Lines (Formerly Wildwood & Del. Bay Short Line R.R.)
Penn-Reading Seashore Lines.

FRANCHISE COMPUTATIONS — 1941 ASSESSMENT

Line No.	Description	
	Miles of All Tracks Operated, as of December 31, 1940	
1	Miles of All Tracks Operated by System	7
2	" " " " " in New Jersey	7
3	Per Cent of Operated Track Miles in New Jersey, Line 2 ÷ Line 1	1
	Computation of Franchise Excess and Taxes for 1941 Assessment	
4	Net Ry. Oper. Income of System for year ended Dec. 31, 1940	Def. $2,49
5	Allocation Factor to N. J., based on Track Miles, Same as Line 3	1
6	1940 Net Ry. Oper. Income Allocated to N. J. — Line 4 × Line 5	Def. $2,49
7	1941 Franchise Base, Line 6 capitalized at 3%	Neg
8	Deduction for Physical Property as per 1941 Assmt. (made in 1940)	$11,1
9	1941 Excess of Franchise Base over property valuation for 1941, Line 7 — Line 8	Neg
10	**Franchise Excise Tax for 1941, based on Franchise Excess in Line 9**	

Approved: WILLIAM D. KELL
State Tax Commissi

Date: November 5, 1941.

11-5-41

FRANCHISE EXCISE TAX
1941 ASSESSMENT
AS DETERMINED BY THE STATE TAX COMMISSIONER
PURSUANT TO CHAPTER 291, P. L. 1941

C. R.R. CO. OF N. J. SYSTEM, EXCLUSIVE OF MT. HOPE MINERAL R.R. AND OF WHARTON & NORTHERN RAILROAD

The 1941 Franchise Excise Tax levied against the C. R.R. Co. of N. J. includes all of its operations in the State of New Jersey, and the operations of the railroads embraced in the following list:

Bay Shore Connecting R.R. (50%)
Central R.R. Co. of N. J.
Dover & Rockaway Railroad Co.
New York & Long Branch Railroad Co. (50%)
Ogden Mine Railroad Co.

FRANCHISE COMPUTATIONS — 1941 ASSESSMENT

Line No.	Description	
	Miles of All Tracts Operated, as of December 31, 1940	
1	Miles of All Tracks Operated by System	1,965.42 Mi.
2	" " " " " in New Jersey	1,348.44 "
3	Per Cent of Operated Track Miles in New Jersey, Line 2 ÷ Line 1	68.61%
	Computation of Franchise Excess and Taxes for 1941 Assessment	
4	Net Ry. Oper. Income of System for year ended Dec. 31, 1940	$1,364,795
5	Allocation Factor to N. J., based on Track Miles—Same as Line 3	68.61%
6	1940 Net Ry. Oper. Income Allocated to N. J.—Line 4 × Line 5	936,386
7	1941 Franchise Base, Line 6 capitalized at 3%	31,212,867
	Deduction for Physical Property as per 1941 Assmt. (made in 1940)	
	Central R.R. Co. of N. J., M. L. & Branches	$67,007,292
	Dover & Rockaway Railroad Co.	78,966
	Ogden Mine Railroad Co.	32,376
	Bay Shore Connecting R.R., 50% to C. R.R. Co. of N. J.	23,662
	New York & Long Branch R.R., 50% to C. R.R. Co. of N. J.	1,486,775
8	Total Deduction for Phys. Prop., as per 1941 Assessment	68,629,071
9	1941 Excess of Franchise Base, over property valuation for 1941 Line 77 — Line 8	Negative
10	Franchise Excise Tax for 1941, based on Franchise Excess in Line 9	0

Approved: WILLIAM D. KELLY,
State Tax Commissioner.

Date: November 5, 1941.

FRANCHISE EXCISE TAX
1941 ASSESSMENT
AS DETERMINED BY THE STATE TAX COMMISSIONER
PURSUANT TO CHAPTER 291, P. L. 1941

MOUNT HOPE MINERAL RAILROAD

The 1941 Franchise Excise Tax levied against the Mt. Hope Mineral Railroad includes all its operations, embracing

Mount Hope Mineral Railroad

FRANCHISE COMPUTATIONS — 1941 ASSESSMENT

Line No.	Description	
	Miles of All Tracks Operated, as of December 31, 1940	
1	Miles of All Tracks Operated by Mt. Hope Mineral R. R.	4.35
2	" " " " " in New Jersey	4.35
3	Per Cent of Operated Track Miles in N. J., Line 2 ÷ Line 1	100
	Computation of Franchise Excess and Taxes for 1941 Assessment	
4	Net Ry. Oper. Income of Mt. Hope Mineral R.R., for year ended December 31, 1940	$1
5	Allocation Factor to N. J., based on Track Miles—Same as Line 3	100
6	1940 Net Ry. Oper. Income Allocated to N. J.—Line 4 × Line 5	1
7	1941 Franchise Base, Line 6 capitalized at 3%	60
8	Deduction for Physical Property, as per 1941 Assessment (made in 1940)	2
9	1941 Excess of Franchise Base over property valuation for 1941, Line 7 — Line 8	57
10	Franchise Excise Tax for 1941, 3% of Line 9	17,1

Approved: WILLIAM D. KELL
State Tax Commissi

Date: November 5, 1941.

11-5-41

FRANCHISE EXCISE TAX
1941 ASSESSMENT
AS DETERMINED BY THE STATE TAX COMMISSIONER
PURSUANT TO CHAPTER 291, P. L. 1941

WHARTON & NORTHERN RAILROAD

The 1941 Franchise Excise Tax levied against the Wharton & Northern Railroad includes all its operations, embracing

Wharton & Northern Railroad

FRANCHISE COMPUTATIONS — 1941 ASSESSMENT

Line No.	Description	
	Miles of All Tracks Operated, as of December 31, 1940	
1	Miles of All Tracks Operated by Wharton & Northern R.R.	16.82 Mi.
2	" " " " " in New Jersey	16.82 "
3	Per Cent of Operated Track Miles in N. J., Line 2 ÷ Line 1	100.0%
	Computation of Franchise Excess and Taxes for 1941 Assessment	
4	Net Ry. Oper. Income of W. & N. R. R., for year ended Dec. 31, 1940	$164,869
5	Allocation Factor to N. J., based on Track Miles—Same as Line 3	100.0%
6	1940 Net Ry. Oper. Income Allocated to N. J.—Line 4 × Line 5	164,869
7	1941 Franchise Base, Line 6 capitalized at 3%	5,495,633
8	Deduction for Physical Property, as per 1941 Assessment (made in 1940)	106,035
9	1941 Excess of Franchise Base, over property valuation for 1941, Line 7 — Line 8	5,389,598
10	Franchise Excise Tax for 1941, 3% of Line 9	$161,687.94

Approved: WILLIAM D. KELLY,
State Tax Commissioner.

Date: November 5, 1941.

11-5-4

FRANCHISE EXCISE TAX
1941 ASSESSMENT
AS DETERMINED BY THE STATE TAX COMMISSIONER
PURSUANT TO CHAPTER 291, P. L. 1941

READING COMPANY

The 1941 Franchise Excise Tax levied against the Reading Company includes all of its operations in the State of New Jersey, and the operations of the railroads embraced in the following list:

Delaware & Bound Brook Railroad
East Trenton Railroad
Port Reading Railroad
Reading Co., Lessee

FRANCHISE COMPUTATIONS — 1941 ASSESSMENT

Line No.	Description	
	Miles of All Tracks Operated, as of December 31, 1940	
1	Miles of All Tracks Operated by System	3,605.24
2	" " " " " in New Jersey	205.17
3	Per Cent of Operated Track Miles in N. J., Line 2 ÷ Line 1	5.69
	Computation of Franchise Excess and Taxes for 1941 Assessment	
4	Net Ry. Oper. Income of System for year ended Dec. 31, 1940	$13,460.0
5	Allocation Factor to N. J. based on Track Miles — Same as Line 3	5.69
6	1940 Net Ry. Oper. Income Allocated to N. J. — Line 4 × Line 5	765.5
7	1941 Franchise Base, Line 6 capitalized at 3%	25,530.0
8	Deduction for Physical Property, as per 1941 Assessment (made in 1940)	8,637.2
9	1941 Excess of Franchise Base, over property valuation for 1941, Line 7 — Line 8	16,892.7
10	Franchise Excise Tax for 1941, 3% of Line 9	506,78

Approved: WILLIAM D. KELLY
State Tax Commissioner

Date: November 5, 1941.

11-5-41

FRANCHISE EXCISE TAX
1941 ASSESSMENT
AS DETERMINED BY THE STATE TAX COMMISSIONER
PURSUANT TO CHAPTER 291, P. L. 1941

ERIE RAILROAD SYSTEM,
EXCLUSIVE OF ERIE TERMINALS R.R., N. J. & N. Y. R.R.
AND NORTHERN R.R. CO. OF N. J.

The 1941 Franchise Excise Tax levied against the Erie Railroad Co. includes all of its operations in the State of New Jersey, and the operations of the railroads embraced in the following list:

Arlington Railroad Co.
Bergen County Railroad Co.
Bergen & Dundee Railroad Co.
Caldwell Railway Co.
Docks Connecting Railway Co.
Long Dock Co.
Newark & Hudson Railroad Co.
N. Y. & Greenwood Lake Railway Co.
N. Y. L. E. & W. D.. & Improvement Co.
Paterson & Hudson River Railroad Co.
Paterson, Newark & New York Railroad Co.
Paterson & Ramapo Railroad Co.
Penhorn Creek Railroad Co.
Roseland Railway Co.
Erie Railroad Co., Lessee

FRANCHISE COMPUTATIONS — 1941 ASSESSMENT

Line No.	Description	
	Miles of All Tracks Operated, as of December 31, 1940	
1	Miles of All Tracks Operated by System	4,898.15 Mi.
2	" " " " " in New Jersey	464.10 "
	Computation of Franchise Excess and Taxes for 1941 Assessment	
3	Per Cent of Operated Track Miles in N. J., Line 2 ÷ Line	9.48%
4	Net Ry. Oper. Income of System for year ended Dec. 31, 1940	$11,123,723
5	Allocation Factor to N. J., based on Track Miles—Same as Line 3	9.48%
6	1940 Net Ry. Oper. Income Allocated to N. J.—Line 4 × Line 5	1,054,529
7	1941 Franchise Base, Line 6 capitalized at 3%	35,150,967
8	Deduction for Physical Property, as above, as per 1941 Assessment (made in 1940)	39,484,374
9	1941 Excess Franchise Base, over property valuation for 1941, Line 7 — Line 8	Negative
10	Franchise Excise Tax for 1941, based on Franchise Excess in Line 9	0

Approved: WILLIAM D. KELLY,
State Tax Commissioner.

Date: November 5, 1941.

11-5-

FRANCHISE EXCISE TAX
1941 ASSESSMENT
AS DETERMINED BY THE STATE TAX COMMISSIONER
PURSUANT TO CHAPTER 291, P. L. 1941

NEW JERSEY & NEW YORK RAILROAD

The 1941 Franchise Excise Tax levied against the New Jersey & New Yo Railroad includes all of its operations in the State of New Jersey, embracing

New Jersey & New York Railroad

FRANCHISE COMPUTATIONS — 1941 ASSESSMENT

Line No.	Description	
	Miles of All Tracks Operated, as of December 31, 1940	
1	Miles of All Tracks Operated by New Jersey & New York R.R.	71.52
2	" " " " " in New Jersey	49.40
3	Per Cent of Operated Track Miles in N. J., Line 2 ÷ Line 1	69.0
	Computation of Franchise Excess and Taxes for 1941 Assessment	
4	Net Ry. Oper. Income of N. J. & N. Y. R.R., for year ended December 31, 1940	Def. 167
5	Allocation Factor to N. J., based on Track Miles—Same as Line 3	69.0
6	1940 Net Ry. Oper. Income Allocated to N. J. — Line 4 × Line 5	Def. 115
7	1941 Franchise Base, Line 6 capitalized at 3%	Nega
8	Deduction for Physical Property, as per 1941 Assessment (made in 1940)	66
9	1941 Excess of Franchise Base over property valuation for 1941, Line 7 — Line 8	Nega
10	Franchise Excise Tax for 1941, based on Franchise Excess in Line 9	0

Approved: WILLIAM D. KELLY
State Tax Commissi

Date: November 5, 1941.

11-5-41

FRANCHISE EXCISE TAX
1941 ASSESSMENT
AS DETERMINED BY THE STATE TAX COMMISSIONER
PURSUANT TO CHAPTER 291, P. L. 1941

NORTHERN RAILROAD CO. OF NEW JERSEY

The 1941 Franchise Excise Tax levied against the Northern R.R. Co. of N. J. includes all its operations in the State of New Jersey, embracing

Northern R.R. Co. of N. J.

FRANCHISE COMPUTATIONS — 1941 ASSESSMENT

Line No.	Description	
	Miles of All Tracks Operated, as of December 31, 1940	
1	Miles of All Tracks Operated by Northern R.R. Co. of N. J.	47.55 Mi.
2	" " " " " in New Jersey	39.48 "
3	Per Cent of Operated Track Miles in N. J., Line 2 ÷ Line 1	83.03%
	Computation of Franchise Excess and Taxes for 1941 Assessment	
4	Net Ry. Oper. Income of Northern R.R. Co. of N. J., for year ended Dec. 31, 1940	Def. 129,198
5	Allocation Factor to N. J., based on Track Miles — Same as Line 3	83.03%
6	1940 Net Ry. Oper. Income Allocated to N. J. — Line 4 × Line 5	Def. 107,273
7	1941 Franchise Base, Line 6 capitalized at 3%	Negative
8	Deduction for Physical Property, as per 1941 Assessment (made in 1940)	$625,883
9	1941 Excess of Franchise Base over property valuation for 1941, Line 7 — Line 8	Negative
10	Franchise Excise Tax for 1941, based on Franchise Excess in Line 9	0

Approved: WILLIAM D. KELLY,
State Tax Commissioner.

Date: November 5, 1941.

11-5-4

FRANCHISE EXCISE TAX
1941 ASSESSMENT
AS DETERMINED BY THE STATE TAX COMMISSIONER
PURSUANT TO CHAPTER 291, P. L. 1941

DELAWARE, LACKAWANNA & WESTERN RAILROAD SYSTEM

The 1941 Excise Tax levied against the D. L. & W. R.R. Co. includes all of its operations in the State of New Jersey, and the operations of the railroads embraced in the following list:

Chester Railroad Co.
Lackawanna R.R. Co. of N. J.
Morris & Essex Railroad Co.
Morris & Essex Extension R.R. Co.
Newark & Bloomfield Railroad Co.
Passaic & Delaware Railroad Co.
Passaic & Delaware Extension R.R. Co.
Sussex Railroad Co.
Warren Railroad Co.
D. L. & W. R.R. Co., Lessee

FRANCHISE COMPUTATIONS — 1941 ASSESSMENT

Line No.	Description	
	Miles of All Tracks Operated, as of December 31, 1940	
1	Miles of All Tracks Operated by System	2,588.52
2	" " " " " in New Jersey	732.35
3	Per Cent of Operated Track Miles in N. J. — Line 2 ÷ Line 1	28.2
	Computation of Franchise Excess and Taxes for 1941 Assessment	
4	Net Ry. Oper. Income of System for year ended Dec. 31, 1940	$6,736
5	Allocation Factor to N. J. based on Track Miles — Same as Line 3	28.2
6	1940 Net Ry. Oper. Income Allocated to N. J. — Line 4 × Line 5	1,905
7	1941 Franchise Base, Line 6 capitalized at 3%	63,525
8	Deduction for Physical Property as per 1941 Assessment (made in 1940)	55,935
9	1941 Excess of Franchise Base, over property valuation for 1941, Line 7 — Line 8	7,589
10	Franchise Excise Tax for 1941, 3% of Line 9	227,69

Approved: WILLIAM D. KELL
State Tax Commissio

Date: November 5, 1941.

11-5-41

FRANCHISE EXCISE TAX
1941 ASSESSMENT
AS DETERMINED BY THE STATE TAX COMMISSIONER
PURSUANT TO CHAPTER 291, P. L. 1941

NEW YORK, SUSQUEHANNA & WESTERN RAILROAD SYSTEM
INCLUDING ERIE TERMINALS RAILROAD

The 1941 Franchise Excise Tax levied against the N. Y. S. & W. R.R. includes all of its operations in the State of New Jersey, and the operations of the railroads embraced in the following list:

Hackensack & Lodi Railroad
Lodi Branch Railroad
N. Y. S. & W. R.R.
Passaic & New York Railroad
Erie Terminals Railroad

FRANCHISE COMPUTATIONS — 1941 ASSESSMENT

Line No.	Description	
	Miles of All Tracks Operated, as of December 31, 1940	
1	Miles of All Tracks Operated by System	277.58 Mi.
2	" " " " " in New Jersey	271.95 "
3	Per Cent of Operated Track Miles in N. J., Line 2 ÷ Line 1	97.97%
	Computation of Franchise Excess and Taxes for 1941 Assessment	
4	Net Ry. Oper. Income of System for year ended Dec. 31, 1940	$439,084
5	Allocation Factor to N. J. based on Track Miles—Same as Line 3	97.97%
6	1940 Net Ry. Oper. Income Allocated to N. J., Line 4 × Line 5	430,171
7	1941 Franchise Base, Line 6 capitalized at 3%	14,339,033
8	Deduction for Physical Property, as per 1941 Assmt. (made in 1940)	6,032,815
9	1941 Excess of Franchise Base over property valuation for 1941, Line 7 — Line 8	8,306,218
10	Franchise Excise Tax for 1941, 3% of Line 9	249,186.54

Approved: WILLIAM D. KELLY,
State Tax Commissioner.

Date: November 5, 1941.

11-5-4

FRANCHISE EXCISE TAX
1941 ASSESSMENT
AS DETERMINED BY THE STATE TAX COMMISSIONER
PURSUANT TO CHAPTER 291, P. L. 1941

LEHIGH VALLEY RAILROAD SYSTEM,
INCLUDING RARITAN TERMINAL & TRANSPORTATION CO.

The 1941 Franchise Excise Tax levied against the Lehigh Valley Railroad Co includes all of its operations in the State of New Jersey, and the operations of th railroads embraced in the following list:

Bay Shore Connecting Railroad (50%)
L. V. R.R. Co. of N. J.
Lehigh Valley Harbor Terminal Railway Co.
L. V. R.R. Co., Lessee
Raritan Terminal & Transportation Co.

FRANCHISE COMPUTATIONS — 1941 ASSESSMENT

Line No.	Description		
	Miles of All Tracks Operated, as of December 31, 1940		
1	Miles of All Tracks Operated by System		3,114.49
2	" " " " " in New Jersey		528.72
3	Per Cent of Operated Track Miles in N. J., Line 2 ÷ Line 1		16.9
	Computation of Franchise Excess and Taxes for 1941 Assessment		
4	Net Ry. Oper. Income of System for year ended Dec. 31, 1940		$6,883,
5	Allocation Factor to N. J. based on Track Miles—Same as Line 3		16.9
6	1940 Net Ry. Oper. Income Allocated to N. J.—Line 4 × Line 5		1,168,
7	1941 Franchise Base, Line 6 capitalized at 3%		38,959,
	Deduction for Physical Property, as per 1941 Assmt. (made in 1940)		
	Bay Shore Connecting R.R. Co., 50% to L. V. R.R.	$23,662	
	L. V. R.R. Co. of N. J.	27,101,371	
	L. V. Harbor Terminal Ry.	4,867,953	
	L. V. R.R. Co., Lessee of L. V. R.R. Co. of N. J.	4,098,945	
	Raritan Terminal & Transportation Co.	21,447	
8	Total Deduction for Phys. Property as per 1941 Assessment		36,113
9	1941 Excess of Franchise Base, over property valuation, for 1941, Line 7 — Line 8		2,845
10	Franchise Excise Tax for 1941, 3% of Line 9		$85,37

Approved: WILLIAM D. KELLY,
State Tax Commissio

Date: November 5, 1941.

11-5-41

FRANCHISE EXCISE TAX
1941 ASSESSMENT
AS DETERMINED BY THE STATE TAX COMMISSIONER
PURSUANT TO CHAPTER 291, P. L. 1941

NEW YORK CENTRAL RAILROAD SYSTEM

The 1941 Franchise Excise Tax levied against the New York Central Railroad includes all of its operations in the State of New Jersey, and the operations of the railroads embraced in the following list:

New Jersey Junction Railroad Co.
New York & Fort Lee Railroad Co.
West Shore Railroad Co.

FRANCHISE COMPUTATIONS — 1941 ASSESSMENT

Line No.	Description	
	Miles of All Tracks Operated, as of December 31, 1940	
1	Miles of All Tracks Operated by System	24,804.41 Mi.
2	" " " " " in New Jersey	175.86 "
3	Per Cent of Operated Track Miles in N. J., Line 2 ÷ Line 1	0.71%
	Computation of Franchise Excess and Taxes for 1941 Assessment	
4	Net Ry. Oper. Income of System for year ended Dec. 31, 1940	$44,052,437
5	Allocation Factor to N. J., based on Track Miles—Same as Line 3	0.71%
6	1940 Net Ry. Oper. Income Allocated to N. J. — Line 4 × Line 5	312,772
7	1941 Franchise Base, Line 6 capitalized at 3%	10,425,733
8	Deduction for Physical Property, as per 1941 Assmt. (made in 1940)	$22,601,534
9	1941 Excess of Franchise Base, over property valuation for 1941, Line 7 — Line 8	Negative
10	Franchise Excise Tax for 1941, Based on Franchise Excess in Line 9	0

Approved: WILLIAM D. KELLY,
State Tax Commissioner.

Date: November 5, 1941.

11-5-41

FRANCHISE EXCISE TAX
1941 ASSESSMENT
AS DETERMINED BY THE STATE TAX COMMISSIONER
PURSUANT TO CHAPTER 291, P. L. 1941

ATLANTIC CITY & SHORE RAILROAD
INCLUDING ATLANTIC CITY & OCEAN CITY R.R.

The 1941 Franchise Excise Tax levied against the Atlantic City & Shore Railroad includes all of its operations, and the operations of the railroads embraced in the following list:

Atlantic City & Ocean City R.R.
Atlantic City & Shore R.R.

FRANCHISE COMPUTATIONS — 1941 ASSESSMENT

Line No.	Description	
	Miles of All Tracks Operated, as of December 31, 1940	
1	Miles of All Tracks Operated by Atlantic City & Shore RR.	48.709 M
2	" " " " " in New Jersey	48.709 "
3	Per Cent of Operated Track Miles in N. J., Line 2 ÷ Line 1	100.0%
	Computation of Franchise Excess and Taxes for 1941 Assessment	
4	Net Ry. Oper. Income of Atlantic City & Shore R.R. for year ended December 31, 1940	$10,2
5	Allocation Factor to N. J., based on Track Miles—Same as Line 3	100.0
6	1940 Net Ry. Oper. Income Allocated to N. J., Line 4 × Line 5	10,2
7	1941 Franchise Base, Line 6 capitalized at 3%	340,4
	Deduction for Physical Property, as per 1941 Assmt. (made in 1940)	
	Atlantic City & Ocean City R.R. $24,136	
	Atlantic City & Shore R.R. 19,476	
8	Total Deduction for Phys. Prop., as per 1941 Assessment	$43,6
9	1941 Excess of Franchise Base, over property valuation for 1941, Line 7 — Line 8	$296,8
10	Franchise Excise Tax for 1941, 3% of Line 9	$8,90

Approved: WILLIAM D. KELLY
State Tax Commissioner

Date: November 5, 1941.

11-5-41

FRANCHISE EXCISE TAX
1941 ASSESSMENT
AS DETERMINED BY THE STATE TAX COMMISSIONER
PURSUANT TO CHAPTER 291, P. L. 1941

BALTIMORE & OHIO RAILROAD
INCLUDING BALTIMORE & NEW YORK R.R.

The 1941 Franchise Excise Tax levied against the Baltimore & Ohio Railroad includes all of its operations in the State of New Jersey, and the operations of the railroads embraced in the following list:

Baltimore & New York R.R.
Baltimore & Ohio R.R.

FRANCHISE COMPUTATIONS — 1941 ASSESSMENT

Line No.	Description	
	Miles of All Tracks Operated, as of December 31, 1940	
1	Miles of All Tracks Operated by System	12,258.40 Mi.
2	" " " " " in New Jersey	131.41 "
3	Per Cent of Operated Track Miles in N. J., Line 2 ÷ Line 1	1.07%
	Computation of Franchise Excess and Taxes for 1941 Assessment	
4	Net Ry. Oper. Income of System for year ended Dec. 31, 1940	$30,618,531
5	Allocation Factor to N. J., based on Track Miles — Same as Line 3	1.07%
6	1940 Net Ry. Oper. Income Allocated to N. J.—Line 4 × Line 5	327,618
7	1941 Franchise Base, Line 6 capitalized at 3%	10,920,600
	Deduction for Physical Property, as per 1941 Assmt. (made in 1940)	
	Baltimore & New York R.R. $473,898	
	Baltimore & Ohio R.R. (Tang. Pers. Prop.) 275,159	
8	Total Deduction for Phys. Prop., as per 1941 Assessment	$749,057
9	1941 Excess of Franchise Base, over property valuation for 1941, Line 7 — Line 8	$10,171,543
10	Franchise Excise Tax for 1941, 3% of Line 9	$305,146.29

Approved: WILLIAM D. KELLY,
State Tax Commissioner.

Date: November 5, 1941.

11-5-41

FRANCHISE EXCISE TAX
1941 ASSESSMENT
AS DETERMINED BY THE STATE TAX COMMISSIONER
PURSUANT TO CHAPTER 291, P. L. 1941

EAST JERSEY RAILROAD & TERMINAL CO.

The 1941 Franchise Excise Tax levied against the East Jersey Railroad & Terminal Co. includes all its operations, embracing

East Jersey Railroad & Terminal Co.

FRANCHISE COMPUTATIONS — 1941 ASSESSMENT

Line No.	Description	
	Miles of All Tracks Operated, as of December 31, 1940	
1	Miles of All Tracks Operated, by East Jersey R.R. & Terminal Co.	3.07 M
2	" " " " " in New Jersey	3.07 "
3	Per Cent of Operated Track Miles in N. J., Line 2 ÷ Line 1	100.0%
	Computation of Franchise Excess and Taxes for 1941 Assessment	
4	Net Ry. Oper. Income of East Jersey R.R. & Terminal Co., for year ended Dec. 31, 1940	$29,4
5	Allocation Factor to N. J., based on Track Miles — Same as Line 3	100.0
6	1940 Net Ry. Oper. Income Allocated to N. J. — Line 4 × Line 5	29,4
7	1941 Franchise Base, Line 6 capitalized at 3%	980,2
8	Deduction for Physical Property, as per 1941 Assessment (made in 1940)	$180,0
9	1941 Excess of Franchise Base, over property valuation for 1941, Line 7 — Line 8	$800,1
10	Franchise Excise Tax for 1941, 3% of Line 9	$24,004.

Approved: WILLIAM D. KELLY,
State Tax Commissioner

Date: November 5, 1941.

11-5-41

FRANCHISE EXCISE TAX
1941 ASSESSMENT
AS DETERMINED BY THE STATE TAX COMMISSIONER
PURSUANT TO CHAPTER 291, P. L. 1941

FERRO MONTE RAILROAD

The 1941 Franchise Excise Tax levied against the Ferro Monte Railroad includes all its operations, embracing

Ferro Monte Railroad

FRANCHISE COMPUTATIONS — 1941 ASSESSMENT
(Ferro Monte R.R. not operated)

Miles of All Tracks Operated as of December 31, 1940	None
Net Railway Operating Income for year ended December 31, 1940	None
1940 Net Railway Operating Income Allocated to New Jersey	None
1941 Franchise Base	None
Deduction for Physical Property, as per 1941 Assmt. (made in 1940)	$2,922
1941 Excess of Franchise Base, over property valuation for 1941	Negative
Franchise Excise Tax for 1941, based on Franchise Excess	0

Approved: WILLIAM D. KELLY,
State Tax Commissioner.

Date: November 5, 1941.

11-5-

FRANCHISE EXCISE TAX
1941 ASSESSMENT
AS DETERMINED BY THE STATE TAX COMMISSIONER
PURSUANT TO CHAPTER 291, P. L. 1941

HOBOKEN MANUFACTURERS RAILROAD,
INCLUDING HOBOKEN RAILROAD, WAREHOUSE & STEAMSHIP
CONNECTING CO.

The 1941 Franchise Excise Tax levied against the Hoboken Manufacturers R includes all its operations, and the operations of the railroads embraced in t following list:

Hoboken Manufacturers R.R.
Hoboken R.R., Warehouse & Steamship Connecting Co.

FRANCHISE COMPUTATIONS — 1941 ASSESSMENT

Line No.	Description	
	Miles of All Tracks Operated, as of December 31, 1940	
1	Miles of All Tracks Operated by Hoboken Manufacturers R.R.	9.45
2	" " " " " in New Jersey	9.45
3	Per Cent of Operated Track Miles in N. J., Line 2 ÷ Line 1	100
	Computation of Franchise Excess and Taxes for 1941 Assessment	
4	Net Ry. Oper. Income of Hoboken Manufacturers R.R. for year ended December 31, 1940	$2
5	Allocation Factor to N. J., based on Track Miles—Same as Line 3	100
6	1940 Net Ry. Oper. Income Allocated to N. J., Line 4 × Line 5	2
7	1941 Franchise Base, Line 6 capitalized at 3%	7
	Deduction for Physical Property, as per 1941 Assmt. (made in 1940)	
	Hoboken Manufacturers R.R. $545,563	
	Hoboken R.R., Warehouse & Steamship Conn. Co. 508,579	
8	Total Deduction for Physical Property, as per 1941 Assessment	$1,05
9	1941 Excess of Franchise Base, over property valuation for 1941, Line 7 — Line 8	Neg
10	Franchise Excise Tax for 1941, based on Franchise Excess in Line 9	0

Approved: WILLIAM D. KELL
State Tax Commiss

Date: November 5, 1941.

11-5-41

FRANCHISE EXCISE TAX
1941 ASSESSMENT
AS DETERMINED BY THE STATE TAX COMMISSIONER
PURSUANT TO CHAPTER 291, P. L. 1941

HUDSON & MANHATTAN RAILROAD

The 1941 Franchise Excise Tax levied against the Hudson & Manhattan Railroad includes all of its operations in the State of New Jersey, embracing:

Hudson & Manhattan R.R.

FRANCHISE COMPUTATIONS — 1941 ASSESSMENT

Line No.	Description	
	Miles of All Tracks Operated, as of December 31, 1940	
1	Miles of All Tracks Operated by Hudson & Manhattan R.R.	21.486 Mi.
2	" " " " " in New Jersey	14.459 "
3	Per Cent of Operated Track Miles in N. J., Line 2 ÷ Line 1	67.29%
	Computation of Franchise Excess and Taxes for 1941 Assessment	
4	Net Ry. Oper. Income of Hudson & Manhattan R.R. for year ended Dec. 31, 1940	
5	Allocation Factor to N. J., based on Track Miles, Same as Line 3	$886,469
6	Net Ry. Operating Income Allocated to N. J., Line 4 × Line 5	67.29%
7	1941 Franchise Base, Line 6 capitalized at 3%	596,505
8	Deduction for Physical Property, as per 1941 Assmt. (made in 1940)	19,883,500
9	1941 Excess of Franchise Base, over property valuation for 1941, Line 7 — Line 8	7,524,615
10	Franchise Excise Tax for 1941, 3% of Line 9	$12,358,885
		$370,766.55

Approved: WILLIAM D. KELLY,
State Tax Commissioner.

Date: November 5, 1941.

FRANCHISE EXCISE TAX
1941 ASSESSMENT
AS DETERMINED BY THE STATE TAX COMMISSIONER
PURSUANT TO CHAPTER 291, P. L. 1941

HUDSON RAILROAD & TRANSPORTATION CO.

The 1941 Franchise Excise Tax Levied against the Hudson Railroad & Transportation Co. includes all its operations, embracing

Hudson R.R. & Transportation Co.

FRANCHISE COMPUTATIONS — 1941 ASSESSMENT
(Not a Common Carrier)

Miles of All Tracks Operated as a Common Carrier, as of Dec. 31, 1940	
Net Railway Operating Income for year ended Dec. 31, 1940	
1940 Net Railway Operating Income Allocated to New Jersey	
1941 Franchise Base	
Deduction for Physical Property, as per 1941 Assmt. (made in 1940)	
1941 Excess of Franchise Base, over property valuation for 1941	
Franchise Excise Tax for 1941, based on Franchise Excess	

Approved: WILLIAM D. KELL
State Tax Commissi

Date: November 5, 1941.

11-5-41

FRANCHISE EXCISE TAX
1941 ASSESSMENT
AS DETERMINED BY THE STATE TAX COMMISSIONER
PURSUANT TO CHAPTER 291, P. L. 1941

LEHIGH & HUDSON RIVER RAILWAY

The 1941 Franchise Excise Tax levied against the Lehigh & Hudson River Railway includes all of its operations in the State of New Jersey, embracing

Lehigh & Hudson River Railway

FRANCHISE COMPUTATIONS — 1941 ASSESSMENT

Line No.	Description	
	Miles of All Tracks Operated, as of December 31, 1940	
1	Miles of All Tracks Operated by Lehigh & Hudson River Ry.	172.63 Mi.
2	" " " " " in New Jersey	98.06 "
3	Per Cent of Operated Track Miles in N. J. — Line 2 ÷ Line 1	56.80%
	Computation of Franchise Excess and Taxes for 1941 Assessment	
4	Net Ry. Oper. Income of Lehigh & Hudson River Railway for year ended Dec. 31, 1940	$187,274
5	Allocation Factor to N. J., based on Track Miles — Same as Line 3	56.80%
6	Net Railway Operating Income Allocated to N. J., Line 4 × Line 5	106,372
7	1941 Franchise Base, Line 6 capitalized at 3%	3,545,733
8	Deduction for Physical Property, as per 1941 Assessment (made in 1940)	1,456,135
9	1941 Excess of Franchise Base, over property valuation for 1941, Line 7 — Line 8	2,089,598
10	Franchise Excise Tax for 1941, 3% of Line 9	62,687.94

Approved: WILLIAM D. KELLY,
State Tax Commissioner.

Date: November 5, 1941.

11-5-4

FRANCHISE EXCISE TAX
1941 ASSESSMENT
AS DETERMINED BY THE STATE TAX COMMISSIONER
PURSUANT TO CHAPTER 291, P. L. 1941

LEHIGH & NEW ENGLAND RAILROAD CO.

The 1941 Franchise Excise Tax levied against the Lehigh & New Englan Railroad Co. includes all of its operations in the State of New Jersey, embracing

Lehigh & New England Railroad Co.

FRANCHISE COMPUTATIONS — 1941 ASSESSMENT

Line No.	Description	
	Miles of All Tracks Operated, as of December 31, 1940	
1	Miles of All Tracks Operated by Lehigh & New England R.R.	409.730
2	" " " " " in New Jersey	49.472
3	Per Cent of Operated Track Miles in N. J., Line 2 ÷ Line 1	12.0
	Computation of Franchise Excess and Taxes for 1941 Assessment	
4	Net Ry. Oper. Income of Lehigh & New England R.R. for year ended December 31, 1940	$1,197
5	Allocation Factor to N. J., based on Track Miles—Same as Line 3	12.0
6	1940 Net Ry. Oper. Income Allocated to N. J.—Line 4 × Line 5	144
7	1941 Franchise Base, Line 6 capitalized at 3%	4,817
8	Deduction for Physical Property as per 1941 Assmt. (made in 1940)	626
9	1941 Excess of Franchise Base over property valuation in 1941, Line 7 — Line 8	4,190
10	Franchise Excise Tax for 1941, 3% of Line 9	$125,71

Approved: WILLIAM D. KELL
State Tax Commissio

Date: November 5, 1941.

11-5-41

FRANCHISE EXCISE TAX
1941 ASSESSMENT
AS DETERMINED BY THE STATE TAX COMMISSIONER
PURSUANT TO CHAPTER 291, P. L. 1941

LUCASTON RAILROAD

The 1941 Franchise Excise Tax levied against the Lucaston Railroad includes its operations, embracing:

Lucaston Railroad

FRANCHISE COMPUTATIONS — 1941 ASSESSMENT
(Not a Common Carrier)

Miles of All Tracks Operated as a Common Carrier, as of Dec. 31, 1940	None
Net Railway Operating Income for year ended Dec. 31, 1940	None
1940 Net Railway Operating Income Allocated to New Jersey	None
1941 Franchise Base	None
Deduction for Physical Property, as per 1941 Assmt. (made in 1940)	$9,917
1941 Excess of Franchise Base over property valuation for 1941	Negative
Franchise Excise Tax for 1941, based on Franchise Excess	0

Approved: WILLIAM D. KELLY,
State Tax Commissioner.

Date: November 5, 1941.

11-5-

FRANCHISE EXCISE TAX
1941 ASSESSMENT
AS DETERMINED BY THE STATE TAX COMMISSIONER
PURSUANT TO CHAPTER 291, P. L. 1941

MORRISTOWN & ERIE RAILROAD

The 1941 Franchise Excise Tax levied against the Morristown & Erie Railro includes all its operations, embracing:

Morristown & Erie Railroad

FRANCHISE COMPUTATIONS — 1941 ASSESSMENT

Line No.	Description	
	Miles of All Tracks Operated, as of December 31, 1940	
1	Miles of All Tracks Operated by Morristown & Erie R.R.	13.64
2	" " " " " in New Jersey	13.64
3	Per Cent of Operated Track Miles in N. J., Line 2 ÷ Line	100
	Computation of Franchise Excess and Taxes for 1941 Assessment	
4	Net Ry. Oper. Income of Morristown & Erie R.R. for year ended Dec. 31, 1940	$19
5	Allocation Factor to N. J., based on Track Miles — Same as Line 3	100
6	1940 Net Ry. Oper. Income Allocated to N. J. — Line 4 × Line 5	19
7	1941 Franchise Base, Line 6 capitalized at 3%	64
8	Deduction for Physical Property, as per 1941 Assessment (made in 1940)	$13
9	1941 Excess of Franchise Base, over property valuation for 1941, Line 7 — Line 8	$50
10	Franchise Excise Tax for 1941, 3% of Line 9	$15,2

Approved: WILLIAM D. KELL
State Tax Commissi

Date: November 5, 1941.

11-5-41

FRANCHISE EXCISE TAX
1941 ASSESSMENT
AS DETERMINED BY THE STATE TAX COMMISSIONER
PURSUANT TO CHAPTER 291, P. L. 1941

NEW YORK, ONTARIO & WESTERN RAILROAD

The 1941 Franchise Excise Tax levied against the New York, Ontario & Western Railroad includes all of its operations in the State of New Jersey, embracing:

New York, Ontario & Western R.R.

FRANCHISE COMPUTATIONS — 1941 ASSESSMENT

Net Railway Operating Income for year ended Dec. 31, 1940	Deficit	$716,777
1940 Net Railway Operating Income Allocated to N. J.		Deficit
1941 Franchise Base		Negative
Deduction for Physical Property, as per 1941 Assessment (made in 1940)		$63,916
1941 Excess of Franchise base over property valuation for 1941		Negative
Franchise Excise Tax for 1941, based on Franchise Excess		0

Note: Operates over New York Central R. R. System, West Shore Railroad, from Cornwall on the Hudson to Weehawken, a distance of about 53 miles.

Approved: WILLIAM D. KELLY,
State Tax Commissioner.

Date: November 5, 1941.

11-5-

FRANCHISE EXCISE TAX
1941 ASSESSMENT
AS DETERMINED BY THE STATE TAX COMMISSIONER
PURSUANT TO CHAPTER 291, P. L. 1941

POHATCONG RAILROAD

The 1941 Franchise Excise Tax levied against the Pohatcong Railroad includ all its operations, embracing:

Pohatcong R.R.

FRANCHISE COMPUTATIONS — 1941 ASSESSMENT
(Not a Common Carrier)

Miles of All Tracks Operated as a Common Carrier, as of Dec. 31, 1940	No
Net Railway Operating Income for year ended Dec. 31, 1940	No
1940 Net Railway Operating Income Allocated to New Jersey	No
1941 Franchise Base	No
Deduction for Physical Property, as per 1941 Assmt. (made in 1940)	$13,1
1941 Excess of Franchise Base over property valuation for 1941	Negat
Franchise Excise Tax for 1941, based on Franchise Excess	0

Approved: WILLIAM D. KELLY,
State Tax Commissio

Date: November 5, 1941.

11-5-41

FRANCHISE EXCISE TAX
1941 ASSESSMENT
AS DETERMINED BY THE STATE TAX COMMISSIONER
PURSUANT TO CHAPTER 291, P. L. 1941

RAHWAY VALLEY COMPANY, LESSEE
INCLUDING RAHWAY VALLEY LINE AND RAHWAY VALLEY R.R.

The 1941 Franchise Excise Tax levied against the Rahway Valley Co., Lessee, includes all its operations, and the operations of the railroad embraced in the following list:

Rahway Valley Co., Lessee
Rahway Valley Line
Rahway Valley R.R.

FRANCHISE COMPUTATIONS — 1941 ASSESSMENT

Line No.	Description	
	Miles of All Tracks Operated, as of December 31, 1940	
1	Miles of All Tracks Operated by Rahway Valley Co., Lessee	15.02 Mi.
2	" " " " " in New Jersey	15.02 "
3	Per Cent of Operated Track Miles in N. J., Line 2 ÷ Line 1	100.0%
	Computation of Franchise Excess and Taxes for 1941 Assessment	
4	Net Ry. Oper. Income of Rahway Valley Co., Lessee, for year ended Dec. 31, 1940	$15,664
5	Allocation Factor to N. J., based on Track Miles — Same as Line 3	100.0%
6	Net Ry. Oper. Income Allocated to New Jersey — Line 4 × Line 5	15,664
7	1941 Franchise Base, Line 6 capitalized at 3%	522,133
	Deduction for Physical Property, as per 1941 Assmt. (made in 1940)	
	Rahway Valley Co., Lessee $2,960	
	Rahway Valley Line 52,113	
	Rahway Valley R.R. 148,903	
8	Total Deduction for Physical Property, as per 1941 Assessment	$203,976
9	1941 Excess of Franchise Base, over property valuation for 1941, Line 7 — Line 8	$318,157
10	Franchise Excise Tax for 1941, 3% of Line 9	$9,544.71

Approved: WILLIAM D. KELLY,
State Tax Commissioner.

11-5-4

FRANCHISE EXCISE TAX
1941 ASSESSMENT
AS DETERMINED BY THE STATE TAX COMMISSIONER
PURSUANT TO CHAPTER 291, P. L. 1941

RARITAN RIVER RAILROAD

The 1941 Franchise Excise Tax levied against the Raritan River R.R. includes all its operations, embracing:

Raritan River R.R.

FRANCHISE COMPUTATIONS — 1941 ASSESSMENT

Line No.	Description	
	Miles of All Tracks Operated, as of December 31, 1940	
1	Miles of All Tracks Operated by Raritan River R.R.	41.42 M
2	" " " " " in New Jersey	41.42
3	Per Cent of Operated Track Miles in N. J., Line 2 ÷ Line 1	100
	Computation of Franchise Excess and Taxes for 1941 Assessment	
4	Net Ry. Oper. Income of Raritan River R.R. for year ended December 31, 1940	$143,1
5	Allocation Factor to N. J., based on Track Miles—Same as Line 3	100
6	1940 Net Ry. Oper. Income Allocated to N. J.—Line 4 × Line 5	143,1
7	1941 Franchise Base, Line 6 capitalized at 3%	4,772,6
8	Deduction for Physical Property, as per 1941 Assmt. (made in 1940)	673,5
9	1941 Excess of Franchise Base over property valuation for 1941, Line 7 — Line 8	4,099,1
10	Franchise Excise Tax for 1941, 3% of Line 9	122,974

Approved: WILLIAM D. KELLY,
State Tax Commissioner

Date: November 5, 1941.

11-5-41

FRANCHISE EXCISE TAX
1941 ASSESSMENT
AS DETERMINED BY THE STATE TAX COMMISSIONER
PURSUANT TO CHAPTER 291, P. L. 1941

SOUTHERN NEW JERSEY RAILROAD

The 1941 Franchise Excise Tax levied against the Southern New Jersey R.R. includes all of its operations, embracing:

Southern New Jersey R.R.

FRANCHISE COMPUTATIONS — 1941 ASSESSMENT
(Abandoned and dismantled during 1940)

Miles of All Tracks Operated as of Dec. 31, 1940	None
Net Railway Operating Income for year ended Dec. 31, 1940	-------
1940 Net Railway Operating Income Allocated to New Jersey	-------
1941 Franchise Base	-------
Deduction for Physical Property, as per 1941 Assmt. (made in 1940)	$15,027
1941 Excess of Franchise Base over property valuation for 1941	Negative
Franchise Excess Tax for 1941, based on Franchise Excess	0

Approved: WILLIAM D. KELLY,
State Tax Commissioner.

Date: November 5, 1941.

11-5-41

FRANCHISE EXCISE TAX
1941 ASSESSMENT
AS DETERMINED BY THE STATE TAX COMMISSIONER
PURSUANT TO CHAPTER 291, P. L. 1941

STATEN ISLAND RAPID TRANSIT RAILWAY CO.

The 1941 Franchise Excise Tax levied against the Staten Island Rapid Transit Railway Co. includes all of its operations in the State of New Jersey, embracing:

Staten Island Rapid Transit Railway Co.

FRANCHISE COMPUTATIONS — 1941 ASSESSMENT

Line No.	Description	
	Miles of All Tracks Operated, as of December 31, 1940	
1	Miles of All Tracks Operated by Staten Island Rapid Transit Co.	97.06 M
2	" " " " " in New Jersey	0.08 "
3	Per Cent of Operated Track Miles in N. J., Line 2 ÷ Line 1	0.08%
	Computation of Franchise Excess and Taxes for 1941 Assessment	
4	Net Ry. Oper. Income of Staten Island Rapid Transit Ry. Co. for year ended Dec. 31, 1940	Def. $288,9
5	Allocation Factor to N. J., based on Track Miles — Same as Line 3	0.08%
6	1940 Net Ry. Oper. Income Allocated to N. J. — Line 4 × Line 5	Def. 2
7	1941 Franchise Base, Line 6 capitalized at 3%	Negati
8.	Deduction for Physical Property, as per 1941 Assmt. (made in 1940)	45,7
9	1941 Excess of Franchise Base over property valuation for 1941, Line 7 — Line 8	Negati
10	Franchise Excise Tax for 1941, based on Franchise Excess in Line 9	0

Note: Embraces operation over the New Jersey portion of the Kill Van Kull Bridge.

Approved: WILLIAM D. KELLY,
State Tax Commissione

Date: November 5, 1941.

SUMMARY
1941 ASSESSMENT
COMBINED PROPERTY TAXES AND FRANCHISE TAXES TO BE LEVIED,
PURSUANT TO THE PROVISIONS OF CHAPTER 291, P. L. 1941

11-5-41

(1) Railroad System	TAXES FOR STATE USES (2) Property Taxes, Due Dec. 1, 1941	(3) Franchise Taxes, Due Nov. 15, 1941	(4) Total, Col. (2) plus Col. (3)	TAXES FOR LOCAL USES (5) Property Taxes, Due Dec. 1, 1941	(6) Franchise Taxes, Due Nov. 15, 1941	(7) Total, Col. (5) plus Col. (6)	TOTAL TAXES (8) Property Taxes, Due Dec. 1, 1941 Cols. (2)+(5)	(9) Franchise Taxes, Due Nov. 15, 1941 Cols. (3)+(6)	(10) Total Taxes, Col. (8) plus Col. (9)
Penna. R.R., excl. of Penna. & Atl. R.R. and Union Trans. Co..	$1,791,726.99	$ 935,084.33	$2,726,811.32	$1,320,474.36	$ 935,084.32	$2,255,558.68	$ 3,112,201.35	$1,870,168.65	$ 4,982,370.00
Penna. & Atl. R.R., excl. of Union Trans. Co.	12,998.58	0.00	12,998.58	1,323.72	0.00	1,323.72	14,322.30	0.00	14,322.30
Union Transportation Co.	2,889.72	0.00	2,889.72	164.70	0.00	164.70	3,054.42	0.00	3,054.42
Pennsylvania-Reading Seashore Lines	252,835.89	0.00	252,835.89	82,533.93	0.00	52,533.93	335,369.82	0.00	335,369.82
C. R.R. Co. of N. J., excl. of Mt. Hope Mineral R.R., and Wharton & Northern R.R.	1,009,710.39	0.00	1,009,710.39	1,049,161.74	0.00	1,049,161.74	2,058,872.13	0.00	2,058,872.13
Mt. Hope Mineral R.R.	841.47	8,597.32	9,438.79	23.88	8,597.33	8,621.21	865.35	17,194.65	18,060.00
Wharton & Northern R.R.	3,067.59	80,843.97	83,911.56	113.46	80,843.97	80,957.43	3,181.05	161,687.94	164,868.99
Reading Company	187,419.39	253,391.31	440,810.70	71,718.00	253,391.31	325,109.31	259,137.39	506,782.62	765,920.01
Erie R.R., excl. of Erie Terminals R.R., N. J. & N. Y. R.R., and Northern R.R. Co. of N. J.	491,196.45	0.00	491,496.45	693,034.77	0.00	693,034.77	1,184,531.22	0.00	1,184,531.22
New Jersey & New York R.R.	17,698.53	0.00	17,698.53	2,164.53	0.00	2,164.53	19,863.06	0.00	19,863.06
Northern R.R. Co. of New Jersey	15,902.49	0.00	15,902.49	2,874.00	0.00	2,874.00	18,776.49	0.00	18,776.49
Delaware, Lackawanna & Western R.R.	769,103.22	113,846.85	882,950.07	908,970.09	113,846.85	1,022,816.94	1,678,073.31	227,693.70	1,905,767.01
N. Y. S. & W. R.R., including Erie Terminals R.R.	119,300.58	124,593.27	243,893.85	61,683.87	124,593.27	186,277.14	180,984.45	249,186.54	430,170.99
Lehigh Valley R.R., including Raritan T. & T. Co.	547,336.23	42,688.34	590,024.57	536,065.11	42,688.33	578,753.44	1,083,401.34	85,376.67	1,168,778.01
New York Central R.R.	217,838.73	0.00	217,848.73	460,207.29	0.00	460,207.29	678,046.02	0.00	678,046.02
Atl. City & Shore R.R., incl. Atlantic City & O. City R.R.	1,198.44	4,452.31	5,650.75	109.92	4,452.32	4,562.24	1,308.36	8,904.63	10,212.99
Baltimore & Ohio R.R., incl. Baltimore & N. York Ry.	20,512.62	152,573.15	173,085.77	1,959.09	152,573.14	154,532.23	22,471.71	305,146.29	327,618.00
East Jersey R.R. & Terminal Co.	3,083.49	12,002.38	15,085.87	2,318.73	12,002.39	14,321.12	5,402.22	24,004.77	29,406.99
Ferro Monte R.R. (Not Operated)	71.82	0.00	71.82	15.84	0.00	15.84	87.66	0.00	87.66
Hoboken Manufacturers R.R., incl. H. R. R. W. & S. C. Co.	15,503.91	0.00	15,503.91	16,120.35	0.00	16,120.35	31,624.26	0.00	31,624.26
Hudson & Manhattan R.R.	178,432.56	185,383.28	363,815.84	47,305.89	185,383.27	232,689.16	225,738.45	370,766.55	596,505.00
Hudson R.R. & Trans. Co. (Not a Common Carrier)	1,497.81	0.00	1,497.81	0.00	0.00	0.00	1,497.81	0.00	1,497.81
Lehigh & Hudson River Railway	40,998.27	31,343.97	72,342.24	2,685.78	31,343.97	34,029.75	43,684.05	62,687.94	106,371.99
Lehigh & New England R.R.	18,539.25	62,858.08	81,397.33	256.59	62,858.09	63,114.68	18,795.84	125,716.17	144,512.01
Lucaston Railroad (Not a Common Carrier)	256.53	0.00	256.53	40.98	0.00	40.98	297.51	0.00	297.51
Morristown & Erie R. R.	2,727.54	7,636.17	10,363.71	1,343.13	7,636.17	8,979.30	4,070.67	15,272.34	19,343.01
New York, Ontario & Western R.R.	1,917.48	0.00	1,917.48	0.00	0.00	0.00	1,917.48	0.00	1,917.48
Pohatcong R.R. (Not a Common Carrier)	361.11	0.00	361.11	32.19	0.00	32.19	393.30	0.00	393.30
R. Valley Co. Lessee, incl. P. Valley Line and R. Valley R.R.	5,087.43	4,772.36	9,859.79	1,031.85	4,772.35	5,804.20	6,119.28	9,544.71	15,663.99
Raritan River R.R.	13,006.86	61,487.13	74,493.99	7,198.89	61,487.13	68,686.02	20,205.75	122,974.26	143,180.01
Southern N. J. R.R. (In existence on Jan. 1, 1940, later abandoned)	423.00	0.00	423.00	27.81	0.00	27.81	450.81	0.00	450.81
Staten Island Rapid Transit Railway Co.	1,373.31	0.00	1,373.31	0.00	0.00	0.00	1,373.31	0.00	1,373.31
TOTAL RAILROAD TAXES IN NEW JERSEY	$5,745,157.68	$2,081,554.22	$7,826,711.90	$5,270,960.49	$2,081,554.21	$7,352,514.70	$11,016,118.17	$4,163,108.43	$15,179,226.60

Approved: WILLIAM D. KELLY,
State Tax Commissioner.
Date: November 5, 1941.

AMOUNTS PAID AS 1941 RAILROAD PROPERTY TAXES, PURSUANT TO CHAPTER 291, P. L. 1941.

Name	State	Local
Pennsylvania Railroad System		
Belvidere-Delaware Railroad Co.	$82,818.63	$12,041.97
Camden & Burlington County Railway Co.	9,419.55	2,046.06
Delaware River Railroad & Bridge Co.	22,885.62	438.06
Freehold & Jamesburg Agricultural Railroad Co.	8,306.61	1,281.81
Harrison & East Newark Connecting Railroad Co.	342.03	10.56
New York Bay Railroad Co.	98,723.19	297,096.03
New York & Long Branch Railroad Co.	35,091.30	9,511.92
Pennsylvania & Atlantic Railroad Co.	12,998.58	1,323.72
Pennsylvania Railroad Company, Lessee	560,724.21	.....
Pennsylvania Tunnel & Terminal Railroad Company	139,266.36	18,681.24
Perth Amboy & Woodbridge Railroad Co.	24,606.81	3,053.70
Rocky Hill Railroad and Transportation Co.	260.43	40.95
United New Jersey Railroad and Canal Co.	809,282.25	976,272.12
Union Transportation Co.	2,889.72	164.70
Total	$1,807,615.29	$1,321,962.76
Pennsylvania-Reading Seashore Lines		
Penn-Reading Seashore Lines—Operator of the Atlantic City Railroad Co.	50,889.48	19,032.00
Penn-Reading Seashore Lines—Operator of the former Stone Harbor Railroad Co.	329.19	3.75
Penn-Reading Seashore Lines—Operator of the former Wildwood & Delaware Bay Short Line Railroad Co.	1,450.47	2,107.41
Penn-Reading Seashore Lines	1,579.50	.....
Penn-Reading Seashore Lines—Operator of the West Jersey & Seashore Railroad Co.	198,587.25	61,390.71
Total	$252,835.89	$82,533.87
Central Railroad Company of New Jersey System		
Bay Shore Connecting Railroad Co.	651.51	58.77
Central Railroad Company of New Jersey	971,160.93	1,039,057.32
Dover & Rockaway Railroad Co.	2,085.99	282.96
Mount Hope Mineral Railroad Co.	841.47	23.85
New York & Long Branch Railroad Co.	35,091.30	9,511.92
Ogden Mine Railroad Co.	720.66	250.82
Wharton & Northern Railroad Co.	3,067.59	113.80
Total	$1,013,619.45	$1,049,299.09

AMOUNTS PAID AS 1941 RAILROAD PROPERTY TAXES, PURSUANT TO CHAPTER 291, P. L. 1941—Continued.

Name	State	Local
Reading Company		
Delaware & Bound Brook Railroad Co.	99,453.03	12,465.57
East Trenton Railroad Co.	3,112.20	1,182.51
Port Reading Railroad Co.	35,554.65	51,133.89
Reading Company, Lessee	49,299.51	6,936.03
Total	$187,419.39	$71,718.00
Erie Railroad System		
Arlington Railroad Co.	380.49	.....
Bergen County Railroad Co.	13,293.84	1,349.28
Bergen & Dundee Railroad Co.	2,690.61	587.01
Caldwell Railway Co.	3,229.26	346.47
Docks Connecting Railway Co.	6,938.28	31,491.72
Erie Railroad Company, Lessee	117,374.46	.....
Long Dock Co.	57,146.07	414,891.18
Newark & Hudson Railroad Co.	16,546.92	6,493.74
New York & Greenwood Lake Railway Co.	59,623.68	11,847.36
New York, Lake Erie & Western Docks & Improvement Co.	6,737.94	169,089.54
Northern Railroad Company of New Jersey	15,902.49	2,874.00
Paterson & Hudson River Railroad Co.	73,715.31	39,212.37
Paterson, Newark & New York Railroad Co.	18,577.02	3,696.69
Paterson & Ramapo Railroad Co.	54,630.84	6,328.98
Penhorn Creek Railroad Co.	59,399.73	7,327.95
Roseland Railway Co.	1,212.00	372.48
Total	$507,398.94	$695,908.77
Delaware, Lackawanna & Western Railroad System		
Chester Railroad Co.	561.15	13.41
Delaware, Lackawanna & Western Railroad Co., Lessee	154,367.40	29,012.58
Lackawanna Railroad Company of New Jersey	138,750.42	668.94
Morris & Essex Railroad Co.	418,581.12	859,372.56
Morris & Essex Extension Railroad Co.	5,188.98	2,336.67
Newark & Bloomfield Railroad Co.	22,102.98	10,095.21
Passaic & Delaware Railroad Co.	7,849.44	5,580.54
Passaic & Delaware Extension Railroad Co.	3,270.45	543.45
Sussex Railroad Co.	3,839.70	617.46
Warren Railroad Co.	14,591.58	729.27
Total	$769,103.22	$908,970.09

AMOUNTS PAID AS 1941 RAILROAD PROPERTY TAXES, PURSUANT TO CHAPTER 291, P. L. 1941—Continued.

Name	State	Local
New York, Susquehanna & Western Railroad System		
Erie Terminals Railroad Co.	4,371.99	360.69
Hackensack & Lodi Railroad Co.	410.43	.....
Lodi Branch Railroad Co.	312.66	104.58
New York, Susquehanna & Western Railroad Co.	110,382.54	60,364.47
Passaic & New York Railroad Co.	3,822.96	854.13
Total	$119,300.58	$61,683.87
Lehigh Valley Railroad System		
Bay Shore Connecting Railroad Co.	651.48	58.33
Lehigh Valley Harbor Terminal Railway Co.	10,324.74	135,713.83
Lehigh Valley Railroad Co., Lessee	122,968.35	.....
Lehigh Valley Railroad Company of New Jersey	412,748.25	400,292.83
Raritan Terminal & Transportation Co.	643.41	.....
Total	$547,336.23	$536,065.17
New York Central Railroad System		
New Jersey Junction Railroad Co.	64,031.46	37,443.3
New York & Fort Lee Railroad Co.	16,826.94	.....
West Shore Railroad Co.	136,980.33	422,763.3
Total	$547,336.23	$536,065.
Unclassified Railroads		
Atlantic City & Ocean City Railroad Co.	724.08	.....
Atlantic City & Shore Railroad Co.	474.36	109.
East Jersey Railroad & Terminal Co.	3,083.49	2,318.
Ferro Monte Railroad Co.	71.82	15.
Hoboken Manufacturers' Railroad Co.	4,665.09	11,701.
Hoboken Railroad, Warehouse & Steamship Connecting Co.	10,838.82	4,418.
Hudson & Manhattan Railroad Co.	178,432.56	47,305.
Hudson Railroad & Transportation Co.	1,497.81	.....
Lehigh & Hudson River Railway Co.	40,998.27	2,685.
Lehigh & New England Railroad Co.	18,539.25	25
Lucaston Railroad Co.	256.53	4
Pohatcong Railroad Co.	361.11	3
Rahway Valley Company, Lessee	42.30	4
Rahway Valley Line	1,443.63	11
Rahway Valley Railroad Co.	3,601.50	86
Raritan River Railroad Co.	13,006.86	7,19
Total	$278,037.48	$77,11
Total	$5,700,505.20	$5,265,4

HOMER C. ZINK
Comptroller of the Trea

Reasons.

(Filed February 14, 1942, pursuant to Order of Supreme Court.)

NEW JERSEY SUPREME COURT.

CITY OF JERSEY CITY, et al., *Prosecutors*, *vs.* WILLIAM H. KELLY, State Tax Commissioner, et al., *Respondents.*	On Certiorari.
JAMES T. OWENS, *Prosecutor*, *vs.* WILLIAM H. KELLY, State Tax Commissioner, et al., *Respondents.*	Reasons.

The prosecutors in the within consolidated proceedings, by their attorneys, come and pray that the assessments for taxation upon railroad property and the franchise tax assessments made for the year 1941 by the State Tax Commissioner under Chapter 291 of the Laws of 1941, brought up by the said writs, may be set aside, reversed and for nothing holden, and the prosecutor, James T. Owens, prays that, in the alternative, the assessment for taxation upon certain real property owned by him, made by the City of Newark for said year, brought up by the said writ, may be set aside, reversed, and for nothing holden, for the following reasons:

Reasons.

1. Chapter 291 of the Laws of 1941 (hereinafter referred to as "Chapter 291") and the assessments thereunder by the State Tax Commissioner of property used for railroad purposes contravene Article IV, Section 7, Paragraph 12 of the Constitution of the State of New Jersey, which provides that:

> "Property shall be assessed for taxes under general laws, and by uniform rules, according to its true value,"

for the reason that said Chapter 291 provides for the assessment of railroad property at a fixed rate of 3% of the true value thereof, whereas the average rate of taxation in the State of New Jersey for the year 1941 is 4.818% of true value, and whereas the great bulk of railroad property is situated in municipalities having local tax rates substantially in excess of 3% of true value; by reason of all of which, Chapter 291 is a special rather than a general law, and results in the taxation of railroad and other property under rules which are not uniform, imposing a burden of taxation upon railroad property substantially less than that imposed upon all other property.

2. Chapter 291 and the assessments thereunder by the State Tax Commissioner of property used for railroad purposes contravene said Article IV, Section 7, Paragraph 12, of the Constitution of the State of New Jersey, in that the provision therein for the rate of 3% for the taxation of railroad property was made with the deliberate intent and purpose of discriminating in favor of railroad company taxpayers and against all other

taxpayers, and with the intent and necessary effect of levying an hostile and oppressive burden on such other taxpayers.

3. The provisions of Chapter 291, contained in Section 10 thereof, to the effect that the value of the main stem of each railroad and the other real estate thereof used for railroad purposes, should be ascertained without including any part of the cost of improvement, relocation, reconstruction, elimination or avoidance of highway grade crossings, as more particularly therein specified and limited, violate the said Article IV, Section 7, Paragraph 12 of the Constitution, in that they purport to assess railroad property upon a basis other than according to its true value and the assessments, aforesaid, which were made in compliance with Section 10, contravene the said provision of the Constitution, for the said reason.

4. The said provisions of Chapter 291, contained in Section 10 thereof to the effect that the value of the main stem of each railroad and the other real estate thereof used for railroad purposes, should be ascertained without including any part of the cost of improvement, relocation, reconstruction, elimination or avoidance of highway grade crossings, as more particularly therein specified and limited, further violate the said Article IV, Section 7, Paragraph 12 of the Constitution, in that they provide for an exemption of a special class of railroad property from taxation, violative of the requirement therein that property shall be assessed for taxes under general laws and by uniform rules.

5. The said provisions of Chapter 291, contained in Section 10 thereof to the effect that the

value of the main stem of each railroad and the other real estate thereof used for railroad purposes, should be ascertained without including any part of the cost of improvement, relocation, reconstruction, elimination or avoidance of highway grade crossings, as more particularly therein specified and limited, further violate the said Article IV, Section 7, Paragraph 12 of the Constitution, in that they provide for an exemption of property for taxation based upon the status of such property as of a time passed, and based upon the date of construction or creation of such improvement, relocation, reconstruction, elimination or avoidance of highway grade crossings, which bases of classification of property for exemption are invalid under the provision of the Constitution cited.

6. Chapter 291 is a special law granting to railroad corporations an exclusive privilege and immunity, in violation of Article IV, Section 7, Paragraph 11 of the State of New Jersey, providin that:

> "The legislature shall not pass private, local or special laws in any of the following enumerated cases, that is to say:
>
> " * * * Granting to any corporation, association or individual, any exclusive privilege, immunity or franchise whatever.
>
> " * * * the legislature shall pass general laws providing for the cases enumerated in this paragraph and for all other cases, which, in its judgment, may be provided for by general laws,"

in that it grants to such corporations the exclusive privilege and immunity of payment of taxes upon

property for railroad purposes at the fixed rate of 3% of true value, whereas the great bulk of property in the State of New Jersey is taxable at local rates of taxation substantially in excess thereof, and in that it grants to such corporations the exclusive privilege and immunity of a fixed tax rate, regardless of the needs of government, whereas all other taxpayers are subject to variable local rates of taxation.

7. Chapter 291 is a special law granting a fixed tax rate of 3% of true value to railroad corporations, palpably in violation of the provisions of said Article IV, Section 7, Paragraph 11 of the Constitution, providing that the legislature shall pass general laws in all cases, which, in its judgment, may be provided for by general laws.

8. The provisions of Chapter 291, contained in Section 10 thereof, as aforesaid to the effect that the value of the main stem of each railroad and the other real estate thereof used for railroad purposes should be ascertained without including any part of the cost of improvement, relocation, reconstruction, elimination or avoidance of highway grade crossings, as more particularly therein specified and limited, violate the provisions of said Article IV, Section 7, Paragraph 11 of the Constitution, in that they constitute a special law granting to the railroad corporations owning the property described therein, the exclusive privilege and immunity of exemption from taxation of such property.

9. The said provisions of Chapter 291 contained in Section 10 thereof to the effect that the value of the main stem of each railroad and the other

Reasons.

real estate thereof used for railroad purposes should be ascertained without including any part of the cost of improvement, relocation, reconstruction, elimination or avoidance of highway grade crossings, as more particularly therein specified and limited, violate the said Article IV, Section 7, Paragraph 11 of the Constitution in that they constitute a special law granting to the railroad corporations which constructed the property described therein, the exclusive privilege and immunity of exemption from taxation of such property, based upon their status as of a time passed, and based upon the date of construction or creation of such improvement.

10. Chapter 291, in providing for the abatement and cancellation of the assessments theretofore made for the year 1941, under R. S. Section 54:19-1 et seq., contravenes Article I, Paragraph 20, of the Constitution of the State of New Jersey, providing that:

> "No donation of land or appropriation of money shall be made by the State or any municipal corporation to or for the use of any society, association or corporation whatever."

in that it donates and appropriates to the railroad corporation taxpayers' money owing to the State, to which the right of the State had become vested prior to the adoption of Chapter 291, said donation and appropriation consisting of the said taxes payable to the State for the year 1941, under and by virtue of the said assessments of railroad property by the State Tax Commissioner under R. S. Section 54:19-1 et seq.

Reasons.

11. Chapter 291 contravenes said Article I, Paragraph 20, of the Constitution, in that it donates and appropriates to the railroad corporation taxpayers' money owing to the State, to which the right of the State had become vested prior to the adoption of Chapter 291, said donation and appropriation consisting of the taxes payable to the State for the year 1941, by each railroad company having property so assessed, under and by virtue of the assessment of railroad property by the State Tax Commissioner, under R. S. Section 54:19–1 et seq., less the property taxes assessed by the State Tax Commissioner upon the railroad property of each of said railroad companies, respectively, under and pursuant to the provisions of Chapter 291.

12. Chapter 291 contravenes said Article I, Paragraph 20, of the Constitution, in that it compels such appropriation of money by all of the taxing districts in the State, in which Class II railroad property is located, with respect to the money due to said taxing districts to which the right of said taxing districts had vested prior to the adoption of Chapter 291, said donation and appropriation consisting of the amount of such taxes to be paid over to the taxing districts for the year 1941, under the provisions of the Revised Statutes, for the taxation of railroad property upon the assessment made under said statutes.

13. Chapter 291 contravenes Article I, Paragraph 20, of the Constitution, in that it compels such appropriation of money by all of the taxing districts in the State, in which Class II railroad property is located, with respect to the said moneys due to said taxing districts, to which the right

of said taxing districts had vested prior to the adoption of Chapter 291, said donation and appropriation consisting of the difference between the amount of such taxes to be paid over to the taxing districts for the year 1941, under the provisions of the Revised Statutes for the taxation of railroad property, and the amount of taxes upon Class II railroad property, to be paid over to said taxing districts for said year, under Chapter 291.

14. Chapter 291 contravenes Article I, Paragraph 19, of the Constitution of the State of New Jersey, providing that:

> "No county, city, borough, town, township or village shall hereafter give any money or property, * * * to or in aid of any individual, association or corporation, * * *,"

in that it compels the prosecutor taxing districts and all other taxing districts in which Class II property was situated, and assessed under R. S. Section 54:19-1 et seq., to forego their right to, and, therefore to give to the railroad corporations, the taxes assessed and payable by them under said statute, apportioned to and provided to be paid over to said taxing districts under said law, and to which the right of said taxing districts had become vested prior to the adoption of Chapter 291.

15. Chapter 291 contravenes Article I, Paragraph 19, of the Constitution, in that it compels the prosecutor taxing districts and all other taxing districts in which Class II property was situated, and assessed under R. S. Section 54:19-1 et seq., to forego their right to, and, therefore to give to the railroad corporations, the taxes assessed and payable by them under said statute,

apportioned to and provided to be paid over to said taxing district under said law, and to which the right of said taxing districts had become vested prior to the date of the adoption of Chapter 291; the moneys so unconstitutionally given consisting of the difference between the amount of such taxes to be paid over to the taxing districts aforesaid, for the year 1941, under the Revised Statutes, and the amount of taxes upon Class II railroad property payable over to said taxing districts for said year, under Chapter 291.

16. Chapter 291 contravenes Article IV, Section 7, Paragraph 11, of the Constitution, in that it is a special law granting to railroad corporations the exclusive privilege and immunity of an abatement and cancellation of taxes assessed and payable for the year 1941.

17. Sections 13, 14 and 15 of Chapter 291 purport to levy an excise tax based upon the net railway operating income of the railroads attributable to their operations in the State of New Jersey. The "franchise base" upon which the tax is assessed, set up in Section 14, is computed by allocating to the State of New Jersey such part of net railway operating income of the railroad or system as the number of miles of all track over which the railroad or system operates in this state bears to the total number of miles of all track over which it operates, and by capitalizing the amount so allocated at three per centum. Certain railroad companies assessed under this chapter have all of their tracks within this State. Other railroad companies and systems have substantially all of their track within this State, and still other companies and systems have a

large proportion of their track outside of the State. There are situated in the State of New Jersey, and principally in the prosecutor municipalities, and other municipalities in Hudson County, extensive, costly, and very valuable railroad terminal and waterfront facilities, which form the principal railroad terminus in the eastern part of the United States. Because of this fact, a far greater net railway operating income per track mile is attributable to the railroad tracks located in New Jersey than to the tracks located outside of this State. As a result thereof, the formula set up in said Section 14 for the allocation of net railway operating income to New Jersey results in a franchise tax against the interstate railroads which is disproportionately lower, arbitrarily and unreasonably, than the franchise tax assessed against the intrastate railroads, and further, as among interstate railroads, results arbitrarily and unreasonably in a disproportionately lower franchise tax upon these roads which have a greater proportion of track outside of this State. The said formula results in an arbitrary, unreasonable and discriminatory classification of railroads, from the standpoint of the objective of the said franchise tax as a tax based upon net railway operating income attributable to the use of the franchises granted by this State. The said provisions are in said respects violative of the said Article IV, Section 7, Paragraph 11, of the Constitution, in that the said law is a special law granting exclusive privileges, immunities and franchises to corporations.

The said provisions relating to a franchise tax are inseparable from the property tax provisions of Chapter 291, and, therefore, by reason

of the unconstitutionality herein charged in the franchise tax provisions, Chapter 291, in its entirety, is unconstitutional and void.

18. The said franchise tax provisions of Chapter 291 further contravene Article IV, Section 7, Paragraph 11, of the Constitution, in that, by virtue of the facts recited in Reason 17, they constitute said Chapter 291 a special law and not a general law, palpably in violation of the provisions of said Article IV, Section 7, Paragraph 11, providing that the legislature shall pass general laws, in all cases which, in its judgment, may be provided for by general laws.

The said provisions relating to a franchise tax are inseparable from the property tax provisions of Chapter 291, and, therefore, by reason of the unconstitutionality herein charged in the franchise tax provisions, Chapter 291, in its entirety, is unconstitutional and void.

19. The said franchise tax provided for by Chapter 291 is imposed upon the net railway operating income of each system and railroad not part of a system. Section 2 of Chapter 291 defines "system" as "any independently operating railroad which operates its facilities and those of one or more other railroads as a single utility for furnishing transportation service. A system shall include all companies the property of which is so operated either by virtue of control through direct or indirect ownership of a majority or more of capital stock, or under lease, trackage rights or under any other form of contact, and for which separate operating accounts are not maintained." A railroad is thereby permitted to offset against its actual earnings attributable to

operations in New Jersey, which, standing alone, would result in a franchise tax against it, the losses sustained by affiliated or controlled companies. Further, such losses so offset may be losses of an affiliated or controlled company whose lines are wholly outside of this State. In either of said cases, accordingly such offset will result in a decrease or elimination of the franchise tax otherwise payable. Independently operating railroads, on the other hand, are not accorded said privilege and immunity.

The said provisions further place it within the power of any such system itself to determine from time to time what roads to operate as a single utility with joint operating accounts and thereby to control the amount of tax payable, on a basis other than that of the net railway operating income of each company, attributable to operations in New Jersey.

By reason thereof, the said provisions create an arbitrary, unreasonable and discriminatory classification of railroads as between those which are or may be part of a system and those which are independently operated, and also as between systems depending upon the manipulation of the membership of said systems. These provisions are in said respects violative of the said Article IV, Section 7, Paragraph 11, of the Constitution of the State of New Jersey in that the said law is a special law granting exclusive privileges, immunities and franchises to corporations.

The said provisions relating to a franchise tax are inseparable from the property tax provisions of Chapter 291, and therefore, by reason of the unconstitutionality herein charged in the franchise

tax provisions, Chapter 291 in its entirety is unconstitutional and void.

20. The said franchise tax provisions of Chapter 291 further contravene Article IV, Section 7, Paragraph 11, in that, by virtue of the facts recited in Reason 19, they constitute said Chapter 291 a special law and not a general law, palpably in violation of the provisions of said Article IV, Section 7, Paragraph 11, providing that the legislature shall pass general laws in all cases, which, in its judgment, may be provided for by general laws.

The said provisions relating to a franchise tax are inseparable from the property tax provisions of Chapter 291, and, therefore, by reason of the unconstitutionality herein charged in the franchise tax provisions, Chapter 291, in its entirety, is unconstitutional and void.

21. The said franchise tax provided for by Chapter 291 permits the deduction from total railway operating revenues, in the determination of the net railway operating income upon which the tax is computed, of rentals paid to lessors of lines. Thus, the net railway operating income of a lessee railroad is reduced by a factor absent in the case of a railroad company operating its own lines, with the result that in the case of a lessee railroad the franchise tax is not levied upon the income attributable to the use of the franchise to the same extent as in the case of the railroad company operating its own lines.

By reason thereof, the said provisions create an arbitrary, unreasonable and discriminatory classification of railroads, as between those companies which operate as lessees, and those companies

which operate their own lines. These provisions are in said respect violative of the said Article IV, Section 7, Paragraph 11, of the Constitution of the State of New Jersey, in that the said law is a special law granting exclusive privileges, immunities and franchises to corporations.

The said provisions relating to a franchise tax are inseparable from the property tax provisions of Chapter 291, and therefore by reason of the unconstitutionality herein charged in the franchise tax provisions, Chapter 291 in its entirety is unconstitutional and void.

22. The said franchise tax provisions of Chapter 291 further contravene Article IV, Section 7, Paragraph 11, in that, by virtue of the facts recited in Reason 21, they constitute said Chapter 291 a special law and not a general law, palpably in violation of the provisions of said Article IV, Section 7, Paragraph 11, providing that the legislature shall pass general laws in all cases which, in its judgment, may be provided for by general laws.

The said provisions relating to a franchise tax are inseparable from the property tax provisions of Chapter 291, and, therefore, by reason of the unconstitutionality herein charged in the franchise tax provisions, Chapter 291, in its entirety, is unconstitutional and void.

23. The provisions of Section 14 of Chapter 291, which provide that the State Tax Commissioner shall have the power of regulation with respect to reasonableness of amount and appropriateness of accounting distribution, of deductions from operating revenues for depreciation, additions and betterments, and compensation for personal

services, in the determination of net railway operating income, for purposes of computation of the franchise tax assessed under said Chapter 291, are violative of the provisions of Article III, Paragraph 1, of the Constitution of the State of New Jersey, which provides that:

> "The powers of the government shall be divided into three distinct departments—the legislative, executive and judicial; and no person or persons belonging to, or constituting one of these departments, shall exercise any of the powers properly belonging to either of the others, except as herein expressly provided,"

and of Article IV, Section 1, of the Constitution of the State of New Jersey, which provides that:

> "The legislative power shall be vested in a senate and general assembly,"

in that such provisions of Section 14 constitute a delegation of legislative power to the State Tax Commissioner, contrary to said provisions of the Constitution.

The said provisions relating to a franchise tax are inseparable from the property tax provisions of Chapter 291, and, therefore, by reason of the unconstitutionality herein charged in the franchise tax provisions, Chapter 291 in its entirety is unconstitutional and void.

24. By virtue of the facts set forth in Reasons 19 and 21, Chapter 291 contravenes said provisions of Article III, Paragraph 1, and the provisions of Article IV, Section 1, of the Constitution, in that the franchise tax provisions of said Chap-

ter 291 place it within the power of a railroad system, to control the amount of its tax payable by determining, from time to time, what roads to operate as a single utility with joint operating accounts, and further place it within the power of each railroad company owning a line in this State, to lease it to an affiliated or subsidiary company, thereby creating a rental offset against the operating income of the line; by reason of which there results a delegation of legislative power to said railroad systems and to each railroad, contrary to the said provisions of the Constitution.

The said provisions relating to a franchise tax are inseparable from the property tax provisions of Chapter 291, and therefore, by reason of the unconstitutionality herein charged in the franchise tax provisions, Chapter 291, in its entirety, is unconstitutional and void.

25. Chapter 291 contravenes the provisions of the Fourteenth Amendment to the Constitution of the United States, which provides that:

> "* * * nor shall any State deprive any person of life, liberty or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws,"

in that the provisions thereof which limit the rate of taxation of the property of railroad companies used for railroad purposes to three per centum upon the true value thereof were adopted by the legislature with the deliberate intent and purpose of discriminating in favor of railroad company taxpayers, and against all other taxpayers, and

with the intent and effect of levying an hostile and oppressive burden on such other taxpayers, and such law results in depriving the prosecutor-taxpayers and all taxpayers in the State of New Jersey other than the railroad companies assessed under said Chapter 291, of property without due process of law, in that the rate of taxation fixed under the laws of the State of New Jersey upon the great bulk of the property of all taxpayers in the State of New Jersey other than railroad companies now is, and for many years heretofore has been, at a rate substantially in excess of the rate so fixed by Chapter 291 for the taxation of railroad property, and results in the denial to said non-railroad taxpayers the equal protection of the laws.

26. Chapter 291 contravenes the said provisions of the Fourteenth Amendment, in that the provisions of Section 10 thereof, referred to hereinabove in Reason 3, grant arbitrary exemption from taxation to railroad companies of those portions of their property referred to in said Reason 3, without any substantial or reasonable basis therefor; thereby depriving prosecutor-taxpayers and all taxpayers other than railroads, of property without due process of law, and resulting in the denial to said non-railroad taxpayers of the equal protection of the laws.

27. By virtue of the facts set out in Reasons 17, 18, 19, 20, 21 and 22, the franchise tax provisions of Chapter 291 deny to certain of the railroad company taxpayers indicated in said Reasons, the equal protection of the laws, and deprive such taxpayers of property without due process of

law, all in violation of the Fourteenth Amendment of the Constitution of the United States.

The said provisions relating to franchise tax are inseparable from the property tax provisions of Chapter 291, and, therefore, by reason of the unconstitutionality herein charged in the franchise tax provisions, Chapter 291 is in its entirety unconstitutional and void.

28. By virtue of the facts alleged in Reasons 1 and 2, the property of prosecutor-taxpayers and of taxpayers other than railroad companies is taken for public use without just compensation, contrary to the provisions of Article I, Paragraph 16, of the Constitution of the State of New Jersey.

29. By reason of the facts alleged in Reasons 3, 4 and 5, the property of taxpayers, other than railroad companies, and of certain railroad companies, is taken for public use without just compensation, and contrary to the said provisions of Article I, Paragraph 16, of the Constitution.

30. By reason of the facts set out in Reasons 17, 18, 19, 20, 21, and 22, the property of certain railroad company taxpayers is taken for public use without just compensation, contrary to the said provisions of Article 1, Paragraph 16, of the Constitution.

The said provisions relating to the franchise tax are inseparable from the property tax provisions of Chapter 291, and, therefore, by reason of the unconstitutionality herein charged in the franchise tax provisions, Chapter 291 in its entirety is unconstitutional and void.

Reasons.

31. The assessments for the year 1941 of Class I railroad properties, are at less than the true value of the said properties.

32. The assessments for the year 1941 of Class II railroad properties located in the prosecutor-municialities are at less than the true value of said properties.

33. Said assessments of railroad property are erroneous, in that structures and improvements located wholly on Class II land within the prosecutor-municipalities, are assessed as Class I property, whereas they should be assessed as Class II property.

34. The assessments of Class IV railroad properties are erroneous, in that there are not included in the valuation thereof the intangible properties of the said railroads used for railroad purposes.

35. The assessments for taxation of Class IV railroad properties are at less than the true value of said properties.

36. Chapter 291 further contravenes the said provisions of Article IV, Section 7, Paragraph 12, in that it exempts and omits from taxation the intangible property of the railroad corporations used for railroad purposes whereas intangible property of all other taxpayers and all other railroad properties are subject to taxation, said law thus being a special law and not a general law, and thus failing to assess said property at its true value and according to uniform rules.

37. Chapter 291 further contravenes the said provisions of Article IV, Section 7, Paragraph 11, in that it exempts and omits from taxation the intangible property of railroad corporations used

for railroad purposes, whereas intangible property of all other taxpayers and all other railroad properties are subject to taxation, said law thereby being a special law granting to said railroad corporations an exclusive privilege and immunity, and in that said Chapter 291, in said respect, is a special law and not a general law, palpably in violation of said provisions of the Constitution providing that the legislature shall pass general laws in all cases which, in its judgment, may be provided for by general laws.

38. In determining the franchise tax for the year 1941, the State Tax Commissioner allowed as deductions for railway tax accruals, sums in excess of the proper and lawful railway tax accruals for the year 1940.

39. The State Tax Commissioner failed to adopt any regulations as to the reasonableness of amount of deductions for depreciation, additions and betterments, and compensation for personal services, and as to the appropriateness of accounting distribution.

40. The State Tax Commissioner, in determining the franchise tax, used figures submitted by the railroad companies for deductions from operating revenues for depreciation, additions and betterments, and compensation for personal services, without investigating or verifying the said figures, and without in fact making any regulation or determination as to the reasonableness of the amount of such deductions, and of the appropriateness of accounting distribution.

41. The State Tax Commissioner, in determining the said franchise tax, allowed excessive and

Reasons.

unreasonable deductions for the items specified in Reason 39.

42. The said assessments of railroad property made by the State Tax Commissioner under Chapter 291, for the year 1941, are in divers other respects illegal, unjust, oppressive and should be set aside, and for nothing holden.

43. In the alternative, the prosecutor, James T. Owens, asserts that the statute in such cases made and provided under which his property has been assessed at the rate of $5.75 per one hundred dollars of assessed valuation for the year 1941, by the City of Newark, is unconstitutional and the aforementioned assessment against his property is illegal and void, in that said statute and said assessment, taken in conjunction with the taxation of property used for railroad purposes, under Chapter 291, in the City of Newark, and throughout the State, at the fixed rate of 3% of true value, contravene the provisions of Article IV, Section 7, Paragraph 12, of the Constitution of the State of New Jersey, in that the said statute under which his property was assessed is a special and not a general law, and in that the rules by which said property and said railroad property were assessed, are not uniform.

44. Further in the alternative, the prosecutor, James T. Owens, asserts the statute in such case made and provided under which his property has been assessed at the rate of $5.75 per one hundred dollars of assessed valuation for the year 1941, by the City of Newark, is unconstitutional, and the aforementioned assessment against his property is illegal and void, in that said statute taken in conjunction with Chapter 291, is a special law granting to the railroad corporations exclusive

privileges and immunities in violation of said provisions of Article IV, Section 7, Paragraph 11, and in that said statute under which prosecutor's property was assessed is a special law, and not a general law, palpably in violation of the requirement of the said constitutional provision that the legislature shall pass general laws in all cases which, in its judgment, may be provided for by general laws.

45. Further in the alternative, the prosecutor, James T. Owens, asserts that the said assessment for taxation for the year 1941 against his property made by the City of Newark, as aforesaid, is in divers other respects illegal, unjust, oppressive and should be set aside, and for nothing holden.

CHARLES A. ROONEY,
Attorney for Prosecutors,
City of Jersey City, Janice Realty Corporation, William A. Nolan, Elmer A. Davison, Albert Burleigh, and Anna Pfitzner.

JOHN J. FALLON,
Attorney for Prosecutors,
The Mayor and Council of the City of Hoboken, and August Eggert.

JOHN N. PLATOFF,
Attorney for Prosecutors,
Township of Weehawken, and Harry C. Moore.

IRWIN RUBENSTEIN,
Attorney for Prosecutors,
Town of West New York, and Bert Newman.

RAYMOND C. CONNELL,
Attorney for Prosecutor,
James T. Owens.

CHARLES HERSHENSTEIN,
Of Counsel with Prosecutors.

Rule Extending Time

(Filed January 24, 1942.)

NEW JERSEY SUPREME COURT.

CITY OF JERSEY CITY, a municipal corporation, et al.,
Prosecutors,
vs.
WILLIAM D. KELLY, State Tax Commissioner of New Jersey, et al.,
Respondents.

On Certiorari.

Rule Extending Time.

JAMES T. OWENS,
Prosecutor,
vs.
WILLIAM D. KELLY, State Tax Commissioner of New Jersey, et al.,
Respondents.

This matter being opened to the court by Charles A. Rooney, attorney for prosecutors, City of Jersey City, Janice Realty Corporation, William A. Nolan, Elmer A. Davison, Albert Burleigh, and Anna Pfitzner; John J. Fallon, attorney for prosecutors, The Mayor and Council of the City of Hoboken, and August Eggert; John N. Platoff, attorney for prosecutors, Township of Weehawken, and Harry C. Moore; Irwin Rubenstein, attorney for prosecutors, Town of West New York, and Bert Newman; Raymond C. Connell, attorney for

prosecutor, James T. Owens, and Charles Hershenstein, of counsel, and it appearing to the court that this rule should be made, it is accordingly, on this 23rd day of January, 1942,

ORDERED that the time for filing reasons be and it is hereby extended until February 16th, 1942.

Let this rule be entered in the minutes.

NEWTON H. PORTER,
Justice.

Rule Adding Additional Parties Respondents.

(Filed March 13, 1942.)

NEW JERSEY SUPREME COURT.

CITY OF JERSEY CITY, et al., *Prosecutors,* *vs.* WILLIAM H. KELLY, State Tax Commissioner, et al., *Respondents.*	On Certiorari. Rule Adding Additional Parties Respondents.
JAMES T. OWENS, *Prosecutor,* *vs.* WILLIAM H. KELLY, State Tax Commissioner, et al., *Respondents.*	

Upon reading the duly verified petition in the above entitled suits and good cause appearing therefor,

It is on this 11th day of March, 1942,

ORDERED that the Erie Railroad Company and Robert E. Woodruff and John A. Hadden, Trustees of the Erie Railroad Company and the New York, Ontario and Western Railway Company and Frederick E. Lyford, Trustee of the New York, Ontario and Western Railway Company be and they are hereby added as parties respondents in each of the above entitled matters.

NEWTON H. PORTER,
J. S. C.

Rule actually entered
on motion of:

CHARLES HERSHENSTEIN,
Of Counsel with Prosecutors.

Rule Limiting Issues and Continuing Argument to October, 1942, Term.

(Filed April 23, 1942.)

NEW JERSEY SUPREME COURT

City of Jersey City, et al.,
Prosecutors,
vs.
William H. Kelly, State Tax Commissioner, et al.,
Respondents.

James T. Owens,
Prosecutor,
vs.
William H. Kelly, State Tax Commissioner, et al.,
Respondents.

On Certiorari.

Rule Limiting Issues and Continuing Arguments to October, 1942, Term.

This matter being opened to the Court by Charles A. Rooney, John J. Fallon, John N. Platoff, Irwin Rubenstein and Raymond C. Connell, respective attorneys and counsel for the prosecutors, and by Charles Hershenstein, of counsel, and in the presence of Maximillian Stallman, Collins and Corbin, by Edward Markley, Wall Haight, Carey and Hartpence, by John Hartpence, and David Wilentz, Attorney-General, by John Solan, Ass't Attorney-General, appearing for the respective respondents represented by them, and it appearing to the Court that there are raised herein issues pertaining to the constitutionality of Chapter 291 of the Laws of 1941 and of certain provisions thereof, under the Constitution of the State of New Jersey and of the United States, and

pertaining to the validity, legality and correctness of assessments against railroad companies for the year 1941, purporting to have been made pursuant to Chapter 291 of the Laws of 1941; and it appearing that certain of these issues ought to be submitted for determination by the Court in advance of the others; and notice of this application having been given, and it appearing to the Court that no one opposes the making of this Rule, and good cause appearing therefor;

It is on this 23rd day of April, 1942,

ORDERED, that argument before the Court be first had upon those of the Reasons filed herein which relate to questions concerning the constitutionality of Chapter 291 of the Laws of 1941, excepting however, any constitutional issue based upon contentions that the assessments of property for the year 1941 purporting to have been made under Chapter 291 are not at true value; and it is further

ORDERED, that if this Court decides that said statute is constitutional, that after the determination by this Court of the said issues first to be presented, all of the remaining issues raised in the Reasons may thereupon be submitted to this Court for determination by any prosecutor, provided that such prosecutor shall file with the clerk of the Court within twenty (20) days after the filing of the opinion of the Court on the issues first to be submitted, a declaration of intention to submit to the Court such remaining issues, in default of which declaration, final judgment may be entered on the said opinion; provided, however, that nothing contained herein shall estop any of the respondents from challenging the jurisdiction of

this Court, or of any court or tribunal to hear and determine any and all issues raised herein, whether reserved or not; and it is further

ORDERED, that depositions with reference to any of the issues reserved in the paragraph next above need not be taken until after the filing of the opinion referred to in said paragraph; and it is further

ORDERED, that the argument of the above entitled writs of certiorari as to the issues first to be submitted be and the same is hereby continued until the opening day of the October, 1942, Term of Court, without any further notice of argument to any of the parties to these proceedings; and it is further

ORDERED, that nothing herein contained shall be regarded as superseding the terms of the allocatur; and it is further

ORDERED, that a copy of this Order (which need not be certified) be served upon all attorneys who have appeared herein on behalf of any respondent, and be served upon such respondents who have not appeared by attorney, by mailing the same in a sealed envelope, by ordinary mail, addressed to such respondent at the office of its registered agent, if there be one in the State of New Jersey, otherwise to such respondent at the office of its tax agent.

For the court,

J. L. BODINE,
J. S. C.

Pleadings On Certiorari to Review Assessments Under Chapter 291, Laws of 1941, As Amended By Chapter 169, Laws of 1942, and in Consolidated Proceedings.

Writ of Certiorari.

(Filed June 20, 1942.)

THE STATE OF NEW JERSEY,

To: WILLIAM D. KELLY, State Tax Commissioner of the State of New Jersey; HOMER C. ZINK, Comptroller (L.S.) of the State of New Jersey; and ROBERT C. HENDRICKSON, Treasurer of the State of New Jersey,

GREETING:

We being willing for certain reasons to be certified of and concerning all assessments for taxation made under and pursuant to Chapter 291 of the Laws of 1941, as amended by Chapter 169 of the Laws of 1942, for the year 1941, as well as of all assessments of railroad property made under R. S. Section 54:19-1, et seq., for the year 1941, and of all records and proceedings relating to such assessments, we command you, the said William D. Kelly, State Tax Commissioner, you, Homer C. Zink, the said State Comptroller, and you, Robert C. Hendrickson, Treasurer of the State of New Jersey, that the said assessments, records and proceedings and all things touching and concerning the same as fully and as entirely before you remain or are in your custody and control, you do certify and send, together with this writ, to our Justices of our Supreme Court of Judicature at Trenton, New Jersey, on the 10th day of July, 1942, that

therein may be caused to be done what of right and according to law ought to be done.

WITNESS, HONORABLE THOMAS J. BROGAN, Chief Justice of our said Supreme Court at Trenton, this 20th day of June, 1942.

FRED L. BLOODGOOD,
Clerk.

CHARLES A. ROONEY,
Attorney for Prosecutors, City of Jersey City, Janice Realty Corporation, William A. Nolan, Elmer A. Davison, Albert Burleigh, and Anna Pfitzner.

JOHN J. FALLON,
Attorney for Prosecutors, The Mayor and Council of the City of Hoboken, and August Eggert.

JOHN N. PLATOFF,
Attorney for Prosecutors, Township of Weehawken, and Harry C. Moore.

IRWIN RUBENSTEIN,
Attorney for Prosecutors, Town of West New York, and Bert Newman.

CHARLES HERSHENSTEIN,
Of Counsel with Prosecutors.

A true copy,
FRED L. BLOODGOOD,.
Clerk.

Writ of Certiorari.

(Endorsed on Back)

NEW JERSEY SUPREME COURT.

City of Jersey City, a municipal corporation; The Mayor and Council of the City of Hoboken, a municipal corporation; Town of West New York, Hudson County, New Jersey, a municipal corporation; Township of Weehawken, in the County of Hudson, a municipal corporation; Janice Realty Corporation, a corporation; William Nolan; Elmer A. Davison; August Eggert; Harry C. Moore; Bert Newman; Albert Burleigh; and Anna Pfitzner,

Prosecutors,

vs.

William D. Kelly, State Tax Commissioner of New Jersey, and the other respondents who are named on page 2 of the backing annexed hereto and made a part hereof,

Respondents.

WRIT OF CERTIORARI.

Charles A. Rooney,
Attorney for Prosecutors,
City of Jersey City, et al.,
City Hall,
Jersey City, N. J.

Charles Hershenstein,
Of Counsel with Prosecutors.

This writ is allowed. Let it be sealed. Depositions may be taken on four days' notice. Notwith-

standing the allowance of this writ the respondent taxpayers are hereby permitted to pay to the Treasurer of the State of New Jersey the amount of taxes assessed against such taxpayers for the year 1941 under Chapter 291 of the Laws of 1941, as amended by Chapter 169 of the Laws of 1942; and the Comptroller of the State of New Jersey and the Treasurer of the State of New Jersey are permitted forthwith to distribute the tax receipts heretofore paid, derived from the assessments of Class II railroad property for the year 1941, and to distribute hereafter all other tax moneys paid under and pursuant to Chapter 291 of the Laws of 1941, as amended by Chapter 169 of the Laws of 1942, in accordance with law. The payment of the moneys by the taxpayers, the distribution by the Comptroller and Treasurer, and the receipt of such moneys by any taxing district shall be without prejudice to the determination of the issues raised on this writ of certiorari, or to any rights of the taxpayers with respect to any taxes so paid. The allowance of this writ shall be without prejudice to any right of the parties hereto to take and prosecute appeals from any railroad tax assessments to the State Board of Tax Appeals with respect to valuation of property and computation of taxes.

NEWTON H. PORTER, J.S.C.

DATED: June 19, 1942.

(Page 2 of backing)

The following are additional respondents to this writ:

Homer C. Zink, Comptroller of the State of New Jersey;

Robert C. Hendrickson, Treasurer of the State of New Jersey;

The Pennsylvania Railroad Company, a corporation of Pennsylvania;

The Belvidere Delaware Railroad Company, a corporation of New Jersey and Pennsylvania;

Camden and Burlington County Railway Company, a corporation of New Jersey;

Delaware River Railroad and Bridge Company, a corporation of New Jersey and Pennsylvania;

The Freehold & Jamesburg Agricultural Railroad Company, a corporation of New Jersey;

Harrison and East Newark Connecting Railroad Company, a corporation of New Jersey;

The New York Bay Railroad Company, a corporation of New Jersey;

Pennsylvania and Atlantic Railroad Company, a corporation of New Jersey;

Pennsylvania Tunnel and Terminal Railroad Company, a corporation of New Jersey and New York;

Perth Amboy and Woodbridge Railroad Company, a corporation of New Jersey;

The Rocky Hill Railroad and Transportation Company, a corporation of New Jersey;

The United New Jersey Railroad and Canal Company, a corporation of New Jersey;

Pennsylvania-Reading Seashore Lines, a corporation of New Jersey;

West Jersey and Seashore Railroad Company, a corporation of New Jersey;

Atlantic City Railroad Company of New Jersey, a corporation;

The Delaware and Bound Brook Railroad Company, a corporation of New Jersey;

The East Trenton Railroad Company, a corporation of New Jersey;

The Port Reading Railroad Company, a corporation of New Jersey;

The Dover and Rockaway Railroad Company, a corporation of New Jersey;

Mount Hope Mineral Railroad Company, a corporation of New Jersey;

The New York and Long Branch Railroad Company, a corporation of New Jersey;

The Ogden Mine Railroad Company, a corporation of New Jersey;

Wharton and Northern Railroad Company, a corporation of New Jersey;

The Delaware, Lackawanna and Western Railroad Company, a corporation of Pennsylvania;

The Chester Railroad Company, a corporation of New Jersey;

The Lackawanna Railroad Company of New Jersey, a corporation of New Jersey;

The Morris and Essex Railroad Company, a corporation of New Jersey;

The Morris and Essex Extension Railroad Company, a corporation of New Jersey;

The Newark and Bloomfield Railroad Company, a corporation of New Jersey;

The Passaic and Delaware Railroad Company, a corporation of New Jersey;

The Passaic and Delaware Extension Railroad Company, a corporation of New Jersey;

The Sussex Railroad Company, a corporation of New Jersey;

The Warren Railroad Company, a corporation of New Jersey;

The Arlington Railroad Company, a corporation of New Jersey;

The Bergen County Railroad Company, a corporation of New Jersey;

Bergen and Dundee Railroad Company, a corporation of New Jersey;

The Caldwell Railway Company, a corporation of New Jersey;

The Docks Connecting Railway Company, a corporation of New Jersey;

The Long Dock Company, a corporation of New Jersey;

Newark and Hudson Railroad Company, a corporation of New Jersey;

The New York and Greenwood Lake Railway Company, a corporation of New Jersey;

New York, Lake Erie and Western Docks and Improvement Company, a corporation of New Jersey;

The Paterson and Hudson River Railroad Company, a corporation of New Jersey;

The Paterson, Newark and New York Railroad Company, a corporation of New Jersey;

The Paterson and Ramapo Railroad Company, a corporation of New Jersey;

Penhorn Creek Railroad Company, a corporation of New Jersey;

The Roseland Railway Company, a corporation of New Jersey;

Lehigh Valley Railroad Company, a corporation of Pennsylvania;

Bay Shore Connecting Railroad Company, a corporation of New Jersey;

Lehigh Valley Terminal Railway Company, a corporation of New Jersey;

Lehigh Valley Railroad Company of New Jersey, a corporation of New Jersey;

The New York Central Railroad Company, a corporation;

New Jersey Junction Railroad Company, a corporation of New Jersey;

New York and Fort Lee Railroad Company, a corporation of New Jersey;

West Shore Railroad Company, a corporation;

The Hackensack and Lodi Railroad Company, a corporation of New Jersey;

The Lodi Branch Railroad Company, a corporation of New Jersey;

Passaic and New York Railroad Company, a corporation of New Jersey;

Atlantic City & Ocean City Railroad Company, a corporation of New Jersey;

Atlantic City & Shore Railroad Company, a corporation of New Jersey;

Baltimore & New York Railway Company, a corporation of New Jersey;

The Baltimore and Ohio Railroad Company, a corporation;

East Jersey Railroad and Terminal Company, a corporation of New Jersey;

Ferromonte Railroad Company, a corporation of New Jersey;

Hoboken Manufacturers Railroad Company, a corporation of New Jersey;

Hoboken Railroad Warehouse and Steamship Connecting Company, a corporation of New Jersey;

Hudson & Manhattan Railroad Company, a corporation of New Jersey;

Hudson Railroad and Transportation Company, a corporation of New Jersey;

The Lehigh and Hudson River Railway Company, a corporation of New Jersey;

Lehigh and New England Railroad Company, a corporation of New Jersey;

The Lucaston Railroad Company, a corporation of New Jersey;

Morristown & Erie Railroad Company, a corporation;

The Pohatcong Railroad Company, a corporation of New Jersey;

Rahway Valley Railroad Company, a corporation of New Jersey;

Rahway Valley Company, Lessee, a corporation of New Jersey;

Rahway Valley Line, a corporation of New Jersey;

Raritan River Railroad Company, a corporation of New Jersey;

Southern New Jersey Railroad Company, a corporation of New Jersey;

The Union Transportation Company, a corporation of New Jersey;

The Pemberton and Hightstown Railroad Company, a corporation of New Jersey;

Erie Terminals Railroad Company, a corporation of New Jersey;

Raritan Terminal & Transportation Company, a corporation of New Jersey;

Reading Company, a corporation;

Staten Island Rapid Transit Railway Company, a corporation.

Writ of Certiorari.

(Filed June 20, 1942.)

THE STATE OF NEW JERSEY,

To: WILLIAM D. KELLY, State Tax Commissioner of the State of New Jersey; HOMER C. ZINK, Comptroller of the State of New Jersey; ROBERT C. HENDRICKSON, Treasurer of the State of New Jersey; CITY OF NEWARK, a municipal corporation of the State of New Jersey; and VINCENT J. MURPHY, Collector of Taxes of the City of Newark,

(L.S.)

GREETING:

We being willing for certain reasons to be certified of and concerning all assessments for taxation made under and pursuant to Chapter 291 of the Laws of 1941, as amended by Chapter 169 of the Laws of 1942, for the year 1941, as well as all assessments of railroad property made under R. S. Section 54:19-1, et seq., for the year 1941, and of all records and proceedings relating to such assessments, and also of an assessment for taxation made for the year 1941 by the City of Newark, a municipal corporation, upon real property owned by James T. Owens, assessed as Lot No. 41, Block 1793, in the City of Newark, New Jersey, we command you, the said William D. Kelly, State Tax Commissioner, you Homer C. Zink, the said State Comptroller, and you, Robert C. Hendrickson, Treasurer of the State of New Jersey, that the assessments, records and proceedings concerning all assessments for taxation made under and pursuant to Chapter 291 of the Laws of 1941, as amended by Chapter 169 of the Laws of 1942, for

the year 1941, and all assessments of railroad property made under R. S. Section 54:19-1, et seq., for the year 1941, and all records and proceedings relating to such assessments, and all things touching and concerning the same as fully and as entirely before you remain or are in your custody and control, you do certify and send, together with this writ, to our Justices of our Supreme Court of Judicature at Trenton, New Jersey, on the 10th day of July, 1942, that therein may be caused to be done what of right and according to law ought to be done; and we command you, City of Newark, a municipal corporation, and you, Vincent J. Murphy, Collector of Taxes of the City of Newark, that the said assessment of property of James T. Owens, made for the year 1941, hereinabove more particularly described, the records and proceedings, and all things touching and concerning the same, as fully and as entirely before you remain or are in your custody and control, you do certify and send, together with this writ, to our Justices of our Supreme Court of Judicature at Trenton, New Jersey, on the 10th day of July, 1942, that therein may be caused to be done what of right and according to law ought to be done.

WITNESS, HONORABLE THOMAS J. BROGAN, Chief Justice of our said Supreme Court at Trenton, this 20th day of June, 1942.

FRED L. BLOODGOOD,
Clerk.

RAYMOND C. CONNELL,
Attorney for Prosecutor.

A true copy,
FRED L. BLOODGOOD,
Clerk.

Writ of Certiorari.

(Endorsed on Back)

NEW JERSEY SUPREME COURT.

James T. Owens,

Prosecutor,

vs.

William D. Kelly, State Tax Commissioner of the State of New Jersey, and the other respondents who are named on page 2 of the backing annexed hereto and made a part hereof,

Respondents.

WRIT OF CERTIORARI.

Raymond C. Connell,
Attorney for Prosecutor,
516 Bloomfield Avenue,
Montclair, N. J.

This writ is allowed. Let it be sealed. Depositions may be taken on four days' notice. Notwithstanding the allowance of this writ, the respondent taxpayers are hereby permitted to pay to the Treasurer of the State of New Jersey the amount of taxes assessed against such taxpayers for the year 1941 under Chapter 291 of the Laws of 1941, as amended by Chapter 169 of the Laws of 1942; and the Comptroller of the State of New Jersey and the Treasurer of the State of New Jersey are permitted forthwith to distribute the tax receipts heretofore paid, derived from the assessments of Class II railroad property for the year 1941, and

to distribute hereafter all other tax moneys paid under and pursuant to Chapter 291 of the Laws of 1941, as amended by Chapter 169 of the Laws of 1942, in accordance with law. The payment of the moneys by the taxpayers, the distribution by the Comptroller and Treasurer, and the receipt of such moneys by any taxing district shall be without prejudice to the determination of the issues raised on this writ of certiorari, or to any rights of the taxpayers with respect to any taxes so paid. The allowance of this writ shall be without prejudice to any right of the parties hereto to take and prosecute appeals from any railroad tax assessments to the State Board of Tax Appeals with respect to valuation of property and computation of taxes.

DATED: June 19, 1942.

NEWTON H. PORTER, J.S.C.

(Page 2 of backing)

The following are additional respondents to this writ:

Homer C. Zink, Comptroller of the State of New Jersey;

Robert C. Hendrickson, Treasurer of the State of New Jersey;

City of Newark, a municipal corporation of the State of New Jersey;

Vincent J. Murphy, Collector of Taxes of the City of Newark;

The Pennsylvania Railroad Company, a corporation of Pennsylvania;

The Belvidere Delaware Railroad Company, a corporation of New Jersey and Pennsylvania;

Camden and Burlington County Railway Company, a corporation of New Jersey;

Delaware River Railroad and Bridge Company, a corporation of New Jersey and Pennsylvania;

The Freehold & Jamesburg Agricultural Railroad Company, a corporation of New Jersey;

Harrison and East Newark Connecting Railroad Company, a corporation of New Jersey;

The New York Bay Railroad Company, a corration of New Jersey;

Pennsylvania and Atlantic Railroad Company, a corporation of New Jersey;

Pennsylvania Tunnel and Terminal Railroad Company, a corporation of New Jersey and New York;

Perth Amboy and Woodbridge Railroad Company, a corporation of New Jersey;

The Rocky Hill Railroad and Transportation Company, a corporation of New Jersey;

The United New Jersey Railroad and Canal Company, a corporation of New Jersey;

Pennsylvania-Reading Seashore Lines, a corporation of New Jersey;

West Jersey and Seashore Railroad Company, a corporation of New Jersey;

Atlantic City Railroad Company of New Jersey, a corporation;

The Delaware and Bound Brook Railroad Company, a corporation of New Jersey;

The East Trenton Railroad Company, a corporation of New Jersey;

The Port Reading Railroad Company, a corporation of New Jersey;

The Dover and Rockaway Railroad Company, a corporation of New Jersey;

Mount Hope Mineral Railroad Company, a corporation of New Jersey;

The New York and Long Branch Railroad Company, a corporation of New Jersey;

The Ogden Mine Railroad Company, a corporation of New Jersey;

Wharton and Northern Railroad Company, a corporation of New Jersey;

The Delaware, Lackawanna and Western Railroad Company, a corporation of Pennsylvania;

The Chester Railroad Company, a corporation of New Jersey;

The Lackawanna Railroad Company of New Jersey, a corporation of New Jersey;

The Morris and Essex Railroad Company, a corporation of New Jersey;

The Morris and Essex Extension Railroad Company, a corporation of New Jersey;

The Newark and Bloomfield Railroad Company, a corporation of New Jersey;

The Passaic and Delaware Railroad Company, a corporation of New Jersey;

The Passaic and Delaware Extension Railroad Company, a corporation of New Jersey;

The Sussex Railroad Company, a corporation of New Jersey;

The Warren Railroad Company, a corporation of New Jersey;

The Arlington Railroad Company, a corporation of New Jersey;

The Bergen County Railroad Company, a corporation of New Jersey;

Bergen and Dundee Railroad Company, a corporation of New Jersey;

The Caldwell Railway Company, a corporation of New Jersey;

The Docks Connecting Railway Company, a corporation of New Jersey;

The Long Dock Company, a corporation of New Jersey;

Newark and Hudson Railroad Company, a corporation of New Jersey;

The New York and Greenwood Lake Railway Company, a corporation of New Jersey;

New York, Lake Erie and Western Docks and Improvement Company, a corporation of New Jersey;

The Paterson and Hudson River Railroad Company, a corporation of New Jersey;

The Paterson, Newark and New York Railroad Company, a corporation of New Jersey;

The Paterson and Ramapo Railroad Company, a corporation of New Jersey;

Penhorn Creek Railroad Company, a corporation of New Jersey;

The Roseland Railway Company, a corporation of New Jersey;

Lehigh Valley Railroad Company, a corporation of Pennsylvania;

Bay Shore Connecting Railroad Company, a corporation of New Jersey;

Lehigh Valley Harbor Terminal Railway Company, a corporation of New Jersey;

Lehigh Valley Railroad Company of New Jersey, a corporation of New Jersey;

The New York Central Railroad Company, a corporation;

New Jersey Junction Railroad Company, a corporation of New Jersey;

New York and Fort Lee Railroad Company, a corporation of New Jersey;

West Shore Railroad Company, a corporation;

The Hackensack and Lodi Railroad Company, a corporation of New Jersey;

The Lodi Branch Railroad Company, a corporation of New Jersey;

Passaic and New York Railroad Company, a corporation of New Jersey;

Atlantic City & Ocean City Railroad Company, a corporation of New Jersey;

Atlantic City & Shore Railroad Company, a corporation of New Jersey;

Baltimore & New York Railway Company, a corporation of New Jersey;

The Baltimore and Ohio Railroad Company, a corporation;

East Jersey Railroad and Terminal Company, a corporation of New Jersey;

Ferromonte Railroad Company, a corporation of New Jersey;

Hoboken Manufacturers Railroad Company, a corporation of New Jersey;

Hoboken Railroad Warehouse and Steamship Connecting Company, a corporation of New Jersey;

Hudson & Manhattan Railroad Company, a corporation of New Jersey;

Hudson Railroad and Transportation Company, a corporation of New Jersey;

The Lehigh and Hudson River Railway Company, a corporation of New Jersey;

Lehigh and New England Railroad Company, a corporation of New Jersey;

The Lucaston Railroad Company, a corporation of New Jersey;

Morristown & Erie Railroad Company, a corporation;

The Pohatcong Railroad Company, a corporation of New Jersey;

New Jersey State Library

Rahway Valley Railroad Company, a corporation of New Jersey;

Rahway Valley Company, Lessee, a corporation of New Jersey;

Rahway Valley Line, a corporation of New Jersey;

Raritan River Railroad Company, a corporation of New Jersey;

Southern New Jersey Railroad Company, a corporation of New Jersey;

The Union Transportation Company, a corporation of New Jersey;

The Pemberton and Hightstown Railroad Company, a corporation of New Jersey;

Erie Terminals Railroad Company, a corporation of New Jersey;

Raritan Terminal & Transportation Company, a corporation of New Jersey;

Reading Company, a corporation;

Staten Island Rapid Transit Railway Company, a corporation.

Rule Consolidating Cases.

(Filed June 20, 1942.)

NEW JERSEY SUPREME COURT.

CITY OF JERSEY CITY, a municipal corporation, et al.,
Prosecutors,
vs.
WILLIAM D. KELLY, State Tax Commissioner of New Jersey, et al.,
Respondents,

On Certiorari to Review Assessments Under Chapter 291 of the Laws of 1941.

JAMES T. OWENS,
Prosecutor,
vs.
WILLIAM D. KELLY, State Tax Commissioner of New Jersey, et al.,
Respondents,

RULE.

CITY OF JERSEY CITY, a municipal corporation, et al.,
Prosecutors,
vs.
WILLIAM D. KELLY, State Tax Commissioner of New Jersey, et al.,
Respondents,

On Certiorari to Review Assessments Under Chapter 291 of the Laws of 1941, As Amended by Chapter 169 of the Laws of 1942.

JAMES T. OWENS,
Prosecutor,
vs.
WILLIAM D. KELLY, State Tax Commissioner of New Jersey, et al.,
Respondents,

A writ of certiorari having been allowed in each of the above entitled proceedings, on notice to all

interested parties, and notice of application for the making of this rule having been given to said parties, and it appearing to the court that this rule should be made;

It is, thereupon, on this 19th day of June, 1942, on motion of Charles A. Rooney, Charles Hershenstein, and Raymond C. Connell, attorneys for prosecutors, ORDERED that the above entitled proceedings be and they hereby are consolidated; and

It is FURTHER ORDERED that the rules of this court be and they hereby are suspended, for the purposes of these proceedings, to the end that all the prosecutors who are the moving parties in the above entitled proceedings be and they hereby are permitted jointly to prosecute their respective claims in said proceedings against all the assessments described in the said writs; and

It is FURTHER ORDERED that a single return be made to the writs of certiorari issued in the third and fourth causes captioned above, by the respondents William D. Kelly, State Tax Commissioner of the State of New Jersey, Homer C. Zink, Comptroller of the State of New Jersey, and Robert C. Hendrickson, Treasurer of the State of New Jersey, which return may be made by the said respondents jointly, and that all respondents to said writs may omit from their respective returns all matters and things heretofore returned by them, or any of them, with the writs of certiorari issued in the first two causes captioned above, and the returns heretofore made to the writs of certiorari issued in the first two causes be deemed to be part of the return to the writs issued in the said third and fourth causes; and

Rule Consolidating Cases.

It is FURTHER ORDERED that prosecutors have leave to join as parties respondents to each of said writs such railroad companies as are in federal bankruptcy, receivership or reorganization proceeding, and the trustee, trustees, received or receivers of any of such railroad companies, upon leave being granted for that purpose by the court or courts which appointed said trustee, trustees, receiver or receivers; and

It is FURTHER ORDERED that the depositions heretofore taken under the writs of certiorari issued in the said first and second causes be deemed to be applicable to all the proceedings upon these consolidated writs; and

It is FURTHER ORDERED that the argument before the court be first had upon those of the reasons filed and hereafter to be filed which relate to questions concerning the constitutionality of Chapter 291 of the Laws of 1941, and said Chapter 291 as amended by Chapter 169 of the Laws of 1942, excepting, however, any constitutional issue based upon the contention that assessments of property for the year 1941, purporting to be made under said laws, or either of them, are not at true value; and

It is FURTHER ORDERED that if the court determines that said statutes, or either of them, are constitutional, then, after the determination by this court of the said issues first to be presented, all of the remaining issues raised in the said reasons may thereupon be submitted to this court for determination by any party, provided that such party shall file with the clerk of the court, within twenty days after the filing of the opinion of the court on the issues first to be submitted a declaration of

intention to submit to the court such remaining issues, in default of which declaration final judgment may be entered on said opinion; and

It is FURTHER ORDERED that nothing contained in this order shall estop any of the respondents from challenging the jurisdiction of this court, or of any court or tribunal, to hear and determine any and all issues raised in the said reasons, whether reserved or not; and

It is FURTHER ORDERED that nothing contained herein shall be deemed to vacate, change or modify the terms of the allocatur to any of the said writs; and

It is FURTHER ORDERED that depositions with reference to any of the issues reserved, as aforesaid, need not be taken until after the filing of the opnion, as aforesaid; and

It is FURTHER ORDERED that the argument on the consolidated writs of certiorari as to the issues first to be submitted, be had on the opening day of October, 1942, Term of court, without any further notice of argument to any of the parties to these proceedings; and

It is FURTHER ORDERED that true, but uncertified copies of the writs of certiorari issued in the third and fourth causes hereinabove, and of this order, which copies may be printed, be served upon each of the respondents to the said writs within ten days from the date hereof, said service to be made either personally, or upon the attorneys who appeared for such parties on the return of the application for the said writs, or upon the registered agent of any corporate respondent, or, where a regis-

tered agent cannot be found, upon the agent of such company, who, for the year 1941, filed a tax return for such company with the State Tax Commissioner of New Jersey, which service in said last-mentioned case may be made by leaving a copy thereof at the office of such agent in this state, or, where out of the state, by mailing as hereinafter directed, or, in the case of non-resident trustees who are respondents, by mailing as hereinafter directed; and in such case as service by mail is permitted herein, same shall be first-class mail, addressed to such persons at their respective business or home post-office addresses, and same shall be made by enclosing such copies of said writs and order in sealed envelopes with sufficient postage thereon fully prepaid; and

It is FURTHER ORDERED that service of any other notices or rules herein shall be made upon all attorneys who have appeared herein on behalf of any respondent, and be made upon such respondents as have not appeared by attorney, by mailing the same in a sealed envelope, by ordinary mail, with postage prepaid, addressed to such respondent at the office of its registered agent, if there be one in the State of New Jersey, otherwise to such respondent at the office of its tax agent.

NEWTON H. PORTER,
Justice.

A true copy,
CHARLES A. ROONEY,
Attorney for Prosecutors.

Return to Writs of Certiorari.

(Filed July 15, 1942.)

NEW JERSEY SUPREME COURT

CITY OF JERSEY CITY, a municipal corporation, et al., *Prosecutors,* *vs.* WILLIAM D. KELLY, State Tax Commissioner of New Jersey, et al., *Respondents.*	On Certiorari. Return to Writs of Certiorari. Assessments Under Chapter 291, As Amended by Chapter 169, Laws of 1942.
JAMES T. OWENS, *Prosecutor,* *vs.* WILLIAM D. KELLY, State Tax Commissioner of New Jersey, et al., *Respondents.*	

IN OBEDIENCE TO THE COMMAND of the within writs in the above entitled causes, consolidated by rule of this Court dated June 19, 1942, and as a joint return thereto as by said rule provided, we, William D. Kelly, State Tax Commissioner of the State of New Jersey, Homer C. Zink, Comptroller of the State of New Jersey, and Robert C. Hendrickson (succeeding William H. Albright), Treasurer of the State of New Jersey, do hereby certify and send to the Honorable Justices of the Supreme Court the assessments of franchise excise taxes for the year 1941 against all railroad systems and railroads not a part of a system engaged in, owning or constructing facilities for the transportation of persons or property in or through this

State, under and pursuant to the Railroad Tax Law of 1941, as amended by Chapter 169, Laws of 1942, and a statement of the receipts and apportionment of franchise excise taxes under and pursuant to the provisions of the Railroad Tax Law of 1941, as amended by Chapter 169, Laws of 1942, together with all things touching and concerning said assessments and the apportionment thereof, as fully as before us they remain, together with the writs aforesaid.

Pursuant to the order of this Court there have been omitted from this Return, the matter and things returned with the Writs of Certiorari allowed December 22, 1941.

The undersigned State Comptroller and State Treasurer hereby certify that the records of the State Comptroller and the State Treasurer show that all the franchise excise taxes for the year 1941 as recomputed under Chapter 169 of the Laws of 1942 have been paid in full, with the exception that nothing has been paid on account of such taxes assessed against the New Jersey and New York Railroad Company, and the Southern New Jersey Railroad Company.

In Witness Whereof we have hereunto set our hands and affixed our seals this 14th day of July, 1942.

William D. Kelly,
(SEAL) State Tax Commissioner of the State of New Jersey.

Homer C. Zink,
(SEAL) State Comptroller of the State of New Jersey.

Robert C. Hendrickson,
(SEAL) (Succeeding William H. Albright) State Treasurer of the State of New Jersey.

SUMMARY 1941 ASSESSMENT — July 1, 1942

COMBINED PROPERTY TAXES AND FRANCHISE TAXES UNDER CHAPTER 291, P. L. 1941, AS AMENDED BY CHAPTER 169, P. L. 1942, COMPARED WITH ASSESSMENTS FOR 1941 UNDER REVISED STATUTES, AND ASSESSMENTS FOR 1941 UNDER CHAPTER 291, P. L. 1941

SYSTEM	Assessed for 1941 under Revised Statutes	Assessment for 1941 under Chapter 291, P. L. 1941			Assessment for 1941 under Chap. 291, P. L. 1941, as amended by Chap. 169, P. L. 1942. See accompanying details of Franchise Calculations.		
		Property Tax	Franchise Tax	Total Tax	Property Tax	Franchise Tax	Total Tax
Pennsylvania R.R. System		$3,112,201.35	$1,870,168.65	$4,982,370.00	$3,112,201.35	$1,858,648.65	$4,970,850.00
Penna. & Atlantic R.R., exclusive of Union Transportation Co.		14.322.30	0.00	14,322.30	14,322.30	4,000.00	18,322.30
Union Transportation Co.		3,054.42	0.00	3,054.42	3,054.42	3,665.30	6,719.72
Total, P. R.R. Group	$5,115,479.04	3,129,578.07	1,870,168.65	4,999,746.72	3,129,578.07	1,866,313.95	4,995,892.02
Pennsylvania-Reading Seashore Lines	556,421.22	335,369.82	0.00	335,369.82	335,369.82	4,000.00	339,369.82
C. R.R. of N. J. System		2,058,872.13	0.00	2,058,872.13	2,058,872.13	239,749.80	2,298,621.93
Mt. Hope Mineral R.R.		865.35	17,194.65	18,060.00	865.35	1,038.42	1,903.77
Wharton & Northern R.R.		3,181.05	161,687.94	164,868.99	3,181.05	3,817.26	6,998.31
Total, C. R.R. of N. J. Group	3,528,739.39	2,062,918.53	178,882.59	2,241,801.12	2,062,918.53	244,605.48	2,307,524.01
Reading Company	457,686.67	259,137.39	506,782.62	765,920.01	259,137.39	310,964.87	570,102.26
Erie R.R. System, excl. Erie Terminals R.R.		1,184.531.22	0.00	1,184,531.22	1,184,531.22	310,670.70	1,495,201.22
New Jersey & New York R.R.		19,863.06	0.00	19,863.06	19,863.06	4,000.00	23,863.06
Northern R.R. Co. of N. J.		18,776,49	0.00	18,776.49	18,776.49	4,000.00	22,776.49
Total, Erie R.R. Group	2,019,131.44	1,223,170.77	0.00	1,223,170.77	1,223,170.77	318,670.70	1,541,841.47
Delaware, Lackawanna & Western R.R. System	2,763,731.41	1,678,073.31	227,693.70	1,905,767.01	1,678,073.31	554,756.10	2,232,829.41
New York, Susquehanna & Western R.R. System, incl. Erie Terminals R.R.	270,292.58	180,984.45	249,186.54	430,170.99	180,984.45	70,269.30	251,253.75
L. V. R.R. System, incl. Raritan T. & T. Co.	1,837,292.50	1,083,401.34	85,376.67	1,168,778.01	1,083,401.34	340,445.40	1,423,846.74
New York Central R.R. System	1,144,048.96	678,046.02	0.00	678,046.02	678,046.02	93,405.60	771,451.62
Atlantic City & Shore R.R., incl. Atlantic City & Ocean City R.R.	2,143.80	1,308.36	8,904.63	10,212.99	1,308.36	785.02	2,093.38
Baltimore & Ohio R.R., incl. Baltimore & New York R.R.	35,730.69	22,471.71	305,146.29	327,618.00	22,471.71	26,966.05	49,437.76
East Jersey R.R. & T. Co.	9,026.87	5,402.22	24,004.77	29,406.99	5,402.22	4,000.00	9,402.22
Ferro Monte R.R. (Not operated)	145.04	87.66	0.00	87.66	87.66	105.19	192.85
Hoboken Manufacturers R.R., incl. H. R.R. W. & S. C. Co.	49,294.73	31,624.26	0.00	31,624.26	31,624.26	4,000.00	35,624.26
Hudson & Manhattan R.R.	372,920.85	225,738.45	370,766.55	596,505.00	225,738.45	135,443.07	361,181.52
Hudson R.R. & T. Co (Not a common carrier)	2,405.48	1,497.81	0.00	1,497.81	1,497.81	1,797.37	3,295.18
Lehigh & Hudson River Railway	70,671.95	43,684.05	62,687.94	106,371.99	43,684.05	10,410.90	54,094.95
Lehigh & New England R.R.	30,642.45	18,795.84	125,716.17	144,512.01	18,795.84	22,555.01	41,350.85
Lucaston R.R. (Not a common carrier)	461.71	297.51	0.00	297.51	297.51	357.01	654.52
Morristown & Erie R.R.	6,500.60	4,070.67	15,272.34	19,343.01	4,070.67	4,000.00	8,070.67
New York, Ontario & Western R.R.	3,079.47	1,917.48	0.00	1,917.48	1,917.48	2,300.98	4,218.46
Pohatcong R.R. (Not a common carrier)	641.42	393.30	0.00	393.30	393.30	471.96	865.26
Rahway Valley Co., Lessee, incl. Rahway Valley Line & Rahway Valley R.R.	9,796.45	6,119.28	9,544.71	15,663.99	6,119.28	4,000.00	10,119.28
Raritan River R.R.	32,971.75	20,205.75	122,974.26	143,180.01	20,205.75	4,000.00	24,205.75
Southern New Jersey R.R. (in existence Jan. 1, 1940, later abandoned)	702.32	450.81	0.00	450.81	450.81	540.97	991.78
Staten Island Rapid Transit Co.	2,205.54	1,373.31	0.00	1,373.31	1,373.31	1,647.97	3,021.28
Total, Unclassified Railroads	629,341.12	385,438.47	1,045,017.66	1,430,456.13	385,438.47	223,381.50	608,819.97
TOTAL, Railroad Taxes	$18,322,164.33	$11,016,118.17	$4,163,108.43	$15,179,226.60	$11,016,118.17	$4,026,812.90	$15,042,931.07

5-16-42

1941 ASSESSMENT
SUMMARY OF FRANCHISE EXCISE TAXES
PURSUANT TO PROVISIONS OF CHAPTER 291, P. L. 1941,
AS AMENDED BY CHAPTER 169, P. L. 1942
RELEVIED TAX

	Railroad System	1941 Franchise Excise Taxes, As Relevied May, 1942
2	Penna. R.R. System, excl. of Penna. & Atl. R.R. and of Union Transp. Co.	$1,858,648.65
3	Penna. & Atlantic R.R.	4,000.00
4	Union Transportation Co.	3,665.30
5	Pennsylvania-Reading Seashore Lines	4,000.00
6	C. R.R. Co. of N. J., excl. of Mt. Hope Min. R.R. and of Wharton & Northern R.R.	239,749.80
7	Mt. Hope Mineral R.R.	1,038.42
8	Wharton & Northern R.R.	3,817.26
9	Reading Company	310,964.87
10	Erie R.R., excl. of Erie Termls. R.R., N. J. & N. Y. R.R. and Northern R.R. Co. of N. J.	310,670.70
11	New Jersey & New York R.R.	4,000.00
12	Northern R.R. Co. of N. J.	4,000.00
13	Delaware, Lackawanna & Western R.R.	554,756.10
14	New York, Susquehanna & Western R.R., incl. Erie Terminals R.R.	70,269.30
15	Lehigh Valley R.R., incl. Raritan Terminal & Transportation Co.	340,445.40
16	New York Central R.R.	93,405.60
17	Atlantic City & Shore R.R., incl. Atlantic City & Ocean City R.R.	785.02
18	Baltimore & Ohio R.R., incl. Baltimore & New York R.R.	26,966.05
19	East Jersey R.R. & Terminal Co.	4,000.00
20	Ferro Monte R.R. (Not Operated)	105.19
21	Hoboken Manufacturers R.R., incl. Hob. R.R. W. & S. Conn. Co.	4,000.00
22	Hudson & Manhattan R.R.	135,443.07
23	Hudson R.R. & Transportation Co. (Not a Common Carrier)	1,797.37
24	Lehigh & Hudson River Ry.	10,410.90
25	Lehigh & New England R.R.	22,555.01
26	Lucaston R.R. (Not a Common Carrier)	357.01
27	Morristown & Erie R.R.	4,000.00
28	New York, Ontario & Western R.R.	2,300.98
29	Pohatcong R.R. (Not a Common Carrier)	471.96
30	Rahway Valley Co., Lessee, incl. Rahway Valley Line & Rahway Valley R.R.	4,000.00
31	Raritan River R.R.	4,000.00
32	Southern New Jersey R.R. (Abandoned & Dismantled in 1940)	540.97
33	Staten Island Rapid Transit Ry. Co.	1,647.97
	TOTAL 1941 RAILROAD FRANCHISE TAXES IN NEW JERSEY, AS RELEVIED	$4,026,812.90

Approved: WILLIAM D. KELLY,
State Tax Commissioner.

Date: May 21st, 1942.

FRANCHISE EXCISE TAX
1941 ASSESSMENT
AS DETERMINED BY THE STATE TAX COMMISSIONER
PURSUANT TO CHAPTER 291, P. L. 1941, AS AMENDED BY
CHAPTER 169, P. L. 1942

PENNSYLVANIA RAILROAD SYSTEM
Exclusive of Penna. & Atlantic R.R. and Union Transportation Co.

The 1941 Franchise Excise Tax levied against the Penna. Railroad Co. includes all of its operations in the State of New Jersey, and the operations of the railroads embraced in the following list:

Belvidere-Delaware Railroad
Camden & Burlington County Ry.
Delaware River R.R. & Bridge Co.
Freehold & Jamesburg Agricultural R.R.
Harrison & East Newark Connecting R.R.
New York Bay Railroad
Pennsylvania Tunnel & Terminal R.R.
Perth Amboy & Woodbridge R.R.
Rocky Hill R.R. & Transportation Co.
United New Jersey R.R. & Canal Co.
Pennsylvania R.R. Co., Lessee
New York & Long Branch R.R. (50%)

FRANCHISE COMPUTATIONS — 1941 ASSESSMENT

Line No.	Description	
	Miles of All Tracks Operated, as of December 31, 1940	
1	Miles of All Tracks Operated by System	24,928.20
2	" " " " " in New Jersey	1,435.25
3	Per Cent of Operated Track Miles in N. J., Line 2 ÷ Line 1	5.7
	Computation of Franchise Excess and Taxes for 1941 Assessment	
4	Net Ry. Operating Income of System for year ended Dec. 31, 1940	$86,49
5	Flat deduction from Net Railway Operating Income (Section 14, as amended)	20
6	Remaining Income to be Allocated, Line 4 — Line 5	86,29
7	Allocation Factor to N. J., based on Track Miles—Same as Line 3	5.7
8	1940 Ry. Operating Income Allocated to N. J., Line 6 × Line 7	4,97
9	1941 Franchise Base, Line 8 capitalized at 3%	165,6
10	Deduction for Physical Property, as per 1941 Assessment (Made in 1940)	103,7
11	1941 Excess of Franchise Base over Property Valuation for 1941, Line 9 — Line 10	61,9
12	Normal Franchise Excise Tax, 3% of Line 11	$1,858,648.65
13	Maximum Franchise Excise Tax, 3.6% of Line 10	3,734,641.62
14	Conditional Minimum Franchise Excise Tax, Fixed Amount	4,000.00
15	Conditional Minimum Franchise Excise Tax, 30% of Line 8	1,491,255.00
16	Effective Franchise Excise Tax for 1941, same as Line 12	1,858

Approved: WILLIAM D. KELL
State Tax Commiss

Date: May 21, 1942.

5-16-42

FRANCHISE EXCISE TAX
1941 ASSESSMENT
AS DETERMINED BY THE STATE TAX COMMISSIONER
PURSUANT TO CHAPTER 291, P. L. 1941, AS AMENDED BY
CHAPTER 169, P. L. 1942

PENNSYLVANIA AND ATLANTIC R.R.
Exclusive of Union Transportation Company

The 1941 Franchise Excise Tax levied against the Pennsylvania and Atlantic Railroad includes all of its operations, embracing:

Pennsylvania and Atlantic R.R.
exclusive of former Pemberton & Hightstown R.R., leased to
Union Transportation Company.

FRANCHISE COMPUTATIONS — 1941 ASSESSMENT

Line No.	Description	
	Miles of All Tracks Operated, as of December 31, 1940	
1	Miles of All Tracks Operated by Penna. & Atlantic R.R.	64.71 Mi.
2	" " " " " in New Jersey	64.71 "
3	Per Cent of Operated Track Miles in N. J., Line 2 ÷ Line 1	100.00%
	Computation of Franchise Excess and Taxes for 1941 Assessment	
4	Net Ry. Operating Income of Penna. & Atlantic R.R. for year ended December 31, 1940	Def. 202,343
5	Flat deduction from Net Railway Operating Income (Section 14, as amended)	200,000
6	Remaining income to be allocated, Line 4 — Line 5	Negative
7	Allocation factor to N. J., based on Track Miles — Same as Line 3	100.00%
8	1940 Ry. Operating Income Allocated to N. J., Line 6 × Line 7	Negative
9	1941 Franchise Base, Line 8 capitalized at 4%	Negative
10	Deduction for Physical Property, as per 1941 Assessment (made in 1940)	477,410
11	1941 Excess of Franchise Base over Property Valuation for 1941, Line 9 — Line 10	Negative
12	Normal Franchise Excise Tax, 3% of Line 11 — 0.00	
13	Maximum Franchise Excise Tax, 3.6% of Line 10 — 17,186.76	
	Conditional Minimum Franchise Excise Tax,	
	Fixed Amount — 4,000.00	
	Conditional Minimum Franchise Excise Tax, 30% of Line 8 — 0.00	
14	Effective Franchise Excise Tax for 1941, same as Line 14	$4,000.00

Approved: WILLIAM D. KELLY,
State Tax Commissioner.

Date: May 21, 1942

5-16-42

FRANCHISE EXCISE TAX
1941 ASSESSMENT
AS DETERMINED BY THE STATE TAX COMMISSIONER
PURSUANT TO CHAPTER 291, P. L. 1941, AS AMENDED BY
CHAPTER 169, P. L. 1942

THE UNION TRANSPORTATION COMPANY

The 1941 Franchise Excise Tax levied against the Union Transportation Co. includes all its operations, embracing

Former Pemberton & Hightstown R.R., consolidated with the Pennsylvania & Atlantic R.R., Feb. 25, 1915.
Leased by the Union Transportation Co. from the Pennsylvania & Atlantic R.R.

FRANCHISE COMPUTATIONS — 1941 ASSESSMENT

Line No.	Description	
	Miles of All Tracks Operated, as of December 31, 1940	
1	Miles of All Tracks Operated by Union Transportation Co.	27.87 M
2	" " " " " in New Jersey	27.87 "
3	Per Cent of Operated Track Miles in N. J., Line 2 ÷ Line 1	100.00%
	Computation of Franchise Excess and Taxes for 1941 Assessment	
4	Net Ry. Oper. Income of Union Transp. Co. for year ended Dec. 31, 1940	$1,19
5	Flat Deduction from Net Ry. Oper. Income (Section 14, as amended)	200,0
6	Remaining Income to be Allocated, Line 4 — Line 5	Negati
7	Allocation Factor to N. J., based on Track Miles — Same as Line 3	100.00
8	1940 Ry. Oper. Income Allocated to N. J., Line 6 × Line 7	Negati
9	1941 Franchise Base, Line 8 capitalized at 3%	Negati
10	Deduction for Physical Property, as per 1941 Assmt. (made in 1940)	101,8
11	1941 Excess of Franchise Base over Property Valuation for 1941, Line 9 — Line 10	Negati
12	Normal Franchise Excise Tax, 3% of Line 11 — 0.00	
13	Maximum Franchise Excise Tax, 3.6% of Line 10 — 3,665.30	
14	Conditional Minimum Franchise Excise Tax, Fixed Amount 4,000.00	
15	" " " " " 30% of Line 8 0.00	
16	Effective Franchise Excise Tax for 1941, same as Line 13	3,665

Approved: WILLIAM D. KELLY
State Tax Commissioner

Date: May 21, 1942

5-16-42

FRANCHISE EXCISE TAX
1941 ASSESSMENT
AS DETERMINED BY THE STATE TAX COMMISSIONER
PURSUANT TO CHAPTER 291, P. L. 1941, AS AMENDED BY
CHAPTER 169, P. L. 1942

PENNSYLVANIA-READING SEASHORE LINES

The 1941 Franchise Excise Tax levied against the Penn-Reading Seashore Lines includes all of its operations, and the operations of the railroads embraced in the following list:

West Jersey & Seashore Railroad
Atlantic City Railroad
Penn-Reading Seashore Lines (formerly Stone Harbor R.R.)
Penn-Reading Seashore Lines (formerly W. & D. B. S. L. R.R.)
Penn-Reading Seashore Lines

FRANCHISE COMPUTATIONS — 1941 ASSESSMENT

Line No.	Description		
	Miles of All Tracks Operated, as of December 31, 1940		
1	Miles of All Tracks Operated by System		741.59 Mi.
2	" " " " " in New Jersey		741.59 "
3	Per Cent of Operated Track Miles in N. J., Line 2 ÷ Line 1		100.00%
	Computation of Franchise Excess and Taxes for 1941 Assessment		
4	Net Ry. Oper. Income of System for year ended Dec. 31, 1940		Def. 2,490,814
5	Flat Deduction from Net Ry. Oper. Income (Section 14, as amended)		200,000
6	Remaining Income to be Allocated, Line 4 — Line 5		Negative
7	Allocation Factor to N. J., based on Track Miles—Same as Line 3		100.00%
8	1940 Ry. Oper. Income Allocated to N. J., Line 6 × Line 7		Negative
9	1941 Franchise Base, Line 8 capitalized at 3%		Negative
10	Deduction for Physical Property, as per 1941 Assmt. (made in 1940)		11,178,994
11	1941 Excess of Franchise Base over Property Valuation for 1941, Line 9 — Line 10		Negative
12	Normal Franchise Excise Tax, 3% of Line 11	0.00	
13	Maximum Franchise Excise Tax, 3.6% of Line 10	402,443.78	
	Conditional Minimum Franchise Tax, Fixed Amount	4,000.00	
	" " " " 30% of Line 8	0.00	
14	Effective Franchise Excise Tax for 1941, same as Line 14		4,000.00

Approved: WILLIAM D. KELLY,
State Tax Commissioner.

Date: May 21, 1942.

5-16-42

FRANCHISE EXCISE TAX
1941 ASSESSMENT
AS DETERMINED BY THE STATE TAX COMMISSIONER
PURSUANT TO CHAPTER 291, P. L. 1941, AS AMENDED BY
CHAPTER 169, P. L. 1942

C. R.R. CO. OF N. J. SYSTEM, EXCLUSIVE OF MT. HOPE MINERAL R.R. AND OF WHARTON & NORTHERN RAILROAD

The 1941 Franchise Excise Tax levied against the C. R.R. Co. of N. J. includes all of its operations in the State of New Jersey, and the operations of the railroads embraced in the following list:

Bay Shore Connecting R.R. (50%)
Central R.R. Co. of N. J.
Dover & Rockaway Railroad Co.
New York & Long Branch Railroad Co. (50%)
Ogden Mine Railroad Co.

FRANCHISE COMPUTATIONS — 1941 ASSESSMENT

Line No.	Description		
	Miles of All Tracks Operated, as of December 31, 1940		
1	Miles of All Tracks Operated by System		1,965.42 Mi
2	" " " " " in New Jersey		1,348.44 "
3	Per Cent of Operated Track Miles in New Jersey, Line 2 ÷ Line 1		68.61%
	Computation of Franchise Excess and Taxes for 1941 Assessment		
4	Net Ry. Oper. Income of System for year ended Dec. 31, 1940		$1,364,79
5	Flat Deduction from Net Ry. Oper. Income (Section 14, as amended)		200,00
6	Remaining Income to be Allocated, Line 4 — Line 5		1,164,79
7	Allocation Factor to N. J., based on Track Miles—Same as Line 3		68.61%
8	1940 Ry. Oper. Income Allocated to N. J., Line 6 × Line 7		799,16
9	1941 Franchise Base, Line 8 capitalized at 3%		26,638,86
10	Deduction for Physical Property, as per 1941 Assmt. (made in 1940)		68,629,07
11	1941 Excess of Franchise Base over Property Valuation for 1941, Line 9 — Line 10		Negativ
12	Normal Franchise Excise Tax, 3% of Line 11	0.00	
13	Maximum Franchise Excise Tax, 3.6% of Line 10	2,470,646.56	
14	Conditional Minimum Franchise Excise Tax, Fixed Amount	4,000.00	
15	Conditional Minimum Franchise Excise Tax, 30% of Line 8	239,749.80	
16	Effective Franchise Excise Tax for 1941, same as Line 15		$239,749.8

Approved: WILLIAM D. KELLY,
State Tax Commissione

Date: May 21, 1942.

May 16, 1942

FRANCHISE EXCISE TAX
1941 ASSESSMENT
AS DETERMINED BY THE STATE TAX COMMISSIONER
PURSUANT TO CHAPTER 291, P. L. 1941, AS AMENDED BY
CHAPTER 169, P. L. 1942

MOUNT HOPE MINERAL R.R.

The 1941 Franchise Excise Tax levied against the Mount Hope Mineral R.R. includes all its operations, embracing:

Mount Hope Mineral R.R.

FRANCHISE COMPUTATIONS — 1941 ASSESSMENT

Line No.	Description		
	Miles of All Tracks Operated, as of December 31, 1940		
1	Miles of All Tracks Operated by Mt. Hope Mineral R.R.		4.35 Mi.
2	" " " " " in New Jersey		4.35 "
3	Per Cent of Operated Track Miles in N. J., Line 2 ÷ Line 1		100.00%
	Computation of Franchise Excess and Taxes for 1941 Assessment		
4	Net Ry. Operating Income of Mt. Hope Mineral R.R. for year ended Dec. 31, 1940		$18,060
5	Flat Deduction from Net Ry. Operating Income (Section 14, as amended)		200,000
6	Remaining Income to be Allocated, Line 4 — Line 5		Negative
7	Allocation Factor to N. J., based on Track Miles—Same as Line 3		100.00%
8	1940 Ry. Operating Income Allocated to N. J., Line 6 × Line 7		Negative
9	1941 Franchise Base, Line 8 capitalized at 3%		Negative
10	Deduction for Physical Property, as per 1941 Assmt. (made in 1940)		28,845
11	1941 Excess of Franchise Base over Property Valuation for 1941, Line 9 — Line 10		Negative
12	Normal Franchise Excise Tax, 3% of Line 11	0.00	
13	Maximum Franchise Excise Tax, 3.6% of Line 10	1,038.42	
14	Conditional Minimum Franchise Excise Tax, Fixed Amt.	4,000.00	
15	" " " " " 30% of Line 8	0.00	
16	Effective Franchise Excise Tax for 1941, same as Line 13		1,038.42

Approved: WILLIAM D. KELLY,
State Tax Commissioner.

Date: May 21, 1942

May 16, 1942

FRANCHISE EXCISE TAX
1941 ASSESSMENT
AS DETERMINED BY THE STATE TAX COMMISSIONER
PURSUANT TO CHAPTER 291, P. L. 1941, AS AMENDED BY
CHAPTER 169, P. L. 1942

WHARTON & NORTHERN RAILROAD

The 1941 Franchise Excise tax levied against the Wharton & Northern R.R. includes all its operations, embracing:

Wharton & Northern Railroad

FRANCHISE COMPUTATIONS — 1941 ASSESSMENT

Line No.	Description		
	Miles of All Tracks Operated, as of December 31, 1940		
1	Miles of All Tracks Operated by Wharton & Northern R.R.		16.82 Mi.
2	" " " " " in New Jersey		16.82 "
3	Per Cent of Operated Track Miles in N. J., Line 2 ÷ Line 1		100.00%
	Computation of Franchise Excess and Taxes for 1941 Assessment		
4	Net Ry. Operating Income of W. & N. R.R. for year ended Dec. 31, '40		$164,86
5	Flat Deduction from Net Ry. Operating Income (Section 14, as amended)		200,00
6	Remaining Income to be Allocated, Line 4 — Line 5		Negativ
7	Allocation Factor to N. J., based on Track Miles—Same as Line 3		100.00%
8	1940 Ry. Operating Income Allocated to N. J., Line 6 × Line 7		Negativ
9	1941 Franchise Base, Line 6 capitalized at 3%		Negativ
10	Deduction for Physical Property, as per 1941 Assmt. (made in 1940)		106,0
11	1941 Excess of Franchise Base over Property Valuation for 1941, Line 9 — Line 10		Negativ
12	Normal Franchise Excise Tax, 3% of Line 11	0.00	
13	Maximum Franchise Excise Tax, 3.6% of Line 10	3,817.26	
14	Conditional Minimum Franchise Excise Tax, Fixed Amount	4,000.00	
15	Conditional Minimum Franchise Excise Tax, 30% of Line 8	0.00	
16	Effective Franchise Excise Tax for 1941, same as Line 13		3,817.

Approved: WILLIAM D. KELLY,
State Tax Commissione

Date: May 21, 1942.

5-16-42

FRANCHISE EXCISE TAX
1941 ASSESSMENT
AS DETERMINED BY THE STATE TAX COMMISSIONER
PURSUANT TO CHAPTER 291, P. L. 1941, AS AMENDED BY
CHAPTER 169, P. L. 1942

READING COMPANY

The 1941 Franchise Excise Tax levied against the Reading Company includes all of its operations in the State of New Jersey, and the operations of the railroads embraced in the following list:

Delaware & Bound Brook Railroad
East Trenton Railroad
Port Reading Railroad
Reading Co., Lessee

FRANCHISE COMPUTATIONS — 1941 ASSESSMENT

Line No.	Description	
	Miles of All Tracks Operated, as of December 31, 1940	
1	Miles of All Tracks Operated by System	3,605.24 Mi.
2	" " " " " in New Jersey	205.17 "
3	Per Cent of Operated Track Miles in N. J., Line 2 ÷ Line 1	5.69%
	Computation of Franchise Excess and Taxes for 1941 Assessment	
4	Net Ry. Oper. Income of System for year ended Dec. 31, 1940	$13,460,806
5	Flat Deduction from Net Ry. Oper. Income (Section 14, as amended)	200,000
6	Remaining Income to be Allocated, Line 4 — Line 5	13,260,806
7	Allocation Factor to N. J., based on Track Miles — Same as Line 3	5.69%
8	1940 Ry. Oper. Income Allocated to N. J., Line 6 × Line 7	754,540
9	1941 Franchise Base, Line 8 capitalized at 3%	25,151,333
10	Deduction for Physical Property, as per 1941 Assmt. (made in 1940)	8,637,913
11	1941 Excess of Franchise Base over Property Valuation for 1941, Line 9 — Line 10	16,513,420
12	Normal Franchise Excise Tax, 3% of Line 11	$495,402.60
13	Maximum Franchise Excise Tax, 3.6% of Line 10	310,964.87
14	Conditional Minimum Franchise Excise Tax, Fixed Amount	4,000.00
15	" " " " " 30% of Line 8	226,362.00
16	Effective Franchise Excise Tax for 1941, same as Line 13	$310,964.87

Approved: WILLIAM D. KELLY,
State Tax Commissioner.

Date: May 21, 1942

5-16-4

FRANCHISE EXCISE TAX
1941 ASSESSMENT
AS DETERMINED BY THE STATE TAX COMMISSIONER
PURSUANT TO CHAPTER 291, P. L. 1941, AS AMENDED BY
CHAPTER 169, P. L. 1942

ERIE RAILROAD SYSTEM,
EXCLUSIVE OF ERIE TERMINALS R.R., NEW JERSEY & NEW YORK R.R.
AND NORTHERN RAILROAD CO. OF N. J.

The 1941 Franchise Excise Tax levied against the Erie R.R. Co. includes all of its operations in the State of New Jersey, and the operations of the railroads embraced in the following list:

Arlington R.R. Co.
Bergen County R.R. Co.
Bergen & Dundee R.R. Co.
Caldwell Railway Co.
Docks Connecting Railway Co.
Long Dock Co.
Newark & Hudson R.R. Co.
N. Y. & Greenwood Lake Ry. Co.
N. Y., L. E. & W. D. & Improvement Co.
Paterson & Hudson River R.R. Co.
Paterson, Newark & New York R.R. Co.
Paterson & Ramapo R.R. Co.
Penhorn Creek R.R. Co.
Roseland Railway Co.
Erie Railroad Co., Lessee

FRANCHISE COMPUTATIONS — 1941 ASSESSMENT

Line No.	Description		
	Miles of All Tracks Operated, as of December 31, 1940		
1	Miles of All Tracks Operated by System		4,898.15
2	" " " " " in New Jersey		464.10
3	Per Cent of Operated Track Miles in N. J., Line 2 ÷ Line 1		9.48
	Computation of Franchise Excess and Taxes for 1941 Assmt.		
4	Net Ry. Oper. Income of System for year ended December 31, 1940		$11,123,7
5	Flat Deduction from Net Ry. Oper. Income (Section 14, as amended)		200,0
6	Remaining Income to be Allocated, Line 4 — Line 5		10,923,7
7	Allocation Factor to N. J., based on Track Miles—Same as Line 3		9.48
8	1940 Ry. Operating Income Allocated to N. J., Line 6 × Line 7		1,035,7
9	1941 Franchise Base, Line 8 capitalized at 3%		34,518,9
10	Deduction for Prysical Property, as per 1941 Assmt. (made in 1940)		39,484,0
11	1941 Excess of Franchise Base over Property Valuation for 1941, Line 9 — Line 10		Negati
12	Normal Franchise Excise Tax, 3% of Line 11	0.00	
13	Maximum Franchise Excise Tax, 3.6% of Line 10	1,421,437.46	
14	Conditional Minimum Franchise Excise Tax, Fixed Amount	4,000.00	
15	Conditional Minimum Franchise Excise Tax, 30% of Line 8	310,670.70	
16	Effective Franchise Excise Tax for 1941, same as Line 15		310,67

Approved: WILLIAM D. KELLY
State Tax Commissio

Date: May 21, 1942.

5-16-42

FRANCHISE EXCISE TAX
1941 ASSESSMENT
AS DETERMINED BY THE STATE TAX COMMISSIONER
PURSUANT TO CHAPTER 291, P. L. 1941, AS AMENDED BY
CHAPTER 169, P. L. 1942

NEW JERSEY & NEW YORK RAILROAD

The 1941 Franchise Excise Tax, levied against the New Jersey & New York R.R. includes all of its operations in the State of New Jersey, embracing

New Jersey & New York Railroad

FRANCHISE COMPUTATIONS — 1941 ASSESSMENT

Line No.	Description		
	Miles of All Tracks Operated, as of December 31, 1940		
	Miles of All Tracks Operated by New Jersey & New York R.R.		71.52 Mi.
	" " " " " in New Jersey		49.40 "
	Per Cent of Operated Track Miles in N. J., Line 2 ÷ Line 1		69.07%
	Computation of Franchise Excess and Taxes for 1941 Assessment		
	Net Ry. Oper. Income of N.J. & N.Y. R.R. for year ended Dec. 31, 1940		Def. 167,697
	Flat Deduction from Net Ry. Oper. Income (Section 14, as amended)		200,000
	Remaining Income to be Allocated, Line 4 — Line 5		Negative
	Allocation Factor to N. J., based on Track Miles — Same as Line 3		69.07%
	1940 Ry. Oper. Income Allocated to N. J., Line 6 × Line 7		Negative
	1941 Franchise Base, Line 8 capitalized at 3%		Negative
	Deduction for Physical Property, as per 1941 Assmt. (made in 1940)		662,102
	1941 Excess of Franchise Base over Property Valuation for 1941, Line 9 — Line 10		Negative
	Normal Franchise Excise Tax, 3% of Line 11	0.00	
	Maximum Franchise Excise Tax, 3.6% of Line 10	23,835.67	
	Conditional Minimum Franchise Excise Tax, Fixed Amount	4,000.00	
	" " " " " 30% of Line 8	0.00	
	Effective Franchise Excise Tax for 1941, same as Line 14		4,000.00

Approved: WILLIAM D. KELLY,
State Tax Commissioner.

Date: May 21, 1942

5-16-42

FRANCHISE EXCISE TAX
1941 ASSESSMENT
AS DETERMINED BY THE STATE TAX COMMISSIONER
PURSUANT TO CHAPTER 291, P. L. 1941, AS AMENDED BY
CHAPTER 169, P. L. 1942

NORTHERN RAILROAD CO. OF NEW JERSEY

The 1941 Franchise Excise Tax levied against the Northern R.R. Co. of N. J. includes all its operations in the State of New Jersey, embracing:

Northern R.R. Co. of New Jersey

FRANCHISE COMPUTATIONS — 1941 ASSESSMENT

Line No.	Description		
	Miles of All Tracks Operated, as of December 31, 1940		
1	Miles of All Tracks Operated by Northern R.R. Co. of N. J.		47.55 M
2	" " " " " in New Jersey		39.48 "
3	Per Cent of Operated Track Miles in N. J., Line 2 ÷ Line 1		83.03%
	Computation of Franchise Excess and Taxes for 1941 Assessment		
4	Net Ry. Oper. Income of Northern R.R. Co. of N. J., for year ended Dec. 31, 1940		Def. 129,1
5	Flat Deduction from Net Ry. Oper. Income (Section 14, as amended)		200,0
6	Remaining Income to be Allocated, Line 4 — Line 5		Negati
7	Allocation Factor to N. J., based on Track Miles — Same as Line 3		83.03
8	1940 Ry. Oper. Income Allocated to N. J., Line 6 × Line 7		Negati
9	1941 Franchise Base, Line 8 capitalized at 3%		Negati
10	Deduction for Physical Property, as per 1941 Assmt. (made in 1940)		625,8
11	1941 Excess of Franchise Base over Property Valuation for 1941, Line 9 — Line 10		Negati
12	Normal Franchise Excise Tax, 3% of Line 11	$ 0.00	
13	Maximum Franchise Excise Tax, 3.6% of Line 10	22,531.79	
14	Conditional Minimum Franchise Excise Tax, Fixed Amount	4,000.00	
15	" " " " " 30% of Line 8	0.00	
16	Effective Franchise Excise Tax for 1941, same as Line 14		$4,000.

Approved: WILLIAM D. KELLY,
State Tax Commissione

Date: May 21, 1942

5-16-42

FRANCHISE EXCISE TAX
1941 ASSESSMENT
AS DETERMINED BY THE STATE TAX COMMISSIONER
PURSUANT TO CHAPTER 291, P. L. 1941, AS AMENDED BY
CHAPTER 169, P. L. 1942

DELAWARE, LACKAWANNA & WESTERN R.R. SYSTEM

The 1941 Franchise Excise Tax levied against the D. L. & W. R.R. Co. includes all of its operations in the State of New Jersey, and the operations of the railroads embraced in the following list:

Chester Railroad Co.
Lackawanna R.R. Co. of N. J.
Morris & Essex R.R. Co.
Morris & Essex Extension R.R. Co.
Newark & Bloomfield R.R. Co.
Passaic & Delaware R.R. Co.
Passaic & Delaware Extension R.R. Co.
Sussex R.R. Co.
Warren Railroad Co.
D. L. & W. R.R. Co., Lessee

FRANCHISE COMPUTATIONS — 1941 ASSESSMENT

Line No.	Description		
	Miles of All Tracks Operated, as of December 31, 1940		
1	Miles of All Tracks Operated by System		2,588.52 Mi.
2	" " " " " in New Jersey		732.35 "
3	Per Cent of Operated Track Miles in N. J., Line 2 ÷ Line 1		28.29%
	Computation of Franchise Excess and Taxes for 1941 Assmt.		
4	Net Ry. Oper. Income of System for year ended December 31, 1940		$6,736,538
5	Flat Deduction from Net Ry. Oper. Income (Section 14, as amended)		200,000
6	Remaining Income to be Allocated, Line 4 — Line 5		6,536,538
7	Allocation Factor to N. J., based on Track Miles—Same as Line 3		28.29%
8	1940 Ry. Oper. Income Allocated to N. J., Line 6 × Line 7		1,849,187
9	1941 Franchise Base, Line 8 capitalized at 3%		61,639,567
10	Deduction for Physical Property, as per 1941 Assmt. (made in 1940)		55,935,777
11	1941 Excess of Franchise Base over Property Valuation for 1941, Line 9 — Line 10		5,703,790
12	Normal Franchise Excise Tax, 3% of Line 11	$171,113.70	
13	Maximum Franchise Excise Tax, 3.6% of Line 10	2,013,687.97	
14	Conditional Minimum Franchise Excise Tax, Fixed Amount	4,000.00	
15	Conditional Minimum Franchise Excise Tax, 30% of Line 8	554,756.10	
16	Effective Franchise Excise Tax for 1941, same as Line 15		554,756.10

Approved: WILLIAM D. KELLY,
State Tax Commissioner.

Date: May 21, 1942.

5-16-4

FRANCHISE EXCISE TAX
1941 ASSESSMENT
AS DETERMINED BY THE STATE TAX COMMISSIONER
PURSUANT TO CHAPTER 291, P. L. 1941, AS AMENDED BY
CHAPTER 169, P. L. 1942

NEW YORK, SUSQUEHANNA & WESTERN RAILROAD SYSTEM,
INCLUDING ERIE TERMINALS RAILROAD

The 1941 Franchise Excise Tax levied against the N. Y. S. & W. R.R. include all of its operations in the State of New Jersey, and the operations of the railroad embraced in the following list:

Hackensack & Lodi R.R.
Lodi Branch R.R.
N. Y. S. & W. R.R.
Passaic & New York R.R.
Erie Terminals R.R.

FRANCHISE COMPUTATIONS — 1941 ASSESSMENT

Line No.	Description		
	Miles of All Tracks Operated, as of December 31, 1940		
1	Miles of All Tracks Operated by System		277.58 M
2	" " " " " in New Jersey		271.95 "
3	Per Cent of Operated Track Miles in N. J., Line 2 ÷ Line 1		97.97
	Computation of Franchise Excess and Taxes for 1941 Assessment		
4	Net Ry. Oper. Income of System for year ended Dec. 31, 1940		$439,03
5	Flat Deduction from Net Ry. Oper. Income (Section 14, as amended)		200,0
6	Remaining Income to be Allocated, Line 4 — Line 5		239,0
7	Allocation Factor to N. J., based on Track Miles — Same as Line 3		97.97
8	1940 Ry. Oper. Income Allocated to N. J., Line 6 × Line 7		234,2
9	1941 Franchise Base, Line 8 capitalized at 3%		7,807,7
10	Deduction for Physical Property, as per 1941 Assmt. (made in 1940)		6,032,9
11	1941 Excess of Franchise Base over Property Valuation for 1941, Line 9 — Line 10		1,774,8
12	Normal Franchise Excise Tax, 3% of Line 11	$53,246.55	
13	Maximum Franchise Tax, 3.6% of Line 10	217,181.34	
14	Conditional Minimum Franchise Tax, Fixed Amount	4,000.00	
15	" " " " " 30% of Line 8	70,269.30	
16	Effective Franchise Excise Tax for 1941, same as Line 15		$70,269

Approved: WILLIAM D. KELLY
State Tax Commissione

Date: May 21, 1942

5-16-42

FRANCHISE EXCISE TAX
1941 ASSESSMENT
AS DETERMINED BY THE STATE TAX COMMISSIONER
PURSUANT TO CHAPTER 291, P. L. 1941, AS AMENDED BY
CHAPTER 169, P. L. 1942

LEHIGH VALLEY RAILROAD SYSTEM,
INCLUDING RARITAN TERMINAL & TRANSPORTATION COMPANY

The 1941 Franchise Excise Tax levied against the Lehigh Valley Railroad Co., includes all of its operations in the State of New Jersey, and the operations of the railroads embraced in the following list:

Bay Shore Connecting R.R. (50%)
L. V. R.R. Co. of N. J.
Lehigh Valley Harbor Terminal Ry. Co.
L. V. R.R. Co., Lessee
Raritan Terminal & Transportation Co.

FRANCHISE COMPUTATIONS — 1941 ASSESSMENT

Line No.	Description		
	Miles of All Tracks Operated, as of December 31, 1940		
1	Miles of All Tracks Operated by System		3,114.49 Mi.
2	" " " " " in New Jersey		528.72 "
3	Per Cent of Operated Track Miles in N. J., Line 2 ÷ Line 1		16.98%
	Computation of Franchise Excess and Taxes for 1941 Assmt.		
4	Net Ry. Oper. Income of System for year ended December 31, 1940		$6,883,261
5	Flat Deduction from Net Ry. Oper. Income (Section 14, as amended)		200,000
6	Remaining Income to be Allocated, Line 4 — Line 5		6,683,261
7	Allocation Factor to N. J., based on Track Miles—Same as Line 3		16.98%
8	1940 Ry. Oper. Income Allocated to N. J., Line 6 × Line 7		1,134,818
9	1941 Franchise Base, Line 8 capitalized at 3%		37,827,267
10	Deduction for Physical Property, as per 1941 Assmt. (made in 1940)		36,113,378
11	1941 Excess of Franchise Base over Property Valuation for 1941, Line 9 — Line 10		1,713,889
12	Normal Franchise Excise Tax, 3% of Line 11	$51,416.67	
13	Maximum Franchise Excise Tax, 3.6% of Line 10	1,300,081.61	
14	Conditional Minimum Franchise Excise Tax, Fixed Amount	4,000.00	
15	Conditional Minimum Franchise Excise Tax, 30% of Line 8	340,445.40	
16	Effective Franchise Excise Tax for 1941, same as Line 15		340,445.40

Approved: WILLIAM D. KELLY,
State Tax Commissioner.

Date: May 21, 1942.

5-16-4

FRANCHISE EXCISE TAX
1941 ASSESSMENT
AS DETERMINED BY THE STATE TAX COMMISSIONER
PURSUANT TO CHAPTER 291, P. L. 1941, AS AMENDED BY
CHAPTER 169, P. L. 1942

NEW YORK CENTRAL RAILROAD SYSTEM

The 1941 Franchise Excise Tax levied against the New York Central R[illegible] includes all of its operations in the State of New Jersey, and the operations [illegible] the railroads embraced in the following list:

New Jersey Junction R.R. Co.
New York & Fort Lee R.R. Co.
West Shore R.R. Co.

FRANCHISE COMPUTATIONS — 1941 ASSESSMENT

Line No.	Description	
	Miles of All Tracks Operated, as of December 31, 1940	
1	Miles of All Tracks Operated by System	24,804.41
2	" " " " " in New Jersey	175.86
3	Per Cent of Operated Track Miles in N. J., Line 2 ÷ Line 1	0.7[illegible]
	Computation of Franchise Excess and Taxes for 1941 Assessment	
4	Net Ry. Oper. Income of System for year ended Dec. 31, 1940	$44,052.[illegible]
5	Flat Deduction from Net Ry. Oper. Income (Section 14, as amended)	200.[illegible]
6	Remaining Income to be Allocated, Line 4 — Line 5	43,852.[illegible]
7	Allocation Factor to N. J., based on Track Miles — Same as Line 3	0.7[illegible]
8	1940 Ry. Oper. Income Allocated to N. J., Line 6 × Line 7	311.[illegible]
9	1941 Franchise Base, Line 8 capitalized at 3%	10,376.[illegible]
10	Deduction for Physical Property, as per 1941 Assmt. (made in 1940)	22,601.[illegible]
11	1941 Excess of Franchise Base over Property Valuation for 1941, Line 9 — Line 10	Negat[illegible]
12	Normal Franchise Excise Tax, 3% of Line 11	$ 0.00
13	Maximum Franchise Excise Tax, 3.6% of Line 10	813,655.22
14	Conditional Minimum Franchise Excise Tax, Fixed Amount	4,000.00
15	" " " " " 30% of Line 8	93,405.60
16	Effective Franchise Excise Tax for 1941, same as Line 15	$93,40[illegible]

Approved: WILLIAM D. KELL[illegible]
State Tax Commissio[illegible]

Date: May 21, 1942.

5-16-42

FRANCHISE EXCISE TAX
1941 ASSESSMENT
AS DETERMINED BY THE STATE TAX COMMISSIONER
PURSUANT TO CHAPTER 291, P. L. 1941, AS AMENDED BY
CHAPTER 169, P. L. 1942

ATLANTIC CITY & SHORE RAILROAD
INCLUDING ATLANTIC CITY & OCEAN CITY R.R.

The 1941 Franchise Excise Tax levied against the Atlantic City & Shore R.R. includes all of its operations, and the operations of the railroads embraced in the following list:

Atlantic City & Ocean City R.R.
Atlantic City & Shore R.R.

FRANCHISE COMPUTATIONS — 1941 ASSESSMENT

Line No.	Description		
	Miles of All Tracks Operated, as of December 31, 1940		
1	Miles of All Tracks Operated by Atlantic City & Shore R.R.		48.709 Mi.
2	" " " " " in New Jersey		48.709 "
3	Per Cent of Operated Track Miles in N. J., Line 2 ÷ Line 1		100.00%
	Computation of Franchise Excess and Taxes for 1941 Assmt.		
4	Net Ry. Oper. Income of Atlantic City & Shore R.R., for year ended December 31, 1940		$89,122
5	Flat Deduction from Net Ry. Oper. Income (Section 14, as amended)		200,000
6	Remaining Income to be Allocated, Line 4 — Line 5		Negative
7	Allocation Factor to N. J., based on Track Miles—Same as Line 3		100.00%
8	1940 Ry. Oper. Income Allocated to N. J., Line 6 × Line 7		Negative
9	1941 Franchise Base, Line 8 capitalized at 8%		Negative
10	Deduction for Physical Property, as per 1941 Assmt. (made in 1940)		43,612
11	1941 Excess of Franchise Base over Property Valuation for 1941, Line 9 — Line 10		Negative
12	Normal Franchise Excise Tax, 3% of Line 11	$0.00	
13	Maximum Franchise Excise Tax, 1.8% of Line 10	785.02	
14	Conditional Minimum Franchise Excise Tax, Fixed Amount	4,000.00	
15	Conditional Minimum Franchise Excise Tax, 15% of Line 8	0.00	
16	Effective Franchise Excise Tax for 1941, same as Line 13		$785.02

Note: Classified as an electrically operated railroad which derives at least 75% of its railroad revenues from passenger traffic. (Sections 14 and 15 of Chap. 291, P. L. 1941, as amended by Chap. 169, P. L. 1942.)

Approved: WILLIAM D. KELLY,
State Tax Commissioner.

Date: May 21, 1942.

5-16-42

FRANCHISE EXCISE TAX
1941 ASSESSMENT
AS DETERMINED BY THE STATE TAX COMMISSIONER
PURSUANT TO CHAPTER 291, P. L. 1941, AS AMENDED BY
CHAPTER 169, P. L. 1942

BALTIMORE & OHIO RAILROAD,
INCLUDING BALTIMORE & NEW YORK RAILROAD

The 1941 Franchise Excise Tax levied against the Baltimore & Ohio R.R. includes all of its operations in the State of New Jersey, and the operations of the railroads embraced in the following list:

Baltimore & New York R.R.
Baltimore & Ohio R.R.

FRANCHISE COMPUTATIONS — 1941 ASSESSMENT

Line No.	Description		
	Miles of All Tracks Operated, as of December 31, 1940		
1	Miles of All Tracks Operated by System		12,258.40
2	" " " " " in New Jersey		131.41
3	Per Cent of Operated Track Miles in N. J., Line 2 ÷ Line 1		1.07
	Computation of Franchise Excess and Taxes for 1941 Assessment		
4	Net Ry. Oper. Income of System, for year ended December 31, 1940		$30,618,5
5	Flat Deduction from Net Ry. Oper. Income (Section 14, as amended)		200,0
6	Remaining Income to be Allocated, Line 4 — Line 5		30,418,5
7	Allocation Factor to N. J., based on Track Miles—Same as Line 3		1.07
8	1940 Ry. Oper. Income Allocated to N. J., Line 6 × Line 7		325,4
9	1941 Franchise Base, Line 8 capitalized at 3%		10,849,2
10	Deduction for Physical Property as per 1941 Assmt. (made in 1940)		749,0
11	1941 Excess of Franchise Base over Property Valuation for 1941, Line 9 — Line 10		10,100,2
12	Normal Franchise Excise Tax, 3% of Line 11	$303,006.30	
13	Maximum Franchise Excise Tax, 3.6% of Line 10	26,966.05	
14	Conditional Minimum Franchise Excise Tax, Fixed Amount	4,000.00	
15	Conditional Minimum Franchise Excise Tax, 30% of Line 8	97,643.40	
16	Effective Franchise Excise Tax for 1941, same as Line 13		$26,96

Approved: WILLIAM D. KELLY
State Tax Commissio

Date: May 21, 1942.

5-16-42

FRANCHISE EXCISE TAX
1941 ASSESSMENT
AS DETERMINED BY THE STATE TAX COMMISSIONER
PURSUANT TO CHAPTER 291, P. L. 1941, AS AMENDED BY
CHAPTER 169, P. L. 1942

EAST JERSEY R.R. & TERMINAL CO.

The 1941 Franchise Excise Tax levied against the East Jersey R.R. and Terminal Co. includes all its operations, embracing

East Jersey R.R. & Terminal Co.

FRANCHISE COMPUTATIONS — 1941 ASSESSMENT

Line No.	Description		
	Miles of All Tracks Operated, as of December 31, 1940		
1	Miles of All Tracks Operated by East Jersey R.R. & Terminal Co.		3.07 Mi.
2	" " " " " in New Jersey		3.07 "
3	Per Cent of Operated Track Miles in N. J., Line 2 ÷ Line 1		100.00%
	Computation of Franchise Excess and Taxes for 1941 Assessment		
4	Net Ry. Oper. Income of East Jersey R.R. & Term. Co. for year ended Dec. 31, 1940		$29,407
5	Flat Deduction from Net Ry. Oper. Income (Section 14, as amended)		200,000
6	Remaining Income to be Allocated, Line 4 — Line 5		Negative
7	Allocation Factor to N. J., based on Track Miles — Same as Line 3		100.00%
8	1940 Ry. Oper. Income Allocated to N. J., Line 6 × Line 7		Negative
9	1941 Franchise Base, Line 8 capitalized at 3%		Negative
10	Deduction for Physical Property, as per 1941 Assmt. (made in 1940)		180,074
11	1941 Excess of Franchise Base over Property Valuation for 1941 Line 9 — Line 10		Negative
12	Normal Franchise Excise Tax, 3% of Line 11	$ 0.00	
13	Maximum Franchise Excise Tax, 3.6% of Line 10	6,482.66	
14	Conditional Minimum Franchise Excise Tax, Fixed Amount	4,000.00	
15	" " " " " 30% of Line 8	0.00	
16	Effective Franchise Excise Tax for 1941, same as Line 14		$4,000.00

Approved: WILLIAM D. KELLY,
State Tax Commissioner.

Date: May 21, 1942.

5-16-42

FRANCHISE EXCISE TAX
1941 ASSESSMENT
AS DETERMINED BY THE STATE TAX COMMISSIONER
PURSUANT TO CHAPTER 291, P. L. 1941, AS AMENDED BY
CHAPTER 169, P. L. 1942

FERRO MONTE R.R.

The 1941 Franchise Excise Tax levied against the Ferro Monte R.R. includes all its operations, embracing

Ferro Monte R.R.

FRANCHISE COMPUTATIONS — 1941 ASSESSMENT
(Ferro Monte R.R. not operated)

Line No.	Description	
	Miles of All Tracks Operated, as of December 31, 1940	
1	Miles of All Tracks Operated by Ferro Monte R.R.	None
2	" " " " " in New Jersey	None
3	Per Cent of Operated Track Miles in N. J., Line 2 ÷ Line 1	
	Computation of Franchise Excess and Taxes for 1941 Assessment	
4	Net Ry. Oper. Income of Ferro Monte R.R. for year ended December 31, 1940	None
5	Flat Deduction from Net Ry. Oper. Income (Section 14, as amended)	$200,00
6	Remaining Income to be Allocated, Line 4 — Line 5	Negativ
7	Allocation Factor to N. J. based on Track Miles—Same as Line 3	
8	1940 Ry. Oper. Income Allocated to N. J., Line 6 × Line 7	Negativ
9	1941 Franchise Base, Line 8 capitalized at 3%	Negativ
10	Deduction for Physical Property, as per 1941 Assmt. (made in 1940)	$2,02
11	1941 Excess of Franchise Base over Property Valuation for 1941, Line 9 — Line 10	Negativ
12	Normal Franchise Excise Tax, 3% of Line 11 — $0.00	
13	Maximum Franchise Excise Tax, 3.6% of Line 10 — 105.19	
14	Conditional Minimum Franchise Excise Tax, Fixed Amount — 4,000.00	
15	Conditional Minimum Franchise Excise Tax, 30% of Line 8 — 0.00	
16	Effective Franchise Excise Tax for 1941, same as Line 13	$105.

Approved: WILLIAM D. KELLY,
State Tax Commissione

Date: May 21, 1942.

5-16-42

FRANCHISE EXCISE TAX
1941 ASSESSMENT
AS DETERMINED BY THE STATE TAX COMMISSIONER
PURSUANT TO CHAPTER 291, P. L. 1941, AS AMENDED BY
CHAPTER 169, P. L. 1942

HOBOKEN MANUFACTURERS R.R.
INCLUDING HOBOKEN RAILROAD, WAREHOUSE & STEAMSHIP CONN. CO.

The 1941 Franchise Excise Tax levied against the Hoboken Manufacturers R.R. includes all its operations, and the operations of the railroads embraced in the following list:

Hoboken Manufacturers R.R.
Hoboken R.R., Warehouse & Steamship Conn. Co.

FRANCHISE COMPUTATIONS — 1941 ASSESSMENT

Line No.	Description	
	Miles of All Tracks Operated, as of December 31, 1940	
1	Miles of All Tracks Operated by Hoboken Manufacturers R.R.	9.45 Mi.
2	" " " " " in New Jersey	9.45 "
3	Per Cent of Operated Track Miles in N. J., Line 2 ÷ Line 1	100.00%
	Computation of Franchise Excess and Taxes for 1941 Assessment	
4	Net Ry. Oper. Income of Hoboken Manufacturers R.R. for year ended Dec. 31, 1940	$23,913
5	Flat Deduction from Net Ry. Oper. Income (Section 14, as amended)	200,000
6	Remaining Income to be Allocated, Line 4 — Line 5	Negative
7	Allocation Factor to N. J., based on Track Miles — Same as Line 3	100.00%
8	1940 Ry. Oper. Income Allocated to N. J., Line 6 × Line 7	Negative
9	1941 Franchise Base, Line 8 capitalized at 3%	Negative
10	Deduction for Physical Property, as per 1941 Assmt. (made in 1940)	1,054,142
11	1941 Excess of Franchise Base over Property Valuation for 1941, Line 9 — Line 10	Negative
12	Normal Franchise Excise Tax, 3% of Line 11	$ 0.00
13	Maximum Franchise Excise Tax, 3.6% of Line 10	37,949.11
14	Conditional Minimum Franchise Excise Tax, Fixed Amount	4,000.00
15	" " " " " 30% of Line 8	0.00
16	Effective Franchise Excise Tax for 1941, same as Line 14	$4,000.00

Approved: WILLIAM D. KELLY,
State Tax Commissioner.

Date: May 21, 1942.

5-16-42

FRANCHISE EXCISE TAX
1941 ASSESSMENT
AS DETERMINED BY THE STATE TAX COMMISSIONER
PURSUANT TO CHAPTER 291, P. L. 1941, AS AMENDED BY
CHAPTER 169, P. L. 1942

HUDSON & MANHATTAN RAILROAD

The 1941 Franchise Excise Tax levied against the Hudson & Manhattan R.R. includes all its operations in the State of New Jersey, embracing

Hudson & Manhattan Railroad

FRANCHISE COMPUTATIONS — 1941 ASSESSMENT

Line No.	Description	
	Miles of All Tracks Operated, as of December 31, 1940	
1	Miles of All Tracks Operated by Hudson & Manhattan R.R.	21.486 Mi
2	" " " " " in New Jersey	14.459 "
3	Per Cent of Operated Track Miles in N. J., Line 2 ÷ Line 1	67.29%
	Computation of Franchise Excess and Taxes for 1941 Assessment	
4	Net Ry. Oper. Income of Hudson & Manhattan R.R. for year ended Dec. 31, 1940	$1,779,02
5	Flat Deduction from Net Ry. Oper. Income (Section 14, as amended)	200,00
6	Remaining Income to be Allocated, Line 4 — Line 5	1,579,02
7	Allocation Factor to N. J., based on Track Miles — Same as Line 3	67.29
8	1940 Ry. Oper. Income Allocated to N. J., Line 6 × Line 7	1,062,52
9	1941 Franchise Base, Line 8 capitalized at 8%	13,281,53
10	Deduction for Physical Property, as per 1941 Assmt. (made in 1940)	7,524,62
11	1941 Excess of Franchise Base over Property Valuation for 1941, Line 9 — Line 10	5,756,90
12	Normal Franchise Excise Tax, 3% of Line 11 ..... $172,707.69	
13	Maximum Franchise Excise Tax, 1.8% of Line 10 ..... 135,443.07	
14	Conditional Minimum Franchise Excise Tax, Fixed Amount 4,000.00	
15	" " " " " 15% of Line 8 159,378.45	
16	Effective Franchise Excise Tax for 1941, same as Line 13	$135,443.

Note: Classified as an electrically operated railroad which derives at lea 75% of its railroad revenues from passenger traffic (Sections 14 and of Chapter 291, P. L. 1941, as amended by Chapter 169, P. L. 194

Approved: WILLIAM D. KELLY
State Tax Commissione

Date: May 21, 1942.

5-16-42

FRANCHISE EXCISE TAX
1941 ASSESSMENT
AS DETERMINED BY THE STATE TAX COMMISSIONER
PURSUANT TO CHAPTER 291, P. L. 1941, AS AMENDED BY
CHAPTER 169, P. L. 1942

HUDSON RAILROAD & TRANSPORTATION CO.

The 1941 Franchise Excise Tax levied against the Hudson Railroad & Transportation Co. includes all its operations, embracing:

Hudson Railroad & Transportation Co.

FRANCHISE COMPUTATIONS — 1941 ASSESSMENT
(Not a Common Carrier)

Line No.	Description	
	Miles of All Tracks Operated, as of December 31, 1940	
1	Miles of All Tracks Operated as a Common Carrier by Hudson R.R. & Trans. Co.	
2	Miles of All Tracks Operated as a Common Carrier in New Jersey	None
3	Per Cent of Common Carrier Track Miles in N. J., Line 2 ÷ Line 1	None
	Computation of Franchise Excess and Taxes for 1941 Assessment	
4	Net Ry. Oper. Income of Hudson R.R. & Trans. Co. for year ended Dec. 31, 1940	
5	Flat Deduction from Net Ry. Oper. Income (Section 14 as amended)	None
6	Remaining Income to be Allocated, Line 4 — Line 5	$200,000
7	Allocation Factor to N. J., based on Track Miles — Same as Line 3	Negative
8	1940 Ry. Oper. Income Allocated to N. J., Line 6 × Line 7	
9	1941 Franchise Base, Line 8 capitalized at 3%	Negative
10	Deduction for Physical Property, as per 1941 Assmt. (made in 1940)	Negative
11	1941 Excess of Franchise Base over Property Valuation for 1941, Line 9 — Line 10	49,927
12	Normal Franchise Excise Tax, 3% of Line 11	Negative
13	Maximum Franchise Excise Tax, 3.6% of Line 10	$ 0.00
14	Conditional Minimum Franchise Excise Tax, Fixed Amount	1,797.37
15	" " " " " 30% of Line 8	4,000.00
16	Effective Franchise Excise Tax for 1941, same as Line 13	0.00
		$1,797.37

Approved: WILLIAM D. KELLY,
State Tax Commissioner.

Date: May 21, 1942.

5-16-42

FRANCHISE EXCISE TAX
1941 ASSESSMENT
AS DETERMINED BY THE STATE TAX COMMISSIONER
PURSUANT TO CHAPTER 291, P. L. 1941, AS AMENDED BY
CHAPTER 169, P. L. 1942

LEHIGH & HUDSON RIVER RAILWAY

The 1941 Franchise Excise Tax levied against the Lehigh & Hudson River Railway includes all of its operations in the State of New Jersey, embracing

Lehigh & Hudson River Railway

FRANCHISE COMPUTATIONS — 1941 ASSESSMENT

Line No.	Description		
	Miles of All Tracks Operated, as of December 31, 1940		
1	Miles of All Tracks Operated by Lehigh & Hudson River Ry.		172.63 Mi.
2	" " " " " in New Jersey		98.06 "
3	Per Cent of Operated Track Miles in N. J., Line 2 ÷ Line 1		56.80%
	Computation of Franchise Excess and Taxes for 1941 Assessment		
4	Net Ry. Oper. Income of Lehigh & Hudson River Ry. for year ended December 31, 1940		$261,0
5	Flat Deduction from Net Ry. Oper. Income (Section 14, as amended)		200,0
6	Remaining Income to be Allocated, Line 4 — Line 5		61,0
7	Allocation Factor to N. J., based on Track Miles—Same as Line 3		56.80
8	1940 Ry. Oper. Income Allocated to N. J., Line 6 × Line 7		34,7
9	1941 Franchise Base, Line 8 capitalized at 3%		1,156,7
10	Deduction for Physical Property, as per 1941 Assmt. (made in 1940)		1,456,1
11	1941 Excess of Franchise Base over Property Valuation for 1941, Line 9 — Line 10		Negati
12	Normal Franchise Excise Tax, 3% of Line 11	$0.00	
13	Maximum Franchise Excise Tax, 3.6% of Line 10	52,420.86	
14	Conditional Minimum Franchise Excise Tax, Fixed Amount	4,000.00	
15	Conditional Minimum Franchise Excise Tax, 30% of Line 8	10,410.90	
16	Effective Franchise Excise Tax for 1941, same as Line 15		$10,410

Approved: WILLIAM D. KELLY
State Tax Commissio

Date: May 21, 1942.

5-16-42

FRANCHISE EXCISE TAX
1941 ASSESSMENT
AS DETERMINED BY THE STATE TAX COMMISSIONER
PURSUANT TO CHAPTER 291, P. L. 1941, AS AMENDED BY
CHAPTER 169, P. L. 1942

LEHIGH & NEW ENGLAND RAILROAD CO.

The 1941 Franchise Excise Tax levied against the Lehigh & New England R.R. Co. includes all of its operations in the State of New Jersey, embracing

Lehigh & New England R.R. Co.

FRANCHISE COMPUTATIONS — 1941 ASSESSMENT

Line No.	Description		
	Miles of All Tracks Operated, as of December 31, 1940		
1	Miles of All Tracks Operated by Lehigh & New England R.R.		409.730 Mi.
2	" " " " " in New Jersey		49.472 "
3	Per Cent of Operated Track Miles in N. J., Line 2 ÷ Line 1		12.07%
	Computation of Franchise Excess and Taxes for 1941 Assessment		
4	Net Ry. Oper. Income of Lehigh & New England R.R. for year ended December 31, 1940		$1,197,280
5	Flat Deduction from Net Ry. Oper. Income (Section 14, as amended)		200,000
6	Remaining Income to be Allocated, Line 4 — Line 5		997,280
7	Allocation Factor to N. J., based on Track Miles—Same as Line 3		12.07%
8	1940 Ry. Oper. Income Allocated to N. J., Line 6 × Line 7		120,372
9	1941 Franchise Base, Line 8 capitalized at 3%		4,012,400
10	Deduction for Physical Property, as per 1941 Assmt. (made in 1940)		626,528
11	1941 Excess of Franchise Base over Property Valuation for 1941, Line 9 — Line 10		3,385,872
12	Normal Franchise Excise Tax, 3% of Line 11	$101,576.16	
13	Maximum Franchise Excise Tax, 3.6% of Line 10	22,555.01	
14	Conditional Minimum Franchise Excise Tax, Fixed Amount	4,000.00	
15	Conditional Minimum Franchise Excise Tax, 30% of Line 8	36,111.60	
16	Effective Franchise Excise Tax for 1941, same as Line 13		$22,555.01

Approved: WILLIAM D. KELLY,
State Tax Commissioner.

Date: May 21, 1942.

5-16-42

FRANCHISE EXCISE TAX
1941 ASSESSMENT
AS DETERMINED BY THE STATE TAX COMMISSIONER
PURSUANT TO CHAPTER 291, P. L. 1941, AS AMENDED BY
CHAPTER 169, P. L. 1942

LUCASTON RAILROAD

The 1941 Franchise Excise Tax levied against the Lucaston Railroad includes all its operations, embracing:

Lucaston Railroad

FRANCHISE COMPUTATIONS — 1941 ASSESSMENT
(Not a Common Carrier)

Line No.	Description	
	Miles of All Tracks Operated, as of December 31, 1940	
1	Miles of All Tracks Operated as a Common Carrier by Lucaston R.R.	None
2	Miles of All Tracks Operated as a Common Carrier in New Jersey	None
3	Per Cent of Common Carrier Track Miles in N. J., Line 2 ÷ Line 1	.....
	Computation of Franchise Excess and Taxes for 1941 Assessment	
4	Net Ry. Oper. Income of Lucaston Railroad for year ended Dec. 31, 1940	None
5	Flat Deduction from Net Ry. Oper. Income (Section 14, as amended)	$200,000
6	Remaining Income to be Allocated, Line 4 — Line 5	Negative
7	Allocation Factor to N. J., based on Track Miles — Same as Line 3	.....
8	1940 Ry. Oper. Income Allocated to N. J., Line 6 × Line 7	Negative
9	1941 Franchise Base, Line 8 capitalized at 3%	Negative
10	Deduction for Physical Property, as per 1941 Assmt. (made in 1940)	9,917
11	1941 Excess of Franchise Base over Property Valuation for 1941, Line 9 — Line 10	Negative
12	Normal Franchise Excise Tax, 3% of Line 11 ..... $ 0.00	
13	Maximum Franchise Excise Tax, 3.6% of Line 10 ..... 357.01	
14	Conditional Minimum Franchise Excise Tax, Fixed Amount 4,000.00	
15	" " " " " 30% of Line 8 0.00	
16	Effective Franchise Excise Tax for 1941, same as Line 13	$357.01

Approved: WILLIAM D. KELLY,
State Tax Commissioner

Date: May 21, 1942.

5-16-42

FRANCHISE EXCISE TAX
1941 ASSESSMENT
AS DETERMINED BY THE STATE TAX COMMISSIONER
PURSUANT TO CHAPTER 291, P. L. 1941, AS AMENDED BY
CHAPTER 169, P. L. 1942

MORRISTOWN & ERIE R.R.

The 1941 Franchise Excise Tax levied against the Morristown & Erie R.R. includes all its operations, embracing

Morristown & Erie R.R.

FRANCHISE COMPUTATIONS — 1941 ASSESSMENT

Line No.	Description		
	Miles of All Tracks Operated, as of December 31, 1940		
1	Miles of All Tracks Operated by Morristown & Erie R.R.		13.64 Mi.
2	" " " " " in New Jersey		13.64 "
3	Per Cent of Operated Track Miles in N. J., Line 2 ÷ Line 1		100.00%
	Computation of Franchise Excess and Taxes for 1941 Assessment		
4	Net Ry. Oper. Income of Morristown & Erie R.R. for year ended December 31, 1940		$19,343
5	Flat Deduction from Net Ry. Oper. Income (Section 14, as amended)		200,000
6	Remaining Income to be Allocated, Line 4 — Line 5		Negative
7	Allocation Factor to N. J., based on Track Miles—Same as Line 3		100.00%
8	1940 Ry. Oper. Income Allocated to N. J., Line 6 × Line 7		Negative
9	1941 Franchise Base, Line 8 capitalized at 3%		Negative
10	Deduction for Physical Property, as per 1941 Assmt. (made in 1940)		135,689
11	1941 Excess of Franchise Base over Property Valuation for 1941, Line 9 — Line 10		Negative
12	Normal Franchise Excise Tax, 3% of Line 11	$0.00	
13	Maximum Franchise Excise Tax, 3.6% of Line 10	4,884.80	
14	Conditional Minimum Franchise Excise Tax, Fixed Amount	4,000.00	
15	Conditional Minimum Franchise Excise Tax, 30% of Line 8	0.00	
16	Effective Franchise Excise Tax for 1941, same as Line 14		$4,000.00

Approved: WILLIAM D. KELLY,
State Tax Commissioner.

Date: May 21, 1942.

5-16-42

FRANCHISE EXCISE TAX
1941 ASSESSMENT
AS DETERMINED BY THE STATE TAX COMMISSIONER
PURSUANT TO CHAPTER 291, P. L. 1941, AS AMENDED BY
CHAPTER 169, P. L. 1942

NEW YORK, ONTARIO & WESTERN RAILROAD

The 1941 Franchise Excise Tax levied against the New York, Ontario & Western Railroad includes all of its operations in the State of New Jersey, embracing:

New York, Ontario & Western Railroad

FRANCHISE COMPUTATIONS — 1941 ASSESSMENT

Line No.	Description	
	Miles of All Tracks Operated, as of December 31, 1940	
1	Miles of All Tracks Operated by System	.....
2	" " " " " in New Jersey	.....
3	Per Cent of Operated Track Miles in N. J., Line 2 ÷ Line 1	.....
	Computation of Franchise Excess and Taxes for 1941 Assessment	
4	Net Ry. Oper. Income of System for year ended Dec. 31, 1940	Def. $716,777
5	Flat Deduction from Net Ry. Oper. Income (Section 14, as amended)	200,000
6	Remaining Income to be Allocated, Line 4 — Line 5	Negative
7	Allocation Factor to N. J., based on Track Miles — Same as Line 3	.....
8	1940 Ry. Oper. Income Allocated to N. J., Line 6 × Line 7	Negative
9	1941 Franchise Base, Line 8 capitalized at 3%	Negative
10	Deduction for Physical Property, as per 1941 Assmt. (made in 1940)	$63,91
11	1941 Excess of Franchise Base over Property Valuation for 1941, Line 9 — Line 10	Negativ
12	Normal Franchise Excise Tax, 3% of Line 11 $ 0.00	
13	Maximum Franchise Excise Tax 3.6% of Line 10 2,300.98	
14	Conditional Minimum Franchise Excise Tax, Fixed Amount 4,000.00	
15	" " " " " 30% of Line 8 0.00	
16	Effective Franchise Excise Tax for 1941, same as Line 13	$2,300.9

Note: Operates over New York Central R.R. System, West Shore Railroad, fro
Cornwall on the Hudson to Weehawken, a distance of about 53 mile

Approved: WILLIAM D. KELLY,
State Tax Commissione

Date: May 21, 1942.

5-16-42

FRANCHISE EXCISE TAX
1941 ASSESSMENT
AS DETERMINED BY THE STATE TAX COMMISSIONER
PURSUANT TO CHAPTER 291, P. L. 1941, AS AMENDED BY
CHAPTER 169, P. L. 1942

POHATCONG RAILROAD

The 1941 Franchise Excise Tax levied against the Pohatcong Railroad includes all its operations, embracing:

Pohatcong Railroad

FRANCHISE COMPUTATIONS — 1941 ASSESSMENT
(Not a Common Carrier)

Line No.	Description		
	Miles of All Tracks Operated, as of December 31, 1940		
1	Miles of All Tracks Operated as a Common Carrier by Pohatcong R.R.		None
2	Miles of all Tracks Operated as a Common Carrier in New Jersey		None
3	Per Cent of Common Carrier Track Miles in N. J., Line 2 ÷ Line 1		.....
	Computation of Franchise Excess and Taxes for 1941 Assessment		
4	Net Ry. Oper. Income of Pohatcong Railroad for year ended December 31, 1940		None
5	Flat Deduction from Net Ry. Oper. Income (Section 14, as amended)		$200,000
6	Remaining Income to be Allocated, Line 4 — Line 5		Negative
7	Allocation Factor to N. J., based on track miles—Same as Line 3		.....
8	1940 Ry. Operating Income Allocated to N. J., Line 6 × Line 7		Negative
9	1941 Franchise Base, Line 8 capitalized at 3%		Negative
10	Deduction for Physical Property, as per 1941 Assmt. (made in 1940)		$13,110
11	1941 Excess of Franchise Base over Property Valuation for 1941, Line 9 — Line 10		Negative
12	Normal Franchise Excise Tax, 3% of Line 11	$0.00	
13	Maximum Franchise Excise Tax, 3.6% of Line 10	471.96	
14	Conditional Minimum Franchise Excise Tax, Fixed Amount	4,000.00	
15	Conditional Minimum Franchise Excise Tax, 30% of Line 8	0.00	
16	Effective Franchise Excise Tax for 1941, same as Line 13		$471.96

Approved: WILLIAM D. KELLY,
State Tax Commissioner.

Date: May 21, 1942.

5-16-42

FRANCHISE EXCISE TAX
1941 ASSESSMENT
AS DETERMINED BY THE STATE TAX COMMISSIONER
PURSUANT TO CHAPTER 291, P. L. 1941, AS AMENDED BY
CHAPTER 169, P. L. 1942

RAHWAY VALLEY COMPANY, LESSEE
INCLUDING RAHWAY VALLEY LINE AND RAHWAY VALLEY R.R.

The 1941 Franchise Excise Tax levied against the Rahway Valley Co., Lessee, includes all its operations, and the operations of the railroads embraced in the following list:

Rahway Valley Co., Lessee
Rahway Valley Line
Rahway Valley R.R.

FRANCHISE COMPUTATIONS — 1941 ASSESSMENT

Line No.	Description	
	Miles of All Tracks Operated, as of December 31, 1940	
1	Miles of All Tracks Operated by Railway Valley Co., Lessee	15.02
2	" " " " " in New Jersey	15.02
3	Per Cent of Operated Track Miles in N. J., Line 2 ÷ Line 1	100.00
	Computation of Franchise Excess and Taxes for 1941 Assessment	
4	Net Ry. Oper. Income of Rahway Valley Co., Lessee, for year ended Dec. 31, 1940	
5	Flat Deduction from Net Ry. Oper. Income (Section 14, as amended)	
6	Remaining Income to be Allocated, Line 4 — Line 5	
7	Allocation Factor to N. J., based on Track Miles — Same as Line 3	
8	1940 Ry. Oper. Income Allocated to N. J., Line 6 × Line 7	
9	1941 Franchise Base, Line 8 capitalized at 3%	
10	Deduction for Physical Property, as per 1941 Assmt. (made in 1940)	
11	1941 Excess of Franchise Base over Property Valuation for 1941, Line 9 — Line 10	
12	Normal Franchise Excise Tax, 3% of Line 11	$ 0.00
13	Maximum Franchise Excise Tax, 3.6% of Line 10	7,343.14
14	Conditional Minimum Franchise Excise Tax, Fixed Amount	4,000.00
15	" " " " " 30% of Line 8	0.00
16	Effective Franchise Excise Tax for 1941, same as Line 14	

Approved: WILLIAM D. KELLY
State Tax Commissioner

Date: May 21, 1942.

5-16-42

FRANCHISE EXCISE TAX
1941 ASSESSMENT
AS DETERMINED BY THE STATE TAX COMMISSIONER
PURSUANT TO CHAPTER 291, P. L. 1941, AS AMENDED BY
CHAPTER 169, P. L. 1942

RARITAN RIVER RAILROAD

The 1941 Franchise Excise Tax levied against the Raritan River R.R. includes its operations, embracing:

Raritan River Railroad

FRANCHISE COMPUTATIONS — 1941 ASSESSMENT

Line No.	Description	
	Miles of All Tracks Operated, as of December 31, 1940	
1	Miles of All Tracks Operated by Raritan River Railroad	41.42 Mi.
2	" " " " " in New Jersey	41.42 "
3	Per Cent of Operated Track Miles in N. J., Line 2 ÷ Line 1	100.00%
	Computation of Franchise Excess and Taxes for 1941 Assessment	
4	Net Ry. Oper. Income of Raritan River R.R., for year ended Dec. 31, 1940	$143,180
5	Flat Deduction from Net Ry. Oper. Income (Section 14, as amended)	200,000
6	Remaining Income to be Allocated, Line 4 — Line 5	Negative
7	Allocation Factor to N. J., based on Track Miles — Same as Line 3	100.00%
8	1940 Ry. Oper. Income Allocated to N. J., Line 6 × Line 7	Negative
9	1941 Franchise Base, Line 8 capitalized at 3%	Negative
10	Deduction for Physical Property, as per 1941 Assmt. (made in 1940)	673,525
11	1941 Excess of Franchise Base over Property Valuation for 1941, Line 9 — Line 10	Negative
12	Normal Franchise Excise Tax, 3% of Line 11	$ 0.00
13	Maximum Franchise Excise Tax, 3.6% of Line 10	24,246.90
	Conditional Minimum Franchise Excise Tax, Fixed Amount	4,000.00
	" " " " " 30% of Line 8	0.00
14	Effective Franchise Excise Tax for 1941, same as Line 14	$4,000.00

Approved: WILLIAM D. KELLY,
State Tax Commissioner.

Date: May 21, 1942.

FRANCHISE EXCISE TAX
1941 ASSESSMENT
AS DETERMINED BY THE STATE TAX COMMISSIONER
PURSUANT TO CHAPTER 291, P. L. 1941, AS AMENDED BY
CHAPTER 169, P. L. 1942

SOUTHERN NEW JERSEY RAILROAD

The 1941 Franchise Excise Tax levied against the Southern New Jersey R.R. includes all its operations, embracing:

Southern New Jersey Railroad
(Abandoned and dismantled during 1940)

FRANCHISE COMPUTATIONS — 1941 ASSESSMENT

Line No.	Description	
	Miles of All Tracks Operated, as of December 31, 1940	
1	Miles of All Trucks Operated by Southern New Jersey R.R.	
2	" " " " " in New Jersey	
3	Per Cent of Operated Track Miles in N. J., Line 2 ÷ Line 1	
	Computation of Franchise Excess and Taxes for 1941 Assessment	
4	Net Ry. Oper. Income of Southern N. J. R. R. for year ended December 31, 1940	
5	Flat Deduction from Net Ry. Oper. Income (Section 14, as amended)	
6	Remaining Income to be Allocated, Line 4 — Line 5	
7	Allocation Factor to N. J., based on Track Miles—Same as Line 3	
8	1940 Ry. Oper. Income Allocated to N. J., Line 6 × Line 7	
9	1941 Franchise Base, Line 8 capitalized at 3%	
10	Deduction for Physical Property, as per 1941 Assmt. (made in 1940)	
11	1941 Excess of Franchise Base over Property Valuation for 1941, Line 9 — Line 10	
12	Normal Franchise Excise Tax, 3% of Line 11	$0.00
13	Maximum Franchise Excise Tax, 3.6% of Line 10	540.97
14	Conditional Minimum Franchise Excise Tax, Fixed Amount	4,000.00
15	Conditional Minimum Franchise Excise Tax, 30% of Line 8	0.00
16	Effective Franchise Excise Tax for 1941, same as Line 13	

Approved: WILLIAM D. KELLY
State Tax Commissioner

Date: May 21, 1942.

5-16-42

FRANCHISE EXCISE TAX
1941 ASSESSMENT
AS DETERMINED BY THE STATE TAX COMMISSIONER
PURSUANT TO CHAPTER 291, P. L. 1941, AS AMENDED BY
CHAPTER 169, P. L. 1942

STATEN ISLAND RAPID TRANSIT RAILWAY CO.

The 1941 Franchise Excise Tax levied against the Staten Island Rapid Transit Railway Co. includes all of its operations in the State of New Jersey, embracing:

Staten Island Rapid Transit Railway Co.

FRANCHISE COMPUTATIONS — 1941 ASSESSMENT

Line No.	Description	
	Miles of All Tracks Operated, as of December 31, 1940	
1	Miles of All Tracks Operated by Staten Island Rapid Transit Ry. Co.	97.06 Mi.
2	" " " " " in New Jersey	0.08 "
3	Per Cent of Operated Track Miles in N. J., Line 2 ÷ Line 1	0.71%
	Computation of Franchise Excess and Taxes for 1941 Assmt.	
4	Net Ry. Oper. Income of Staten Island Rapid Transit Ry. Co. for year ended Dec. 31, 1940	Def. 288,982
5	Flat Deduction from Net Ry. Oper. Income (Section 14, as amended)	200,000
6	Remaining Income to be Allocated, Line 4 — Line 5	Negative
7	Allocation Factor to N. J., based on Track Miles — Same as Line 3	0.08%
8	1940 Ry. Oper. Income Allocated to N. J., Line 6 × Line 7	Negative
9	1941 Franchise Base, Line 8 capitalized at 3%	Negative
10	Deduction for Physical Property, as per 1941 Assmt. (made in 1940)	45,777
11	1941 Excess of Franchise Base over Property Valuation for 1941, Line 9 — Line 10	Negative
12	Normal Franchise Excise Tax, 3% of Line 11	$ 0.00
13	Maximum Franchise Excise Tax, 3.6% of Line 10	1,647.97
	Conditional Minimum Franchise Excise Tax, Fixed Amount	4,000.00
	" " " " " 30% of Line 8	0.00
14	Effective Franchise Excise Tax for 1941, same as Line 13	1,647.97

Approved: WILLIAM D. KELLY,
State Tax Commissioner.

Date: May 21, 1942.

Return to Writs of Certiorari.

I hereby certify the following amounts were distributed to the taxing districts of the several counties in the State of New Jersey for their proportionate shares of $2,011,-135.96, representing one-half of the receipts on account of franchise-excise tax for the year 1941, together with the sum of $3,330.03 collected on account of second class railroad property taxes since the Return to Writs of Certiorari allowed on December 22, 1941, which said Return is dated January 14, 1942.

ATLANTIC COUNTY

Taxing District	Tax	
Absecon City	127.49	
Atlantic City	8,952.71	
Corbin City	7.19	
Egg Harbor City	16.10	
Estell Manor City	4.55	
Linwood City	13.88	
Margate City	13.27	
Northfield City	38.94	
Pleasantville City	985.79	
Somers Point City	58.11	
Ventnor City	257.80	
Hammonton, Town of	371.70	
Folsom Borough	23.10	
Longport Borough	119.05	
Buena Vista Township	45.25	
Egg Harbor Township	9.55	
Galloway Township	139.36	
Hamilton Township	52.86	
Mullica Township	6.46	
Weymouth Township	5.18	
		$11,248.34

BERGEN COUNTY

Taxing District	Tax
Englewood City	635.90
Garfield City	75.93
Hackensack City	660.90
Allendale Borough	82.93
Bergenfield Borough	148.48
Bogota Borough	274.55
Carlstadt Borough	12.69

Closter Borough	84.83	
Cresskill Borough	22.45	
Demarest Borough	20.98	
Dumont Borough	643.14	
East Paterson Borough	27.05	
East Rutherford Borough	265.98	
Edgewater Borough	18,063.20	10
Emerson Borough	35.60	
Fair Lawn Borough	156.56	
Fairview Borough	23.11	
Franklin Lakes Borough	13.36	
Glen Rock Borough	219.65	
Harrington Park Borough	107.40	
Hasbrouck Heights Borough	63.80	
Haworth Borough	70.92	
Hillsdale Borough	131.44	
Hohokus Borough	145.10	
Leonia Borough	76.30	
Lodi Borough	43.18	
Maywood Borough	14.57	20
Midland Park Borough	103.26	
Montvale Borough	26.35	
North Arlington Borough	29.47	
Northvale Borough	30.27	
Norwood Borough	72.16	
Oakland Borough	21.14	
Oradell Borough	39.95	
Palisades Park Borough	11.13	
Park Ridge Borough	11.43	
Ramsey Borough	82.15	
Ridgefield Borough	3,029.54	
River Edge Borough	57.71	
Rutherford Borough	153.45	30
Tenafly Borough	42.18	
Waldwick Borough	297.70	
Wallington Borough	15.93	
Westwood Borough	203.55	
Woodcliff Lake Borough	9.32	
Woodridge Borough	50.37	
Hohokus Township	105.94	
Lyndhurst Township	4,716.27	
Ridgefield Park Township	1,335.66	
Ridgewood Township	412.80	
Saddle River Township	75.82	
Teaneck Township	733.66	
Rochelle Park Township	13.35	40
Wyckoff Township	39.50	
	$33,840.06	

BURLINGTON COUNTY

Taxing District	Tax
Beverly City	35.35
Bordentown City	102.62
Burlington City	358.62
Fieldsboro Borough	3.49
Palmyra Borough	93.07
Pemberton Borough	7.06
Riverton Borough	83.02
Wrightstown Borough	2.48
Bordentown Township	22.83
Burlington Township	8.58
Chester Township	44.58
Delanco Township	22.85
Delran Township	2.44
Eastampton Township	23.38
Edgewater Park Township	108.54
Florence Township	72.67
Hainesport Township	21.67
Lumberton Township	11.68
Mansfield Township	10.49
Medford Township	14.42
Moorestown Township	132.83
Mt. Holly Township	279.61
Mount Laurel Township	9.48
New Hanover Township	6.36
North Hanover Township	1.38
Pemberton Township	112.81
Riverside Township	149.63
Shamong Township	9.55
Southampton Township	35.30
Springfield Township	6.10
Tabernacle Township	.26
Woodland Township	11.28
	$1,804 4

CAMDEN COUNTY

Taxing District	Tax
Camden City	32,091.74
Gloucester City	381.51
Audubon Borough	185.24
Barrington Borough	7.76
Bellmawr Borough	14.18
Berlin Borough	74.90

Brooklawn Borough	6.78	
Clementon Borough	19.24	
Collingswood Borough	110.95	
Gibbsboro Borough	12.31	
Haddonfield Borough	206.64	
Haddon Heights Borough	61.91	
Hi-Nella Borough	.34	
Laurel Springs Borough	14.60	
Magnolia Borough	12.38	
Lindenwold Borough	50.38	
Merchantville Borough	109.69	
Mt. Ephraim Borough	21.50	
Oaklyn Borough	188.19	
Pine Hill Borough	21.15	
Somerdale Borough	3.62	
Stratford Borough	15.30	
Delaware Township	21.46	
Gloucester Township	42.91	
Haddon Township	171.21	
Pensauken Township	270.33	
Voorhees Township	11.75	
Waterford Township	47.42	
Winslow Township	196.54	
		$34,371.93

CAPE MAY COUNTY

Taxing District	Tax	
Cape May City	358.36	
North Wildwood City	270.13	
Ocean City	1,730.06	
Sea Isle City	72.52	
Wildwood City	1,167.79	
West Cape May Borough	17.90	
Wildwood Crest Borough	10.56	
Woodbine Borough	76.55	
Dennis Township	202.35	
Lower Township	523.42	
Middle Township	202.26	
Upper Township	41.59	
		$4,673.49

CUMBERLAND COUNTY

Taxing District	Tax	
Bridgeton City	1,161.18	
Millville City	592.16	
Vineland Borough	354.40	
Commercial Township	235.09	
Deerfield Township	3.63	
Downe Township	7.52	
Fairfield Township	11.44	
Greenwich Township	28.27	
Hopewell Township	6.08	
Landis Township	339.12	
Lawrence Township	22.10	
Maurice River Township	96.81	
Upper Deerfield Township	102.20	
		$2,960.00

ESSEX COUNTY

Taxing District	Tax	
East Orange City	2,603.63	
Newark City	97,250.81	
Orange City	2,888.63	
Belleville, Town of	348.64	
Bloomfield, Town of	2,735.88	
Irvington, Town of	4,788.62	
Montclair, Town of	3,061.07	
Nutley, Town of	166.03	
West Orange, Town of	279.81	
South Orange, Village of	1,632.36	
Caldwell Borough	104.35	
Essex Fells Borough	142.36	
Glen Ridge Borough	176.81	
Roseland Borough	51.31	
Verona Borough	14.00	
Cedar Grove Township	7.22	
Maplewood Township	268.07	
Millburn Township	631.91	
		$117,151.51

GLOUCESTER COUNTY

Taxing District	Tax	
Woodbury City	295.20	
Clayton Borough	85.31	
Glassboro Borough	557.39	
Newfield Borough	193.43	
Paulsboro Borough	39.26	
Pitman Borough	102.47	
Swedesboro Borough	103.33	
Wenonah Borough	45.46	
Westville Borough	895.05	
Woodbury Heights Borough	31.99	
Deptford Township	1.90	
East Greenwich Township	35.27	
Elk Township	2.68	
Franklin Township	6.39	
Greenwich Township	5.50	
Harrison Township	30.26	
Logan Township	5.02	
Mantua Township	38.95	
Monroe Township	48.11	
Woolwich Township	5.55	
South Harrison Township	.14	
		$2,528.66

HUDSON COUNTY

Taxing District	Tax	
Bayonne City	14,817.74	
Hoboken City	103,516.17	
Jersey City	1,203,501.46	
Union City	236.90	
Harrison, Town of	10,681.29	
Kearny, Town of	30,086.79	
Secaucus, Town of	9,985.72	
West New York, Town of	75,020.88	
North Bergen Township	8,441.81	
Weehawken Township	143,509.78	
		$1,599,798.54

HUNTERDON COUNTY

Taxing District	Tax	
Lambertville City	556.82	
Clinton, Town of	73.62	
Bloomsbury Borough	117.29	
Califon Borough	18.76	
Flemington Borough	272.30	
Frenchtown Borough	31.51	
Glen Gardner Borough	32.79	
Hampton Borough	192.69	
High Bridge Borough	214.93	
Lebanon Borough	51.31	
Milford Borough	67.34	
Stockton Borough	13.43	
Alexandria Township	.61	
Bethlehem Township	75.58	
Clinton Township	85.30	
Delaware Township	10.66	
East Amwell Township	9.77	
Franklin Township	50.34	
Holland Township	63.07	
Kingwood Township	12.30	
Lebanon Township	4.08	
Raritan Township	158.99	
Readington Township	221.47	
Tewksbury Township	18.14	
Union Township	97.65	
West Amwell Township	.38	
		$2,451.13

MERCER COUNTY

Taxing District	Tax	
Trenton City	21,043.37	
Hightstown Borough	189.52	
Hopewell Borough	227.66	
Pennington Borough	179.94	
Princeton Borough	597.10	
East Windsor Township	39.02	
Ewing Township	819.28	
Hamilton Township	2,765.31	
Hopewell Township	73.86	
Lawrence Township	68.76	
Princeton Township	1,031.64	
Washington Township	19.95	
West Windsor Township	1,971.22	
		$29,026.63

MIDDLESEX COUNTY

Taxing District	Tax	
New Brunswick City	3,994.68	
Perth Amboy City	23,995.45	
South Amboy City	9,168.04	
Carteret Borough	2,600.91	
Dunellen Borough	1,001.85	
Helmetta Borough	11.91	
Highland Park Borough	69.06	
Jamesburg Borough	81.37	
Metuchen Borough	1,987.09	
Middlesex Borough	324.88	
Milltown Borough	84.78	
Sayreville Borough	681.34	
South Plainfield Borough	656.72	
South River Borough	44.98	
Spotswood Borough	1,006.89	
Cranbury Township	14.87	
East Brunswick Township	105.28	
Madison Township	659.73	
Monroe Township	120.40	
North Brunswick Township	50.87	
Piscataway Township	42.77	
Plainsboro Township	208.73	
Raritan Township	345.51	
South Brunswick Township	1,747.13	
Woodbridge Township	17,651.38	
		$66,656.62

MONMOUTH COUNTY

Taxing District	Tax	
Asbury Park City	1,548.35	
Long Branch City	1,861.84	
Allenhurst Borough	301.66	
Atlantic Highlands Borough	1,155.06	
Avon-by-the-Sea Borough	163.30	
Belmar Borough	306.27	
Bradley Beach Borough	183.56	
Brielle Borough	7.42	
Deal Borough	145.09	
Eatontown Borough	43.08	
Englishtown Borough	17.89	
Farmingdale Borough	128.89	

	Freehold Borough	417.30
	Highlands Borough	91.55
	Interlaken Borough	121.58
	Keansburg Borough	46.77
	Keyport Borough	71.25
	Little Silver Borough	68.92
10	Manasquan Borough	139.50
	Matawan Borough	69.24
	Monmouth Beach Borough	108.85
	Oceanport Borough	7.35
	Red Bank Borough	791.25
	Seabright Borough	229.63
	Sea Girt Borough	126.26
	Shrewsbury Borough	9.55
	Spring Lake Borough	196.77
	Spring Lake Heights Borough	16.26
	Union Beach Borough	47.86
	Freehold Township	6.80
	Howell Township	42.86
20	Manalapan Township	21.90
	Marlboro Township	60.84
	Matawan Township	68.75
	Middletown Township	105.27
	Neptune Township	289.68
	Ocean Township	53.61
	Raritan Township	16.20
	Upper Freehold Township	13.74
	Wall Township	10.73
		$9,112.68

MORRIS COUNTY

	Taxing District	Tax
	Boonton, Town of	274.57
	Dover, Town of	604.45
	Morristown, Town of	1,553.52
	Butler Borough	122.07
	Chatham Borough	504.10
	Chester Borough	1.03
	Kinnelon Borough	1.72
	Lincoln Park Borough	45.11
	Madison Borough	812.19
	Morris Plains Borough	136.86
	Mount Arlington Borough	10.88
40	Mountain Lakes Borough	117.41

Netcong Borough	97.24		
Riverdale Borough	34.64		
Rockaway Borough	101.82		
Wharton Borough	69.14		
Denville Township	934.17		
East Hanover Township	27.53		
Hanover Township	170.29		10
Jefferson Township	122.83		
Mine Hill Township	1.93		
Montville Township	114.15		
Morris Township	169.04		
Mount Olive Township	28.05		
Parsippany-Troy Hills Township	3.63		
Passaic Township	80.06		
Pequannock Township	34.69		
Randolph Township	64.64		
Rockaway Township	22.33		
Roxbury Township	1,752.71		
Washington Township	49.15		
		$8,061.95	20

OCEAN COUNTY

Taxing District	Tax		
Bay Head Borough	1,173.33		
Beechwood Borough	1.03		
Lakehurst Borough	70.91		
Lavalette Borough	11.69		
Mantoloking Borough	3.10		
Ocean Gate Borough	14.85		
Pine Beach Borough	39.48		
Point Pleasant Beach Borough	242.56		
Sea Side Heights Borough	74.28		30
Sea Side Park Borough	152.05		
South Toms River Borough	88.21		
Tuckerton Borough	7.06		
Berkeley Township	13.15		
Brick Township	.60		
Dover Township	26.15		
Jackson Township	9.47		
Lacey Township	12.00		
Lakewood Township	274.69		
Manchester Township	54.30		
Ocean Township	8.04		
Plumstead Township	40.19		
Union Township	64.45		40
		$2,381.59	

PASSAIC COUNTY

Taxing District	Tax	
Clifton City	1,224.98	
Passaic City	3,766.67	
Paterson City	9,885.21	
Bloomingdale Borough	17.50	
Hawthorne Borough	535.23	
Pompton Lakes Borough	153.60	
Ringwood Borough	71.02	
Totowa Borough	49.58	
Wanaque Borough	115.07	
West Paterson Borough	4.02	
Little Falls Township	121.20	
Wayne Township	73.76	
West Milford Township	27.52	
		$16,045.36

SALEM COUNTY

Taxing District	Tax	
Salem City	220.22	
Elmer Borough	107.40	
Pennsgrove Borough	398.86	
Woodstown Borough	59.19	
Alloway Township	12.36	
Mannington Township	21.30	
Oldmans Township	20.80	
Pilesgrove Township	9.49	
Pittsgrove Township	21.72	
Quinton Township	4.94	
Upper Pittsgrove Township	8.58	
		$884.86

SOMERSET COUNTY

Taxing District	Tax
Bernardsville Borough	955.56
Bound Brook Borough	1,230.84
Far Hills Borough	117.81
Manville Borough	1,178.19
Peapack-Gladstone Borough	82.43
Somerville Borough	1,428.41
Bernards Township	108.83
Branchburg Township	102.65

Bridgewater Township	1,107.87	
Franklin Township	38.26	
Hillsborough Township	160.25	
Montgomery Township	528.36	
Raritan Corporation	810.94	
		$7,850.40

SUSSEX COUNTY

Taxing District	Tax	
Newton, Town of	161.08	
Andover Borough	39.15	
Branchville Borough	24.36	
Franklin Borough	246.11	
Hamburg Borough	31.36	
Ogdensburg Borough	31.07	
Sussex Borough	60.78	
Andover Township	5.43	
Byram Township	6.97	
Frankford Township	41.53	
Fredon Township	9.64	
Green Township	45.10	
Hampton Township	5.93	
Hardyston Township	51.17	
Lafayette Township	11.98	
Sparta Township	52.72	
Stillwater Township	.11	
Vernon Township	57.80	
Wantage Township	50.06	
		$932.35

UNION COUNTY

Taxing District	Tax
Elizabeth City	33,643.87
Linden City	2,451.57
Plainfield City	3,289.96
Rahway City	4,098.51
Summit City	1,976.99
Westfield, Town of	1,460.62
Fanwood Borough	287.16
Garwood Borough	478.36
Kennilworth Borough	121.73
New Providence Borough	16.67

	Roselle Borough	314.07	
	Roselle Park Borough	702.26	
	Clark Township	44.59	
	Cranford Township	5,002.79	
	Hillside Township	311.78	
	New Providence Township	5.75	
10	Scotch Plains Township	1.70	
	Springfield Township	48.62	
	Union Township	148.33	
			$54,405.33

WARREN COUNTY

	Taxing District	Tax	
	Belvidere, Town of	122.20	
	Hackettstown, Town of	77.59	
	Phillipsburg, Town of	6,398.26	
	Alpha Borough	93.66	
	Washington Borough	401.81	
20	Allamuchy Township	15.75	
	Blairstown Township	131.85	
	Franklin Township	28.58	
	Frelinghuysen Township	26.44	
	Greenwich Township	46.09	
	Hardwick Township	.23	
	Harmony Township	36.90	
	Independence Township	67.80	
	Knowlton Township	65.55	
	Liberty Township	1.94	
	Lopatcong Township	511.13	
	Mansfield Township	17.18	
	Oxford Township	24.82	
30	Pahaquarry Township	.18	
	Pohatcong Township	120.50	
	Washington Township	26.17	
	White Township	65.50	
			$8,280.13
			$2,014,465.99

HOMER C. ZINK,
Comptroller of State of New Jersey.

40

Reasons.

(Filed July 25, 1942.)

NEW JERSEY SUPREME COURT.

CITY OF JERSEY CITY, et al., *Prosecutors,* *vs.* WILLIAM H. KELLY, State Tax Commissioner, et al., *Respondents.*	On Certiorari. Reasons.
JAMES T. OWENS, *Prosecutor,* *vs.* WILLIAM H. KELLY, State Tax Commissioner, et al., *Respondents.*	

The prosecutors in the within consolidated proceedings, by their attorneys, come and pray that the assessments for taxation upon railroad property and the franchise tax assessments made for the year 1941 by the State Tax Commissioner under Chapter 291 of the Laws of 1941, as amended by Chapter 169 of the Laws of 1942, brought up by the said writs, may be set aside, reversed and for nothing holden, and the prosecutor, James T. Owens, prays that, in the alternative, the assessment for taxation upon certain real property owned by him, made by the City of Newark for said year, brought up by the said writ, may be set aside, reversed, and for nothing holden, for the following reasons:

1. Chapter 291 of the Laws of 1941, as amended by Chapter 169 of the Laws of 1941 (hereinafter

Reasons.

referred to as "Chapter 291, as amended") and the assessment thereunder by the State Tax Commissioner of property used for railroad purposes contravene Article IV, Section 7, Paragraph 12 of the Constitution of the State of New Jersey, which provides that:

> "Property shall be assessed for taxes under general laws, and by uniform rules, according to its true value,"

for the reason that said Chapter 291, as amended, provides for the assessment of railroad property at a fixed rate of 3% of the true value thereof, whereas the average rate of taxation in the State of New Jersey for the year 1941 ~~is 4.818%~~ of true value, and whereas the great bulk of railroad property is situated in municipalities having local tax rates substantially in excess of 3% of true value; by reason of all of which, Chapter 291, as amended, is a special rather than a general law, and results in the taxation of railroad and other property under rules which are not uniform, imposing a burden of taxation upon railroad property substantially less than that imposed upon all other property.

2. Chapter 291, as amended, and the assessments thereunder by the State Tax Commissioner of property used for railroad purposes contravene said Article IV, Section 7, Paragraph 12, of the Constitution of the State of New Jersey, in that the provision therein for the rate of 3% for the taxation of railroad property was made with the deliberate intent and purpose of discriminating in favor of railroad company taxpayers and against all other taxpayers, and with the intent and neces-

sary effect of levying an hostile and oppressive burden on such other taxpayers.

3. The provisions of Chapter 291, as amended, contained in Section 10 thereof, to the effect that the value of the main stem of each railroad and the other real estate thereof used for railroad purposes, should be ascertained without including and part of the cost of improvement, relocation, reconstruction, elimination or avoidance of highway grade crossings, as more particularly therein specified and limited, violate the said Article IV, Section 7, Paragraph 12 of the Constitution, in that they purport to assess railroad property upon a basis other than according to its true value and the assessments, aforesaid, which were made in compliance with Section 10, contravene the said provision of the Constitution, for the said reason.

4. The said provisions of Chapter 291, as amended, contained in Section 10 thereof to the effect that the value of the main stem of each railroad and the other real estate thereof used for railroad purposes, should be ascertained without including any part of the cost of improvement, relocation, reconstruction, elimination or avoidance of highway grade crossings, as more particularly therein specified and limited, further violate the said Article IV, Section 7, Paragraph 12 of the Constitution, in that they provide for an exemption of a special class of railroad property from taxation, violative of the requirement therein that property shall be assessed for taxes under general laws and by uniform rules.

5. The said provisions of Chapter 291, as amended, contained in Section 10 thereof to the

effect that the value of the main stem of each railroad and the other real estate thereof used for railroad purposes, should be ascertained without including any part of the cost of improvement, relocation, reconstruction, elimination or avoidance of highway grade crossings, as more particularly therein specified and limited, further violate the said Article IV, Section 7, Paragraph 12 of the Constitution, in that they provide for an exemption of property for taxation based upon the status of such property as of a time passed, and based upon the date of construction or creation of such improvement, relocation, reconstruction, elimination or avoidance of highway grade crossings, which bases of classification of property for exemption are invalid under the provision of the Constitution cited.

6. Chapter 291, as amended, is a special law granting to railroad corporations an exclusive privilege and immunity, in violation of Article IV, Section 7, Paragraph 11 of the Constitution of the State of New Jersey, providing that:

> "The legislature shall not pass private, local or special laws in any of the following enumerated cases, that is to say:
>
> " * * * Granting to any corporation, association or individual, any exclusive privilege, immunity or franchise whatever.
>
> " * * * the legislature shall pass general laws providing for the cases enumerated in this paragraph and for all other cases, which, in its judgment, may be provided for by general laws,"

in that it grants to such corporations the exclusive privilege and immunity of payment of taxes upon

Reasons.

property for railroad purposes at the fixed rate of 3% of true value, whereas the great bulk of property in the State of New Jersey is taxable at local rates of taxation substantially in excess thereof, and in that it grants to such corporations the exclusive privilege and immunity of a fixed tax rate, regardless of the needs of government, whereas all other taxpayers are subject to variable local rates of taxation.

7. Chapter 291, as amended, is a special law granting a fixed tax rate of 3% of true value to railroad corporations, palpably in violation of the provisions of said Article IV, Section 7, Paragraph 11 of the Constitution, providing that the legislature shall pass general laws in all cases, which, in its judgment, may be provided for by general laws.

8. The provisions of Chapter 291, as amended, contained in Section 10 thereof, as aforesaid, to the effect that the value of the main stem of each railroad and the other real estate thereof used for railroad purposes should be ascertained without including any part of the cost of improvement, relocation, reconstruction, elimination or avoidance of highway grade crossings, as more particularly therein specified and limited, violate the provisions of said Article IV, Section 7, Paragraph 11 of the Constitution, in that they constitute a special law granting to the railroad corporations owning the property described therein, the exclusive privilege and immunity of exemption from taxation of such property.

9. The said provisions of Chapter 291, as amended, contained in Section 10 thereof to the effect that the value of the main stem of each

railroad and the other real estate thereof used for railroad purposes should be ascertained without including any part of the cost of improvement, relocation, reconstruction, elimination or avoidance of highway grade crossings, as more particularly therein specified and limited, violate the said Article IV, Section 7, Paragraph 11 of the Constitution, in that they constitute a special law granting to the railroad corporations which constructed the property described therein, the exclusive privilege and immunity of exemption from taxation of such property, based upon their status as of a time passed, and based upon the date of construction or creation of such improvement.

10. Chapter 291, as amended, in providing for the abatement and cancellation of the assessments theretofore made for the year 1941, under R. S. Section 54:19-1, et seq., contravenes Article 1, Paragraph 20, of the Constitution of the State of New Jersey, providing that:

> "No donation of land or appropriation of money shall be made by the State or any municipal corporation to or for the use of any society, association or corporation whatever,"

in that it donates and appropriates to the railroad corporations taxpayers' money owing to the State, to which the right of the State had become vested prior to the adoption of Chapter 291, said donation and appropriation consisting of the said taxes payable to the State for the year 1941, under and by virtue of the said assessments of railroad property by the State Tax Commissioner under R. S. Section 54:19-1, et seq.

11. Chapter 291, as amended, contravenes said Article I, Paragraph 20, of the Constitution, in that

it donates and appropriates to the railroad corporations taxpayers' money owing to the State, to which the right of the State had become vested prior to the adoption of Chapter 291, said donation and appropriation consisting of the taxes payable to the State for the year 1941, by each railroad company having property so assessed, under and by virtue of the assessment of railroad property by the State Tax Commissioner, under R. S. Section 54:19-1, et seq., less the property taxes assessed by the State Tax Commissioner upon the railroad property of each of said railroad companies, respectively, under and pursuant to the provisions of Chapter 291, as amended.

12. Assuming, but not conceding, that said Chapter 291 is constitutional, then said Chapter 169 contravenes said Article I, Paragraph 20 of the Constitution, in that it donates and appropriates to each of the following railroad corporations, to wit, The Pennsylvania Railroad Company, Mount Hope Mineral Railroad Company, Wharton and Northern Railroad Company, Reading Company, New York, Susquehanna and Western Railroad Company, Atlantic City & Ocean City Railroad Company, Baltimore & New York Railway Company, The Baltimore and Ohio Railroad Company, East Jersey Railroad and Terminal Company, Hudson & Manhattan Railroad Company, Lehigh and Hudson River Railway Company, Lehigh and New England Railroad Company, Morristown & Erie Railroad Company, Rahway Valley Company, Lessee, including Rahway Valley Line, and Rahway Valley Railroad Company, Raritan River Railroad Company, taxpayers' money owing to the State, to

which the right of the State had become vested prior to the adoption of said Chapter 169, said donation and appropriation consisting of the taxes payable to the State for the year 1941, under the franchise provisions of said Chapter 291, less the taxes payable to the State under the franchise provisions of the said Chapter 291, as amended.

13. Chapter 291, as amended, contravenes said Article I, Paragraph 20 of the Constitution, in that it compels such donation and appropriation of money by all of the taxing districts in the State, in which Class II railroad property is located, with respect to the money due to said taxing districts, to which the right of said taxing districts had vested prior to the adoption of Chapter 291, said donation and appropriation consisting of the amount of such taxes to be paid over to the taxing districts for the year 1941, under the provisions of the Revised Statutes, for the taxation of railroad property upon the assessment made under said statutes.

14. Chapter 291, as amended, contravenes Article I, Paragraph 20 of the Constitution, in that it compels such donation and appropriation of money by all of the taxing districts in the State, in which Class II railroad property is located, with respect to the said moneys due to said taxing districts, to which the right of said taxing districts had vested prior to the adoption of Chapter 291, said donation and appropriation consisting of the difference between the amount of such taxes to be paid over to the taxing districts for the year 1941, under the provisions of the Revised Statutes for the taxation of railroad property, and the amount of taxes upon Class II railroad property, to be paid over to said

taxing districts for said year, under Chapter 291, as amended.

15. Assuming, but not conceding, that said Chapter 291 is constitutional, then said Chapter 169 contravenes said Article I, Paragraph 20 of the Constitution, in that it compels such donation and appropriation of money to each of the railroad corporations named in Reason No. 12 by all of the taxing districts in the State entitled to distribution of a portion of the franchise taxes assessed for the year 1941 under said Chapter 291 against said corporation, to which the right of said taxing districts had vested prior to the adoption of said Chapter 169, said donation and appropriation consisting of the difference between the amount of such taxes to be paid over to the taxing districts for the year 1941 under the provisions of said Chapter 291, and the amount to be paid over to said taxing districts under said Chapter 291, as amended.

16. Chapter 291, as amended, contravenes Article I, Paragraph 19, of the Constitution of the State of New Jersey, providing that:

> "No county, city, borough, town, township or village shall hereafter give any money or property, * * * to or in aid of any individual, association or corporation, * * *"

in that it compels the prosecutor taxing districts and all other taxing districts in which Class II property was situated, and assessed under R. S. Section 54:19-1, et seq., to forego their right to, and therefore to give to the railroad corporations, the taxes assessed and payable by them under said statute, apportioned to and provided to be paid

over to said taxing districts under said law, and to which the right of said taxing districts had become vested prior to the adoption of Chapter 291.

17. Chapter 291, as amended, contravenes Article I, Paragraph 19 of the Constitution, in that it compels the prosecutor taxing districts and all other taxing districts in which Class II property was situated, and assessed under R. S. Section 54:19-1, et seq., to forego their right to, and therefore to give to the railroad corporations, the taxes assessed and payable by them under said statute, apportioned to and provided to be paid over to said taxing districts under said law, and to which the right of said taxing districts had become vested prior to the date of the adoption of Chapter 291; the moneys so unconstitutionally given consisting of the difference between the amount of such taxes to be paid over to the taxing districts aforesaid, for the year 1941, under the Revised Statutes, and the amount of taxes upon Class II railroad property payable over to said taxing districts for said year, under Chapter 291, as amended.

18. Assuming, but not conceding, that said Chapter 291 is constitutional, then said Chapter 169 contravenes Article I, Paragraph 19 of the Constitution, in that it compels the prosecutor taxing districts and all other taxing districts entitled to distribution of the franchise taxes assessed for the year 1941 under said Chapter 291 against the railroad corporations named in Reason No. 12, to forego their right to, and therefore to give to said railroad corporations, a portion of their distributive shares of said taxes to which the right of said taxing districts had vested prior to the adoption of Chapter 169, said gift consisting of the difference

between the amount payable to each taxing district under Chapter 291, and the amount payable to said taxing district under Chapter 291, as amended.

19. Chapter 291, as amended, contravenes Article IV, Section 7, Paragraph 11 of the Constitution, in that it is a special law granting to railroad corporations the exclusive privilege and immunity of an abatement and cancellation of taxes assessed and payable for the year 1941.

20. Assuming, but not conceding, that said Chapter 291 is constitutional, then said Chapter 169 contravenes Article IV, Section 7, Paragraph 11 of the Constitution, in that it is a special law granting to the railroad corporations named in Reason No. 12 the exclusive privilege and immunity of an abatement and cancellation of a portion of the franchise taxes assessed for the year 1941 under said Chapter 291, which had become vested prior to the adoption of said Chapter 169.

21. Sections 13, 14 and 15 of Chapter 291, as amended, purport to levy an excise tax based upon the net railway operating income of the railroads attributable to their operations in the State of New Jersey. The "franchise base" upon which the tax is assessed, set up in Section 14, is computed by deducting the sum of $200,000 from the net railway operating income of the railroad or system and allocating to the State of New Jersey such part of the remainder of the net railway operating income of the railroad or system as the number of miles of all track over which the railroad or system operates in the State bears to the total number of miles of all track over which it operates, and by capitalizing the amount so allocated at a specified

per centum. Certain railroad companies assessed under this chapter have all of their track within this State. Other railroad companies and systems have substantially all of their track within this State, and still other companies and systems have a large proportion of their track outside of the State. There are situated in the State of New Jersey, and principally in the prosecutor municipalities, and other municipalities in Hudson County, extensive, costly, and very valuable railroad terminal and waterfront facilities, which form the principal railroad terminus in the eastern part of the United States. Because of this fact, a far greater net railway operating income per track mile is attributable to the railroad tracks located in New Jersey than to the tracks located outside of this State. As a result thereof, the formula set up in said Section 14 for the allocation of net railway operating income to New Jersey results in a franchise tax against certain interstate railroads which is disproportionately lower, arbitrarily and unreasonably, than the franchise tax assessed against certain intrastate railroads, and further, as among interstate railroads, results arbitrarily and unreasonably in a disproportionately lower franchise tax upon those roads which have a greater proportion of track outside of this State. The said formula results in an arbitrary, unreasonable and discriminatory classification of railroads, from the standpoint of the objective of the said franchise tax as a tax based upon net railway operating income attributable to the use of the franchises granted by this State. The said provisions are in said respects violative of the said Article IV, Section 7, Paragraph 11 of the Constitution, in that the said law is a special law granting exclusive

privileges, immunities and franchises to corporations.

The said provisions relating to a franchise tax are inseparable from the property tax provisions of Chapter 291, as amended, and, therefore, by reason of the unconstitutionality herein charged in the franchise tax provisions, Chapter 291, as amended, in its entirety is unconstitutional and void.

22. Section 14 of Chapter 291, as amended, provides for the deduction of $200,000 from net railway operating income in the determination of the franchise base without regard to the amount of the net railway operating income of the railroad or system, and without regard to the amount of such income which is actually derived from operations within this State. The said provision thereby results in an arbitrary, unreasonable and discriminatory classification of railroads from the standpoint of the objective of the said franchise tax as a tax based upon net railway operating income attributable to the use of the franchises granted by this State. The said provisions are in said respects violative of the said Article IV, Section 7, Paragraph 11, of the Constitution, in that the said law is a special law granting exclusive privileges, immunities and franchises to corporations.

The said provisions relating to a franchise tax are inseparable from the property tax provisions of Chapter 291, as amended, and, therefore, by reason of the unconstitutionality herein charged in the franchise tax provisions, Chapter 291, as amended, in its entirety is unconstitutional and void.

Reasons.

23. Section 14 of Chapter 291, as amended, provides for a capitalization percentage of 8% in the case of electrically operated railroads, at least 75% of whose railroad revenues is derived from passenger traffic, whereas the capitalization percentage as to all other railroads or systems is 3%. The said provision thereby results in an arbitrary, unreasonable and discriminatory classification of railroads, from the standpoint of the objective of the said franchise tax as a tax based upon net railway operating income attributable to the use of the franchises granted by this State. The said provisions are in said respects violative of the said Article IV, Section 7, Paragraph 11 of the Constitution, in that the said law is a special law granting exclusive privileges, immunities and franchises to corporations.

The said provisions relating to a franchise tax are inseparable from the property tax provisions of Chapter 291, as amended, and, therefore, by reason of the unconstitutionality herein charged in the franchise tax provisions, Chapter 291, as amended, in its entirety is unconstitutional and void.

24. Section 15 of Chapter 291, as amended, provides as follows:

> "Subject to the minimum and maximum limits hereinafter stated, the franchise tax shall be assessed at the rate of three per centum (3%) of the excess of the 'franchise base' of each system and of each railroad not part of a system, over the total taxable valuation of the previous year of all classes of property assessed to and used by the railroad or system for railroad purposes, as finally determined

pursuant to this act, provided that, except as hereinafter stated, the minimum franchise tax payable annually by such system or railroad not part of a system shall be either the amount of four thousand dollars ($4,000.00), or thirty per centum (30%) of the amount of the remainder of its net railway operating income allocated to the State of New Jersey in the manner provided in section fourteen of the act hereby amended, whichever is greater; but in no event shall the franchise tax payable annually by such system or railroad not part of a system exceed an amount equal to one hundred and twenty per centum (120%) of the total property tax levied for such year against such railroad or system under section seven of this act. In the case of electrically operated railroads at least seventy-five per centum (75%) of whose railroad revenues is derived from passenger traffic, the applicable percentage of allocated net railway operating income for fixing the minimum franchise tax shall be fifteen per centum (15%) and the applicable percentage of the total property tax levied under section seven of this act for fixing the maximum franchise tax shall be sixty per centum (60)."

These provisions for rates result in arbitrary, unreasonable and discriminatory classification of railroads. The said provisions are in said respects violative of the said Article IV, Section 7, Paragraph 11 of the Constitution, in that the said law is a special law granting exclusive privileges, immunities and franchises to corporations.

The said provisions relating to a franchise tax are inseparable from the property tax provisions

of Chapter 291, as amended, and, therefore, by reason of the unconstitutionality herein charged in the franchise tax provisions, Chapter 291, as amended, in its entirety is unconstitutional and void.

25. The said franchise tax provisions of Chapter 291, as amended, further contravene Article IV, Section 7, Paragraph 11 of the Constitution, in that, by virtue of the facts recited in Reasons Nos. 21, 22, 23 and 24, they constitute said Chapter 291, as amended, a special law and not a general law, palpably in violation of the provisions of said Article IV, Section 7, Paragraph 11, providing that the legislature shall pass general laws, in all cases which, in its judgment, may be provided for by general laws.

The said provisions relating to a franchise tax are inseparable from the property tax provisions of Chapter 291, as amended, and, therefore, by reason of the unconstitutionality herein charged in the franchise tax provisions, Chapter 291, as amended, in its entirety is unconstitutional and void.

26. The said franchise tax provided for by Chapter 291, as amended, is imposed upon the net railway operating income of each system and railroad not part of a system. Section 2 of Chapter 291, as amended, defines "system" as "any independently operating railroad which operates its facilities and those of one or more other railroads as a single utility for furnishing transportation service. A system shall include all companies the property of which is so operated either by virtue of control through direct or indirect ownership of a majority or more of capital stock, or under lease,

trackage rights or under any other form of contact, and for which separate operating accounts are not maintained." A railroad is thereby permitted to offset against its actual earnings attributable to operations in New Jersey, which, standing alone, would result in a franchise tax against it, the losses sustained by affiliated or controlled companies. Further, such losses so offset may be losses of an affiliated or controlled company whose lines are wholly outside of this State. In either of said cases, accordingly, such offset will result in a decrease or elimination of the franchise tax otherwise payable. Independently operating railroads, on the other hand, are not accorded said privilege and immunity.

The said provisions further place it within the power of any such system itself to determine from time to time what roads to operate as a single utility with joint operating accounts and thereby to control the amount of tax payable, on a basis other than that of the net railway operating income of each company, attributable to operations in New Jersey.

By reason thereof, the said provisions create an arbitrary, unreasonable and discriminatory classification of railroads as between those which are or may be part of a system and those which are independently operated, and also as between systems depending upon the manipulation of the membership of said systems. These provisions are in said respects violative of the said Article IV, Section 7, Paragraph 11 of the Constitution of the State of New Jersey, in that the said law is a special law granting exclusive privileges, immunities and franchises to corporations.

The said provisions relating to a franchise tax are inseparable from the property tax provisions

of Chapter 291, as amended, and, therefore, by reason of the unconstitutionality herein charged in the franchise tax provisions, Chapter 291, as amended, in its entirety is unconstitutional and void.

27. The said franchise tax provisions of Chapter 291, as amended, further contravene Article IV, Section 7, Paragraph 11, in that, by virtue of the facts recited in Reason No. 26, they constitute said Chapter 291, as amended, a special law and not a general law, palpably in violation of the provisions of said Article IV, Section 7, Paragraph 11, providing that the legislature shall pass general laws in all cases, which, in its judgment, may be provided for by general laws.

The said provisions relating to a franchise tax are inseparable from the property tax provisions of Chapter 291, as amended, and, therefore, by reason of the unconstitutionality herein charged in the franchise tax provisions, Chapter 291, as amended, in its entirety is unconstitutional and void.

28. Said Section 14 of Chapter 291, as amended, permits the deduction from total railway operating revenues, in the determination of the net railway operating income upon which the tax is computed, of rentals, both debits and credits, for equipment leased for less than one year or interchanged, and joint facility rents, both debits and credits. Thus, the net railway operating income of a railroad which is a lessee of such equipment or facilities is reduced by a factor absent in the case of a railroad company operating its own equipment and facilities, with the result that in the case of a lessee railroad the franchise tax is not

levied upon the income attributable to the use of the franchise to the same extent as in the case of the railroad company operating its own equipment and facilities.

By reason thereof, the said provisions create an arbitrary, unreasonable and discriminatory classification of railroads, as between those companies which operate as lessees of such equipment and facilities, and those companies which operate their own equipment and facilities, and as between lessors of such equipment and facilities which are permitted to deduct such revenue attributable to the use of their franchises, and railroads which are not such lessors. These provisions are in said respect violative of the said Article IV, Section 7, Paragraph 11 of the Constitution of the State of New Jersey, in that the said law is a special law granting exclusive privileges, immunities and franchises to corporations.

The said provisions relating to a franchise tax are inseparable from the property tax provisions of Chapter 291, as amended, and therefore by reason of the unconstitutionality herein charged in the franchise tax provisions, Chapter 291, as amended, in its entirety is unconstitutional and void.

29. The said franchise tax provisions of Chapter 291, as amended, further contravene Article IV, Section 7, Paragraph 11, in that, by virtue of the facts recited in Reason No. 28, they constitute said Chapter 291, as amended, a special law and not a general law, palpably in violation of the provisions of said Article IV, Section 7, Paragraph 11, providing that the legislature shall pass general laws in all cases which, in its judgment, may be provided for by general laws.

Reasons.

The said provisions relating to a franchise tax are inseparable from the property tax provisions of Chapter 291, as amended, and, therefore, by reason of the unconstitutionality herein charged in the franchise tax provisions, Chapter 291, as amended, in its entirety is unconstitutional and void.

30. The provisions of Section 14 of Chapter 291, as amended, which provide that the State Tax Commissioner shall have the power of regulation with respect to reasonableness of amount and appropriateness of accounting distribution, of deductions from operating revenues for depreciation, additions and betterments, and of compensation for personal services, in the determination of net railway operating income, for purposes of computation of the franchise tax assessed under said Chapter 291, as amended, are violative of the provisions of Article III, Paragraph 1 of the Constitution of the State of New Jersey, which provides that:

> "The powers of the government shall be divided into three distinct departments—the legislative, executive and judicial; and no person or persons belonging to, or constituting one of these departments, shall exercise any of the powers properly belonging to either of the others, except as herein expressly provided."

and of Article IV, Section 1, of the Constitution of the State of New Jersey, which provides that:

> "The legislative power shall be vested in a senate and general assembly,"

in that such provisions of Section 14 constitute a delegation of legislative power to the State Tax Commissioner, contrary to said provisions of the Constitution.

The said provisions relating to a franchise tax are inseparable from the property tax provisions of Chapter 291, as amended, and, therefore, by reason of the unconstitutionality herein charged in the franchise tax provisions, Chapter 291, as amended, in its entirety is unconstitutional and void.

31. By virtue of the facts set forth in Reasons Nos. 26 and 28, Chapter 291, as amended, contravenes said provisions of Article III, Paragraph 1 of the provisions of Article IV, Section 1, of the Constitution, in that the franchise tax provisions of said Chapter 291, as amended, place it within the power of a railroad system to control the amount of its tax payable by determining, from time to time, what roads to operate as a single utility with joint operating accounts, and further place it within the power of each railroad company owning a line in this State, to place its equipment and facilities in an affiliated or subsidiary company, thereby creating a rental offset against the operating income of the line; by reason of which there results a delegation of legislative power to said railroad systems and to each railroad, contrary to the said provisions of the Constitution.

The said provisions relating to a franchise tax are inseparable from the property tax provisions of Chapter 291, as amended, and, therefore, by reason of the unconstitutionality herein charged in the franchise tax provisions, Chapter 291, as amended, in its entirety is unconstitutional and void.

Reasons.

32. Chapter 291, as amended, contravenes the provisions of the Fourteenth Amendment to the Constitution of the United States, which provides that:

> "* * * nor shall any State deprive any person of life, liberty or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws,"

in that the provisions thereof which limit the rate of taxation of the property of railroad companies used for railroad purposes to three per centum upon the true value thereof were adopted by the legislature with the deliberate intent and purpose of discriminating in favor of railroad company taxpayers, and against all other taxpayers, and with the intent and effect of levying an hostile and oppressive burden on such other taxpayers, and such law results in depriving the prosecutor-taxpayers and all taxpayers in the State of New Jersey other than the railroad companies assessed under said Chapter 291, as amended, of property without due process of law, in that the rate of taxation fixed under the laws of the State of New Jersey upon the great bulk of the property of all taxpayers in the State of New Jersey other than railroad companies now is, and for many years heretofore has been, at a rate substantially in excess of the rate so fixed by Chapter 291, as amended, for the taxation of railroad property, and results in the denial to said non-railroad taxpayers of the equal protection of the laws.

33. Chapter 291, as amended, contravenes the said provisions of the Fourteenth Amendment, in

that the provisions of Section 10 thereof, referred to hereinabove in Reason No. 3, grant arbitrary exemption from taxation to railroad companies of those portions of their property referred to in said Reason No. 3, without any substantial or reasonable basis therefor; thereby depriving prosecutor-taxpayers and all taxpayers other than railroads, of property without due process of law, and resulting in the denial to said non-railroad taxpayers of the equal protection of the laws.

34. By virtue of the facts set out in Reasons Nos. 21 to 29, inclusive, the franchise tax provisions of Chapter 291, as amended, deny to certain of the railroad company taxpayers indicated in said Reasons, the equal protection of the laws, and deprive such taxpayers of property without due process of law, all in violation of the Fourteenth Amendment to the Constitution of the United States.

The said provisions relating to a franchise tax are inseparable from the property tax provisions of Chapter 291, as amended, and, therefore, by reason of the unconstitutionality herein charged in the franchise tax provisions, Chapter 291, as amended, is in its entirety unconstitutional and void.

35. By virtue of the facts alleged in Reasons Nos. 1 and 2, the property of prosecutor-taxpayers and of taxpayers other than railroad companies is taken for public use without just compensation, contrary to the provisions of Article I, Paragraph 16, of the Constitution of the State of New Jersey.

36. By reason of the facts alleged in Reasons 3, 4 and 5, the property of taxpayers, other than

New Jersey State Library

railroad companies, and of certain railroad companies, is taken for public use without just compensation, and contrary to the said provisions of Article I, Paragraph 16 of the Constitution.

37. By reason of the facts set out in Reasons 21 to 29, inclusive, the property of certain railroad company taxpayers is taken for public use without just compensation, contrary to the said provisions of Article I, Paragraph 16 of the Constitution.

The said provisions relating to the franchise tax are inseparable from the property tax provisions of Chapter 291, as amended, and, therefore, by reason of the unconstitutionality herein charged in the franchise tax provisions, Chapter 291, as amended, in its entirety is unconstitutional and void.

38. The assessments for the year 1941 of Class I railroad properties, are at less than the true value of the said properties.

39. The assessments for the year 1941 of Class II railroad properties located in the prosecutor-municipalities are at less than the true value of said properties.

40. Said assessments of railroad property are erroneous, in that structures and improvements located wholly on Class II land within the prosecutor-municipalities, are assessed as Class I property, whereas they should be assessed as Class II property.

41. The assessments of Class IV railroad properties are erroneous, in that there are not included in the valuation thereof the intangible properties of the said railroads used for railroad purposes.

Reasons.

42. The assessments for taxation of Class IV railroad properties are at less than the true value of said properties.

43. Assuming, but not conceding, that Chapter 291, as amended, exempts or omits from taxation thereunder, intangible property, then Chapter 291, as amended, further contravenes the said provisions of Article IV, Section 7, Paragraph 12, in that it exempts and omits from taxation the intangible property of the railroad corporations used for railroad purposes whereas intangible property of all other taxpayers and all other railroad properties are subject to taxation, said law thus being a special law and not a general law, and thus failing to assess said property at its true value and according to uniform rules.

44. Assuming, but not conceding, that Chapter 291, as amended, exempts or omits from taxation thereunder, intangible property, then Chapter 291, as amended, further contravenes the said provisions of Article IV, Section 7, Paragraph 11, in that it exempts and omits from taxation the intangible property of railroad corporations used for railroad purposes, whereas intangible property of all other taxpayers and all other railroad properties are subject to taxation, said law thereby being a special law granting to said railroad corporations an exclusive privilege and immunity, and in that said Chapter 291, as amended, in said respect is a special law and not a general law, palpably in violation of said provisions of the Constitution providing that the legislature shall pass general laws in all cases which, in its judgment, may be provided for by general laws.

Reasons.

45. In determining the franchise tax for the year 1941, the State Tax Commissioner allowed as deductions for railway tax accruals, sums in excess of the proper and lawful railway tax accruals for the year 1940.

46. The State Tax Commissioner failed to adopt any regulations as to the reasonableness of amount of deductions for depreciation, additions and betterments, and compensation for personal services, and as to the appropriateness of accounting distribution.

47. The State Tax Commissioner, in determining the franchise tax, used figures submitted by the railroad companies for deductions from operating revenues for depreciation, additions and betterments, and compensation for personal services, without investigating or verifying the said figures, and without in fact making any regulation or determination as to the reasonableness of the amount of such deductions, and of the appropriateness of accounting distribution.

48. The State Tax Commissioner, in determining the said franchise tax, allowed excessive and unreasonable deductions for the items specified in Reason No. 46.

49. The said assessments of railroad property made by the State Tax Commissioner under Chapter 291, as amended, for the year 1941, are in divers other respects illegal, unjust, oppressive and should be set aside, and for nothing holden.

50. In the alternative, the prosecutor, James T. Owens, asserts that the statute in such cases made and provided under which his property has been assessed at the rate of $5.75 per one hundred dol-

lars of assessed valuation for the year 1941, by the City of Newark, is unconstitutional and the aforementioned assessment against his property is illegal and void, in that said statute and said assessment, taken in conjunction with the taxation of property used for railroad purposes, under Chapter 291, as amended, in the City of Newark, and throughout the State, at the fixed rate of 3% of true value, contravene the provisions of Article IV, Section 7, Paragraph 12 of the Constitution of the State of New Jersey, in that the said statute under which his property was assessed is a special and not a general law, and in that the rules by which said property and said railroad property were assessed, are not uniform.

51. Further in the alternative, the prosecutor, James T. Owens, asserts the statute in such case made and provided under which his property has been assessed at the rate of $5.75 per one hundred dollars of assessed valuation for the year, 1941, by the City of Newark, is unconstitutional, and the aforementioned assessment against his property is illegal and void, in that said statute taken in conjunction with Chapter 291, as amended, is a special law granting to the railroad corporations exclusive privileges and immunities in violation of said provisions of Article IV, Section 7, Paragraph 11, and in that said statute under which prosecutor's property was assessed is a special law, and not a general law, palpably in violation of the requirement of the said constitutional provision that the legislature shall pass general laws in all cases which, in its judgment, may be provided for by general laws.

52. Further in the alternative, the prosecutor, James T. Owens, asserted that the said assessment

Reasons.

for taxation for the year 1941 against his property made by the City of Newark, as aforesaid, is in divers other respects illegal, unjust, oppressive and should be set aside, and for nothing holden.

CHARLES A. ROONEY,
Attorney for Prosecutors,
City of Jersey City, Janice Realty Corporation, William A. Nolan, Elmer A. Davison, Albert Burleigh and Anna Pfitzner.

JOHN J. FALLON,
Attorney for Prosecutors,
The Mayor and Council of the City of Hoboken, and August Eggert.

JOHN N. PLATOFF,
Attorney for Prosecutors, Township of Weehawken, and Harry C. Moore.

IRWIN RUBENSTEIN,
Attorney for Prosecutors,
Town of West New York, and Bert Newman.

RAYMOND C. CONNELL,
Attorney for Prosecutor,
James T. Owens.

CHARLES HERSHENSTEIN,
Of Counsel with Prosecutors.

Rule for Continuance.

(Filed October 7, 1942.)

NEW JERSEY SUPREME COURT.

CITY OF JERSEY CITY, a municipal corporation, et al.,
Prosecutors,
vs.
WILLIAM D. KELLY, State Tax Commissioner of New Jersey, et al., *Respondents.*

On Certiorari to Review Assessments Under Chapter 291 of the Laws of 1941.

JAMES T. OWENS,
Prosecutor,
vs.
WILLIAM D. KELLY, State Tax Commissioner of New Jersey, et al., *Respondents.*

RULE.

CITY OF JERSEY CITY, a municipal corporation, et al.,
Prosecutors,
vs.
WILLIAM D. KELLY, State Tax Commissioner of New Jersey, et al., *Respondents.*

On Certiorari to Review Assessments Under Chapter 291 of the Laws of 1941, as Amended by Chapter 169 of the Laws of 1942.

JAMES T. OWENS,
Prosecutor,
vs.
WILLIAM D. KELLY, State Tax Commissioner of New Jersey, et al., *Respondents.*

This matter being open to the Court by Charles A. Rooney, Charles Hershenstein and Raymond C.

Connell, attorneys for the prosecutors, and good cause being shown,

It is, on this 30th day of September, 1942,

ORDERED, that the argument of the above entitled matters be and it is hereby continued until the January, 1943, term of Court, without any further notice of argument to any of the parties to these proceedings.

FREDERIC R. COLIE,
Justice.

We consent to the entry of the foregoing rule.

M. M. STALLMAN,
Attorney of Delaware, Lackawanna & Western R.R. Co., New York Central R.R. Co., Lehigh Valley R.R. Co., Defendants.

COLLINS & CORBIN,
Attys. for various Respts. 9/26/42.

WALL, HAIGHT, CAREY & HARTPENCE,.
Attorneys for P. R.R. System, Penn-Reading Seashore Lines and Frederic E. Syford, Trustee of N. Y. O. & W. Ry. Co. 9/30/42.

CHAS. HERSHENSTEIN,
Atty. for Prosecutors.

Rule for Continuance.

(Filed January 14, 1943.)

NEW JERSEY SUPREME COURT.

CITY OF JERSEY CITY, a municipal corporation, et al.,
Prosecutors,
vs.
WILLIAM D. KELLY, State Tax Commissioner of New Jersey, et al., *Respondents.*

On Certiorari to Review Assessments Under Chapter 291 of the Laws of 1941.

JAMES T. OWENS,
Prosecutor,
vs.
WILLIAM D. KELLY, State Tax Commissioner of New Jersey, et al., *Respondents.*

RULE.

CITY OF JERSEY CITY, a municipal corporation, et al.,
Prosecutors,
vs.
WILLIAM D. KELLY, State Tax Commissioner of New Jersey, et al., *Respondents.*

On Certiorari to Review Assessments Under Chapter 291 of the Laws of 1941, as Amended by Chapter 169 of the Laws of 1942.

JAMES T. OWENS,
Prosecutor,
vs.
WILLIAM D. KELLY, State Tax Commissioner of New Jersey, et al., *Respondents.*

This matter being open to the Court by Charles A. Rooney, Charles Hershenstein and Raymond

Rule for Continuance.

C. Connell, attorneys for the prosecutors, and good cause being shown,

It is, on this 14th day of January, 1943,

ORDERED, that the argument of the above entitled matters be and it is hereby continued until the May, 1943, term of Court, without any further notice of argument to any of the parties to these proceedings.

FREDERIC R. COLIE,
Justice.

We consent to the entry of the foregoing rule.

MAXIMILIAN M. STALLMAN,
Attorney of Delaware Lackawanna Western R.R. Co., and New York Central R.R. Co., Lehigh Valley R.R. Co.

COLLINS & CORBIN,
Attorneys for various Respondents.

WALL, HAIGHT, CAREY & HARTPENCE,
Attorneys for Pennsylvania R.R. System, Penn-Reading Seashore Lines, and Frederick E. Syford, Trustee of N. Y. O. & W. Ry. Co.

CHARLES HERSHENSTEIN,
Attorney for Prosecutors.

Rule for Continuance.

(Filed April 16, 1943.)

NEW JERSEY SUPREME COURT.

CITY OF JERSEY CITY, a municipal corporation, et al.,
Prosecutors,
vs.
WILLIAM D. KELLY, State Tax Commissioner of New Jersey, et al., *Respondents.*

JAMES T. OWENS,
Prosecutor,
vs.
WILLIAM D. KELLY, State Tax Commissioner of New Jersey, et al., *Respondents.*

On Certiorari to Review Assessments of 1941 Under Chapter 291 of the Laws of 1941.

CITY OF JERSEY CITY, a municipal corporation, et al.,
Prosecutors,
vs.
WILLIAM D. KELLY, State Tax Commissioner of New Jersey, et al., *Respondents.*

JAMES T. OWENS,
Prosecutor,
vs.
WILLIAM D. KELLY, State Tax Commissioner of New Jersey, et al., *Respondents.*

On Certiorari to Review Assessments of 1941 Under Chapter 291 of the Laws of 1941, as Amended by Chapter 169 of the Laws of 1942.

RULE FOR CONTINUANCE.

All parties who have appeared in these proceedings concurring in the making of an application for this order, and good cause therefor appearing;

It is, on this 10th day of April, 1943,

Rule for Continuance.

ORDERED that the argument of the above entitled matters be and it hereby is continued until the October, 1943, Term of Court, without any further notice of argument to any of the parties to these proceedings.

NEWTON H. PORTER,
Justice.

We consent to the entry of the foregoing rule.

CHARLES A. ROONEY,
Attorney for Prosecutors.

RAYMOND C. CONNELL,
Attorney for Prosecutor.

MAXIMILIAN M. STALLMAN,
Attorney for Respondents,
Delaware, Lackawanna & Western Railroad Company, New York Central Railroad Company, Lehigh Valley Railroad Company.

COLLINS & CORBIN,
Attorneys for Respondents,
The Arlington Railroad Company, The Bergen County Railroad Company, Bergen & Dundee Railroad Company, The Docks Connecting Railway Company, The Long Dock Company, Newark & Hudson Railroad Company, New York, Lake Erie & Western Docks & Improvement Company, The Paterson & Ramapo Railroad Company, Penhorn Creek Railroad Company, Lehigh Valley Railroad Company, Bay Shore Connecting Railroad Company, Lehigh Valley Harbor Terminal Ry. Co., Lehigh Valley Railroad Company of N. J., Erie Railroad Company, Northern Railroad Company, Trustees of the Erie Railroad Company, Hoboken Manufacturers Railroad Company, Hoboken Railroad, Warehouse & Steamship Connecting Company, The Paterson, Newark & New York R. R. Co.

WALL, HAIGHT, CAREY & HARTPENCE,
Attorneys for Respondents,
Pennsylvania Railroad System, Penn-Reading Seashore Lines.

DAVID T. WILENTZ,
Attorney General of New Jersey,
Attorney for Respondent, William D. Kelly, State Tax Commissioner of New Jersey.

CARPENTER, GILMOUR & DWYER,
Attorneys for Respondents,
Hudson & Manhattan R. R. Co.

Order of Continuance.

(Filed September 16, 1943.)

NEW JERSEY SUPREME COURT.

CITY OF JERSEY CITY, a municipal corporation, et al.,
Prosecutors,
v.
WILLIAM D. KELLY, State Tax Commissioner of New Jersey, et al., *Respondents.*

CITY OF JERSEY CITY, a municipal corporation, et al.,
Prosecutors,
v.
WILLIAM D. KELLY, State Tax Commissioner of New Jersey, et al., *Respondents.*

JAMES T. OWENS,
Prosecutor,
v.
WILLIAM D. KELLY, State Tax Commissioner of New Jersey, et al., *Respondents.*

JAMES T. OWENS,
Prosecutor,
v.
WILLIAM D. KELLY, State Tax Commissioner of New Jersey, et al., *Respondents.*

On Certiorari to Review Assessments of 1941 Under Chapter 291 of the Laws of 1941.

On Certiorari to Review Assessments of 1941 Under Chapter 231 of the Laws of 1941, as Amended by Chapter 169 of the Laws of 1942.

Order of Continuance.

This matter being opened to the Court by Maximilian M. Stallman, and Edward A. Markley, at-

torneys for respondents, Delaware, Lackawanna & Western Railroad System, Lehigh Valley Railroad Company, Erie Railroad Company, and New York Central Railroad Company, and it appearing that counsel for prosecutors and counsel for the other respondents herein consent thereto it is therefore, on this 16th day of September, 1943,

ORDERED that the within consolidated writs of certiorari be and there are hereby continued for argument to the opening day of January, 1944, Term of Court without further notice of argument.

CHARLES W. PARKER,
J.S.C.

We hereby consent to the making and entry of the within order.

MAXIMILIAN M. STALLMAN,
Attorney for Respondents.

EDWARD A. MARKLEY,
Attorney for Respondents.

CHARLES A. ROONEY,
Attorney for Prosecutor,
City of Jersey City.

DAVID T. WILENTZ,
Attorney for State of New Jersey.

Depositions.

NEW JERSEY SUPREME COURT.

CITY OF JERSEY CITY, et al., *Prosecutors,* *vs.* WILLIAM D. KELLY, State Tax Commissioner, et al., *Respondents.*	On Certiorari.
JAMES T. OWENS, *Prosecutor,* *vs.* WILLIAM D. KELLY, State Tax Commissioner, et al., *Respondents.*	

Depositions taken pursuant to notice, before Philip W. Grece, Esq., Supreme Court Commissioner, at the court room of the First District Court of Jersey City, at No. 1 Exchange Place, Jersey City, New Jersey, on Wednesday, March 18th, 1942, at 10:30 A.M. (E.W.T.).

APPEARANCES:

CHARLES A. ROONEY, Esq., for Prosecutors, City of Jersey City, Janice Realty Corporation, William A. Nolan, Elmer A. Davison, Albert Burleigh and Anna Pfitzner;

JOHN J. FALLON, Esq., for Prosecutors, the Mayor and Council of the City of Hoboken, and August Eggert;

JOHN N. PLATOFF, Esq., for Prosecutors, Township of Weehawken and Harry C. Moore;

IRWIN RUBENSTEIN, Esq., for Prosecutors, Town of West New York and Bert Newman;

RAYMOND C. CONNELL, Esq., for Prosecutor, James T. Owens;

CHARLES HERSHENSTEIN, Esq., of Counsel with all Prosecutors.

The Attorney General, for Respondents, William D. Kelly, State Tax Commissioner; Homer C. Zink, Comptroller of the State, and the State Treasurer (now deceased), by JOHN SOLAN, Esq.;

MAXIMILIAN M. STALLMAN, Esq., for the Delaware, Lackawanna & Western Railroad Company and the New York Central Railroad Company; also appearing with Mr. Markley for the Lehigh Valley Railroad Company;

EDWARD A. MARKLEY, for Respondents, Erie Railroad Company and its trustees and the subsidiary companies, the Arlington Railroad Company, the Bergen County Railroad, the Bergen & Dundee Railroad Company, the Caldwell Railroad Company, the Docks Connecting Railway Company, the Long Dock Company, Newark & Hudson Railroad Company, New York & Greenwood Lake Railroad Company, New York Lake Erie & Western Docks & Improvement Company, Paterson Hudson River Railroad Company, Paterson Newark and New York Railroad Company, Paterson & Ramapo Railroad, Penhorn Creek Railroad Company, and the Northern Railroad Company and its trustees; also for the Lehigh Valley System with Mr. Stallman, namely Lehigh Valley Railroad Company, Bay Shore

Connecting Railroad, Lehigh Valley Harbor Terminal Railroad Company, and Lehigh Valley Railroad Company of New Jersey;

Wall, Haight, Carey & Hartpence, Esqs., by JOHN A. HARTPENCE, Esq., for Respondents, Pennsylvania Railroad and the subsidiary companies forming the Pennsylvania Railroad System, the Pennsylvania Railroad Company, The Belvidere Delaware Railroad Company, Camden & Burlington County Railway Company, Delaware River Railroad & Bridge Company, The Freehold & Jamesburg Agricultural Railroad Company, Harrison & East Newark Connecting Railroad Company, The New York Bay Railroad Company, Pennsylvania & Atlantic Railroad Company, Pennsylvania Tunnel & Terminal Railroad Company, Perth Amboy & Woodbridge Railroad Company, The Rocky Hill Railroad & Transportation Company, The United New Jersey Railroad & Canal Company, Pennsylvania-Reading Seashore Lines, West Jersey & Seashore Railroad Company, New York Ontario & Western Railway Company and its Trustee Frederick E. Lyford, and the Pemberton & Hightstown Railroad Company;

WILLIAM F. HANLON, Esq., for the Dover & Rockaway Railroad Company, Mount Hope Mineral Railroad Company, the New York & Long Branch Railroad Company, Ogden Mine Railroad Company, and the Wharton & Northern Railroad Company;

DE VOE TOMLINSON, Esq., for the Baltimore & Ohio Railroad Company, the Baltimore & New York Railway Company, and Staten Island Rapid Transit Company;

LOUIS A. FAST, Esq., for Respondent, the City of Newark, in the Owens Certiorari.

Mr. Stallman: My appearance for the Delaware, Lackawanna & Western includes all its lease lines or subsidiaries named in the application for the Writ of Certiorari. The subsidiary companies are the Chester Railroad Company, Lackawanna Railroad Company of New Jersey, Morris & Essex Railroad Company, Morris & Essex Extension Railroad Company, Newark & Bloomfield Railroad Company, Passaic & Delaware Railroad Company, Passaic & Delaware Extension Railroad, and the Sussex & Warren Railroad Company.

Mr. Hershenstein: I might say that the New York Ontario & Western Railroad Company is a reorganization, and we have procured an order from Judge Hulbert of the United States District Court, for the Southern District of New York, permitting that company to be added as a party respondent in these proceedings. I desire to also add for the record that we have procured from the District Court in Cleveland, Ohio permission to join the Erie Railroad, who I understand is represented by Mr. Markley, and an order joining the Erie as a respondent was duly signed by Mr. Justice Porter. May I also state for the record that the former State Treasurer, Mr. Albright, died, I think, yesterday. I assume we will be compelled to note his death upon the record. I now note it here, and I will take the appropriate action. Mr. Commissioner, these depositions are being taken pursuant to the Rule of the New Jersey Supreme Court in the above entitled certiorari proceeding, on behalf of all the Prosecutors in the

said proceeding. There are two Writs of Certiorari and by Order of the Supreme Court both writs have been consolidated, and these depositions, therefore, are to apply to both cases. Depositions are being taken pursuant to notice which has been duly served upon all of the Respondents. Affidavit of Service will be duly filed with the Clerk of the Supreme Court.

State of New Jersey, }
County of Hudson, } ss.:

I, GERTRUDE M. JONES, do swear that I will faithfully and truly take stenographically and reproduce in typewriting, the testimony given in a certain cause now depending, in the New Jersey Supreme Court, wherein City of Jersey City, et al., are Prosecutors, and William H. Kelly, State Tax Commissioner, et al., are Respondents, and also wherein James T. Owens is Prosecutor, and William H. Kelly, State Tax Commissioner, et al., are Respondents, so held me God.

GERTRUDE M. JONES.

Sworn to and subscribed
before me this 18th day
of March, 1942.

PHILIP WM. GRECE,
Supreme Court Commissioner
of New Jersey.

ELMER A. DAVISON, witness called on behalf of Prosecutors, being duly sworn, testified as follows:

Direct examination by Mr. Hershenstein:

Q. Mr. Davison, where do you live? A. 11a Crescent Avenue, Jersey City.

Q. Mr. Davison, are you a property owner and taxpayer in Jersey City? A. Yes, sir.

Q. Do you own any real estate? A. Yes, sir.

Q. Will you please state the location of the real estate you own? A. 11 and 11a Crescent Avenue, Jersey City, New Jersey.

Q. Have you a deed for that property? A. I have.

Q. Will you produce it? A. (Witness produces deed).

Mr. Hershenstein: I desire to offer in evidence, if Your Honor please, deed of William Bluett, et ux. to Elmer A. Davison, et ux., dated October 31st, 1936, and recorded in the Hudson County Register's Office on October 31st, 1936, in Book 1890 of Deeds for Hudson County, on page 307.

Mr. Stallman: There might be an objection which might be disposed of more particularly. I would like to call on Mr. Hershenstein now for an offer of the proof he intends to make by this witness. I think it will save time.

Mr. Hershenstein: Merely to substantiate the status of Mr. Davison as a prosecutor, namely, that he is a property owner and taxpayer in the taxing district of Jersey City, and for no other purpose.

Mr. Stallman: I think, then Your Honor, that it might be an appropriate occasion right now to object to the introduction of proof on behalf of any taxpayers which may be offered in support of the claim as set forth in the affidavits annexed to the application for the Writ of Certiorari, to the effect that the Act herein attacked, which is Chapter 291 of the Pamphlet Laws of 1941, is unconstitutional, because it provides for a rate of taxation on property used for railroad purposes, which is different and less than the rate of taxation adopted by the City of Jersey City with respect to real estate generally for the same tax year. My objection to any proof in support of that claim is that the individual taxpayer has no constitutional right, and is, therefore, not deprived of any constitutional right by the fact that the Legislature has prescribed a certain rate of taxation on the property used for railroad purposes, which may be different or be less than the rate of taxation fixed by a municipality on property outside of that class. This same objection is made to the Judge who allowed the Writ of Certiorari; and on behalf of the respondents who are represented by me individually, as well as on behalf of the other Counsel representing other respondents, I desire to make this objection at this time, so that if we have occasion to refer to it in the future, it may not be necessary for me to state it at length, if that is satisfactory to Mr. Hershenstein.

Mr. Hershenstein: That is agreeable to me. Of course, we contend that the testi-

mony is material, and, of course, I assume Your Honor can do nothing but have the objection noted.

Mr. Markley: And I assume it is not necessary for each Counsel to object.

Mr. Hershenstein: I will consent that objection by Counsel for one railroad will apply to all of the railroads, unless otherwise noted.

Mr. Solan: I would like to have the objections apply to the public officers.

Mr. Hershenstein: Do you want the railroad companies' objections to apply to the State?

Mr. Solan: Yes.

Mr. Fallon: We are not conceding it, of course, just the form of the objection.

(Deed referred to received in evidence and marked Exhibit P-1 (Jersey City), as of this date.)

Mr. Stallman: May it be understood that your continued examination of this witness with reference to status of property owner is made subject to the objection we have put on the record.

Mr. Hershenstein: Certainly.

Q. Mr. Davison, have you your tax bills upon the property which you have described you own, namely 11 and 11a Crescent Avenue, Jersey City, for the year 1941? A. Yes, sir. (Produces them.)

Q. The total valuation of the premises which you have described is $6,300.00, is it not? A. Yes.

Q. And your taxes total—I will separate them—on 11 Crescent Avenue, $166.98, and on 11a Crescent Avenue, $161.76? A. Yes, sir.

Q. And I note from these bills your taxes have been paid for the year 1941? A. They are.

Mr. Hershenstein: I offer the tax bills on the property.

Mr. Hartpence: I take it these objections made will apply to the various documents as offered.

Mr. Hershenstein: I have no objection to that.

Mr. Markley: All marked subject to our objections.

(Four bills received in evidence and marked Exhibit P-2 (Jersey City), A, B, C and D, respectively, as of this date.)

Q. Mr. Davison, the tax bills for the year 1942 have not as yet been issued, have they? A. A preliminary bill has been.

Q. And you are still the owner of the property? A. Yes; and the taxes are paid for the first half.

WILLIAM A. NOLAN, witness called on behalf of Prosecutors, being duly sworn, testified as follows:

Direct examination by Mr. Hershenstein:

Q. Where do you live, Mr. Nolan? A. 118 North Street.

Q. Jersey City? A. Jersey City.

Q. Are you a property owner in Jersey City? A. Yes.

Q. You own real estate? A. Yes.

Q. Where? A. 118 North Street.

Q. Mr. Nolan, have you a deed for that property? A. Yes.

Q. May I see it? A. (Witness produces deed.)

Mr. Hershenstein: I offer in evidence deed of Uhlrich Helmers, et ux., to William A. Nolan, et ux., bearing date October 4th, 1923, and recorded in the Hudson County Register's Office on October 9th, 1923, in Book 1497 of deeds, page 378.

Mr. Stallman: Subject to the objection heretofore made.

(Deed received in evidence and marked Exhibit P-3 (Jersey City), as of this date.)

Q. This deed, marked Exhibit P-3 (Jersey City), is a deed for the property which you have just described? A. Yes, sir.

Q. Mr. Nolan, do you still own this property? A. Yes, sir.

Q. Have you your tax bills for 1941? A. Yes, sir. (Witness produces tax bills.)

Q. I observe from this tax bill, which you have just offered to me, that the valuation of your property is $8000.00? A. Yes, sir.

Q. And your tax for 1941 is $417.44? A. Yes, sir.

Q. And that the bill which you have produced is marked receipted by the City Collector of Jersey City? A. Yes, sir.

Q. You have not yet received your 1942 tax bill? A. No, just a preliminary.

Mr. Hershenstein: I offer it.

(Tax bills received in evidence and marked Exhibit P-4 (Jersey City) A and B, respectively, as of this date.)

LOUIS ARONS, witness called on behalf of Prosecutors, being duly sworn, testified as follows:

Direct Examination by Mr. Hershenstein:

Q. Mr. Arons, you are the president of the Janice Realty Corporation? A. Yes.

Q. And the corporation is a corporation of the State of New Jersey? A. Yes.

Q. Does the Janice Realty Corporation own any real estate in Jersey City? A. Yes.

Q. Where? A. 893 Pavonia Avenue.

Q. Jersey City? A. Jersey City.

Q. And does the corporation still own that real estate? A. Yes.

Q. Have you the deed of the real estate you have just described to the Janice Realty Corporation? A. Yes.

Mr. Hershenstein: I offer in evidence, if Your Honor please, deed of the Provident Institution for Savings in Jersey City to Janice Realty Corporation, a corporation of New Jersey, bearing date December 20th, 1939, and recorded in the Hudson County Register's Office on December 21st, 1939, in Book 1950 of Deeds for said County, on page 563.

(Deed received in evidence and marked Exhibit P-5 (Jersey City), as of this date.)

Q. From the tax bills which you have just handed me, Mr. Arons, I observe that the property which you have just described is assessed for a total valuation of $89,800.00, and that the annual tax for the year 1941 amounted to $4,585.76. A. That's right.

Q. And from your tax bills which you have now produced, I observe that they have been receipted by the City Collector of Jersey City. A. Yes.

Mr. Hershenstein: I offer them.

(Tax bills received in evidence and marked Exhibit P-6 (Jersey City), A and B, as of this date.)

Mr. Hershenstein: Mr. Commissioner, may I just go back for a moment, so that the record may disclose the lot and block with particularity. I desire to add that the property of Elmer A. Davison is known as Lot G and Lot H in Block 1939. The property owned by William A. Nolan is known as Lot 19 in Block 811. The property of the Janice Realty Corporation is known as Lot 4-A in Block 1851.

Commissioner: What map?

Mr. Hershenstein: On the taxing map of the City of Jersey City.

Q. Now, Mr. Arons, your corporation pays what is known as a franchise tax on its outstanding certificates, shares of stock? A. Yes.

Q. And for the year 1941 you have been assessed $5.00 for franchise tax? A. Right.

Q. Which you have paid? A. Right.

Q. Have you the resolution of your corporation which authorized the joining of the Janice Realty Corporation as a prosecutor in this matter? A. Yes.

Q. Is this the resolution which you are now presenting? A. Yes.

Mr. Hershenstein: I offer the resolution.

(Resolution received in evidence and marked Exhibit P-7 (Jersey City), as of this date.)

AUGUST EGGERT, witness called on behalf of Prosecutor, being duly sworn, testified as follows:

Direct examination by Mr. Fallon:

Q. Mr. Eggert, where do you live? A. 402 Fourth Street, Hoboken.

Q. And you are the owner of property in Hoboken, are you, real estate? A. Yes.

Q. And can you tell me the street numbers of the properties you own in Hoboken? A. All the street numbers?

Q. Yes. A. 402 Fourth Street, 402 Grand Street, 406 Grand Street, 421 Grand Street, and then 322 and 324 Jefferson Street, and 462 Fourth Street.

Q. I show you a deed made by Hugh F. Parle, Sheriff of Hudson County, N. J., to August Eggert, dated May 5th, 1938, recorded in the Hudson County Register's Office May 17th, 1938, in Liber 1922 of deeds on page 373, and indexed under County Block Number 1834, and ask you if this is a deed belonging to one of your properties? A. Yes.

Mr. Fallon: For the information of the Court and the parties in interest here, it says, "said premises being known as 406 Grand Street, Jersey City." I offer the deed in evidence.

(Deed received in evidence and marked Exhibit P-8 (Hoboken), as of this date.)

Q. I show you now another deed made by Joseph E. Colford, Sheriff of Hudson County, to August Eggert, dated September 19th, 1934, recorded in the Register's Office of Hudson County on Novem-

ber 5th, 1934, in Liber 1849 of Deeds page 195, and indexed under County Block Number 1834, on page one of which is described as 402 Grand Street, Hoboken. Is that the deed of your property at 402 Grand Street, Hoboken? A. Yes.

Mr. Fallon: I offer it in evidence.

(Deed received in evidence and marked Exhibit P-9 (Hoboken), as of this date.)

Q. I show you now another deed made by David Rissetti and Claudia Risetti, his wife, to August Eggert, dated October 13th, 1938, and recorded in the Register's Office of Hudson County in Book 1933 of Deeds, page 222, on October 13th, 1938, and indexed under County Block 1834, and on page 2 of which it is said that the premises described therein are known as 406 Grand Street, Hoboken. Is that the deed for the property I have just read? A. Yes.

Mr. Fallon: I offer it in evidence.

(Deed received in evidence and marked Exhibit P-10 (Hoboken), as of this date.)

Q. I show another deed made by Joseph E. Colford, Sheriff of Hudson County, to August Eggert, dated November 22nd, 1933, recorded December 14th, 1933, in Liber 1830 of Deeds on page 121, the street number of the property not being mentioned in the deed, but the restriction in the deed relating to a mortgage foreclosure proceeding in which the names of Cassili and Wetstein and others are mentioned. Can you tell us the street number of that property? A. Is that for 402?

Q. I don't know. I am asking you.

Commissioner: May I suggest that you indicate from the description in the deed the lot and block number.

Mr. Fallon: It refers to Lot 11, Block 52, fronting and facing on the easterly side of Grand Street. I offer that in evidence.

(Received in evidence and marked Exhibit P-11 (Hoboken), as of this date.)

Q. I show you some tax bills, Mr. Eggert. Here is a tax bill of 1941, relating to 402 Grand Street, Hoboken, the total amount of which is $473.04, and you paid that money and this is a receipted bill? A. Yes, sir.

Mr. Fallon: I offer it in evidence.

(Tax bill received in evidence and marked Exhibit P-12 (Hoboken), as of this date.)

Mr. Fallon: This bill shows the total valuation of the property as assessed to be $10,500.00, and the tax rate to be $45.40 per thousand. I am going to comment on that later.

Q. I show you another 1941 tax bill of Hoboken, relating to premises 406 Fourth Street, and it is marked "paid in full". You paid those taxes? A. Yes.

Mr. Fallon: The assessed valuation stated therein is $2900.00, and the rate of tax $45.40 per thousand. The total amount shown to be paid is $130.65. I offer it in evidence.

(Tax bill received in evidence and marked Exhibit P-13 (Hoboken), as of this date.)

Q. I show you now some receipted tax bills for 1942. Do you continue to own these properties you

mention? A. Yes, I own them all, and more besides that.

Q. But you own all I have asked about? A. Yes.

Q. I show you a 1942 tax bill relating to 402 Grand Street, showing payment on February 2nd, 1942, of the sum of $119.18, which is known as a preliminary tax bill. You paid those taxes? A. Yes.

Mr. Fallon: I offer it.

(Tax bill received in evidence and marked Exhibit P-14 (Hoboken), as of this date.)

Q. I show you another tax bill for 1942, relating to premises 406 Grand Street, showing a payment on February 2nd, 1942, of $120.31, on a preliminary statement, is that correct, you paid that? A. Yes.

Mr. Fallon: I offer it.

(Tax bill received in evidence and marked Exhibit P-15 (Hoboken), as of this date.)

Q. I show you another so-called preliminary tax bill for the City of Hoboken, 321 Grand Street, for 1942, showing a payment on February 2nd, 1942, of $72.64; you paid that, and is that your receipted bill for it? A. Yes.

Mr. Fallon: I offer it.

(Tax bill received in evidence and marked Exhibit P-16 (Hoboken), as of this date.)

Mr. Fallon: If Your Honor please, I am informed there is one tax bill for 1941 relating to one of the properties mentioned by the witness, of which I am not now in possession, and I ask leave to produce it at a future time.

Commissioner: It will be marked Exhibit P-17 (Hoboken) when produced.

BERT NEWMAN, witness called on behalf of Prosecutors, being duly sworn, testified as follows:

Direct examination by Mr. Hershenstein:

Q. Where do you reside, Mr. Newman? A. 412 53rd Street, West New York.

Q. Are you a property owner in the Township of West New York? A. Yes, sir.

Q. What real estate do you own? A. 6000 Monroe Place, West New York.

Q. Have you a deed for that property, sir? A. Yes, sir.

Q. Will you produce it? A. (Witness produces deed.)

Mr. Hershenstein: I offer in evidence, if Your Honor please, deed from the Hoboken Bank for Savings in the City of Hoboken to Bert Newman, bearing date October 5th, 1939, and recorded in the Hudson County Register's Office on October 5th, 1939, in Book 1962 of deeds for said county, on page 309.

(Deed received in evidence and marked Exhibit P-18 (West New York), as of this date.)

Q. Mr. Newman, does this deed describe the premises which you have just mentioned? A. Yes, sir. The deed will show a different number. The numbers have been changed since.

Q. You mean the street numbers? A. Yes.

Q. It is now known as 6000 Monroe Place? A. Yes.

Q. The tax bills which you have just handed me disclose the assessed value of the real estate is $33,600.00? A. That's right.

Q. And the tax for the year 1941 assessed against this property was $1,928.98? A. That's right.

Q. And the receipt of the tax collector shows that the taxes have been paid? A. Yes.

Q. Do you still own this property? A. Yes.

Mr. Hershenstein: I offer the tax bills in evidence.

(Tax bills received in evidence and marked Exhibit P-19, A and B, (West New York), as of this date.)

Mr. Hershenstein: Will the record please note that the real estate of Mr. Bert Newman was described as Lot 42 and part of Lot 41, Block 50, upon the tax assessment map of West New York.

RAYMOND M. GREER, witness called on behalf of Prosecutors, being duly sworn, testified as follows:

Direct examination by Mr. Hershenstein:

Q. Mr. Greer, you are the comptroller of Jersey City? A. That is correct.

Q. And how long have you been comptroller? A. Since 1935.

Q. And as comptroller of Jersey City, you have personal charge, have you not, of all of the financial matters of the City? A. Substantially all.

Q. You are also familiar, I take it, with the tax problems of the City—they are under your supervision? A. I am.

Q. Mr. Greer, did the City of Jersey City pass a resolution authorizing the institution of these certiorari proceedings? A. That is correct.

Q. Have you a certified copy of that resolution with you? A. (Witness produces it).

Q. This resolution, Mr. Greer, bears date of passage December 2nd, 1941? A. That's right.

Mr. Hershenstein: I desire to offer this in evidence.

Mr. Stallman: I think the offer of the resolution probably affords us now the occasion for making an objection to any testimony which may be offered by Mr. Greer on behalf of the City of Jersey City with reference to any facts relating to the taxation of railroad property at a tax rate differing from the tax rates established by Jersey City for the assessment of property in general. On behalf of the respondents, and I think all of them, we object to the introduction of any evidence, oral or otherwise, in support of the contention that the taxation prescribed by Chapter 291 of the Laws of 1941 is unconstitutional, on the ground that, inasmuch as the City of Jersey City, like other municipalities of the State, are merely creatures of the Legislature, the municipality, as such, has no constitutional right to any part of the taxes imposed by the State, and that the action of the Legislature, in prescribing a certain tax rate for the taxation of property used for railroad purposes which may be different from a tax rate adopted by a municipality for the taxation of property generally, does not present any

question of a right or the denial of a right of the municipal corporation which, as I said, is the mere creature of the State, because there is nothing in the Constitution of New Jersey which confers upon any municipality any rights whatever, so far as I know, excepting a provision to the effect that the Legislature shall not pass any special law regulating the internal affairs of the municipality; so that, we thought that this would be an appropriate place, when this resolution authorizing this litigation by Jersey City is offered, to state our objection to the offer of any proof of a supposed claim under the Constitution of the State, because we think that no such right, and therefore no grievance under the Constitution exists in this case.

Commissioner: Your objection may be duly noted.

Mr. Hartpence: It is understood that applies also to the respondents represented by other Counsel?

Commissioner: I take that to be the case.

Mr. Hershenstein: I offer the resolution.

(Resolution received in evidence and marked Exhibit P-20 (Jersey City), as of this date.)

Q. Mr. Greer, you are familiar, are you not, with the taxing of railroad property under and by virtue of Chapter 54 of the Revised Statutes of 1937? A. If you tell me what title 54 is, maybe I can tell you.

Q. That is the Act which was changed by Chapter 291. The present Act is 291. A. Yes, I am familiar with it.

Q. And you are also familiar, I take it, with the changes in the method of taxing railroad property under the Act which is now under attack, namely 291 of the Laws of 1941? A. I am familiar with that part of the law which fixes the flat rate, but as to the part which fixes a franchise tax, I am sorry to say that I don't know very much about it.

Q. Now, Mr. Greer, prior to June 1st, 1941, there has been certified, has there not, to your department of the City of Jersey City the valuation and the assessment of the railroad property in the taxing district of Jersey City by the State Tax Commissioner under the old Act, which was repealed by Chapter 291 of the laws of 1941? A. That is correct, that has been certified to us.

Q. So that the story may be complete, under the old Act—you will refer to the method of taxing railroad property prior to 1941 as the old Act, and we will refer to Chapter 291 as the method of taxing the property under the new act. Under the old Act, Mr. Greer, how was the second class railroad property taxed, at what rate?

Mr. Markley: I want to object to that on the ground that it is a matter of law and not a matter of testimony by witness.

Mr. Hershenstein: It is a matter of common knowledge. I just want to complete our story to lay a foundation for my question. It is right in the Act.

Commissioner: Do you press the objection?

Mr. Markley: Yes.

Mr. Hartpence: I object on behalf of my respondents also.

Q. (Question read). A. It was taxed at the local rate for the year 1941. The local rate was $52.18 per thousand of valuation.

Q. Now, Mr. Greer, you may refer to your records if you so desire, for the year 1941 what was the assessed value of class two railroad property situated in Jersey City? A. The amount, as certified to Jersey City by the State Tax Commissioner, was $105,029,895.00.

Q. And this railroad property, of the assessed value of $105,029,895.00, under the old Act would have been taxed at the rate which you mention, namely $5.218 per hundred? A. Yes, or as I mentioned, $52.18 per thousand.

Q. Now, what is the total assessed value of all of the second class railroad property in this State for the year 1941? A. According to the records of the State Tax Commissioner, the total assessed valuation for all second class railroad property within the State of New Jersey is $175,698,683.00.

Q. Now, Mr. Greer, will you please tell us what percentage of all of the second class property in the State of New Jersey is located in the taxing district of Jersey City, in which you are the comptroller? A. The figure for the City of Jersey City for second class railroad property is $105,029,895. The amount of second class railroad tax property in the entire State of New Jersey is $175,698,683.00.

Q. What percentage, therefore, of all the second class property in the State is located in the taxing district in Jersey City? A. 59.74 percent.

Q. Mr. Greer, will you also tell us what was the assessed value of the second class railroad property in the County of Hudson for the year 1941? A. The second class railroad tax valuation for

the County of Hudson for the year 1941 was $139,683,483.00.

Q. And what percentage of all of the second class railroad property in the State of New Jersey is there located in Hudson County? A. It is about 83 percent. I don't know whether I have the exact figures or not, but I believe it is about 83 percent. That is substantially correct.

Q. Now, Mr. Greer, have you computed the amount which Jersey City received, or will receive, for the year 1941 upon all of the second class railroad property in Jersey City, which you say is approximately 60 percent of all of the railroad property in the State, according to the new rate established by the new Statute, that is Chapter 291 of the Laws of 1941? A. Well, based on the section which provides for the assessment of $30.00 per thousand, the amount would be that times $105,029,895, or approximately something in excess of $3,000,000.00.

Q. Will you also give us the amount of taxes— A. I have that figure correct. It is $3,150,896.85.

Q. Will you give us, please, Mr. Greer, the amount of taxes which Jersey City would have received under the assessment which was made by the State Tax Commissioner on or prior to June 1st, 1941, under the old Act, on the second class railroad property? A. $5,477,208.38.

Q. A difference of what amount, Mr. Greer? A. A difference of $2,331,463.56.

Q. That figure which you have just mentioned is the amount which the City failed to receive under the new form of taxing of railroad property? A. That's right.

Mr. Stallman: I object to it. It is not only leading, but it does not state the fact because it is only a half truth, because Counsel's question should be qualified by a limitation of real property tax.

Witness: I made that qualification myself. I said, based on the three percent tax.

Mr. Stallman: There are other three percent taxes. What you are qualifying now, Mr. Greer, is to say that this difference you have mentioned is the difference based on the three percent tax on the physical property?

Witness: That's right. That's what I said.

Mr. Stallman: Regardless of the distribution of franchise taxes of Jersey City?

Witness: There wasn't any distribution. We are talking about the year 1941.

Mr. Stallman: The Statute called for distribution of franchise taxes.

Witness: It did, except it had been minded to postpone the date of payment beyond the year 1941.

Commissioner: The objection may be noted.

Q. Now, Mr. Greer, does Jersey City operate under a so-called cash basis act? A. In effect, it does. It operates under Chapter 60, which is, in effect, the cash basis act.

Q. Will you describe briefly what Chapter 60 provides, as it applies to Jersey City, and its effect? A. That is a big question.

Mr. Markley: I object to the witness' statement as to what Chapter 60 provides,

because Chapter 60, being a law, speaks for itself.

Mr. Hershenstein: May I state that I am going to have Mr. Greer go into the question of the tax rate and how the railroad money affects the tax rate, and as a basis for that question I think it would be very clear if we had Mr. Greer's explanation of the method of arriving at that tax rate.

Commissioner: The objection may be noted.

Mr. Hartpence: Quite a difference between the meaning of the law and the practice adopted by Mr. Greer. It does ask practically an interpretation of the Statute

Commissioner: Is that in the form of an objection?

Mr. Hartpence: Yes.

A. The Act provides a method of preparing a budget and arriving at the amount to be raised by taxation, which in fact is the determining factor in finding a tax rate. It provides that the revenues anticipated cannot exceed the amount received in cash in a prior year, unless upon a special certificate issued by the commissioner of local government. It provides that you may estimate an amount collected from delinquent taxes based upon the amount collected in the year before, and the current taxes are determined by the tax collection rate of the previous year. An overlay required to be added, when added to the tax collection proceeds, together with miscellaneous revenues, will produce 100 percent of the levy. Any amount of money which are received in a subse-

quent year for an account of the budget year, necessarily affects the preparation of your budget, because any such cash receipts cannot be considered. That, I think, is roughly your question.

Q. So that, Mr. Greer, has the amount of taxes which the City collects upon second class railroad property a definite relationship or effect upon the tax rate? A. Oh, yes.

Q. Has the fact that the City of Jersey City failed to receive the difference of $2,331,463.56, which you computed to be the difference between what Jersey City would have received under the tax assessment as certified by the State Tax Commissioner for the year 1941 under the old Act, and the amount Jersey City receives under the new Act—I am now referring only to the property tax—an effect upon the tax rate of Jersey City for 1942? A. Well, just one thing to make clear, that the amount they would have received under the old Act, providing there had been no litigation?

Q. Yes. A. The difference being $2,331,463.56 —you want it in terms of tax rate?

Q. No, just give me— A. It would make a very substantial difference, of course.

Q. Now, referring to the matter which Mr. Stallman indicated to you with regard to a franchise tax, which is part of the new Act, Chapter 291, has the City of Jersey City received any franchise tax assessed against the railroads during the year 1941? A. It has not received any at all, primarily by reason of the fact that the Legislature has prohibited the State Treasurer from distributing any moneys it might have collected, if it collected any, from that source.

Q. Has the time for the payment and distribution of those taxes been extended from time to

time by the Legislature? A. It has been extended four or five times.

Q. And what is the latest act on extension date? A. Some date early in May. I think it is May 5th.

Q. 1942? A. 1942, but it is an early date in May.

Q. Now, Mr. Greer, again referring particularly with regard to the franchise tax, I suppose that to some extent—or I should let you answer the question. To what extent will the loss in revenue, that is this loss of two million odd dollars, by reason of the $3.00 per hundred rate, be made up by this franchise tax to which Mr. Stallman referred? A. Well, unless you confine yourself to a specific year, I couldn't answer the question.

Q. Why do you say that, Mr. Greer? A. Because the franchise tax revenues, as I understand it, are principally predicated upon earnings distributed upon a formula of track mileage. It might well be nothing or it might be a very substantial sum. It depends entirely upon the railroad, and the question cannot be answered unless you refer to a specific year.

Q. As a matter of fact, there will be a franchise tax for the year 1941, based upon the new Statute, Chapter 291 of the Laws of 1941? A. I don't know. That seems to be in the hands of the Legislature. They did pass an act providing for certain payment of franchise taxes, but they have postponed it, as I understand it, for the purpose of finding some new formula, so until I can familiarize myself with the new formula, I don't know what the franchise tax is going to be, and I don't think anybody else does.

Q. Now, you say that one of the primary reasons you cannot tell why this loss may be absorbed

by the franchise tax is because it is based primarily upon the earnings of the railroad companies? A. Two factors. I am afraid I cannot agree with that. It is based upon the earnings of the railroad systems, based again upon the track mileage in New Jersey as it bears on the whole system; so there are two factors that are primarily important—one, the earnings themselves, and the other, the track mileage provision of the formula.

Q. So that, if there are no earnings, is there any franchise tax, or franchise base upon which the franchise tax can be computed, under the new Statute? A. There I think I have to go more deeply. You say, "No earnings". There could be earnings and still no franchise tax, because of a deduction which they are permitted to make from earnings.

Q. You mean deductions? A. Yes, before the tax rate is applied, the rate of 3 percent for franchise taxes. So, to answer your question, there could be earnings and no franchise taxes.

Q. But if the result of the formula which has been laid down in Chapter 291 of the Laws of 1941 leaves no earnings upon which you may predicate what is referred to in the Statute as a franchise base for the purpose of computing the franchise tax, there would be no franchise tax? A. There would be no franchise tax.

Q. Now, Mr. Greer, let us go into that for a few more minutes. The year 1941 has been what is known as a good year for railroad earnings.

Mr. Hartpence: I object to it as immaterial.

Mr. Hershenstein: I will withdraw the question.

Q. What is your experience of the railroads, from their own reports as to their earnings in 1940 and 1941, as compared, let's say, with 1938, 1937 and 1936?

Mr. Hartpence: I object to it as immaterial, incompetent and irrelevant.

Mr. Markley: Hearsay and not the best evidence, also calling for a conclusion.

Mr. Hershenstein: I desire to state for the record that all of the earnings of the railroad companies are a matter of record.

Commissioner: I cannot rule on this. All I can do is note the objection and then the witness answers the question.

Mr. Hershenstein: Let me say that the earnings of every railroad company is a matter of record in the Interstate Commerce Commission and is open for all who desire to examine it.

Mr. Markley: That would be the best evidence.

Mr. Hershenstein: I will withdraw that question for the moment.

Q. You have examined, have you not, Mr. Greer, the reported earnings of the railroad companies for the year 1940 and 1941, from their own reports and from the return which was filed by the railroads with the Interstate Commerce Commission? A. I have not examined it from their own reports, but I have examined it from the records of the Interstate Commerce Commission with whom they were filed—not the original reports of the railroad, but the records of the ICC.

Q. And from those records, what comparison can you make with regard to the earnings of the railroads in those years as compared with prior years?

Mr. Hartpence: I object to it as immaterial, incompetent and irrelevant.

A. I haven't the figures here, but I can say they have been in most cases, and in every case, very substantially higher in each of the succeeding years since 1939.

Q. Now, Mr. Greer, from your knowledge of this situation, is the fact that the railroads have earned more in 1940 and 1941 as compared to prior years, any criterion as to whether or not the railroad companies will pay a franchise tax in the future, under the provisions of Chapter 291?

Mr. Hartpence: I object to it. I desire to note this is purely conjectural and not competent evidence.

Mr. Markley: Argumentative and calls for a conclusion, and a construction to be made by the Court and not by the witness.

Commissioner: The objections may be noted.

A. There will be a franchise tax in some amount, in my opinion, but there again I will have to say nobody knows what the formula is finally going to be. The Legislature, or its representatives, has announced that they have postponed the payment of franchise taxes for the purpose of finding some adjustment or new formula, and until that is determined, nobody can answer your question.

Q. As a matter of fact, Mr. Greer, as a matter of record in this Court, one of the railroad com-

panies has attacked that very formula, has it not, in our Supreme Court, on certiorari?

Mr. Hartpence: That is objected to again as wholly incompetent and not the best evidence.

A. At least one, to my knowledge.

Q. One railroad. Is that the Hudson & Manhattan? A. Hudson & Manhattan Railroad.

Mr. Stallman: May I interject a question?

By Mr. Stallman:

Q. You don't mean by this testimony, Mr. Greer, to create the impression that the franchise taxes computable and subject to levy under Chapter 291 for the year 1941 have not been paid by the railroad companies except to a small extent, do you? A. I don't know. They are payable to the State Treasurer. I don't know what they have been paid.

Q. And by your testimony, you don't want to create the impression that no payments have been made? A. You will remember I said back a little that the State Treasurer was prevented from making distribution of any moneys which might have been received by payment of franchise taxes. I don't know what he has received.

Q. And your interest in Jersey City has not been sufficient to ascertain how much of the franchise taxes for 1941 have been paid? A. I have made three attempts, and on each occasion I got a different figure from the State Tax Commissioner's Office.

Q. So you have some information then— A. I have, but it seems to be unreliable up to date.

By Mr. Hershenstein:

Q. And, even taking the highest estimate, Mr. Greer, of what may be allocated to Jersey City as its share of the franchise tax, will that share absorb this difference of two million odd dollars which you spoke about for 1941? A. The last estimate I got from the State Tax Commissioner's office, or the State Comptroller's office, rather, I want to correct that, was one approximately, to use their language, $1,100,000.00, so that would leave a difference of about $1,200,000.00.

By Mr. Stallman:

Q. You mean, Mr. Greer, that the figure of $1,100,000.00 would represent Jersey City's share in the distribution of the franchise tax? A. That was the last estimate I got, yes. I am not using the figure, however, until it can be more accurately determined.

Q. What percentage was applied, can you tell us, in getting this approximate result of $1,100,000.00? A. That is the difference between what the second class railroad taxes would have been under the old law, provided that there had been no litigation, and the $3.00 rate on the physical property, the second class railroad property, under the new law.

Q. I think you misunderstood me. You stated you got some figures from the State Comptroller showing a possible distribution to Jersey City of $1,100,000.00 franchise tax, and I was wondering whether that was the result of an application of some particular percentage to a larger amount. A. The reference was made this way, as I understand Counsel's question—you might check me on

it. The $2,331,000.00 figure which was previously mentioned, is the difference between 100 percent of the railroad tax collection based upon the old law, provided there had been no litigation, and the $3.00 rate based on the physical property of the second class railroad property under the new law. That difference made $2,331,000.00. Then the question was asked, the estimate of franchise taxes due Jersey City for the year 1941, and I said that amount was approximately $1,100,000.00, the best estimate I could get. That left the difference between $2,311,000.00 and the $1,100,000.00 of the net figure of $1,200,000.00.

By Mr. Hershenstein:

Q. That is exactly what I asked. I think you have answered the question at least as I have propounded it. Now, Mr. Greer, assuming that the Legislature does not change the formula and does not change the method of distribution, even under Chapter 291, as you say it may do, assuming it does not, is the amount of franchise tax which the municipality would receive predictable, or at least ascertainable, in such a way that you can, with any definiteness, say Jersey City will receive approximately so much money? A. If you say, for 1941, the answer is yes, it can be determined—that is, I have gotten three estimates so far, but apparently someone thinks they can determine it.

Q. And as to the future, what would you say, Mr. Greer? A. I would say, God help us. There is no way of determining the future.

Q. Now, Mr. Greer, what is the total value of real estate, land and improvements, exclusive of second class railroad property in Jersey City? A. The figure as shown on the abstract of ratables

and exemptions of the County of Hudson for the year 1941, column 4, there was $438,231,097.00.

Q. And you have already testified, have you not, that the value of second class railroad property in Jersey City is $105,029,895.00? A. That figure is shown in column 5 from the same record.

Q. What percentage would you say, therefore, of second class railroad property is there, as to the real property in Jersey City? A. 19.70 percent.

Q. Approximately twenty percent? A. Well, yes.

Cross examination by Mr. Markley:

Q. Did you get any statement from the Comptroller's office as to what the total franchise was that was paid in? A. No, I didn't. My information was received over the phone from Owen Keith, who I understand is the deputy, or assistant anyway, to the Comptroller, and the last figure I got within the last three weeks, I should say, in which he said Jersey City's share would be approximately $1,100,000.00.

Q. Did you make any calculations so as to determine how much the total franchise tax for 1941 would be? A. No; I wasn't particularly interested in the total. I was interested in that which was coming to Jersey City, and I made no inquiries as to the grand total, except what I read in the newspapers. I did see something in the paper.

Q. Then you don't know what the total franchise tax paid in by the railroads was for the year 1941? A. No, sir.

Cross examination by Mr. Stallman:

Q. And it is a fact, is it not, Mr. Greer, that, if the franchise tax as computed under Chapter 291 of the Laws of 1941, is payable in part to the municipalities of New Jersey, that apportionment is made on a percentage representing the ratio of the second class property of the total valuation in the State? A. Well, I have to qualify that, too. In the first place, are you talking now about the distribution after the amount has been determined?

Q. Yes. A. That is based upon the ratio that Jersey City has of second class railroad property as it bears to the total of the State. That is my understanding of the Act.

Q. You have already given us an estimate of what that is—some 69 percent? A. No, 57 something. I have it here. 59.74.

Q. And under the operation of the law, as you understand it, Jersey City would get 59.74 percent of the total franchise tax? A. That is the way I understand the law.

By Mr. Hershenstein:

Q. That is one-half? A. Yes, that is why I asked the first question, when I said distributed.

Q. How is it distributed? A. The franchise tax, as I understand it, is divided fifty-fifty—50 percent to the State, and of that 50 percent we would get 59.74 percent. When I said distributed, I mean to the municipalities.

By Mr. Markley:

Q. The franchise tax of 1941 would be based on what year's earnings? A. 1940.

By Mr. Stallman:

Q. And I think you made the statement a little while ago that, as far as you had looked the matter up in the reports of the carriers to the Interstate Commerce Commission, that the 1941 earnings would be larger than 1940. A. That's right, that's generally speaking. Now, there will be one or two exceptions to that. I had the statement, but unfortunately I did not bring it with me.

Q. So that the anticipated revenue of Jersey City from that source in 1942 would be higher than that anticipated for 1941? A. It is reasonable to expect that, provided the Legislature doesn't make any further changes. They have indicated they are going to, and have said so, so until determined, I don't see how questions can be properly answered.

Q. Do you understand this litigation is addressed to the Statute as it now stands, Mr. Greer? A. That's right.

Mr. Hershenstein: I offer the abstract which was referred to by Mr. Greer.

(Abstract received in evidence and marked Exhibit P-21 (Jersey City), as of this date.)

Commissioner: Any objection.

Mr. Stallman: Only the general objection. Mr. Hershenstein has agreed that wherever objection is made, it will be referable back to the objection originally made.

JAMES T. OWENS, witness called on behalf of Prosecutors, being duly sworn, testified as follows:

Direct examination by Mr. Hershenstein:

Q. Mr. Owens, where do you reside? A. 328 South 19th Street, Newark, New Jersey.

Q. You own real estate in Newark? A. Yes.

Q. What do you own? A. 328 South 19th Street, Newark.

Q. How long have you owned it? A. Thirty years.

Q. Do you still own it? A. Yes.

Q. What is the assessed value of that property? A. As I recollect, it was $2500.00 in 1941.

Q. And is that property known as Block 1793, Lot 41? A. Yes, sir.

Q. And your taxes for 1941 were $143.75? A. Yes, sir.

Q. You paid your taxes? A. Yes, sir.

Q. Where are your tax bills? A. I haven't got them with me.

Q. They are with the building and loan? A. No, they are not. I have them somewhere in my own possession.

Mr. Hershenstein: May I state, if Your Honor please, that the return of the City of Newark corroborates the fact that Mr. Owens is a property owner of the premises known as Block 1793, Lot 41, and also corroborates the amount of the assessment.

Commissioner: What do you mean by the return?

Mr. Hershenstein: The return filed by the City of Newark in the Owens certiorari.

Mr. Fast: The City of Newark is made a respondent in the Owens suit, and we say that this Owens owns the property and it is assessed for $2500.00 and the taxes are paid.

Mr. Hershenstein: May I ask leave then to offer this deed and tax bill at a later date?

Mr. Stallman: Subject to the general objection made at the beginning.

Commissioner: The deed will be marked Exhibit P-22 (Owens), and the tax bill Exhibit P-23 (Owens), when produced.

WILLIAM A. STERNKOPF, Jr., witness called on behalf of Prosecutors, being duly sworn, testified as follows:

Direct examination by Mr. Hershenstein:

Q. Mr. Sternkopf, you are the auditor of the Township of Weehawken? A. I am.

Q. And you have been auditor for how many years? A. Since January 1st, 1932.

Q. And as auditor, have you charge of the financial accounts of the city? A. I have.

Q. Are you familiar also with the railroad taxes received by the Town of Weehawken on second class railroad property? A. As they apply to Weehawken.

Q. Did the Township of Weehawken, by resolution, authorize the Township to be one of the prosecutors in these certiorari proceedings? A. They did.

Q. You are now handing me a certified copy of the resolution which was adopted on December 10th, 1941? A. That's right.

Mr. Hershenstein: I offer it.

Mr. Stallman: Same objection as we made with reference to the other.

(Received in evidence and marked Exhibit P-24 (Weehawken), as of this date.)

Q. Now, Mr. Sternkopf, what is the assessed value of the second class railroad property, as certified to your township by the State Tax Commissioner, for the year 1941, under the old Act —that is the Act prior to the passage of Chapter 291 of the Laws of 1941? A. Assessed valuation of $12,580,058 for the year 1941.

Q. Now, Mr. Sternkopf, what is the total value of the real property in your township—that is, land and improvements? A. $18,854,070.00.

Q. That is the amount which is written in the abstract of ratables and exemptions of the County of Hudson, marked Exhibit P-21, opposite the Township of Weehawken? A. That's right.

Q. That $18,854,070.00 is exclusive of the second class railroad property? A. That's right.

Q. What percentage, Mr. Sternkopf, does the second class railroad property located in your taxing district of Weehawken bear to the total value of land and improvements in the Township of Weehawken? A. Approximately 40 percent.

Q. What was the amount of taxes which was certified to the Township under the old Act for the year 1941? A. For second class railroads?

Q. Yes. A. $575,893.64.

Q. What was the amount which the Township has received on its second class railroad property

under and by virtue of Chapter 291 of the Laws of 1941?

Mr. Hartpence: Same objection to the line of testimony which we noted particularly with regard to the testimony of Mr. Greer for Jersey City.

A. The amount received by the Township of Weehawken was $375,109.75.

Q. What is the difference, sir, between those two amounts. A. $200,783.89.

Q. Does the amount which you have mentioned your Township has received under the 1941 Act include your proportion of any franchise tax? A. No franchise taxes.

Q. Have any franchise taxes been paid to your Township under the Act for the year 1941? A. It has not.

Q. From the present estimates on what your Township may receive as its share of the franchise taxes under the 1941 Statute, will this difference of two hundred and some odd thousand dollars be absorbed? A. No. We estimate approximately $138,000.00 of that may be received.

Q. And assuming that might be the figure, will there still be a deficit in the amount of taxes which you would have received under the old Act for the year 1941? A. There would be of approximately $62,034.00. I believe I said $132,000.00—it would be $138,000.00.

Q. Now, Mr. Sternkopf, will you please tell us whether the amount which your municipality has received for the year 1941, or the amount which you will be entitled to receive for the year 1941, under the new Act, whether or not it would have any effect upon the tax rate of your municipality,

as compared with the municipality receiving the amount under the old Act? What difference does that make? A. Excluding or including the franchise?

Q. Excluding the franchise tax? A. It would make a difference of approximately $10.40 in the rate.

Q. And if you include the franchise tax, considering the amount which has been tentatively fixed as the allotment of Weehawken, does it make a difference in the tax rate? A. It would make some difference, but you cannot determine it at this time.

Cross examination by Mr. Hartpence:

Q. It would reduce that percentage of difference? A. It would, by whatever amount was received by the franchise tax.

Cross examination by Mr. Markley:

Q. How do you arrive, Mr. Sternkopf, at the amount of franchise tax for the year 1941? A. The $138,000.00 that I inquired from the State Tax Commissioner's office, and it was a tentative figure.

Q. It was purely tentative, as a result of telephone inquiry? A. No; I visited the office.

Q. And of whom did you make the inquiry? A. Mr. Nicolias and a Mr. Falkner.

Q. Who were they, do you know? A. They were in charge of preparing the formula for this franchise distribution.

Q. Some one in the office of the Comptroller? A. No, they weren't connected with the Comp-

troller; they were connected with the State Tax Commissioner's office.

Q. You didn't go to the Comptroller's office? A. No.

HARRY C. MOORE, witness called on behalf of Prosecutors, being duly sworn, testified as follows:

Direct examination by Mr. Hershenstein:

Q. Mr. Moore, you reside in Weehawken? A. I do, yes, sir.

Q. Where do you live, sir? A. 6 Fulton Street.

Q. Do you own the house you live in? A. Yes.

Q. How long have you owned it? A. For twenty years.

Q. And 6 Fulton Street is known as Block 59, Lot 192? A. Yes.

Q. What is the assessed value of that property? A. $6800.00.

Q. And your taxes for the year 1941 were $294.46? A. Yes.

Q. Which I assume was paid? A. Yes.

Q. And you are also the treasurer, are you not, of the municipality? A. I am, of Weehawken, yes, sir.

Q. And, Mr. Moore, have you got your tax bills with you? A. Yes, sir.

Q. May I have them, just for 1941?

Mr. Hershenstein: I offer in evidence the tax bill of Harry C. Moore of Block 59, Lot 192 of Weehawken.

(Tax bill received in evidence and marked Exhibit P-25 (Weehawken), as of this date.)

Q. Have you your deed with you? A. I haven't had a chance to look it up. I have the deed, but I couldn't find it.

Mr. Hershenstein: I beg leave to offer the deed later.

Commissioner: It may be marked Exhibit P-26 (Weehawken), when produced.

Mr. Stallman: Subject to the same objections.

Q. You are still the owner of that property, Mr. Moore? A. I am, yes, sir.

HARRY F. SHINN, witness produced on behalf of Prosecutors, being duly sworn, testified as follows:

Direct examination by Mr. Fallon:

Q. What position do you hold in Hoboken? A. City Comptroller.

Q. And as such, are you familiar with the taxation matters relating to that City, and particularly with respect to the amount of second class property in the City? A. I think so, yes, sir.

Q. And I note that you say you subscribe to all the matters in the Greer affidavit, too? A. Yes.

Q. Did you investigate the matter before you signed the papers?

Mr. Stallman: Same objection.

A. I read it.

Q. How much is the second class railroad property assessed for the year 1939 in Hoboken? A. 1939?

Q. No, give me 1940 first. A. $9,033,195.00.

Q. What was the amount of tax levied, according to the local tax rate? A. $481,107.96.

Q. And how much has been paid to the City on that tax? A. $356,764.57.

Q. And what was the unpaid balance as of December 31st, 1941? A. $124,343.39.

Q. Now, for the year 1941, what was the valuation of the second class railroad property situated in Hoboken? A. $9,028,524.00.

Q. What was the tax levied, according to the local tax rates, on that property that year? A. $409,894.98.

Q. And what were the payments made on account of them to the City? A. $270,573.37.

Q. What is the unpaid balance on that item? A. $139,321.61.

Q. What was the tax rate per thousand for the year 1941? A. $45.40 per thousand of valuation.

Q. And that valuation is computed by the County Board of Taxation instead of the City, is it not? A. That is true.

Q. Now, Mr. Shinn, if the tax rate of the second class railroad property situated in Hoboken for 1941 had been considered, as was anticipated, at the rate of $30.00 per thousand, and the city and state account of amounts to be raised by taxation was computed on the valuation of 1941, less the second class railroad valuation, what would the 1941 tax rate have been per thousand? A. $46.77 per thousand, estimate.

Q. Now, had the second class railroad tax for 1940 for the property situated in Hoboken been paid in full for the year 1940, can you say what percent it would have increased the collections

for the year 1940? A. It would have raised it from current collection of 79.81 to 82.65.

Q. What would you say as to the 1941 taxes, if the same calculation were made? A. Do you mean using the increased percentage?

Q. Yes. A. It would have been an estimate of $43.80 per thousand.

Q. Compared with other real estate in Hoboken, can you tell me what the percentage of second class railroad property situated in Hoboken is as to the entire valuation of the State? A. Approximately five percent, I would say. I will say this, that the percentage of second class railroad in the City of Hoboken to the total real estate, including that, is approximately twelve percent.

Mr. Fallon: I offer a certified copy of the resolution, certified by the City Treasurer, authorizing the Board of Commissioners, on the 9th of December, 1941, relating to this certiorari proceeding, authorizing the Corporation Attorney to institute the proper proceedings.

Mr. Markley: Same objection.

(Resolution received in evidence and marked Exhibit P-27 (Hoboken), as of this date.)

LAWRENCE T. HAVEY, witness called on behalf of Prosecutors, being duly sworn, testified as follows:

Direct examination by Mr. Hershenstein:

Q. Mr. Havey, you are the comptroller of the Town of West New York? A. That's right.

Q. How long have you been the comptroller of that town? A. Since May 1939.

Q. Are you familiar with the financial matters of the town, Mr. Havey? A. I am.

Q. Mr. Havey, what is the assessed value of the second class railroad property in your town as assessed by the State Tax Commissioner for the year 1941?

Mr. Hartpence: I desire to note the same objection as to the other testimony.

A. The values for the year 1941 for second class railroad property, as certified to by the State Board of Tax Commissioners to West New York amounted to $6,543,208.00.

Q. Did you say taxes or valuation? A. Ratables.

Q. Assessed valuation? A. Assessed valuation.

Q. Now, Mr. Havey, what is the assessed valuation of all the land and improvements in the Town of West New York, exclusive of the second class railroad property? A. For the year 1941, it would amount to $35,751,885.00.

Q. What percentage does the second class railroad property bear to the total valuation of the real property in your municipality? A. It would be a percentage of 15.47 percent.

Q. What were the taxes assessed by the State Tax Commissioner for the second class railroad

property located in your township under the old Act? A. The assessment for the year 1941, as I stated, was—you mean the levy? The amount due would be $375,645.57 for the year 1941.

Q. That is under the old Act? A. That is correct.

Q. What was the amount which your township received under the new Act for the year 1941? A. $196,091.62.

Q. Making a deficit of how much? A. $179,553.95.

Q. Does that take into consideration any allocation of the franchise tax? A. No, it does not.

Q. Have you received any franchise taxes from the railroad for the year 1941? A. No, we have not.

Q. Have you made any inquiries as to the probabilities of receiving a franchise tax in 1941? A. Yes, we have.

Q. What was the highest estimate you were informed the Township of West New York would receive? A. We were informed that we might receive about $77,000.00.

Q. That would not absorb the difference between what you would have been entitled to under the old Act and the total taxes you may receive under the new Act, would it? A. No, it would leave a difference of approximately $102,000.00.

Cross examination by Mr. Markley:

Q. Who told you that? A. The inquiry was made by our auditors, H. Braverman Company of Newark, I believe, to the State Commissioner of Local Government on three or four occasions, and he informed me that by phone.

Q. Who informed you? A. H. Braverman.

Q. Told you of a conversation he had with whom? A. With Commissioner Darby, who is the

Commissioner of Local Government, and it seemed at that time they were unable to really know what exact amount would be due to the Town of West New York, and they admitted it would be approximately $77,000.00.

Q. You didn't get it directly? A. No.

Q. And you were not present during the conversation? A. No.

Mr. Hershenstein: I offer in evidence, if Your Honor please, the resolution of the Town of West New York, which witness has just produced, a certified copy, authorizing the Town of West New York to be a prosecutor in these proceedings.

Mr. Stallman: Same objection.

(Resolution received in evidence and marked Exhibit P-28 (West New York), as of this date.)

Mr. Hershenstein: I think we are finished for today. We have two more prosecutors who have not as yet been produced. We have a great deal more testimony to put in. I desire to state for the record that I wrote to Mr. Kelly, the State Tax Commissioner, and outlined to him the testimony I will endeavor to elicit from him, and I have this morning received the following reply: "Your letter of March 13th with reference to the taking of depositions in the case of Jersey City v. Kelly and Owens v. Kelly received. Your letter has been referred to Louis Focht, Chief Engineer of the Railroad Tax Division, with instructions to immediately communicate with you as to when he will have the data enumerated in your letter available for introduction and how

soon he can be available for the purpose of submitting depositions." I intend to confer with the State Tax Commissioner tomorrow or next day to fix a time agreeable to him for the purpose of completing my depositions. I assume, Mr. Commissioner, you ought to take the depositions in Trenton, because of the mass of data he will be compelled to produce, and there is no reason for bringing him here.

(Matter continued to March 25th, at 10:30 A. M., at Trenton.)

Same matter.

Same appearances, with the addition of Frank P. McCarthy, Esq., also appearing for the City of Jersey City.

Depositions continued, March 25th, 1942, at 10:30 A. M. (E. W. T.), at the Chancery Court room, 1 Exchange place, Jersey City, New Jersey, before Philip W. Grece, Esq., Supreme Court Commissioner.

Mr. Hershenstein: By consent of Counsel, it is stipulated that if Anna Pfitzner were produced, she would testify that she is the owner of premises known as 341-345 Undercliff Avenue, in the Borough of Edgewater, which premises are known as Block 61, Lots, 18, 19 and 20; and that for the year 1941 the premises were assessed by the said Borough at a valuation of $11,730.00; that the taxes upon said premises for the year 1941 were the sum of $416.99, which taxes have been paid, and that she is still

the owner of the said premises. This stipulation is in lieu of the production of Mrs. Anna Pfitzner.

Mr. Markley: Subject to our objection previously made.

Mr. Hartpence: That will refer to all Counsel.

Mr. Hershenstein: It is also stipulated, if the Court please, that if Mr. Albert Burleigh were produced, he would testify that he is the owner of the premises known as 1038 Federal Street, in the City of Camden, which premises are known as Block 252, Lot 15, on the Assessment Map of said city; that for the year 1941 they were assessed at a valuation of $2,775.00; that the taxes for the year 1941 were the sum of $135.42, which taxes were paid; that the said Albert Burleigh is still the owner of the premises just described. It is further stipulated that this stipulation is in lieu of the production of Albert Burleigh.

Mr. Hartpence: Subject to the same objections.

Mr. Hershenstein: May I also call Counsel's attention to the fact that, after conference with Mr. Focht, of the State Tax Commissioner's office, he has advised me and has confirmed his advice by letter under date of March 21st, 1942, that he will be prepared to give his depositions at his office, Room 526 in the Broad Street Bank Building, Trenton, New Jersey, on any day after Monday, April 6th, 1942. May I now ask Counsel what date they desire to fix? His deposition will be taken in Trenton.

(Date to be decided later.)

JOHN J. McGIRL, witness produced on behalf of Prosecutors, being duly sworn, testified as follows:

Direct examination by Mr. McCarthy:

Q. Mr. McGirl, you hold the position of secretary with the Hoboken Railway Warehouse and Steamship Connecting Company, do you not? A. Hoboken Railway Warehouse and Steamship Connecting Company.

Q. What position do you hold? A. Vice President and Secretary.

Q. And you are also the registered agent, are you not, of this company? A. I believe so, yes.

Q. And you were subpoenaed to produce the records of the deeds and leases of the property of the company situated in Hoboken and in Jersey City, is that correct? A. That is correct.

Q. Did you so produce those records this morning? A. I have them here, yes, sir.

Q. May I see them, sir? A. There is the main lease between the Railroad Warehouse and Steamship Connecting Company and the Manufacturers Railway Company. That you have there is a copy. Here is the original.

Q. Now, referring to the original, Mr. McGirl, this is a lease between the Hoboken Railroad Warehouse and Steamship Connecting Company and the Hoboken Manufacturers Railroad Company, is that correct? A. That is correct.

Q. And this, with the map, is the original lease between the companies? A. That is the original lease between the companies.

Mr. McCarthy: I ask this be marked in evidence.

Mr. Markley: May I see it, please. Have you a copy of this?

Mr. McCarthy: There is a copy here.

Mr. Markley: This is a copy of this?

Mr. McCarthy: Yes, so Mr. McGirl says, it is an exact copy.

Witness: That is an exact copy of that lease, except the map isn't in the copy.

Mr. Hartpence: Subject to our objection which we have noted each time to the Commissioner.

Mr. McCarthy: Mr. McGirl has asked if we may mark the copy, so he can take the original back with him.

Mr. Markley: What is the purpose of the offer?

Mr. McCarthy: The purpose is to show the leaseholds of this company with the Hoboken Manufacturers Railway as affecting valuation. Is there any objection to marking the copy instead of the original.

Mr. Markley: No.

(Copy of lease received in evidence and marked Exhibit P-29, Jersey City and Hoboken, as of this date.)

Mr. Stallman: I would like to ask Mr. McCarthy what the general purpose of this examination is. I understand him to say that it has to do with valuation. Do you mind telling us a little bit more explicitly what the object of the examination is, Mr. McCarthy.

Mr. McCarthy: For the purpose of establishing value and to show the leaseholds — to show not only the leaseholds, but also the properties owned by this

company, as well as the other companies, which we will take in turn, and also to show how these affect the lands and structures erected thereon, and what the holdings were as of January 1940.

Mr. Stallman: Then do I understand what Counsel means is that the examination of this witness is to lay a foundation to show that the value of the property of the Hoboken Railroad and Warehouse Company is something different than the assessed valuation for the year 1941?

Mr. McCarthy: Not necessarily. We are going to establish the value, regardless of what the Taxation Commissioner or the Legislature may have said. We are out to establish the value and to show the use and importance of these properties.

Mr. Stallman: I would just like to have Counsel say definitely on the record whether or not this line of examination is an attack, or the basis of an attack, on the valuations as made by the State Commissioner.

Mr. McCarthy: Naturally, it would, if the valuations made by the State Tax Commissioner were not the true market value of the property.

Mr. Stallman: And that, I assume, is being made on behalf of the City of Hoboken, or in similar case, on behalf of the City of Jersey City, as an objection or a criticism of the existing valuations.

Mr. McCarthy: Yes, or any other reason or any other purpose that comes within the reasons set forth in the case.

Colloquy.

Mr. Stallman: Then, Your Honor, I think that we must at this time interpose an objection to this procedure on the ground that this Court, that is the Supreme Court in which your Honor is sitting as a Commissioner, is without any right—I suppose I would call it a jurisdictional right—to enter into an inquiry as to the values of these properties assessed by the State Tax Commissioner for the year 1941, if that is the year involved, because the review of any assessment made by the State Tax Commissioner is, by statute, a proceeding before the State Board of Tax Appeals, and the Railroad Tax Act—that is, both the Act as it appears in Title 54, Chapters 19 to 29 inclusive, of the Revised Statutes of 1937, as well as the Act here under attack, which is Chapter 291 of the Laws of 1941—provide that a review may be had by any taxing district in which there is so-called second class railroad property before the State Board of Tax Appeals upon appeal formally made before that Court; and then those Statutes which I have already mentioned provide that the Supreme Court may, upon application within ninety days of the final determination of the State Board of Tax Appeals, review such valuation by certiorari. The Supreme Court, in the exercise of its inherent power to review by certiorari, is subject nevertheless to the regulation of the practice on certiorari by the Legislature, and the Legislature has laid down a practice in cases of this kind; so that I submit that the Court, by Statute, has no right to di-

rectly review an assessment made by the State Tax Commissioner, and the Court cannot hear a municipality—that is, a taxpayer, a taxing district, I should say—on a complaint of an assessment until that complaint has been lodged with and heard by the State Board of Tax Appeals. Therefore, it seems to me that this attempted proof, this effort to take testimony now in the Supreme Court, primarily directed to an assessment by the State Tax Commissioner, has no statutory authority. I think it should also be made to appear on the record here, which I do not think will be disputed by my friends on the other side, that the City of Jersey City filed an appeal with the State Board of Tax Appeals, and I think such appeal was also filed by each of the other municipalities of Hudson County, bringing up the second class valuations in these various taxing districts, and that appeal is now pending before the State Board of Tax Appeals, and there has been no hearing thereon or no judgment rendered in those appeals; so that, again, I think that the Supreme Court as such has no power, under the Act regulating the practice of certiorari, to hear this evidence for the purpose for which Counsel has stated. Now, we could sit here for many months. The question of the valuation of all second class lands, and of all the structures on second class lands in the County of Hudson, is a very large question, and upon the review of those valuations before the State Board of Tax Appeals, the proceeding has

lasted for many months. It seems to me that the most practical thing to do here and now is to have the Supreme Court rule on this power. We are before Your Honor sitting as a Commissioner, or in any other way, on a direct review by certiorari of an assessment by the State Tax Commissioner. I believe that that covers the legal situation, as I see it, and it may be that some of my associates here may have something to add to what I have said.

Mr. Hartpence: Only this, Mr. Commissioner: in joining in Mr. Stallman's objection that the Supreme Court in several cases ruled that it will not review by certiorari until the appeals have been carried through the statutory tribunals, and also to call attention to and put on the record a part of the Allocatur of Mr. Justice Porter in allowing the writs in these cases, the fact that the allowance of this writ shall be without prejudice to the parties hereto to take and prosecute appeals from any railroad tax assessment to the State Board of Tax Appeals with respect to valuation of property and computation of taxes. So that, in addition to their having taken the appeals as stated by Mr. Stallman, their rights in that respect have been reserved by the Allocatur of Justice Porter.

Mr. Markley: I understand this objection is for all.

Mr. Hartpence: Yes; and I desire to join in the objection made by Mr. Stallman.

Mr. Sloan: I desire, on behalf of the State officers and the State, to join in this objection.

Colloquy.

Mr. Markley: I understood the objection would be for all. I should just like to add, it seems to me that, even assuming the Prosecutor would have the right to review the proceedings, they have already elected not to do so, and have elected to proceed in the proper statutory way through the proper tribunals; and I should also like to urge that, before we start on six months of testimony, we get a ruling from the Supreme Court as to whether they are going to hear this part of the case that Mr. Hershenstein and his associates are presenting.

Commissioner: I think the best I can do is to see that the objection is noted. I cannot make any ruling.

Mr. Markley: You have no power to make a ruling on the question, but I think you have the power, if Your Honor please, and the duty, at this point, to certify to the Supreme Court this objection and ask for a ruling.

Commissioner: That is the reason I say, let the objection be noted on the record and certified on the record.

Mr. Markley: I don't think we should be brought here for days and days.

Commissioner: If I have no power to make a definite ruling at this time, the only thing I can do is to certify it to the Supreme Court for its action, and then I think it must be your duty to await the pleasure of the Supreme Court in making a decision in the matter.

Mr. Markley: When do you say you will certify it?

Commissioner: That I cannot answer, Mr. Markley.

Mr. Hartpence: Under the practice, when an objection of this sort is made that goes to the very meat of the situation, it becomes the duty of the Commissioner to stop the hearing at this minute, so that this can be certified to the Court for its ruling as to the propriety of the line of evidence that is offered; and that is what I am now asking the Commissioner to do.

Mr. Hershenstein: Before there is any certification or passing upon the application or the request of Counsel, I want to first reply to the objection which Counsel for the railroad companies and the State have made to this line of testimony. Counsel for the railroad companies and the Respondents are now asking for the very thing which I tried to get Counsel to agree to before Mr. Justice Bodine at the time I made a motion before him to limit the issues in these certiorari cases only to the constitutional aspects of the Act involved. I moved before Mr. Justice Bodine to limit the issues so that only the constitutional aspects could be passed upon by the Court in these certiorari proceedings. Counsel for the railroad companies objected, and Mr. Justice Bodine announced that, in view of the objection by Counsel for the railroads, he would not make any order limiting the issues. He then suggested that the matter be considered by Counsel for the railroad companies, so that if there is a change of mind an order may

be made. I then presented to Counsel a copy of the proposed order which I had prepared limiting the issues only to the constitutional questions, and after waiting some time for their reply, I called Mr. Stallman on the telephone, who advised me that his clients would not agree to the making of such an order to the limitation of the issues involved in the case, and could, therefore, not consent to the Court making such an order. The problem involved, if the Court please, is a very important one to these municipalities. I was agreeable, perfectly agreeable, to save the time both of the Court and counsel in this case, by considering only in these proceedings the question of constitutionality and nothing more. I desired, therefore, Counsel's consent that there may be no testimony concerning valuations at that time in these proceedings. They refused to agree or consent to such a procedure. Now, here is the legal aspect of that situation and the serious import of that situation. The Attorney General took the position in open court, upon one of the motions before the Supreme Court, that the assessments for the year 1941, which are being reviewed by the writs now under consideration, are not an assessment by the State Tax Commissioner, but is an assessment which has been made directly by the Legislature; that, that being so, it was urged by the Attorney General that there would be no right of appeal to the State Board of Tax Appeals because the State Board

of Tax Appeals can only be concerned with and pass upon the validity of an assessment of the State Tax Commissioner, under the Statute; that the only means of reviewing an assessment made by the Legislature was by certiorari. I quite agree with Counsel that the courts have held that where the Statute provides for review by administrator of law or quasi-judicial board, you must follow that procedure, but the position which the State has taken, and has, therefore, relegated to the Prosecutors, too, is that this is an assessment by the Legislature, and the only means of review which the Prosecutors will have is review by the Supreme Court. Now, let us consider that for a moment. If that position is sound, and we must assume it is sound because Counsel on the other side has refused to limit the issues only to the constitutional questions, we must necessarily produce in these certiorari proceedings all of the matters which the Prosecutors complain of, and that necessarily involves the matters of valuations and the correctness of the assessment. If we do not produce that testimony in these certiorari proceedings, and should the Supreme Court find and rule that the Act is constitutional, we will then be in a position of not having produced to the Supreme Court, if Counsel on the other side's suggestion is now followed, the question of values. We will be bound absolutely by the assessment which the Legislature made for the railroad property for the year 1941. If we went to

the State Board of Tax Appeals, we would be met by the objection by Counsel for the railroads that the municipalities and the other Prosecutors have no right to appeal to the State Board of Tax Appeals because this is not an assessment made by the State Tax Commissioner. They would then say our only right is by certiorari. The law is quite clear that there can only be one writ of certiorari to review any assessment. If we proceed in this case, therefore, without putting in the testimony as to valuation, and proceed only upon the constitutional questions, and as I say, if the Supreme Court then decides that the Act is constitutional, we will have precluded ourselves from then taking another writ of certiorari to attack the valuation which the Legislature made for the year 1941. So that, if Your Honor please, we must take this position. We are not desirous of taking the time of the Court with the question of valuations. We wanted to avoid that from the very beginning, but counsel, who now objects, prevented us from doing that which they now say they want us to do. Now, Mr. Markley or Mr. Hartpence referred to the provision of the Allocatur which Mr. Justice Porter made when the writ was granted, namely that the allowance of this writ shall be without prejudice to any right of the parties hereto to take and prosecute appeals from any railroad tax assessments to the State Board of Tax Appeals with respect to valuation of property and computation of taxes. This

very provision was objected to by the Attorney General upon the ground that we would have no right to proceed with a review by the State Board of Tax Appeals, and that position was concurred in by Counsel for the railroad companies, and that provision merely means that if we have any rights to appeal that right is preserved. It doesn't grant us that right and make that grant of right absolute, so that the State Board of Tax Appeals must hear our appeal in the event the State courts decide that the act is constitutional. Again I say, sir, that the Counsel for the Respondents have put us in that position against our will. We did not want to make this a valuation case. We did not want to burden the Supreme Court with the depositions and testimony as to valuations and assessments. We came with an order, if Your Honor please, before Mr. Justice Bodine; we made our motion; we begged Counsel to enter into that stipulation and order, and they declined. Now, I desire to read into the record my letter to Mr. Maximilian Stallman, under date of January 31st, 1942, which was a confirmation of Mr. Stallman's statement to me that he could not enter into that order or stipulation because his clients object to it. I wrote, "January 31, 1942, Maximilian Stallman, Esq., 810 Broad Street, Newark, N. J., re: railroad litigation. My dear Mr. Stallman: This letter will confirm our conversation over the telephone wherein you advised me that your clients

will not consent to the entry of the order which I presented to you and other Counsel for the railroad companies when we were before Mr. Justice Bodine, which order would limit the issues to be raised in the certiorari to the assessments made under Chapter 291 of the Laws of 1941. I regret very much that this is the decision of your client, because, as I stated to Justice Bodine and to Counsel, my only purpose was to confine the issues at the present time to the question of constitutionality. However, I appreciate that you must be guided by the client's wishes in the matter and that you can do nothing more about it." I was not desirous of converting this into a valuation case and to be subjected to the expense of experts to come here to prove that the valuations made are not the proper values of the property assessed by the Legislature. I have been forced into this position and relegated into this position by Counsel who now object. In regard to certification, I know of no case, I know of no decision, I know of no law where a Supreme Court Commissioner can stop the proceedings and certify the questions to the Supreme Court. I submit that the proper and orderly procedure that we must follow is that we proceed. If Counsel deems they have any right in the matter, if they think the objections are sound, in view of what I have said to Your Honor, they have a right to make their motion to the Supreme Court. I shall accept notice on the telephone, a few hours notice, to

appear with them. They have their right to do so. Now, I have to get my record into shape. I am trying to do the very best I can to hurry the proceedings. I cannot do any better, in view of Counsel's failure to consent to a very innocuous situation.

Mr. Stallman: I probably should say for the record, Your Honor, that Mr. Herschenstein entirely misconceived my attitude in this matter. I think that the practice on certiorari is regulated by the Statute and by the rules of the Court, and that we have no right either to curtail or confer any jurisdiction on the Supreme Court. Now, as Counsel has pointed out, the Justice of the Supreme Court who allowed the Allocatur in this matter endorsed the reservation to continue these appeals before the statutory tribunal, the State Board of Tax Appeals. Whether Counsel for these taxing districts have any right to shortcut the State Board of Tax Appeals is a question of law which must be passed upon. Whether they have any rights at all in the matter is a question of law. Your Honor will see that if the Legislature should pass an act, for instance, levying some sort of franchise tax on banks or insurance companies or other corporations, at a specific rate, and then would provide that a part of those taxes should be turned over either to a school district or a municipality, that would not in itself confer any rights upon a municipality or a taxing district or any beneficiary of

the taxes, to question the assessment made by the State; so that, when Mr. Hershenstein now urges upon the Court the question of the right to review the assessments made by the State Tax Department, the right to so review, the right to question an assessment must be found somewhere in the Statute. It is not an inherent right of a municipality, which has no inherent rights, being a mere creature of the Legislature. Now, the only point that I had in mind in refusing to consent to an order with my expressed consent upon it was based upon my feeling that we have no power to confer jurisdiction upon the Supreme Court. Now, that does not mean, however, that the Supreme Court, or any of the Justices of that Court, cannot, in an Allocatur on a writ of certiorari, by virtue of the authority of said Justice or by virtue of the authority of that Court, make any terms or impose any condition that it sees fit, but that exercise of power on the part of a Justice or Justices is not something that can be called into exercise by consent of Counsel. It is a matter of practice. So that, I feel that Mr. Hershenstein entirely misconstrued my position in the matter. Either Justice Porter or Justice Bodine might impose any restriction in this writ that the Court might see fit, and Justice Porter went so far as to preserve their right of review. Now, I don't think the burden of establishing the practice in this case or the right of the Court to do something which is in effect

forbidden by the Statute, is something that can be settled by the consent of Counsel on this side of the table, and I think the Attorney General here will be willing to say to Your Honor and spread on this record that the position stated by Mr. Hershenstein is entirely contrary to his recollection of what occurred before Justice Bodine.

Mr. Hartpence: My recollection of what occurred before Justice Bodine in this respect is that Mr. Hershenstein desired Counsel to agree to a certain procedure, and that, as far as I was concerned, representing the companies that I represent, I was disinclined to agree. I don't think that we are called upon to agree to the procedure which the Prosecutors may desire to take. It is incumbent upon these Prosecutors to take the course which they, in their judgment, desire to take. Therefore, it was just simply a disinclination to agree to the proposition. That left them free to do whatever they wished. That is the extent to which the matter went. We are here to protect the rights and interests of our respective clients, and we are not called upon to agree or stipulate that the request of the other side.

Mr. Solan: Mr. Commissioner, I feel I am obliged to take exception to a remark of Mr. Hershenstein's in his argument, to this effect: that the Attorney General, in open court, made a statement that he was of the opinion that there was some legal difficulty with the taxing district having the right to review valuations for

the taxes for the year 1941 before the Board of Tax Appeals. There were only three or four occasions in which this matter has been before the Court, to my knowledge. Upon the application for the writ, the Attorney General appeared, and he is the only one who spoke for the State, and I have no recollection of him at that time saying anything about allocatur, because the matter was not discussed. It was merely an application for a writ. On another occasion, a week or so later, I was before Justice Porter in a mandamus proceeding, and while there, representatives of Jersey City presented to Justice Porter a Writ of Certiorari—a form of Writ of Certiorari Allocatur. It contained, without any notice to me, of course, some stipulation with respect to terms, and in the course of the conversation that occurred there, as I recall it, Justice Porter asked me if I had any objection to the form in which it was presented to him, and I think I did interpose an objection, as a result of which there was an interlineation made. The effect of that, I do not now recall. At any rate, I made no statement then on behalf of the Attorney General with respect to what the rights now were with respect to valuations in 1941 before the Board of Tax Appeals. The only other occasion was a motion of Mr. Hershenstein before Justice Bodine, which I recall was for the purpose of having the case heard during the present term, before the convening of the new term. At that hearing, I arrived late, and had nothing to say except in response to a question of Justice

Bodine as to whether I had any objection to Mr. Hershenstein's motion. I said I felt we wanted all the time we could get. I had no other objection, and I don't think the Attorney General made any other statement in open court.

Mr. Hershenstein: May it please Your Honor, if there is any misunderstanding as to what I have said or Counsel has said, I should like to clarify it now. I now submit to Counsel a direct question: Will the railroad companies and the respondents now agree and stipulate that they will consent to an order of the Court limiting the issues in this case only to the constitutional questions involved as to Chapter 291 of the Laws of 1941? If they do, that will obviate the taking of this testimony, if an order will be made by the Court preserving our right to review the question by further proceedings either in the Supreme Court or elsewhere should the Act be determined to be constitutional. Now, if there is any misunderstanding of the purport of my application to Justice Bodine, I can clear it now. Let Counsel now state on the record whether they will agree to the making of such an order, and let Counsel now state whether they are taking the position that this assessment made pursuant to Chapter 291 of the Laws of 1941 is an assessment made by the Legislature, or is it an assessment made by the State Tax Commissioner. If they will consent upon the record that it is an assessment made by the State Tax Commissioner, subject to review, I will ac-

cept their stipulation and forego the producing of any testimony as to valuation.

Mr. Markley: We would like a recess for about ten minutes to talk it over.

(Recess.)

Mr. Hershenstein: After conference by all Counsel in this case, it was agreed that this matter be continued now for a week in order to give Counsel for the Prosecutors an opportunity to prepare a rule which will protect the Prosecutors and the Respondents, with the view of obviating the necessity of putting in the testimony regarding the valuations of the railroad property assessed by the State Tax Commissioner. In pursuance of our agreement, I will prepare such a rule and submit same to Counsel who represent the Respondents in this case, and if they agree to the form of the Rule, it is further stipulated that I am to then serve notice upon all of the railroads, after consulting with the Court for a day, so that the matter might be presented to the Court and the Rule actually made by the Court. It is further stipulated that the subpoenas which have been served by the Prosecutors, to wit: subpoena to the Hoboken Warehouse Railroad and Steamship Connecting Company, Hoboken Manufacturers Railroad Company, Morris & Essex Railroad Company, Delaware Western & Lackawanna Railroad Company, and to Shelton Pitney and Walter P. Gardner, Trustees of the Central Railroad Company of New Jersey, be in force, and those who have been subpoenaed be subject to call for the purpose of giving their depositions on the adjourned

date which may be fixed should their attendance be required. In other words, we don't want to take the position we must serve new subpoenas. We want to make sure they will be subject to the call of the Court should it be necessary to produce those persons who have been subpoenaed. So that we may be clear, Mr. Commissioner, the matter is adjourned before you, sir, until next Wednesday morning, at Chancery Chambers at 10:30 o'clock in the morning, April 1st. If, however, before that time, any other arrangements are made by and between Counsel, we will notify you, because it may not be necessary to appear at that hour on Wednesday. In any event, we must proceed with our depositions. We have, of course, a number of witnesses who must be produced, and we must take the deposition of the State Tax Commissioner, but since he will not be available until after April 6th, I think it will do no harm to await the outcome of what we are now about to do and then fix a date.

Commissioner: The objections that have been made may be noted for the consideration of the Supreme Court, and the statements that have been made by Counsel may be noted, and we shall then adjourn this hearing, I take it, on agreement of Counsel, subject to the preservation of all rights of Counsel, until April 1st, at 10:30 o'clock in the morning, in Chancery Chambers, Jersey City.

(Witnesses shall appear unless notified to the contrary.)

Certificate.

I, GERTRUDE M. JONES, a stenographer duly appointed to report stenographically the evidence given before Philip W. Grece, Esq., a Supreme Court Commissioner of New Jersey, in the matter of City of Jersey City, et al., Prosecutors, vs. William D. Kelly, State Tax Commissioner, et al., Respondents, and in the matter of James T. Owens, Prosecutor, vs. William D. Kelly, State Tax Commissioner, et al., Respondents, DO HEREBY CERTIFY that the foregoing is a true and correct transcript of the evidence given on the 18th day of March, 1942 and the 25th day of March, 1942.

IN WITNESS WHEREOF, I have hereunto set my hand this 5th day of August, 1943.

(Sgd.) GERTRUDE M. JONES.

NEW JERSEY SUPREME COURT.

CITY OF JERSEY CITY, et al.,
Prosecutors,
vs.
WILLIAM D. KELLY, State Tax Commissioner, et al.,
Respondents.

JAMES T. OWENS,
Prosecutor,
vs.
WILLIAM D. KELLY, State Tax Commissioner, et al.,
Respondents.

On Certiorari.

Depositions taken before August G. Menge, Esq., Supreme Court Commissioner, at Room 526, Broad Street, Bank Building, Trenton, New Jersey, on Thursday, July 22nd, 1943, at 10:30 A.M. (E.W.T.).

APPEARANCES:

CHARLES A. ROONEY, Esq., for Prosecutors, City of Jersey City, Janice Realty Corporation, William A. Nolan, Elmer A. Davison, Albert Burleigh and Anna Pfitzner, by CHARLES HERSHENSTEIN, Esq.;

SAMUEL HIRSCHBERG, Esq., for Prosecutors, Town of West New York and Bert Newman;

CHARLES HERSHENSTEIN, Esq., of Counsel with all Prosecutors.

The Attorney General, for Respondents, William D. Kelly, State Tax Commissioner; Homer C. Zink, Comptroller of the State, and the State

Treasurer (now deceased), by JOHN SOLAN, Esq.;

EDWARD A. MARKLEY, for respondents, Erie Railroad Company and its trustees and the subsidiary companies, the Arlington Railroad Company, the Bergen County Railroad, the Bergen & Dundee Railroad Company, the Caldwell Railroad Company, the Docks Connecting Railway Company, the Long Dock Company, Newark & Hudson Railroad Company, New York & Greenwood Lake Railroad Company, New York Lake Erie & Western Docks & Improvement Company, Paterson Hudson River Railroad Company, Paterson Newark and New York Railroad Company, Paterson & Ramapo Railroad, Penhorn Creek Railroad Company, and the Northern Railroad Company and its trustees; also for the Lehigh Valley System with Mr. Stallman, namely Lehigh Valley Railroad Company, Bay Shore Connecting Railroad, Lehigh Valley Harbor Terminal Railroad Company, and Lehigh Valley Railroad Company of New Jersey;

Wall, Haight, Carey & Hartpence, Esqs., by JOHN A. HARTPENCE, Esq., for Respondents, Pennsylvania Railroad and the subsidiary companies forming the Pennsylvania Railroad System, the Pennsylvania Railroad Company, the Belvidere Delaware Railroad Company, Camden & Burlington County Railway Company, Delaware River Railroad & Bridge Company, The Freehold & Jamesburg Agricultural Railroad Company, Harrison & East Newark Connecting Railroad Company, the New York Bay Railroad Company, Pennsylvania & Atlantic Railroad Company, Pennsylvania Tunnel & Terminal

Railroad Company, Perth Amboy & Woodbridge Railroad Company, the Rocky Hill Railroad & Transportation Company, the United New Jersey Railroad & Canal Company, Pennsylvania-Reading Seashore Lines, West Jersey & Seashore Railroad Company, New York Ontario & Western Railway Company and its Trustee, Frederick E. Lyford, and the Pemberton & Hightstown Railroad Company;

WILLIAM F. HANLON, Esq., for the Dover & Rockaway Railroad Company, Mount Hope Mineral Railroad Company, the New York & Long Branch Railroad Company, Ogden Mine Railroad Company, and the Wharton & Northern Railroad Company;

KATZENBACH, GILDEA & RUDNER, Esqs., by LOUIS RUDNER, Esq., for the Baltimore & Ohio Railroad Company;

CARPENTER, GILMOUR & DWYER, Esqs., by CARL S. KUEBLER, Esq., for the Hudson & Manhattan Railway Company.

Mr. Hershenstein: Mr. Commissioner, I desire first to note upon the record the death of Philip W. Grece, Esq., the Supreme Court Commissioner who was designated to take the depositions in this case. We have agreed upon Your Honor, August G. Menge, to take the depositions which are necessary. In view of the fact that Commissioner Grece has not certified the testimony prior to his death, Counsel have now agreed that the depositions taken by the stenographer who

was designated by Judge Grece certify the record, and that the transcript of the testimony taken by her shall be considered the official transcript of the depositions thus far taken.

Mr. Markley: I have no objection—and I am speaking for myself and Mr. Stallman, who unfortunately cannot be here today because his wife is critically ill. However, with respect to the selection of Mr. Menge as Commissioner, to which I have no objection, that was not done by "we", but by Mr. Hershenstein, as I understand it; and to that, we have no objection.

Mr. Hartpence: No objection to the new Commissioner, and also the certifying of the testimony taken by the previous Commissioner, without prejudice.

Mr. Hershentsein: Mr. Commissioner, pursuant to the order of the Supreme Court, which was made by rule on June 19, 1942, subsequent to the issuance of the Writ of Certiorari in the second of this series of cases, namely, to review the assessments, which was made necessary by reason of the passage of the amended Railroad Tax Act, known as Chapter 169 of the Laws of 1942, it was therein provided that the depositions theretofore taken under the Writs of Certiorari issued under the certiorari which were granted to review the assessments, under Chapter 291 of the Laws of 1941, those depositions were to be deemed to be applicable to the proceedings under the later writs which were granted

to review the assessments under Chapter 169 of the Laws of 1942. These depositions today, therefore, are to be used in both proceedings—and by both proceedings, I mean under both classes of writs which were issued in 1941 and 1942. I have communicated with the State Tax Commissioner, requesting the furnishing of certain information which I deem necessary on behalf of the Prosecutors, and Mr. William D. Kelly, the State Tax Commissioner, has designated Henry L. Fryer, the Field Engineer of the Railroad Tax Division, to testify in these proceedings and to furnish the information which I deem necessary. Now I call Mr. Fryer.

Mr. Hartpence: Counsel for the railroad companies now state that any objections which were made to any testimony offered or to be offered by the Prosecutors, during the prior hearings, shall be applicable to the testimony taken at this time.

Mr. Markley: May it be stated that the objection previously preserved is to be for the benefit of all Counsel, without each one objecting.

HENRY L. FRYER, witness produced on behalf of Prosecutors, being duly sworn, testified as follows:

Direct examination by Mr. Hershenstein:

Q. Mr. Fryer, you are the Field Engineer of the Railroad Tax Division? A. That is correct.

Q. And you are in the department of the State Tax Commissioner of New Jersey? A. That is right.

Q. Mr. Fryer, have you ascertained from the records of your office the average tax rate since the adoption of the Average Tax Rate Statute of 1906? A. I have.

Q. And if computations have been made, the average tax rate also for the years 1942 and 1943? A. We do not make and calculation of average tax rate now since this law has been revised. We use the $3.00 rate for the railroad assessment.

Q. Which went into effect what year? A. 1941; and the tax rate, as computed for 1942 and 1943, would be done by a different department for a different purpose. After 1941, we did not compute the average rate; and I think, if I recall correctly, I think the Act was revised for the computation of that rate.

Q. Now, Mr. Fryer, have you made a computation for the year 1906 through the year when the average tax rate has been computed? A. We have.

Q. May I have your computation?

Mr. Markley: Do I understand correctly that is from 1906 to 1940?

Witness: 1941. Yes; the rate was calculated from 1941, but, of course, under this new Act, we went to the $3.00 rate; but the rate was actually calculated for 1941.

Q. May I have your exhibit, please? (Witness hands paper to Mr. Hershenstein.) The exhibit which you have just handed to me, Mr. Fryer, is a statement, is it not, of the average tax rate year by year, beginning with the year 1906, and through the year 1941? A. That is correct.

Mr. Hershenstein: I think, for the sake of brevity, I will offer this exhibit, as prepared by the State Tax Commissioner, as my exhibit.

Mr. Markley: May I state, so far as I am concerned, that I have no objection to the form of the proof on the ground that it is a copy and not the original record, because I assume Mr. Fryer has correctly made this copy or transcription. However, I do want to object to it on the ground it is immaterial and irrelevant for the reasons previously stated by Mr. Stallman, of which all Counsel had the benefit. That objection appeared on Pages 7 and 8 of the typewritten record of the case. I assume there will be no objection to our not re-stating the whole objection, isn't that so?

Mr. Hershenstein: That is agreeable to me. I offer this, Mr. Commissioner.

Commissioner: It may be received and marked.

(Statement received in evidence and marked Exhibit P-30.)

Q. Mr. Fryer, on Exhibit P-30, the average tax rate schedule runs through the year 1941, in which year the average tax rate was $4.818. A. Yes.

Q. There is no entry upon this exhibit of the average tax rate for the year 1942, because, as I

understand it, you have testified that in 1941, under the Statutes involved in these proceedings, the property tax rate for railroad property was revised to a flat rate of $3.00? A. That is correct.

Q. In the annual report, however, of your State Tax Department, on page 15 of the printed report, I find that the average rate of taxation for the year 1942 had been computed by your department, which rate for $100.00 is stated at $4.722.

Mr. Markley: I object to this——

Mr. Hershenstein: I have not finished the question yet.

Is the report from which I have just read the official report of your department? A. It is.

Q. And was that average tax rate for the year 1942 prepared in your department, pursuant to the provisions of Chapter 401 of the Laws of 1941?

Mr. Markley: I object to these questions. I started to object before and Mr. Hershenstein said he was not finished with the question.

Mr. Hartpence: I think the objection should go back to the previous question.

Mr. Markley: I started to object, but Mr. Hershenstein said he was not finished. I should like to object to the last two questions on the ground that the witness has not testified that these are official. On the contrary, he has stated here, in the presence of Counsel, that there was no official average tax rate arrived at by his department, because of the enactment of these Statutes which are now being reviewed, by these writs. Also I object to these ques-

tions on the ground that they are immaterial and irrelevant for the reasons previously stated.

Commissioner: The objection will be noted.

Q. Mr. Fryer, when you testify that there was no official average tax rate ascertained for the year 1942 because of the revised Railroad Tax Act, you do not mean, do you, that there was no official average tax rate ascertained by your department for other purposes than the Railroad Tax Act?

Mr. Markley: I object to that as calling for a legal conclusion; that is a matter of law, and not a question of fact for the witness.

A. That is correct.

Q. And, as a matter of fact, your department did strike an average tax rate for the year 1942 for other purposes than the Railroad Tax Acts now under review?

Mr. Markley: Same objections.

A. That is corect.

Q. And the average tax rate so struck by your department, as printed in the 11th Annual Report for the Fiscal Year June 30th, 1942, and the Calendar Year Ending December 31st, 1941, is the rate which I have mentioned a few minutes ago—namely $4.723 per hundred? A. That is correct.

Mr. Hershenstein: I offer in evidence the page to which I referred in my question to Mr. Fryer, which is page 15 of the 11th Annual Report.

Mr. Markley: We object to this for the same reason previously stated, and also for the reasons stated in the former hearings by Mr. Stallman.

Commissioner: It may be received and marked.

(Page 15 of the 11th Annual Report received in evidence and marked Exhibit P-31.)

Q. Mr. Fryer, have you examined the records of the office of the State Tax Commissioner for the purpose of ascertaining the local tax rates for the year 1930 through the year 1943, inclusive, in each of the following municipalities: Jersey City, Hoboken, Weehawken, West New York, Edgewater and Newark? A. Yes, I have.

Q. Have you prepared, Mr. Fryer, a schedule indicating the local tax rate for those years in the municipalities I have just mentioned? A. Yes.

Q. May I have your schedule? (Witness produces paper.)

Mr. Hershenstein: I offer the schedule prepared by the office of the State Tax Commissioner, entitled Local Tax Rates for the years 1930 to 1943 inclusive.

Mr. Markley: I want to object to this on the ground that these two exhibits are immaterial and irrelevant. The first exhibit is a sheet which gives the local tax rate for those six municipalities for 1930 to 1943 inclusive, and for the last of the three years, 1941 to 1943 inclusive, it shows the $3.00 rate fixed by the new tax Statutes under attack. The second sheet was received, I

understand, subsequently, and shows the local tax rate calculated as it would be prior to the new legislation. These, I further object to on the ground there is no fact basis for them proven; they are hearsay, and no foundation has been laid to show their accuracy or their official nature.

Mr. Rudner: May I make a further objection, as far as I am concerned? There is no showing made that they are the correct records with respect to the several municipalities mentioned. They might be official, so far as the tax office is concerned, but I don't know whether the Statute gives those records a stamp of anything official. They are not the best evidence. The best evidence would come from the municipalities' offices. With respect to the supplemental statement covering the several municipalities for the years 1941 to 1943, they are not official, not represented as being official—just merely calculations. Aside from being irrelevant and immaterial, they are deficient as legal proof.

Q. Mr. Fryer, all of these computations and figures indicated on the schedules which you have produced thus far and which you will produce, are all taken, are they not, from the official records of your office? A. That is correct.

Q. And your office, of course, is the depository of all the information which you have furnished us so far? A. Yes.

(Schedule—two pages—received in evidence and marked Exhibit P-32 A and P-32 B respectively.)

Mr. Solan: May I ask what the object of the offer of 1941, 1942 and 1943 is on the original sheet?

Q. Mr. Fryer, so that there be no misunderstanding concerning Exhibit P-32 B, which is the attached sheet to Exhibit P-32 A, let me see if I just cannot clear that up. On Exhibit P-32 A, you have indicated the names of the municipalities for the years 1930 through 1943, and the figures supposed to be the amount of the local tax rate for the years 1930 to 1943 inclusive. Mr. Fryer, under the years 1941, 1942 and 1943, however, this local tax rate, as appears on Exhibit P-32 A, was put down as $3.00. That was an error, was it not?

Mr. Markley: I object to it. The record speaks for itself. The witness cannot vary the record.

Mr. Hershenstein: Withdraw the question.

Q. On Exhibit P-32 B—were the amounts under the years 1941, 1942 and 1943 on Exhibit P-32 A, which amounts state the local tax rate to be $3.00, a mere error requiring the correction which is indicated on Exhibit P-32 B? A. Yes. On the original P-32 A, we assumed when this was first made up it was the local rate for the different years named, and for those three years we put the $3.00 down, because that was the rate used in the assessment of the railroad property, but it was not the local rate for those years. P-32 B shows the actual rate used by the municipality for those years.

Q. Mr. Fryer, do the records of your office—the official records of your office—indicate the total

assessed valuation for each of the years beginning with 1930 through 1940 of property assessed for railroad purposes in each of the several classes, one, two, three and four, under the Railroad Tax Act which was in force during those years? A. Yes.

Q. Have you prepared a schedule from the official records of your office in which there is set out the total assessed valuations for classes one, two, three and four of railroad property, from the years 1930 to 1940 inclusive? A. I have (Witness produces paper).

Mr. Hershenstein: I offer in evidence schedule handed to me by Mr. Fryer entitled Total Assessed Valuation for Class One, Two, Three and Four Railroad Property.

Mr. Markley: Same objections as previously made.

(Schedule received in evidence and marked Exhibit P-33.)

Q. Mr. Fryer, have you also examined the official records of your office for the purpose of ascertaining the assessed value of Class Two railroad property in the State of New Jersey? A. For certain municipalities, yes.

Q. For the municipalities of Jersey City, Hoboken, Weehawken, West New York, Edgewater and Newark? A. I have.

Q. And have you made the computation from the official records in your office indicating the assessed value of Class Two railroad property in those municipalities for the years through which those records are in your office? A. I have. I have personal charge of all those records.

Q. And for what years have you made the calculations? A. For the years 1932 to 1940 inclusive.

Q. Have you prepared a schedule which shows the assessed valuation of Class Two railroad property in the municipalities I have mentioned, to wit: Jersey City, Hoboken, Weehawken, West New York, Edgewater and Newark, from the official records in your office, for the years 1932 to 1940 inclusive? A. I have.

Q. May I have it, please? (Witness produces paper.)

Mr. Hershenstein: I offer it.

Mr. Markley: Same objections as previously made.

(Received in evidence and marked Exhibit P-34.)

Q. Have you prepared a schedule showing the assessed valuation of all real property, exclusive of Class Two railroad property, in the municipalities of Jersey City, Hoboken, Weehawken, West New York, Edgewater and Newark, for the years 1930 to 1940 inclusive? A. Yes. (Witness produces paper.)

Mr. Hershenstein: I offer the schedule.

Mr. Markley: Same objections as previously made.

(Received in evidence and marked Exhibit P-35.)

Q. Mr. Fryer, so that Exhibit P-35 indicates, does it not, the total value of all real property in the municipalities I have indicated, exclusive of second class railroad property? A. That is correct.

Q. Now, Mr. Fryer, your office also has the official records which would indicate the abstract of

ratables in all of the counties of the state for the year 1941? A. Yes.

Q. I understand that the abstracts of ratables of all of the counties in the state for the year 1941 is now in the printed volume of your annual reports, known as the 10th Annual Report of the State Tax Department of the State of New Jersey. A. Yes.

Q. And in this report which you have just handed to me, are abstracts of ratables for every county in the state listed? A. It is.

Q. And the abstract of ratables in this 10th Annual Report begins with page 49 and runs through page 127? A. That is correct.

Mr. Hershenstein: I offer the 10th Annual Report of the State Tax Department, with particular reference to pages 49 through 127 inclusive, which pages contain the abstract of ratables for each county of the State of New Jersey for the year 1941.

Mr. Markley: Same objections as heretofore made.

(Received in evidence and marked Exhibit P-36.)

Q. Mr. Fryer, your department also is charged with the duty, is it not, under the Statutes under review in these certioraris, with the ascertainment of the franchise tax which the railroad companies are obliged to pay, as well as with the computation of the amount of distribution of the franchise tax to the municipalities wherein second class railroad property is located? A. This department calculates the franchise tax under this Act, and now we are speaking of the year 1941 particularly. Fifty percent of the franchise tax is under state use, and

fifty percent goes to municipalities. Now, that is reported by us to the Comptroller. The apportionment, of course, is based on the percentage valuation of each of the second class properties, and each taxing district bears the total of that percentage, and fifty percent of the total tax is taken and allocated to the different municipalities.

Q. And, Mr. Fryer, have you computed and ascertained from the official records in your office, the total amount of the franchise tax for the year 1941, apportioned to each of the following municipalities: Jersey City, Hoboken, Weehawken and West New York? A. I have, in this way . . . As a matter of fact, in this department, we don't apportion the tax directly by municipalities; that is done at the Comptroller's office; but these figures are obtained from the Comptroller's office and attached to that sheet, which show the computation that we made to check those figures. These are the figures we get from the Comptroller's office. We take the computation, and it is shown on that sheet, to see how it is arrived at.

Q. So that on the sheet you are now producing and entitled "7. Total Amount of Franchise Tax for the Year 1941 Apportioned to Each of the Following Municipalities", you have indicated thereon not only the apportioned amount of franchise taxes allocated to each of those four municipalities, but you have also added the computation of the apportionment of each of those municipalities for the year 1941? A. That is correct.

Mr. Hershenstein: I offer this schedule in evidence.

Mr. Markley: This is under the new Act, under the new Statute?

Witness: Yes.

Mr. Markley: And by that, I mean under Chapter 291 of the Laws of 1941, as amended by Chapter 169 of the Laws of 1942.

Witness: That is correct.

Mr. Markley: You didn't compute it under the old Act?

Witness: No. The method was entirely different.

Q. And this schedule and the apportionment takes into consideration, does it not, Mr. Fryer, the modification provided by the amendatory Act, known as Chapter 169 of the Laws of 1942? A. It does.

Mr. Markley: I object to the offer as immaterial and irrelevant, and reiterate, without repeating, the other objections heretofore made.

(Schedule received in evidence and marked Exhibit P-37.)

Mr. Hershenstein: That is all.

Mr. Markley: I have no questions.

Mr. Hartpence: It is understood there is no cross examination by Counsel of any of the parties, is that it?

Mr. Markley: That is right.

Mr. Hershenstein: All right, gentlemen; I am finished.

Certificate.

I DO CERTIFY that the foregoing testimony was taken by Gertrude M. Jones, a stenographer selected by me and by me duly sworn faithfully and truly to take stenographically and reproduce in typewriting the testimony given in the matters of City of Jersey City, et al., Prosecutors, vs. William D. Kelly, State Tax Commissioner, et al., Respondents, and James T. Owens, Prosecutor, vs. William D. Kelly, State Tax Commissioner, et al., Respondents, on July 22nd, 1943, and that said testimony was taken in my immediate presence and hearing by the said stenographer sworn as above stated, and I believe it accurately states the said evidence.

(Sgd.) AUGUST G. MENGE
AUGUST G. MENGE,
Supreme Court Commissioner.

Exhibit P-1 (Jersey City)

3/18/42

N. J. DEED—FULL COVENANT WARRANTY

THIS INDENTURE, Made the Thirty-first day of October, in the year of our Lord One Thousand Nine Hundred and Thirty-six,

BETWEEN

WILLIAM BLUETT and MABEL BLUETT, his wife, of number 11A Crescent Avenue, of the City of Jersey City, in the County of Hudson and State of New Jersey, party of the first part:

AND

ELMER A. DAVISON and FLORENCE M. DAVISON, husband and wife, of number 128 Clifton Place, in the City of Jersey City aforesaid, party of the second part:

Rev. St. $2.00

Rev. St. $2.00

WITNESSETH, That the said party of the first part, for and in consideration of One Dollar and other valuable consideration, lawful money of the United States of America, to them in hand well and truly paid by the said party of the second part, at or before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, and the said party of the first part being therewith fully satisfied, contented and paid, have given, granted, bargained, sold, aliened, released, enfeoffed, conveyed and confirmed, and by these presents do give, grant, bargain, sell, alien, release, enfeoff, convey and confirm unto the said party of the second part, and to their heirs and assigns forever, ALL those certain lots, tracts or parcels of land and premises, hereinafter particularly described, situate, lying and being in the City

Exhibit P-1 (Jersey City).

of Jersey City, in the County of Hudson and State of New Jersey, to wit:

ALL that certain lot of land and premises, situate, lying and being in the City of Jersey City in the County of Hudson and State of New Jersey, particularly described as follows, viz:—

BEGINNING at a point in the northwesterly line of Crescent Avenue distant northeasterly along said line of Crescent Avenue one hundred and sixty-nine (169) feet and sixty-five (65) one-hundredths of a foot from the northeasterly line of Clinton Avenue and from said point running (1) northwesterly parallel with Clinton Avenue, to, through and beyond a party wall seventy-four (74) feet and thirty-three (33) one-hundredths of a foot more or less to a point ninety (90) feet southeasterly from the southeasterly side of Madison Avenue; thence running (2) northeasterly parallel with Madison Avenue and distant ninety (90) feet southeasterly therefrom sixteen (16) feet and fifty-five (55) one-hundredths of a foot; thence running (3) southeasterly and parallel or nearly so, with Clinton Avenue seventy-one (71) feet and forty-four (44) one-hundredths of a foot more or less to the northwesterly line of Crescent Avenue, and thence running (4) southwesterly along said last named line seventeen (17) feet and thirty-nine (39) one-hundredths of a foot to the point or place of beginning; said premises being designated as lot G in Block 1939 on the Official Assessment Map of Jersey City, N. J., 1894, made by L. D. Fowler, Surveyor, and being known by the street numbering as number 11 Crescent Avenue, in said Jersey City.

Exhibit P-1 (Jersey City).

ALSO ALL that certain parcel of land and premises, situate, lying and being in the City of Jersey City in the County of Hudson and State of New Jersey, particularly described as follows, viz:—

BEGINNING at a point in the northwesterly line of Crescent Avenue distant northeasterly along said line of Crescent Avenue one-hundred and eighty-seven (187) feet and four (4) one-hundredths of a foot from the northeasterly line of Clinton Avenue and from said point running (1) northwesterly and parallel or nearly so, with Clinton Avenue seventy-one (71) feet and forty-four (44) one-hundredths of a foot more or less to a point ninety (90) feet southeasterly from the southeasterly side of Madison Avenue; thence running (2) northeasterly parallel with Madison Avenue and distant ninety (90) feet southeasterly therefrom sixteen (16) feet and sixteen (16) one-hundredths of a foot more or less to the line of lands now or formerly of Michael T. Bluett; thence running (3) southeasterly along said last named line of lands and parallel or nearly so with Clinton Avenue sixty-eight (68) feet and eighty-one (81) one-hundredths of a foot more or less to the northwesterly line of Crescent Avenue and thence running (4) southwesterly along said last named line fifteen (15) feet and seventy-eight one-hundredths (78) of a foot more or less to the point or place of beginning; said premises being designated as lot H in Block 1939 on the Official Assessment Map of Jersey City, N. J., 1894, made by L. D. Fowler, Surveyor, and being known by the street numbering as number 11A (13) Crescent Avenue, in said Jersey City.

Exhibit P-1 (Jersey City).

BEING the same lands and premises conveyed to the said William Bluett by Charles D. Thompson, one of the Special Masters in Chancery, by deed bearing date June 9th, 1911 and recorded in the Hudson County Register's Office in Liber 1096 of deeds for said county on page 241.

ALSO all the right, title and interest of the party of the first part in and to any and all other land and premises in said block in which the premises particularly described above are situate.

TOGETHER with all and singular the tenements, hereditaments and appurtenances thereunto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof.

AND ALSO, all the estate, right, title, interest, property, possession, claim and demand whatsoever, as well in law as in equity, of the said party of the first part, of, in and to the above described premises, and every part and parcel thereof, with the appurtenances TO HAVE AND TO HOLD, all and singular, the above mentioned premises, together with the appurtenances, unto the said party of the second part, their heirs and assigns, to their own proper use, benefit and behoof forever.

AND the said grantors, for themselves, their heirs, executors and administrators, do covenant, grant and agree to and with the said party of the second part, their heirs and assigns, that the said William Bluett, at the time of the sealing and delivery of these presents, was lawfully seized in fee simple of a good, absolute, and indefeasible estate of inheritance in fee simple, of and in all and singular the above granted, bargained and de-

scribed premises, with the appurtenances and has good right, full power and lawful authority to grant, bargain, sell and convey the same in manner and form aforesaid.

And that the said party of the second part, their heirs and assigns, shall and may at all times hereafter, peaceably and quietly have, hold, use, occupy, possess and enjoy the above granted premises, and every part and parcel thereof, with the appurtenances, without any let, suit, trouble, molestation, eviction or disturbance of the said party of the first part, their heirs or assigns, or of any other person or persons lawfully claiming or to claim the same.

And that the same now are free, clear, discharged and unencumbered of and from all former and other grants, title, charges, estates, judgments, taxes, assessments and incumbrance of what nature and kind soever.

And also, that the said party of the first part, and their heirs, and all and every other person or persons whomsoever, lawfully or equitably deriving any estate, right, title or interest of, in or to the hereinbefore granted premises, by, from, or in trust for them, shall and will at any time or times hereafter, upon the reasonable request, and at the proper costs and charges in the law, of the said party of the second part, their heirs and assigns, make, do, and execute, or cause or procure to be made done or executed, all and every such further and other lawful and reasonable acts, conveyances and assurances in the law for the better and more effectually vesting and confirming the premises hereby intended to be granted in and to the said

party of the second part, their heirs and assigns forever, as by the said party of the second part, their heirs or assigns, or their counsel learned in the law, shall be reasonably advised or required.

AND the said grantors, their heirs, the above described and hereby granted and released premises, and every part and parcel thereof, with the appurtenances, unto the said party of the second part, their heirs and assigns, against the said party of the first part, and their heirs, and against all and every person or persons whomsoever, lawfully claiming or to claim the same, SHALL AND WILL WARRANT and by these presents FOREVER DEFEND.

IN WITNESS WHEREOF, the said party of the first part have hereunto set their hands and seals the day and year first above written.

(Sgd.) William Bluett (SEAL)
(Sgd.) Mabel Bluett (SEAL)

SIGNED, SEALED and DELIVERED
IN THE PRESENCE OF:

(Sgd.) George P. Moser

State of New Jersey }
County of Hudson } ss.

BE IT REMEMBERED, That on this thirty-first day of October, in the year of our Lord One Thousand Nine Hundred and Thirty-six, before me, the subscriber, a Master in Chancery of the State of New Jersey, personally appeared WILLIAM BLUETT and MABEL BLUETT, his wife, who, I am satisfied are the grantors mentioned in the within Instrument,

to whom I first made known the contents thereof, and thereupon they acknowledged that they signed, sealed and delivered the same as their voluntary act and deed, for the uses and purposes therein expressed.

(Sgd.) George P. Moser,
Master in Chancery of New Jersey.

(Back of Deed)

DEED

WILLIAM BLUETT, et ux
To
ELMER A. DAVISON, et ux

Dated, October 31st, 1936

RECEIVED in the Register's Office of the County of Hudson, N J on the 31 day of Oct. A. D. 1936, at 11:19 o'clock in the forenoon and recorded in Book 1890 of Deeds for said County, on page 307.

WILLIAM F. SULLIVAN,
Register.

Exhibit P-2 (Jersey City)
A, B, C and D

(See Opposite.)

This Bill Must Be Presented When Making Payment of FIRST AND SECOND QUARTERS

CITY OF JERSEY CITY, N. J.

DEPARTMENT OF REVENUE AND FINANCE

PRELIMINARY BILL

In Accordance with Chapter 266, P. L. 1933

The First Half Tax shown on this Bill is one-half the amount levied for 1940 and may be verified by referring to your final Tax Bill for 1940. An adjustment to conform to the Tax Rate for 1941 will be made on the Tax Bill for the Second Half of 1941.

REAL ESTATE
1941
FIRST HALF

	1ST HALF TAX
16424	8212

(4 papers)
40-2
(Jersey City)
3/18/42

Be sure Block-Lot Numbers and Property Address Are Correct for Your Property.

E.A.DAVISON,
582 NEWARK AVE.,
JERSEY CITY,N.J.

BOOK 11
BLK 1939 11A CRESCENT AVE.
LOT H 16.22X64

PRESERVE THIS BILL
A charge of 25c will be made for Duplicate Bill.

RECORD OF PAYMENT — SECOND QUARTER

RECEIPT NO.	DATE PAID	AMOUNT PAID
D 1 8 2 5	APR 2 8 '41	41.06 TAX

RECORD OF PAYMENT — FIRST QUARTER

RECEIPT NO.	DATE PAID	AMOUNT PAID
C 8939	JAN 27 '41	41.06 TAX

TO PAY BY MAIL { Forward Entire Bill—Receipt Will Be Returned
Make Checks Payable to
MICHAEL ROCHFORD, COLLECTOR

Interest at the Rate of 8% Per Annum Will Be Added After Each Installment Becomes Delinquent

This Bill Must Be Presented When Making Payment of
FIRST AND SECOND QUARTERS

CITY OF JERSEY CITY, N. J.

DEPARTMENT OF REVENUE AND FINANCE

PRELIMINARY BILL

In Accordance with Chapter 266, P. L. 1933

The First Half Tax shown on this Bill is one-half the amount levied for 1940 and may be verified by referring to your final Tax Bill for 1940. An adjustment to conform to the Tax Rate for 1941 will be made on the Tax Bill for the Second Half of 1941.

REAL ESTATE
1941
FIRST HALF

	1ST HALF TAX
16954	8477

Be sure Block-Lot Numbers and Property Address Are Correct for Your Property.

E.A.DAVISON,
582 NEWARK AVE.,
JERSEY CITY,N.J.

BOOK 11
BLK 1939 11 CRESCENT AVE.
LOT G 17.24X65

PRESERVE THIS BILL
A charge of 25c will be made for Duplicate Bill.

RECORD OF PAYMENT — SECOND QUARTER

RECEIPT NO.	DATE PAID	AMOUNT PAID
D 1884	APR 28 '41	42.38 TAX

RECORD OF PAYMENT — FIRST QUARTER

RECEIPT NO.	DATE PAID	AMOUNT PAID
C 8940	JAN 27 '41	42.39 TAX

TO PAY BY MAIL { Forward Entire Bill—Receipt Will Be Returned
Make Checks Payable to
MICHAEL ROCHFORD, COLLECTOR

Interest at the Rate of 8% Per Annum Will Be Added After Each Installment Becomes Delinquent

CITY OF JERSEY CITY, N. J.

DEPARTMENT OF REVENUE AND FINANCE

40-2 (c)

REAL ESTATE

FINAL BILL

1941

Second Half

IN ACCORDANCE WITH CHAPTER 266, P. L. 1933

LAND	IMPROVEMENT	1941 RATE	TOTAL VALUATION	TOTAL TAX	FIRST HALF TAX	SECOND HALF TAX
2000	1100	$52.18	3100	16176	8212	- 7964

Be sure Block-Lot Numbers and Property Address Are Correct for Your Property.

E.A.DAVISON,
582 NEWARK AVE.,
JERSEY CITY,N.J.

BOOK 11
BLK 1939 11A CRESCENT AVE.
LOT H 16.22X64

PRESERVE THIS BILL
A charge of 25c will be made for Duplicate Bill.

SEE REVERSE SIDE FOR ADDITIONAL INFORMATION

RECORD OF PAYMENT—FOURTH QUARTER

RECEIPT NO.	DATE PAID	AMOUNT PAID
B 6170	AUG 4 '41	39.82 TAX

RECORD OF PAYMENT—THIRD QUARTER

RECEIPT NO.	DATE PAID	AMOUNT PAID
6169	AUG 4 '41	39.82 TAX

TO PAY BY MAIL { Forward Entire Bill—Receipt Will Be Returned
Make Checks Payable to
MICHAEL ROCHFORD, COLLECTOR

Interest at the Rate of 8% Per Annum Will Be Added After Each Installment Becomes Delinquent

CITY OF JERSEY CITY, N. J.

DEPARTMENT OF REVENUE AND FINANCE

FINAL BILL

IN ACCORDANCE WITH CHAPTER 266, P. L. 1933

40-3 C.D.

REAL ESTATE

1941

Second Half

LAND	IMPROVEMENT	1941 RATE	TOTAL VALUATION	TOTAL TAX	FIRST HALF TAX	SECOND HALF TAX
21 00	11 00	$52.18	32 00	16 69 8	8 4 77	- 8 2 21

Be sure Block-Lot Numbers and Property Address Are Correct for Your Property.

E.A.DAVISON,
582 NEWARK AVE..
JERSEY CITY,N.J.

BOOK 11
BLK 1939 11 CRESCENT AVE.
LOT 6 17.24X65

PRESERVE THIS BILL
A charge of 25c will be made for Duplicate Bill.

SEE REVERSE SIDE FOR ADDITIONAL INFORMATION

RECORD OF PAYMENT — FOURTH QUARTER

RECEIPT NO.	DATE PAID	AMOUNT PAID
B 6172	AUG 4 '41	41.10 TAX

RECORD OF PAYMENT — THIRD QUARTER

RECEIPT NO.	DATE PAID	AMOUNT PAID
B 6171	AUG 4 '41	41.11 TAX

TO PAY BY MAIL { Forward Entire Bill—Receipt Will Be Returned
Make Checks Payable to
MICHAEL ROCHFORD, COLLECTOR

Interest at the Rate of 8% Per Annum Will Be Added After Each Installment Becomes Delinquent

Exhibit P-3

Deed, as described in transcript of testimony. See page 254.

Exhibit P-4 (Jersey City) A and B

(See Opposite.)

CITY OF JERSEY CITY, N. J.

DEPARTMENT OF REVENUE AND FINANCE

FINAL BILL

IN ACCORDANCE WITH CHAPTER 266, P. L. 1933

40-4(A) (Jersey City) 3/1/42

REAL ESTATE

1941

Second Half

LAND	IMPROVEMENT	1941 RATE	TOTAL VALUATION	TOTAL TAX	FIRST HALF TAX	SECOND HALF TAX
2200	5800	$52.18	8000	41744	21192	20552

Be sure Block-Lot Numbers and Property Address Are Correct for Your Property.

WILLIAM A.NOLAN,
118 NORTH ST.,
JERSEY CITY,N.J.

BOOK 5 WILLIAM A.NOLA ET U
BLK 811 118 NORTH ST.
LOT 19 25X100

PRESERVE THIS BILL
A charge of 25c will be made for Duplicate Bill.

SEE REVERSE SIDE FOR ADDITIONAL INFORMATION

RECORD OF PAYMENT — FOURTH QUARTER

RECEIPT NO.	DATE PAID	AMOUNT PAID
B 3067	NOV 5 '41	102.76 TAX

RECORD OF PAYMENT — THIRD QUARTER

RECEIPT NO.	DATE PAID	AMOUNT PAID
D 5827	AUG 4 '41	102.76 TAX

TO PAY BY MAIL { Forward Entire Bill—Receipt Will Be Returned
Make Checks Payable to
MICHAEL ROCHFORD, COLLECTOR

Interest at the Rate of 8% Per Annum Will Be Added After Each Installment Becomes Delinquent

This Bill Must Be Presented When Making Payment of
FIRST AND SECOND QUARTERS

CITY OF JERSEY CITY, N. J.

DEPARTMENT OF REVENUE AND FINANCE

PRELIMINARY BILL

In Accordance with Chapter 266, P. L. 1933

The First Half Tax shown on this Bill is one-half the amount levied for 1940 and may be verified by referring to your final Tax Bill for 1940. An adjustment to conform to the Tax Rate for 1941 will be made on the Tax Bill for the Second Half of 1941.

REAL ESTATE
1941
FIRST HALF

	1ST HALF TAX
42384	2192

WILLIAM A.NOLAN,
118 NORTH ST.,
JERSEY CITY,N.J.

Be sure Block-Lot Numbers and Property Address Are Correct for Your Property.

BOOK 5 WILLIAM A.NOLAN ET U
BLK 811 118 NORTH ST.
LOT 19 25X100

PRESERVE THIS BILL
A charge of 25c will be made for Duplicate Bill.

RECORD OF PAYMENT — SECOND QUARTER

RECEIPT NO.	DATE PAID	AMOUNT PAID
A 1882	MAY 2 '41	105.96 TAX

RECORD OF PAYMENT — FIRST QUARTER

RECEIPT NO.	DATE PAID	AMOUNT PAID
4245	FEB 3 '41	105.96 TAX

TO PAY BY MAIL { Forward Entire Bill—Receipt Will Be Returned
Make Checks Payable to
MICHAEL ROCHFORD, COLLECTOR

Interest at the Rate of 8% Per Annum Will Be Added After Each Installment Becomes Delinquent

Exhibit P-5 (Jersey City)
3/18/42

Deed—Bargain and Sale

THIS INDENTURE, made the twentieth day of December in the year one thousand nine hundred and thirty nine BETWEEN

THE PROVIDENT INSTITUTION FOR SAVINGS IN JERSEY CITY, a corporation of the State of New Jersey, party of the first part,

AND JANICE REALTY CORP., a corporation of the State of New Jersey, party of the second part,

WITNESSETH; That the said party of the first part, for and in consideration of the sum of One Dollar and other valuable consideration lawful money of the United States of America, to it in hand paid by the said party of the second part, at or before the ensealing and delivery of these presents, the receipt whereof is hereby acknowledged, and the said party of the second part, its successors and assigns, forever released and discharged from the same by these presents has granted, bargained, sold, aliened, remised, released, conveyed and confirmed, and by these presents DOES grant, bargin, sell, alien, remise, release convey and confirm unto the said party of the second part, and to its successors and assigns, forever,

ALL that lot, tract or parcel of land and premises situate, lying and being in the City of Jersey City, in the County of Hudson and State of New Jersey, described as follows:

BEGINNING at the corner formed by the intersection of the southwesterly line of Pavonia Ave-

Exhibit P-5 (Jersey City).

nue and the southeasterly line of Corbin Avenue thence running (1) southwesterly along said southeasterly line of Corbin Avenue fifty-five feet and ninety-two one hundredths of a foot (55.92 ft.); thence running (2) southeasterly to, through and beyond the centre of a party wall standing partly on the premises herein described and partly on the premises adjoining southwesterly thereto one hundred feet (100 ft.) to a point in the southeastearly line of lot four (4) in Block 1851 as shown on "Fowler's Official Assessment Map of Jersey City, 1894; thence running (3) northeasterly along said southeasterly line of said lot four (4) seventy two feet and fifty four one hundredths of a foot (72.54) to the southwesterly line of Pavonia Avenue; thence (4) northwesterly along said line of Pavonia Avenue one hundred and one feet and forty hundredths of a foot (101.40 ft.) to the point or place of beginning.

Being known as #108-110 Corbin Avenue, Jersey City, New Jersey.

Being the same premises conveyed to the said The Provident Institution for Savings in Jersey City, a corporation of New Jersey, by Marie Cassaro, unmarried, by deed dated September 29, 1939, and recorded in Book 1962 of Deeds for Hudson County, page 270.

This conveyance is made subject to such state of facts as an accurate survey may show, and to restrictions of record, easements and rights of way, if any.

This conveyance is also made subject to rights of the present occupants.

This conveyance is also made subject to a purchase money mortgage made by the said Janice

Realty Corp., a corporation of New Jersey to the said The Provident Institution for Savings in Jersey City, a corporation of New Jersey, for Sixty seven thousand five hundred dollars ($67,500.00), bearing even date herewith and about to be recorded.

TOGETHER with all and singular the tenements, hereditaments and appurtenances thereunto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof.

AND ALSO, all the estate, right, title, interest, property, possession, claim and demand whatsoever, as well in law as in equity, of the said party of the first part, of, in or to the above described premises, and every part and parcel thereof with the appurtenances.

TO HAVE AND TO HOLD all and singular the above mentioned and described premises, together with the appurtenances, unto the said party of the second part its successors and assigns, to its and their own proper use, benefit and behoof forever.

IN WITNESS WHEREOF, The said party of the first part has hereunto caused these presents to be signed by its President, attested to by its Secretary and the seal of the corporation hereto affixed, the day and year first above written.

THE PROVIDENT INSTITUTION FOR
SAVINGS IN JERSEY CITY
By: J. B. THROCKMORTON,
President

Attest:
C. G. NEWKIRK,
Secretary.

Exhibit P-5 (Jersey City).

Rev. St. $30.00
Rev. St. $30.00
Rev. St. $10.00

The within deed was recorded at the Court House in Jersey City on December 21, 1939 and the Provident Institution affixed revenue stamps in the amount of $75.00 on the Deed. The record at the Court House in Jersey City shows where $75.00 in stamps were attached, but a $5.00 stamp has been lost in transit.

State of New Jersey, }
County of Hudson, } ss.:

C. G. NEWKIRK, being duly sworn on his oath says: that he is the Secretary of the Provident Institution for Savings in Jersey City, a corporation of the State of New Jersey, the grantor in the within Indenture named. That he is acquainted with the corporate seal of said corporation and the same is affixed to said instrument. That James B. Throckmorton is the President of said corporation and was such officer at the time of the execution of said instrument. Deponent saw the said officer sign the said instrument and affix said corporate seal thereto, and deliver the same as the voluntary act and deed of said corporation, and by its authority, and deponent signed his name thereto at the same time as a subscribing witness.

(Sg.) C. G. NEWKIRK.

Subscribed and sworn to before me
this 20th day of December, 1939

(Sgd.) FLORENCE I. NICHOLS,
Notary Public of New Jersey.

Exhibit P-5 (Jersey City).

BACK OF DEED

DEED

THE PROVIDENT INSTITUTION FOR SAVINGS IN JERSEY CITY, a corporation of New Jersey

TO

JANICE REALTY CORP., a corporation of New Jersey.

Dated, December 20th, 1939

Received in the office of the Register of the county of Hudson, N. J., on the 21st day of Dec. A. D. 1939, at 10:36 o'clock A. M., and Recorded in Book 1950 of Deeds for Said County, page 563.

WILLIAM F. SULLIVAN,
Register.

Exhibit P-6A (Jersey City)

31/8/42

CITY OF JERSEY CITY, N. J. Real Estate
DEPARTMENT OF REVENUE AND FINANCE 1941
FINAL BILL Second Half
In accordance with Chapter 266, P. L. 1933.

Land	Improvement	1941 Rate $52.18	Total Valuation	Total Tax	First Half Tax	Second Half Tax
11500	78300		89800	468576	237880	230696

Be sure Block-Lot Numbers and Property Address Are Correct for Your Property

JANICE REALTY CORP.
1686 42nd St.,
Brooklyn, N. Y. c/o Lewis Arons

Book 10
Blk 1851 108-110 Corbin Ave.
Lot 4A 55.94x100 etc.

Preserve This bill. A charge of 25¢ will be made for duplicate bill.

Rfd Res #9713 $172.19

Record of payment—Fourth Quarter.

Receipt No.	Date Paid	Amount Paid
C 7402	Nov. 6 '41	1,153.48

Record of payment—Third Quarter

C 6376	Aug. 4 '41	1,153.48 Tax

To pay by mail: Forward Bill—receipt will be returned. Make checks payable to Michael Rochford, Collector.

Interest at the rate of 8% per annum will be added after each installment becomes delinquent.

Exhibit P-6B (Jersey City)

This Must Be Presented When Making Payment of
First and Second Quarters

Real Estate
1941
First Half

10

First Half
Tax
475760 2378 80

CITY OF JERSEY CITY, N. J.
DEPARTMENT OF REVENUE AND FINANCE

PRELIMINARY BILL

In Accordance with Chapter 266, P. L. 1933.
The first half tax shown on this Bill is one-half the amount levied for 1940 and may be verified by referring to your final Tax Bill for 1940. An adjustment to conform to the
20 Tax Rate for 1941 will be made on the Tax Bill for the Second Half of 1941.

Be sure Block-Lot Numbers and Property Address Are Correct for Your Property

JANICE REALTY CORP.,
1686 42nd St.,
Brooklyn, N. Y. c/o Louis Arons

Book 10
Blk 1851 108-110 Corbin Ave.
Lot 4 A 55.94x100 etc.

Preserve this bill.
A charge of 25¢ will be made for duplicate bill.

Record of payment—second quarter

30

Receipt No.	Date Paid	Amount Paid
D 2532	May 2 '41	1,189.40 Tax

Record of payment—first quarter

C 3875	Feb. 5 '41	1,189.40 Tax

To pay by mail—Forward entire Bill—receipt will be returned. Make checks payable to Michael Rochford, Collector.

Int. at the rate of 8% per annum will be added after each installment becomes delinquent.

40

Exhibit P-7 (Jersey City)

3/18/42

COPY OF RESOLUTIONS PASSED AT A SPECIAL MEETING OF THE BOARD OF DIRECTORS OF THE "JANICE REALTY CORP." HELD ON DECEMBER 4th, 1941.

At a Special Meeting of the Board of Directors of the Janice Realty Corp., held on No. 26 Journal Square, Jersey City, N. J., on December 4th, 1941, at 10 A. M., in the forenoon, at which all of the Directors were present, it was

"RESOLVED, that the Janice Realty Corp. join as a party prosecutor in the Matter of the Application of the City of Jersey City, et al, for a Writ of Certiorari to Review the Assessments made by the State Tax Commissioner for the year 1941, under Title 291 of the Laws of 1941, now pending in the New Jersey Supreme Court;

FURTHER RESOLVED, that Louis Arons, President of this Corporation, be and he is hereby authorized for and on behalf of the Janice Realty Corp. to execute any and all instruments which may be deemed necessary or proper to further effect the aforesaid purpose."

Upon motion, the meeting was adjourned.

DORA ARONS
DORA ARONS — Secretary.

I hereby certify that the foregoing is a true copy of Resolutions passed at a Special Meeting of the Board of Directors of the Janice Realty Corp., held on December 4th, 1941.

DORA ARONS
DORA ARONS — Secretary.

Exhibit P-8

Deed as described in transcript of testimony. See page 257.

Exhibit P-9

Deed as described in transcript of testimony. See page 258.

Exhibit P-10

Deed as described in transcript of testimony. See page 258.

Exhibit P-11

Deed as described in transcript of testimony. See page 259.

Exhibit P-12

Tax Bill as described in transcript of testimony. See page 259.

Exhibit P-13

Tax Bill as described in transcript of testimony. See page 259.

Exhibit P-14

Tax Bill as described in transcript of testimony. See page 260.

Exhibit P-15

Tax Bill as described in transcript of testimony.
See page 260.

Exhibit P-16

Tax Bill as described in transcript of testimony.
See page 260.

Exhibit P-17

Not produced.

Exhibit P-18 (West New York)

3/18/42

N. J. DEED — BARGAIN & SALE

THIS INDENTURE, Made the Fifth day of October, in the year of Our Lord One Thousand Nine Hundred and thirty-nine,

Rev. St. $50.00

Rev. St. $5.00

BETWEEN

Rev. St. $2.00

THE HOBOKEN BANK FOR SAVINGS IN THE CITY OF HOBOKEN, of the City of Hoboken, in the County of Hudson and State of New Jersey, a corporation of the State of New Jersey, party of the first part,

AND

BERT NEWMAN, single, of 704 Park Avenue, in the Town of West New York, in the County of Hudson and State of New Jersey, party of the second part;

WITNESSETH, that the said party of the first part, for and in consideration of One Dollar and other valuable consideration, lawful money of the United States of America, to it in hand well and truly paid by the said party of the second part, at or before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, and the said party of the first part being therewith fully satisfied, contented and paid, has given, granted, bargained, sold, aliened, released, enfeoffed, conveyed and confirmed, and by these presents does give, grant, bargain, sell, alien, release, enfeoff, convey and confirm unto the said party of the second part, and to his heirs and assigns, forever, ALL that tract or parcel of land and premises, hereinafter particularly described, situate, lying and being in the Town of West New York in the County of Hudson and State of New Jersey, more particularly described as follows:

Exhibit P18 (West New York).

BEGINNING at the corner formed by the intersection of the northerly side of Sixteenth Street with the easterly side of Monroe Place, and running thence easterly along said side of Sixteenth Street thirty-seven feet and eighty-nine onehundredths of a foot (37.89) to a point opposite the center line of a party wall standing partly on the premises herein described and partly on the premises adjoining the same on the east and thence northerly to, thru and beyond the centre of said party wall nearly parallel with the said easterly side of Monroe Place, ninety (90) feet to a point distant thirty-seven feet and eighty-five onehundredths of a foot (37.85) from the easterly side of Monroe Place; thence westerly parallel with the first course thirty-seven feet and eighty-five onehundredths of a foot (37.85) to a point in the easterly side of Monroe Place, and thence southerly along the said easterly side of Monroe Place ninety (90), feet to the point or place of Beginning.

Said premises are known as 634 Monroe Place, West New York, N. J.

Being the same premises conveyed to the party of the first part by deed dated March 17, 1936, made by Dora Armellino and John D. Armellino, her husband, recorded in book 1869 of deeds for Hudson County, at page 230.

Said premises are conveyed subject to restrictions of record, if any, easements of record, reservations and covenants of record, such mislocations and encroachments as an accurate survey may disclose, existing tenancies and leases.

TOGETHER with all and singular the houses, buildings, trees, ways, waters, profits, privileges, and advantages, with the appurtenances to the same belonging or in anywise appertaining:

New Jersey State Library

Exhibit P18 (West New York).

Also, all the estate, right, title, interest, property, claim and demand whatsoever, of the said party of the first part, of, in and to the same, and of, in and to every part and parcel thereof,

To have and to hold, all and singular the above described land and premises, with the appurtenances, unto the said party of the second part, his heirs and assigns to the only proper use, benefit and behoof of the said party of the second part, his heirs and assigns forever:

In Witness Whereof, the said party of the first part hath caused its corporate Seal to be hereto affixed and attested by its Secretary and these presents to be signed by its President, the day and year first above written.

The Hoboken Bank for Savings in the City of Hoboken
by Frederic J. Meystre, President.

Attest:
P. G. Verdicchio, Secretary

(seal)

State of New Jersey, }
County of Hudson, } ss.:

Be it remembered, That on this Fifth day of October, Nineteen Hundred and thirty-nine, before me, the subscriber, a Master in Chancery of New Jersey, personally appeared Peter G. Verdicchio, who being by me duly sworn on his oath, says that he is the Secretary of the Hoboken Bank for Savings in the City of Hoboken, the Grantor named in the foregoing Instrument; that he well knows the corporate seal of said corpora-

Exhibit P18 (West New York).

tion; that the seal affixed and the said Instrument signed and delivered by Frederic J. Meystre, who was at the date thereof the president of said corporation, in the presence of this deponent, and said president, at the same time acknowledged that he signed, sealed and delivered the same as his voluntary act and deed, and as the voluntary act and deed of said corporation, by virtue of authority from its executive committee, and that deponent, at the same time, subscribed his name to said Instrument as an attesting witness to the execution thereof.

(Sgd.) Peter G. Verdicchio

Sworn and subscribed
before me at Hoboken
the date aforesaid

(Sgd.) John D. Pierson,
Master in Chancery of New Jersey.

BACK OF DEED

DEED

The Hoboken Bank for Savings
in the City of Hoboken
To
BERT NEWMAN

Dated, October 5, 1939

Received in the Register's Office of the County Hudson, N. J. on the 5th day of Oct. A.D. 1939, at 3:49 o'clock in the afternoon, and Recorded in Book 1962 of Deeds for said County, on page 309.

William F. Sullivan, Register.

Exhibit P-19 (West New York)
A and B

(See Opposite.)



Ex P-19 (West New York) 3/18/42 (A)

TOWN OF WEST NEW YORK, N. J. **1941**

Real Estate Tax

SECOND HALF YEAR

FINAL BILL m

PAYMENT OF TAXES MUST BE MADE IN BANKABLE MONEY

To: WILLIAM J. BOQUIST, Collector

2918. B

OFFICE OF THE TOWN COLLECTOR
MUNICIPAL BUILDING
DAILY 9 A. M. – 4 P. M.
SATURDAY TO 12 NOON

IF PAID BY MAIL YOUR RECEIPTED BILL WILL BE RETURNED TO YOU.

THIS BILL MUST BE PRESENTED WITH YOUR PAYMENT.
FORWARD ENTIRE BILL.

Rate $57.41 Per $1,000 Valuation

FOLIO 73 314 - 60TH ST 1264
BLK 50 6000-06 MONROE PL
LOTS 42PT41 COR

BERT NEWMAN
% HOB BK FOR SAVINGS MTGE DEPT
HOBOKEN BANK FOR SAVINGS
HOB WASHINGTON ST HOBOKEN N J

APPROVED FOR PAYMENT

3RD QTR.	481	16
INT.		
DISC.		
TOTAL	481	16
4TH QTR.	481	15
INT.		
DISC.		
TOTAL	481	15

Taxes remain unpaid for the following years. MAY 20, 1941	VALUE LAND (In Dollars)	Value Building (In Dollars)	EXEMPT	VALUATION (In Dollars)	TOTAL TAX 1941	Preliminary Bill First Half 1941	Final Bill Second Half 1941
	3600	30000		33600	192898	966.67	96231

JUL 17 1941

Mo. 160.75

Paid 18729 TRUST CO. OF N.J.

RECEIPT NO.	DATE PAID	AMOUNT PAID	RECEIPT NO.	DATE PAID	AMOUNT PAID
WNY 7666	OCT 23 41	481.15 A	PAID WNY 3219	JUL 18 41	481.16 A

Check No. Bank

FOURTH QUARTER PAYMENT TO BE RECEIPTED ABOVE

THIRD QUARTER OR SECOND HALF PAYMENT TO BE RECEIPTED ABOVE

THE ABOVE RECEIPTS ARE VALID ONLY WHEN ENTERED BY MACHINE
(SEE REVERSE SIDE)

Taxes paid by check

TOWN OF WEST NEW YORK, N. J.

Real Estate Tax 1941 First Half Year

2918

PAYMENT OF TAXES MUST BE MADE IN BANKABLE MONEY

To: WILLIAM J. BOQUIST, Collector

2918

THIS BILL IS BASED ON ONE-HALF OF THE TAXES ON YOUR PROPERTY FOR THE YEAR 1940. YOU WILL LATER RECEIVE A BILL FOR THE SECOND HALF SHOWING THE 1941 VALUATION, TAX RATE, AND THE DIFFERENCE BETWEEN THE ACTUAL AMOUNT OF YOUR 1941 TAXES AND THE AMOUNT OF THIS PRELIMINARY BILL.

OFFICE OF THE TOWN COLLECTOR

MUNICIPAL BUILDING
DAILY 9 A.M. - 4 P.M.
SATURDAY TO 12 NOON

IF PAID BY MAIL YOUR RECEIPTED BILL WILL BE RETURNED TO YOU.
THIS BILL MUST BE PRESENTED WITH YOUR PAYMENT.
FORWARD ENTIRE BILL.

F.J.M.

FOLIO 73 314 - 60TH ST 1264
BLK 50 6000-06 MONROE PL
LOTS 42PT41 COR

BERT NEWMAN
% HOB BK FOR SAVINGS MTGE DEPT
101 WASHINGTON ST HOBOKEN N J

HOBOKEN BANK FOR SAVINGS

1ST QTR.	483	34
INT.		
DISC.		
TOTAL	483	34
2ND QTR.	483	33
INT.		
DISC.		
TOTAL	483	33

Taxes Remain Unpaid for the Following Years	First Half Tax 1941
	966.67

PAID WNY 7836 APR 18 41 483.33 A

RECEIPT NO. DATE PAID AMOUNT PAID

SECOND QUARTER PAYMENT TO BE RECEIPTED ABOVE

PAID WNY 2629 JAN 18 41 483.34 A

RECEIPT NO. DATE PAID AMOUNT PAID

FIRST QUARTER OR FIRST HALF PAYMENT TO BE RECEIPTED ABOVE

THE ABOVE RECEIPTS ARE VALID ONLY WHEN ENTERED BY MACHINE

(SEE REVERSE SIDE)

Exhibit P-20 (Jersey City)

3/18/42

By Mayor Hague:

Be it resolved, that the Corporation Counsel be and he is hereby authorized to take any and all proceedings he deems necessary in order to test the validity and constitutionality of Chapter 291 of the Laws of 1941, with respect to the assessments of railroad property by the State Tax Commissioner of New Jersey.

This is to certify that the foregoing is a true copy of a resolution passed by the Board of Commissioners of Jersey City, N. J., at its meeting held Dec. 2, 1941.

Benj. Rosengard,
Acting City Clerk.

Exhibit P-21 (Jersey City)

(See Opposite.)



FRANK J. FARLEY,
County Treasurer
COURT HOUSE
JERSEY CITY, N. J.

ABSTRACT OF RATABLES AND EXEMPTIONS IN THE COUNTY OF HUDSON FOR THE YEAR 1941

HUDSON COUNTY BOARD OF TAXATION
COURT HOUSE
JERSEY CITY, N. J.

TAXING DISTRICT	1 Total Number of Acres and Lots Assessed: Acres	1: Lots	2 Value of Land Assessed	3 Value of Improvements Thereon Assessed	4 Total Value of Land and Improvements Assessed Exclusive of Second Class R. R. Property	5 Value of Second Class R. R. Property	6 Value of Personal Property Assessed	7 DEDUCTIONS (a) Household Goods and Other Exemptions Under Sec. 54:4-3.16 of Revised Statutes	7 (b) Deduction for Debt (Other Than Mortgage Indebtedness) Under Sec. 54:4-3.15 of Revised Statutes	7 (c) Property Exempted Under Sec. 54:4-3.12 of Revised Statutes	8 Net Valuation Taxable	9 Amounts Deducted Under Sec. 54:4-49 and Sec. 54:4-53 of Revised Statutes (Resulting from Prior Appeals and Corrected Errors)	10 Amounts Added Under Sec. 54:4-53 of Revised Statutes (Resulting from Corrected Errors)	11 Amounts Added for Equalization Under Sec. 54:3-17 of Revised Statutes	12 Amounts Deducted for Equalization Under Sec. 54:3-17 of Revised Statutes	13 Do not write in this column.	14 Net Valuation On Which County, State and State School Taxes are Apportioned	14A Aggregate Net Valuation Taxable	15 Number of Polls Assessed	16 Dog Taxes	17 PROPERTY EXEMPT FROM TAXATION a Public School Property	b Other School Property	c Public Property	d Church and Charitable Property	e Cemeteries and Graveyards	f Do not write in this column (By reason of Sec. 54:4-3.21 of Revised Statutes data on motor vehicles no longer needed).	g Other Exemptions Not Included In Foregoing Classification: Veteran's Exemptions	g Personal	h Total Amount of Exempt Property	18 Do Not Write in This Column (By Reason of Sec. 27:11-9 of Revised Statutes No Road Tax Has Been Imposed)	APPORTIONMENT OF TAXES 19 State School Tax	20 Soldiers' Bonus Bond Tax	21 County Taxes Apportioned (Exclusive of Bank Stock Taxes)	22 Local Taxes to be Raised (Exclusive of Bank Stock Taxes): a District School Tax	22 b Other Local Taxes	23 Total Amount of Miscellaneous Revenues (including Surplus Revenue Appropriated) for the Support of the Budget	24 District Court Taxes	25 Library Tax	26 Bank Stock Taxes Due Taxing District	27 General Tax Rate to Apply per $100 Valuation (Tax Rate for Local Taxing Purposes)
1. Jersey City		166,575	$194,872,546	$243,358,551	$438,231,097	$105,029,895	$ 59,544,426				$ 602,805,418	$ 15,963,401					$ 586,842,017	$ 676,200,184.90			$25,064,327	$ 6,149,800	$ 67,171,675	$20,649,050	$2,238,800		$ 814,150		$122,087,802		$1,633,585.91		$ 5,985,158.99	$ 6,523,087.18	$17,309,502.34	$2,914,176.30			$13,349.59	$5.218
2. Bayonne		30,000	53,895,995	54,367,955	108,263,950	1,280,621	20,389,402				129,933,973	3,305,743					126,628,230	139,810,287.99			6,507,600	523,800	12,676,217	2,623,100	14,000		253,500		22,598,217		352,493.66		1,291,472.09	2,133,195.50	3,072,698.58	590,620.00			1,273.86	5.272
3. Hoboken	About 825		30,164,300	34,869,300	65,033,600	9,028,524	6,159,300				80,221,424	1,624,199					78,597,225	88,561,022.43			4,616,100	2,433,400	20,256,000	3,165,400			38,700		30,509,600		218,730.26		801,607.37	1,067,875.73	1,553,366.81	1,179,371.88			3,648.67	4.540
4. North Bergen		8,500	19,739,975	25,006,825	44,746,800	773,944	2,739,300				48,260,044	417,987					47,842,057	52,943,593.95			2,866,000	154,000	6,657,150	930,250	801,500		191,500		11,600,400		133,177.43		487,937.65	539,820.50	1,722,349.03	355,310.85	*$ 3,866.65		682.00	5.983
5. Secaucus	3,400		3,363,855	2,655,800	6,019,655	869,846	449,500				7,339,001	36,906					7,302,095	9,192,765.67			414,000	25,000	5,984,825	34,050	1,600		44,500		6,503,975		20,326.76		18,613.39	140,890.17	158,090.78	107,600.00	*588.02		450.50	4.613
6. Union City																																									5.038
West Hoboken		6,000	13,012,250	22,785,400	35,797,650	20,662	1,356,590				37,174,902	595,500					36,579,402																							5.273
Town of Union		3,348	10,580,600	14,694,300	25,274,900		2,041,700				27,316,600	685,300					26,631,300																							
Union City Totals		9,348	23,592,850	37,479,700	61,072,550	20,662	3,398,290				64,491,502	1,280,800					63,210,702	67,022,873.00			3,446,000	952,500	2,450,000	2,662,900			101,000		9,612,400		175,958.96		644,681.35	962,545.00	1,524,409.35	486,364.28	*5,167.13			5.741
7. West New York		5,000	11,653,600	22,720,800	34,374,400	6,544,203	1,377,485				42,296,088	909,395					41,386,693	43,624,311.84			1,992,400	283,500	1,591,250	799,300			100,900		4,767,350		115,207.70		422,099.87	807,078.96	1,080,199.58	573,275.97	*3,388.81		317.58	
8. Weehawken		2,000	8,262,120	10,591,950	18,854,070	12,580,058	513,536				31,947,664	243,252					31,704,412	37,377,780.00			1,917,200	13,500	1,150,190	278,300			33,500		3,392,690		88,255.24		323,350.99	349,142.50	706,593.59	119,050.00	*2,559.68			4.601
9. Guttenberg		1,412	2,003,253	3,159,350	5,162,603		200,675				5,363,278	54,700					5,308,578	5,767,230.20			374,600		98,497	97,500			17,500		588,097		14,777.43		54,141.80	89,231.50	96,295.47	28,675.50	*429.71		1,175.56	4.753
10. Kearny		10,300	14,249,500	51,277,900	65,527,400	2,624,124	9,496,450				77,647,974	125,950					77,522,024	99,412,027.29			2,611,700	197,250	1,267,300	1,345,700	100,800		193,500		5,716,250		215,797.24		790,641.47	851,301.77	1,080,263.64	921,000.00	†9,703.15		447.59	3.797
11. Harrison		7,400	6,012,200	13,399,900	19,412,100	931,606	7,020,800				27,364,506	118,980					27,245,526	35,970,412.16			398,300	213,400	1,898,800	471,100			31,000		3,012,600		75,843.08		277,875.13	246,874.48	405,781.65	851,113.91	†3,419.56		984.45	3.691
12. East Newark		454	663,850	1,723,450	2,387,300		631,925				3,019,225	14,400					3,004,825	3,236,753.81			42,800		6,300	67,000			3,000		119,100		8,364.50		30,645.99	28,300.00	47,167.88	18,782.32	†377.29		726.19	3.805
Totals			$368,474,044	$500,611,481	$869,085,525	$139,683,483	$111,921,089				$1,120,690,097	$24,095,713					$1,096,594,384	$1,259,119,243.24			$50,251,027	$10,946,150	$121,208,204	$33,123,650	$3,156,700		$1,822,750		$220,508,481		$3,052,578.17		$11,128,231.09	$13,739,343.29	$28,756,718.70	$8,144,341.01	$29,500.00		$23,055.99	

NO DEDUCTIONS FROM LISTED RATABLES IN HUDSON COUNTY

A True Copy:
FRANK J. FARLEY,
County Treasurer.

* First Judicial Court Tax.....$16,000.00

† Second Judicial Court Tax.....$13,500.00

Total County Taxes Appropriated.....$11,151,287.08
Bank Stock Taxes Due County.....$ 23,055.99
Net County Taxes Apportioned.....$11,128,231.09
Total Amount of Miscellaneous Revenues (including surplus Revenues Appropriated) for the support of the County Budget.....$ 1,088,050.00

Average County Tax Rate per $100 of Valuation..$1.022
Average State School Tax Rate per $100 of Valuation.....$0.272
State Rate on Soldiers' Bonus Bond Tax.....$

Attest:
JOSEPH P. McLEAN,
Secretary.

PATRICK A. MONAHAN,
HARRY E. BISCHOFF,
GEORGE SCHEETZ,
ALEXANDER D. SULLIVAN,
Hudson County Board of Taxation.

Exhibit P-22

Deed as described in transcript of testimony. See Page 282.

Exhibit P-23

Tax Bill as described in transcript of testimony. See Page 282.

Exhibit P-24 (Weehawken)

3/18/42

BE IT RESOLVED by the Township Committee of the Township of Weehawken, in the County of Hudson, that JOHN N. PLATOFF, TOWNSHIP ATTORNEY, be and he hereby is authorized and directed to institute appropriate legal proceedings for and on behalf of this municipality, for the review by certiorari, of the assessments made by the State Tax Commissioner of the State of New Jersey against Railroad companies, for the year 1941, under and pursuant to the terms of Chapter 291 of the Laws of the State of New Jersey, 1941.

I HEREBY CERTIFY that the foregoing is a true copy of a resolution duly adopted by the Township Committee of the Township of Weehawken in the County of Hudson, New Jersey, at a regular meeting of said Township Committee held on the 10th day of December, 1941.

LEO O. CARROLL,
Township Clerk.

(SEAL)

Dated: March 12, 1942.

Exhibit P-25 (Weehawken)

(See Opposite.)



941 **COLLECTOR'S FINAL TAX NOTICE** 1941

For the Annual Tax Assessed for State, County and Local Purposes

E HOURS, 10 A. M. to 3 P. M. SATURDAYS, 10 A. M. to 12 M.

To TOWNSHIP OF WEEHAWKEN, Dr.

Municipal Building—400 Park Avenue
HUDSON COUNTY, NEW JERSEY

DRAW CHECKS TO ORDER OF JOHN J. EAGAN, COLLECTOR OF TAXES

accepting checks in payment of Taxes, the Township assumes no responsibility beyond the e of due care. All checks are taken subject to full payment in cash or solvent credits. In check not paid, this receipt void.

No. 2503 Block 59 Lot 192

(Tax Rate 1941 Per $1,000)

County Tax	10.12
State School Tax	2.76
District Court Tax	.08
Local Tax	
Township	22.12
School	10.93
	46.01

Ex P-25 (Weehawken)
3/18/42

Harry C. Moore
6 Fulton St
Weehawken

iption

NOTICE: Receipt will be returned only when stamped, addressed envelope accompanies payment.

VALUATIONS

Land	Buildings	Personal	Exemptions	Net Valuations
2,400	4,000		Veterans	6,400

This Is Your Bill for 3rd and 4th Quarters 1941 Taxes

		First Quarter Due Feb. 1st	Second Quarter Due May 1st
	First Half Tax		
~~143.84~~ 294.46	1941 Tax Levied	~~71.92~~	~~71.92~~
143.84	Billed for 1st Half	Third Quarter Due Aug. 1st	Fourth Quarter Due Nov. 1st
150.62	Balance Due 2d Half	75.31	75.31
	Interest		
	Total		

3rd Quarter	4th Quarter
ved Payment 194	Received Payment 194
Collector.	Collector.

This Stub for Office Record—DO NOT DETACH

1941 TAXES—3rd Quarter—Due August 1st

Date Paid

Name

Page Line Block Lot

Amount

Interest

TOTAL

[ ] Cert. Check
[ ] Check
[ ] Money Order
[ ] Cash
Cash Book Page

Rd Nov 22 41

COLLECTOR'S FINAL TAX NOTICE

For the Annual Tax Assessed for State, County and Local Purposes

HOURS, 10 A. M. to 3 P. M. SATURDAYS, 10 A. M. to 12 M.

TOWNSHIP OF WEEHAWKEN, De

Municipal Building—400 Park Avenue

HUDSON COUNTY, NEW JERSEY

MAKE CHECKS TO ORDER OF JOHN J. EAGAN, COLLECTOR OF TAXES

Pending checks in payment of Taxes, the Township assumes no responsibility beyond the use of due care. All checks are taken subject to full payment in cash or solvent credits. If not paid, this receipt void.

2503 Block 89 Lot 1902

This Stub for Office Record—DO NOT DETACH

1931 TAXES—3rd Quarter—Due August 1st

Date Paid

Amt.

Int.

Block Lot

Quart.

Arrear

TOTAL

[ ] Cert. Check

[ ] Check

[ ] Money Order

[ ] Cash

Cash Book Page

Exhibit P-26

N. J. Deed—Full Covenant Warranty

THIS INDENTURE

Made the eighth day of August, in the year of our Lord One Thousand Nine Hundred and Nineteen

BETWEEN,

FRANK HERMANCE and ELEANOR HERMANCE, his wife, of the Township of Weehawken, in the County of Hudson and State of New Jersey, party of the first part;

AND

HARRY C. MOORE, of the Township of Weehawken, in the County of Hudson and State of New Jersey, party of the second part;

WITNESSETH, That the said party of the first part, for and in consideration of One ($1.00) Dollar and other good and valuable considerations, lawful money of the United States of America, to them in hand well and truly paid by the said party of the second part, at or before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, and the said party of the first part being therewith fully satisfied, contented and paid, have given, granted, bargained, sold, aliened, released, enfeoffed, conveyed and confirmed, and by these present do give, grant, bargain, sell, alien, release, enfeoff, convey and confirm unto the said party of the second part, and to heirs and assigns, forever, ALL that certain lot, tract or parcel of land and premises, hereinafter particularly described, situate, lying and be-

ing in the Township of Weehawken, in the County of Hudson and State of New Jersey, and which on a certain map entitled "Map of a portion of Clifton Park, Weehawken, N. J., made by John G. Van-Horne, Civil Engineer, and City Surveyor, and filed in the office of the Register of Hudson County, on December 27th, 1895, as map number 1121 is marked, known and designated as lot numbered one hundred and ninety-two (192) fronting and facing on Fulton Street, as by reference to the said map will more fully appear.

Subject, however, to all the covenants and restrictions contained in a deed for the said land now of record.

And subject further to a mortgage of Four thousand Dollars now on the said land, held by Hudson Trust Company, as Executor &c., with interest from the date thereof.

Being the same premises referred to in a certain deed made by Everett N. Wood and Fredericka, his wife, to the parties of the first part hereto bearing date the twenty-third day of November, A D 1908, and is recorded in the Register's Office of Hudson County in Liber 1017 of deeds for said County at page 570 &c.

Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof.

And also, all the estate, right, title, interest, dower and right of dower, property, possession, claim and demand whatsoever, as well in law as in equity, of the said party of the first part, of, in and

to the above described premises, and every part and parcel thereof, with the appurtenances TO HAVE AND TO HOLD, all and singular, the above mentioned premises, together with the appurtenances, unto the said party of the second part, his heirs and assigns, to their own proper use, benefit and behoof forever.

AND the said parties of the first part, for themselves, their heirs, executors and administrators, do covenant, grant and agree to and with the said party of the second part, his heirs and assigns, that the said they at the time of the sealing and delivery of these presents, are lawfully seized in their own right of a good, absolute, and indefeasible estate of inheritance in fee simple, of and in all and singular the above granted, bargained and described premises, with the appurtenances thereunto belonging and have good right, full power and lawful authority to grant, bargain, sell and convey the same in manner and form aforesaid.

AND that the said party of the second part, his heirs and assigns, shall and may at all times hereafter, peaceably and quietly have, hold, use, occupy, posses and enjoy the above granted premises, and every part and parcel thereof, with the appurtenances, without any let, suit, trouble, molestation, eviction or disturbance of the said parties of the first part, their heirs or assigns, or of any other person or persons lawfully claiming or to claim the same,

AND that the same now are free, clear, discharged and unencumbered of and from all former

Exhibit P-26.

and other grants, titles, charges, estates, judgments, taxes, assessments and incumbrances of what nature and kind soever.

And also, that the said parties of the first part, and their heirs, and all and every other person or persons whomsoever, lawfully or equitably deriving any estate, right, title, or interest, of, in or to the hereinbefore granted premises, by, from, under or in trust for him or them, shall and will at any time or times hereafter, upon the reasonable request, and at the proper costs and charges in the law, of the said party of the second part, his heirs and assigns, make, do and execute, or cause or procure to be made, done or executed, all and every such further and other lawful and reasonable acts, conveyances and assurances in the law for the better and more effectually vesting and confirming the premises hereby intended to be granted, in and to the said party of the second part, his heirs and assigns forever, as by the said party of the second part, his heirs or assigns, or his counsel learned in the law, shall be reasonably advised or required.

And the said parties of the first part heirs, the above described and hereby granted and released premises, and every part and parcel thereof, with the appurtenances, unto the said party of the second part, his heirs and assigns, against the said parties of the first part, and their heirs, and against all and every person or persons whomsoever, lawfully claiming or to claim the same, shall and will Warrant and by these presents Forever Defend.

Exhibit P-26.

In Witness Whereof the said parties of the first part have hereunto set their hands and seals the day and year first above written.

Eleanor Hermance (Seal)
Frank Hermance (Seal)

Signed, Sealed and Delivered
in the presence of
Henry Vogler,
as to Frank Hermance.

(Five One-Dollar Revenue stamps)

BACK OF DEED

State of New Jersey, }
County of Hudson, } ss.:

Be it remembered, That on this thirtieth day of September, in the year of our Lord One Thousand Nine Hundred and nineteen, before me, the subscriber, a Master in Chancery of New Jersey, personally appeared Frank Hermance, who, I am satisfied is one of the grantors mentioned in the within Instrument, to whom I first made known the contents thereof, and thereupon he acknowledged that he signed, sealed and delivered the same as his voluntary act and deed, for the uses and purposes therein expressed.

Henry Vogler,
Master in Chancery of New Jersey.

Exhibit P-26.

BACK OF DEED (ATTACHED)

State of New York }
County of Columbia } ss:
City of Hudson }

BE IT REMEMBERED, That on this 8th day of August, in the year of our Lord One Thousand Nine Hundred and Nineteen, before me Florence A. Gaffney, personally appeared Eleanor Hermance, wife of Frank Hermance, who, I am satisfied is one of the grantors mentioned in the within Instrument, to whom I first made known the contents thereof, and thereupon she acknowledged that, she signed, sealed, and delivered the same as her voluntary act and deed for the uses and purposes therein expressed.

FLORENCE A. GAFFNEY,
Commissioner of Deeds, Hudson, N. Y.

State of New York }
Columbia County } ss:
Clerk's Office }

I, CLYDE H. LEWITT, Clerk of the County of Columbia, in the State of New York, and also Clerk of the Supreme and County Courts, being Courts of Record held therein, do hereby certify that Florence A. Gaffney, whose name is subscribed to the certificate of the proof or acknowledgment of the annexed instrument, and thereon written, was at the time of taking such proof or acknowledgment, a Commissioner of Deeds in and for the County

Exhibit P-26.

aforesaid, dwelling in said County, commissioned and sworn, and duly authorized by the Laws of the State of New York to take the proof and acknowledgment of deeds or conveyances for lands, tenements, or hereditaments, lying and being in the State of New York, that I am well acquainted with the handwriting of such Commissioner of Deeds and verily believe his signature to the said certificate of the proof or acknowledgment is genuine.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of the said Courts and County this 14th day of August A. D., 1919.

CLYDE H. LEWITT, Clerk.

(Seal)

Exhibit P-27 (Hoboken)

3/18/42

(Letterhead)

THE BOARD OF COMMISSIONERS
OF
THE MAYOR AND COUNCIL OF THE CITY OF
HOBOKEN, N. J.
CITY CLERK'S OFFICE

(Cut of City Seal)
Arthur C. Malone
City Clerk

Hoboken, N. J.
December 9, 1941

JOHN J. FALLON, Esq.,
Corporation Attorney,
Hoboken, N. J.

This is to certify that the attached is a true copy of a resolution adopted by the Board of Commissioners of The Mayor and Council of the City of Hoboken, N. J., at a meeting held December 9, 1941.

ARTHUR C. MALONE,
City Clerk.

(SEAL)

RESOLVED by the Board of Commissioners of the City of Hoboken, the governing body of The Mayor and Council of the City of Hoboken, a municipal corporation of the State of New Jersey, that John J. Fallon, Corporation Attorney, be and he is hereby authorized and directed to institute and prosecute, for and in behalf and in the name of said The Mayor and Council of the City of Hoboken, such legal proceedings as he may deem

advisable by means of writ of certiorari or otherwise for an appropriate review by the New Jersey Supreme Court of assessments made by the State Tax Commissioner against Railroad Companies for the year 1941, under and pursuant to the provisions of Chapter 291 of the Laws of 1941, the said The Mayor and Council of the City of Hoboken as a municipal corporation constituting a taxing district in the County of Hudson and State of New Jersey, which said assessments in so far as they affect the interests of said The Mayor and Council of the City of Hoboken are considered by this Board, upon the advice of said Corporation Attorney, as invalid and unconstitutionally made by said State Tax Commissioner.

Exhibit P-28 (West New York)

3/18/42

RESOLUTION

BE IT RESOLVED, by the Town of West New York, that it does hereby authorize the institution of proceedings for the review by certiorari of the assessments made by the State Tax Commissioner against railroad companies for the year 1941, under and pursuant to the terms of Chapter 291 of the Laws of 1941.

BE IT FURTHER RESOLVED, that the Comptroller, Lawrence T. Havey, is hereby authorized to sign affidavit and any other papers necessary for the institution and prosecution of said suit.

CERTIFICATE

I, CHARLES SWENSEN, Town Clerk of the Town of West New York, in the County of Hudson, New Jersey, DO HEREBY CERTIFY that the foregoing is a true and correct copy of a resolution adopted by the Board of Commissioners of the Town of West New York, at their regular stated meeting held on the 9th day of December, 1941; as the same is taken from and compared with the original now remaining on file and of record in my office.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the corporate seal of (SEAL) said Town, at West New York, this 17th day of March, 1942.

CHARLES SWENSEN,
Town Clerk of the Town of West New York.

Exhibit P-29

HOBOKEN RAILROAD WAREHOUSE AND STEAMSHIP CONNECTING COMPANY
TO
HOBOKEN MANUFACTURERS' RAILROAD COMPANY

(COPY)
LEASE

Dated June 19th, 1906

THIS INDENTURE, made the nineteenth day of June, in the year of our Lord one thousand nine hundred and six, between HOBOKEN RAILROAD WAREHOUSE AND STEAMSHIP CONNECTING COMPANY, a corporation organized and existing under the laws of the State of New Jersey (hereinafter called the Lessor), of the first part, and HOBOKEN MANUFACTURERS' RAILROAD COMPANY, a corporation organized and existing under the laws of said State of New Jersey (hereinafter called the Lessee), of the second part, WITNESSETH:

FIRST. The Lessor, for and in consideration of the covenants and agreements hereinafter contained, on the part of the Lessee to be observed, kept and performed, has let, leased and demised, and by these presents does let, lease and demise, unto the Lessee:

ALL and singular the line of railroad of the Lessor in the County of Hudson, in the State of New Jersey, extending from a point in the township of Weehawken in the County of Hudson and State of New Jersey, where said

line of railroad of the Lessor connects with the tracks of the Erie Railroad Company, thence southerly over private property to and across the boundary line between said township of Weehawken and the City of Hoboken, and thence southerly and easterly through said City of Hoboken over private property to the southerly line of Fourteenth Street, produced, at its intersection with Hudson Street, thence southerly along Hudson Street to a point north of the southerly line of Eleventh Street, thence southerly and along Hudson Street on a curve easterly to the easterly house line of Hudson Street, thence easterly and southerly over private property to a point in the southerly line of Fifth Street east of the easterly house line of River Street, thence southerly and along the paved roadway along the water front parallel with River Street to the northerly line of Fourth Street; and any other lines of railroad, including branch lines, owned at the time of the execution and delivery of this indenture by the Lessor and shown on the map hereto annexed; all rights of way, station and terminal grounds and other lands and interests in lands; all roadbed, trestles, viaducts, superstructures, poles, wires, tracks, rails, ties, freight-houses, water-stations and tanks, turntables, engine-houses, car and machine shops, yards and terminals; all rolling stock and equipment of every description, including locomotive and other engines and cars; all tools, implements and machinery, and all trackage and operating contracts;

Exhibit P-29.

Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof; and also all the estate, right, title, interest, property, possession, claim and demand whatsoever, as well in law as in equity, of the Lessor, of, in and to the same and every part and parcel thereof, with the appurtenances;

To Have and to Hold unto the Lessee and its successors, from the nineteenth day of June, 1906, for and during the full term of ninety-nine (99) years then next ensuing, fully to be completed and ended, to-wit: until the nineteenth day of June, 2005, at noon;

Subject, however, as to the property embraced therein, to the indenture of mortgage made by Hoboken Land and Improvement Company to Hudson Trust and Savings Institution, to secure the sum of $1,500,000, dated the first day of November, 1890, and recorded in the office of the Register of Hudson County, New Jersey, in Book 253 of Mortgages, at page 241, subject further to the reservations, exceptions, covenants and other provisions contained in the deeds, grants and agreements set forth in Schedule A hereto, and subject further to any existing rights to lay or maintain on, under, along or across the demised premises, sewers, water pipes, gas pipes, electric conduits or wires, and telegraph or telephone lines:

Exhibit P-29.

The Lessee and its successors yielding and paying therefor the sums hereinafter specified, and keeping and performing all and singular the covenants and conditions hereinafter set forth to be by the Lessee observed, kept and performed, and assuming and on the part of the Lessor faithfully observing and performing all of the obligations, covenants, conditions, agreements and guaranties agreed on the part of the Lessor to be kept or performed in or by the agreements, contracts and deeds specified in Schedule A to this indenture.

SECOND. The Lessee, in consideration of the premises, accepts under the provisions and upon the conditions of this indenture for the term hereby granted, the railroad and property hereby demised (which, together with all other property at any time becoming subject to this indenture, pursuant to the provisions hereof or otherwise or leased by indenture supplementary hereto, are hereinafter termed for convenience the demised premises), and covenants to and with the Lessor to pay yearly and every year during the term hereby granted, by way of rent for the railroad and property hereby demised the amounts hereinafter in this Article specified, at the times and in the manner herein set forth; to wit:

(a) All taxes, rates, imposts, duties, charges, licenses and assessments of every nature and description by whatsoever authority imposed, which may be lawfully levied, imposed or assessed, during the continuance of this lease, (1) upon the demised premises, or (2) upon the Lessor by reason of its ownership thereof and of the appurtenant fran-

chises, or (3) upon the rent by this indenture reserved and which the Lessee may be required to pay thereon or to retain or deduct therefrom under any present or future law wherever enacted, and also all sums which the Lessor is now required, or may hereafter, during the continuance of this lease, be required or become liable, to pay for the possession, exercise, enjoyment or perpetuation of any of its rights, powers, privileges or franchises, appurtenant to the demised premises; said payments to be made as they from time to time become due to the officer or other person entitled by law to receive the same. If the Lessee shall fail to make any such payment when and as the same shall become due, the Lessor may at any time thereafter in its discretion, but without obligation on its part so to do, make such payment and recover from the Lessee the amount thereof, with legal interest thereon from the date thereof, without prejudice to any right secured to the Lessor by this lease for breach of any covenant hereof; provided, however, that the Lessor shall not so pay any such tax or assessment (other than a tax or assessment the nonpayment of which may subject it to loss or forfeiture of any franchise and which it may so pay in its discretion, but without obligation on its part so to do) until thirty days after final adjudication upon such tax or assessment by the court or tribunal having jurisdiction in such cases, if the Lessee shall desire to resist the payment of any such tax or assessment upon the ground that the same is not legally assessed or is excessive,

and shall institute proper legal proceedings for that purpose and shall have so notified the Lessor.

(b) All premiums of insurance upon the demised buildings at any time on the demised premises and upon their contents, and upon the demised rolling stock and equipment;

(c) The sum of twenty-two thousand dollars ($22,000) in gold coin of the United States of America, of or equal to the present standard of weight and fineness, to be paid at the office of the Lessor, in the City of Hoboken, New Jersey, in equal quarterly installments of fifty-five hundred dollars ($5,500) each, in advance, on the nineteenth days of September, December, March and June in each year during said term, the first installment to be paid on the nineteenth day of June, 1906;

(d) In each year of the term ending the nineteenth day of June, during which the aggregate amount of freight transported over the lines of railroad at the time subject to this indenture, or any part of such lines, shall be in excess of 314,286 tons,

(1) the sum of seven cents for each and every ton of freight so transported in excess of 314,286 tons up to 375,000 tons;

(2) the additional further sum of four and one-half cents per ton for each and every additional ton of freight so transported in excess of 375,000 tons up to 475,000;

(3) the additional further sum of three cents per ton for each and every additional

ton of freight so transported in excess of 475,000 tons up to 575,000 tons; and

(4) the additional further sum of one and one-half cents per ton for each and every additional ton of freight so transported in excess of 575,000 tons.

For the purpose of this clause, 2,000 pounds shall be deemed a ton, and the terms lines of railroad subject to this indenture or lines of railroad subject to this lease, whenever used in this indenture, shall be deemed to include as well the demised lines of railroad as any extensions and branches of, and additions to, the demised lines of railroad, and also all lines of railroad, whether elevated or depressed, or on, above or below the surface, which may be hereafter constructed, acquired or used under any of the provisions of this indenture, or which may be situated or constructed on any part of the demised premises; but in determining the amount of freight transported over the lines of railroad subject to this indenture, freight which, after it shall have left the lines of railroad subject to this indenture shall, without having been unloaded, pass over part of said lines in movement between points on any switch, no part of which is on the demised premises, for delivery to the original consignee, shall not, in respect of such movement between such points on said switch, be included. Payments of said additional amounts shall be made yearly on or before each first day of August for the preceding year of the term ending the nineteenth day of June.

Exhibit P-29.

THIRD. The Lessee covenants with the Lessor as hereinafter in this Article set forth:

(*a*) The Lessee shall and will save harmless and indemnify the Lessor from and against all causes of action, legal or equitable, arising by reason of the acts or neglect of the Lessee, or the failure of the Lessee, or any of its officers, agents or employees, to fulfill any duty toward the Lessor or toward the public or any person or persons whomsoever which the Lessor, by reason of its ownership, or the Lessee by reason of its occupancy, of the demised premises or otherwise, may owe, or in any manner arising from the maintenance, use or operation by the Lessee of the demised premises. The Lessor shall be entitled at its election, itself to defend at the cost and expense of the Lessee, actions involving the possession of, or the title to, the demised premises, or any part thereof, or the possession, exercise, enjoyment or perpetuation of the franchises, or any of them, appurtenant to the lines of railroad subject to this indenture, which may be instituted or brought against the Lessor because of any act, neglect or default of the Lessee in the occupation, operation or use of the demised premises or because of any default by the Lessee in the observance of the covenants of this indenture, or of any indenture supplemental hereto, and the Lessee will, on demand of the Lessor, promptly pay all costs and expenses of every character, legal or otherwise, incurred by the Lessor in the defense of such actions, as well as all amounts which may be recovered

therein against the Lessor. The Lessee shall, at its own sole cost and expense, defend all other suits brought against the Lessor, on or in respect of said causes of action, and promptly pay all amounts which may be recovered therein against the Lessor, and will indemnify and save harmless the Lessor from any recovery therein.

(*b*) Throughout the term of this lease, the Lessee shall and will from time to time, and at all times, operate the demised premises as required by all legal enactments from time to time in force and applicable thereto, and keep and maintain the demised premises and all property at any time subject to this indenture or any indenture supplemental hereto, in thorough repair, good working order and condition, and fully supplied with such rolling stock, equipment or other appliances as may be needed fully to develop, maintain and encourage the business of the railroad of the Lessor, supplying and replacing all locomotives and other engines, cars and rolling stock of every description, poles, lines, wires, rails, ties, road-bed, buildings, power houses, power plants or electrical appliances, machines, implements and every appliance whatsoever, so that at all times hereafter, during the term hereby granted, the demised premises and said property may be properly improved, exploited, advanced and advantaged in keeping with the business demands of the community, and as good skill and judgment shall demand, and that the same shall continue to be kept in the same good order and condition at all times thereafter to which the

same may at any time be advanced; but the Lessee shall not be required to construct or maintain any power house or power plant on the demised premises so long as the Lessee shall be able to obtain and shall obtain by purchase the necessary power without such construction. The Lessee shall at all times hereafter make or cause to be made all such improvements of, and betterments on, the demised premises as shall be requisite in order that all freight destined to any point on the lines of railroad subject to this lease or on any connecting switch or siding or which may be reached thereby or thereover, as well as all freight delivered for transportation at any point reached by the lines of railroad subject to this lease or any connecting switch or siding destined to any point on the lines of railroad subject to this lease or on any connecting switch or siding or which may be reached thereby or thereover, may be expeditiously and efficiently handled without delay.

The Lessee shall at all times hereafter, at its own expense, keep the railway system of the Lessor equipped with a sufficient number of engines, electric motors and cars, and with all the electrical and other power appliances that may be needed, of whatever character or description the same may be, and keep the power houses, stations, depots and the like fully furnished and equipped, and on hand all necessary poles, machines, machinery and the like, so that in case of the termination of this indenture at any time, the demised premises shall be adequately

furnished and equipped to carry on business and continue its operations. All equipment and rolling stock and all other property acquired in compliance with this covenant shall be acquired in the name of the Lessor but without incurring any liability in respect thereof on the part of the Lessor and without incurring any indebtedness the holders of which shall be entitled, under the laws of New Jersey, to have or claim in respect thereof, any lien on the demised premises, but the Lessor shall, on the termination of this lease, pay the Lessee, for all equipment and rolling stock so acquired by the Lessee in compliance with this covenant other than equipment or rolling stock acquired to replace equipment or rolling stock constituting at the beginning of the term, part of the demised premises, the value thereof in the condition in which the same shall then be, to be fixed in case of difference by arbitration.

(c) The Lessee shall and will at its own proper cost and expense, from time to time whenever necessary, make out and furnish to the Lessor any and all reports and statements, duly verified, which the Lessor is now or may hereafter be required to make or file under or by virtue of any law or enactment now existing, or which may hereafter be enacted by any lawful authority.

(d) The Lessor, by its agents or representatives, may, at all proper and reasonable times, enter upon the demised premises and inspect the same for the purpose of ascertaining the condition of the demised premises and the character of the management, and

whether the Lessee is substantially complying with its covenants and agreements herein contained.

(e) For the purpose of determining the amount of rent accruing from year to year under this lease, the Lessee will annually during the continuance of this lease, and on or before the first day of August in each year, beginning in the year 1907, make and prepare a detailed statement, in form satisfactory to the Lessor and giving such particulars in that behalf as the Lessor may require, showing the tonnage and movement of all freight transported during the year ending the previous nineteenth day of June, over the lines of railroad subject to this indenture, or any part thereof, and will furnish the Lessor such statement, and will, at all times, keep in proper books for that purpose an accurate and detailed account of all tonnage transported over the lines of railroad subject to this indenture and of the movement thereof, and said books shall, at all reasonable hours and times, be open to the inspection of the Lessor by its officers, as well as by such other person or persons as the Lessor shall, from time to time, by resolution of its board of directors, appoint to examine the same.

(f) The Lessee, during the existence of this lease, will fully and promptly keep and perform all of the obligations, covenants, conditions, agreements and guaranties agreed on the part of the Lessor to be kept or performed in or by the agreements, contracts

Exhibit P-29.

and deeds specified in Schedule A to this indenture.

(g) The Lessee shall and will faithfully perform all and every legal requirement of the United States of America, the State of New Jersey, and of any Municipal Government, within whose limits any part of the demised premises is or may be situated, and shall and will preserve all of the privileges, franchises and immunities of the Lessor unimpaired by any act, omission, default or neglect on the part of the Lessee or of any of its successors or assigns.

(h) The Lessee at all times during the continuance of this lease, will give to the Hoboken Land and Improvement Company and its successors, and to each of them, and to every person or corporation, tenants, lessees, grantees or otherwise, to whom or to which said Improvement Company or any of its successors, shall grant the benefit of this covenant, the right to connect, by proper switches or sidings, the lines of railroad at any time subject to this indenture, with any premises owned or occupied by them or any of them, which or any part of which may adjoin any of the lines of railroad at any time subject to this indenture, or be within two hundred feet of any such line, and be in such position as to make a connection therewith physically possible; the Lessee, in any such event, shall and will construct, at its own cost, so much of any such siding as shall be on the demised premises; and the Lessee shall and will allow such connection to be made and maintained, and will give as good

service in movement and supply of cars to, over and from said premises as the Lessee may give to, over and from any other premises located on or along the lines of the railroad subject to this indenture or adjacent thereto or in the neighborhood thereof.

This covenant is declared to be made for the benefit of said Hoboken Land and Improvement Company, and its successors and each of them, and of every person or corporation, tenants, lessees or grantees of any premises which or any part of which may adjoin any of the lines of railroad at any time subject to this indenture or be within two hundred feet of any such line, to whom or to which said Improvement Company, or any of its successors, shall grant the benefit of this covenant.

(i) During the continuance of this lease the Lessee will not and shall not charge any railroad company whose lines or system may connect with the lines of railroad subject to this indenture, any higher rates for services of hauling and handling cars on the lines of railroad at any time subject to this indenture, or on any connecting switch or siding, than are at the date of the execution and delivery of this indenture so charged, to wit:

(1) Where the shipper or consignee loads or unloads, 20 cents per net ton of 2,000 pounds.

(2) Where loading or unloading is done otherwise than by the shipper or consignee, 40 cents per net ton of 2,000 pounds, except

deliveries to the North German Lloyd and Hamburg-American Steamship Companies on the properties at the date hereof occupied by them, and, in that case, 50 cents per net ton of 2,000 pounds.

(3) Where delivery or shipment is made through freight station, 70 cents per net ton of 2,000 pounds.

(4) Coal, coke or wood, $3.00 per car up to 20 gross tons load and $5.00 per car over 20 gross tons load.

The foregoing covenants as to rates shall, during the continuance of this lease, include rates charged for movement of freight between points on the lines of railroad subject to this indenture and between points on said lines and points on any connecting switch or siding, and between points on switches or siding connecting with the lines of railroad subject to this indenture over any part of said lines.

This covenant is declared to be made for the benefit of said Hoboken Land and Improvement Company, and its successors and each of them, and of every person or corporation, tenants, lessees or grantees, of any premises which or any part of which may adjoin any of the lines of railroad subject to this indenture or be within two hundred feet of any such line to whom or to which said Improvement Company or any of its successors, shall grant the benefit of this covenant.

(j) The Lessee will so far as it lawfully may so do, transport over the lines of rail-

road subject to this indenture all freight received by the Lessee destined to any point on the lines of railroad subject to this indenture or on any connecting switch or siding, or which may be reached thereby, or thereover, as well as freight delivered to the Lessee at any point reached by the lines of railroad subject to this indenture, or any connecting switch or siding destined to any point on the lines of railroad subject to this indenture, or any connecting switch or siding, or which may be reached thereby or thereover.

All said freight, whether actually moved over the lines of railroad subject to this indenture or not, shall for the purposes of subdivision (d) of Article Second be deemed to have been transported over the lines of railroad subject to this indenture, unless the Lessee shall be unable to move the same by reason of some cause beyond the control of the Lessee.

(k) The Lessee shall cause the property from time to time subject to this lease or subject to any lease supplemental hereto to be insured in good and solvent companies, against loss or damage by fire, to the extent that the property of railway companies is usually insured, and will pay the premiums of such insurance. The proceeds of any insurance so effected shall be kept separate and apart, and be held in trust for the Lessor, and be applied under the direction of the Lessee, but as the property of the Lessor, solely to the rebuilding, replacement or repair of the property damaged or destroyed, whenever such rebuilding, replacement or repair shall be necessary

to the operation of the demised premises, or, when not so necessary, then to extensions, betterments and renewals of the demised premises. All such rebuildings, replacements, repairs, renewals, extensions and betterments shall be made or obtained or acquired or constructed in the name of the Lessor, but without incurring any liability in respect thereof on the part of the Lessor, or any indebtedness the holders of which might be entitled under the laws of New Jersey to have or claim in respect thereof a lien on the demised premises or any part thereof.

The provisions thus made for restoration of such part of the demised premises as may be destroyed or injured by fire, shall be treated and shall operate as a waiver by the Lessee of any right, whether statutory or otherwise, on its part, to surrender the demised premises, or any part thereof, by reason of destruction or injury by fire, or otherwise, and the Lessee, notwithstanding any such event or events, shall and will continue throughout the term of this indenture to make the payments and perform the covenants herein required, anything in the statutes of the State of New Jersey to the contrary notwithstanding.

If the Lessee shall fail to keep said property so insured against loss by fire, the Lessor may cause said property to be insured in its own name and for its benefit (but shall be under no obligation so to do), and the Lessee will, on demand, pay the premiums of such insurance so effected; and in case of default on the part of the Lessee in making any such payment, the Lessor may sue for, and may recover from

the Lessee, the amount of any such payments of premiums for insurance, with legal interest thereon from the dates thereof, without prejudice to any right conferred on the Lessor by this lease in respect of a breach by the Lessee of any covenant hereof, and without prejudice to any right of the Lessor to recover damages for breach of this covenant to insure.

(l) The Lessee shall not and will not sell, assign or transfer this lease or underlet the demised premises or any part thereof, or the rights and privileges, or any of them, hereby granted, without the previous consent of the Lessor expressed by endorsement on this lease made in pursuance of authority granted by resolution of the board of directors of the Lessor, nor without like consent expressed as aforesaid, mortgage the interest of the Lessee in the demised premises, save (1) to raise moneys for use exclusively for the improvement and betterment of the demised premises and to an amount not exceeding the actual cost of such improvements and betterments or (2) for the purpose of defraying the cost of the construction by the Lessee, in accordance with the provisions of Article Ninth of this indenture, of an elevated or sub-surface railroad upon the demised premises and to an amount not exceeding the actual cost of such construction. This covenant shall also apply to any unauthorized sale or transfer thereof or underletting of the demised premises, or any part thereof, or of the said rights and privileges, or any of them, whether made by the Lessee or in any proceeding, whether at law or in equity or otherwise, to which the Lessee

may be a party, whereby any of the rights, duties and obligations of the Lessee shall or may be transferred, encumbered, abrogated or in any manner altered, without the consent of the Lessor first had and obtained in the manner hereinbefore provided.

(m) There shall be made as of the day when this lease takes effect, a full, complete and particular inventory and description of all personal property belonging to the Lessor and coming into the possession of the Lessee under this lease, and of all improvements on the real estate embraced in this indenture, not including, however, the roadbed of the railroad hereby demised. Such inventory, description and valuation shall be made at the joint expense of the parties and shall be made by two competent persons, one of whom shall be selected by each party, and shall be made in duplicate and an original counterpart furnished to each party; such inventory shall show the value of all said personal property, including rolling stock and equipment, and the value of all improvements upon said real estate. At the expiration of the term granted by this lease, or the earlier termination of this lease, the Lessee, to the extent to which it shall not surrender, as part of the premises demised by this indenture, either the personal property and buildings demised, or personal property and buildings replacing personal property and buildings demised, and of not less than equal value as shown by said inventory, will pay the Lessor the value, as shown by said inventory, of any personal property or buildings not replaced, but such payment shall not affect or

prejudice the right of the Lessor to recover damages for the breach by the Lessee of any of its covenants to maintain and keep up the demised premises, nor shall such liability to make payment on the part of the Lessee, in any manner affect or prejudice any right conferred on the Lessor by this indenture in respect of a breach by the Lessee of any of the covenants hereof.

FOURTH. The Lessor agrees with the Lessee as hereinafter in this Article set forth:

(a) The Lessor will indemnify and save the Lessee harmless against and from all charges, actions, costs, damages and expenses arising out of or from the construction, operation or maintenance of the demised lines of railroad prior to the execution and delivery of this lease.

(b) The Lessor will, at any time and from time to time hereafter, upon the reasonable request of the Lessee, make, execute, acknowledge and deliver, or cause or procure to be done, made, executed, acknowledged and delivered, all and every such further and other lawful and reasonable conveyances, transfers and assurances in the law as by the Lessee shall be reasonably required for the better and more effectually assuring and confirming in the Lessee on the terms and conditions of this lease the premises embraced in this indenture.

(c) During the continuance of this lease, the Lessor will, at the request and expense of the Lessee, subject, however, to Article Eighth of this indenture, exercise or cause to be exer-

cised, its franchises, and do and perform, or cause to be done and performed, all such acts lawful and consistent with the rights of the Lessor hereunder, as shall be necessary for the enjoyment by the Lessee of the demised premises; and will, at the request and expense of the Lessee, exercise any right to which the Lessor may lawfully be entitled, to terminate or request to have terminated, any of the agreements specified in Schedule A hereto, the Lessee first making provisions to the satisfaction of the Lessor, for any payments required to be made under any agreement so sought to be terminated, as a condition of the termination thereof, and will at the request and expense of the Lessee, use and exercise any of the rights, privileges and powers vested in the Lessor under any of the instruments set forth in said Schedule A.

(d) The Lessee may, at all reasonable and convenient times, have access to, and may at its own expense make copies of, the Lessor's plats, deeds, grants and other instruments and documents containing the evidence of the right and title of the Lessor to the premises demised by this indenture.

(e) The Lessee may, from time to time, remove, alter, change, improve or replace any of the rolling stock or equipment appurtenant to the lines of railroad subject to this indenture, or any of the buildings or other structures erected on the demised premises, if necessary for the betterment of the demised premises, or the improvement of the operation thereof and if such removal, alteration, change or replacement shall not result in a deprecia-

tion of the value of the demised premises. The proceeds of the rolling stock, equipment, buildings and structures changed or removed, shall be kept separate and apart, and be applied, as the property of the Lessor, for betterments to the demised premises, under the direction of the Lessee.

(f) If the Lessee shall, at any time during the continuance of this lease, desire to extend the demised lines of railroad demised by this indenture or to construct and operate a branch line or branch lines thereof, the Lessee, subject to the provisions of Article Eighth hereof, may do so at its own cost and expense, but all extensions and branches of the lines of railroad demised by this indenture shall be made and constructed by the Lessee in the name of the Lessor, and all such property shall be vested by the Lessee in the Lessor, without, however, incurring any liability in respect thereof on the part of the Lessor or any indebtedness, the holders of which might be entitled to claim in respect thereof under the laws of New Jersey, a lien on the demised premises or any part thereof. The Lessor, subject as aforesaid, will exercise at the request of the Lessee and at the cost and expense of the Lessee, having been first satisfactorily indemnified by the Lessee, any and all franchises, rights and powers possessed by it in order to enable the Lessee to acquire, in accordance with this covenant, any property necessary for any of the purposes aforesaid, or to operate the same. Any switches, sidings, connecting tracks or spurs from the lines of railroad demised by this indenture shall,

unless constructed by the owner of adjacent property on his own property, and save to the extent to which the same shall be so constructed by the Lessee in the name of the Lessor, and as its property, but without incurring any liability in respect thereof on the part of the Lessor or lien indebtedness on the demised premises or any part thereof as aforesaid.

FIFTH. It is mutually covenanted as follows:

The Lessee shall and will, at the determination of this lease, redeliver and surrender up to the Lessor the demised premises in good order and condition, with such additions, alterations and improvements as shall have been made thereto.

If the Lessee (1) shall, at any time or times hereafter during the continuance of this agreement, omit or fail to make the payments hereinabove agreed to be made, or any of them, and such default shall continue for the space of thirty days, or (2) shall fail punctually and faithfully to observe, keep and perform any other of the covenants and agreements hereof, and such default shall continue for the space of thirty days after notice from the Lessor of such default, and requiring the Lessee to remedy the same, then and in either of such cases, the Lessor may at any time, either

(a) proceed by proper action or actions in the proper courts, either at law or in equity, to enforce performance of such covenants by the Lessee or to recover damages for the breach thereof; or

(b) by notice in writing, terminate this lease, and thereupon enter into and upon the

demised premises, and thenceforth hold, possess and enjoy the same free from any right of the Lessee, or its assigns, to use the demised premises for any purposes whatever, and thereupon any right, title and interest of the Lessee to the use of the demised premises shall absolutely cease and terminate as though this lease had never been made; but the Lessor shall, nevertheless, have the right to recover from the Lessee any and all amounts which, under the terms hereof, may be then due and unpaid for the use of the demised premises.

At any sale of this lease, or of any lease supplemental hereto or of the rights, privileges and property of the Lessee under this lease or any such supplemental lease or of the interest of the Lessee in the demised premises, under foreclosure of any mortgage thereon, the Lessor may become the purchaser thereof free and discharged from all equity of redemption on the part of the Lessee and from any and all claims of the Lessee therein and thereto.

SIXTH. During the existence of this lease, the Lessee, subject to the provisions of Article Eighth hereof, may acquire at its own sole cost and expense, any additional property, real or personal, which the Lessee may deem necessary or advisable to acquire for the maintenance or operation of the lines of railroad subject to this indenture or for the improvement of the demised premises, or in extensions thereof; all such additional property shall be acquired in the name of the Lessor, and without incurring liability in respect thereof on the part of the Lessor, or indebtedness, the holders

of which might be entitled under the laws of New Jersey to have or claim in respect thereof a lien on the demised premises.

(a) At the expiration of the term granted by this lease,

(1) the Lessor shall be entitled to have and retain as its own property, without making any payment in respect thereof, all such additional buildings and structures as within the fourteen years next preceding the expiration of the term, shall have been erected or placed upon the demised premises without the previous written consent and approval of the Lessor.

(2) For any other additional buildings or structures, which are of a permanent character, the Lessor shall pay the Lessee the value thereof, to be fixed in case of disagreement by arbitration. Such value shall, for the purposes of this Article, be deemed to be the difference between the value, for railroad purposes, of the demised premises at the expiration of the term with such buildings thereon, and their value without such buildings, not exceeding in any event, the cost of such buildings.

(3) The Lessor shall be entitled, at its election, to have delivered to it, as its property, any other additional buildings not of a permanent character, or any of such additional personal property, and if the Lessor shall elect so to take the same, the Lessor shall pay the Lessee the value thereof, to be fixed, in case of disagreement, by arbitration. The value of any such

buildings or structures shall, for the purposes of this Article, be deemed to be the difference between the value, for railroad purposes, of the demised premises at the expiration of the term, with such buildings thereon, and their value without such buildings or structures, not exceeding in any event, the cost thereof. The Lessee shall give notice in writing to the Lessor not more than ten months nor less than eight months prior to the expiration of the term granted by this indenture, specifying in detail the buildings and personal property covered by this clause and requiring the Lessor to elect whether the Lessor will retain any of such buildings and any of such additional personal property. The Lessor, if it desires to retain any thereof, shall give notice of such election to the Lessee not less than six months before the expiration of the term. Such notice shall be in writing and shall be sufficiently given if sent through the mails, registered and postage prepaid, addressed to the Lessee, at Hoboken, New Jersey. Any personal property which the Lessor shall elect not so to take, the Lessee shall not be required to deliver to the Lessor and may remove from the demised premises; any such buildings or structures as it shall elect not so to retain, the Lessee may, at any time prior to the expiration of the term, remove from the demised premises; if not so removed within said period, they shall become the property of the Lessor,

without liability on its part to make payment in respect thereof.

Any loss, damage or injury to any such building or personal property which may happen prior to the expiration of the term granted by this indenture, from whatever cause arising, shall be borne by the Lessee.

(b) If this lease be terminated, before the expiration of the term granted by this indenture, for any breach or default of the Lessee in the covenants or conditions hereof. the Lessor shall be entitled to the delivery and possession as part of the demised premises of all such additional property, real or personal, and shall not be required, on such termination hereof, or on re-entry, to pay for any of said additional property, real or personal, but shall be entitled to retain the same without payment, as its property.

The Lessor shall be entitled at the expiration of the term hereby granted, to the delivery and possession as part of the demised premises, in which term wherever used herein, such additional property shall be deemed included, of all such additional property, real or personal. For failure on the part of the Lessor to make any payment in accordance with the foregoing provisions of clause (2) of subdivision *(a)* of this Article, the remedy of the Lessee shall be in damages, the amount thereof to be determined by arbitration. Any payment called for on the part of the Lessor under the provisions of clause (3) of subdivision *(a)* of this Article shall, if the amount thereof be determined by agreement or award prior to the

expiration of the term granted by this lease, be made at the expiration of said term; or if the amount thereof be not so determined prior to the expiration of said term, within fifteen days after the amount thereof shall be thereafter so determined by agreement or award.

In case of failure on the part of the Lessor to make any payment within the period for that purpose above limited, the Lessee may, in lieu of instituting proceedings for the recovery of the value as so determined of any property specified in said clause (3), elect, by written notice to the Lessor, within thirty days after such value shall be so determined and become payable, and in that event shall be entitled, in satisfaction of the liability of the Lessor in respect thereof, to remove from the demised premises within thirty days the buildings not of a permanent character specified in said clause and the value of which the Lessor shall have so failed to pay, and to the redelivery to it by the Lessor on the demised premises of any other personal property specified in said clause, the value of which the Lessor shall have so failed to pay.

SEVENTH. During the continuation of this lease, neither party shall, without the consent of the other give the North German Lloyd Steamship Company, its successors or assigns, notice to terminate, or terminate, or commit a breach by reason whereof may be terminated, the agreement made between said Steamship Company and the Lessor, contained or recited in a bond dated March 7, 1902, for the sum of $39,000, given by said Steamship Company to the Lessor with reference to the connection of the tracks of the Lessor with a

track constructed or to be constructed upon the property of said Steamship Company. A copy of said bond has been initialed by the parties for identification. If at any time during the continuance of this lease, said agreement shall be terminated from any cause other than the default of the Lessee or its successors, and said sum of $39,000, or any other sum, which may be due from said Steamship Company, its successors or assigns, under or by reason of the provisions of said bond, shall be paid to the Lessor, then from and after the date of such payment, the annual installment of $22,000, payable under sub-division *(c)* of Article Second, shall be reduced by an amount equal to four per cent. on the amount so received by the Lessor from said Steamship Company.

EIGHTH. During the continuance of this lease, the Lessee shall not, without the previous permission in writing of the Lessor, made in pursuance of a resolution of the board of directors of the Lessor, have the right to acquire, by condemnation, directly, or indirectly by or through any other company controlling the Lessee or its lines of railroad, by lease, ownership in whole or in part of the capital stock of the Lessee, or in any other manner, or by or through any other company, stock in which shall be held by the Lessee or for its benefit, or otherwise, or in any manner other than by voluntary sale and purchase, or by voluntary letting, the following described premises and properties, or any part thereof, or any interest therein, and the Lessee covenants that neither the Lessee nor any successor shall acquire, by condemnation, directly, or indirectly by or

through any other company controlling the Lessee or its lines of railroad, by lease, ownership in whole or in part of the capital stock of the Lessee, or in any other manner, or by or through any other company, stock in which shall be held by the Lessee or for its benefit, or otherwise, or in any manner other than by voluntary sale and purchase, or by voluntary letting, the following described premises and properties, or any part thereof, or any interest therein:

(1) All property owned at the date of this lease by the Hoboken Land and Improvement Company of the Tietjen & Lang Dry Dock Company, north of the northerly line of Fourteenth Street and east of Park Avenue in the City of Hoboken and Township of Weehawken, in the County of Hudson and State of New Jersey, not including, however, *(a)* the property lying westerly of the easterly line of Hudson Street extended and between the northerly line of Fourteenth Street and a line drawn parallel to the northerly line of Fourteenth Street and 215 feet distant northerly therefrom, and *(b)* the proerty leased by the Hoboken Land and Improvement Company to Gustav Hauser by a lease dated May 1st, 1896.

(2) Property in said City of Hoboken easterly of a line drawn 88 feet easterly from the easterly line of Hudson Street and parallel thereto, between the northerly line of Fourteenth Street, extended easterly, and the southerly line of property conveyed by Charles Dickinson and Charles D. Boyles to the Hoboken Land and Improvement Company by deed, dated June 30, 1905.

(3) Property in said City of Hoboken southerly of Eleventh Street and northerly of Fifth Street between the property now owned by the Lessor, and Hudson Street.

(4) Property in said City of Hoboken southerly of the property now owned by the Pennsylvania Railroad Company, which is situated on the Hudson River between Ninth Street and Eleventh Street and northerly of Fifth Street and easterly of the property now owned by the Lessor.

Said premises and property are shown in red on a map or sketch annexed hereto.

The Lessee covenants that if the Lessee or any successor shall acquire by condemnation, directly or indirectly, the portion of the property lying within the lines of Fourteenth Street extended and westerly of a line drawn parallel with Hudson Street, and distant 88 feet easterly from the easterly line thereof, said property may always thereafter be used as an approach to the properties lying easterly, southerly and northerly of the said last-mentioned line. The property so referred to as lying within the lines of Fourteenth Street extended is shown in blue on the said map or sketch.

This Article is declared to be made also for the benefit of said Hoboken Land and Improvement Company, and of all others, the owners from time to time, and at any time, of said properties described in sub-divisions (1) (2) (3) and (4) of this Article or of any thereof or of any part thereof.

NINTH. At any time during the continuance of this lease (but during the twenty-five years next

preceding the expiration of the term of this indenture, not without the previous consent of the Lessor, expressed by endorsement on this lease, made in pursuance of a resolution of the board of directors of the Lessor) the Lessee may build and construct, and may thereafter operate under the terms of this indenture, and subject to all the provisions hereof, an elevated railroad or a sub-surface railroad upon the premises; provided, however, that said elevated railroad or sub-surface railroad

(a) shall be so constructed as not to prevent or interfere with the convenient and efficient operation of the lines of railroad demised by this indenture, or any extensions and branches thereof;

(b) shall not interfere unnecessarily with the use of that portion of the demised premises known as the River Road, or prevent convenient access at grade to any property adjacent to the premises demised by this indenture or with the use of such elevated crossings as now exist or may be constructed from time to time across the right of way of the lines or railroad demised by this indenture, by the Hoboken Land and Improvement Company or any of its successors, or any person or corporation to whom or to which said Company or any of its successors shall have granted the benefits of subdivisions *(h)* and *(i)* of Article Third hereof

Any elevated or sub-surface railroad at any time constructed on the demised premises, shall be the property of the Lessor and the Lessee covenants that, if constructed, any railroad, ele-

vated or sub-surface, shall be so constructed without incurring any liability in respect thereof, on the part of the Lessor, either for the cost thereof or for damages to abutting properties, by reason of the construction thereof or of the maintenance, use or operation thereof, and without incurring any indebtedness the holders of which shall be entitled under the laws of New Jersey to have or claim any lien in respect thereof on the demised premises or any part thereof.

If any elevated railroad shall be constructed by the Lessee, the Lessee shall pay the expense incurred in reasonably guarding and protecting such of said elevated crossings as may exist at the time of the construction of such elevated railroad, but shall not be required to bear the expense of guarding and protecting such of said elevated crossings as may be constructed and maintained across the right of way after such elevated railroad is built and in operation.

If any such elevated or sub-surface railroad, constructed in accordance with the provisions hereof, during the first seventy-four years of the term, or, with the consent of the Lessor, thereafter, shall be upon the demised premises at the end of the term of ninety-nine (99) years, granted by this lease, the Lessor, the Lessee having faithfully complied with all the covenants hereof on its part throughout the term, and at the expiration of the term having duly surrendered to the Lessor the demised premises, will pay to the Lessee the increased value, if any, for railroad purposes at said date, of the demised premises, by reason of the addition thereto of said elevated railroad or sub-surface railroad. Such increased value of the demised premises shall, for the pur-

poses of this Article, be deemed to be the difference between the value for railroad purposes, at the expiration of the term, of the demised premises with such elevated or sub-surface railroad thereon and in the condition in which such elevated or sub-surface railroad shall then be, and the value at said date for railroad purposes, of the demised premises without such elevated or sub-surface railroad, the Lessee having observed all the covenants of this indenture; but such increased value shall not exceed, in any event, the actual cost of construction of such elevated or sub-surface railroad. For the purpose of ascertaining such increased value, either party hereto may proceed with the appointment of arbitrators to determine the same in accordance with Article Eleventh hereof. If this lease be terminated otherwise than by expiration of the term of ninety-nine years granted by this indenture, or than by reason of the enforcement of the lien of said indenture of mortgage dated November 1, 1890, made by the Improvement Company to Hudson Trust and Savings Institution, to secure the sum of $1,500,000, to which this lease is expressed to be subject, the Lessor shall not be required to make payment to the Lessee in any amount in respect of said elevated or sub-surface railroad.

If, during the term of this lease, the elevation or depression of the lines of railroad demised by this indenture shall be sought to be compelled by statute or municipal ordinance, the Lessor shall, at its election, be entitled itself to contest by proper legal proceedings, at the cost and expense of the Lessee, and in its name or otherwise, the validity of any such statute or municipal ordinance under the Constitution and laws of New Jersey and of the United

States of America, and the Lessee will, on demand of the Lessor, promptly pay the costs and expenses of every character incurred by the Lessor or for which the Lessor may in any wise become liable in or in connection with such proceedings, or the Lessee shall, at its own sole cost and expense contest, if so requested by the Lessor, by proper legal proceedings, the validity of any such statute or municipal ordinance, under the Constitution and laws of New Jersey and of the United States of America. If judgment establishing the validity of such statute or municipal ordinance shall have been entered by the court to which such proceedings shall be finally prosecuted, the Lessee may, at any time within sixty days after the entry of such judgment, terminate this lease and surrender the demised premises to the Lessor. Notice of election so to terminate this lease shall be in writing, delivered to the Lessor. Unless the Lessee shall, within the period above mentioned, elect so to terminate this lease, the Lessee shall for all the purposes of this lease be deemed to have elected voluntarily to construct such elevated or sub-surface lines of railroad under and subject to all the provisions of this Article; and in that case all the foregoing provisions of this Article governing the erection of, or otherwise in respect of, an elevated or sub-surface railroad voluntarily constructed by the Lessee upon the demised premises, shall in all respects apply to such elevated or sub-surface lines of railroad as shall be so constructed by the Lessee.

TENTH. All the rights and remedies reserved to the Lessor in and by this indenture are cumulative and are in addition to any and all others which may arise either at law or in equity, and shall not

at any time or in any place be deemed to exclude the Lessor from the pursuit of such legal or equitable remedy; nor shall the failure of the Lessor to exercise any such right or remedy at any time be construed as a waiver or abandonment thereof, but whenever and as often as occasion shall arise the Lessor shall be deemed to be possessed of the right until it has fully exercised the same in the particular instance.

ELEVENTH. In the event of differences arising between the Lessor and the Lessee, such differences, or any matter which it is provided in this lease shall be determined by arbitration, shall be submitted to the arbitration of three disinterested persons, one of whom shall be chosen by each of the parties hereto, and the third by the two arbitrators so chosen; and the award and finding of said arbitrators, or of any two of them, shall be final and conclusive on any question or matters so submitted to them. In case an arbitration is not otherwise arranged, either party desiring such submission to arbitration shall notify the other party in writing of the matter which it desires to submit to arbitration designating its arbitrator in such notice. Within twenty days thereafter, the party thus notified shall name its arbitrator, and notify the other party of such selection. The arbitrators thus selected shall immediately proceed to select the third arbitrator as aforesaid, and with him to consider and determine all matters submitted. In case the party notified of the desired submission to arbitration, shall fail, upon due notification, to name an arbitrator, the arbitrator selected by the other party shall have the right to proceed alone and determine the mat-

ters thus submitted, and his award shall be final and conclusive upon the parties hereto.

In the event that the two arbitrators first selected shall be unable to agree upon the third arbitrator within thirty days after the selection of the second arbitrator, either party hereto, upon giving ten days' notice in writing to the other party, or to the arbitrator selected by such other party, may apply to the Court of Chancery of New Jersey, or to the Circuit Court of the County of Hudson, in the State of New Jersey, for the appointment of a third arbitrator, and any arbitrator appointed by either of such courts upon such application shall have the same powers and duties as if appointed by the two arbitrators first selected as hereinbefore provided.

TWELFTH. Save as otherwise expressly provided in subdivisions *(h)* and *(i)* of Article Third hereof, and in Article Eighth hereof, nothing in this indenture expressed or implied is intended or shall be construed to confer upon or give to any person or corporation, other than the parties hereto, any right, remedy or claim under or by reason of this indenture, or any covenant, condition or stipulation thereof, nor shall this agreement or any covenant, condition or stipulation hereof, subject any person or corporation other than the respective parties hereto, to any duty, obligation or liability; and all the covenants, stipulations, promises and agreements in this indenture contained shall be for the sole and exclusive benefit of the parties hereto, and shall bind and apply to the successors and assigns of the parties whether so expressed or not.

Exhibit P-29.

THIRTEENTH. All the covenants, stipulations and agreements of this indenture shall extend to the successors and assigns of the parties respectively, by and to whom the same have been made.

IN WITNESS WHEREOF, Hoboken Railroad Warehouse and Steamship Connecting Company has caused its corporate seal to be hereunto affixed, and this indenture to be signed by its President and Secretary, and Hoboken Manufacturers' Railroad Company has caused its corporate seal to be hereunto affixed, and this indenture to be signed by its President and Secretary the day and year first above written.

HOBOKEN RAILROAD WAREHOUSE AND STEAMSHIP CONNECTING COMPANY,
by
E. A. STEVENS,
President.

(SEAL)
Attest:
WM. A. MACY,
Secretary.

HOBOKEN MANUFACTURERS' RAILROAD COMPANY,
by
ROBERT M. DICKINSON,
President.

(SEAL)
Attest:
HENRY E. S. WILSON,
Secretary.

Exhibit P-29.

State of New Jersey, }
County of Hudson, } ss.:

Be it remembered that on the 19th day of June, A.D. 1906, before me, the subscriber, a Master in Chancery of the State of New Jersey, personally appeared William A. Macy to me known, who being by me duly sworn according to law, on his oath doth depose and say that he is the Secretary of Hoboken Railroad Warehouse and Steamship Connecting Company the lessor named in the foregoing instrument; that the seal affixed to said instrument is the corporate seal of said Company; that it was so affixed by order of said Company; that Edwin A. Stevens is the President of said Company; that he saw said Edwin A. Stevens as such President, sign said instrument, and heard him declare that he signed, sealed and delivered the same as the voluntary act and deed of said Company by its order; and that this deponent signed his name thereto, at the same time, as a subscribing witness.

Wm. A. Macy.

Subscribed and sworn before me the day and year above written.

J. W. Rufus Besson,
Master in Chancery,
State of New Jersey.

Exhibit P-29.

State of New Jersey, }
County of Hudson, } ss.:

Be it remembered that on the 19th day of June, A. D. 1906, before me, the subscriber, a Master in Chancery of the State of New Jersey, personally appeared HENRY E. S. WILSON to me known, who being by me duly sworn according to law, on his oath doth depose and say that he is the Secretary of HOBOKEN MANUFACTURERS' RAILROAD COMPANY, the lessee named in the foregoing instrument; that the seal affixed to said instrument is the corporate seal of said Company; that it was so affixed by order of said Company; that Robert M. Dickinson is the President of said Company; that he saw said Robert M. Dickinson as such President, sign said instrument, and heard him declare that he signed, sealed and delivered the same as the voluntary act and deed of said Company by its order; and that this deponent signed his name thereto, at the same time, as a subscribing witness.

HENRY E. S. WILSON.

Subscribed and sworn before me the day and year above written.

J. W. RUFUS BESSON,
Master in Chancery,
State of New Jersey.

Exhibit P-29.

SCHEDULE A.

Deed made by Hoboken Land and Improvement Company to Hoboken Railroad Warehouse and Steamship Connecting Company, dated January 31st, 1898, for lands north of Fourteenth Street, Hoboken, N. J., recorded February 14, 1898, in Book 691 of Deeds at page 525.

Deed made by Hoboken Land and Improvement Company to Hoboken Railroad Warehouse and Steamship Connecting Company, dated January 31st, 1898, for lands between Tenth and Fifth Streets, Hoboken, N. J., recorded February 14, 1898, in Book 691 of Deeds at page 530.

Deed made by Martha B. Stevens to Hoboken Railroad Warehouse and Steamship Connecting Company, dated January 3d, 1898, for lands between Eleventh and Twelfth Streets, Hoboken, N. J., recorded February 14, 1898, in Book 691 of Deeds at page 515.

Grant made by Hoboken Land and Improvement Company to Hoboken Railroad Warehouse and Steamship Connecting Company, dated January 31st, 1898, for right to lay tracks, etc. in Hudson Street, recorded February 14, 1898, in Book 691 of Deeds at page 523.

Grant made by Martha B. Stevens to Hoboken Railroad Warehouse and Steamship Connecting Company, dated December 30th, 1897, for right to lay tracks etc. in Hudson Street, recorded February 14, 1898, in Book 691 of Deeds at page 524.

Grant made by Mary P. Lewis to Hoboken Railroad Warehouse and Steamship Connecting Company, dated March 7th, 1898, for right to lay tracks, etc., in Hudson Street, recorded March 8, 1898, in Book 696 of Deeds at page 113.

Exhibit P-29.

Deed made by Hoboken Land and Improvement Company to Hoboken Railroad Warehouse and Steamship Connecting Company, dated June 12th, 1906, for lands near Fifth Street and River Road, Hoboken, N. J., recorded June 14th, 1906.

Deed made by Hoboken Land and Improvement Company to Hoboken Railroad Warehouse and Steamship Connecting Company, dated June 12th, 1906, for lands north of Fourteenth street, Hoboken, N. J., recorded June 14th, 1906.

Grant and surrender of rights, Hoboken Railroad Warehouse and Steamship Connecting Company with Hoboken Land and Improvement Company, dated June 12th, 1906, as to reserved rights in lands north of Fourteenth street, Hoboken, N. J., recorded June 14th, 1906.

AGREEMENT made by Hoboken Railroad Warehouse and Steamship Connecting Company with Hoboken Land and Improvement Company, dated June 13th, 1906, as to rights to cut away lands west of River Road and other matters.

AGREEMENT made by Hoboken Land and Improvement Company with Hoboken Railroad Warehouse and Steamship Connecting Company, dated February 1st, 1898, as to purchase of park site, etc.

AGREEMENT made by Erie Railroad Company with Hoboken Railroad Warehouse and Steamship Connecting Company, dated January 27th, 1898, as to carriage of cars and freight.

AGREEMENT made by Erie Railroad Company and Hoboken Railroad Warehouse and Steamship Connecting Company with Hoboken Land and Improvement Company, dated October 30th, 1897, as to carriage of cars and freight.

Exhibit P-29.

AGREEMENT made by Hoboken Railroad Warehouse and Steamship Connecting Company with New York and New Jersey Telephone Company, dated May 18th, 1903, as to placing and maintaining poles, etc.

BOND OF INDEMNITY made by Hoboken Land and Improvement Company to Hoboken Railroad Warehouse and Steamship Connecting Company, dated February 25th, 1898, indemnifying railroad against mortgage of Hoboken Land and Improvement Company to Hudson Trust and Savings Institution.

Ordinance giving consent to and authorizing the Hoboken Railroad Warehouse and Steamship Connecting Company to make, erect, maintain and operate a railway, propelled by electricity on certain streets and avenues in the City of Hoboken, and also, to erect poles on certain streets and avenues in the City of Hoboken for the purpose of stringing wires thereon, necessary to operate its railway with electric power, enacted by the Mayor and Common Council of the City of Hoboken, October 23, 1895.

Letters January 6, 1899, and January 16, 1899, Palmer Campbell, Gen'l Mgr. Hoboken Railroad Warehouse and Steamship Connecting Company, to Robert H. McCarter Potter.

Agreement, Hoboken Land and Improvement Company with Hackensack Water Company, dated May 1, 1890.

Bond, North German Lloyd Steamship Company to Hoboken Railroad Warehouse and Steamship Connecting Company, dated March 7, 1902.

Agreement, Hoboken Land and Improvement Company with City of Hoboken, dated August 27, 1889.

Exhibit P-29.

Agreement, between Hoboken Land and Improvement Company and United Electric Company, dated December 7, 1901.

Letter, Hoboken Land and Improvement Company to United Electric Company, dated May 25, 1901.

Agreement, between Hoboken Railroad, Warehouse and Steamship Connecting Company and Hoboken Land and Improvement Company, and Jersey City, Hoboken and Paterson Street Railway Company, and the United Electric Company of New Jersey, dated September 1, 1905.

Agreement, between Hoboken Land and Improvement Company and Hudson County Gas Company, dated August 21, 1902.

Agreement, Hoboken Land and Improvement Company and United Electric Company of New Jersey, dated December 7, 1901.

Lease, Hoboken Land and Improvement Company to Hall, Jagels, Bellis Company, dated February 6, 1905.

Deed, Hoboken Land and Improvement Company to Thomson-Houston Electric Light Company, dated August 2, 1892.

Deed, Hoboken Land and Improvement Company to Robert H. McCarter Potter, dated May 3, 1905.

Deed, Hoboken Land and Improvement Company to Tietjen and Lang Dry Dock Company, dated, July 1, 1902.

Deed, Hoboken Land and Improvement Company and others, to North Hudson County Railway Company, dated, December 18, 1884.

Agreement, between Ocean Steamship Company and Hoboken Railroad Warehouse and

Exhibit P-29.

Steamship Connecting Company, dated, August 23, 1897.

Deed, Hoboken Land and Improvement Company to Mayor and Council of the City of Hoboken, dated, February 11, 1898.

Lease, Hoboken Land and Improvement Company to Gustav Hauser, dated May 1, 1896.

Lease, Hoboken Land and Improvement Company to Consolidated Coal Company, dated, June 1, 1905.

Lease, Hoboken Land and Improvement Company to Charles S. Schultz, dated, November 1, 1897.

Leases, Hoboken Land and Improvement Company to Jacob Vanderbilt, dated May 1, 1895, and April 1, 1901.

Lease, Hoboken Land and Improvement Company to Vanderbilt & Son, dated November 1, 1899.

Leases, Hoboken Land and Improvement Company to Atkinson & Co., dated May 15, 1899, and August 4, 1903.

Leases, Hoboken Land and Improvement Company to Campbell Stores, dated April 24, 1900, and March 2, 1905.

Lease, Hoboken Land and Improvement Company to Lloyd B. Sanderson and A. Maclay Pentz, trading under the firm name of Sanderson & Son, dated November 2, 1903.

Lease, Hoboken Land and Improvement Company to De Nederlandsch Amerikaansche Stoomvart Maatschappy, Holland Amerika Lyn, dated November 11, 1899.

Deed of Hoboken Railroad Warehouse and Steamship Connecting Company and others to Benjamin W. Carskaddon, dated April 17, 1899,

Exhibit P-29.

and recorded in the Register's Office of Hudson County, N. J., April 25, 1899, in Book 720 of Deeds, at Page 356, etc.

Deed of Hoboken Land and Improvement Company to Benjamin W. Carskaddon, dated April 17, 1899, and recorded in the Register's Office of Hudson County, N. J., April 25, 1899, in Book 720 of Deeds, at Page 343, etc.

Agreement between Edwin A. Stevens and others, Executors of Martha B. Stevens, and others, with Benjamin W. Carskaddon, dated April 17, 1899, and recorded in the Register's Office of Hudson County, N. J., April 25, 1899, in Book 720 of Deeds, at Page 375, etc.

Exhibit P-30

7/22/43

1. Average Tax Rate

Year	Average Tax Rate	
1906	$1,801	
1907	1.627	
1908	1.681	
1909	1.808	
1910	1.856	
1911	1.896	
1912	1.961	
1913	1.979	
1914	2.024	
1915	2.115	
1916	2.193	(Notation in Pencil)
1917	2.340	Rate fixed by
1918	2.297	Supreme Court
1919	2.853	on Appeal.
1920	3.264	
1921	3.440	
1922	3.561	
1923	3.561	
1924	3.671	
1925	3.728	
1926	3.615	
1927	3.762	
1928	3.877	
1929	3.929	
1930	4.055	
1931	4.081	
1932	4.048	
1933	3.756	
1934	3.968	
1935	3.997	
1936	4.153	
1937	4.222	
1938	4.535	
1939	4.620	
1940	4.718	
1941	4.818	revised by Chapter 291, Laws of 1941 to a flat rate of $3.00.

Pursuant to the provisions of Chapter 401, Laws of 1941, the "Average rate of taxation" of the State for the year 1942 has been determined to be $4.723 per one hundred dollars of valuation based

Pursuant to the provisions of Chapter 401, Laws of 1941, the "Average rate of taxation" of the State for the year 1942 has been determined to be $4.723 per one hundred dollars of valuation based upon the following computation:

County	Aggregate Value: Value of Property Taxable at Local Rates	Aggregate Value: Value of Second Class R. R. Property	Aggregate Taxes: Total Taxes at Local Rates	Aggregate Taxes: Amount of Tax Assessed on Second Class R .R. Property	Aggregate Taxes: One Half of R. R. Franchise Tax
Atlantic	$131,471,914.00	$1,015,507.00	$8,634,708.67	$30,465.21	$15,731.93
Bergen	470,759,623.00	3,111,442.00	22,826,124.48	93,343.26	48,206.00
Burlington	57,543,093.00	170,317.00	2,812,323.11	5,109.51	2,622.95
Camden	247,761,610.00	3,192,245.00	11,807,473.75	95,767.35	49,465.47
Cape May	51,172,117.00	377,379.00	3,066,438.08	11,321.37	5,845.00
Cumberland	48,622,898.00	283,577.00	1,981,441.02	8,507.31	4,390.00
Essex	1,348,825,329.00	10,451,529.00	63,207,066.11	313,545.87	161,995.00
Gloucester	54,170,923.00	250,159.00	2,492,104.40	7,504.77	3,868.19
Hudson	977,480,941.00	145,962,916.00	50,115,946.68	4,378,887.48	2,262,480.00
Hunterdon	83,832,150.00	237,123.00	1,181,782.39	7,113.69	3,661.35
Mercer	234,339,344.00	2,741,405.00	10,188,823.48	82,242.15	42,487.00
Middlesex	192,793,411.00	6,524,165.00	10,724,381.44	195,724.95	101,114.00
Monmouth	181,209,048.00	882,930.00	9,326,859.83	26,487.90	13,665.00
Morris	118,276,868.00	805,521.00	5,479,553.77	24,165.63	12,469.00
Ocean	44,465,865.00	219,662.00	2,487,334.70	6,589.86	3,394.00
Passaic	360,151,384.00	1,472,834.00	16,178,057.34	44,185.02	22,824.00
Salem	44,870,943.00	84,799.00	1,280,703.70	2,543.97	1,308.00
Somerset	65,278,293.00	693,278.00	2,685,246.13	20,798.34	10,740.00
Sussex	31,123,912.00	83,268.00	1,220,372.36	2,498.04	1,283.16
Union	493,920,374.00	4,784,774.00	20,344,409.09	143,543.22	74,157.00
Warren	40,514,004.00	752,599.00	1,585,339.93	22,757.97	11,748.00
Totals	$5,278,764,044.00	$184,103,429.00	$249,626,490.46	$5,523,102.87	$2,853,679.40

Valuation of all property subject to local taxation	=	$5,278,764,044.00
Valuation of Second Class R. R. Property	=	184,103,429.00
Aggregate Value	=	5,462,867,473.00
Total Taxes at Local Rates	=	249,626,490.46
Second Class R. R. Taxes	=	5,523,102.87
One-half R. R. Franchise Tax	=	2,853,679.40
Aggregate Taxes	=	258,003,272.73

$258,003,272.73 = $4.72285432
5,462,867,473.00

Average Rate of Taxation Per One Hundred Dollars of Valuation

Exhibit P-32 (A)

7/22/43

2—Local Tax Rate for the years 1930 to 1943, inclusive:

(Pencil notation)
See attached sheet
Exhibit P-32 (B)

Municipality	1930	1931	1932	1933	1934	1935	1936	1937	1938	1939	1940	1941	1942	1943
Jersey City	3.793	3.889	3.879	3.739	4.069	4.278	4.581	4.424	4.754	4.838	5.298	3.00	3.00	3.00
Hoboken (Old Hoboken	4.866	4.802	4.867	4.435	4.325	4.639	5.091	5.674						
(Weehawken									5.081	4.498	5.326	3.00	3.00	3.00
(Add	4.849	4.786	4.865	4.433	4.323	4.637	5.088	5.672						
Weehawken	3.69	3.685	3.786	3.582	3.438	3.460	3.456	3.777	3.994	4.153	4.495	3.00	3.00	3.00
West New York	4.969	4.939	4.951	4.285	4.294	5.05	4.833	5.149	5.380	4.857	5.754	3.00	3.00	3.00
Edgewater	3.88	3.67	3.65	3.33	3.19	3.13	3.09	3.22	3.50	3.69	3.65	3.00	3.00	3.00
Newark	3.94	3.98	3.80	3.28	3.65	3.36	3.81	3.69	4.61	4.55	4.85	3.00	3.00	3.00

Exhibit P-32 (B)

7/22/43

Municipality	1941	1942	1943
Jersey City	5.218	5.373	5.745
Hoboken	4.540	4.561	4.597
Weehawken	4.601	4.295	4.364
West New York	5.741	6.296	5.517
Edgewater	3.51	3.43	
Newark	5.75	5.29	5.31

3. Total Assessed Valuation for Class I, II, III and IV Railroad Property

Class	1930	1931	1932	1933	1934	1935
Main Stem Property	$211,371,703	$214,398,491	$218,229,169	$215,091,868	$195,605,218	$192,254,226
Second Class Property	206,459,430	213,971,087	220,133,127	218,518,530	215,367,732	212,737,518
Tangible Personal Property	72,197,893	72,356,657	71,055,163	68,658,474	63,406,155	61,212,962
Franchise	7,448,500	6,453,500	5,382,500	5,365,500	4,432,463	3,220,989
Aggregate	$497,477,526	$507,179,735	$514,799,959	$507,634,372	$478,811,568	$469,425,695

Class	1936	1937	1938	1939	1940
Main Stem Property	$190,896,076	$188,446,733	$184,159,725	$154,608,559	$144,268,892
Second Class Property	200,437,212	198,923,426	197,396,464	189,119,608	176,439,659
Tangible Personal Property	59,162,901	57,606,830	57,134,616	53,909,514	48,488,471
Franchise	2,938,089	2,935,089	2,884,089	2,882,089	2,881,089
Aggregate	$453,434,278	$447,912,078	$441,574,894	$400,519,770	$372,078,111

Exhibit P-34
7/22/43

4. Assessed Value of Class II Railroad Property

Municipality	1932	1933	1934	1935	1936
Jersey City	$125,606,402	$126,128,648	$125,998,174	$125,402,143	$116,473,665
(Old Hoboken)	7,942,269	7,820,345	7,614,479	7,511,973	6,927,280
Hoboken (Weehawken Add.)	3,926,982	3,895,274	4,335,124	4,289,510	3,910,277
	11,869,251	11,715,619	11,949,603	11,801,483	10,837,557
Weehawken	15,049,362	15,373,098	15,077,859	15,024,215	14,176,456
West New York	9,064,195	9,064,195	8,715,421	8,715,421	7,285,378
Edgewater	1,715,247	1,715,225	1,693,645	1,683,796	1,650,855
Newark	8,162,793	8,171,747	8,323,255	8,147,333	8,876,594

Municipality	1937	1938	1939	1940
Jersey City	$115,882,226	$115,531,876	$115,142,289	$104,822,646
(Old Hoboken	6,924,282	6,924,290		
Hoboken (Weehawken Add.	3,910,277	3,906,934		
	10,834,559	10,831,224	9,023,099	9,030,678
Weehawken	14,133,788	13,912,070	12,627,423	12,596,472
West New York	7,219,463	7,217,298	6,548,488	6,548,488
Edgewater	1,656,597	1,656,147	1,590,172	1,577,887
Newark	8,790,254	8,748,512	8,780,740	8,562,470

Exhibit P-35
7/22/43

5. TOTAL VALUE OF LAND AND IMPROVEMENTS ASSESSED (EXCLUSIVE OF SECOND-CLASS RAILROAD PROPERTY)

Municipality	1930	1931	1932	1933	1934	1935
Jersey City	$475,184,772	$471,104,322	$470,416,727	$468,897,452	$460,873,802	$457,619,902
(Old Hoboken	58,494,900	58,485,500	58,619,100	58,052,900	57,520,400	56,765,900
Hoboken (						
(Weehawken Ad.	22,173,900	21,565,900	21,797,300	21,557,900	21,733,800	21,159,100
Weehawken	21,242,170	20,832,470	20,778,470	20,461,570	20,240,770	20,066,170
West New York	41,665,600	41,564,600	41,475,600	40,929,300	39,685,800	38,866,900
Edgewater	16,369,554	19,605,975	18,935,905	19,305,984	19,391,339	19,259,289
Newark	717,047,835	727,268,685	726,912,735	721,943,810	702,718,135	727,180,680

Municipality	1936	1937	1938	1939	1940
Jersey City	$452,003,977	$445,477,002	$441,770,147	$441,602,847	$440,699,147
(Old Hoboken	50,661,500	50,951,800)			
Hoboken (		)	72,085,200	68,886,200	66,054,000
(Weehawken Ad.	20,289,600	20,315,700)			
Weehawken	19,890,370	19,556,420	19,247,165	19,262,500	19,115,730
West New York	38,823,000	32,893,450	32,854,950	33,475,850	33,667,350
Edgewater	19,098,629	19,090,351	19,250,893	19,587,587	19,508,415
Newark	715,027,335	704,770,320	680,620,945	654,687,280	604,854,645

Exhibit P-36

Pages 49 through 127, inclusive, of the 10th Annual Report of the State Tax Department.

(See Opposite.)



Exhibit P-36

ABSTRACTS OF RATABLES FOR THE YEAR 1941

Containing Valuations of Real and Personal Property, Including Second-class Railroad Property, Deductions, Exemptions, Polls, Tax Rates and Apportionment of State, County and Local Taxes.

Abstract of Ratables and Exemptions in the County of Atlantic for the Year 1941

TAXING DISTRICT	TOTAL NO. OF ACRES AND LOTS ASSESSED		Value of Land Assessed	Value of Improvements Thereon Assessed	Total Value of Land and Improvements Assessed, Exclusive of Second Class R. R. Property.	Value of Second Class R. R. Property	Value of Personal Property Assessed.	Deductions—Property Exempted Under Sec. 54:4-3.12 of Revised Statutes	Net Valuation Taxable
	Acres	Lots							
Absecon City	1,412	5,267	$739,306.00	$550,450.00	$1,289,756.00	$11,120.00	$104,140.00	$26,025.00	$1,378,991.00
Atlantic City	10,529	65,000	40,371,390.00	43,231,500.00	83,602,890.00	780,843.00	7,560,050.00	170,250.00	91,773,533.00
Brigantine City	2,348	8,608	888,519.00	122,274.00	1,010,793.00	.....	7,624.00	6,366.00	1,012,051.00
Buena Vista Township	27,054	4,431	433,425.00	646,475.00	1,079,900.00	3,947.00	103,125.00	.....	1,186,972.00
Corbin City	4,144	828	35,990.00	37,275.00	73,265.00	626.00	7,460.00	2,700.00	78,651.00
Egg Harbor City	.....	31,793	350,478.00	994,940.00	1,345,418.00	1,404.00	170,300.00	27,315.00	1,489,807.00
Egg Harbor Township	46,281	13,257	703,525.00	514,725.00	1,218,250.00	831.00	162,485.00	.....	1,381,566.00
Estell Manor	30,085	1,877	80,284.00	51,510.00	131,794.00	396.00	12,370.00	5,420.00	139,140.00
Folsom Borough	5,238	703	68,750.00	86,800.00	155,550.00	2,015.00	48,600.00	2,500.00	203,665.00
Galloway Township	19,800	45,320	714,813.00	791,250.00	1,506,063.00	12,155.00	153,225.00	42,000.00	1,629,443.00
Hamilton Township	70,140	53,840	845,425.00	624,950.00	1,470,375.00	4,611.00	182,900.00	41,275.00	1,616,611.00
Hammonton	24,826	.....	1,199,565.00	1,842,700.00	3,042,265.00	32,966.00	422,525.00	59,000.00	3,438,756.00
Linwood	1,393	3,173	519,820.00	451,199.00	971,021.00	1,744.00	57,262.00	4,500.00	1,025,527.00
Longport	.....	2,420	808,650.00	452,745.00	1,261,395.00	10,384.00	58,520.00	3,750.00	1,326,549.00
				1,473,235.00	4,883,480.00				5,087,339.00
Margate City	250	8,000	3,410,245.00	(1,777,635.00)	(5,187,880.00)	1,189.00	265,475.00	62,805.00	(5,391,739.00)
Mullica Township	30,800	5,000	417,505.00	403,510.00	821,015.00	562.00	98,350.00	8,150.00	911,777.00
Northfield	1,693	2,711	533,377.00	620,705.00	1,154,082.00	3,397.00	126,285.00	20,740.00	1,263,024.00
Pleasantville	1,379	10,583	3,014,650.00	3,834,170.00	6,848,820.00	85,980.00	372,453.00	94,620.00	7,212,633.00
Port Republic	3,254	.....	63,425.00	80,325.00	143,750.00	.....	16,425.00	7,700.00	152,475.00
Somers Point	1,396	7,352	898,900.00	474,115.00	1,373,015.00	5,069.00	125,350.00	22,534.00	1,480,900.00
			3,099,050.00	6,140,730.00	9,239,780.00				9,800,680.00
Ventnor City	114	10,767	(3,295,950.00)	(6,945,080.00)	(10,241,030.00	22,485.00	606,215.00	67,800.00	(10,801,930.00)
Weymouth Township	7,423	1,513	54,505.00	73,255.00	127,760.00	450.00	4,745.00	5,300.00	127,655.00
Totals	.....	.....	$59,251,599.00 ($59,448,499.00)	$63,498,838.00 ($64,607,588.00)	$122,750,437.00 ($124,056,087.00)	$982,174.00	$10,665,884.00	$680,750.00	$133,717,745.00 ($135,023,395.00)

Abstract of Ratables and Exemptions in the County of Atlantic, for the Year 1941—(Continued)

TAXING DISTRICT	Amounts Deducted Under Sec. 54:4-49 and Sec. 54:4-53 of Revised Statutes (Resulting from Prior Appeals and Corrected Errors)	Amounts Added for Equalization Under Sec. 54:3-17 of Revised Statutes	Net Valuation on Which County, State and State School Taxes are Apportioned	Number of Polls Assessed	PROPERTY EXEMPT FROM TAXATION				
					Public School Property	Public Property	Church and Charitable Property	Cemeteries and Graveyards	Total Amount of Exempt Property
Absecon City	$5,925.00	.....	$1,373,066.00	....	$51,000.00	$57,575.00	$14,885.00	$8,300.00	$131,760.00
Atlantic City	1,297,567.00	.....	90,475,966.00	....	1,259,850.00	9,022,100.00	1,958,650.00	.....	12,240,600.00
Brigantine City	.....	.....	1,012,051.00	....	9,330.00	828,510.00	4,670.00	.....	842,510.00
Buena Vista Township	.....	.....	1,186,972.00	1,012	158,350.00	55,375.00	23,125.00	1,750.00	238,600.00
Corbin City	.....	.....	78,651.00	....	6,800.00	7,600.00	1,000.00	.....	15,400.00
Egg Harbor City	485.00	.....	1,489,322.00	....	49,150.00	34,725.00	53,845.00	.....	137,720.00
Egg Harbor Township	5,925.00	.....	1,375,641.00	399	71,150.00	.....	18,025.00	.....	89,175.00
Estell Manor	.....	.....	139,140.00	....	2,900.00	8,297.00	2,150.00	1,165.00	14,512.00
Folsom Borough	.....	.....	203,665.00	....	1,050.00	900.00	2,300.00	.....	4,250.00
Galloway Township	2,000.00	.....	1,627,443.00	....	117,700.00	27,000.00	6,000.00	1,500.00	152,200.00
Hamilton Township	.....	.....	1,616,611.00	....	246,650.00	332,300.00	31,350.00	10,000.00	620,300.00
Hammonton	1,850.00	.....	3,436,906.00	1,567	371,800.00	218,725.00	89,950.00	10,000.00	690,475.00
Linwood	.....	.....	1,025,527.00	....	38,180.00	22,489.00	24,796.00	1,500.00	86,965.00
Longport	.....	.....	1,326,549.00	....	.....	244,760.00	87,025.00	.....	331,785.00
Margate City	8,820.00	$304,400.00	5,382,919.00	....	100,245.00	194,290.00	6,165.00	.....	300,700.00
Mullica Township	400.00	.....	911,377.00	....	39,900.00	5,175.00	14,900.00	68,400.00	128,375.00
Northfield	1,190.00	.....	1,261,834.00	....	80,505.00	231,265.00	3,570.00	.....	315,340.00
Pleasantville	25,940.00	.....	7,186,693.00	....	751,350.00	349,575.00	188,580.00	21,100.00	1,310,605.00
Port Republic	.....	.....	152,475.00	110	1,500.00	775.00	7,150.00	150.00	9,575.00
Somers Point	8,308.00	.....	1,472,592.00	....	78,025.00	30,425.00	49,650.00	.....	158,100.00
Ventnor City	30,900.00	1,001,250.00	10,771,030.00	5,000	365,300.00	760,135.00	316,950.00	.....	1,442,385.00
Weymouth Township	.....	.....	127,655.00	....	5,750.00	975.00	2,000.00	200.00	8,925.00
Totals	$1,389,310.00	$1,305,650.00	$133,634,085.00	8,088	$3,806,485.00	$12,432,971.00	$2,906,736.00	$124,065.00	$19,270,257.00

Abstract of Ratables and Exemptions in the County of Atlantic, for the Year 1941—(Concluded)

TAXING DISTRICT	APPORTIONMENT OF TAXES								Bank Stock Taxes Due Taxing District	General Tax Rate to Apply per $100 Valuation (Tax Rate for Local Taxing Purposes)
	State School Tax	Soldiers' Bonus Bond Tax	County Taxes Apportioned (Exclusive of Bank Stock Taxes)	Local Taxes to be Raised (Exclusive of Bank Stock Taxes)—District School Tax	Local Taxes to be Raised (Exclusive of Bank Stock Taxes)—Other Local Taxes	Total Amount of Misc. Revenues (Including Surplus Revenue Appropriated) for the Support of the Budget	District Court Taxes	Library Tax		
Absecon City	$4,035.65	.....	$16,192.59	$23,266.00	$61,155.10	$18,242.02	.....	$275.80	$1,121.21	$7.608791
Atlantic City	265,882.75	.....	1,066,984.74	967,035.25	3,188,167.08	1,435,351.76	.....	.....	4,048.12	5.980013
Brigantine City	2,974.13	.....	11,935.14	9,235.00	107,159.90	48,720.87	.....	202.41	.....	12.994066
Buena Vista Township	3,488.17	.....	13,997.98	61,230.00	16,805.52	25,374.84	.....	237.39	394.48	8.067509
Corbin City	231.13	.....	927.53	1,500.00	2,593.08	8,100.00	.....	15.73	.....	6.697277
Egg Harbor City	4,376.69	.....	17,563.60	41,022.00	63,502.89	43,707.86	.....	297.96	498.28	8.508696
Egg Harbor Township	4,042.61	.....	16,222.96	55,731.10	63,509.32	20,738.54	.....	276.31	.....	10.146334
Estell Manor	408.89	.....	1,640.88	3,000.00	6,073.43	10,320.00	.....	27.83	.....	8.014252
Folsom Borough	598.51	.....	2,401.83	4,300.00	1,047.74	4,160.00	.....	40.73	.....	4.118926
Galloway Township	4,782.59	.....	19,192.47	53,152.50	37,447.04	20,900.00	.....	325.89	.....	7.051520
Hamilton Township	4,750.75	.....	19,064.72	55,310.00	59,582.38	39,681.82	.....	323.32	277.34	8.600163
Hammonton	10,100.07	.....	40,531.50	125,326.53	41,840.01	83,340.00	.....	687.75	476.85	6.353631
Linwood	3,013.73	.....	12,094.05	24,770.00	57,968.42	16,555.46	.....	205.11	.....	9.560091
Longport	3,898.34	.....	15,644.02	3,500.00	103,822.69	6,756.14	.....	265.31	.....	9.583541
Margate City	15,818.85	.....	63,480.86	71,466.84	484,510.93	32,060.20	.....	1,078.35	.....	11.802424
Mullica Township	2,678.27	.....	10,747.89	22,550.00	26,923.89	7,157.00	.....	182.36	.....	6.918622
Northfield	3,708.17	.....	14,880.83	42,000.00	69,290.35	13,397.75	.....	252.61	.....	10.303206
Pleasantville	21,119.62	.....	84,752.80	173,992.50	278,362.70	153,901.26	.....	1,442.53	328.03	7.759582
Port Republic	448.08	.....	1,798.14	4,004.00	1,030.07	12,263.90	.....	30.50	.....	4.794744
Somers Point	4,327.52	.....	17,366.30	33,975.00	73,357.64	18,985.00	.....	296.18	.....	8.732706
Ventnor City	31,652.94	.....	127,022.96	160,923.49	456,141.43	200,448.01	.....	2,160.39	598.72	7.201502
Weymouth Township	375.14	.....	1,505.44	4,237.59	5,170.25	5,317.42	.....	25.53	.....	8.862912
Totals	$392,712.00	.....	$1,575,949.23	$1,941,527.80	$5,205,451.86	$2,225,479.85	.....	$8,649.99	$7,743.03	.....

Total County Taxes Appropriated	$1,583,692.26	County Tax Rate per $100 of Valuation	$1.179302
Bank Stock Taxes Due County	7,743.03	State School Tax Rate per $100 of Valuation	.293871
Net County Taxes Apportioned	1,575,949.23		
Total Amount of Miscellaneous Revenues (including surplus Revenues Appropriated) for the support of the County Budget	588,874.56		

Abstract of Ratables and Exemptions in the County of Bergen, for the Year 1941

TAXING DISTRICT	TOTAL NUMBER OF ACRES AND LOTS ASSESSED		Value of Land Assessed	Value of Improvements Thereon Assessed	Total Value of Land and Improvements Assessed Exclusive of Second Class R. R. Property	Value of Second Class R. R. Property	Value of Personal Property Assessed	Deductions—Household Goods and Other Exemptions Under Sec. 54:4-3.16 of Revised Statutes	Deductions—Property Exempted Under Sec. 54:4-3.12 of Revised Statutes
	Acres	Lots							
Hohokus Township	16,149	2,802	$1,018,125	$2,271,425	$3,289,550	$9,240	$556,515	$47,600	$27,700
Lyndhurst Township	1,643	10,566	4,250,930	7,887,225	12,138,155	411,346	731,297	210,500	152,125
Ridgefield Park Township	437	5,656	2,851,923	6,409,946	9,261,869	116,495	727,976	177,200	105,813
Ridgewood Township	1,172	9,253	9,818,658	16,908,628	26,727,286	36,004	2,394,046	415,225	298,455
Rivervale Township	2,351	1,585	492,597	587,925	1,080,522	.....	104,811	22,800	10,070
Rochelle Park Township	324	3,182	741,545	1,566,175	2,307,720	1,165	215,070	57,000	42,100
Saddle River Township	1,254	4,806	814,113	1,580,944	2,395,057	6,613	378,229	54,900	33,440
S. Hackensack Township	244	1,618	183,830	271,165	454,995	.....	84,035	17,500	8,000
Teaneck Township	799	25,239	8,187,405	18,926,655	27,114,060	71,490	3,476,121	722,800	497,050
Washington Township	1,569	4,923	591,275	322,675	913,950	.....	78,770	11,500	3,500
Wyckoff Township	3,557	4,958	698,802	2,071,600	2,770,402	3,445	273,615	71,600	34,500
Englewood City	1,206	12,079	13,063,960	16,755,700	29,819,660	60,250	3,039,182	333,700	145,000
Garfield City	299	13,350	5,059,500	12,683,250	17,742,750	6,622	5,417,562	671,000	103,475
Hackensack City	477	15,918	14,030,225	19,145,826	33,176,051	58,555	3,531,033	527,400	204,475
Allendale Borough	1,613	1,203	538,700	1,117,410	1,656,110	7,233	198,250	49,600	24,050
Alpine Borough	2,904	433	1,718,205	923,503	2,641,708	.....	466,157	13,800	3,200
Bendix Borough	687	9	186,263	1,164,521	1,350,784	.....	217,326	700	.....
Bergenfield Borough	584	17,129	3,884,350	6,471,675	10,356,025	17,652	896,042	183,000	107,600
Bogota Borough	36	4,973	1,502,655	4,586,475	6,089,130	25,504	847,266	156,900	84,500
Carlstadt Borough	1,907	4,116	1,082,665	2,695,400	3,778,065	1,319	652,103	136,100	48,800
Cliffside Park Borough	53	5,738	4,469,800	8,004,875	12,414,675	.....	1,084,659	203,900	84,500
Closter Borough	1,278	6,379	1,634,060	1,689,550	3,323,610	7,399	330,062	43,000	36,500
Cresskill Borough	747	5,884	1,250,420	1,310,875	2,561,295	1,983	485,659	59,500	28,500
Demarest Borough	786	5,802	1,131,830	888,545	2,020,375	1,830	127,192	19,400	14,000
Dumont Borough	138	9,408	2,129,600	4,035,400	6,165,000	56,094	832,375	162,900	123,000
East Paterson Borough	611	10,831	1,468,835	2,464,895	3,933,730	2,359	371,578	70,300	28,350
East Rutherford Borough	2,010	4,821	2,299,950	4,749,090	7,049,040	23,228	1,345,863	100,300	44,000
Edgewater Borough	445	1,212	6,046,344	14,333,937	20,380,281	1,577,887	5,186,889	33,700	17,500
Emerson Borough	1,053	3,527	862,705	691,900	1,554,605	3,105	113,556	18,100	13,950
Englewood Cliffs Borough	712	3,254	2,261,271	462,335	2,723,606	.....	307,670	18,700	7,500
Fair Lawn Borough	1,893	15,554	2,545,721	6,404,640	8,950,361	13,655	1,117,410	282,900	108,850
Fairview Borough	159	3,083	2,269,238	3,959,900	6,229,138	2,016	463,893	84,850	41,000
Fort Lee Borough	270	10,415	5,956,320	4,361,610	10,317,930	.....	967,060	97,700	97,500
Franklin Lakes Borough	6,172	286	508,175	736,225	1,244,400	1,166	97,455	16,400	7,575
Glen Rock Borough	805	12,467	2,293,995	5,080,800	7,374,795	19,158	621,986	140,100	110,800
Harrington Park Borough	932	1,764	690,025	693,089	1,383,114	14,219	146,995	37,200	20,100

Abstract of Ratables and Exemptions in the County of Bergen, for the Year 1941—(Continued)

TAXING DISTRICT	TOTAL NUMBER OF ACRES AND LOTS ASSESSED		Value of Land Assessed	Value of Improvements Thereon Assessed	Total Value of Land and Improvements Assessed Exclusive of Second Class R. R. Property	Value of Second Class R. R. Property	Value of Personal Property Assessed	Deductions—Household Goods and Other Exemptions Under Sec. 54:4-3.16 of Revised Statutes	Deductions—Property Exempted Under Sec. 54:4-3.12 of Revised Statutes
	Acres	Lots							
Hasbrouck Heights Borough..	130	8,080	$2,305,925	$4,423,255	$6,729,180	$5,642	$645,473	$172,800	$94,270
Haworth Borough	741	5,711	1,196,010	884,150	2,080,160	6,186	182,635	41,700	25,850
Hillsdale Borough	1,305	6,286	984,125	2,193,000	3,177,125	11,978	397,275	90,850	41,250
Hohokus Borough	799	3,695	984,190	1,877,730	2,861,920	12,656	163,680	40,500	30,500
Leonia Borough	342	8,087	2,575,670	5,150,500	7,726,170	6,743	754,291	147,600	70,000
Little Ferry Borough	614	4,607	693,780	1,667,775	2,361,555	.....	303,462	84,400	41,450
Lodi Borough	305	8,695	2,323,850	4,978,625	7,302,475	3,766	609,020	90,100	55,900
Maywood Borough	197	7,949	1,421,240	3,236,580	4,657,820	1,271	519,875	94,600	62,850
Midland Park Borough	485	1,823	628,200	2,110,000	2,738,200	9,007	339,885	116,100	32,950
Montvale Borough	2,225	1,200	432,825	815,875	1,248,700	2,395	103,350	29,400	26,235
Moonachie Borough	740	4,303	289,075	362,375	651,450	.....	98,567	21,700	6,225
New Milford Borough	717	7,169	1,420,405	1,455,180	2,875,585	.....	537,718	71,600	37,500
North Arlington Borough	626	5,253	2,296,475	4,629,550	6,926,025	2,570	315,165	112,100	76,750
Northvale Borough	486	3,443	266,694	308,910	575,604	2,640	67,860	13,200	10,245
Norwood Borough	780	8,234	788,805	782,450	1,571,255	6,294	149,000	20,700	16,650
Oakland Borough	5,279	1,161	532,995	741,075	1,274,070	1,844	112,553	16,850	10,000
Old Tappan Borough	2,498	1,180	314,715	220,165	534,880	.....	25,925	11,700	5,000
Oradell Borough	700	7,089	1,589,101	4,160,724	5,749,825	3,760	409,704	75,300	43,350
Palisades Park Borough	107	6,481	2,398,411	3,777,725	6,176,136	1,057	455,603	82,600	58,650
Paramus Borough	6,006	4,296	1,885,024	2,163,589	4,048,613	.....	365,663	63,000	32,500
Park Ridge Borough	1,024	2,954	698,775	1,506,950	2,205,725	995	205,425	55,600	21,750
Ramsey Borough	2,942	2,040	1,224,540	2,607,650	3,832,190	7,165	337,382	84,800	39,850
Ridgefield Borough	978	7,109	2,326,970	3,235,180	5,562,150	306,360	695,673	137,640	62,380
River Edge Borough	572	4,848	1,199,955	2,487,325	3,687,280	5,614	444,122	79,500	60,500
Rockleigh Borough	624	.....	167,850	129,400	297,250	.....	5,400	500	2,000
Rutherford Borough	509	13,825	6,909,025	10,879,225	17,788,250	13,384	1,425,384	306,475	207,600
Saddle River Borough	3,047	104	308,880	772,600	1,081,480	.....	97,325	19,900	5,300
Tenafly Borough	1,427	11,858	4,855,570	7,471,430	12,327,000	3,724	1,107,301	177,800	118,290
Upper Saddle River Borough..	3,304	2	312,925	343,925	656,850	.....	70,985	9,600	7,400
Waldwick Borough	836	4,993	815,275	929,550	1,744,825	25,965	98,525	43,800	33,700
Wallington Borough	293	4,074	1,287,200	2,365,475	3,652,675	1,390	382,296	82,900	34,300
Westwood Borough	425	7,542	2,012,725	3,544,850	5,557,575	17,754	517,862	116,700	67,375
Woodcliff Lake Borough	2,038	520	540,340	738,525	1,278,865	814	90,050	28,300	7,800
Wood-Ridge Borough	289	4,038	1,065,990	3,200,530	4,266,520	4,393	496,833	148,950	102,155
Totals	100,666	412,872	$157,527,550	$270,367,637	$427,895,187	$3,022,399	$50,416,975	$7,959,040	$4,266,003

Abstract of Ratables and Exemptions in the County of Bergen, for the Year 1941—(Continued)

TAXING DISTRICT	Net Valuation Taxable	Amounts Deducted Under Sec. 54:4-49 and 54:4-53 of Revised Statutes (Resulting from Prior Appeals and Corrected Errors)	Amounts Added Under Sec. 54:4-53 of Revised Statutes (Resulting from Corrected Errors)	Amounts added for Equalization Under Sec. 54:3-17 of Revised Statutes	Amounts Deducted for Equalization Under Sec. 54:3-17 of Revised Statutes	Net Valuation on which County, State and State School Taxes are Apportioned	Number of Polls Assessed	Dog Taxes
Hohokus Township	$3,780,005	$244	.....	.....	.....	$3,779,761	.....	.....
Lyndhurst Township	12,918,173	120,019	$43,814	.....	$121,381	12,720,587	.....	.....
Ridgefield Park Township	9,823,327	56,187	.....	.....	.....	9,767,140	.....	.....
Ridgewood Township	28,443,656	151,581	2,500	.....	801,818	27,492,757	.....	.....
Rivervale Township	1,152,463	20,000	.....	.....	.....	1,132,463	.....	.....
Rochelle Park Township	2,424,855	175,617	.....	.....	.....	2,249,238	.....	.....
Saddle River Township	2,691,559	42,278	4,700	.....	.....	2,653,981	.....	.....
S. Hackensack Township	513,530	72,836	.....	.....	.....	440,694	.....	.....
Teaneck Township	29,441,821	250,138	15,015	.....	.....	29,206,698	.....	.....
Washington Township	977,720	1,470	.....	.....	.....	976,250	.....	.....
Wyckoff Township	2,941,362	7,932	.....	.....	.....	2,933,430	.....	.....
Englewood City	32,440,392	1,626,166	16,500	.....	.....	30,830,726	.....	.....
Garfield City	22,392,459	2,159,167	547,450	.....	.....	20,780,742	.....	.....
Hackensack City	36,033,764	834,016	750	.....	2,819,964	32,380,534	.....	.....
Allendale Borough	1,787,943	59,582	1,800	.....	.....	1,730,161	.....	.....
Alpine Borough	3,090,865	.....	.....	.....	.....	3,090,865	.....	.....
Bendix Borough	1,567,410	.....	.....	.....	.....	1,567,410	.....	.....
Bergenfield Borough	10,979,119	110,048	5,100	.....	.....	10,874,171	.....	.....
Bogota Borough	6,720,500	20,360	.....	.....	.....	6,700,140	.....	.....
Carlstadt Borough	4,246,587	30,098	.....	.....	.....	4,216,489	.....	.....
Cliffside Park Borough	13,210,934	362,286	.....	.....	.....	12,848,648	.....	.....
Closter Borough	3,581,571	17,800	.....	.....	.....	3,563,771	.....	.....
Cresskill Borough	2,960,937	22,405	.....	.....	.....	2,938,532	.....	...
Demarest Borough	2,115,997	232,913	235	.....	.....	1,883,319	.....	.....
Dumont Borough	6,767,569	97,962	10,550	.....	.....	6,680,157	.....	.....
East Paterson Borough	4,209,017	8,743	1,200	.....	.....	4,201,474	.....	.....
East Rutherford Borough	8,273,831	101,213	53,000	.....	.....	8,225,618	.....	.....
Edgewater Borough	27,093,857	480,426	.....	.....	.....	26,613,431	.....	.....
Emerson Borough	1,639,216	2,411	.....	.....	.....	1,636,805	.....	.....
Englewood Cliffs Borough	3,005,076	73,560	.....	.....	.....	2,931,516	.....	.....
Fair Lawn Borough	9,689,676	40,431	.....	.....	.....	9,649,245	.....	.....
Fairview Borough	6,569,197	57,828	25	.....	.....	6,511,394	.....	.....
Fort Lee Borough	11,089,790	111,425	4,900	.....	.....	10,983,265	.....	.....
Franklin Lakes Borough	1,319,046	1,033	.....	.....	.....	1,318,013	.....	.....
Glen Rock Borough	7,765,039	31,108	.....	.....	220,994	7,512,937	.....	.....
Harrington Park Borough	1,487,028	62,975	7,340	.....	.....	1,431,393	.....	.....

Abstract of Ratables and Exemptions in the County of Bergen, for the Year 1941—(Continued)

TAXING DISTRICT	Net Valuation Taxable	Amounts Deducted Under Sec. 54:4-49 and 54:4-53 of Revised Statutes (Resulting from Prior Appeals and Corrected Errors)	Amounts Added Under Sec. 54:4-53 of Revised Statutes (Resulting from Corrected Errors)	Amounts Added for Equalization Under Sec. 54:3-17 of Revised Statutes	Amounts Deducted for Equalization Under Sec. 54:3-17 of Revised Statutes	Net Valuation on which County, State and State School Taxes are Apportioned	Number of Polls Assessed	Dog Taxes
Hasbrouck Heights Borough	$7,113,225	$57,355	$27,550	.....	.....	$7,083,420	.....	.....
Haworth Borough	2,201,431	200,790	100	.....	.....	2,000,741	.....	.....
Hillsdale Borough	3,454,278	13,992	.....	.....	.....	3,440,286	.....	.....
Hohokus Borough	2,967,256	14,149	.....	.....	.....	2,953,107	.....	.....
Leonia Borough	8,269,604	300,720	1,400	.....	.....	7,970,284	.....	.....
Little Ferry Borough	2,539,167	18,725	29,515	.....	.....	2,549,957	.....	.....
Lodi Borough	7,769,261	1,004,072	27,450	.....	.....	6,792,639	.....	.....
Maywood Borough	5,021,516	24,172	100	.....	.....	4,997,444	.....	.....
Midland Park Borough	2,938,042	5,594	300	.....	.....	2,932,748	.....	.....
Montvale Borough	1,298,810	4,709	.....	.....	.....	1,294,101	.....	.....
Moonachie Borough	722,092	90,449	500	.....	.....	632,143	.....	.....
New Milford Borough	3,304,203	238,434	11,432	.....	.....	3,077,201	.....	.....
North Arlington Borough	7,054,910	145,635	3,250	.....	.....	6,912,525	.....	.....
Northvale Borough	622,659	5,212	.....	.....	.....	617,447	.....	.....
Norwood Borough	1,689,199	346,806	.....	.....	.....	1,342,393	.....	.....
Oakland Borough	1,361,617	20,128	.....	.....	.....	1,341,489	.....	.....
Old Tappan Borough	544,105	150	.....	.....	.....	543,955	.....	.....
Oradell Borough	6,044,639	53,014	.....	.....	.....	5,991,625	.....	.....
Palisades Park Borough	6,491,546	53,610	1,950	.....	.....	6,439,886	.....	.....
Paramus Borough	4,318,776	26,477	2,600	.....	.....	4,294,899	.....	.....
Park Ridge Borough	2,334,795	15,302	100	.....	.....	2,319,593	.....	.....
Ramsey Borough	4,052,087	41,990	25	.....	.....	4,010,122	.....	.....
Ridgefield Borough	6,364,163	267,257	6,290	.....	.....	6,103,196	.....	.....
River Edge Borough	3,997,016	20,984	3,390	.....	.....	3,979,422	.....	.....
Rockleigh Borough	300,150	.....	.....	.....	.....	300,150	.....	.....
Rutherford Borough	18,712,943	930,883	38,885	.....	.....	17,820,945	.....	.....
Saddle River Borough	1,153,605	11,815	.....	.....	.....	1,141,790	.....	.....
Tenafly Borough	13,141,935	487,186	.....	.....	.....	12,654,749	.....	.....
Upper Saddle River Borough	710,835	5	.....	.....	.....	710,830	.....	.....
Waldwick Borough	1,791,815	5,704	600	.....	.....	1,786,711	.....	.....
Wallington Borough	3,919,161	5,456	.....	.....	.....	3,913,705	.....	.....
Westwood Borough	5,909,116	18,747	.....	.....	.....	5,890,369	.....	.....
Woodcliff Lake Borough	1,333,629	7,023	.....	.....	.....	1,326,606	.....	.....
Wood-Ridge Borough	4,516,641	8,551	.....	.....	.....	4,508,090	.....	.....
Totals	$469,109,518	$11,887,354	$870,316	.....	$3,964,157	$454,128,323	.....	.....

Abstract of Ratables and Exemptions in the County of Bergen, for the Year 1941—(Continued)

TAXING DISTRICT	PROPERTY EXEMPT FROM TAXATION							
	Public School Property	Other School Property	Public Property	Church and Charitable Property	Cemeteries and Graveyards	Other Exemptions Not Included in Foregoing Classifications		Total Amount of Exempt Property
						Real	Personal	
Hohokus Township	$169,200	$591,000	$76,900	$112,100	$3,500	$7,300	.....	$960,000
Lyndhurst Township	752,225	.....	172,800	228,950	48,350	576,800	.....	1,779,125
Ridgefield Park Township	549,809	.....	190,110	325,464	.....	126,369	$1,850	1,193,602
Ridgewood Township	2,336,766	199,000	781,810	763,200	24,150	380,601	1,500	4,487,027
Rivervale Township	51,950	.....	20,000	1,800	200	.....	.....	73,950
Rochelle Park Township	132,500	76,650	120,175	31,050	.....	103,760	.....	464,135
Saddle River Township	146,598	.....	12,100	10,763	97,060	126,935	.....	393,456
S. Hackensack Township	21,850	.....	31,300	16,115	5,500	48,535	.....	123,300
Teaneck Township	1,651,770	99,425	1,703,380	320,355	2,840	1,073,650	27,500	4,878,920
Washington Township	.....	.....	5,000	1,000	9,000	1,000	.....	16,000
Wyckoff Township	65,950	.....	2,800	11,000	6,600	66,050	6,000	158,400
Englewood City	1,406,500	169,000	1,258,150	735,350	180,000	724,100	9,000	4,482,100
Garfield City	931,200	.....	630,125	401,125	32,000	160,750	3,700	2,158,900
Hackensack City	2,670,426	84,525	3,611,189	1,277,791	142,000	1,772,424	23,000	9,581,355
Allendale Borough	65,000	.....	101,250	33,500	.....	9,250	.....	209,000
Alpine Borough	11,500	.....	1,346,747	19,537	718	1,055	.....	1,379,557
Bendix Borough	.....	.....	15,000	.....	.....	.....	.....	15,000
Bergenfield Borough	978,350	95,450	517,575	297,675	450	143,775	.....	2,033,275
Bogota Borough	712,700	39,000	178,650	203,600	.....	53,270	300	1,187,520
Carlstadt Borough	189,200	.....	46,600	46,100	5,100	20,225	.....	307,225
Cliffside Park Borough	260,900	30,900	65,800	98,900	.....	205,500	475	662,475
Closter Borough	314,450	8,000	65,300	51,275	300	128,470	250	568,045
Cresskill Borough	191,600	.....	22,700	42,125	.....	66,415	.....	322,840
Demarest Borough	25,500	.....	16,690	12,990	155	221,415	.....	276,750
Dumont Borough	615,000	.....	86,100	88,000	10,000	165,500	.....	964,600
East Paterson Borough	420,400	.....	606,700	42,150	1,000	655,125	.....	1,725,375
East Rutherford Borough	353,200	59,000	310,500	129,000	.....	117,375	.....	969,075
Edgewater Borough	204,400	.....	189,065	98,850	20,250	22,914	.....	535,479
Emerson Borough	34,700	.....	27,980	8,450	3,825	5,200	.....	80,155
Englewood Cliffs Borough	36,670	.....	1,981,595	283,535	2,340	62,125	.....	2,366,265
Fair Lawn Borough	388,000	.....	709,625	28,450	14,300	90,715	1,000	1,232,090
Fairview Borough	330,900	25,000	51,800	178,800	169,366	40,900	.....	796,766
Fort Lee Borough	680,500	490,700	1,815,510	222,100	5,000	1,250,530	.....	4,464,340
Franklin Lakes Borough	81,500	.....	26,400	22,100	450	.....	.....	130,450
Glen Rock Borough	744,000	.....	410,200	109,450	100	117,025	.....	1,380,775
Harrington Park Borough	53,800	.....	6,300	19,165	755	69,660	.....	149,680

Abstract of Ratables and Exemptions in the County of Bergen, for the Year 1941—(Continued)

TAXING DISTRICT	PROPERTY EXEMPT FROM TAXATION							
	Public School Property	Other School Property	Public Property	Church and Charitable Property	Cemeteries and Graveyards	Other Exemptions Not Included in Foregoing Classifications		Total Amount of Exempt Property
						Real	Personal	
Hasbrouck Heights Borough	$302,745	$91,000	$200,075	$150,915	.....	$26,890	$200	$771,825
Haworth Borough	53,000	.....	48,675	17,640	.....	49,110	.....	170,425
Hillsdale Borough	182,800	.....	30,500	50,750	$150	31,125	200	295,525
Hohokus Borough	252,600	56,800	74,450	40,600	3,200	20,900	.....	448,550
Leonia Borough	464,500	.....	51,900	166,200	34,100	163,300	200	880,200
Little Ferry Borough	79,300	.....	80,650	24,775	12,600	129,419	.....	326,744
Lodi Borough	952,200	144,000	254,450	293,500	28,400	498,655	200	2,171,405
Maywood Borough	141,000	.....	49,100	55,500	.....	171,645	.....	417,245
Midland Park Borough	56,000	6,300	37,200	52,550	1,800	24,750	500	179,100
Montvale Borough	45,000	.....	6,650	7,500	.....	72,675	.....	131,825
Moonachie Borough	71,475	.....	50	17,125	.....	24,825	450	113,925
New Milford Borough	457,470	51,450	69,890	24,160	25	111,280	.....	714,275
North Arlington Borough	353,200	14,750	43,075	159,475	294,550	222,930	.....	1,087,980
Northvale Borough	90,000	.....	4,800	5,000	.....	21,836	.....	121,636
Norwood Borough	47,800	.....	5,000	59,600	.....	27,050	500	139,950
Oakland Borough	46,500	.....	183,250	9,500	4,600	22,550	.....	266,400
Old Tappan Borough	18,675	.....	5,100	1,100	100	9,450	100	34,525
Oradell Borough	138,000	.....	94,500	74,100	500	48,735	.....	355,835
Palisades Park Borough	221,960	.....	44,020	91,550	.....	360,340	200	718,070
Paramus Borough	175,275	.....	1,150,210	236,300	52,150	42,405	200	1,656,540
Park Ridge Borough	303,000	.....	212,725	40,750	1,500	12,650	500	571,125
Ramsey Borough	866,150	106,750	247,400	73,300	2,500	16,400	5,500	1,318,000
Ridgefield Borough	427,760	64,150	89,820	68,760	15,000	213,580	.....	879,070
River Edge Borough	213,700	.....	28,015	32,637	60	32,130	.....	306,542
Rockleigh Borough	.....	.....	.....	.....	.....	.....	.....	.....
Rutherford Borough	583,975	116,550	766,275	348,650	.....	139,675	1,400	1,956,525
Saddle River Borough	32,500	.....	31,500	129,300	1,000	.....	.....	194,300
Tenafly Borough	1,162,500	47,400	1,727,715	318,305	20,075	214,860	.....	3,490,855
Upper Saddle River Borough	8,600	.....	4,700	21,200	1,500	.....	.....	36,000
Waldwick Borough	170,000	.....	139,300	19,600	200	27,000	.....	356,100
Wallington Borough	242,525	.....	231,750	23,125	.....	138,050	.....	635,450
Westwood Borough	504,000	125,000	237,700	96,075	52,600	102,292	600	1,118,267
Woodcliff Lake Borough	57,200	.....	11,500	6,950	.....	18,570	100	94,320
Wood-Ridge Borough	296,100	64,600	137,325	45,085	.....	34,375	200	577,685
Totals	$26,598,524	$2,856,400	$23,513,196	$9,083,392	$1,311,919	$11,644,170	$85,625	$75,043,226

Abstract of Ratables and Exemptions in the County of Bergen, for the Year 1941—(Continued)

TAXING DISTRICT	APPORTIONMENT OF TAXES									
	State School Tax	Soldiers' Bonus Bond Tax	County Taxes Apportioned (Exclusive of Bank Stock Taxes)	Local Taxes to be Raised (Exclusive of Bank Stock Taxes)—District School Tax	Local Taxes to be Raised (Exclusive of Bank Stock Taxes)—Other Local Taxes	Total Amount of Miscellaneous Revenues (Including Surplus Revenue Appropriated) for the Support of the Budget	District Court Taxes	County Hospital Tax	Bank Stock Taxes Due Taxing District	General Tax Rate to Apply Per $100 Valuation (Tax Rate for Local Taxing Purposes)
Hohokus Township	$10,826.01	.....	$27,888.69	$66,998.50	$26,201.80	$48,742.17	$389.95	$2,288.85	.....	$3.57
Lyndhurst Township	36,434.37	.....	93,857.91	364,906.57	161,440.00	472,699.93	1,818.82	7,703.02	.....	5.16
Ridgefield Park Township	27,975.09	.....	72,066.12	269,502.36	197,763.60	173,050.00	1,369.19	5,914.55	$248.62	5.85
Ridgewood Township	78,744.90	.....	202,853.27	429,137.00	363,361.92	356,614.82	2,836.37	16,648.40	2,631.42	3.84
Rivervale Township	3,243.60	.....	8,355.79	24,963.83	14,000.00	28,200.00	152.29	685.77	.....	4.47
Rochelle Park Township	6,442.28	.....	16,595.84	57,350.00	43,802.43	69,187.32	302.47	1,362.04	409.07	5.18
Saddle River Township	7,601.55	.....	19,582.20	61,000.00	64,815.43	107,319.09	273.80	1,607.13	.....	5.76
S. Hackensack Township	1,262.24	.....	3,251.63	17,666.80	26,238.44	29,649.69	63.01	266.86	.....	9.50
Teaneck Township	83,653.98	.....	215,499.46	600,051.25	637,357.93	444,300.00	4,094.31	17,686.28	457.34	5.30
Washington Township	2,796.18	.....	7,203.19	8,358.00	14,120.31	10,396.10	131.28	591.17	.....	3.40
Wyckoff Township	8,401.95	.....	21,644.10	61,637.50	30,798.25	57,605.88	302.64	1,776.36	336.45	4.23
Englewood City	88,305.53	.....	227,482.23	542,616.42	583,721.60	470,341.65	2,239.75	18,669.72	3,821.73	4.50
Garfield City	59,520.31	.....	153,329.16	444,005.63	521,621.06	519,029.98	2,143.91	12,583.90	1,309.77	5.33
Hackensack City	92,744.50	.....	238,917.37	593,387.23	757,287.31	703,809.62	4,539.23	19,608.22	6,655.90	4.72
Allendale Borough	4,955.54	.....	12,765.86	42,528.75	5,638.00	52,370.00	178.50	1,047.71	508.95	3.73
Alpine Borough	8,852.87	.....	22,805.72	12,000.00	23,823.00	14,890.00	415.64	1,871.69	.....	2.26
Bendix Borough	4,489.38	.....	11,565.02	500.00	34,500.00	9,682.00	224.11	949.15	.....	3.34
Bergenfield Borough	31,145.86	.....	80,234.26	247,100.00	242,375.00	192,370.00	1,462.31	6,584.92	376.49	5.55
Bogota Borough	19,190.58	.....	49,436.49	161,611.50	132,734.91	111,344.30	939.25	4,057.31	794.10	5.47
Carlstadt Borough	12,076.89	.....	31,111.05	84,515.00	94,711.88	135,391.67	602.88	2,553.32	.....	5.32
Cliffside Park Borough	36,801.17	.....	94,802.80	351,189.40	244,549.14	234,500.00	933.41	7,780.57	879.17	5.57
Closter Borough	10,207.37	.....	26,295.02	79,178.13	71,000.00	72,500.00	479.24	2,158.06	1,439.40	5.25
Cresskill Borough	8,416.56	.....	21,681.74	56,477.50	70,732.18	82,784.29	395.16	1,779.44	.....	5.39
Demarest Borough	5,394.21	.....	13,895.93	21,175.00	46,480.00	38,000.00	253.26	1,140.45	.....	4.18
Dumont Borough	19,133.34	.....	49,289.04	160,877.50	197,598.52	161,673.35	898.32	4,045.21	256.59	6.38
East Paterson Borough	12,033.88	.....	31,000.26	87,550.00	103,361.72	184,290.45	433.46	2,544.23	.....	5.63
East Rutherford Borough	23,559.86	.....	60,692.11	155,661.75	153,122.02	155,969.81	1,176.12	4,981.07	.....	4.83
Edgewater Borough	76,226.33	.....	196,365.23	160,784.90	499,010.50	68,525.00	1,933.38	16,115.92	782.04	3.51
Emerson Borough	4,688.15	.....	12,077.04	32,615.56	36,544.96	43,712.81	220.11	991.18	.....	5.32
Englewood Cliffs Borough	8,396.46	.....	21,629.97	12,195.00	55,710.75	42,385.85	212.96	1,775.20	.....	3.33
Fair Lawn Borough	27,637.42	.....	71,196.24	209,000.00	102,653.49	279,200.00	995.49	5,843.16	528.72	4.31
Fairview Borough	18,649.97	.....	48,043.84	142,600.92	143,182.77	196,094.39	473.03	3,943.01	.....	5.44
Fort Lee Borough	31,458.33	.....	81,039.21	192,935.00	308,491.01	126,707.80	797.90	6,650.98	1,012.79	5.60
Franklin Lakes Borough	3,775.06	.....	9,724.86	21,055.00	7,040.00	21,232.67	135.98	798.13	.....	3.23
Glen Rock Borough	21,518.59	.....	55,433.65	152,980.00	99,727.04	109,315.00	775.09	4,549.50	190.97	4.32
Harrington Park Borough	4,099.80	.....	10,561.43	40,035.00	36,684.46	39,318.27	192.49	866.79	.....	6.22

Total County Tax Appropriated $3,382,855.94
Bank Stock Taxes Due County 32,103.76

Net County Taxes Appropriated $3,350,752.18

Total Amount of Miscellaneous Revenues (including Surplus Revenues Appropriated) for the support of the County Budget $1,038,795.00

Abstract of Ratables and Exemptions in the County of Bergen, for the Year 1941—(Concluded)

TAXING DISTRICT	APPORTIONMENT OF TAXES									
	State School Tax	Soldiers' Bonus Bond Tax	County Taxes Apportioned (Exclusive of Bank Stock Taxes)	Local Taxes to Be Raised (Exclusive of Bank Stock Taxes)—District School Tax	Local Taxes to Be Raised (Exclusive of Bank Stock Taxes)—Other Local Taxes	Total Amount of Miscellaneous Revenues (Including Surplus Revenue Appropriated) for the Support of the Budget	District Court Taxes	County Hospital Tax	Bank Stock Taxes Due Taxing District	General Tax Rate to Apply Per $100 Valuation (Tax Rate for Local Taxing Purposes)
Hasbrouck Heights Borough ..	$20,288.37	.....	$52,264.49	$141,508.19	$149,991.79	$135,587.51	$1,012.81	$4,289.40	.....	$5.20
Haworth Borough	5,730.53	.....	14,762.32	42,450.00	43,487.23	45,512.77	269.05	1,211.56	.....	4.91
Hillsdale Borough	9,853.69	.....	25,383.90	76,437.50	52,337.50	79,378.03	462.63	2,083.28	$459.28	4.81
Hohokus Borough	8,458.30	.....	21,789.28	43,073.75	27,069.89	49,378.66	304.67	1,788.27	.....	3.46
Leonia Borough	22,828.53	.....	58,808.15	142,328.50	174,289.06	89,305.47	579.02	4,826.45	404.81	4.88
Little Ferry Borough	7,303.60	.....	18,814.67	67,676.19	83,165.19	98,093.77	357.46	1,544.14	.....	7.05
Lodi Borough	19,455.51	.....	50,118.98	218,471.99	159,077.97	315,534.10	971.23	4,113.32	.....	5.83
Maywood Borough	14,313.71	.....	36,873.27	91,617.50	115,801.20	108,425.00	700.56	3,026.23	.....	5.23
Midland Park Borough	8,399.99	.....	21,639.06	64,817.50	20,790.22	60,899.58	302.56	1,775.94	.....	4.01
Montvale Borough	3,706.57	.....	9,548.43	27,527.50	18,559.53	29,467.03	174.02	783.65	.....	4.65
Moonachie Borough	1,810.59	.....	4,664.22	17,005.77	21,974.63	17,432.56	90.39	382.80	.....	6.37
New Milford Borough	8,813.74	.....	22,704.90	89,753.75	103,655.89	31,566.14	413.81	1,863.42	.....	6.88
North Arlington Borough	19,798.89	.....	51,003.55	157,513.75	202,723.28	232,226.67	988.37	4,185.92	354.78	6.18
Northvale Borough	1,768.49	.....	4,555.79	22,871.50	12,523.86	27,476.14	83.03	373.90	.....	6.78
Norwood Borough	3,844.89	.....	9,904.75	28,748.83	54,593.99	18,569.41	180.52	812.89	.....	5.81
Oakland Borough	3,842.30	.....	9,898.08	14,715.00	25,160.65	15,050.00	138.40	812.35	.....	4.01
Old Tappan Borough	1,558.00	.....	4,013.53	12,300.00	.....	17,825.00	73.15	329.40	.....	3.36
Oradell Borough	17,161.24	.....	44,208.76	95,417.50	129,500.00	64,801.56	805.73	3,628.26	336.46	4.81
Palisades Park Borough	18,445.16	.....	47,516.22	172,740.00	140,838.56	130,104.53	467.84	3,899.71	303.20	5.91
Paramus Borough	12,301.47	.....	31,689.59	74,980.00	15,982.45	86,750.00	577.56	2,600.80	.....	3.20
Park Ridge Borough	6,643.79	.....	17,114.95	54,419.87	20,768.00	69,181.00	311.93	1,404.64	463.44	4.30
Ramsey Borough	11,485.81	.....	29,588.39	71,527.50	30,280.08	68,185.79	413.72	2,428.35	1,353.97	3.57
Ridgefield Borough	17,480.81	.....	45,031.98	108,910.95	153,562.36	161,008.66	443.38	3,695.83	436.25	5.17
River Edge Borough	11,397.88	.....	29,361.87	81,292.88	54,853.64	71,895.00	535.13	2,409.76	.....	4.50
Rockleigh Borough	859.69	.....	2,214.63	2,000.00	.....	5,925.00	40.36	181.76	.....	1.77
Rutherford Borough	51,042.84	.....	131,490.52	358,038.76	331,319.04	255,990.00	2,548.09	10,791.58	3,411.85	4.72
Saddle River Borough	3,270.32	.....	8,424.61	11,410.00	5,752.67	13,200.00	117.80	691.42	.....	2.58
Tenafly Borough	36,245.80	.....	93,372.13	225,504.62	185,700.88	201,909.49	919.33	7,663.15	721.34	4.18
Upper Saddle River Borough..	2,035.96	.....	5,244.81	5,600.00	2,241.75	8,450.00	73.33	430.45	.....	2.20
Waldwick Borough	5,117.51	.....	13,183.12	41,345.00	29,925.33	80,370.71	184.33	1,081.95	.....	5.07
Wallington Borough	11,209.65	.....	28,876.98	125,000.00	65,812.58	129,910.21	559.59	2,369.97	.....	5.97
Westwood Borough	16,871.22	.....	43,461.65	137,022.33	123,670.04	128,782.34	792.11	3,566.95	619.50	5.50
Woodcliff Lake Borough	3,799.67	.....	9,788.26	26,865.00	9,950.00	27,689.09	178.40	803.33	.....	3.86
Wood-Ridge Borough	12,912.10	.....	33,262.61	105,297.50	95,709.50	124,410.00	644.58	2,729.90	599.36	5.54
Totals	$1,300,716.73	.....	$3,350,752.18	$8,922,336.13	$8,813,270.19	$8,863,495.13	$51,500.00	$275,000.00	$32,103.76	

State School Tax Rate per $100 Valuation $0.286420526
County Tax Rate per $100 Valuation ..... .73784259
County Hospital Tax Rate per $100 Valuation ..... .060555572
First District Court Tax Rate per $100 Valuation .... .00726468

Second District Court Tax Rate per $100 Valuation ...$0.014298263
Third District Court Tax Rate per $100 Valuation .... .014018379
Fourth District Court Tax Rate per $100 Valuation .. .010316799
Fifth District Court Tax Rate per $100 Valuation .... .013447546

Abstract of Ratables and Exemptions in the County of Burlington, for the Year 1941

Abstract of Ratables and Exemptions in the County of Burlington, for the Year 1941

TAXING DISTRICT	TOTAL NO. OF ACRES AND LOTS ASSESSED		Value of Land Assessed	Value of Improvements Thereon Assessed	Total Value of Land and Improvements Assessed, Exclusive of Second Class R. R. Property	Value of Second Class R. R. Property	Value of Personal Property Assessed	DEDUCTIONS		Net Valuation Taxable	Amounts Deducted Under Sec. 54:4-49 and Sec. 54:4-53 of Revised Statutes (Resulting from Prior Appeals and Corrected Errors)
	Acres	Lots						Household Goods and Other Exemptions Under Sec. 54:4-3.16 of Revised Statutes	Property Exempted Under Sec. 54:4-3.12 of Revised Statutes		
Bass River Township	36,635	1,515	$190,959	$227,000	$417,959	.....	$46,751	$15,400	$9,750	$439,560	.....
Beverly City	75	903	286,698	802,050	1,088,748	$3,084	268,090	36,900	22,000	1,301,022	$1,844
Bordentown City	.....	.....	410,810	1,770,050	2,180,860	8,951	277,016	72,100	35,500	2,359,227	532
Bordentown Township	4,399	1,238	271,025	418,225	689,250	1,992	87,808	17,400	5,500	756,150	.....
Burlington City	906	4,703	1,150,539	4,456,406	5,606,945	31,279	788,005	98,100	68,525	6,259,604	4,138
Burlington Township	8,282	4,496	435,450	831,000	1,266,450	747	138,085	27,000	22,850	1,355,432	11
Chester Township	1,495	2,825	453,861	1,359,985	1,813,846	3,889	292,725	142,950	64,385	1,903,125	49,227
Chesterfield Township	12,522	.....	325,100	459,250	784,350	.....	171,423	25,900	9,500	920,375	.....
Cinnaminson Township	3,706	1,638	385,425	1,250,100	1,635,525	.....	232,856	40,000	15,000	1,813,381	3,025
Delanco Township	1,152	890	266,580	873,075	1,139,655	1,993	131,265	47,000	22,000	1,203,913	1,456
Delran Township	3,892	1,545	284,105	640,039	924,144	212	56,682	.....	17,500	963,538	925
Eastampton Township	3,407	.....	63,428	74,315	137,743	2,040	56,985	11,525	3,350	181,893	52
Edgewater Park Township	1,353	564	188,140	504,445	692,585	9,467	135,326	21,200	9,500	806,678	325
Evesham Township	16,760	2,077	432,846	407,395	840,241	.....	160,143	39,425	11,705	949,254	4,745
Fieldsboro Borough	.....	284	25,875	113,925	139,800	304	23,525	11,400	6,000	146,229	8
Florence Township	5,486	1,161	284,010	5,315,250	5,599,260	6,339	734,530	151,400	22,500	6,166,229	1,056
Hainesport Township	3,209	721	130,345	314,100	444,445	1,890	65,925	26,500	10,750	475,010	3,765
Lumberton Township	7,393	72	247,410	260,950	508,360	1,017	72,995	17,100	4,500	560,772	1,050
Mansfield Township	12,831	.....	280,455	550,900	831,355	915	192,503	37,700	5,800	981,273	322
Medford Lakes Borough	.....	.....	88,200	320,200	408,400	.....	28,695	23,500	3,500	410,095	.....
Medford Township	22,939	995	498,215	853,310	1,351,525	1,258	205,650	20,300	13,150	1,524,983	28
Moorestown Township	7,042	4,098	1,232,380	4,050,860	5,283,240	11,586	671,900	195,450	90,025	5,681,251	33,598
Mount Holly Township	.....	.....	778,000	2,473,800	3,251,800	24,388	688,785	100,900	48,885	3,815,188	1,600
Mount Laurel Township	12,659	1,699	452,910	435,145	888,055	825	144,545	33,000	7,210	993,215	5,003
New Hanover Township	2,011	950	60,884	74,795	135,679	553	30,200	3,500	3,485	159,447	312
North Hanover Township	10,643	46	135,065	215,105	350,170	120	71,300	6,000	3,500	412,090	311
Palmyra Borough	.....	1,950	801,650	2,688,030	3,489,680	8,117	325,780	68,500	52,020	3,703,057	4,622
Pemberton Borough	.....	1,750	84,200	365,625	449,825	614	82,600	17,900	7,500	507,639	1,316
Pemberton Township	22,627	16,744	751,798	832,145	1,583,943	9,840	166,425	10,400	22,500	1,727,308	3,826
Riverside Township	.....	.....	479,620	1,961,725	2,441,345	13,051	426,412	62,600	60,900	2,757,308	2,942
Riverton Borough	.....	.....	620,850	1,781,750	2,402,600	7,241	255,950	58,600	37,800	2,569,391	3,859
Shamong Township	22,208	27	144,652	87,385	232,037	833	24,140	9,000	2,475	245,535	198
Southampton Township	20,105	375	355,292	348,581	703,873	3,080	153,190	14,900	9,000	836,243	67
Springfield Township	17,409	124	344,560	428,800	773,360	531	138,075	11,300	10,000	890,666	14
Tabernacle Township	29,062	.....	169,797	74,775	244,572	23	16,685	7,000	4,000	250,280	975
Washington Township	61,122	20	197,335	57,365	254,700	.....	4,525	925	4,125	254,175	.....
Westampton Township	6,314	.....	136,745	77,650	214,395	.....	44,505	.....	3,000	255,900	.....
Willingboro Township	3,886	.....	107,450	118,800	226,250	.....	31,425	10,900	6,800	239,975	150
Woodland Township	28,663	6,494	161,865	47,150	209,015	985	22,140	7,200	1,000	223,940	1,176
Wrightstown Borough	.....	.....	20,975	50,150	71,125	216	26,075	3,300	2,000	92,116	204
Totals	390,193	59,902	$13,735,504	$37,971,606	$51,707,110	$157,380	$7,491,642	$1,504,175	$759,490	$57,092,467	$132,682

Abstract of Ratables and Exemptions in the County of Burlington, for the Year 1941—(Continued)

TAXING DISTRICT	Amounts Added Under Sec. 54:4-53 of Revised Statutes (Resulting from Corrected Errors)	Net Valuation on Which County, State and State School Taxes are Apportioned	Number of Polls Assessed	Dog Taxes	PROPERTY EXEMPT FROM TAXATION: Public School Property	Other School Property	Public Property	Church and Charitable Property	Cemeteries and Graveyards	Other Exemptions Not Included in Foregoing Classifications—Real	Total Amount of Exempt Property
Bass River Township	.....	$439,560	.....	.....	$25,800	.....	$15,000	$17,300	$17,650	$26,496	$102,246
Beverly City	.....	1,299,178	.....	.....	76,500	$10,000	15,980	217,757	440	16,065	336,742
Bordentown City	.....	2,358,695	.....	.....	211,500	16,500	62,600	231,150	4,500	51,200	577,450
Bordentown Township	.....	756,150	.....	.....	.....	802,000	600	.....	10,000	.....	812,600
Burlington City	.....	6,255,466	.....	.....	205,350	90,550	378,113	359,416	26,730	1,500	1,061,659
Burlington Township	$150	1,355,571	$485	.....	156,000	.....	10,800	322,650	33,200	.....	522,650
Chester Township	.....	1,858,898	.....	.....	284,255	.....	375,120	96,545	.....	10	755,930
Chesterfield Township	.....	920,375	.....	$252	27,300	.....	18,200	38,800	1,000	125,000	210,300
Cinnaminson Township	.....	1,810,356	.....	.....	71,100	15,000	34,400	29,200	19,400	.....	169,100
Delanco Township	.....	1,202,457	486	.....	130,000	.....	8,200	29,500	.....	50	167,750
Delran Township	.....	962,613	.....	.....	40,000	.....	14,700	20,175	900	.....	75,775
Eastampton Township	.....	181,841	.....	56	2,125	.....	.....	700	.....	.....	2,825
Edgewater Park Township	.....	806,353	.....	186	1,000	.....	1,300	23,500	23,000	.....	48,800
Evesham Township	.....	944,509	.....	305	48,700	.....	5,800	9,600	1,400	.....	65,500
Fieldsboro Borough	.....	146,221	.....	.....	20,500	.....	500	7,000	.....	.....	28,000
Florence Township	.....	6,165,173	1,611	.....	75,150	.....	4,600	35,000	700	.....	115,450
Hainesport Township	.....	471,245	173	82	46,000	.....	57,775	6,725	4,000	.....	114,500
Lumberton Township	.....	559,722	.....	.....	18,200	.....	1,200	6,200	900	.....	26,500
Mansfield Township	.....	980,951	394	189	23,000	.....	3,000	18,500	3,400	.....	47,900
Medford Lakes Borough	.....	410,095	.....	.....	.....	.....	10,000	3,700	.....	.....	13,700
Medford Township	.....	1,524,955	.....	283	86,000	.....	10,000	53,500	2,500	4,000	156,000
Moorestown Township	.....	5,647,653	3,040	715	267,670	132,015	151,715	317,250	9,700	27,000	905,350
Mount Holly Township	.....	3,813,588	.....	.....	237,225	.....	319,175	382,725	21,125	139,000	1,099,250
Mount Laurel Township	.....	988,212	537	267	45,000	.....	1,900	7,800	1,000	500	56,200
New Hanover Township	.....	159,135	.....	.....	.....	.....	1,200	8,700	2,000	7,000,000	7,011,900
North Hanover Township	.....	411,779	147	56	9,800	.....	3,875	23,100	11,900	.....	48,675
Palmyra Borough	.....	3,698,435	.....	.....	140,000	.....	110,800	96,500	5,000	.....	352,300
Pemberton Borough	.....	506,323	.....	.....	46,000	23,500	100,800	52,500	4,600	.....	227,400
Pemberton Township	.....	1,723,482	.....	82	3,500	.....	542,600	65,900	.....	53,500	665,500
Riverside Township	.....	2,754,366	.....	.....	200,000	175,000	107,405	210,700	30,000	61,000	784,105
Riverton Borough	.....	2,565,532	.....	.....	73,900	60,500	28,700	132,100	.....	27,000	322,200
Shamong Township	.....	245,337	.....	62	2,000	.....	.....	5,300	.....	.....	7,300
Southampton Township	.....	836,176	.....	116	87,650	.....	21,750	30,900	1,500	.....	141,800
Springfield Township	.....	890,652	.....	.....	108,000	.....	.....	18,100	2,100	.....	128,200
Tabernacle Township	.....	249,305	.....	.....	1,000	.....	.....	1,100	200	.....	2,300
Washington Township	.....	254,175	.....	.....	1,200	.....	500	6,575	2,000	9,100	19,375
Westampton Township	.....	255,900	.....	.....	.....	.....	1,500	2,900	800	.....	5,200
Willingboro Township	.....	239,825	87	59	1,500	.....	1,400	2,050	.....	.....	4,950
Woodland Township	.....	222,764	.....	.....	8,100	.....	500	2,050	.....	200,000	210,650
Wrightstown Borough	.....	91,912	.....	.....	30,000	.....	800	3,000	1,000	.....	34,800
Totals	$150	$56,959,935	$6,960	$2,710	$2,811,025	$1,325,065	$2,422,508	$2,896,168	$242,645	$7,741,421	$17,438,862

Chesterfield Township	$0.21	Evesham Township	$0.24
Delanco Township	0.35	Mansfield Township	0.25
Edgewater Park Township, No. 1 District	0.20	Moorestown Township, No. 1 District	0.28
No. 2 District	0.20		

Abstract of Ratables and Exemptions in the County of Burlington, for the Year 1941—(Concluded)

TAXING DISTRICT	APPORTIONMENT OF TAXES: (Partial)	Due State for Public School Purposes	Due County for Public School Purposes	Due District for Public School Purposes	Due for Local School Purposes	Due for Municipal Purposes	Due for County Purposes	Due for State Purposes	Total Amount to be Raised by Taxation
Bass River Township		$1,025	$1,025	$3,075	$3,075	$5,125	$5,125	$2,050	$20,500
Beverly City		30,400	30,400	91,200	91,200	152,000	152,000	60,800	608,000
Bordentown City		9,400	9,400	28,200	28,200	47,000	47,000	18,800	188,000
Bordentown Township		32,400	32,400	97,200	97,200	162,000	162,000	64,800	648,000
Burlington City		25,400	25,400	76,200	76,200	127,000	127,000	50,800	508,000
Burlington Township		20,800	20,800	62,400	62,400	104,000	104,000	41,600	416,000
Chester Township		15,000	15,000	45,000	45,000	75,000	75,000	30,000	300,000
Chesterfield Township		3,800	3,800	11,400	11,400	19,000	19,000	7,600	76,000
Cinnaminson Township		7,200	7,200	21,600	21,600	36,000	36,000	14,400	144,000
Delanco Township		4,800	4,800	14,400	14,400	24,000	24,000	9,600	96,000
Delran Township		12,000	12,000	36,000	36,000	60,000	60,000	24,000	240,000
Eastampton Township		1,000	1,000	3,000	3,000	5,000	5,000	2,000	20,000
Edgewater Park Township		2,000	2,000	6,000	6,000	10,000	10,000	4,000	40,000
Evesham Township		6,000	6,000	18,000	18,000	30,000	30,000	12,000	120,000
Fieldsboro Borough		1,000	1,000	3,000	3,000	5,000	5,000	2,000	20,000
Florence Township		20,000	20,000	60,000	60,000	100,000	100,000	40,000	400,000
Hainesport Township		4,000	4,000	12,000	12,000	20,000	20,000	8,000	80,000
Lumberton Township		2,000	2,000	6,000	6,000	10,000	10,000	4,000	40,000
Mansfield Township		3,000	3,000	9,000	9,000	15,000	15,000	6,000	60,000
Medford Lakes Borough		1,000	1,000	3,000	3,000	5,000	5,000	2,000	20,000
Medford Township		12,000	12,000	36,000	36,000	60,000	60,000	24,000	240,000
Moorestown Township		40,000	40,000	120,000	120,000	200,000	200,000	80,000	800,000
Mount Holly Township		20,000	20,000	60,000	60,000	100,000	100,000	40,000	400,000
Mount Laurel Township		4,000	4,000	12,000	12,000	20,000	20,000	8,000	80,000
New Hanover Township		1,000	1,000	3,000	3,000	5,000	5,000	2,000	20,000
North Hanover Township		3,000	3,000	9,000	9,000	15,000	15,000	6,000	60,000
Palmyra Borough		16,000	16,000	48,000	48,000	80,000	80,000	32,000	320,000
Pemberton Borough		4,000	4,000	12,000	12,000	20,000	20,000	8,000	80,000
Pemberton Township		12,000	12,000	36,000	36,000	60,000	60,000	24,000	240,000
Riverside Township		20,000	20,000	60,000	60,000	100,000	100,000	40,000	400,000
Riverton Borough		12,000	12,000	36,000	36,000	60,000	60,000	24,000	240,000
Shamong Township		1,000	1,000	3,000	3,000	5,000	5,000	2,000	20,000
Southampton Township		8,000	8,000	24,000	24,000	40,000	40,000	16,000	160,000
Springfield Township		8,000	8,000	24,000	24,000	40,000	40,000	16,000	160,000
Tabernacle Township		1,000	1,000	3,000	3,000	5,000	5,000	2,000	20,000
Washington Township		2,000	2,000	6,000	6,000	10,000	10,000	4,000	40,000
Westampton Township		1,000	1,000	3,000	3,000	5,000	5,000	2,000	20,000
Willingboro Township		2,000	2,000	6,000	6,000	10,000	10,000	4,000	40,000
Woodland Township		2,000	2,000	6,000	6,000	10,000	10,000	4,000	40,000
Wrightstown Borough		1,000	1,000	3,000	3,000	5,000	5,000	2,000	20,000
Totals		$400,000	$400,000	$1,200,000	$1,200,000	$2,000,000	$2,000,000	$800,000	$8,000,000

Chesterfield Township	$0.21
Delanco Township	0.35
Edgewater Park Township, No. 1 District	0.20

Evesham Township	$0.24
Mansfield Township	0.25
Moorestown Township, No. 1 District	0.22

Abstract of Ratables and Exemptions in the County of Burlington, for the Year 1941—(Concluded)

APPORTIONMENT OF TAXES

TAXING DISTRICT	State School Tax	County Taxes Apportioned (Exclusive of Bank Stock Taxes)	Local Taxes to be Raised (Exclusive of Bank Stock Taxes)—District School Tax	Local Taxes to be Raised (Exclusive of Bank Stock Taxes)—Other Local Taxes	Total Amount of Miscellaneous Revenues (Including Surplus Revenue Appropriated) for the Support of the Budget	District Court Tax	County Library Tax	Rancocas Valley Regional High School	Bank Stock Taxes Due Taxing District	General Tax Rate to Apply per $100 Valuation (Tax Rate for Local Taxing Purposes)
Bass River Township	$1,265.07	$4,852.72	$9,471.75	$6,800.36	$8,554.18	$24.19	$109.06	.....	.....	$5.14
Beverly City	3,739.07	14,342.85	38,828.78	7,853.19	29,667.50	71.51	322.33	.....	$382.96	5.02
Bordentown City	6,788.39	26,039.85	40,675.00	48,895.32	38,785.00	129.82	585.21	.....	1,193.60	5.22
Bordentown Township	2,176.22	8,347.85	6,600.00	.....	17,460.00	41.62	187.51	.....	.....	2.30
Burlington City	18,003.40	69,059.97	132,290.44	69,852.41	100,839.75	344.29	1,552.02	.....	1,107.52	4.66
Burlington Township	3,901.37	14,965.42	47,581.25	.....	60,399.58	74.61	336.33	.....	.....	4.94
Chester Township	5,335.57	20,466.92	75,601.50	32,112.00	83,296.23	102.04	459.96	.....	.....	7.06
Chesterfield Township	2,648.86	10,160.88	11,000.00	.....	20,846.34	50.66	228.35	.....	.....	2.62
Cinnaminson Township	5,210.25	19,986.22	47,702.50	7,914.30	36,089.82	99.64	449.16	.....	.....	4.50
Delanco Township	3,460.71	13,275.05	50,842.03	4,196.78	28,676.21	66.18	298.34	.....	.....	6.00
Delran Township	2,770.43	10,627.19	30,060.00	1,569.33	22,824.98	52.98	238.83	.....	.....	4.72
Eastampton Township	523.34	2,007.51	5,753.00	139.29	6,348.97	10.00	45.11	$1,942.21	.....	5.74
Edgewater Park Township	2,320.71	8,902.09	23,840.00	.....	27,045.00	44.38	200.06	.....	.....	4.38
Evesham Township	2,718.32	10,427.32	23,497.50	11,259.03	16,677.95	51.98	234.34	.....	110.47	5.08
Fieldsboro Borough	420.83	1,614.27	6,000.00	.....	9,205.45	8.05	36.28	.....	.....	5.54
Florence Township	17,743.54	68,063.14	144,585.21	31,388.37	80,799.14	339.32	1,529.62	.....	753.08	4.28
Hainesport Township	1,356.26	5,202.52	13,970.00	835.00	10,155.32	25.94	116.92	5,033.26	.....	5.60
Lumberton Township	1,610.90	6,179.30	10,666.80	4,787.44	12,710.04	30.81	138.87	5,978.26	.....	5.26
Mansfield Township	2,823.20	10,829.64	24,098.50	.....	22,020.00	53.99	243.38	.....	.....	3.88
Medford Lakes Borough	1,180.26	4,527.42	4,872.25	6,791.19	6,772.22	22.57	101.75	.....	.....	4.28
Medford Township	4,388.86	16,835.41	42,550.00	7,374.44	23,550.73	83.93	378.35	.....	325.56	4.70
Moorestown Township	16,254.10	62,349.75	107,036.25	88,397.98	93,832.07	310.84	1,401.22	.....	.....	4.86
Mount Holly Township	10,975.61	42,101.78	76,355.00	49,731.53	37,730.00	209.90	946.17	40,732.06	2,760.79	5.80
Mount Laurel Township	2,844.10	10,909.80	24,000.00	8,830.91	32,336.90	54.39	245.18	.....	.....	4.74
New Hanover Township	457.99	1,756.84	6,058.67	.....	5,610.49	8.76	39.48	.....	.....	5.24
North Hanover Township	1,185.11	4,546.02	9,000.00	6,438.88	3,800.00	22.66	102.16	.....	.....	5.18
Palmyra Borough	10,644.20	40,830.50	71,839.31	53,000.00	61,096.79	203.56	917.60	.....	.....	4.80
Pemberton Borough	1,457.21	5,589.77	12,225.00	1,474.06	7,206.75	27.87	125.62	.....	233.44	4.12
Pemberton Township	4,960.23	19,027.14	29,715.00	8,173.06	28,537.22	94.86	427.61	.....	.....	3.62
Riverside Township	7,927.14	30,408.03	105,118.53	37,927.11	46,062.55	151.60	683.37	.....	872.89	6.62
Riverton Borough	7,383.67	28,323.32	39,514.42	32,048.90	17,421.00	141.20	636.52	.....	128.65	4.22
Shamong Township	706.09	2,708.51	6,540.00	2,294.79	6,510.21	13.50	60.87	.....	.....	5.02
Southampton Township	2,406.54	9,231.33	22,761.00	527.17	15,950.00	46.02	207.46	.....	791.13	4.22
Springfield Township	2,563.32	9,832.74	25,685.00	3,177.19	11,724.60	49.02	220.98	.....	.....	4.68
Tabernacle Township	717.51	2,752.31	12,000.00	.....	8,020.81	13.72	61.85	.....	.....	6.22
Washington Township	731.52	2,806.08	7,000.00	425.00	6,390.00	13.99	63.06	.....	.....	4.36
Westampton Township	736.49	2,825.12	8,500.00	.....	8,175.00	14.08	63.49	2,733.21	.....	5.82
Willingboro Township	690.22	2,647.65	10,000.00	275.00	8,275.00	13.20	59.50	.....	.....	5.72
Woodland Township	641.12	2,459.30	6,608.00	8,067.93	5,145.00	12.26	55.27	.....	.....	7.98
Wrightstown Borough	264.53	1,014.70	3,499.33	.....	10,840.00	5.06	22.80	.....	.....	5.24
Totals	$163,932.26	$628,834.23	$1,373,942.02	$542,557.96	$1,077,388.80	$3,135.00	$14,132.09	$56,419.00	$8,660.09	

Total County Taxes Appropriated	$637,494.32
Bank Stock Taxes Due County	8,660.09
Net County Taxes Apportioned	628,834.23
Total Amount of Miscellaneous Revenues (Including Surplus Revenues Appropriated) for the support of the County Budget	781,752.81

County Tax Rate per $100 of Valuation	$1.10399393
State School Tax Rate per $100 of Valuation	.28780275
County Library Tax Rate per $100 Valuation	.02481060
District Court Tax Rate per $100 Valuation	.00550387

Abstract of Ratables and Exemptions in the County of Camden, for the Year 1941

TAXING DISTRICT	TOTAL NO. OF ACRES AND LOTS ASSESSED		Value of Land Assessed	Value of Improvements Thereon Assessed	Total Value of Land and Improvements Assessed, Exclusive of Second Class R. R. Property	Value of Second Class R. R. Property	Value of Personal Property Assessed	DEDUCTIONS	
	Acres	Lots						Household Goods and Other Exemptions Under Sec. 54:4-3.16 of Revised Statutes	Property Exempted Under Sec. 54:4-3.12 of Revised Statutes
Camden City	890	85,280	$38,779,190	$78,505,870	$117,285,060	$2,798,994	$19,786,070	$2,912,700	$457,415
Gloucester City	163	6,296	2,277,800	5,934,450	8,212,250	33,276	1,094,225	162,500	74,500
Audubon Borough	149	2,500	2,198,350	4,649,500	6,847,850	16,156	774,205	272,200	132,600
Barrington Borough	661	1,280	317,359	926,760	1,244,119	675	167,135	59,900	23,450
Bellmawr Borough	1,122	6,294	277,585	517,880	795,465	1,237	88,300	29,200	11,500
Berlin Borough	1,554	2,671	379,075	964,550	1,343,625	6,533	157,393	48,700	16,500
Brooklawn Borough	140	1,046	221,890	760,900	982,790	590	138,490	54,200	21,775
Chesilhurst Borough	125	4,296	77,515	55,870	133,385	.....	18,855	9,025	1,795
Clementon Borough	435	3,767	321,725	1,215,700	1,537,425	1,678	142,700	48,200	28,925
Collingswood Borough	.....	4,225	3,039,675	9,012,250	12,051,925	9,677	1,061,300	302,300	127,300
Gibbsboro Borough	1,154	1,537	111,332	499,100	610,432	1,074	245,435	39,250	9,000
Haddonfield Borough	215	3,430	2,352,100	8,756,650	11,108,750	18,023	1,172,825	293,000	153,800
Haddon Heights Borough	34	3,642	1,393,730	3,904,130	5,297,860	5,400	654,600	151,100	67,000
Hi-Nella Borough	79	498	33,960	110,100	144,060	30	11,100	6,050	1,000
Laurel Springs Borough	8	847	182,800	746,750	929,550	1,273	109,150	34,000	18,500
Lawnside Borough	640	688	188,950	284,750	473,700	.....	46,500	23,800	12,500
Lindenwold Borough	1,266	8,447	533,755	975,100	1,508,855	4,394	92,490	39,225	19,600
Magnolia Borough	331	1,090	247,315	629,025	876,340	1,080	121,985	43,200	11,000
Merchantville Borough	.....	1,133	757,225	2,724,000	3,481,225	9,567	404,925	94,100	43,400
Mt. Ephraim Borough	56	1,579	494,410	1,178,200	1,672,610	1,875	117,185	50,000	25,000
Oaklyn Borough	.....	1,309	368,000	2,250,700	2,618,706	16,414	286,150	50,000	43,500
Pine Hill Borough	1,973	5,518	307,400	537,500	844,900	1,845	74,700	50,000	14,950
Pine Valley Borough	700	.....	27,500	102,680	130,180	.....	9,200	1,100	.....
Runnemede Borough	472	2,950	324,835	1,182,495	1,507,330	.....	195,275	69,975	25,000
Somerdale Borough	329	2,960	263,020	456,600	719,620	315	79,350	28,400	12,500
Stratford Borough	517	1,060	154,519	480,145	634,664	1,335	52,866	19,300	10,175
Tavistock Borough	175	2	44,150	55,250	99,400	.....	7,000	300	.....
Woodlynne Borough	9	1,441	319,415	1,533,280	1,852,695	.....	201,100	66,500	23,700
Berlin Township	1,393	2,882	190,795	379,250	570,045	.....	57,645	25,900	8,500
Delaware Township	12,581	4,869	1,204,561	2,501,340	3,705,901	1,872	173,920	39,900	34,260
Gloucester Township	14,495	10,251	1,108,595	2,197,175	3,305,770	3,743	442,887	151,700	34,025
Haddon Township	441	4,410	1,538,525	6,813,800	8,352,325	14,933	527,270	272,800	143,950
Pensauken Township	2,210	15,800	5,690,740	11,694,580	17,385,320	23,578	1,663,370	486,400	212,790
Voorhees Township	6,344	1,484	272,025	542,210	814,235	1,023	63,320	20,900	11,550
Waterford Township	23,096	2,483	357,600	684,670	1,042,270	4,136	61,650	7,200	26,000
Winslow Township	34,332	11,953	719,275	1,099,335	1,818,610	17,142	244,320	60,000	28,500
Totals	108,089	109,918	$67,076,696	$154,862,545	$221,939,241	$2,997,868	$30,544,891	$6,023,025	$1,885,960

Abstract of Ratables and Exemptions in the County of Camden, for the Year 1941—(Continued)

TAXING DISTRICT	Net Valuation Taxable	Amounts Deducted Under Sec. 54:4-49 and Sec. 54:4-53 of Revised Statutes (Resulting from Prior Appeals and Corrected Errors)	Amounts Added Under Section 54:4-53 of Revised Statutes (Resulting from Corrected Errors)	Amounts Added for Equalization Under Sec. 54:3-17 of Revised Statutes	Amount Deducted for Equalization Under Sec. 54:3-17 of Revised Statutes	Net Valuation on Which County, State and State School Taxes are Apportioned	Number of Polls Assessed	Dog Taxes
Camden City	$136,500,009	$9,969,618	$336,750	.....	.....	$126,867,141	.....	....
Gloucester City	9,102,751	68,950	.....	.....	.....	9,033,801	.....	....
Audubon Borough	7,233,411	15,775	.....	.....	.....	7,217,636	.....	....
Barrington Borough	1,328,579	3,325	.....	.....	.....	1,325,254	664	....
Bellmawr Borough	844,302	1,850	.....	.....	.....	842,452	333	....
Berlin Borough	1,442,351	100	.....	.....	.....	1,442,251	.....	$112
Brooklawn Borough	1,045,895	850	.....	.....	.....	1,045,045	545	....
Chesilhurst Borough	141,420	4,350	.....	.....	.....	137,070	.....	....
Clementon Borough	1,604,678	3,650	.....	.....	.....	1,601,028	.....	....
Collingswood Borough	12,693,302	8,500	.....	.....	.....	12,684,802	.....	....
Gibbsboro Borough	808,691	.....	.....	.....	.....	808,691	.....	109
Haddonfield Borough	11,852,798	119,225	.....	.....	.....	11,733,573	.....	....
Haddon Heights Borough	5,739,760	12,725	.....	.....	.....	5,727,035	1,272	....
Hi-Nella Borough	148,140	.....	.....	.....	.....	148,140	.....	....
Laurel Springs Borough	987,473	500	.....	.....	.....	986,973	348	....
Lawnside Borough	483,900	2,300	.....	.....	.....	481,600	.....	....
Lindenwold Borough	1,546,914	58,690	.....	.....	.....	1,488,224	502	....
Magnolia Borough	945,205	2,750	.....	.....	.....	942,455	501	150
Merchantville Borough	3,758,217	1,000	.....	.....	.....	3,757,217	958	....
Mt. Ephraim Borough	1,716,670	133,600	.....	.....	.....	1,583,070	.....	....
Oaklyn Borough	2,827,764	650	.....	.....	.....	2,827,114	.....	....
Pine Hill Borough	856,495	1,975	.....	.....	.....	854,520	.....	....
Pine Valley Borough	138,280	.....	.....	.....	.....	138,280	.....	....
Runnemede Borough	1,607,630	86,935	.....	.....	.....	1,520,695	.....	....
Somerdale Borough	758,385	1,450	.....	.....	.....	756,935	337	....
Stratford Borough	659,390	3,600	.....	.....	.....	655,790	.....	....
Tavistock Borough	106,100	.....	.....	.....	.....	106,100	.....	....
Woodlynne Borough	1,963,595	200	.....	.....	.....	1,963,395	.....	....
Berlin Township	593,290	.....	.....	.....	.....	593,290	304	104
Delaware Township	3,807,533	82,870	.....	.....	.....	3,724,663	.....	....
Gloucester Township	3,566,675	73,630	.....	.....	.....	3,493,045	1,468	....
Haddon Township	8,477,778	6,920	.....	.....	.....	8,470,858	.....	....
Pensauken Township	18,373,078	184,970	29,280	.....	.....	18,217,388	4,480	....
Voorhees Township	846,128	400	.....	.....	.....	845,728	.....	....
Waterford Township	1,074,856	375	.....	.....	.....	1,074,481	4	....
Winslow Township	1,991,572	2,725	.....	.....	.....	1,988,847	.....	....
Totals	$247,573,015	$10,854,458	$366,030	.....	.....	$237,084,587	11,716	$475

Abstract of Ratables and Exemptions in the County of Camden, for the Year 1941—(Continued)

TAXING DISTRICT	PROPERTY EXEMPT FROM TAXATION							
	Public School Property	Other School Property	Public Property	Church and Charitable Property	Cemeteries and Graveyards	Other Exemptions Not Included in Foregoing Classifications		Total Amount of Exempt Property
						Real	Personal	
Camden City	$7,074,300	$1,440,975	$18,515,540	$7,374,375	$1,082,525	.....	.....	$35,487,715
Gloucester City	524,850	119,025	842,875	177,375	21,550	.....	.....	1,685,675
Audubon Borough	618,350	.....	211,600	78,225	.....	$21,200	$16,000	945,375
Barrington Borough	30,150	.....	161,818	18,200	.....	.....	.....	210,168
Bellmawr Borough	48,700	.....	36,925	8,725	11,800	.....	3,550	109,700
Berlin Borough	21,000	.....	162,100	43,325	15,250	.....	.....	241,675
Brooklawn Borough	110,000	.....	130,650	9,200	.....	.....	.....	249,850
Chesilhurst Borough	3,560	20	.....	1,110	.....	935	5,375	11,000
Clementon Borough	142,950	.....	24,600	9,100	.....	6,875	.....	183,525
Collingswood Borough	965,000	19,000	691,100	536,975	.....	.....	.....	2,212,075
Gibbsboro Borough	6,600	1,000	.....	14,200	600	10,100	39,250	71,750
Haddonfield Borough	800,000	6,000	770,500	579,500	23,000	.....	.....	2,179,000
Haddon Heights Borough	588,950	4,800	337,052	322,848	.....	.....	.....	1,253,650
Hi-Nella Borough	.....	.....	5,500	.....	.....	.....	.....	5,500
Laurel Springs Borough	43,000	.....	32,650	37,000	.....	7,725	500	120,875
Lawnside Borough	52,700	.....	1,200	31,450	7,600	11,550	.....	104,500
Lindenwold Borough	651,250	68,000	.....	85,245	.....	34,600	39,025	878,120
Magnolia Borough	103,200	.....	56,075	23,025	.....	.....	.....	182,300
Merchantville Borough	40,200	.....	59,000	138,900	.....	43,400	.....	281,500
Mt. Ephraim Borough	115,500	.....	613,350	41,350	.....	.....	.....	770,200
Oaklyn Borough	111,100	.....	27,250	31,175	.....	.....	.....	169,525
Pine Hill Borough	46,800	.....	15,700	17,800	.....	.....	.....	80,300
Pine Valley Borough	.....	.....	.....	.....	.....	.....	.....	.....
Runnemede Borough	184,850	.....	200,255	54,750	.....	4,675	.....	444,530
Somerdale Borough	55,000	.....	232,175	33,800	2,000	.....	12,700	335,675
Stratford Borough	86,050	.....	10,750	7,950	.....	46,057	.....	150,807
Tavistock Borough	.....	.....	.....	.....	.....	.....	.....	.....
Woodlynne Borough	64,800	1,400	122,600	31,700	.....	.....	.....	220,500
Berlin Township	44,050	.....	2,375	5,375	.....	12,450	.....	64,250
Delaware Township	321,550	.....	213,260	31,610	32,800	223,680	39,900	862,800
Gloucester Township	323,000	.....	2,735,500	77,000	7,500	44,200	52,000	3,239,200
Haddon Township	372,925	92,200	723,900	120,000	3,000	134,225	.....	1,446,250
Pensauken Township	938,380	525,310	981,095	127,740	26,920	359,160	.....	2,958,605
Voorhees Township	7,800	.....	8,165	8,125	.....	75	.....	24,165
Waterford Township	37,600	.....	7,475	29,850	850	10,925	.....	86,700
Winslow Township	48,300	.....	4,500	14,850	700	19,000	60,000	147,350
Totals	$14,582,465	$2,277,730	$27,937,535	$10,121,853	$1,236,095	$990,832	$268,300	$57,414,810

Abstract of Ratables and Exemptions in the County of Camden, for the Year 1941—(Concluded)

TAXING DISTRICT	APPORTIONMENT OF TAXES								
	State School Tax	County Taxes Apportioned (Exclusive of Bank Stock Taxes)	Local Taxes to be Raised (Exclusive of Bank Stock Taxes)—District School Tax	Local Taxes to be Raised (Exclusive of Bank Stock Taxes)—Other Local Taxes	Total Amount of Miscellaneous Revenues (Including Surplus Revenue Appropriated) for the Support of the Budget	Lower County Regional High School	Library Tax	Bank Stock Taxes Due Taxing District	General Tax Rate to Apply per $100 Valuation (Tax Rate for Local Taxing Purposes)
Camden City	$364,354.95	$1,306,751.80	$2,036,047.36	$2,947,133.87	$3,239,889.15	.....	.....	$4,379.21	$4.88
Gloucester City	25,944.54	93,049.59	137,945.00	159,941.67	254,728.60	.....	$1,820.55	.....	4.60
Audubon Borough	20,728.62	74,342.80	140,966.25	106,575.63	128,980.96	.....	1,446.68	332.10	4.76
Barrington Borough	3,806.05	13,650.33	24,874.00	30,853.09	50,639.05	.....	265.71	.....	5.53
Bellmawr Borough	2,419.47	8,677.39	16,696.00	16,719.78	41,937.90	.....	168.86	.....	5.30
Berlin Borough	4,142.06	14,855.42	29,000.00	7,244.20	47,555.58	.....	288.47	812.51	3.85
Brooklawn Borough	3,001.31	10,764.13	23,000.00	6,500.00	25,500.00	.....	209.18	.....	4.16
Chesilhurst Borough	393.66	1,411.84	1,510.00	4,660.63	1,628.00	$962.14	28.29	.....	6.35
Clementon Borough	4,598.06	16,490.84	27,070.00	31,696.17	40,168.21	10,917.42	320.94	411.98	5.68
Collingswood Borough	36,430.00	130,655.49	195,279.37	122,080.62	245,968.35	.....	.....	1,178.03	3.82
Gibbsboro Borough	2,322.51	8,329.65	10,194.96	3,889.43	6,594.83	.....	161.74	.....	3.08
Haddonfield Borough	33,698.13	120,857.68	169,993.74	173,213.15	190,001.91	.....	.....	.....	4.20
Haddon Heights Borough	16,447.71	58,989.37	73,388.41	114,468.35	131,388.69	.....	.....	.....	4.60
Hi-Nella Borough	425.45	1,525.86	1,500.00	4,264.64	1,863.70	.....	29.63	.....	5.23
Laurel Springs Borough	2,834.53	10,165.98	19,362.50	16,806.30	26,503.08	.....	197.50	202.55	5.00
Lawnside Borough	1,383.13	4,960.56	8,484.76	25,518.84	9,043.60	.....	96.78	.....	8.36
Lindenwold Borough	4,274.09	15,328.94	26,160.00	31,486.32	11,305.00	10,524.42	309.38	.....	5.70
Magnolia Borough	2,706.67	9,707.44	20,053.00	23,020.43	52,623.88	.....	189.04	.....	5.90
Merchantville Borough	10,790.51	38,699.94	48,706.08	80,285.40	80,133.78	.....	751.64	58.02	4.78
Mt. Ephraim Borough	4,546.48	16,305.87	36,450.00	36,857.34	69,865.00	.....	343.33	.....	5.51
Oaklyn Borough	8,119.31	29,119.72	75,393.70	37,877.94	73,832.31	.....	565.55	341.20	5.35
Pine Hill Borough	2,454.13	8,801.69	9,500.00	21,676.23	36,198.98	5,827.16	171.30	.....	5.66
Pine Valley Borough	397.13	1,424.31	.....	3,757.00	815.00	.....	27.66	.....	4.06
Runnemede Borough	4,367.35	15,663.40	34,843.00	34,432.66	84,075.59	.....	321.52	.....	5.58
Somerdale Borough	2,173.88	7,796.55	16,327.25	22,989.41	16,320.37	.....	151.68	.....	6.52
Stratford Borough	1,883.39	6,754.74	14,312.50	4,915.68	19,508.61	.....	131.88	.....	4.25
Tavistock Borough	304.71	1,092.85	.....	2,316.97	464.00	.....	21.22	.....	3.53
Woodlynne Borough	5,638.75	20,223.28	37,645.75	41,030.13	47,019.60	.....	394.36	.....	5.33
Berlin Township	1,703.89	6,110.98	12,816.68	21,322.70	28,809.66	4,036.44	118.66	.....	7.78
Delaware Township	10,697.01	38,364.62	93,440.00	69,797.78	190,505.11	.....	761.51	.....	5.60
Gloucester Township	10,031.82	35,978.92	78,365.00	46,600.00	123,671.11	.....	713.33	.....	5.00
Haddon Township	24,327.81	87,251.19	116,475.63	95,679.50	222,016.00	.....	1,695.56	.....	3.84
Pensauken Township	52,319.26	187,642.01	303,270.97	299,602.19	494,925.35	.....	3,674.62	50.64	4.62
Voorhees Township	2,428.88	8,711.14	21,723.00	10,032.98	27,954.27	.....	169.22	.....	5.09
Waterford Township	3,085.85	11,067.33	23,726.41	9,496.57	41,871.33	7,312.77	214.97	128.43	5.11
Winslow Township	5,711.85	20,485.44	30,000.00	58,577.31	17,050.00	13,549.65	398.31	.....	6.47
Totals	$680,892.95	$2,442,009.09	$3,914,521.32	$4,723,320.91	$6,081,356.56	$53,130.00	$16,159.07	$7,894.67	

Total County Taxes Appropriated	$2,449,903.76
Bank Stock Taxes Due County	7,894.67
Net County Taxes Apportioned	2,442,009.09
Total Amount of Miscellaneous Revenues (Including Surplus Revenues Appropriated) for the Support of the County Budget	6,081,356.56

County Tax Rate per $100 of Valuation	$1.030015962
State School Tax Rate per $100 of Valuation	.287194102
County Library Tax	.02
Lower County Regional High School	.680349202

Abstract of Ratables and Exemptions in the County of Cape May, for the Year 1941

TAXING DISTRICT	TOTAL NO. OF ACRES AND LOTS ASSESSED		Value of Land Assessed	Value of Improvements Thereon Assessed	Total Value of Land and Improvements Assessed, Exclusive of Second Class R. R. Property	Value of Second Class R. R. Property	Value of Personal Property Assessed	Deductions—Household Goods and Other Exemptions Under Sec. 54:4-3.16 of Revised Statutes	Deductions—Property Exempted Under Sec. 54:4-3.12 of Revised Statutes	Net Valuation Taxable	Amounts Deducted Under Sec. 54:4-49 and Sec. 54:4-53 of Revised Statutes (Resulting from Prior Appeals and Corrected Errors)
	Acres	Lots									
Avalon Borough	1,740	20,000	$1,037,159	$765,947	$1,803,106	.....	$166,125	$73,550	$5,850	$1,889,831	$2,900
Cape May City	73	4,522	2,390,505	3,081,340	5,471,845	$33,557	412,045	.....	30,535	5,886,912	8,440
Cape May Point Borough	13	916	121,780	229,895	351,675	.....	16,860	.....	11,000	357,535	10,500
Dennis Township	29,946	825	266,995	387,575	654,570	17,649	121,285	.....	17,475	776,029	925
Lower Township	17,203	6,570	398,338	588,775	987,113	45,652	83,025	.....	36,450	1,079,340	985
Middle Township	29,825	13,958	676,040	1,070,025	1,746,065	17,641	221,025	.....	49,495	1,935,236	2,675
North Cape May Borough	5	3,129	175,885	8,625	184,510	.....	350	.....	495	184,365	.....
North Wildwood City	24	7,344	2,881,290	2,182,155	5,063,445	23,561	227,665	.....	29,500	5,285,171	81,440
Ocean City	848	13,000	5,900,075	8,609,450	14,509,525	150,893	760,850	.....	77,055	15,344,213	40,625
Sea Isle City	420	7,199	699,524	918,560	1,618,084	6,325	112,950	.....	12,000	1,725,359	4,510
South Cape May Borough	68	1,865	16,680	21,200	37,880	.....	3,720	.....	500	41,100	.....
Stone Harbor Borough	290	2,177	939,750	1,338,030	2,277,780	.....	94,405	.....	10,400	2,361,785	200
Upper Township	27,861	6,608	375,660	814,340	1,190,000	3,628	91,000	.....	18,025	1,266,603	850
West Cape May Borough	401	1,485	158,547	302,776	461,323	1,561	30,175	.....	12,775	480,284	.....
West Wildwood Borough	.....	1,935	145,010	245,825	390,835	.....	32,900	.....	5,000	418,735	750
Wildwood City	.....	6,470	2,431,647	5,931,050	8,362,697	102,462	811,835	.....	38,525	9,238,469	8,825
Wildwood Crest Borough	48	4,500	994,745	1,542,825	2,537,570	919	82,420	.....	22,000	2,598,909	650
Woodbine Borough	4,108	1,696	203,793	371,715	575,508	6,677	75,475	.....	7,000	650,660	225
Totals	112,873	104,179	$19,813,423	$28,410,108	$48,223,531	$410,525	$3,344,110	$73,550	$384,080	$51,520,536	$164,500

Abstract of Ratables and Exemptions in the County of Cape May, for the Year 1941—(Continued)

TAXING DISTRICT	Amounts Added Under Section 54:4-63 of Revised Statutes (Resulting from Corrected Errors)	Net Valuation on Which County, State and State School Taxes are Apportioned	Number of Polls Assessed	Dog Taxes	PROPERTY EXEMPT FROM TAXATION						
					Public School Property	Other School Property	Public Property	Church and Charitable Property	Cemeteries and Graveyards	Other Exemptions Not Included in Foregoing Classifications—Real	Total Amount of Exempt Property
Avalon Borough	.....	$1,886,931	....	....	$15,000	.....	$626,649	$72,000	.....	.....	$713,649
Cape May City	.....	5,878,472	....	....	108,900	.....	865,875	177,990	.....	$1,411,400	2,564,165
Cape May Point Borough	.....	347,035	....	....	4,600	$200	46,370	16,590	.....	.....	67,760
Dennis Township	.....	775,104	381	$84	26,250	.....	.....	29,900	$650	.....	56,800
Lower Township	.....	1,078,355	....	....	30,000	.....	3,200	13,400	4,500	9,000	60,100
Middle Township	.....	1,932,561	....	....	153,100	.....	249,600	86,350	4,500	.....	493,550
North Cape May Borough	.....	184,365	....	....	.....	.....	.....	.....	.....	.....	.....
North Wildwood City	.....	5,203,731	....	....	184,375	.....	522,250	32,200	.....	64,300	803,125
Ocean City	$11,375	15,314,963	....	....	410,480	51,500	884,000	352,400	.....	77,055	1,775,435
Sea Isle City	.....	1,720,849	....	....	16,900	11,720	210,730	22,675	.....	.....	262,025
South Cape May Borough	.....	41,100	....	....	.....	.....	875	.....	.....	.....	875
Stone Harbor Borough	.....	2,361,585	....	....	35,000	.....	484,450	54,200	.....	8,500	582,150
Upper Township	.....	1,265,753	....	....	21,800	.....	.....	30,800	400	8,400	61,400
West Cape May Borough	.....	480,284	....	....	12,000	800	31,578	3,000	.....	.....	47,378
West Wildwood Borough	1,600	419,585	....	....	.....	.....	3,400	900	.....	.....	4,300
Wildwood City	1,550	9,231,194	....	....	330,450	.....	719,500	375,295	.....	6,575	1,431,820
Wildwood Crest Borough	.....	2,598,259	....	....	25,500	.....	350,780	1,950	.....	.....	378,230
Woodbine Borough	.....	650,435	....	....	32,250	16,900	33,500	11,565	1,350	401,800	497,365
Totals	$14,525	$51,370,561	381	$84	$1,406,605	$81,120	$5,032,757	$1,281,215	$11,400	$1,987,030	$9,800,127

Abstract of Ratables and Exemptions in the County of Cape May, for the Year 1941—(Concluded)

TAXING DISTRICT	APPORTIONMENT OF TAXES							
	State School Tax	County Taxes Apportioned (Exclusive of Bank Stock Taxes)	Local Taxes to be Raised (Exclusive of Bank Stock Taxes)—District School Tax	Local Taxes to be Raised (Exclusive of Bank Stock Taxes)—Other Local Taxes	Total Amount of Miscellaneous Revenues (Including Surplus Revenue Appropriated) for the Support of the Budget	Library Tax	Bank Stock Taxes Due Taxing District	General Tax Rate to Apply per $100 Valuation (Tax Rate for Local Taxing Purposes)
Avalon Borough	$5,508.70	$10,598.66	$5,500.00	$99,830.00	$65,509.30	$471.73	.....	$6.46
Cape May City	17,161.60	33,018.66	34,500.00	222,813.93	232,168.44	1,469.62	.....	5.25
Cape May Point Borough	1,013.13	1,949.25	800.00	17,791.08	11,612.18	86.76	.....	6.06
Dennis Township	2,262.84	4,353.66	14,000.00	10,400.22	21,999.02	193.77	.....	4.04
Lower Township	3,148.15	6,056.99	26,960.00	4,514.90	51,395.89	269.60	.....	3.80
Middle Township	5,641.92	10,854.96	54,615.00	19,826.26	55,893.68	483.14	$1,222.58	4.76
North Cape May Borough	538.23	1,035.56	.....	19,979.41	1,350.00	46.10	.....	11.72
North Wildwood City	15,191.76	29,228.72	37,790.00	282,000.00	124,287.00	1,300.93	.....	6.92
Ocean City	44,710.45	86,022.28	148,275.00	777,515.30	280,200.81	.....	491.31	6.89
Sea Isle City	5,023.84	9,665.80	17,729.00	68,610.65	65,032.59	430.21	.....	5.90
South Cape May Borough	119.99	230.85	.....	3,770.90	836.00	10.27	.....	10.06
Stone Harbor Borough	6,894.41	13,264.74	10,573.50	80,108.20	89,087.52	590.40	34.46	4.72
Upper Township	3,695.23	7,109.58	20,500.00	10,149.64	28,371.04	316.44	143.36	3.30
West Cape May Borough	1,402.14	2,697.70	10,985.00	10,994.56	17,094.67	120.07	.....	5.46
West Wildwood Borough	1,224.93	2,356.76	.....	36,392.32	32,355.16	104.90	.....	9.58
Wildwood City	26,949.53	51,850.49	104,000.00	267,416.70	399,457.76	2,307.80	1,808.93	4.90
Wildwood Crest Borough	7,585.35	14,594.10	21,055.25	92,212.47	55,158.50	649.56	.....	5.24
Woodbine Borough	1,898.88	3,653.41	16,980.00	6,822.64	29,219.68	162.60	177.36	4.54
Totals	$149,971.08	$288,542.17	$524,262.75	$2,031,149.18	$1,561,023.24	$9,013.90	$3,878.00	

Total County Taxes Appropriated	$292,420.17	County Tax Rate per $100 of Valuation	$0.5616878
Bank Stock Taxes Due County	3,878.00	State School Tax Rate per $100 of Valuation	.2919398
Net County Taxes Apportioned	288,542.17	County Library Tax Rate	.025
Total Amount of Miscellaneous Revenues (Including Surplus Revenues Appropriated) for the Support of the County Budget	763,179.03		

Exhibit P-36.

Abstract of Ratables and Exemptions in the County of Cumberland, for the Year 1941

TAXING DISTRICT	TOTAL NO. OF ACRES & LOTS ASSESSED		Value of Land Assessed	Value of Improvements Thereon Assessed	Total Value of Land and Improvements Assessed, Exclusive of Second Class R. R. Property	Value of Second Class R. R. Property	Value of Personal Property Assessed	DEDUCTIONS		Net Valuation Taxable	Amounts Deducted Under Sec. 54:4-49 and Sec. 54:4-53 of Revised Statutes (Resulting from Prior Appeals and Corrected Errors)
	Acres	Lots						Household Goods and Other Exemptions Under Sec. 54:4-3.16 of Revised Statutes	Property Exempted Under Sec. 54:4-3.12 of Revised Statutes		
Bridgeton City	1,069	6,316	$3,506,555	$7,378,425	$10,884,980	$101,277	$2,896,125	$474,225	$100,150	$13,308,007	$46,250
Commercial Township	15,439	1,940	261,425	544,350	805,775	20,504	243,200	55,000	19,575	994,904	2,050
Deerfield Township	9,020	403	220,650	275,450	496,100	316	77,550	23,600	3,000	547,366	.....
Downe Township	26,090	585	271,925	441,475	713,400	654	139,675	45,000	10,750	797,979	1,750
Fairfield Township	25,364	354	301,650	382,150	683,800	998	83,302	11,000	12,250	744,850	150
Greenwich Township	10,908	134	247,175	257,450	504,625	2,466	106,875	20,400	3,600	589,966	4,500
Hopewell Township	17,401	325	675,103	433,465	1,108,568	529	180,550	28,200	3,990	1,257,457	275
Landis Township	37,966	5,105	2,451,450	5,438,625	7,890,075	29,578	1,001,424	338,100	150,375	8,432,602	9,975
Lawrence Township	22,433	329	354,375	511,950	866,325	1,928	136,600	40,575	8,550	955,728	25
Maurice River Township	53,239	670	371,624	459,650	831,274	8,444	151,605	20,000	19,450	951,873	545
Millville City	21,506	9,313	2,656,750	7,262,550	9,919,300	51,648	1,972,150	373,450	130,775	11,438,873	2,400
Shiloh Borough	688	107	57,464	149,395	206,859	.....	44,450	11,200	3,375	236,734	20
Stow Creek Township	10,971	38	229,640	176,850	406,490	.....	71,270	19,300	4,000	454,460	.....
Upper Deerfield Township	18,010	95	877,100	699,350	1,576,450	8,914	199,580	38,700	9,000	1,737,244	.....
Vineland Borough	.....	2,752	1,565,175	3,679,600	5,244,775	30,911	876,980	102,100	53,750	5,996,816	500
Totals	270,104	28,466	$14,048,061	$28,090,735	$42,138,796	$258,167	$8,181,336	$1,600,850	$532,590	$48,444,859	$68,440

Abstract of Ratables and Exemptions in the County of Cumberland, for the Year 1941—(Continued)

TAXING DISTRICT	Net Valuation on Which County, State and State School Taxes are Apportioned	Number of Polls Assessed	Dog Taxes	PROPERTY EXEMPT FROM TAXATION							
				Public School Property	Other School Property	Public Property	Church and Charitable Property	Cemeteries and Graveyards	Other Exemptions Not Included in Foregoing Classifications—Real	Other Exemptions Not Included in Foregoing Classifications—Personal	Total Amount of Exempt Property
Bridgeton City	$13,261,757	4,218	....	$899,300	$61,500	$799,100	$688,000	$58,400	.....	.....	$2,506,300
Commercial Township	992,854	460	....	34,100	.....	5,950	63,050	1,500	$12,070	.....	116,670
Deerfield Township	547,866	331	$112	28,000	.....	4,900	12,500	500	.....	.....	45,900
Downe Township	796,229	458	....	12,500	.....	2,500	20,000	1,050	2,225	.....	38,275
Fairfield Township	744,700	595	....	48,500	.....	.....	21,700	1,200	.....	.....	71,400
Greenwich Township	585,466	312	205	13,200	.....	6,800	20,600	1,000	550	.....	42,150
Hopewell Township	1,257,182	512	....	51,000	.....	226,000	7,550	10,900	1,200	.....	296,650
Landis Township	8,422,627	.....	.....	432,100	25,000	2,243,000	86,900	28,400	.....	.....	2,815,400
Lawrence Township	955,703	467	131	9,725	.....	5,025	30,225	3,500	.....	.....	48,475
Maurice River Township	951,328	.....	41	14,200	.....	104,000	23,300	2,000	.....	.....	143,500
Millville City	11,436,473	.....	....	857,000	.....	732,700	526,450	41,000	.....	.....	2,157,150
Shiloh Borough	236,714	131	....	15,000	.....	800	6,000	700	.....	.....	22,500
Stow Creek Township	454,460	222	132	32,800	.....	500	3,400	150	.....	.....	36,850
Upper Deerfield Township	1,737,244	502	130	100,200	.....	.....	17,000	1,500	.....	.....	118,700
Vineland Borough	5,996,316	.....	....	369,900	.....	1,118,850	321,225	.....	.....	.....	1,809,975
Totals	$48,376,419	8,208	$751	$2,917,525	$86,500	$5,250,125	$1,847,900	$151,800	$16,045	.....	$10,269,895

Abstract of Ratables and Exemptions in the County of Cumberland, for the Year 1941—(Concluded)

TAXING DISTRICT	APPORTIONMENT OF TAXES						
	State School Tax	County Taxes Apportioned (Exclusive of Bank Stock Taxes)	Local Taxes to be Raised (Exclusive of Bank Stock Taxes)—District School Tax	Local Taxes to be Raised (Exclusive of Bank Stock Taxes)—Other Local Taxes	Total Amount of Miscellaneous Revenues (Including Surplus Revenue Appropriated) for Support of the Budget	Bank Stock Taxes Due Taxing District	General Tax Rate to Apply per $100 Valuation (Tax Rate for Local Taxing Purposes)
Bridgeton City	$38,405.43	$113,793.97	$211,480.00	$237,094.45	$227,151.06	$2,062.83	$4.5143788
Commercial Township	2,875.25	8,519.30	31,500.00	21,562.01	45,473.99	.....	6.4786713
Deerfield Township	1,585.15	4,696.74	16,000:00	.....	38,730.69	.....	4.0707479
Downe Township	2,305.84	6,832.14	19,420.00	3,000.00	33,186.48	.....	3.9547381
Fairfield Township	2,156.62	6,389.99	16,000.00	8,000.00	39,000.00	.....	4.3695522
Greenwich Township	1,695.48	5,023.66	7,500.00	4,034.74	10,301.92	.....	3.0940562
Hopewell Township	3,640.74	10,787.39	22,993.75	11,505.47	25,631.94	.....	3.8909759
Landis Township	24,391.53	72,271.28	177,404.43	40,919.89	221,697.41	.....	3.7353491
Lawrence Township	2,767.68	8,200.52	23,000.00	5,900.00	25,399.85	.....	4.1715006
Maurice River Township	2,755.00	8,162.98	21,150.00	6,040.55	37,686.57	.....	4.0035309
Millville City	33,119.49	98,131.91	189,621.00	177,862.47	225,462.98	1,927.05	4.3600000
Shiloh Borough	685.51	2,031.15	5,600.00	699.39	5,475.96	.....	3.8085150
Stow Creek Township	1,316.10	3,899.54	10,869.10	2,000.00	20,062.00	.....	3.9793909
Upper Deerfield Township	5,030.97	14,906.61	32,175.00	.....	40,407.65	.....	2.9997271
Vineland Borough	17,365.05	51,452.04	126,160.57	39,492.90	174,250.00	2,615.36	3.9099175
Totals	$140,095.84	$415,099.22	$910,873.85	$558,111.87	$1,169,918.50	$6,605.24	

FIRE AND LIGHT DISTRICTS

District	Valuation	Appropriation	Rate
Landis, Fire No. 1	$2,894,150	$4,700.00	$0.1623965
Landis, Fire No. 2	2,417,725	2,700.77	0.1117070
Landis, Fire No. 3	630,600	1,500.00	0.2378686
Landis, Fire No. 4	1,284,200	3,300.00	0.2569693
Landis, Light No. 1	2,255,100	1,900.00	0.0842534
Landis, Light No. 2	245,200	400.00	0.1631321
Commercial, Fire No. 1	716,175	1,500.00	0.2094460
Commercial, Fire No. 2	256,375	500.00	0.1950268
Commercial, Light No. 1	641,950	1,700.00	0.2648181
Commercial, Light No. 2	85,175	600.00	0.7044320
Downe, Fire No. 1	220,950	500.00	0.2262955
Downe, Fire No. 2	296,100	450.00	0.1519756
Maurice River, Fire No. 1	188,000	400.00	0.2127659

Total County Taxes Appropriated	$421,704.46
Bank Stock Taxes Due County	6,605.24
Net County Taxes Apportioned	415,099.22
Total Amount of Miscellaneous Revenues (Including Surplus Revenues Appropriated) for the Support of the County Budget	590,999.17
County Tax Rate per $100 of Valuation	$0.8580610
State School Tax Rate per $100 of Valuation	0.2895953

Abstract of Ratables and Exemptions in the County of Essex, for the Year 1941

TAXING DISTRICT	Number of Acres	Value of Land Assessed	Value of Improvements thereon Assessed	Total Value of Land and Improvements Assessed Exclusive of Second Class R. R. Property	Value of Second Class Railroad Property	Value of Personal Property Assessed	DEDUCTIONS			Net Valuation Taxable	Amounts Deducted Under Sec. 54:4-49 and Sec. 54:4-53 of Revised Statutes (Resulting from Prior Appeals and Corrected Errors)	Amounts Added Under Sec. 54:4-53 of Revised Statutes (Resulting from Corrected Errors)
							Household Goods and Other Exemptions Under Sec. 54:4-3.16 of Revised Statutes	Deduction for Debt (Other Than Mortgage Indebtedness) Under Sec. 54:4-15 of Revised Statutes	Property Exempted Under Sec. 54:4-3.12 of Revised Statutes			
City of Newark	15,085	$212,500,845	$340,072,750	$552,573,595	$8,482,384	$168,973,650	$4,545,400	*$363,300	$400,700	$724,720,229	$68,416,102	$2,157,003
City of East Orange	2,483	34,379,900	66,844,800	101,224,700	227,085	10,266,000	1,671,100	*30,000	576,500	109,440,185	3,272,213	10,200
City of Orange	1,440	14,921,100	24,928,200	39,849,300	251,942	3,015,000	.....	*35,000	3,600	43,077,642	802,253	.....
Town of Montclair	3,942	25,245,100	50,178,200	75,423,300	266,982	8,440,200	736,000	.....	455,700	82,938,782	420,400	70,400
Town of Bloomfield	3,424	16,510,200	41,891,300	58,401,500	238,619	7,654,450	.....	*243,800	.....	66,050,769	888,016	5,500
Town of Irvington	1,798	22,682,700	44,899,900	67,582,600	417,656	8,612,661	1,922,800	.....	184,500	74,505,617	1,807,840	.....
Town of Belleville	2,080	8,922,100	18,622,750	27,544,850	30,408	2,425,750	320,200	.....	.....	29,680,808	527,019	1,100
Town of West Orange ..	7,891	15,746,150	27,012,100	42,758,250	24,405	3,623,625	.....	.....	274,750	46,131,530	425,301	.....
Village of South Orange.	1,549	11,309,300	19,087,700	30,397,000	142,372	2,358,695	.....	.....	210,200	32,687,867	92,914	16,300
Township of Maplewood .	3,002	11,937,920	28,456,100	40,394,020	35,415	2,785,419	.....	*42,200	428,350	42,744,304	160,614	7,900
Town of Nutley	2,118	7,347,650	19,166,550	26,514,200	14,481	2,152,000	492,200	.....	287,525	27,900,956	194,663	6,000
Borough of Glen Ridge....	819	4,621,950	10,410,800	15,032,750	15,421	1,793,653	205,300	*10,000	189,800	16,436,724	44,794	300
Township of Millburn.....	6,317	9,273,771	16,183,746	25,457,517	55,115	3,393,509	310,000	*16,700	267,000	28,312,441	239,825	675
Borough of Caldwell	723	3,050,100	5,230,200	8,280,300	9,101	498,350	82,300	.....	55,000	8,650,451	38,486	.....
Borough of West Caldwell.	3,232	1,590,100	3,563,100	5,153,200	.....	414,800	105,300	.....	44,600	5,418,100	20,400	.....
Borough of North Caldwell	1,914	874,950	960,050	1,835,000	.....	77,200	.....	.....	14,600	1,897,600	2,475	.....
Township of Caldwell ...	6,381	780,415	1,072,725	1,853,140	.....	85,390	22,300	*2,600	6,500	1,907,130	.....	.....
Borough of Verona	1,683	4,071,000	9,221,700	13,292,700	1,221	1,248,640	203,600	.....	191,500	14,147,461	122,267	.....
Township of Cedar Grove	2,726	1,744,825	2,180,600	3,925,425	628	200,906	54,000	.....	32,000	4,040,959	4,427	.....
Township of Livingston .	8,813	3,399,375	4,568,475	7,967,850	.....	505,825	123,875	.....	88,500	8,261,300	30,250	.....
Borough of Roseland ...	2,310	838,100	1,305,100	2,143,200	4,476	102,600	.....	.....	17,000	2,233,276	12	.....
Borough of Essex Fells ...	909	1,452,500	2,905,200	4,357,700	12,416	394,325	35,000	.....	31,500	4,697,941	8,834	.....
Totals	80,639	$413,200,051	$738,762,046	$1,151,962,097	$10,230,127	$229,022,648	$10,829,375	*$743,600	$3,759,825	$1,375,882,072	$77,519,105	$2,275,378

* Parsonages.

Abstract of Ratables and Exemptions in the County of Essex, for the Year 1941—(Continued)

TAXING DISTRICT	Net Valuation on Which County, State and State School Taxes Are Apportioned	Number of Polls Assessed	PROPERTY EXEMPT FROM TAXATION							
			Public School Property	Other School Property	Public Property	Church and Charitable Property	Cemeteries and Graveyards	Other Exemptions Not Included in Foregoing Classification		Total Amount of Exempt Property
								Real	Personal	
City of Newark	$658,461,130	.....	$24,586,700	$2,262,700	$94,001,150	$27,708,300	$4,223,850	.....	.....	$152,782,700
City of East Orange	106,178,172	.....	7,291,000	981,800	4,434,900	5,748,000	716,800	.....	.....	19,172,500
City of Orange	42,275,389	.....	3,331,100	437,400	2,484,900	6,162,900	283,500	$35,000	$3,600	12,738,400
Town of Montclair	82,588,782	.....	5,253,400	777,300	2,252,900	4,019,000	135,400	.....	3,000,000	15,438,000
Town of Bloomfield	65,168,253	.....	3,809,400	487,600	1,927,950	1,557,500	130,300	156,000	1,900,000	9,968,750
Town of Irvington	72,697,777	16,131	2,625,900	135,200	2,804,200	1,232,300	116,000	.....	1,102,300	8,015,900
Town of Belleville	29,154,889	.....	1,727,000	272,000	4,538,200	434,300	26,700	.....	.....	6,998,200
Town of West Orange	45,706,229	.....	3,066,050	55,000	2,129,500	739,850	163,600	.....	10,000	6,164,000
Village of South Orange	32,611,253	.....	977,000	786,600	913,100	719,400	15,000	.....	.....	3,411,100
Township of Maplewood	42,591,590	.....	3,237,650	.....	1,212,510	1,336,800	.....	.....	.....	5,786,960
Town of Nutley	27,712,293	.....	1,803,000	200,000	1,564,450	451,750	11,750	98,200	1,300	4,130,450
Borough of Glen Ridge	16,392,230	.....	619,200	.....	562,700	1,739,530	47,000	.....	.....	2,968,430
Township of Millburn	28,073,291	.....	1,101,500	136,000	2,285,400	226,900	29,000	48,000	589,000	4,415,800
Borough of Caldwell	8,611,965	.....	1,201,000	1,012,000	425,000	553,500	40,000	6,000	.....	3,237,500
Borough of West Caldwell	5,397,700	.....	118,000	.....	116,400	21,500	.....	.....	.....	255,900
Borough of North Caldwell	1,895,125	.....	98,600	.....	4,105,200	35,500	.....	.....	125,000	4,364,300
Township of Caldwell	1,907,130	.....	23,000	.....	32,900	16,100	2,000	.....	.....	74,000
Borough of Verona	14,025,194	.....	1,146,000	199,000	1,880,250	304,300	.....	.....	.....	3,529,550
Township of Cedar Grove	4,036,532	.....	60,000	11,200	9,875,350	20,000	1,000	.....	86,100	10,053,650
Township of Livingston	8,231,050	.....	202,150	.....	409,000	44,600	.....	.....	262,375	918,125
Borough of Roseland	2,233,264	.....	54,000	.....	20,000	44,300	600	.....	54,000	172,900
Borough of Essex Fells	4,689,107	.....	98,000	.....	403,800	33,000	.....	.....	185,000	719,800
Totals	$1,300,638,345	16,131	$62,429,650	$7,753,800	$138,379,760	$53,149,330	$5,942,500	$343,200	$7,318,675	$275,316,915

Abstract of Ratables and Exemptions in the County of Essex, for the Year 1941—(Concluded)

TAXING DISTRICT	APPORTIONMENT OF TAXES							
	State School Tax	County Taxes Apportioned (Exclusive of Bank Stock Taxes)	Local Taxes to Be Raised (Exclusive of Bank Stock Taxes)—District School Tax	Local Taxes to Be Raised (Exclusive of Bank Stock Taxes)—Other Local Taxes	Total Amount of Misc'l Revenues (Including Surplus Revenue Appropriated) for the Support of the Budget	District Court Taxes	Bank Stock Taxes Due Taxing District	General Tax Rate to Apply per $100 Valuation (Tax Rate for Local Taxing Purposes)
City of Newark	$2,020,512.83	$4,755,767.27	$9,860,442.44	$25,042,199.38	$10,979,559.18	.....	$79,184.68	$5.75
City of East Orange	325,811.72	766,876.97	1,292,440.18	2,066,625.18	985,641.23	.....	11.63	4.07
City of Orange	129,723.64	305,336.03	615,464.12	586,531.83	910,308.52	.....	2,840.69	3.80
Town of Montclair	253,426.79	596,501.46	1,448,738.19	1,541,276.67	845,019.22	$5,326.64	7,455.13	4.63
Town of Bloomfield	199,971.24	470,680.85	685,433.00	1,197,569.33	620,884.73	.....	906.08	3.87
Town of Irvington	223,075.87	525,063.20	845,432.70	1,517,119.16	847,322.61	7,421.77	1,283.11	4.19
Town of Belleville	89,462.88	210,572.59	486,758.86	581,623.55	425,000.00	.....	17.79	4.62
Town of West Orange	140,251.29	330,115.44	629,819.24	673,908.32	571,200.00	.....	1,201.54	3.85
Village of South Orange	100,068.86	235,536.35	526,868.88	450,721.74	380,630.00	.....	320.49	4.02
Township of Maplewood	130,693.90	307,619.82	688,111.65	528,482.65	328,358.82	4,257.92	1,726.57	3.88
Town of Nutley	85,036.22	200,153.37	535,435.00	443,065.70	362,332.21	.....	514.74	4.53
Borough of Glen Ridge	50,300.18	118,393.67	252,673.71	222,885.77	159,264.51	1,055.63	799.97	3.93
Township of Millburn	86,143.95	202,760.69	369,811.46	360,578.23	251,772.60	2,820.31	631.51	3.61
Borough of Caldwell	26,426.14	62,200.33	144,050.19	103,638.91	134,382.19	555.56	1,191.65	3.89
Borough of West Caldwell	16,563.05	38,985.14	90,285.98	60,446.37	94,713.33	347.97	.....	3.82
Borough of North Caldwell	5,815.26	13,687.63	29,825.00	21,695.00	17,083.60	121.87	.....	3.75
Township of Caldwell	5,852.10	13,774.34	23,805.00	11,692.61	65,374.14	122.48	.....	2.90
Borough of Verona	43,036.84	101,297.60	249,157.75	182,795.99	188,318.38	908.60	277.52	4.08
Township of Cedar Grove	12,386.26	29,154.10	50,663.56	75,127.33	68,510.37	259.53	395.20	3.78
Township of Livingston	25,257.28	59,449.16	151,010.50	126,307.50	166,645.15	.....	251.94	4.35
Borough of Roseland	6,852.85	16,129.85	36,013.09	.....	86,199.76	.....	.....	2.65
Borough of Essex Fells	14,388.70	33,867.30	49,984.53	45,090.57	58,093.82	301.72	.....	3.06
Totals	$3,991,057.85	$9,393,923.16 *14,577.05 $9,379,346.11	$19,062,225.03	$35,839,382.09	$18,546,614.37	$23,500.00	$99,010.24	

* One-half of Cedar Grove's County Tax Rebated pursuant to Section 54:4-5 of Revised Statutes.

County Tax Rate per $100 of Valuation	$0.7222560502
State School Tax Rate per $100 of Valuation	.3068537741
	$1.0291098243

Total County Taxes Appropriated	$9,478,356.35
Bank Stock Taxes Due County	99,010.24
Net County Taxes Apportioned	$9,379,346.11
Total Amount of Miscellaneous Revenues (Including Surplus Revenues Appropriated) for the support of the County Budget	$2,129,980.00

Exhibit P-36.

Abstract of Ratables and Exemptions in the County of Gloucester, for the Year 1941

TAXING DISTRICT	TOTAL NO. OF ACRES AND LOTS ASSESSED		Value of Land Assessed	Value of Improvements Thereon Assessed	Total Value of Land and Improvements Assessed, Exclusive of Second Class R. R. Property	Value of Second Class R. R. Property	Value of Personal Property Assessed	DEDUCTIONS		Net Valuation Taxable	Amounts deducted Under Sec. 54:4-49 and Sec. 54:4-53 of Revised Statutes (Resulting from Prior Appeals and Corrected Errors)	Amounts Added Under Sec. 54:4-63 of Revised Statutes (Resulting from Corrected Errors)
	Acres	Lots						Household Goods and Other Exemptions Under Sec. 54:4-3.16 of Revised Statutes	Property Exempted Under Sec. 54:4-3.12 of Revised Statutes			
Clayton Borough	4,030	4,357	$289,338	$896,690	$1,186,028	$7,441	$161,620	$35,650	$19,450	$1,299,989	$8,525	.....
Deptford Township	8,632	9,621	954,440	1,286,710	2,241,150	165	188,210	45,100	47,000	2,337,425	2,800	.....
East Greenwich Twp.	8,836	438	477,700	1,078,900	1,556,600	3,077	232,205	50,200	13,500	1,728,182	1,500	.....
Elk Township	11,675	2,920	434,450	345,575	780,025	233	72,900	20,000	11,500	821,658	860	.....
Franklin Township	32,289	5,114	710,100	746,000	1,456,100	556	195,200	52,800	37,000	1,562,056	1,450	.....
Glassboro Borough	4,349	7,723	813,780	2,109,265	2,923,045	48,615	349,625	75,400	37,500	3,208,385	12,235	.....
Greenwich Township	5,181	5,170	770,125	5,836,625	6,606,750	479	1,306,555	54,000	22,600	7,837,184	.....	.....
Harrison Township	11,881	488	383,975	800,150	1,184,125	2,640	179,745	42,300	7,500	1,316,710	.....	.....
Logan Township	14,003	779	490,320	467,760	958,080	437	122,545	4,200	9,825	1,067,037	450	.....
Mantua Township	8,600	5,900	586,150	1,131,500	1,717,650	3,398	170,110	40,600	23,500	1,827,058	2,300	.....
Monroe Township	25,648	1,057	553,925	1,119,350	1,673,275	4,196	289,175	80,700	42,000	1,843,946	2,200	.....
National Park Borough	.....	2,384	326,360	518,755	845,115	.....	86,995	43,900	16,330	871,880	1,700	.....
Newfield Borough	868	383	85,075	292,000	377,075	16,871	56,610	20,800	10,700	419,056	.....	.....
Paulsboro Borough	541	2,398	624,625	2,840,650	3,465,275	3,425	641,180	167,100	41,000	3,901,780	3,200	.....
Pitman Borough	517	4,299	1,318,493	3,386,250	4,704,743	8,938	628,285	154,800	71,410	5,115,756	1,750	.....
South Harrison Twp.	9,880	48	256,355	181,625	437,980	12	87,660	14,800	1,500	509,352	.....	.....
Swedesboro Borough	475	640	183,425	1,276,275	1,459,700	9,013	400,905	49,900	17,200	1,802,518	3,300	.....
Washington Township	12,478	1,048	430,725	707,100	1,137,825	.....	162,385	44,000	15,900	1,240,310	2,200	.....
Wenonah Borough	455	663	170,925	1,026,375	1,197,300	3,965	161,380	37,800	20,125	1,304,720	760	.....
West Deptford Twp.	7,963	8,123	921,650	1,088,550	2,010,200	.....	184,610	75,900	49,100	2,069,810	400	.....
Westville Borough	225	1,645	730,900	1,541,825	2,272,725	78,065	286,020	96,700	42,100	2,498,010	1,650	.....
Woodbury City	404	3,313	1,770,162	4,873,740	6,643,902	25,747	975,575	211,850	100,360	7,333,014	14,145	$4,420
Woodbury Heights Bor.	134	2,545	155,809	419,710	575,519	2,790	84,490	30,100	17,900	614,799	800	.....
Woolwich Township	13,019	.....	466,425	401,400	867,825	483	172,890	21,400	1,500	1,018,298	100	.....
Totals	182,083	71,056	$13,905,232	$34,372,780	$48,278,012	$220,546	$7,196,875	$1,470,000	$676,500	$53,548,933	$62,325	$4,420

Abstract of Ratables and Exemptions in the County of Gloucester, for the Year 1941—(Continued)

TAXING DISTRICT	Net Valuation on Which County, State and State School Taxes Are Apportioned	Number of Polls Assessed	Dog Taxes	PROPERTY EXEMPT FROM TAXATION							
				Public School Property	Other School Property	Public Property	Church and Charitable Property	Cemeteries and Graveyards	Other Exemptions Not Included in Foregoing Classifications—Real	Other Exemptions Not Included in Foregoing Classifications—Personal	Total Amount of Exempt Property
Clayton Borough	$1,291,464	612	$256	$188,000	$5,000	$205,600	$58,200	$12,000	.....	.....	$468,800
Deptford Township	2,334,625	258	.....	264,800	.....	39,950	31,100	4,900	$9,000	.....	349,750
East Greenwich Twp.	1,726,682	512	208	84,000	.....	109,500	31,000	7,300	14,600	$7,500	253,900
Elk Township	820,798	392	39	47,800	1,200	1,400	19,700	4,000	800	.....	74,900
Franklin Township	1,560,606	.....	.....	46,000	4,900	16,950	42,650	1,400	1,500	2,750	116,150
Glassboro Borough	3,196,150	738	.....	633,500	.....	104,925	77,500	11,000	5,300	2,700	834,925
Greenwich Township	7,837,184	627	.....	171,000	.....	44,600	20,600	.....	3,000	4,000	243,200
Harrison Township	1,316,710	392	145	18,500	.....	5,000	19,200	.....	.....	.....	42,700
Logan Township	1,066,587	444	148	12,600	2,700	7,700	12,300	2,800	500	.....	38,600
Mantua Township	1,824,758	417	.....	65,400	.....	21,300	21,450	2,800	7,900	.....	118,850
Monroe Township	1,841,746	777	.....	133,800	.....	57,200	78,300	1,800	7,900	2,900	281,900
National Park Borough	870,180	274	.....	61,000	.....	135,800	21,550	.....	17,980	1,300	237,630
Newfield Borough	419,056	.....	.....	32,700	.....	82,200	28,100	700	.....	.....	143,700
Paulsboro Borough	3,898,580	1,781	.....	318,400	3,475	399,280	101,500	3,800	38,500	500	865,455
Pitman Borough	5,114,006	1,509	.....	368,000	4,500	459,700	149,400	.....	3,000	.....	984,600
South Harrison Twp.	509,352	192	.....	8,400	.....	50	3,800	.....	975	.....	13,225
Swedesboro Borough	1,799,218	697	.....	96,000	.....	32,000	52,000	3,000	.....	.....	183,000
Washington Township	1,238,110	482	.....	80,000	.....	10,700	27,200	10,500	.....	.....	128,400
Wenonah Borough	1,303,960	325	134	64,175	.....	67,825	56,575	.....	10,225	425	199,225
West Deptford Twp.	2,069,410	904	.....	83,300	800	4,800	11,900	2,500	67,000	3,000	173,300
Westville Borough	2,496,360	975	314	62,900	.....	210,000	100,550	.....	19,050	10,000	402,500
Woodbury City	7,323,289	.....	.....	375,750	3,800	507,850	400,060	3,875	45,050	9,100	1,345,485
Woodbury Heights Bor.	613,999	289	130	74,500	.....	50	14,200	.....	3,850	4,000	96,600
Woolwich Township	1,018,198	310	178	.....	.....	3,650	3,400	500	.....	.....	7,550
Totals	$53,491,028	12,907	$1,552	$3,290,525	$26,375	$2,528,030	$1,382,235	$72,875	$256,130	$48,175	$7,604,345

Abstract of Ratables and Exemptions in the County of Gloucester, for the Year 1941—(Concluded)

TAXING DISTRICT	APPORTIONMENT OF TAXES							
	State School Tax	Soldiers' Bonus Bond Tax	County Taxes Apportioned (Exclusive of Bank Stock Taxes)	Local Taxes to Be Raised (Exclusive of Bank Stock Taxes)—District School Tax	Local Taxes to Be Raised (Exclusive of Bank Stock Taxes)—Other Local Taxes	Total Amount of Misc'l Revenues (Including Surplus Revenue Appropriated) for the Support of the Budget	Bank Stock Taxes Due Taxing District	General Tax Rate to Apply per $100 Valuation (Tax Rate for Local Taxing Purposes)
Clayton Borough	$3,712.87	.....	$10,231.36	$37,568.00	$13,378.02	$24,913.91	$391.70	$4.98
Deptford Township	6,711.89	.....	18,495.59	64,000.00	39,358.37	55,826.98	.....	5.52
East Greenwich Twp.	4,964.09	.....	13,679.28	33,700.00	9,554.61	19,680.25	.....	3.60
Elk Township	2,359.74	.....	6,502.60	17,940.00	14,090.23	5,625.00	.....	5.00
Franklin Township	4,486.64	.....	12,363.58	46,950.00	4,998.47	42,404.31	.....	4.42
Glassboro Borough	9,188.72	.....	25,320.84	92,728.00	59,849.87	49,365.00	492.70	5.82
Greenwich Township	22,531.37	.....	62,088.49	64,600.00	52,480.53	28,561.11	.....	2.58
Harrison Township	3,785.45	.....	10,431.37	20,250.00	1,337.57	10,745.00	211.28	2.72
Logan Township	3,066.37	.....	8,449.82	24,000.00	3,958.15	20,132.11	.....	3.72
Mantua Township	5,246.06	.....	14,456.27	45,625.00	24,968.09	24,415.85	82.11	4.94
Monroe Township	5,294.89	.....	14,590.86	53,340.00	25,964.36	30,006.21	36.21	5.40
National Park Borough	2,501.71	.....	6,893.82	20,808.00	28,223.08	16,597.55	.....	6.72
Newfield Borough	1,204.76	.....	3,319.88	9,170.00	7,883.91	5,325.00	122.23	5.14
Paulsboro Borough	11,208.15	.....	30,885.70	110,097.25	63,320.75	77,598.84	746.08	5.52
Pitman Borough	14,702.42	.....	40,514.67	109,614.50	70,537.82	36,341.44	1,105.12	4.60
South Harrison Twp.	1,464.35	.....	4,035.24	9,050.00	5,898.52	7,481.52	.....	4.04
Swedesboro Borough	5,172.63	.....	14,253.94	48,267.31	15,095.59	14,363.00	128.57	4.60
Washington Township	3,559.48	.....	9,808.67	27,605.00	15,551.43	16,446.18	.....	4.58
Wenonah Borough	3,748.80	.....	10,330.36	22,000.00	16,083.66	8,232.00	.....	4.02
West Deptford Twp.	5,949.41	.....	16,394.48	61,283.00	16,493.17	44,572.35	.....	4.86
Westville Borough	7,176.87	.....	19,776.90	44,830.00	32,627.70	43,027.00	354.48	4.18
Woodbury City	21,053.96	.....	58,017.26	147,528.40	113,234.87	76,874.82	4,557.79	4.60
Woodbury Heights Bor.	1,765.21	.....	4,864.28	18,292.00	11,905.34	15,093.61	.....	6.00
Woolwich Township	2,927.25	.....	8,066.47	27,267.69	10,628.40	10,115.04	.....	4.82
Totals	$153,783.09	.....	$423,771.73	$1,156,514.15	$657,422.51	$683,744.08	$8,228.27	

Total County Taxes Appropriated	$432,000.00
Bank Stock Taxes Due County	8,228.27
Net County Taxes Apportioned	$423,771.73
Total Amount of Miscellaneous Revenues (Including Surplus Revenue Appropriated) for the Support of the County Budget	$374,718.89

County Tax Rate per $100 of Valuation	$0.79222955
State School Tax Rate per $100 of Valuation	.28749324
Additional Rate in Special Fire District, Harrison Twp.	.20
Additional Rate in Special Fire District, Logan Twp.	.20

Abstract of Ratables and Exemptions in the County of Hudson, for the Year 1941

TAXING DISTRICT	TOTAL NUMBER OF ACRES AND LOTS ASSESSED		Value of Land Assessed	Value of Improvements Thereon Assessed	Total Value of Land and Improvements Assessed Exclusive of Second Class R. R. Property	Value of Second Class R. R. Property	Value of Personal Property Assessed	Net Valuation Taxable	Amounts Deducted Under Sec. 54:4-49 and Sec. 54:4-53 of Revised Statutes (Resulting from Prior Appeals and Corrected Errors)
	Acres	Lots							
Jersey City	.....	166,575	$194,872,546	$243,358,551	$438,231,097	$105,029,895	$59,544,426	$602,805,418	$15,963,401
Bayonne	.....	30,000	53,895,995	54,367,955	108,263,950	1,280,621	20,389,402	129,933,973	3,305,743
Hoboken	About 825	.....	30,164,300	34,869,300	65,033,600	9,028,524	6,159,300	80,221,424	1,624,199
North Bergen	.....	8,500	19,739,975	25,006,825	44,746,800	773,944	2,739,300	48,260,044	417,987
Secaucus	3,400	.....	3,363,855	2,655,800	6,019,655	869,846	449,500	7,339,001	36,906
Union City—									
West Hoboken	.....	6,000	13,012,250	22,785,400	35,797,650	20,662	1,356,590	37,174,902	595,500
Town of Union	.....	3,348	10,580,600	14,694,300	25,274,900	.....	2,041,700	27,316,600	685,300
Union City Totals	.....	9,348	23,592,850	37,479,700	61,072,550	20,662	3,398,290	64,491,502	1,280,800
West New York	.....	5,000	11,653,600	22,720,800	34,374,400	6,544,203	1,377,485	42,296,088	909,395
Weehawken	.....	2,000	8,262,120	10,591,950	18,854,070	12,580,058	513,536	31,947,664	243,252
Guttenberg	.....	1,412	2,003,253	3,159,350	5,162,603	.....	200,675	5,363,278	54,700
Kearny	.....	10,300	14,249,500	51,277,900	65,527,400	2,624,124	9,496,450	77,647,974	125,950
Harrison	.....	7,400	6,012,200	13,399,900	19,412,100	931,606	7,020,800	27,364,506	118,980
East Newark	.....	454	663,850	1,723,450	2,387,300	.....	631,925	3,019,225	14,400
Totals	.....	.....	$368,474,044	$500,611,481	$869,085,525	$139,683,483	$111,921,089	$1,120,690,097	$24,095,713

Abstract of Ratables and Exemptions in the County of Hudson, for the Year 1941—(Continued)

TAXING DISTRICT	Net Valuation on Which County, State and State School Taxes Are Apportioned	Aggregate Net Valuation Taxable	PROPERTY EXEMPT FROM TAXATION						
			Public School Property	Other School Property	Public Property	Church and Charitable Property	Cemeteries and Graveyards	Other Exemptions Not Included in Foregoing Classifications—Veteran's Exemptions	Total Amount of Exempt Property
Jersey City	$586,842,017	$676,200,184.90	$25,064,327	$6,149,800	$67,171,675	$20,649,050	$2,238,800	$814,150	$122,087,802
Bayonne	126,628,230	139,810,287.99	6,507,600	523,800	12,676,217	2,623,100	14,000	253,500	22,598,217
Hoboken	78,597,225	88,561,022.43	4,616,100	2,433,400	20,256,000	3,165,400	.....	38,700	30,509,600
North Bergen	47,842,057	52,943,593.95	2,866,000	154,000	6,657,150	930,250	801,500	191,500	11,600,400
Secaucus	7,302,095	9,192,765.67	414,000	25,000	5,984,825	34,050	1,600	44,500	6,503,975
Union City—									
West Hoboken	36,579,402								
Town of Union	26,631,300								
Union City Totals	63,210,702	67,022,873.00	3,446,000	952,500	2,450,000	2,662,900	.....	101,000	9,612,400
West New York	41,386,693	43,624,311.84	1,992,400	283,500	1,591,250	799,300	.....	100,900	4,767,350
Weehawken	31,704,412	37,377,780.00	1,917,200	13,500	1,150,190	278,300	.....	33,500	3,392,690
Guttenberg	5,308,578	5,767,230.20	374,600	.....	98,497	97,500	.....	17,500	588,097
Kearny	77,522,024	99,412,027.29	2,611,700	197,250	1,267,300	1,345,700	100,800	193,500	5,716,250
Harrison	27,245,526	35,970,412.16	398,300	213,400	1,898,800	471,100	.....	31,000	3,012,600
East Newark	3,004,825	3,236,753.81	42,800	.....	6,300	67,000	.....	3,000	119,100
Totals	$1,096,594,384	$1,259,119,243.24	$50,251,027	$10,946,150	$121,208,204	$33,123,650	$3,156,700	$1,822,750	$220,508,481

Abstract of Ratables and Exemptions in the County of Hudson, for the Year 1941—(Concluded)

TAXING DISTRICT	APPORTIONMENT OF TAXES							
	State School Tax	County Taxes Apportioned (Exclusive of Bank Stock Taxes)	Local Taxes to Be Raised (Exclusive of Bank Stock Taxes)—District School Tax	Local Taxes to Be Raised (Exclusive of Bank Stock Taxes)—Other Local Taxes	Total Amount of Misc'l Revenues (Including Surplus Revenue Appropriated) for the Support of the Budget	District Court Taxes	Bank Stock Taxes Due Taxing District	General Tax Rate to Apply per $100 Valuation (Tax Rate for Local Taxing Purposes)
Jersey City	$1,633,585.91	$5,985,158.99	$6,523,087.18	$17,309,502.34	$2,914,176.30	.....	$13,349.59	$5.218
Bayonne	352,493.66	1,291,472.09	2,133,195.50	3,072,698.58	590,620.00	.....	1,273.86	5.272
Hoboken	218,790.26	801,607.37	1,067,875.73	1,553,366.81	1,179,371.88	.....	3,648.67	4.540
North Bergen	133,177.43	487,937.65	539,820.50	1,722,349.03	355,310.85	*$3,866.65	682.00	5.983
Secaucus	20,326.76	18,618.39	140,890.17	158,090.78	107,600.00	*588.02	450.50	4.613
Union City—								
West Hoboken								5.038
Town of Union								5.273
Union City Totals	175,958.96	644,681.35	962,545.00	1,524,409.35	486,364.28	*5,167.13	.....	.....
West New York	115,207.70	422,099.87	807,078.96	1,080,199.58	572,275.97	*3,388.81	317.58	5.741
Weehawken	88,255.24	323,350.99	349,142.50	706,593.59	119,050.00	*2,559.68	.....	4.601
Guttenberg	14,777.43	54,141.80	89,231.50	96,295.47	28,675.50	*429.71	1,175.56	4.753
Kearny	215,797.24	790,641.47	851,301.77	1,080,263.64	921,000.00	†9,703.15	447.59	3.797
Harrison	75,843.08	277,875.13	246,874.48	405,781.65	851,113.91	†3,419.56	984.45	3.691
East Newark	8,364.50	30,645.99	28,300.00	47,167.88	18,782.32	†377.29	726.19	3.805
Totals	$3,052,578.17	$11,128,231.09	$13,739,343.29	$28,756,718.70	$8,144,341.01	$29,500.00	$23,055.99	

*First Judicial Court Tax $16,000.00
†Second Judicial Court Tax 13,500.00

Average County Tax Rate per $100 of Valuation $1.022
Average State School Tax Rate per $100 of Valuation.... .272

Total County Taxes Appropriated $11,151,287.08
Bank Stock Taxes Due County 23,055.99
Net County Taxes Apportioned 11,128,231.09
Total Amount of Miscellaneous Revenues (Including Surplus Revenues Appropriated) for the Support of the County Budget 1,088,050.00

Abstract of Ratables and Exemptions in the County of Hunterdon, for the Year 1941

TAXING DISTRICT	TOTAL NUMBER OF ACRES AND LOTS ASSESSED		Value of Land Assessed	Value of Improvements Thereon Assessed	Total Value of Land and Imp. Assessed Exclusive of Second Class R. R. Property	Value of Second Class R. R. Property	Value of Personal Property Assessed	DEDUCTIONS		Net Valuation Taxable	Amounts Deducted Under Sec. 54:4-49 and Sec. 54:4-53 of Revised Statutes (Resulting from Prior Appeals and Corrected Errors)	Amounts Added Under Sec. 54:4-53 of Revised Statutes (Resulting from Corrected Errors)
	Acres	Lots						Household Goods and Other Exemptions Under Sec. 54:4-3.16 of Revised Statutes	Property Exempted Under Sec. 54:4-3.12 of Revised Statutes			
Alexandria Township	17,566	91	$261,110	$431,650	$692,760	$54	$116,760	$19,300	$5,500	$784,774	$200	.....
Bethlehem Township	12,650	66	160,410	317,700	478,110	6,997	103,720	16,400	7,000	565,427	153	$1,100
Bloomsbury Borough	470	249	52,720	322,125	374,845	10,321	77,575	19,300	4,000	439,441	475	.....
Califon Borough	188	243	56,200	251,435	307,635	1,636	74,025	18,500	5,700	359,096	36	.....
Clinton, Town of	723	386	159,800	692,100	851,900	7,320	207,600	26,900	5,000	1,034,920	373	.....
Clinton Township	19,772	264	408,950	980,300	1,389,250	7,440	230,875	41,600	11,900	1,574,065	771	200
Delaware Township	23,075	116	454,735	604,490	1,059,225	930	358,715	43,875	12,500	1,362,495	16,867	.....
East Amwell Township	17,825	....	333,375	574,125	907,500	850	252,385	17,600	7,000	1,136,135	3,812	.....
Flemington Borough	266	789	404,955	2,053,805	2,458,760	23,750	54,044,260	57,600	19,480	56,449,690	1,283	1,180
Franklin Township	14,234	76	296,565	503,285	799,850	5,068	176,815	29,400	8,500	943,833	220	300
Frenchtown Borough	570	418	107,900	670,300	778,200	2,748	199,495	31,600	8,800	940,043	11,062	.....
Glen Gardner Borough	672	179	34,100	190,650	224,750	2,860	56,155	15,500	6,500	261,765	68	.....
Hampton Borough	685	353	72,269	331,995	404,264	16,806	107,565	22,600	10,265	495,770	389	.....
High Bridge Borough	1,046	545	172,625	1,139,040	1,311,665	18,746	361,330	51,400	23,700	1,616,641	2,883	2,100
Holland Township	14,451	100	241,225	895,575	1,136,800	5,501	348,650	28,300	7,300	1,455,351	145	50
Kingwood Township	21,781	....	347,800	464,375	812,175	1,073	178,908	30,400	10,250	951,596	1,400	.....
Lambertville, City of	183	1,566	574,400	1,534,050	2,108,450	48,565	309,770	91,100	34,200	2,341,485	10,971	16,500
Lebanon Borough	421	202	40,700	304,050	344,750	4,475	68,425	18,200	4,200	395,250	115	.....
Lebanon Township	18,143	243	219,910	443,865	663,775	355	217,475	26,600	15,475	839,530	1,801	.....
Milford Borough	580	205	60,895	1,239,350	1,300,245	5,873	774,635	28,500	5,950	2,046,303	1,177	.....
Raritan Township	23,120	....	521,850	1,131,550	1,653,400	16,158	311,830	53,800	13,700	1,913,888	910	.....
Readington Township	28,686	517	629,200	1,269,710	1,898,910	19,389	243,475	19,600	23,500	2,118,674	7,442	2,650
Stockton Borough	233	178	32,300	178,500	210,800	1,171	43,700	13,000	6,900	235,771	1,225	.....
Tewksbury Township	19,437	190	392,440	746,415	1,138,855	1,582	204,970	34,300	7,200	1,303,907	918	.....
Union Township	11,548	91	202,695	413,410	616,105	9,717	122,775	1,700	8,300	738,597	2,007	.....
West Amwell Township	13,518	164	243,815	377,960	621,775	33	94,170	21,100	6,450	688,428	.....	50
Totals	261,843	7,225	$6,482,944	$18,061,810	$24,544,754	$219,418	$59,286,148	$778,175	$279,270	$82,992,875	$66,703	$24,130

Abstract of Ratables and Exemptions in the County of Hunterdon, for the Year 1941—(Continued)

TAXING DISTRICT	Net Valuation on Which County, State and State School Taxes Are Apportioned	Number of Polls Assessed	Dog Taxes	PROPERTY EXEMPT FROM TAXATION							
				Public School Property	Other School Property	Public Property	Church and Charitable Property	Cemeteries and Graveyards	Other Exemptions Not Included in Foregoing Classifications—Real	Other Exemptions Not Included in Foregoing Classifications—Personal	Total Amount of Exempt Property
Alexandria Township	$784,574	339	$232	$18,100	.....	.....	$79,600	$7,000	.....	.....	$104,700
Bethlehem Township	566,374	225	152	16,050	.....	$1,000	7,500	800	.....	.....	25,350
Bloomsbury Borough	438,966	171	.....	42,000	.....	12,200	22,700	800	.....	.....	77,700
Califon Borough	359,060	127	.....	22,950	.....	650	15,600	1,000	.....	.....	40,200
Clinton, Town of	1,034,547	256	.....	60,000	.....	3,200	55,300	10,300	.....	.....	128,800
Clinton Township	1,573,494	470	251	39,700	.....	.....	13,100	3,500	$278,000	.....	334,300
Delaware Township	1,345,628	529	506	8,200	.....	17,125	44,150	11,300	.....	.....	80,775
East Amwell Township	1,132,323	426	251	51,800	.....	7,000	12,700	3,900	.....	.....	75,400
Flemington Borough	56,449,587	582	.....	220,000	.....	323,000	243,000	22,000	3,600	.....	811,600
Franklin Township	943,913	391	167	60,000	.....	.....	20,000	2,200	4,000	.....	86,200
Frenchtown Borough	928,981	323	48	200,000	.....	29,000	45,000	10,000	4,500	.....	288,500
Glen Gardner Borough	261,697	145	54	9,000	.....	2,000	12,150	200	.....	.....	23,350
Hampton Borough	495,381	208	.....	20,000	.....	13,340	76,300	1,650	.....	.....	111,290
High Bridge Borough	1,615,858	503	.....	73,000	.....	74,100	55,350	.....	.....	.....	202,450
Holland Township	1,455,256	309	150	40,000	.....	400	8,000	1,000	.....	.....	49,400
Kingwood Township	950,196	411	476	9,100	.....	8,000	11,200	200	3,950	.....	32,550
Lambertville, City of	2,347,014	814	.....	196,000	$10,700	101,000	173,000	5,000	35,300	.....	521,000
Lebanon Borough	395,135	174	.....	15,000	.....	5,000	40,500	6,500	.....	.....	67,000
Lebanon Township	837,729	485	202	8,000	.....	.....	7,300	2,000	2,528,800	.....	2,546,100
Milford Borough	2,045,126	244	83	50,000	.....	25,500	59,000	1,000	.....	.....	135,500
Raritan Township	1,912,978	718	516	15,600	.....	4,000	10,100	3,000	.....	.....	32,700
Readington Township	2,113,882	704	403	30,800	.....	20,700	65,000	2,950	.....	.....	119,450
Stockton Borough	234,546	.....	.....	9,300	500	3,750	21,000	.....	.....	.....	34,550
Tewksbury Township	1,302,989	404	295	6,000	.....	.....	31,500	2,500	7,000	.....	47,000
Union Township	736,590	285	145	8,100	.....	.....	19,200	4,000	773,755	$118,708	923,763
West Amwell Township	688,478	258	153	6,000	.....	.....	11,200	3,000	.....	.....	20,200
Totals	$82,950,302	9,501	$4,084	$1,234,700	$11,200	$650,965	$1,159,450	$105,900	$3,638,905	$118,708	$6,919,828

Abstract of Ratables and Exemptions in the County of Hunterdon, for the Year 1941—(Concluded)

TAXING DISTRICT	APPORTIONMENT OF TAXES							
	State School Tax	County Taxes Apportioned (Exclusive of Bank Stock Taxes)	Local Taxes to Be Raised (Exclusive of Bank Stock Taxes)—District School Tax	Local Taxes to Be Raised (Exclusive of Bank Stock Taxes)—Other Local Taxes	Total Amount of Misc'l Revenues (Including Surplus Revenues Appropriated) for the Support of the Budget	Library Tax	Bank Stock Taxes Due Taxing District	General (Tax Rate to Apply per $100 Valuation Tax Rate for Local Taxing Purposes)
Alexandria Township	$2,153.74	$2,357.96	$11,250.00	$6,398.06	$8,274.45	$235.37	.....	$2.86
Bethlehem Township	1,554.76	1,702.18	9,000.00	2,275.81	15,385.00	169.91	.....	2.61
Bloomsbury Borough	1,205.01	1,319.27	10,781.00	6,660.19	3,700.00	131.69	$380.79	4.58
Califon Borough	985.66	1,079.12	5,591.00	4,144.12	2,260.00	107.72	434.38	3.32
Clinton, Town of	2,839.94	3,109.23	11,225.00	10,374.20	4,930.00	310.36	860.70	2.70
Clinton Township	4,319.40	4,728.98	17,600.00	11,060.50	15,550.00	472.05	.....	2.43
Delaware Township	3,693.89	4,044.15	16,000.00	19,374.32	23,300.00	403.69	.....	3.20
East Amwell Township	3,108.34	3,403.08	16,830.50	9,280.00	10,690.00	339.70	.....	2.91
Flemington Borough	154,960.02	169,653.53	41,985.00	50,733.31	14,150.00	.....	2,934.33	.74
Franklin Township	2,591.14	2,836.83	14,536.61	4,165.11	10,620.00	283.17	.....	2.59
Frenchtown Borough	2,550.15	2,791.96	17,735.75	11,547.11	8,250.00	278.69	610.37	3.72
Glen Gardner Borough	718.39	786.50	4,900.00	3,871.93	2,985.00	78.51	.....	3.96
Hampton Borough	1,359.87	1,488.82	11,067.50	8,497.52	2,716.00	148.61	.....	4.56
High Bridge Borough	4,435.70	4,856.30	24,792.32	19,740.91	10,656.89	484.76	363.41	3.36
Holland Township	3,994.83	4,373.62	1,000.00	.....	55,100.00	436.58	.....	.68
Kingwood Township	2,608.39	2,855.72	11,000.00	7,576.30	11,800.00	285.06	.....	2.56
Lambertville, City of	6,442.80	7,053.71	32,945.83	49,318.76	20,840.00	.....	1,125.71	4.09
Lebanon Borough	1,084.69	1,187.54	5,200.00	1,653.94	2,848.00	118.54	.....	2.34
Lebanon Township	2,299.65	2,517.71	10,000.00	8,801.83	22,200.00	251.32	.....	2.85
Milford Borough	5,614.08	6,146.42	13,335.00	11,497.35	10,440.12	613.54	391.90	1.82
Raritan Township	5,251.32	5,749.26	15,977.00	12,511.48	16,775.00	573.89	.....	2.10
Readington Township	5,802.83	6,353.06	31,676.91	30,419.42	20,150.00	634.16	.....	3.54
Stockton Borough	643.85	704.90	3,200.00	1,899.58	9,943.58	70.36	.....	2.77
Tewksbury Township	3,576.84	3,916.00	8,455.00	19,512.34	9,561.46	390.90	.....	2.75
Union Township	2,022.02	2,213.75	7,805.00	7,287.52	6,635.00	220.98	.....	2.65
West Amwell Township	1,889.94	2,069.15	7,500.00	4,634.40	7,630.00	206.54	.....	2.37
Totals	$227,707.25	$249,298.75	$361,389.42	$323,236.01	$329,390.50	$7,246.10	$7,101.59	

Total County Taxes Appropriated	$256,400.34
Bank Stock Taxes Due County	7,101.59
Net County Taxes Apportioned	249,298.75
Total Amount of Miscellaneous Revenues (Including Surplus Revenues Appropriated) for the Support of the County Budget	440,795.02

County Tax Rate per $100 of Valuation	$0.300539894
State School Tax Rate per $100 of Valuation	.274510453
County Library Tax Rate	.003

Abstract of Ratables and Exemptions in the County of Mercer, for the Year 1941

TAXING DISTRICT	TOTAL NUMBER OF ACRES AND LOTS ASSESSED		Value of Land Assessed	Value of Improvements Thereon Assessed	Total value of Land and Imp. Assessed Exclusive of Second Class R. R. Property	Value of Second Class R. R. Property	Value of Personal Property Assessed	DEDUCTIONS		Net Valuation Taxable	Amounts Deducted Under Sec. 54:4-49 and Sec. 54:4-53 of Revised Statutes (Resulting from Prior Appeals and Corrected Errors)	Amounts Added Under Sec. 54:4-53 of Revised Statutes (Resulting from Corrected Errors)
	Acres	Lots						Household Goods and Other Exemptions Under Sec. 54:4-3.16 of Revised Statutes	Property Exempted Under Sec. 54:4-3.12 of Revised Statutes			
East Windsor Township..	9,416	.....	$459,210	$566,415	$1,025,625	$3,403	$107,600	$21,100	$9,700	$1,105,828	$94	.....
Ewing Township	.....	.....	1,871,933	6,674,800	8,546,733	71,456	2,741,520	141,600	105,805	11,112,304	$147,072	$7,857
Hamilton Township.....	19,837	24,713	4,572,854	19,131,035	23,703,889	241,186	2,840,235	326,000	208,574	26,250,736	148,882	5,180
Hightstown Borough.....	.....	.....	510,515	2,356,890	2,867,405	16,530	536,515	69,900	30,180	3,320,370	1,481	.....
Hopewell Borough.....	.....	644	214,476	997,475	1,211,951	19,857	200,380	49,875	13,675	1,368,638	1,454	.....
Hopewell Township.....	35,012	.....	1,420,160	2,109,445	3,529,605	6,442	596,670	76,000	25,500	4,031,217	2,594	100
Lawrence Township.....	12,036	6,906	1,666,864	5,091,485	6,758,349	5,997	989,855	127,250	93,520	7,533,431	52,646	.....
Pennington Borough.....	.....	.....	256,210	1,174,890	1,431,100	15,694	161,170	30,600	25,150	1,552,214	202	.....
Princeton Borough.....	.....	.....	4,326,485	11,177,325	15,503,810	52,078	1,676,195	146,000	43,000	17,043,083	106,529	.....
Princeton Township.....	.....	.....	1,668,650	4,616,870	6,285,520	89,978	627,557	56,800	43,500	6,902,755	44,471	4,300
Washington Township.....	12,593	.....	536,590	589,550	1,126,140	1,740	126,900	15,500	6,700	1,232,580	37	.....
West Windsor Township...	14,680	845	941,845	1,319,430	2,261,275	171,927	640,895	50,100	17,650	3,006,347	15,400	.....
City of Trenton.....	.....	.....	37,036,700	88,822,675	*125,609,450	1,840,339	25,210,600	917,700	233,000	151,509,689	6,241,727	.....
Totals.....			$55,482,492	$144,628,285	$199,860,852	$2,536,627	$36,456,092	$2,028,425	$855,954	$235,969,192	$6,762,589	$17,437

*City of Trenton is entitled to a deduction of $249,925 for exemptions on Parsonages included in Column D under exempt property.

Abstract of Ratables and Exemptions in the County of Mercer, for the Year 1941—(Continued)

TAXING DISTRICT	Net Valuation on Which County, State and State School Taxes Are Apportioned	Number of Polls Assessed	Dog Taxes	PROPERTY EXEMPT FROM TAXATION							
				Public School Property	Other School Property	Public Property	Church and Charitable Property	Cemeteries and Graveyards	Other Exemptions Not Included in Foregoing Classifications—Real	Other Exemptions Not Included in Foregoing Classifications—Personal	Total Amount of Exempt Property
East Windsor Township..	$1,105,734	250	....	.....	.....	$250	.....	$2,600	.....	.....	$2,850
Ewing Township	10,973,089	....	....	$819,000	$3,000,000	4,028,850	$147,300	42,200	$255,000	.....	8,292,350
Hamilton Township.....	26,107,034	....	....	2,502,085	.....	686,470	619,095	68,500	127,530	.....	4,003,680
Hightstown Borough.....	3,318,889	....	....	325,800	549,650	204,015	186,505	14,200	61,950	$1,000	1,343,120
Hopewell Borough.....	1,367,184	....	....	112,000	1,400	45,000	71,350	7,250	.....	.....	237,000
Hopewell Township.....	4,028,723	....	....	67,500	.....	439,700	236,700	14,500	311,000	10,000	1,079,400
Lawrence Township.....	7,480,785	....	....	284,770	2,365,000	82,270	347,925	13,250	128,700	14,000	3,235,915
Pennington Borough.....	1,552,012	....	....	286,000	155,600	111,350	112,410	5,425	.....	.....	670,785
Princeton Borough.....	16,936,554	....	....	748,960	15,254,675	112,231	495,045	30,420	876,430	62,000	17,579,761
Princeton Township.....	6,862,584	....	....	170,500	401,000	412,650	15,800	13,300	.....	.....	1,013,250
Washington Township.....	1,232,543	....	....	47,000	.....	1,000	8,700	1,400	.....	.....	58,100
West Windsor Township...	2,990,947	....	....	52,000	.....	2,750	19,200	4,000	18,400	.....	97,050
City of Trenton.....	145,267,962	....	....	13,346,400	1,563,250	34,189,075	11,494,675	421,700	.....	.....	61,015,100
Totals.....	$229,224,040	....	....	$18,762,015	$23,290,575	$40,315,611	$13,755,405	$638,745	$1,779,010	$87,000	$98,628,361

Abstract of Ratables and Exemptions in the County of Mercer, for the Year 1941—(Concluded)

TAXING DISTRICT	APPORTIONMENT OF TAXES							General Tax Rate to Apply per $100 Valuation (Tax Rate for Local Taxing Purposes)
	State School Tax	County Taxes Apportioned (Exclusive of Bank Stock Taxes)	Local Taxes to Be Raised (Exclusive of Bank Stock Taxes)—District School Tax	Local Taxes to Be Raised (Exclusive of Bank Stock Taxes)—Other Local Taxes	Total Amount of Misc'l Revenues (Including Surplus Revenue Appropriated) for the Support of the Budget	Library Tax	Bank Stock Taxes Due Taxing District	
East Windsor Township..	$3,258.53	$9,356.84	$23,075.26	.....	$17,108.30	$221.15	.....	$3.25
Ewing Township	32,337.02	92,855.50	205,122.50	$70,867.00	230,591.94	2,194.62	.....	3.63
Hamilton Township.....	76,935.83	220,920.64	555,426.00	205,641.67	633,776.35	.....	$358.33	4.04
Hightstown Borough.....	9,780.56	28,084.82	69,285.99	30,413.51	75,442.78	663.78	1,612.33	4.17
Hopewell Borough.....	4,029.01	11,569.26	30,409.67	6,289.99	27,560.28	.....	838.00	3.83
Hopewell Township.....	11,872.40	34,091.50	75,561.70	20,231.25	74,019.00	805.74	.....	3.54
Lawrence Township.....	22,045.42	63,303.24	125,000.00	65,895.00	213,246.02	1,496.16	.....	3.69
Pennington Borough.....	4,573.68	13,133.30	29,094.92	17,888.37	28,203.94	.....	371.78	4.17
Princeton Borough.....	49,910.99	143,319.01	200,947.79	195,506.28	190,515.75	.....	3,317.74	3.46
Princeton Township.....	20,223.62	58,071.95	74,200.00	50,000.00	73,555.00	1,372.52	.....	2.96
Washington Township.....	3,632.23	10,429.92	22,660.00	6,643.03	29,100.00	246.51	.....	3.54
West Windsor Township...	8,814.14	25,309.73	33,770.00	3,000.00	60,500.00	598.19	.....	2.38
City of Trenton.....	428,095.81	1,229,273.73	2,570,971.15	2,981,447.75	3,357,548.17	.....	9,352.43	4.76
Totals.....	$675,509.24	$1,939,719.44	$4,015,524.98	$3,653,823.85	$5,011,167.53	$7,598.67	$15,850.61	

Total County Taxes Appropriated	$1,955,570.05
Bank Stock Taxes Due County	15,850.61
Net County Taxes Apportioned	$1,939,719.44
Total Amount of Miscellaneous Revenues (Including Surplus Revenues Appropriated) for the Support of the County Budget	$466,979.62

County Tax Rate per $100 of Valuation	$0.846211174011
State School Tax Rate per $100 of Valuation	.294693889873
County Library (Certain Municipalities)	.02

Abstract of Ratables and Exemptions in the County of Middlesex, for the Year 1941

TAXING DISTRICT	TOTAL NUMBER OF ACRES AND LOTS ASSESSED		Value of Land Assessed	Value of Improvements Thereon Assessed	Total Value of Land and Imp. Assessed Exclusive of Second Class R. R. Property	Value of Second Class R. R. Property	Value of Personal Property Assessed	DEDUCTIONS		Property Exempted Under Sec. 54:4-3.12 of Revised Statutes	Net Valuation Taxable	Amounts Deducted Under Sec. 54:4-49 and Sec. 54:4-53 of Revised Statutes (Resulting from Prior Appeals and Corrected Errors)
	Acres	Lots						Household Goods and Other Exemptions Under Sec. 54:4-3.16 of Revised Statutes	Deduction for Debt (Other than Mortgage Indebtedness) under Sec. 54:4-15 of Revised Statutes.			
Carteret Borough	1,876	1,976	$3,453,930	$5,554,085	$9,008,015	$226,848	$2,299,000	.....	.....	$52,075	$11,481,788	$5,538
Cranbury Township	7,841	398	448,860	755,250	1,204,110	1,297	126,900	.....	.....	7,000	1,325,307	1,231
Dunellen Borough	128	4,090	932,315	2,817,825	3,750,140	88,125	387,250	.....	.....	49,175	4,176,340	3,209
East Brunswick Township	11,120	7,187	715,075	1,043,225	1,758,300	9,182	260,806	$56,400	.....	25,675	1,946,213	6,432
Helmetta Borough	400	510	58,300	530,700	589,000	1,037	494,575	16,300	.....	6,250	1,062,062	21
Highland Park Borough	376	4,618	3,105,850	5,742,050	8,847,900	6,024	624,075	.....	.....	95,325	9,382,674	19,942
Jamesburg Borough	226	1,127	198,525	691,275	889,800	7,097	171,775	43,700	.....	20,500	1,004,472	9,640
Madison Township	20,025	5,997	937,950	839,650	1,777,600	57,541	121,100	.....	.....	39,850	1,916,391	1,471
Metuchen Borough	478	6,818	1,476,394	3,829,250	5,305,644	173,580	559,687	.....	.....	82,100	5,956,811	19,652
Middlesex Borough	900	10,707	745,110	2,770,400	3,515,510	28,336	760,451	2,275	.....	36,100	4,265,922	5,706
Milltown Borough	666	1,526	428,875	1,791,200	2,220,075	7,294	337,100	86,900	.....	21,550	2,476,019	185
Monroe Township	22,058	7,241	631,670	629,965	1,261,635	10,501	95,875	.....	.....	11,500	1,356,511	414
New Brunswick City	1,175	10,618	12,826,275	25,046,325	37,872,600	348,410	3,389,075	.....	.....	139,425	41,470,660	2,069,825
North Brunswick Township	5,155	10,142	862,745	1,987,680	2,850,425	4,437	470,161	.....	.....	45,500	3,279,523	41,315
Perth Amboy City	668	11,950	17,170,615	20,565,850	37,736,465	2,092,037	5,339,535	.....	.....	.....	45,168,037	545,428
Piscataway Township	8,131	30,090	1,940,005	2,467,675	4,407,680	3,730	836,516	128,975	$650	65,010	5,053,291	43,816
Plainsboro Township	7,304	109	387,240	659,650	1,046,890	18,205	275,654	17,100	.....	4,000	1,319,649	466
Raritan Township	15,048	31,237	2,948,334	4,079,297	7,027,631	33,058	1,013,340	119,713	.....	87,550	7,866,766	45,366
Sayreville Borough	9,193	7,168	1,535,951	5,328,875	6,864,826	59,426	2,395,866	138,000	.....	39,000	9,143,118	15,170
South Amboy City	166	3,234	1,252,968	2,445,900	3,698,868	799,623	249,743	78,775	.....	53,575	4,615,884	25,938
South Brunswick Township	25,014	5,111	767,212	1,124,830	1,892,042	152,382	349,841	.....	.....	17,500	2,376,765	12,652
South Plainfield Borough	2,365	25,224	1,961,482	1,512,871	3,474,353	57,278	655,021	62,700	.....	48,850	4,075,102	6,372
South River Borough	541	5,350	1,512,000	3,390,300	4,902,300	3,923	439,350	.....	.....	55,050	5,290,523	31,613
Spotswood Borough	902	4,643	168,280	638,600	806,880	87,819	114,475	.....	.....	13,000	996,174	7,194
Woodbridge Township	7,917	51,914	4,929,841	9,611,545	14,541,386	1,554,354	2,279,043	.....	.....	148,775	18,226,008	479,506
Totals	149,673	248,985	$61,395,802	$105,854,273	$167,250,075	$5,831,544	$24,066,214	$750,838	$650	$1,164,335	$195,232,010	$3,398,102

Abstract of Ratables and Exemptions in the County of Middlesex, for the year 1941—(Continued)

TAXING DISTRICT	Amounts Added Under Sec. 54:4-53 of Revised Statutes (Resulting from Corrected Errors)	Net Valuation on Which County, State and State School Taxes Are Apportioned	Dog Taxes	PROPERTY EXEMPT FROM TAXATION							
				Public School Property	Other School Property	Public Property	Church and Charitable Property	Cemeteries and Graveyards	Other Exemptions Not Included in Foregoing Classifications—Real	Other Exemptions Not Included in Foregoing Classifications—Personal	Total Amount of Exempt Property
Carteret Borough	.....	$11,476,250	....	$274,400	.....	$117,800	$179,125	.....	.....	.....	$571,325
Cranbury Township	.....	1,324,076	....	21,000	.....	6,000	22,600	$4,000	.....	.....	53,600
Dunellen Borough	.....	4,173,131	....	219,200	$40,000	108,550	139,800	.....	.....	.....	507,550
East Brunswick Township	.....	1,939,781	....	157,700	.....	30,800	27,700	2,450	.....	.....	218,650
Helmetta Borough	.....	1,062,041	....	34,200	.....	.....	42,800	.....	.....	.....	77,000
Highland Park Borough	.....	9,362,732	$129	892,600	98,000	1,000,320	434,900	.....	$4,250	$350	2,430,420
Jamesburg Borough	.....	994,832	....	67,500	.....	.....	38,550	20,750	.....	.....	126,800
Madison Township	.....	1,914,920	....	125,000	.....	28,300	8,100	2,000	.....	.....	163,400
Metuchen Borough	.....	5,937,159	....	245,760	191,000	158,625	105,675	7,000	11,600	.....	719,660
Middlesex Borough	.....	4,260,216	....	182,000	.....	916,470	25,300	.....	400	.....	1,124,170
Milltown Borough	.....	2,475,834	....	102,000	.....	132,850	140,400	.....	.....	.....	375,250
Monroe Township	.....	1,356,097	....	154,000	.....	.....	.....	3,600	1,525,000	75,000	1,757,600
New Brunswick City	.....	39,400,835	....	2,908,600	8,185,075	3,874,675	4,559,250	121,475	.....	.....	19,649,075
North Brunswick Township	$32,705	3,270,913	....	258,050	.....	232,700	14,000	61,900	328,400	5,000	900,050
Perth Amboy City	200	44,622,809	....	2,877,796	393,120	2,336,705	2,281,030	121,370	.....	.....	8,010,021
Piscataway Township	.....	5,009,475	....	413,000	.....	46,000	61,500	1,000	63,625	.....	585,125
Plainsboro Township	.....	1,319,183	....	44,000	151,500	121,500	30,000	500	.....	.....	347,500
Raritan Township	2,480	7,823,880	....	605,706	39,325	117,210	55,290	1,400	1,420,000	49,620,000	51,858,931
Sayreville Borough	.....	9,127,948	....	532,000	44,000	20,600	192,700	9,400	.....	.....	798,700
South Amboy City	.....	4,589,946	....	280,000	90,000	209,850	504,000	10,000	15,000	.....	1,108,850
South Brunswick Township	.....	2,364,113	....	126,700	.....	300	40,920	18,400	.....	.....	186,320
South Plainfield Borough	.....	4,068,730	....	310,500	.....	28,100	48,175	5,500	.....	.....	392,275
South River Borough	.....	5,258,910	....	846,000	75,000	726,300	264,850	10,500	1,550	.....	1,924,200
Spotswood Borough	.....	988,980	....	17,000	.....	9,060	21,600	.....	.....	.....	47,660
Woodbridge Township	319	17,746,821	....	2,206,160	65,000	2,685,952	350,603	29,380	.....	.....	5,337,095
Totals	$35,704	$191,869,612	$129	$13,900,872	$9,372,020	$12,908,667	$9,588,868	$430,625	$3,369,825	$49,700,350	$99,271,227

Abstract of Ratables and Exemptions in the County of Middlesex, for the Year 1941—(Concluded)

TAXING DISTRICT	APPORTIONMENT OF TAXES							
	State School Tax	Soldiers' Bonus Bond Tax	County Taxes Apportioned (Exclusive of Bank Stock Taxes)	Local Taxes to Be Raised (Exclusive of Bank Stock Taxes)—District School Tax	Local Taxes to Be Raised (Exclusive of Bank Stock Taxes)—Other Local Taxes	Total Amount of Miscellaneous Revenues (Including Surplus Revenue Appropriated) for the Support of the Budget	Bank Stock Taxes Due Taxing District	General Tax Rate to Apply per $100 Valuation (Tax Rate for Local Taxing Purposes)
Carteret Borough	$32,878.98	.....	$142,054.08	$299,061.69	$263,804.59	$189,654.34	$1,233.34	$6.43
Cranbury Township	3,793.42	.....	16,389.54	27,575.00	12,345.55	22,753.00	823.12	4.54
Dunellen Borough	11,955.86	.....	51,655.42	107,856.10	62,927.08	87,036.43	626.82	5.62
East Brunswick Township	5,557.40	.....	24,010.80	54,000.00	19,296.00	100,324.52	.....	5.29
Helmetta Borough	3,042.70	.....	13,146.04	12,486.89	5,623.92	5,836.97	.....	3.23
Highland Park Borough	26,823.86	.....	115,892.82	208,038.86	171,260.10	175,287.19	739.90	5.57
Jamesburg Borough	2,850.16	.....	12,314.12	27,138.74	21,699.03	40,099.77	329.60	6.38
Madison Township	5,486.16	.....	23,703.06	41,960.00	4,538.51	70,744.93	.....	3.95
Metuchen Borough	17,009.72	.....	73,490.74	136,892.88	103,252.91	135,673.37	499.64	5.56
Middlesex Borough	12,205.34	.....	52,733.38	85,295.00	43,862.82	140,788.89	.....	4.55
Milltown Borough	7,093.16	.....	30,646.12	59,402.50	9,082.80	90,792.60	285.94	4.30
Monroe Township	3,885.16	.....	16,785.90	36,920.00	5,810.20	50,935.00	.....	4.68
New Brunswick City	112,881.80	.....	487,727.66	535,561.50	915,994.62	770,908.42	2,656.88	4.95
North Brunswick Township	9,371.04	.....	40,487.68	89,188.75	49,440.50	128,400.00	.....	5.75
Perth Amboy City	127,842.54	.....	552,345.50	843,247.90	961,059.00	1,348,199.57	2,737.28	5.51
Piscataway Township	14,351.94	.....	62,007.78	133,621.04	97,644.67	159,534.87	.....	6.09
Plainsboro Township	3,779.40	.....	16,328.98	13,600.00	.....	19,653.03	.....	2.56
Raritan Township	22,415.10	.....	96,844.76	219,838.50	207,786.98	466,915.15	.....	6.96
Sayreville Borough	26,151.20	.....	112,986.64	140,000.00	137,297.56	259,932.28	702.44	4.56
South Amboy City	13,150.00	.....	56,814.80	85,415.00	85,057.74	179,623.16	595.74	5.21
South Brunswick Township	6,773.08	.....	29,263.22	40,637.80	25,821.97	68,413.84	.....	4.32
South Plainfield Borough	11,656.74	.....	50,363.14	108,844.96	111,993.64	149,976.93	239.46	6.95
South River Borough	15,066.56	.....	65,095.30	170,155.00	5,427.74	257,487.45	2,398.08	4.84
Spotswood Borough	2,833.38	.....	12,241.70	18,580.00	17,324.28	16,920.00	.....	5.12
Woodbridge Township	50,845.00	.....	219,671.80	518,988.00	477,750.38	731,114.76	825.96	6.96
Totals	$549,699.70	.....	$2,375,000.98	$4,014,306.11	$3,816,102.59	$5,667,006.47	$14,635.20	

Total County Taxes Appropriated	$2,389,636.18
Bank Stock Taxes Due County	14,635.20
Net County Taxes Apportioned	2,375,000.98
Total Amount of Miscellaneous Revenues (Including Surplus Revenues Appropriated) for the Support of the County Budget	670,822.43

County Tax Rate per $100 of Valuation	$1.237810
State School Tax Rate per $100 of Valuation	.286496

Abstract of Ratables and Exemptions in the County of Monmouth, for the Year 1941

TAXING DISTRICT	TOTAL NUMBER OF ACRES AND LOTS ASSESSED		Value of Land Assessed	Value of Improvements Thereon Assessed	Total value of Land and Imp. Assessed Exclusive of Second Class R. R. Property	Value of Second Class R. R. Property	Value of Personal Property Assessed	DEDUCTIONS		
	Acres	Lots						Household Goods and Other Exemptions Under Sec. 54:4-3.16 of Revised Statutes	Deduction for Debt (Other than Mortgage Indebtedness) Under Sec. 54:4-15 of Revised Statutes	Property Exempted Under Sec. 54:4-3.12 of Revised Statutes
Atlantic Township	19,000	3,000	$644,760	$547,935	$1,192,695	.....	$155,300	.....	.....	$8,000
Freehold Township	21,959	577	871,643	630,350	1,501,993	$592	172,625	$34,500	.....	14,400
Holmdel Township	11,220	163	479,052	464,293	943,345	.....	153,977	19,700	.....	8,700
Howell Township	31,900	4,812	625,094	1,271,470	1,896,564	3,739	179,850	17,100	.....	39,520
Manalapan Township	18,197	125	609,885	501,575	1,111,460	1,910	123,300	27,500	.....	8,000
Marlboro Township	18,031	925	680,325	743,900	1,424,225	5,307	118,525	26,900	.....	14,000
Matawan Township	2,721	5,702	547,565	1,170,290	1,717,855	5,997	157,165	.....	.....	21,000
Middletown Township	17,860	13,495	3,635,975	4,820,150	8,456,125	9,182	981,345	109,950	.....	132,500
Millstone Township	21,627	30	480,505	377,075	857,580	.....	175,495	35,400	.....	9,800
Neptune Township	3,190	20,505	4,126,337	5,320,585	9,446,922	25,266	824,570	260,803	.....	84,950
Ocean Township	4,532	12,859	2,083,725	3,136,965	5,220,690	4,676	253,900	.....	.....	61,475
Raritan Township	2,731	2,839	311,095	467,475	778,570	1,413	29,425	.....	.....	18,500
Shrewsbury Township	8,432	1,665	530,307	568,645	1,098,952	.....	80,045	.....	.....	9,500
Upper Freehold Township	29,474	.....	727,770	648,830	1,376,600	1,198	267,875	40,500	.....	11,050
Wall Township	10,721	10,455	1,224,955	1,269,200	2,494,155	934	229,155	83,800	.....	47,700
Asbury Park City	.....	3,870	10,152,700	12,937,200	23,089,900	135,045	12,328,700	237,200	.....	58,000
Atlantic Highlands Borough	18	3,180	1,013,722	1,866,273	2,879,995	100,743	356,275	44,000	.....	37,000
Allentown Borough	249	280	108,900	467,840	576,740	.....	96,050	17,100	.....	4,525
Allenhurst Borough	.....	633	1,046,425	1,473,250	2,519,675	26,310	185,600	18,400	.....	4,000
Avon-by-the-Sea Borough	.....	979	1,016,060	1,567,960	2,584,020	14,243	189,700	19,900	.....	11,000
Belmar Borough	.....	2,280	2,759,250	3,925,100	6,684,350	26,713	463,825	44,500	.....	37,000
Bradley Beach Borough	.....	1,687	2,596,050	3,126,400	5,722,450	16,010	430,950	36,150	.....	19,500
Brielle Borough	700	2,022	531,800	550,400	1,082,200	646	124,575	11,100	.....	19,400

First District Court Taxes Apportioned	$4,717.50
First District Court Taxes Rate	0.00751200
Total County Taxes Appropriated	2,084,162.80
Bank Stock Taxes Due County	14,834.84
Net County Taxes Apportioned	2,069,327.96
Total Amount of Miscellaneous Revenues (Including Surplus Revenues Appropriated) for the Support of the County Budget	759,790.99

State School Taxes Apportioned	$533,113.80
County Library Taxes Apportioned	16,166.44
County Tax Rate per $100 of Valuation	1.06752405
State School Tax Rate per $100 of Valuation	.27502253
County Library Tax Rate	.02

Abstract of Ratables and Exemptions in the County of Monmouth, for the Year 1941—(Continued)

TAXING DISTRICT	TOTAL NUMBER OF ACRES AND LOTS ASSESSED		Value of Land Assessed	Value of Improvements Thereon Assessed	Total value of Land and Imp. Assessed Exclusive of Second Class R. R. Property	Value of Second Class R. R. Property	Value of Personal Property Assessed	DEDUCTIONS		
	Acres	Lots						Household Goods and Other Exemptions Under Sec. 54:4-3.16 of Revised Statutes	Deduction for Debt (Other than Mortgage Indebtedness) Under Sec. 54:4-15 of Revised Statutes	Property Exempted Under Sec. 54:4-3.12 of Revised Statutes
Deal Borough	.....	777	$2,523,300	$3,740,750	$6,264,050	$12,655	$338,945	$10,100	.....	$9,500
Eatontown Borough	3,181	1,260	457,570	904,350	1,361,920	3,757	136,175	24,700	.....	18,500
Englishtown Borough	136	201	96,675	299,300	395,975	1,560	52,150	2,600	.....	4,500
Farmingdale Borough	158	404	78,840	269,625	348,465	11,242	36,375	2,850	.....	7,000
Fair Haven Borough	646	1,395	779,330	1,669,175	2,448,505	.....	141,570	26,300	.....	17,700
Freehold Borough	436	2,375	1,299,350	4,221,050	5,520,400	36,396	598,900	24,800	.....	57,000
Highlands Borough	144	2,130	701,000	1,135,875	1,836,875	7,985	97,550	37,350	.....	30,000
Interlaken Borough	30	676	539,975	883,150	1,423,125	10,604	62,660	14,600	.....	14,500
Jersey Homesteads Borough	552	200	.....	.....	.....	.....	42,438	16,900	.....	3,230
Keyport Borough	.....	2,337	978,595	2,565,011	3,543,606	6,214	362,225	39,050	.....	43,000
Keansburg Borough	.....	6,143	1,259,430	2,143,600	3,403,030	4,079	285,200	99,200	.....	41,125
Little Silver Borough	1,281	1,280	729,875	1,244,925	1,974,800	6,011	229,425	.....	.....	20,000
Long Branch City	.....	11,427	6,805,855	8,714,575	15,520,430	162,387	1,998,025	213,100	.....	110,800
Manasquan Borough	1,280	3,536	1,136,110	1,918,080	3,054,190	12,167	254,160	46,150	.....	34,500
Matawan Borough	985	1,950	510,585	1,590,900	2,101,485	6,039	166,925	.....	.....	22,710
Monmouth Beach Borough	133	1,677	663,063	703,645	1,366,708	9,494	32,225	.....	.....	9,500
Neptune City Borough	2,551	3,110	544,035	1,000,200	1,544,235	.....	98,205	.....	.....	16,600
Oceanport Borough	829	6,068	723,694	846,850	1,570,544	640	154,725	16,800	.....	15,300
Rumson Borough	2,672	1,746	2,668,829	4,165,375	6,834,204	.....	553,790	32,400	.....	31,650
Red Bank Borough	.....	3,092	3,672,720	6,005,635	9,678,355	69,012	783,625	16,400	.....	77,000
Sea Bright Borough	.....	638	620,007	750,560	1,370,567	20,028	155,150	.....	.....	15,000
Sea Girt Borough	6	2,943	935,550	1,466,050	2,401,600	11,013	187,600	.....	.....	12,500
Shrewsbury Borough	1,089	689	650,588	1,007,150	1,657,738	833	63,202	.....	.....	11,000
Spring Lake Borough	.....	2,611	2,888,700	3,236,950	6,125,650	17,162	639,120	26,500	.....	19,000
Spring Lake Heights Borough	345	659	226,700	303,600	530,300	1,418	26,400	5,400	.....	13,900
South Belmar Borough	.....	1,284	325,125	519,375	844,500	.....	30,875	100	.....	12,400
Union Beach Borough	525	5,301	456,216	831,549	1,287,765	4,174	206,000	87,250	.....	64,620
West Long Branch Borough	1,152	1,567	808,800	995,950	1,804,750	.....	129,680	12,700	.....	19,575
Totals	240,693	159,559	$69,884,417	$100,986,416	$170,870,833	$794,794	$25,941,547	$1,839,753	.....	$1,431,630

Abstract of Ratables and Exemptions in the County of Monmouth, for the Year 1941—(Continued)

TAXING DISTRICT	Net Valuation Taxable	Amounts Deducted Under Sec. 54:4-49 and Sec. 54:4-53 of Revised Statutes (Resulting from Prior Appeals and Corrected Errors)	Amounts Added Under Sec. 54:4-53 of Revised Statutes (Resulting from Corrected Errors)	Amounts Added for Equalization Under Sec. 54:3-17 of Revised Statutes	Amounts Deducted for Equalization Under Sec. 54:3-17 of Revised Statutes	Net Valuation on Which County, State and State School Taxes Are Apportioned	Number of Polls Assessed	Dog Taxes
Atlantic Township	$1,339,995	.....	.....	.....	.....	$1,339,995	.....	$235
Freehold Township	1,626,310	.....	.....	.....	.....	1,626,310	.....	127
Holmdel Township	1,068,922	$1,080	.....	.....	.....	1,067,842	200	186
Howell Township	2,023,533	2,450	.....	.....	.....	2,021,083	.....	470
Manalapan Township	1,201,170	.....	.....	.....	.....	1,201,170	.....	.....
Marlboro Township	1,507,157	1,310	.....	.....	.....	1,505,847	.....	.....
Matawan Township	1,860,017	1,719	.....	.....	.....	1,858,298	.....	.....
Middletown Township	9,204,202	42,800	.....	.....	.....	9,161,402	.....	112
Millstone Township	987,875	5,990	.....	$30,015	.....	1,011,900	.....	202
Neptune Township	9,951,005	39,775	.....	330,642	.....	10,241,872	3,980	30
Ocean Township	5,417,791	27,575	.....	104,413	.....	5,494,629	.....	.....
Raritan Township	790,908	.....	.....	.....	.....	790,908	.....	.....
Shrewsbury Township	1,169,497	.....	.....	.....	.....	1,169,497	.....	.....
Upper Freehold Township	1,594,123	.....	.....	82,596	.....	1,676,719	388	226
Wall Township	2,592,744	22,075	.....	49,883	.....	2,620,552	.....	.....
Asbury Park City	35,258,445	415,722	.....	.....	.....	34,842,723	.....	.....
Atlantic Highlands Borough	3,256,013	37,355	.....	86,399	.....	3,305,057	.....	.....
Allentown Borough	651,165	500	.....	.....	.....	650,665	172	.....
Allenhurst Borough	2,709,185	3,025	.....	.....	.....	2,706,160	.....	.....
Avon-by-the-Sea Borough	2,757,063	4,525	.....	.....	.....	2,752,538	.....	.....
Belmar Borough	7,093,388	41,900	.....	.....	$334,217	6,717,271	.....	.....
Bradley Beach Borough	6,113,760	59,740	.....	.....	.....	6,054,020	.....	.....
Brielle Borough	1,176,921	500	.....	37,877	.....	1,214,298	.....	.....

Abstract of Ratables and Exemptions in the County of Monmouth, for the Year 1941—(Continued)

TAXING DISTRICT	Net Valuation Taxable	Amounts Deducted Under Sec. 54:4-49 and Sec. 54:4-53 of Revised Statutes (Resulting from Prior Appeals and Corrected Errors)	Amounts Added Under Sec. 54:4-53 of Revised Statutes (Resulting from Corrected Errors)	Amounts Added for Equalization Under Sec. 54:3-17 of Revised Statutes	Amounts Deducted for Equalization Under Sec. 54:3-17 of Revised Statutes	Net Valuation on Which County, State and State School Taxes are Apportioned	Number of Polls Assessed	Dog Taxes
Deal Borough	$6,596,050	$94,250	.....	.....	.....	$6,501,800	.....	.....
Eatontown Borough	1,458,652	14,800	.....	.....	.....	1,443,852	.....	.....
Englishtown Borough	442,585	500	.....	.....	.....	442,085	.....	.....
Farmingdale Borough	386,232	2,725	.....	.....	.....	383,507	59	.....
Fair Haven Borough	2,546,075	600	.....	.....	.....	2,545,475	.....	.....
Freehold Borough	6,073,896	3,300	.....	.....	$55,204	6,015,392	.....	.....
Highlands Borough	1,875,060	1,250	.....	$36,737	.....	1,910,547	.....	.....
Interlaken Borough	1,467,289	500	.....	.....	.....	1,466,789	.....	.....
Jersey Homesteads Borough	22,308	.....	.....	.....	.....	22,308	.....	.....
Keyport Borough	3,829,995	7,050	.....	.....	.....	3,822,945	.....	.....
Keansburg Borough	3,551,984	58,425	.....	.....	.....	3,493,559	.....	.....
Little Silver Borough	2,190,236	9,700	.....	.....	.....	2,180,536	.....	.....
Long Branch City	17,356,942	114,300	.....	.....	.....	17,242,642	.....	.....
Manasquan Borough	3,239,867	4,895	.....	.....	.....	3,234,972	.....	.....
Matawan Borough	2,251,739	4,580	.....	.....	.....	2,247,159	.....	.....
Monmouth Beach Borough	1,398,927	4,300	.....	.....	.....	1,394,627	.....	.....
Neptune City Borough	1,625,840	11,400	.....	15,442	.....	1,629,882	.....	.....
Oceanport Borough	1,693,809	5,250	.....	31,410	.....	1,719,969	.....	.....
Rumson Borough	7,323,944	83,800	.....	307,539	.....	7,547,683	.....	.....
Red Bank Borough	10,437,592	20,250	.....	.....	.....	10,417,342	.....	.....
Sea Bright Borough	1,530,745	33,700	.....	.....	.....	1,497,045	.....	.....
Sea Girt Borough	2,587,713	7,650	.....	.....	.....	2,580,063	.....	.....
Shrewsbury Borough	1,710,773	20,867	.....	.....	.....	1,689,906	.....	.....
Spring Lake Borough	6,736,432	7,400	.....	.....	.....	6,729,032	.....	.....
Spring Lake Heights Borough	538,818	200	.....	26,515	.....	565,133	.....	.....
South Belmar Borough	862,875	1,000	.....	.....	.....	861,875	.....	.....
Union Beach Borough	1,346,069	12,720	.....	.....	.....	1,333,349	.....	.....
West Long Branch Borough	1,902,155	8,700	.....	.....	.....	1,893,455	.....	.....
Totals	$194,335,791	$1,242,153	.....	$1,139,468	$389,421	$193,843,685	4,799	$1,608

Abstract of Ratables and Exemptions in the County of Monmouth, for the Year 1941—(Continued)

TAXING DISTRICT	PROPERTY EXEMPT FROM TAXATION							
	Public School Property	Other School Property	Public Property	Church and Charitable Property	Cemeteries and Graveyards	Other Exemptions Not Included in Foregoing Classifications—Real	Other Exemptions Not Included in Foregoing Classifications—Personal	Total Amount of Exempt Property
Atlantic Township	$35,000	.....	$1,000	$6,000	$300	.....	.....	$42,300
Freehold Township	67,100	$200,000	.....	7,100	9,000	.....	.....	283,200
Holmdel Township	75,000	.....	17,600	36,900	4,300	.....	.....	133,800
Howell Township	150,000	.....	6,000	71,600	14,500	$8,000	.....	250,100
Manalapan Township	11,000	.....	.....	22,400	10,000	.....	.....	43,400
Marlboro Township	58,300	.....	8,500	103,500	5,000	6,756,000	.....	6,931,300
Matawan Township	20,100	.....	43,400	4,400	800	.....	.....	68,700
Middletown Township	285,250	29,975	29,450	103,500	88,600	5,300	.....	542,075
Millstone Township	22,800	.....	2,550	25,900	7,300	.....	.....	58,550
Neptune Township	651,675	.....	1,277,050	717,250	199,800	316,500	.....	3,162,275
Ocean Township	90,000	.....	15,200	43,800	100	57,750	.....	206,850
Raritan Township	16,300	.....	.....	4,400	8,000	6,900	.....	35,600
Shrewsbury Township	32,100	.....	2,850	5,750	2,700	.....	.....	43,400
Upper Freehold Township	20,400	.....	.....	22,850	2,500	.....	.....	45,750
Wall Township	83,500	29,000	28,500	19,000	7,000	4,300	.....	171,300
Asbury Park City	634,200	85,300	4,151,900	888,900	.....	525,400	.....	6,285,700
Atlantic Highlands Borough	185,000	.....	302,500	92,225	.....	.....	.....	579,725
Allentown Borough	105,650	.....	16,000	31,300	1,600	.....	.....	154,550
Allenhurst Borough	.....	.....	300,875	10,350	.....	.....	.....	311,225
Avon-by-the-Sea Borough	19,000	.....	80,200	30,150	11,100	.....	.....	140,450
Belmar Borough	124,000	13,600	773,000	175,800	.....	40,000	.....	1,126,400
Bradley Beach Borough	217,000	.....	1,203,000	207,300	.....	38,400	.....	1,665,700
Brielle Borough	40,500	.....	38,350	7,500	8,000	.....	.....	94,350

Abstract of Ratables and Exemptions in the County of Monmouth, for the Year 1941—(Continued)

TAXING DISTRICT	PROPERTY EXEMPT FROM TAXATION							
	Public School Property	Other School Property	Public Property	Church and Charitable Property	Cemeteries and Graveyards	Other Exemptions Not Included in Foregoing Classifications—Real	Other Exemptions Not Included in Foregoing Classifications—Personal	Total Amount of Exempt Property
Deal Borough	.....	.....	$540,500	$41,000	.....	.....	.....	$581,500
Eatontown Borough	$36,000	.....	72,500	34,600	$1,000	$58,200	.....	202,300
Englishtown Borough	60,000	.....	18,000	27,950	.....	.....	.....	105,950
Farmingdale Borough	44,500	.....	20,500	31,250	.....	.....	.....	96,250
Fair Haven Borough	82,600	.....	26,900	27,200	.....	.....	.....	136,700
Freehold Borough	410,000	$25,000	693,000	308,500	1,500	40,000	.....	1,478,000
Highlands Borough	161,000	.....	521,700	83,000	30,000	.....	.....	795,700
Interlaken Borough	.....	.....	29,500	.....	.....	6,700	.....	36,200
Jersey Homesteads Borough	36,000	.....	.....	600	.....	486,410	.....	523,010
Keyport Borough	314,500	40,000	318,500	199,850	8,000	.....	.....	880,850
Keansburg Borough	143,250	47,750	239,750	67,050	1,500	58,000	.....	557,300
Little Silver Borough	40,000	.....	28,950	9,400	2,000	.....	.....	80,350
Long Branch City	1,380,175	144,000	877,025	1,582,320	.....	.....	.....	3,983,520
Manasquan Borough	150,000	.....	16,550	91,800	.....	.....	.....	258,350
Matawan Borough	135,000	.....	15,185	54,045	2,700	71,860	.....	278,790
Monmouth Beach Borough	17,000	.....	93,400	13,480	.....	62,565	.....	186,445
Neptune City Borough	83,500	22,000	18,615	6,200	400	42,715	.....	173,430
Oceanport Borough	53,000	.....	6,500	5,500	.....	2,151,800	.....	2,216,800
Rumson Borough	342,500	60,000	174,000	256,000	10,000	.....	.....	842,500
Red Bank Borough	1,055,000	118,000	747,450	375,710	.....	.....	.....	2,296,160
Sea Bright Borough	48,000	.....	28,960	71,050	.....	6,000	.....	154,010
Sea Girt Borough	3,700	195,150	.....	15,100	.....	8,800	.....	222,750
Shrewsbury Borough	49,000	.....	5,500	30,000	12,000	.....	.....	96,500
Spring Lake Borough	175,000	.....	1,075,000	88,000	.....	131,000	.....	1,469,000
Spring Lake Heights Borough	57,000	112,000	.....	19,700	.....	.....	.....	188,700
South Belmar Borough	.....	.....	3,200	1,900	.....	.....	.....	5,100
Union Beach Borough	60,900	.....	60,680	14,640	.....	7,160	.....	143,380
West Long Branch Borough	53,700	.....	3,000	10,000	13,300	.....	.....	80,000
Totals	$7,935,200	$1,121,775	$13,932,790	$6,103,720	$463,000	$10,889,760	.....	$40,446,245

Abstract of Ratables and Exemptions in the County of Monmouth, for the Year 1941—(Continued)

TAXING DISTRICT	APPORTIONMENT OF TAXES								
	State School Tax	County Taxes Apportioned (Exclusive of Bank Stock Taxes)	Local Taxes to Be Raised (Exclusive of Bank Stock Taxes)—District School Tax	Local Taxes to Be Raised (Exclusive of Bank Stock Taxes)—Other Local Taxes	Total Amount of Misc'l Revenues (Including Surplus Revenue Appropriated) for the Support of the Budget	District Court Taxes	Library Tax	Bank Stock Taxes Due Taxing District	General Tax Rate to Apply per $100 Valuation (Tax Rate for Local Taxing Purposes)
Atlantic Township	$3,685.29	$14,304.77	$25,565.00	$3,655.09	$14,170.00	.....	$267.99	.....	$3.54315796
Freehold Township	4,472.72	17,361.25	32,166.40	5,599.80	18,636.70	.....	325.26	.....	3.68474826
Holmdel Township	2,936.81	11,399.48	20,008.60	14,107.53	7,830.00	.....	213.57	.....	4.55281020
Howell Township	5,558.43	21,575.55	64,640.00	18,181.81	23,907.50	.....	404.22	.....	5.45382801
Manalapan Township	3,303.49	12,822.78	26,901.58	7,012.39	10,450.00	.....	240.23	.....	4.18595791
Marlboro Township	4,141.42	16,075.28	29,990.50	13,606.44	22,437.68	.....	301.17	.....	4.25402328
Matawan Township	5,110.74	19,837.78	36,978.63	16,047.55	27,597.32	.....	.....	.....	4.19214965
Middletown Township	25,195.92	97,800.17	226,125.62	106,445.15	78,005.00	.....	.....	.....	4.94955302
Millstone Township	2,782.95	10,802.28	21,610.15	5,872.66	15,100.00	.....	202.38	.....	4.17769654
Neptune Township	28,167.46	109,334.45	305,015.51	346,516.22	123,601.78	$747.52	2,048.37	.....	7.95728197
Ocean Township	15,111.47	58,656.49	89,263.00	121,628.68	61,372.93	.....	1,098.93	.....	5.27444798
Raritan Township	2,175.18	8,443.13	26,221.93	952.36	19,900.00	.....	158.18	.....	4.79838106
Shrewsbury Township	3,216.38	12,484.66	21,323.25	5,310.28	13,412.40	.....	233.90	.....	3.63989559
Upper Freehold Township	4,611.36	17,899.38	21,748.65	8,941.37	10,275.13	.....	335.34	.....	3.35834155
Wall Township	7,207.11	27,975.02	58,741.92	23,343.08	50,829.88	.....	524.11	.....	4.54311106
Asbury Park City	95,825.34	371,954.45	186,718.00	1,133,966.68	478,695.60	2,648.61	.....	$1,291.82	5.07995483
Atlantic Highlands Borough	9,089.65	35,282.28	44,855.00	63,297.57	37,575.00	.....	661.01	1,052.34	4.70469588
Allentown Borough	1,789.48	6,946.00	8,883.85	7,786.41	8,883.51	.....	130.13	489.13	3.92156740
Allenhurst Borough	7,442.55	28,888.91	4,000.00	84,486.99	126,979.24	.....	541.23	690.74	4.62721000
Avon-by-the-Sea Borough	7,570.10	29,384.00	26,236.00	77,459.92	46,564.03	207.11	.....	.....	5.10895580
Belmar Borough	18,474.01	71,708.48	78,641.25	215,300.66	126,704.41	532.86	.....	542.18	5.42275784
Bradley Beach Borough	16,649.92	64,628.12	64,150.00	170,396.58	108,503.00	459.27	.....	631.39	5.17331209
Brielle Borough	3,339.59	12,962.92	16,028.76	25,572.57	14,887.84	.....	242.86	.....	4.94057796

Abstract of Ratables and Exemptions in the County of Monmouth, for the Year 1941—(Concluded)

TAXING DISTRICT	APPORTIONMENT OF TAXES								General Tax Rate to Apply per $100 Valuation (Tax Rate for Local Taxing Purposes)
	State School Tax	County Taxes Apportioned (Exclusive of Bank Stock Taxes)	Local Taxes to Be Raised (Exclusive of Bank Stock Taxes)—District School Tax	Local Taxes to Be Raised (Exclusive of Bank Stock Taxes)—Other Local Taxes	Total Amount of Misc'l Revenues (Including Surplus Revenue Appropriated) for the Support of the Budget	District Court Taxes	Library Tax	Bank Stock Taxes Due Taxing District	
Deal Borough	$17,881.41	$69,408.28	$12,000.00	$204,317.66	$57,538.72	.....	$1,300.36	.....	$4.62258031
Eatontown Borough	3,970.92	15,413.47	28,736.00	15,267.61	19,485.28	.....	288.77	$371.93	4.36545315
Englishtown Borough	1,215.83	4,719.36	9,912.20	3,216.69	4,011.02	.....	88.42	93.75	4.32741711
Farmingdale Borough	1,054.73	4,094.03	11,632.50	688.63	7,589.04	.....	76.70	311.37	4.54301817
Fair Haven Borough	7,000.63	27,173.56	44,103.50	26,602.00	21,209.67	.....	509.10	.....	4.13926492
Freehold Borough	16,543.68	64,215.76	118,654.20	61,214.84	52,939.00	.....	.....	988.80	4.29096050
Highlands Borough	5,254.43	20,395.55	42,383.50	20,362.73	73,142.32	.....	382.11	.....	4.73469219
Interlaken Borough	4,034.00	15,658.33	11,592.00	41,625.35	10,574.00	.....	293.36	.....	4.98899942
Jersey Homesteads Borough	61.35	238.14	790.00	1,152.51	12,313.57	.....	.....	.....	10.05020618
Keyport Borough	10,513.96	40,810.86	62,980.00	69,198.10	35,214.64	.....	.....	515.99	4.79120519
Keansburg Borough	9,608.97	37,294.58	37,000.00	72,328.61	105,825.00	.....	698.71	280.83	4.41809335
Little Silver Borough	5,996.97	23,277.75	20,500.00	27,170.41	13,995.63	.....	436.11	.....	3.53300920
Long Branch City	47,421.15	184,069.35	357,909.75	616,001.31	174,908.22	.....	.....	2,088.94	6.94478070
Manasquan Borough	8,896.90	34,534.10	36,172.00	71,595.24	48,803.00	.....	.....	761.81	4.66680390
Matawan Borough	6,180.19	23,988.96	44,766.37	26,295.27	24,974.74	.....	.....	986.52	4.49567171
Monmouth Beach Borough	3,835.54	14,887.98	10,860.00	51,100.97	38,116.95	.....	278.93	.....	5.78753714
Neptune City Borough	4,482.54	17,399.38	43,800.00	59,924.59	25,411.48	$122.13	325.98	.....	7.75319974
Oceanport Borough	4,730.30	18,361.08	17,000.00	28,700.00	24,100.00	.....	343.99	.....	4.08165086
Rumson Borough	20,757.83	80,573.33	66,908.00	101,029.13	27,602.07	.....	1,509.54	.....	3.69715864
Red Bank Borough	28,650.04	111,207.63	254,732.38	167,363.08	98,639.45	.....	.....	2,907.20	5.38393461
Sea Bright Borough	4,117.21	15,981.32	14,257.00	56,272.43	16,134.00	.....	299.41	109.25	5.94007295
Sea Girt Borough	7,095.75	27,542.79	7,950.00	73,426.61	43,498.34	.....	516.01	.....	4.50324899
Shrewsbury Borough	4,647.62	18,040.15	19,577.50	14,811.29	12,240.80	.....	337.98	.....	3.35605832
Spring Lake Borough	18,506.35	71,834.03	40,142.50	127,267.72	71,000.00	.....	.....	720.85	3.82621836
Spring Lake Heights Borough	1,554.24	6,032.93	15,748.23	19,588.96	19,765.00	.....	113.03	.....	7.98737048
South Belmar Borough	2,370.35	9,200.72	11,800.00	39,215.13	14,162.40	.....	172.38	.....	7.27319483
Union Beach Borough	3,667.01	14,233.82	31,705.00	59,103.37	37,790.00	.....	266.67	.....	8.09586059
West Long Branch Borough	5,207.43	20,213.09	36,620.00	49,861.08	14,927.58	.....	.....	.....	5.88288544
Totals	$533,113.80	$2,069,327.96	$2,846,046.23	$4,580,189.11	$2,552,232.87	$4,717.50	$16,166.44	$14,834.84	

New Jersey State Library

Abstract of Ratables and Exemptions in the County of Morris, for the Year 1941

TAXING DISTRICT	TOTAL NUMBER OF ACRES AND LOTS ASSESSED		Value of Land Assessed	Value of Improvements Thereon Assessed	Total value of Land and Imp. Assessed Exclusive of Second Class R. R. Property	Value of Second Class R. R. Property	Value of Personal Property Assessed	DEDUCTIONS		Net Valuation Taxable	Amounts Deducted Under Sec. 54:4-49 and Sec. 54:4-53 of Revised Statutes (Resulting from Prior Appeals and Corrected Errors)
	Acres	Lots						Household Goods and Other Exemptions Under Sec. 54:4-3.16 of Revised Statutes	Property Exempted Under Sec. 54:4-3.12 of Revised Statutes		
Boonton Township	4,690	396	$171,025	$334,800	$505,825	.....	$41,025	$13,500	$7,900	$525,450	.....
Chatham Township	5,006	1,228	668,200	1,256,250	1,924,450	.....	126,374	17,900	15,450	2,017,474	$2,600
Chester Township	18,141	333	476,800	889,575	1,366,375	.....	312,875	20,500	5,500	1,653,250	600
Denville Township	7,223	5,866	1,197,285	1,962,550	3,159,835	$81,477	229,875	88,900	52,000	3,330,287	11,393
East Hanover Township	4,092	4,408	406,398	789,575	1,195,973	2,401	73,412	21,800	14,180	1,235,806	1,310
Hanover Township	5,986	998	551,175	1,172,000	1,723,175	14,852	445,875	32,300	11,500	2,140,102	2,187
Harding Township	11,425	274	870,380	1,845,700	2,716,080	.....	234,890	3,400	18,500	2,929,070	2,000
Jefferson Township	22,864	3,334	1,207,385	1,291,400	2,498,785	10,713	215,525	23,000	26,825	2,675,198	3,104
Mendham Township	11,091	63	336,410	797,710	1,134,120	.....	204,530	19,500	13,000	1,306,150	1,100
Mine Hill Township	1,461	894	180,800	497,300	678,100	168	132,025	19,625	16,150	774,518	.....
Montville Township	10,797	1,343	528,500	1,171,216	1,699,716	9,956	187,500	75,300	29,400	1,792,472	527
Morris Township	9,005	3,251	2,242,995	4,213,650	6,456,645	14,802	591,175	.....	45,000	7,017,622	8,570
Mt. Olive Township	17,030	3,327	770,000	1,191,175	1,961,175	3,564	114,895	16,900	29,550	2,033,184	6,680
Parsippany-Troy Hills	14,118	17,812	1,925,939	2,639,075	4,565,014	316	503,714	183,200	37,000	4,848,844	2,775
Passaic Township	6,878	2,202	654,055	1,189,820	1,843,875	6,983	314,605	53,900	30,540	2,081,023	820
Pequannock Township	3,460	5,990	610,695	1,026,515	1,637,210	3,026	166,855	63,800	32,010	1,711,281	1,746
Randolph Township	12,014	653	402,000	755,025	1,157,025	5,638	67,925	.....	15,500	1,215,088	1,492
Rockaway Township	23,954	900	818,175	1,081,600	1,899,775	1,948	89,350	7,300	19,100	1,964,673	47
Roxbury Township	10,372	2,741	563,050	1,836,600	2,399,650	159,717	729,810	46,000	45,100	3,198,077	6,160
Washington Township	24,387	472	452,975	759,800	1,212,775	4,287	278,210	30,300	18,750	1,446,222	1,172
Butler Borough	588	1,393	433,950	2,057,575	2,491,525	10,647	526,300	93,800	34,150	2,900,522	2,705
Chatham Borough	232	4,058	1,932,325	3,739,300	5,671,625	43,967	307,175	90,800	64,500	5,867,467	19,791
Chester Borough	829	168	77,740	294,490	372,230	90	94,500	12,100	4,500	450,220	3
Florham Park Borough	4,083	1,433	716,550	1,755,070	2,471,620	.....	400,850	33,200	19,200	2,820,070	21,690
Kinnelon Borough	12,031	342	333,895	479,325	813,220	150	89,595	34,100	17,900	850,965	625
Lincoln Park Borough	3,282	5,291	444,050	928,700	1,372,750	3,934	112,450	39,900	27,500	1,421,734	453
Madison Borough	.....	3,391	3,271,500	6,520,200	9,791,700	70,838	623,725	109,500	83,250	10,293,513	9,208
Mendham Borough	3,523	458	248,665	1,086,725	1,335,390	.....	184,675	26,300	11,000	1,482,765	50
Morris Plains Borough	1,070	1,217	512,165	1,409,785	1,921,950	11,937	160,017	28,700	19,000	2,046,204	22,813
Mt. Arlington Borough	1,053	997	370,150	441,950	812,100	947	103,525	10,700	8,500	897,372	3,164
Mt. Lakes Borough	676	2,626	1,205,430	2,305,970	3,511,400	10,241	292,200	54,100	36,200	3,723,541	7,713
Netcong Borough	93	722	181,625	715,475	897,100	8,481	212,825	44,800	16,000	1,057,606	494
Riverdale Borough	1,108	524	177,422	514,760	692,182	3,021	106,339	26,300	8,060	767,182	7,663
Rockaway Borough	608	1,406	306,450	1,416,800	1,723,250	8,881	184,550	42,500	24,500	1,849,681	780
Wharton Borough	742	1,347	505,530	1,251,805	1,757,335	6,292	257,625	.....	28,030	1,993,222	2,273
Town of Boonton	749	2,125	1,349,050	3,548,250	4,897,300	23,948	655,275	104,700	55,800	5,416,023	4,359
Town of Dover	485	3,767	2,619,080	5,190,525	7,809,605	52,719	1,170,300	181,300	73,550	8,777,774	11,305
Town of Morristown	582	3,822	4,806,280	10,678,790	15,485,070	135,496	1,335,710	58,500	63,700	16,834,076	46,703
Totals	255,730	91,572	$34,526,099	$71,036,831	$105,562,930	$711,437	$11,878,081	$1,728,425	$1,078,295	$115,345,728	$216,075

Abstract of Ratables and Exemptions in the County of Morris, for the Year 1941—(Continued)

Abstract of Ratables and Exemptions in the County of Morris, for the Year 1941—(Continued)

TAXING DISTRICT	Amounts Added Under Sec. 54:4-53 of Revised Statutes (Resulting from Corrected Errors)	Net Valuation on Which County, State and State School Taxes Are Apportioned	Number of Polls Assessed	Dog Taxes	PROPERTY EXEMPT FROM TAXATION							
					Public School Property	Other School Property	Public Property	Church and Charitable Property	Cemeteries and Graveyards	Other Exemptions Not Included in Foregoing Classifications—Real	Other Exemptions Not Included in Foregoing Classifications—Personal	Total Amount of Exempt Property
Boonton Township	.....	$525,450	.....	.....	$20,000	.....	.....	$2,850	$900	$1,975	.....	$25,725
Chatham Township	.....	2,014,874	.....	.....	125,000	.....	$6,700	.....	.....	1,600	.....	133,300
Chester Township	.....	1,652,650	.....	.....	.....	$76,500	1,200	.....	3,000	3,000	.....	83,700
Denville Township	.....	3,318,894	.....	.....	104,100	.....	19,500	393,500	700	5,560	.....	523,360
East Hanover Township	.....	1,234,496	.....	.....	74,000	.....	10,500	8,700	108,050	.....	.....	201,250
Hanover Township	$1,775	2,139,690	.....	.....	102,000	.....	27,600	24,400	7,000	.....	.....	161,000
Harding Township	.....	2,927,070	.....	.....	40,000	.....	.....	6,500	1,200	12,000	.....	59,700
Jefferson Township	.....	2,672,094	.....	.....	22,400	.....	1,350	42,500	1,900	16,250	.....	84,400
Mendham Township	.....	1,303,050	.....	.....	14,500	.....	1,600	81,000	1,100	66,500	$1,500	166,200
Mine Hill Township	.....	774,518	.....	.....	35,000	4,000	5,500	26,025	3,300	.....	.....	73,825
Montville Township	.....	1,791,945	446	.....	68,000	.....	50,800	40,500	6,500	4,300	.....	170,100
Morris Township	.....	7,009,052	.....	.....	234,500	66,000	371,000	610,000	33,000	351,300	.....	1,665,800
Mt. Olive Township	.....	2,026,504	.....	.....	70,000	.....	4,100	26,000	5,200	23,650	.....	128,950
Parsippany-Troy Hills	.....	4,846,069	.....	.....	95,200	.....	8,600	39,600	10,000	10,000,000	.....	10,153,400
Passaic Township	.....	2,080,203	.....	.....	171,205	.....	12,825	89,580	3,800	7,805	.....	285,215
Pequannock Township	.....	1,709,535	.....	.....	75,000	.....	8,265	47,400	5,000	.....	.....	135,665
Randolph Township	100	1,213,696	.....	.....	89,800	.....	2,350	15,200	4,800	.....	.....	112,150
Rockaway Township	.....	1,964,626	.....	.....	90,000	.....	7,000	17,650	200	2,518,000	.....	2,632,850
Roxbury Township	.....	3,191,917	.....	.....	252,500	.....	9,800	24,900	1,500	.....	.....	288,700
Washington Township	.....	1,445,050	.....	$149	33,000	.....	26,200	92,000	11,400	.....	.....	162,600
Butler Borough	.....	2,897,817	.....	.....	110,000	.....	209,650	185,300	8,200	3,400	.....	516,550
Chatham Borough	.....	5,847,676	.....	.....	549,940	.....	437,000	229,840	47,000	.....	.....	1,263,780
Chester Borough	.....	450,217	.....	.....	31,800	.....	2,700	16,100	1,200	6,600	.....	58,400
Florham Park Borough	225	2,798,605	.....	.....	79,800	.....	34,500	731,750	500	.....	.....	846,550
Kinnelon Borough	.....	850,340	.....	.....	10,600	.....	.....	5,000	1,500	1,650	150	18,900
Lincoln Park Borough	.....	1,421,281	.....	.....	55,800	.....	4,500	13,200	.....	.....	.....	73,500
Madison Borough	.....	10,284,305	.....	.....	333,950	916,000	650,700	471,200	12,550	45,000	.....	2,429,400
Mendham Borough	.....	1,482,715	277	.....	52,000	501,750	16,650	44,800	3,600	.....	.....	618,800
Morris Plains Borough	700	2,024,091	.....	.....	75,000	7,000	12,000	40,000	.....	30,500	.....	164,500
Mt. Arlington Borough	1,250	895,458	.....	.....	11,000	.....	37,500	66,000	100	500	.....	115,100
Mt. Lakes Borough	.....	3,715,828	.....	.....	272,000	20,000	203,270	85,060	.....	2,580	.....	582,910
Netcong Borough	.....	1,057,112	493	.....	100,000	7,000	45,000	66,200	.....	.....	.....	218,200
Riverdale Borough	.....	759,519	.....	.....	74,000	.....	2,200	.....	.....	.....	.....	76,200
Rockaway Borough	.....	1,848,901	.....	.....	138,200	.....	46,500	73,300	10,000	700	.....	268,700
Wharton Borough	855	1,991,804	.....	.....	130,990	31,270	43,600	173,045	.....	4,125	.....	383,030
Town of Boonton	.....	5,411,664	.....	.....	431,700	91,000	.....	321,500	26,000	62,000	2,000	934,200
Town of Dover	.....	8,766,469	2,252	.....	472,000	.....	392,000	440,800	64,100	171,500	.....	1,540,400
Town of Morristown	.....	16,787,373	.....	.....	496,500	.....	717,150	1,164,900	41,300	93,500	.....	2,513,350
Totals	$4,905	$115,134,558	3,468	$149	$5,141,485	$1,720,520	$3,429,810	$5,716,300	$424,600	$13,433,995	$3,650	$29,870,360

Abstract of Ratables and Exemptions in the County of Morris, for the Year 1941—(Concluded)

TAXING DISTRICT	APPORTIONMENT OF TAXES								General Tax Rate to Apply per $100 Valuation (Tax Rate for Local Taxing Purposes)
	State School Tax	County Taxes Apportioned (Exclusive of Bank Stock Taxes)	Local Taxes to Be Raised (Exclusive of Bank Stock Taxes)—District School Tax	Local Taxes to Be Raised (Exclusive of Bank Stock Taxes)—Other Local Taxes	Total Amount of Misc'l Revenues (Including Surplus Revenue Appropriated) for the Support of the Budget	District Court Taxes	Library Tax	Bank Stock Taxes Due Taxing District	
Boonton Township	$1,501.47	$4,920.84	$13,450.00	$1,725.29	$14,129.23	$68.15	$131.36	.....	$4.15
Chatham Township	5,757.48	18,869.31	44,250.00	7,749.12	45,080.19	161.05	503.72	.....	3.84
Chester Township	4,722.43	15,477.08	18,578.20	14,731.76	30,730.00	132.10	413.16	.....	3.27
Denville Township	9,483.70	31,081.47	70,052.75	63,119.95	104,455.26	425.33	829.72	.....	5.26
East Hanover Township	3,527.56	11,561.06	30,367.97	3,569.45	67,927.56	160.12	308.62	.....	4.01
Hanover Township	6,114.14	20,038.21	61,056.25	11,209.02	66,647.75	277.53	534.92	$97.02	4.64
Harding Township	8,364.07	27,412.03	28,960.00	21,342.36	11,912.00	233.97	731.77	.....	2.98
Jefferson Township	7,635.48	25,024.18	15,700.00	9,170.33	54,553.57	342.44	668.02	.....	2.19
Mendham Township	3,729.16	12,221.80	16,426.50	20,299.78	20,725.00	104.30	326.26	.....	4.07
Mine Hill Township	2,213.18	7,253.37	28,296.16	14,215.52	26,997.43	99.26	193.63	.....	6.75
Montville Township	5,120.46	16,781.58	58,632.50	7,960.78	58,740.17	232.43	447.99	.....	4.98
Morris Township	20,028.28	65,639.83	150,616.50	101,574.07	78,669.27	560.25	1,752.26	.....	4.85
Mt. Olive Township	5,790.71	18,978.22	27,806.25	38,526.73	41,359.12	259.70	506.63	.....	4.52
Parsippany-Troy Hills	13,847.58	45,383.47	68,712.00	88,471.82	139,991.74	628.57	1,211.52	.....	4.51
Passaic Township	5,944.15	19,481.12	60,220.00	22,576.22	50,942.13	166.28	520.05	.....	5.24
Pequannock Township	4,884.97	16,009.81	58,405.00	18,461.10	55,277.37	221.74	427.38	.....	5.76
Randolph Township	3,468.12	11,366.27	44,645.00	18,843.79	37,733.50	155.54	303.42	.....	6.49
Rockaway Township	5,613.89	18,398.74	54,653.75	40,519.75	29,251.18	251.78	491.16	.....	6.11
Roxbury Township	9,120.86	29,892.33	103,155.00	19,566.75	61,575.00	409.06	797.98	.....	5.10
Washington Township	4,129.21	13,532.90	21,000.00	20,389.14	33,413.19	115.51	361.26	.....	4.12
Butler Borough	8,280.48	27,138.08	74,126.18	19,187.89	135,726.38	375.87	724.45	.....	4.48
Chatham Borough	16,709.66	54,763.53	128,397.73	52,080.10	176,799.59	467.42	.....	253.14	4.31
Chester Borough	1,286.49	4,216.29	5,059.30	4,013.40	11,600.03	35.99	112.55	.....	3.28
Florham Park Borough	7,996.98	26,208.96	46,468.50	27,643.57	44,570.00	223.70	699.65	.....	3.88
Kinnelon Borough	2,429.84	7,963.44	10,440.00	8,183.34	12,504.24	110.29	212.59	.....	3.45
Lincoln Park Borough	4,061.29	13,310.31	49,280.00	14,101.78	42,737.79	184.35	355.32	.....	5.72
Madison Borough	29,387.27	96,312.60	186,798.75	71,244.77	208,500.00	822.05	2,571.08	1,556.46	3.77
Mendham Borough	4,236.84	13,885.64	29,914.19	25,720.22	19,519.44	118.52	370.68	.....	5.01
Morris Plains Borough	5,783.81	18,955.63	40,216.25	36,523.39	39,053.05	262.54	506.02	.....	5.00
Mt. Arlington Borough	2,558.76	8,385.97	12,550.00	20,459.53	23,885.00	114.76	223.86	.....	4.94
Mt. Lakes Borough	10,617.93	34,798.76	100,000.00	48,022.47	47,234.67	481.97	928.96	.....	5.24
Netcong Borough	3,020.68	9,899.86	30,746.25	4,678.79	40,200.00	135.47	264.28	663.61	4.61
Riverdale Borough	2,170.32	7,112.90	24,724.00	2,178.27	24,410.04	98.51	189.88	.....	4.76
Rockaway Borough	5,283.21	17,314.97	60,000.00	34,850.42	53,339.07	236.94	.....	.....	6.37
Wharton Borough	5,691.56	18,653.26	53,600.00	29,605.01	53,289.34	255.26	.....	.....	5.41
Town of Boonton	15,463.76	50,680.28	137,540.00	82,718.61	143,271.76	701.93	1,352.92	1,066.54	5.33
Town of Dover	25,050.08	82,098.05	199,353.25	159,648.55	161,567.61	1,123.46	.....	1,842.69	5.33
Town of Morristown	47,969.71	157,213.88	309,583.75	300,027.89	229,412.00	1,341.86	4,196.84	7,108.20	4.88
Totals	$328,995.57	$1,078,236.03	$2,473,781.98	$1,484,910.73	$2,497,730.67	$12,096.00	$24,169.91	$12,587.66	

Total County Taxes Appropriated $1,090,823.69
Bank Stock Taxes Due County 12,587.66
Net County Taxes Apportioned 1,078,236.03
Total Amount of Miscellaneous Revenues (Including Surplus Revenues Appropriated) for the Support of the County Budget ... 569,220.18

County Tax Rate per $100 of Valuation ..... $.936500777
State School Tax Rate per $100 of Valuation ..... .285748758

Net County Taxes Apportioned	1,078,236.03
Total Amount of Miscellaneous Revenues (Including Surplus Revenues Appropriated) for the Support of the County Budget	569,220.18

Abstract of Ratables and Exemptions in the County of Ocean, for the Year 1941

TAXING DISTRICT	TOTAL NUMBER OF ACRES AND LOTS ASSESSED		Value of Land Assessed	Value of Improvements Thereon Assessed	Total value of Land and Imp. Assessed Exclusive of Second Class R. R. Property	Value of Second Class R. R. Property	Value of Personal Property Assessed	DEDUCTIONS		Net Valuation Taxable	Amounts Deducted Under Sec. 54:4-49 and Sec. 54:4-53 of Revised Statutes (Resulting from Prior Appeals and Corrected Errors)
	Acres	Lots						Household Goods and Other Exemptions Under Sec. 54:4-3.16 of Revised Statutes	Property Exempted Under Sec. 54:4-3.12 of Revised Statutes		
Barnegat City Borough	23¾	1,324	$85,041	$55,786	$140,827	.....	$12,572	$2,400	$3,401	$147,598	$542
Bay Head Borough	88	935	631,050	1,166,075	1,797,125	$102,336	120,525	.....	10,000	2,009,986	2,630
Beachwood Borough	.....	14,126	494,970	534,600	1,029,570	90	86,505	45,900	12,000	1,058,265	5,033
Beach Haven Borough	75	3,686	997,140	1,277,700	2,274,840	.....	176,175	49,700	17,000	2,384,315	5,775
Berkeley Township	16,147½	18,854	1,020,570	437,515	1,458,085	1,147	144,600	23,875	12,090	1,565,867	10
Brick Township	.....	11,540	915,170	758,620	1,673,790	52	85,490	16,600	25,345	1,717,387	5,782
Dover Township	19,813	13,118	1,671,945	2,080,400	3,752,345	2,281	366,860	.....	50,000	4,071,486	5,894
Eagleswood Township	7,802½	633	79,105	108,845	187,950	.....	38,590	15,450	8,150	202,940	550
Harvey Cedars Borough	86¾	1,153⅓	122,696	259,325	382,021	.....	13,644	.....	12,892	382,773	2,282
Island Beach Borough	2,650	3½	494,850	15,635	510,485	.....	1,500	.....	725	511,260	.....
Island Heights Borough	12	1,325	428,355	456,175	884,530	.....	34,200	.....	11,500	907,230	450
Jackson Township	55,085	2,639	462,455	256,745	719,200	824	77,375	45,100	16,480	735,819	3,584
Lacey Township	38,729	4,556½	426,621	332,230	758,851	1,047	98,770	21,100	17,220	820,348	103
Lakehurst Borough	16½	711½	104,965	241,900	346,865	6,185	45,810	15,400	15,000	368,460	5,643
Lakewood Township	10,080¾	72,484	2,339,057	3,862,878	6,201,935	23,959	1,017,134	23,200	80,817	7,139,011	118,088
Lavalette Borough	11	1,047	423,016	796,190	1,219,206	1,020	42,515	.....	14,055	1,248,686	1,125
Little Egg Harbor Township	24,907	8,292	154,290	248,800	403,090	.....	152,850	13,825	6,650	535,465	9,075
Long Beach Township	908½	9,327¾	793,922	1,273,575	2,067,497	.....	152,975	.....	16,200	2,204,272	8,450
Manchester Township	47,511	16,948	328,321	89,210	417,531	4,736	15,825	2,300	6,190	429,602	911
Mantoloking Borough	4½	548	638,550	936,850	1,575,400	270	75,850	1,700	3,940	1,645,880	26
Ocean Township	8,151¼	5,679	118,895	109,600	228,495	700	42,750	17,200	5,700	249,045	1,844
Ocean Gate Borough	.....	3,999	340,857	412,475	753,332	1,295	48,035	16,500	18,500	767,662	482
Pine Beach Borough	8	3,535	225,913	348,370	574,283	3,390	5,475	100	4,500	578,548	419
Plumstead Township	14,646½	50	200,358	398,365	598,723	3,506	78,560	5,000	11,000	664,789	1,988
Point Pleasant Borough	1,092	4,303¼	499,440	788,675	1,288,115	.....	98,625	55,900	26,725	1,304,115	2,575
Point Pleasant Beach Borough	17¾	3,015	1,320,250	1,863,575	3,183,825	21,156	107,450	.....	24,900	3,287,531	2,875
Seaside Heights Borough	.....	2,741	633,998	791,275	1,425,273	6,479	66,010	5,015	11,250	1,481,497	2,344
Seaside Park Borough	.....	2,260	833,040	1,038,800	1,871,840	13,262	109,040	8,250	24,000	1,961,892	52
Ship Bottom-B. Arlington Borough	21¾	3,583	358,525	299,300	657,825	.....	79,550	.....	10,500	726,875	4,500
South Toms River Borough	583⅜	254	58,750	171,680	230,430	7,694	80,115	.....	1,500	316,739	3,563
Stafford Township	17,079½	1,357½	238,650	297,900	536,550	.....	243,792	21,775	12,725	745,842	5,600
Surf City Borough	.....	3,512	236,173	183,820	419,993	.....	21,475	13,350	7,750	420,368	.....
Tuckerton Borough	298	1,155	130,910	405,375	536,285	614	140,670	27,600	23,500	626,469	9,550
Union Township	15,415½	2,517	194,343	347,205	541,548	5,622	122,992	27,400	13,825	628,937	8,218
Totals	281,265⅝	221,212⅓	$18,002,191	$22,645,469	$40,647,660	$207,665	$4,004,304	$476,640	$536,030	$43,846,959	$219,963

Abstract of Ratables and Exemptions in the County of Ocean, for the Year 1941—(Continued)

TAXING DISTRICT	Amounts Added for Equalization Under Sec. 54:3-17 of Revised Statutes	Net Valuation on Which County, State and State School Taxes Are Apportioned	PROPERTY EXEMPT FROM TAXATION							
			Public School Property	Other School Property	Public Property	Church and Charitable Property	Cemeteries and Graveyards	Other Exemptions Not Included in Foregoing Classifications—Real	Other Exemptions Not Included in Foregoing Classifications—Personal	Total Amount of Exempt Property
Barnegat City Borough	.....	$147,056	$1,560	.....	$39,680	$1,020	.....	$85,610	.....	$127,870
Bay Head Borough	.....	2,007,356	51,375	.....	32,650	42,950	.....	14,700	.....	141,675
Beachwood Borough	.....	1,053,232	.....	.....	18,900	4,600	.....	.....	.....	23,500
Beach Haven Borough	.....	2,378,540	95,000	.....	413,000	57,900	.....	.....	.....	565,900
Berkeley Township	.....	1,565,857	61,100	.....	40,555	5,200	$200	.....	.....	107,055
Brick Township	.....	1,711,605	28,750	.....	2,040	13,910	500	.....	.....	45,200
Dover Township	.....	4,065,592	342,000	$10,000	223,175	84,300	17,500	13,500	.....	690,475
Eagleswood Township	.....	202,390	2,600	.....	6,316	9,500	1,000	.....	.....	19,416
Harvey Cedars Borough	.....	380,491	.....	.....	19,175	575	.....	4,800	.....	24,550
Island Beach Borough	.....	511,260	.....	.....	.....	.....	.....	8,600	.....	8,600
Island Heights Borough	.....	906,780	1,150	.....	117,520	39,500	.....	.....	.....	158,170
Jackson Township	.....	732,235	5,500	.....	1,800	13,500	5,300	22,970	.....	49,070
Lacey Township	.....	820,245	5,425	.....	5,540	11,975	.....	58,600	.....	81,540
Lakehurst Borough	.....	362,817	6,100	.....	4,300	11,900	500	.....	.....	22,800
Lakewood Township	$310,096	7,331,019	244,950	531,100	354,030	272,100	10,450	53,000	.....	1,465,630
Lavalette Borough	.....	1,247,561	38,000	.....	294,445	17,900	.....	.....	.....	350,345
Little Egg Harbor Township	.....	526,390	4,900	.....	.....	900	.....	39,000	$1,000	45,800
Long Beach Township	82,689	2,278,511	.....	.....	177,137	5,000	.....	19,500	600	202,237
Manchester Township	.....	428,691	3,200	.....	.....	26,200	200	103,610	.....	133,210
Mantoloking Borough	.....	1,645,854	.....	.....	4,200	4,600	.....	7,800	.....	16,600
Ocean Township	.....	247,201	2,000	.....	.....	10,850	1,200	.....	.....	14,050
Ocean Gate Borough	.....	767,180	3,100	.....	47,050	6,050	.....	.....	.....	56,200
Pine Beach Borough	.....	578,129	.....	.....	3,700	3,500	.....	.....	.....	7,200
Plumstead Township	.....	662,801	35,000	.....	4,500	16,000	.....	.....	.....	55,500
Point Pleasant Borough	.....	1,301,540	75,700	.....	13,550	18,850	3,500	.....	.....	111,600
Point Pleasant Beach Borough	.....	3,284,656	280,000	4,300	274,425	88,075	2,200	.....	.....	649,000
Seaside Heights Borough	.....	1,479,153	3,200	.....	420,380	6,100	.....	.....	.....	429,680
Seaside Park Borough	.....	1,961,840	53,750	.....	564,990	39,855	.....	6,625	.....	665,220
Ship Bottom-B. Arlington Borough	.....	722,375	3,800	.....	124,575	1,750	.....	7,000	800	137,925
South Toms River Borough	.....	313,176	.....	.....	18,000	3,800	.....	.....	.....	21,800
Stafford Township	.....	740,242	12,000	.....	1,000	10,400	3,200	7,500	.....	34,100
Surf City Borough	.....	420,368	.....	.....	24,630	2,640	.....	.....	.....	27,270
Tuckerton Borough	.....	616,919	102,000	.....	2,500	32,100	4,000	.....	.....	140,600
Union Township	.....	620,719	112,000	.....	35,500	25,750	3,950	.....	.....	177,200
Totals	$392,785	$44,019,781	$1,574,160	$545,400	$3,289,263	$889,250	$53,700	$452,815	$2,400	$6,806,988

Abstract of Ratables and Exemptions in the County of Ocean, for the Year 1941—(Concluded)

Abstract of Ratables and Exemptions in the County of Ocean, for the Year 1941—(Concluded)

TAXING DISTRICT	APPORTIONMENT OF TAXES							
	State School Tax	County Taxes Apportioned (Exclusive of Bank Stock Taxes)	Local Taxes to Be Raised (Exclusive of Bank Stock Taxes)—District School Tax	Local Taxes to Be Raised (Exclusive of Bank Stock Taxes)—Other Local Taxes	Total Amount of Misc'l Revenues (Including Surplus Revenue Appropriated) for the Support of the Budget	Library Tax	Bank Stock Taxes Due Taxing District	General Tax Rate to Apply per $100 Valuation (Tax Rate for Local Taxing Purposes)
Barnegat City Borough	$420.42	$2,128.38	$2,800.00	$9,281.07	$8,956.00	$42.65	.....	$9.95
Bay Head Borough	5,738.85	29,053.02	14,073.00	35,500.00	27,335.00	582.13	.....	4.23
Beachwood Borough	3,011.10	15,243.72	9,000.00	25,700.17	27,710.72	305.44	.....	5.04
Beach Haven Borough	6,800.04	34,425.27	17,037.50	95,408.50	66,617.94	.....	$660.64	6.45
Berkeley Township	4,476.65	22,663.08	20,300.00	43,590.24	12,842.93	454.10	.....	5.85
Brick Township	4,893.33	24,772.53	24,803.83	21,262.95	38,625.00	496.37	.....	4.44
Dover Township	11,623.17	58,842.43	122,286.07	35,565.18	148,676.61	.....	3,997.71	5.61
Eagleswood Township	578.62	2,929.25	6,000.00	2,155.79	9,750.00	58.69	.....	5.78
Harvey Cedars Borough	1,087.79	5,506.95	2,300.00	16,282.79	10,184.31	110.34	.....	6.61
Island Beach Borough	1,461.65	7,399.61	.....	1,119.91	15,149.86	148.27	.....	1.99
Island Heights Borough	2,592.41	13,124.08	6,000.00	26,077.05	23,722.46	262.97	.....	5.30
Jackson Township	2,093.40	10,597.84	16,618.00	22,101.65	43,100.00	212.35	.....	7.02
Lacey Township	2,345.01	11,871.63	8,500.00	11,620.17	5,550.00	237.87	.....	4.22
Lakehurst Borough	1,037.26	5,251.15	9,000.00	11,367.26	4,293.44	105.22	252.29	7.27
Lakewood Township	20,958.74	106,103.86	136,909.47	184,410.35	233,777.26	.....	554.46	6.29
Lavalette Borough	3,566.67	18,056.29	9,925.06	37,005.90	28,789.60	361.79	.....	5.52
Little Egg Harbor Township	1,504.90	7,618.59	9,500.00	10,666.30	3,838.51	152.65	.....	5.50
Long Beach Township	6,514.06	32,977.52	3,000.00	55,244.20	70,200.00	660.77	.....	4.47
Manchester Township	1,225.59	6,204.56	7,500.00	14,944.64	45,734.46	124.32	.....	6.99
Mantoloking Borough	4,705.35	23,820.90	500.00	18,502.18	11,045.00	477.30	.....	2.92
Ocean Township	706.73	3,577.81	4,400.00	6,080.57	2,000.00	71.69	.....	5.96
Ocean Gate Borough	2,193.30	11,103.61	8,078.12	16,760.59	30,500.00	222.48	.....	5.00
Pine Beach Borough	1,652.82	8,367.42	1,000.00	13,677.14	3,120.00	167.66	.....	4.30
Plumstead Township	1,894.89	9,592.90	15,840.00	10,686.06	9,950.00	192.21	313.94	5.75
Point Pleasant Borough	3,720.99	18,837.55	49,036.23	28,405.73	14,765.00	377.45	.....	7.70
Point Pleasant Beach Borough	9,390.54	47,539.73	50,000.00	90,010.84	98,125.00	952.55	1,578.43	6.02
Seaside Heights Borough	4,228.77	21,408.19	13,057.50	46,000.00	100,115.46	428.95	.....	5.75
Seaside Park Borough	5,608.73	28,394.25	11,222.50	76,243.71	80,475.00	568.93	.....	6.23
Ship Bottom-B. Arlington Borough	2,065.21	10,455.13	5,863.00	31,667.53	33,622.07	209.49	.....	6.92
South Toms River Borough	895.34	4,532.68	6,500.00	1,672.47	15,267.71	90.82	.....	4.33
Stafford Township	2,116.29	10,713.73	9,450.00	4,342.67	16,136.43	214.67	.....	3.60
Surf City Borough	1,201.80	6,084.10	2,200.00	23,581.51	17,854.78	121.91	.....	7.90
Tuckerton Borough	1,763.72	8,928.84	16,163.75	17,529.31	23,754.05	178.91	.....	7.12
Union Township	1,774.58	8,983.84	19,400.00	22,134.30	5,780.00	180.01	532.09	8.35
Totals	$125,848.72	$637,110.44	$638,264.03	$1,066,598.73	$1,287,364.60	$8,770.96	$7,889.56	

Total County Taxes Appropriated	$645,000.00
Bank Stock Taxes Due County	7,889.56
Net County Taxes Apportioned	637,110.44
Total Amount of Miscellaneous Revenues (Including Surplus Revenues Appropriated) for the Support of the County Budget	747,976.12

County Tax Rate per $100 of Valuation	$1.4473276
State School Tax Rate per $100 of Valuation	.2858912
Library Tax per $100 of Valuation	.029

Abstract of Ratables and Exemptions in the County of Passaic, for the Year 1941

TAXING DISTRICT	TOTAL NUMBER OF ACRES AND LOTS ASSESSED		Value of Land Assessed	Value of Improvements Thereon Assessed	Total Value of Land and Imp. Assessed Exclusive of Second Class R. R. Property	Value of Second Class R. R. Property	Value of Personal Property Assessed	Deductions—Property Exempted Under Sec. 54:4-3.12 of Revised Statutes	Net Valuation Taxable	Amounts Deducted Under Sec. 54:4-49 and Sec. 54:4-53 of Revised Statutes (Resulting from Prior Appeals and Corrected Errors)
	Acres	Lots								
Paterson	.....	60,440	$49,475,269	$99,415,635	$148,890,904	$862,173	$14,738,140	$484,500	$164,006,717	$1,621,151
Passaic	.....	24,418	22,247,850	47,087,750	69,335,100	328,524	10,094,100	234,500	79,523,224	1,016,694
Clifton	3,405	19,599	13,407,375	33,135,450	46,542,825	105,285	3,624,350	329,950	49,942,510	304,363
Hawthorne Borough	863	9,596	3,335,890	9,633,300	12,969,190	46,682	656,650	119,500	13,553,022	12,061
Wanaque Borough	5,311	1,422	555,895	966,625	1,522,520	10,036	102,700	21,350	1,613,906	1,120
Pompton Lakes Borough	1,306	2,451	1,093,375	2,920,150	4,013,525	13,397	857,200	21,300	4,862,822	8,515
Wayne Township	12,646	9,247	3,435,500	6,092,700	9,528,200	6,434	526,000	76,000	9,984,634	42,568
Little Falls Township	988	3,532	1,488,955	3,357,225	4,846,180	10,571	665,779	46,900	5,475,630	39,415
West Milford Township	48,305	8,057	2,561,450	2,513,650	5,075,100	2,400	148,350	39,000	5,186,850	11,398
Totowa Borough	1,483	5,493	1,459,315	3,062,250	4,521,565	4,324	68,050	34,800	4,559,139	10,390
Haledon Borough	265	3,208	1,379,775	4,230,200	5,609,975	.....	183,750	34,000	5,759,725	15,050
Prospect Park Borough	102	2,149	680,075	3,077,350	3,757,425	.....	77,500	25,000	3,809,925	.....
West Paterson Borough	1,299	3,137	815,150	1,577,400	2,392,550	350	75,325	29,350	2,438,875	.....
Ringwood Borough	14,825	3,205	1,155,615	1,284,475	2,440,090	6,194	34,500	4,400	2,476,384	6,221
Bloomingdale Borough	5,082	1,215	404,625	1,122,400	1,527,025	1,526	78,525	22,500	1,584,576	30
North Haledon Borough	1,959	3,357	614,700	1,764,450	2,379,150	.....	61,325	30,900	2,409,575	7,000
Totals	97,841	160,526	$104,110,314	$221,241,010	$325,351,324	$1,397,896	$31,992,244	$1,553,950	$357,187,514	$3,095,976

Abstract of Ratables and Exemptions in the County of Passaic, for the Year 1941—(Continued)

TAXING DISTRICT	Amounts Added Under Sec. 54:4-53 of Revised Statutes (Resulting from Corrected Errors)	Net Valuation on Which County, State and State School Taxes Are Apportioned	Number of Polls Assessed	PROPERTY EXEMPT FROM TAXATION							
				Public School Property	Other School Property	Public Property	Church and Charitable Property	Cemeteries and Graveyards	Other Exemptions Not Included in Foregoing Classifications—Real	Other Exemptions Not Included in Foregoing Classifications—Personal	Total Amount of Exempt Property
Paterson	.....	*$163,759,011	13,537	$10,951,020	$826,080	$12,286,272	$11,627,730	$430,750	$617,075	$45,000	$36,783,927
Passaic	.....	78,506,530	3,924	3,026,375	263,850	4,435,700	5,692,525	.....	33,100	.....	13,451,550
Clifton	.....	49,638,147	.....	2,975,925	135,000	3,649,390	872,525	124,775	53,850	.....	7,811,465
Hawthorne Borough	.....	13,540,961	.....	900,100	24,700	719,738	291,325	1,200	69,075	1,400	2,007,538
Wanaque Borough	.....	1,612,786	.....	112,000	.....	581,900	34,900	1,500	.....	.....	730,300
Pompton Lakes Borough	.....	4,854,307	.....	730,000	.....	240,900	187,000	10,000	25,000	30,000	1,222,900
Wayne Township	.....	9,942,066	.....	570,500	.....	1,736,660	110,300	8,000	6,200	8,700	2,440,360
Little Falls Township	.....	5,436,215	.....	482,400	19,800	616,100	89,300	.....	25,000	1,600	1,234,200
West Milford Township	.....	5,175,452	.....	30,100	.....	37,500	24,800	2,500	5,800	.....	100,700
Totowa Borough	.....	4,548,749	.....	196,000	.....	3,305,025	117,800	233,200	56,525	1,400	3,909,950
Haledon Borough	.....	5,744,675	.....	268,400	.....	1,755,850	35,350	.....	24,200	28,000	2,111,800
Prospect Park Borough	.....	3,809,925	.....	131,200	42,000	64,400	101,700	.....	.....	.....	339,300
West Paterson Borough	$29,050	2,467,925	.....	272,000	.....	909,310	48,000	25,000	8,000	4,000	1,266,310
Ringwood Borough	.....	2,470,163	.....	156,800	36,000	75,900	9,200	.....	.....	.....	277,900
Bloomingdale Borough	.....	1,584,546	.....	76,500	.....	102,600	63,200	.....	.....	.....	242,300
North Haledon Borough	.....	2,402,575	.....	143,000	.....	54,200	133,700	.....	38,400	.....	369,300
Totals	$29,050	$355,494,033	17,461	$21,022,320	$1,347,430	$30,571,445	$19,439,355	$836,925	$962,225	$120,100	$74,299,800

* There is an assessment of $1,373,445 on property of the S. U. M. located in the City of Paterson, subject to State Taxation only. County taxes are apportioned on a valuation of $354,120,588.

Abstract of Ratables and Exemptions in the County of Passaic, for the Year 1941—(Concluded)

TAXING DISTRICT	APPORTIONMENT OF TAXES							
	State School Tax	County Taxes Apportioned (Exclusive of Bank Stock Taxes)	Local Taxes to Be Raised (Exclusive of Bank Stock Taxes)—District School Tax	Local Taxes to Be Raised (Exclusive of Bank Stock Taxes)—Other Local Taxes	Total Amount of Misc'l Revenues (Including Surplus Revenue Appropriated) for the Support of the Budget	Regional High School Taxes	Bank Stock Taxes Due Taxing District	General Tax Rate to Apply per $100 Valuation (Tax Rate for Local Taxing Purposes)
Paterson	$474,291.10	$1,385,120.59	$2,707,840.00	$2,886,423.84	$3,238,723.00	.....	$17,236.16	$4.54
Passaic	227,376.49	669,647.03	1,300,818.97	1,750,278.66	1,408,852.91	.....	18,347.70	4.96
Clifton	143,765.72	423,404.75	894,797.50	906,313.12	970,715.84	.....	1,927.51	4.75
Hawthorne Borough	39,218.34	115,502.04	180,288.50	213,262.82	360,748.85	.....	.....	4.05
Wanaque Borough	4,671.07	13,756.78	46,092.00	31,464.31	63,134.34	.....	.....	5.95
Pompton Lakes Borough	14,059.41	41,406.39	81,159.31	34,111.80	80,193.29	.....	.....	3.52
Wayne Township	28,794.96	84,804.09	157,884.18	35,591.91	162,500.00	.....	.....	3.08
Little Falls Township	15,744.77	46,369.97	87,765.00	97,169.62	84,702.77	$25,894.68	736.18	4.99
West Milford Township	14,989.53	44,145.70	45,439.46	35,737.56	66,600.00	.....	.....	2.71
Totowa Borough	13,174.43	38,800.04	66,330.00	44,119.79	98,361.85	21,560.53	.....	4.04
Haledon Borough	16,638.16	49,001.08	75,643.40	71,428.98	134,069.34	.....	304.20	3.70
Prospect Park Borough	11,034.59	32,498.00	65,977.50	32,377.85	42,849.11	.....	2,340.12	3.73
West Paterson Borough	7,147.79	21,050.97	38,252.63	37,052.94	85,229.09	11,533.63	.....	4.72
Ringwood Borough	7,154.27	21,070.06	28,485.00	30,343.15	23,229.95	.....	.....	3.52
Bloomingdale Borough	4,589.28	13,515.90	38,910.00	23,597.87	48,109.08	.....	475.01	5.09
North Haledon Borough	6,958.52	20,493.55	42,350.00	20,350.00	43,600.00	.....	.....	3.75
Totals	$1,029,608.43	$3,020,586.94	$5,858,033.45	$6,249,624.22	$6,911,619.42	$58,988.84	$41,366.88	

Total County Taxes Appropriated $3,061,953.82
Bank Stock Taxes Due County 41,366.88
Net County Taxes Apportioned 3,020,586.94
Total Amount of Miscellaneous Revenues (Including Surplus Revenues Appropriated) for the Support of the County Budget 765,842.70

County Tax Rate per $100 of Valuation $0.852982583
State School Tax Rate per $100 of Valuation ..... .289627485

Exhibit P-36.

Abstract of Ratables and Exemptions in the County of Salem, for the Year 1941

TAXING DISTRICT	TOTAL NUMBER OF ACRES AND LOTS ASSESSED		Value of Land Assessed	Value of Improvements Thereon Assessed	Total Value of Land and Imp. Assessed Exclusive of Second Class R. R. Property	Value of Second Class R. R. Property	Value of Personal Property Assessed	DEDUCTIONS		Net Valuation Taxable	Amounts Deducted Under Sec. 54:4-49 and Sec. 54:4-53 of Revised Statutes (Resulting from Prior Appeals and Corrected Errors)	Amounts Added Under Sec. 54:4-53 of Revised Statutes (Resulting from Corrected Errors)
	Acres	Lots						Household Goods and Other Exemptions Under Sec. 54:4-3.16 of Revised Statutes	Property Exempted Under Sec. 54:4-3.12 of Revised Statutes			
Alloway Township	18,816	.....	$319,250	$310,950	$630,200	$1,724	$135,500	$28,000	$9,000	$730,424	$2,549	.....
Elsinboro Township	7,820	210	126,282	183,090	309,372	.....	156,430	11,200	6,000	448,602	.....	.....
Lower Alloway Creek Twp.	24,381	200	281,020	279,900	560,920	.....	126,640	30,100	7,250	650,210	3,305	$110
Lower Penn's Neck Township	9,653	10,585	910,826	8,989,885	9,900,711	.....	10,555,141	62,400	34,065	20,359,387	11,550	13,795
Mannington Township	22,080	165	691,550	579,425	1,270,975	1,858	266,210	33,100	2,000	1,503,943	1,875	150
Oldmans Township	9,986	.....	253,197	345,261	598,458	1,814	144,520	35,600	11,600	697,592	425	.....
Pilesgrove Township	21,140	.....	625,495	543,545	1,169,040	828	220,850	30,100	4,500	1,356,118	150	.....
Pittsgrove Township	25,304	292	395,550	511,925	907,475	1,895	145,025	45,100	24,000	985,295	2,325	.....
Quinton Township	13,153	.....	238,925	472,450	711,375	1,163	124,640	28,700	5,250	803,228	475	.....
Upper Penn's Neck Township	10,288	864	380,177	1,875,523	2,255,700	.....	1,118,631	110,800	22,145	3,241,386	2,955	130
Upper Pittsgrove Township	24,723	.....	586,250	579,655	1,165,905	747	236,370	40,675	8,460	1,353,887	5,900	200
Elmer Borough	259	564	130,175	536,050	666,225	9,368	88,845	22,400	6,500	735,538	1,600	.....
Penn's Grove Borough	124	1,704	676,753	1,813,538	2,490,291	34,789	490,555	112,150	30,800	2,872,685	6,275	.....
Woodstown Borough	573	114	339,000	1,130,000	1,469,000	5,163	267,500	49,300	26,600	1,665,763	150	.....
City of Salem	542	1,800	1,078,900	3,695,350	4,774,250	19,208	1,218,800	150,600	50,600	5,811,058	12,880	.....
Totals	188,842	16,498	$7,033,350	$21,846,547	$28,879,897	$78,557	$15,295,657	$790,225	$248,770	$43,215,116	$52,414	$14,385

Abstract of Ratables and Exemptions in the County of Salem, for the Year 1941—(Continued)

TAXING DISTRICT	Net Valuation on Which County, State and State School Taxes Are Apportioned	Number of Polls Assessed	Dog Taxes	PROPERTY EXEMPT FROM TAXATION							
				Public School Property	Other School Property	Public Property	Church and Charitable Property	Cemeteries and Graveyards	Other Exemptions Not Included in Foregoing Classifications—Real	Other Exemptions Not Included in Foregoing Classifications—Personal	Total Amount Exempt Property
Alloway Township	$727,875	.....	.....	$41,000	.....	$4,100	$36,400	$250	.....	.....	$81,750
Elsinboro Township	448,602	159	$67	2,700	.....	.....	100	240	.....	.....	3,040
Lower Alloway Creek Twp.	647,015	.....	170	6,100	.....	.....	9,000	900	.....	.....	16,000
Lower Penn's Neck Township	20,361,632	1,071	109	219,200	.....	31,900	19,300	2,800	$16,850	$26,000	316,050
Mannington Township	1,502,218	.....	159	11,200	.....	35,000	8,050	.....	.....	.....	54,250
Oldmans Township	697,167	427	186	23,000	.....	4,040	27,300	1,200	.....	.....	55,540
Pilesgrove Township	1,355,968	420	218	5,700	.....	.....	7,000	6,000	.....	.....	18,700
Pittsgrove Township	982,970	777	366	18,800	$900	113,900	15,000	.....	1,300	100	150,000
Quinton Township	802,753	347	150	20,700	500	1,500	16,850	300	6,900	3,100	49,850
Upper Penn's Neck Township	3,238,561	1,096	228	124,600	.....	5,000	120,100	.....	15,450	.....	265,150
Upper Pittsgrove Township	1,348,187	.....	257	118,000	.....	7,100	43,500	19,000	.....	.....	187,600
Elmer Borough	733,938	349	100	24,700	.....	8,000	51,500	.....	.....	.....	84,200
Penn's Grove Borough	2,366,410	1,204	.....	58,600	227,500	27,200	40,350	9,000	32,350	3,500	398,500
Woodstown Borough	1,665,613	467	.....	182,000	.....	44,000	61,000	5,700	.....	.....	292,700
City of Salem	5,798,178	.....	.....	263,000	.....	448,700	228,950	47,500	.....	.....	988,150
Totals	$43,177,087	6,317	$2,010	$1,119,300	$228,900	$730,440	$684,400	$92,890	$72,850	$32,700	$2,961,480

Abstract of Ratables and Exemptions in the County of Salem, for the Year 1941—(Concluded)

TAXING DISTRICT	APPORTIONMENT OF TAXES						
	State School Tax	County Taxes Apportioned (Exclusive of Bank Stock Taxes)	Local Taxes to Be Raised (Exclusive of Bank Stock Taxes)—District School Tax	Local Taxes to Be Raised (Exclusive of Bank Stock Taxes)—Other Local Taxes	Total Amount of Misc'l Revenues (Including Surplus Revenue Appropriated) for the Support of the Budget	Bank Stock Taxes Due Taxing District	General Tax Rate per $100 Valuation (Tax Rate for Local Taxing Purposes)
Alloway Township	$2,056.16	$6,196.76	$19,687.50	$2,765.83	$31,013.65	.....	$4.22
Elsinboro Township	1,267.25	3,819.17	6,000.00	3,823.73	4,033.18	.....	3.33
Lower Alloway Creek Township	1,827.74	5,508.36	8,500.00	4,077.21	9,511.66	.....	3.08
Lower Penn's Neck Township	57,519.17	173,348.53	111,855.00	60,635.15	123,307.37	.....	1.99
Mannington Township	4,243.59	12,789.11	14,500.00	3,525.40	16,434.86	.....	2.34
Oldmans Township	1,969.41	5,935.32	12,500.00	3,398.25	7,248.85	$312.36	3.42
Pilesgrove Township	3,830.45	11,544.02	24,633.83	.....	22,555.26	.....	2.96
Pittsgrove Township	2,776.77	8,368.50	16,600.00	2,219.83	19,683.70	.....	3.05
Quinton Township	2,267.68	6,834.23	17,466.00	3,103.73	9,672.36	.....	3.70
Upper Penn's Neck Township	9,148.54	27,571.45	76,060.66	22,453.11	34,143.92	.....	4.18
Upper Pittsgrove Township	3,808.47	11,477.78	25,000.00	568.54	18,996.76	.....	3.04
Elmer Borough	2,073.28	6,248.37	11,675.00	9,385.57	3,527.73	880.58	4.01
Penn's Grove Borough	8,097.26	24,403.15	52,120.59	57,480.45	16,645.08	568.68	4.96
Woodstown Borough	4,705.16	14,180.18	32,593.03	5,921.35	35,347.41	1,809.16	3.45
City of Salem	16,379.16	49,362.72	101,972.50	53,442.20	50,101.08	1,912.81	3.82
Totals	$121,970.09	$367,587.65	$531,164.11	$232,820.35	$402,222.87	$5,483.59	

Total County Taxes Appropriated	$373,071.24
Bank Stock Taxes Due County	5,483.59
Net County Taxes Apportioned	367,587.65
Total Amount of Miscellaneous Revenues (Including Surplus Revenues Appropriated) for the Support of the County Budget	402,222.87

County Tax Rate per $100 of Valuation	$0.85134889
State School Tax Rate per $100 of Valuation	.28248801

Abstract of Ratables and Exemptions in the County of Somerset, for the Year 1941

TAXING DISTRICT	TOTAL NUMBER OF ACRES AND LOTS ASSESSED		Value of Land Assessed	Value of Improvements Thereon Assessed	Total Value of Land and Imp. Assessed Exclusive of Second Class R. R. Property	Value of Second Class R. R. Property	Value of Personal Property Assessed	DEDUCTIONS			Net Valuation Taxable	Amounts Deducted Under Sec. 54:4-49 and Sec. 54:4-53 of Revised Statutes (Resulting from Prior Appeals and Corrected Errors)
	Acres	Lots						Household Goods and Other Exemptions Under Sec. 54:4-3.16 of Revised Statutes	Deduction for Debt (Other than Mortgage Indebtedness) Under Sec. 54:4-15 of Revised Statutes	Property Exempted Under Sec. 54:4-3.12 of Revised Statutes		
Bedminster Township	16,394	.....	$821,650	$2,075,350	$2,897,000	.....	$270,950	.....	.....	$13,900	$3,154,050	.....
Bernards Township	13,490	914	819,300	1,446,600	2,265,900	$9,492	395,779	$65,200	.....	37,700	2,568,271	$15,800
Bernardsville Borough	7,149	852	1,025,775	2,261,750	3,287,525	83,342	822,825	.....	.....	26,400	4,167,292	14,700
Branchburg Township	12,413	475	453,110	838,750	1,291,860	9,618	201,650	.....	.....	5,000	1,498,128	2,100
Bridgewater Township	17,000	20,000	2,208,375	4,980,275	7,188,650	167,356	1,226,500	.....	.....	94,750	8,487,756	17,775
Bound Brook Borough	405	2,215	1,288,850	3,732,100	5,020,950	110,976	553,000	.....	.....	65,550	5,619,376	19,900
Far Hills Borough	3,007	144	248,450	639,800	888,250	10,275	146,950	.....	.....	6,400	1,039,075	500
Franklin Township	25,721	22,396	1,717,510	2,449,885	4,167,395	3,337	539,111	.....	.....	29,200	4,680,643	51,932
Hillsborough Township	32,586	7,187	1,146,010	1,454,725	2,600,735	16,025	537,210	.....	.....	14,950	3,139,020	3,500
Millstone Borough	383	.....	34,210	101,925	136,135	.....	12,195	.....	.....	550	147,780	2,800
Montgomery Township	19,226	728	590,355	844,430	1,434,785	64,720	157,835	.....	.....	8,000	1,649,340	900
Manville Borough	461	11,365	893,195	2,287,150	3,180,345	102,760	590,844	.....	.....	11,125	3,862,824	2,300
North Plainfield Borough	465	2,737	2,401,300	6,472,850	8,874,150	.....	899,125	.....	$11,500	76,900	9,684,875	13,000
The Township of Greenbrook	2,381	1,922	239,425	332,900	572,325	.....	42,815	.....	2,250	8,500	604,390	.....
Peapack-Gladstone Borough	.....	3,437	420,970	1,291,300	1,712,270	7,189	308,025	33,300	.....	10,900	1,983,284	500
Rocky Hill Borough	400	145	35,800	165,575	201,375	.....	17,235	.....	.....	4,200	214,410	524
Somerville Borough	.....	3,818	2,123,305	5,435,300	7,558,605	124,584	638,300	.....	.....	93,800	8,227,689	17,450
South Bound Brook Borough	80	1,470	264,772	896,850	1,161,622	.....	285,150	.....	.....	11,500	1,435,272	2,000
Warren Township	12,048	1,063	540,275	956,725	1,497,000	.....	97,125	.....	.....	25,400	1,568,725	825
Watchung Borough	3,627	834	521,380	712,200	1,233,580	.....	90,695	.....	.....	9,000	1,315,275	2,000
Totals	167,236	81,762	$17,794,017	$39,376,440	$57,170,457	$709,674	$7,833,319	$98,500	$13,750	$553,725	$65,047,475	$168,506

Abstract of Ratables and Exemptions in the County of Somerset, for the Year 1941—(Continued)

TAXING DISTRICT	Net Valuation on Which County, State and State School Taxes Are Apportioned	PROPERTY EXEMPT FROM TAXATION							
		Public School Property	Other School Property	Public Property	Church and Charitable Property	Cemeteries and Graveyards	Other Exemptions Not Included in Foregoing Classifications—Real	Other Exemptions Not Included in Foregoing Classifications—Personal	Total Amount of Exempt Property
Bedminster Township	$3,154,050	$56,500	.....	$12,000	$70,000	$5,000	.....	.....	$143,500
Bernards Township	2,552,471	73,000	.....	16,000	194,100	2,500	$1,340,000	$153,600	1,779,200
Bernardsville Borough	4,152,592	420,000	$67,000	67,700	149,000	5,500	7,000	500	716,700
Branchburg Township	1,496,028	19,400	.....	.....	6,600	500	.....	.....	26,500
Bridgewater Township	8,469,981	457,800	32,500	35,100	147,200	10,200	.....	.....	682,800
Bound Brook Borough	5,599,476	354,000	62,100	161,400	305,050	25,500	32,500	6,000	946,550
Far Hills Borough	1,038,575	25,000	15,000	10,000	.....	.....	.....	.....	50,000
Franklin Township	4,628,711	200,000	13,000	18,000	167,500	15,000	3,700	.....	417,200
Hillsborough Township	3,135,520	61,100	.....	15,550	44,200	3,000	.....	.....	123,850
Millstone Borough	144,980	2,600	.....	.....	18,800	.....	5,550	250	27,200
Montgomery Township	1,648,440	80,000	.....	500	19,700	1,900	2,036,108	314,561	2,452,769
Manville Borough	3,860,524	78,500	700	129,450	68,750	.....	.....	.....	277,400
North Plainfield Borough	9,671,875	932,000	68,000	210,500	277,300	4,000	.....	.....	1,491,800
The Township of Greenbrook	604,390	37,000	9,250	2,250	.....	.....	5,000	500	54,000
Peapack-Gladstone Borough	1,982,784	25,000	.....	124,500	82,500	5,500	.....	.....	237,500
Rocky Hill Borough	213,886	15,000	.....	18,500	13,500	.....	3,500	45,000	95,500
Somerville Borough	8,210,239	254,200	.....	753,450	326,000	10,000	45,800	1,000	1,390,450
South Bound Brook Borough	1,433,272	75,900	.....	31,450	15,900	.....	3,500	.....	126,750
Warren Township	1,567,900	41,000	8,050	2,300	15,800	1,000	.....	.....	68,150
Watchung Borough	1,313,275	13,200	46,000	53,150	14,500	.....	3,100	.....	129,950
Totals	$64,878,969	$3,221,200	$321,600	$1,661,800	$1,936,400	$89,600	$3,485,758	$521,411	$11,237,769

Abstract of Ratables and Exemptions in the County of Somerset, for the Year 1941—(Concluded)

TAXING DISTRICT	APPORTIONMENT OF TAXES							General Tax Rate to Apply per $100 Valuation (Tax Rate for Local Taxing Purposes)
	State School Tax	County Taxes Apportioned (Exclusive of Bank Stock Taxes)	Local Taxes to Be Raised (Exclusive of Bank Stock Taxes)—District School Tax	Local Taxes to Be Raised (Exclusive of Bank Stock Taxes)—Other Local Taxes	Total Amount of Misc'l Revenues (Including Surplus Revenue Appropriated) for the Support of the Budget	Library Tax	Bank Stock Taxes Due Taxing District	
Bedminster Township	$9,089.45	$21,503.35	$24,000.00	$33,270.29	$24,360.25	$630.81	.....	$2.82
Bernards Township	7,355.79	17,401.97	57,864.20	40,955.47	37,302.74	510.49	.....	4.86
Bernardsville Borough	11,967.08	28,311.10	93,890.80	65,355.16	33,232.81	830.52	$656.29	4.82
Branchburg Township	4,311.30	10,199.46	14,350.00	6,263.77	14,830.84	299.21	.....	2.38
Bridgewater Township	24,409.07	57,745.76	176,645.00	23,776.88	135,190.27	1,694.00	430.38	3.36
Bound Brook Borough	16,136.75	38,175.52	103,036.33	115,496.37	87,482.80	.....	3,098.70	4.88
Far Hills Borough	2,993.00	7,080.69	11,500.00	13,073.09	3,342.06	207.71	.....	3.36
Franklin Township	13,339.17	31,557.14	103,246.25	54,000.00	59,097.73	925.74	.....	4.36
Hillsborough Township	9,036.04	21,377.02	43,825.00	21,861.28	47,904.42	627.10	.....	3.10
Millstone Borough	417.81	988.43	2,300.00	1,333.24	972.21	29.00	.....	3.44
Montgomery Township	4,750.53	11,238.56	30,074.38	8,538.73	26,668.04	329.69	.....	3.34
Manville Borough	11,125.39	26,319.87	73,720.00	60,100.55	67,011.77	772.10	180.57	4.46
North Plainfield Borough	27,872.72	65,939.89	172,195.00	185,550.91	69,031.06	1,934.37	.....	4.69
The Township of Greenbrook	1,741.75	4,120.55	16,602.00	1,971.21	17,197.24	120.88	.....	4.08
Peapack-Gladstone Borough	5,714.05	13,518.03	26,880.00	21,108.67	9,881.35	396.56	331.17	3.42
Rocky Hill Borough	616.38	1,458.21	7,625.00	2,113.53	3,291.60	42.78	.....	5.54
Somerville Borough	23,660.53	55,974.90	139,511.88	149,227.46	100,502.40	.....	3,022.37	4.50
South Bound Brook Borough	4,130.45	9,771.61	25,694.00	34,457.32	40,608.18	286.65	.....	5.18
Warren Township	4,518.43	10,689.46	38,334.55	8,668.86	30,280.00	313.58	.....	4.00
Watchung Borough	3,784.64	8,953.51	18,770.00	25,643.55	32,182.25	262.66	.....	4.38
Totals	$186,970.33	$442,325.03	$1,180,064.39	$872,766.34	$840,370.02	$10,213.85	$7,719.48	

Total County Taxes Appropriated	$450,044.51
Bank Stock Taxes Due County	7,719.48
Net County Taxes Apportioned	$442,325.03
Total Amount of Miscellaneous Revenues (Including Surplus Revenues Appropriated) for the Support of the County Budget	$385,283.68

County Tax Rate per $100 of Valuation	$0.681769511488368
State School Tax Rate per $100 of Valuation	.288183263208143
County Library (Certain Municipalities)	.020000000000000

Abstract of Ratables and Exemptions in the County of Sussex, for the Year 1941

TAXING DISTRICT	TOTAL NUMBER OF ACRES AND LOTS ASSESSED		Value of Land Assessed	Value of Improvements Thereon Assessed	Total Value of Land and Imp. Assessed Exclusive of Second Class R. R. Property	Value of Second Class R. R. Property	Value of Personal Property Assessed	DEDUCTIONS		Net Valuation Taxable	Amounts Deducted Under Sec. 54:4-49 and Sec. 54:4-53 of Revised Statutes (Resulting from Prior Appeals and Corrected Errors)
	Acres	Lots						Household Goods and Other Exemptions Under Sec. 54:4-3.16 of Revised Statutes	Property Exempted Under Sec. 54:4-3.12 of Revised Statutes		
Andover Borough	657	151	$47,680	$215,950	$263,630	$3,415	$42,810	$7,900	$5,600	$296,355	.....
Andover Township	12,554	467	298,640	407,150	705,790	473	73,500	6,200	5,500	768,063	.....
Branchville Borough	108	245	69,500	325,450	394,950	2,125	113,473	16,400	6,500	487,648	.....
Byram Township	11,599	1,795	392,317	528,075	920,392	606	23,300	.....	7,075	937,223	$150
Frankford Township	19,966	1,750	534,210	854,965	1,389,175	3,622	236,900	19,500	11,850	1,598,347	1,875
Franklin Borough	2,199	979	3,718,500	1,817,225	5,535,725	21,466	249,080	66,500	19,000	5,720,771	100
Fredon Township	11,052	....	120,775	180,275	301,050	839	53,825	6,800	3,000	345,914	.....
Green Township	10,249	....	148,100	212,200	360,300	3,934	91,090	9,600	6,500	439,224	.....
Hamburg Borough	567	344	93,400	411,650	505,050	2,736	48,190	3,300	6,000	546,676	700
Hampton Township	15,105	65	182,185	256,775	438,960	516	92,660	11,400	4,500	516,236	300
Hardyston Township	17,543	304	361,375	331,080	692,455	4,463	93,420	15,700	7,900	766,738	.....
Hopatcong Borough	5,407	12,282	1,298,175	1,240,775	2,538,950	87	181,975	71,800	21,950	2,627,262	600
Lafayette Township	10,979	74	208,200	275,650	483,850	1,043	130,455	6,900	4,000	604,448	500
Montague Township	14,810	143	115,065	182,375	297,440	.....	20,100	.....	3,500	314,040	.....
Newton Town	430	1,613	750,950	2,784,700	3,535,650	14,050	439,255	37,300	33,000	3,918,655	16,900
Ogdensburg Borough	1,263	338	1,273,250	672,675	1,945,925	2,710	64,600	5,200	6,650	2,001,385	.....
Sandyston Township	25,392	259	147,925	230,825	378,750	.....	65,450	11,700	3,100	429,400	.....
Sparta Township	21,454	3,950	1,053,595	1,863,000	2,916,595	4,599	233,330	30,600	20,025	3,103,899	50
Stanhope Borough	531	1,741	178,350	461,850	640,200	.....	78,975	21,800	9,500	687,875	.....
Stillwater Township	15,318	616	201,970	432,050	634,020	10	92,050	15,100	7,500	703,480	.....
Sussex Borough	82	162	168,750	756,050	924,800	5,302	147,650	7,800	10,500	1,059,452	800
Vernon Township	42,043	2,317	724,380	622,675	1,347,055	5,042	131,850	5,600	8,100	1,470,247	.....
Walpack Township	14,094	5,105	160,500	131,325	291,825	.....	28,565	5,900	3,500	310,990	300
Wantage Township	37,238	297	516,725	692,400	1,209,125	4,367	250,220	25,500	10,650	1,427,562	1,100
Totals	290,640	34,997	$12,764,517	$15,887,145	$28,651,662	$81,405	$2,982,723	$408,500	$225,400	$31,081,890	$23,375

Abstract of Ratables and Exemptions in the County of Sussex, for the Year 1941—(Continued)

TAXING DISTRICT	Net Valuation on Which County, State and State School Taxes Are Apportioned	Number of Polls Assessed	Dog Taxes	PROPERTY EXEMPT FROM TAXATION							
				Public School Property	Other School Property	Public Property	Church and Charitable Property	Cemeteries and Graveyards	Other Exemptions Not Included in Foregoing Classifications—Real	Other Exemptions Not Included in Foregoing Classifications—Personal	Total Amount of Exempt Property
Andover Borough	$296,355	80	.....	$3,000	.....	.....	$11,500	$500	$4,900	$11,000	$30,900
Andover Township	768,063	126	.....	900	$250	$1,000	30,200	.....	.....	.....	32,350
Branchville Borough	487,648	.....	.....	2,000	.....	.....	10,200	.....	4,250	.....	16,450
Byram Township	937,073	.....	.....	25,100	.....	900	3,000	525	2,000	.....	31,525
Frankford Township	1,596,472	.....	.....	4,470	.....	14,520	12,600	1,600	.....	.....	33,190
Franklin Borough	5,720,671	1,064	.....	453,000	.....	11,600	85,700	400	.....	.....	550,700
Fredon Township	345,914	107	$97	6,100	.....	600	3,600	.....	.....	.....	10,300
Green Township	439,224	.....	119	12,700	.....	.....	14,200	2,100	.....	.....	29,000
Hamburg Borough	545,976	.....	.....	36,100	.....	15,600	25,400	.....	.....	.....	77,100
Hampton Township	515,936	.....	86	3,000	.....	2,000	5,000	500	.....	.....	10,500
Hardyston Township	766,738	.....	.....	34,550	.....	.....	1,400	8,100	550	.....	44,600
Hopatcong Borough	2,626,662	.....	.....	16,500	.....	31,450	50,350	.....	2,000	.....	100,300
Lafayette Township	603,948	262	149	28,000	.....	1,500	8,300	600	1,000	.....	39,400
Montague Township	314,040	.....	.....	6,200	.....	.....	2,825	50	.....	.....	9,075
Newton Town	3,901,755	.....	.....	210,000	29,500	120,500	230,200	14,500	65,600	.....	670,300
Ogdensburg Borough	2,001,385	277	.....	76,000	.....	17,500	13,000	2,000	.....	40,000	148,500
Sandyston Township	429,400	.....	.....	27,200	.....	.....	15,100	.....	.....	.....	42,300
Sparta Township	3,103,849	.....	.....	67,200	.....	24,800	42,600	3,000	.....	.....	137,600
Stanhope Borough	687,875	.....	.....	30,000	.....	26,000	12,400	.....	.....	.....	68,400
Stillwater Township	703,480	206	136	3,750	.....	600	16,900	3,000	55,500	.....	79,750
Sussex Borough	1,058,652	143	.....	65,000	.....	20,000	51,200	.....	18,300	.....	154,500
Vernon Township	1,470,247	.....	.....	22,550	.....	3,100	32,500	3,700	2,550	.....	64,400
Walpack Township	310,690	.....	.....	1,000	.....	.....	1,900	1,000	9,730	.....	13,630
Wantage Township	1,426,462	.....	.....	180,000	.....	67,800	12,100	35,500	30,150	6,000	331,550
Totals	$31,058,515	2,265	$587	$1,314,320	$29,750	$359,470	$692,175	$77,075	$196,530	$57,000	$2,726,320

Abstract of Ratables and Exemptions in the County of Sussex, for the Year 1941—(Concluded)

TAXING DISTRICT	APPORTIONMENT OF TAXES							
	State School Tax	Soldiers' Bonus Bond Tax	County Taxes Apportioned (Exclusive of Bank Stock Taxes)	Local Taxes to Be Raised (Exclusive of Bank Stock Taxes)—District School Tax	Local Taxes to Be Raised (Exclusive of Bank Stock Taxes)—Other Local Taxes	Total Amount of Misc'l Revenues (Including Surplus Revenue Appropriated) for the Support of the Budget	Bank Stock Taxes Due Taxing District	General Tax Rate to Apply per $100 Valuation (Tax Rate for Local Taxing Purposes)
Andover Borough	$855.82	.....	$2,886.28	$3,900.00	$6,991.02	$5,384.45	.....	$4.938
Andover Township	2,218.04	.....	7,480.36	8,500.00	5,059.90	19,274.74	.....	3.029
Branchville Borough	1,408.25	.....	4,749.33	6,500.00	6,075.04	7,005.00	$502.56	3.842
Byram Twp.	2,706.11	.....	9,126.39	9,429.00	10,571.44	15,295.00	.....	3.397
Frankford Twp.	4,610.34	.....	15,548.44	14,500.00	6,278.04	29,665.00	.....	2.562
Franklin Borough	16,520.34	.....	55,715.03	103,180.00	57,961.13	12,660.00	794.75	4.080
Fredon Township	998.94	.....	3,368.94	6,575.00	4,003.98	7,595.00	.....	4.321
Green Township	1,268.41	.....	4,277.71	9,385.00	3,808.58	10,325.00	.....	4.267
Hamburg Borough	1,576.69	.....	5,317.40	19,337.76	10,900.24	11,200.00	746.12	6.793
Hampton Township	1,489.94	.....	5,024.83	6,000.00	4,660.11	8,915.73	.....	3.327
Hardyston Township	2,214.21	.....	7,467.45	19,090.00	6,918.16	18,645.00	.....	4.655
Hopatcong Borough	7,585.36	.....	25,581.71	15,755.38	34,501.19	58,700.00	.....	3.176
Lafayette Township	1,744.10	.....	5,882.00	13,114.73	5,819.93	12,570.00	.....	4.395
Montague Township	906.90	.....	3,058.51	6,000.00	2,162.95	7,322.07	.....	3.863
Newton Town	11,267.62	.....	38,000.16	101,415.75	42,450.42	109,730.58	2,267.99	4.929
Ogdensburg Borough	5,779.67	.....	19,491.98	32,562.50	8,599.00	9,375.00	.....	3.320
Sandyston Township	1,240.04	.....	4,182.03	9,330.00	.....	9,400.00	.....	3.436
Sparta Township	8,963.40	.....	30,229.15	53,458.00	30,405.43	48,098.34	.....	3.965
Stanhope Borough	1,986.47	.....	6,699.38	11,049.32	7,993.24	18,626.64	.....	4.032
Stillwater Township	2,031.53	.....	6,851.37	13,250.00	5,104.54	10,700.00	.....	3.872
Sussex Borough	3,057.21	.....	10,310.47	30,065.00	4,052.46	23,750.00	1,286.58	4.483
Vernon Township	4,245.83	.....	14,319.10	22,000.00	8,872.28	15,857.08	.....	3.363
Walpack Township	897.22	.....	3,025.89	4,000.00	4,437.98	5,000.00	.....	3.975
Wantage Township	4,119.38	.....	13,892.67	41,640.00	9,765.32	35,250.00	.....	4.863
Totals	$89,691.82	.....	$302,486.58	$560,037.44	$287,392.38	$510,344.63	$5,598.00	

Total County Taxes Appropriated $308,084.58
Bank Stock Taxes Due County 5,598.00

Net County Taxes Apportioned $302,486.58

Total Amount of Miscellaneous Revenues (Including Surplus Revenues Appropriated) for the Support of the County Budget $390,360.61

County Tax Rate per $100 Valuation $0.9739247
State School Tax Rate per $100 of Valuation ..... .2887833

Abstract of Ratables and Exemptions in the County of Union, for the Year 1941

TAXING DISTRICT	TOTAL NUMBER OF ACRES AND LOTS ASSESSED		Value of Land Assessed	Value of Improvements Thereon Assessed	Total Value of Land and Imp. Assessed Exclusive of Second Class R. R. Property	Value of Second Class R. R. Property	Value of Personal Property Assessed	DEDUCTIONS		Net Valuation Taxable	Amounts Deducted Under Sec. 54:4-49 and Sec. 54:4-53 of Revised Statutes (Resulting from Prior Appeals and Corrected Errors)
	Acres	Lots						Household Goods and Other Exemptions Under Sec. 54:4-3.16 of Revised Statutes	Property Exempted Under Sec. 54:4-3.12 of Revised Statutes		
Clark Township	2,292	4,181	$997,140	$1,439,975	$2,437,115	$4,123	$485,980	$2,800	$19,500	$2,904,918	$5,000
Cranford Township	918	16,135	5,085,700	13,544,100	18,629,800	436,336	1,475,300	223,800	153,500	20,164,136	66,050
Elizabeth City	2,818	27,718	38,670,465	82,036,320	120,706,785	2,934,368	14,852,850	1,058,100	531,050	136,904,853	2,274,708
Fanwood Borough	131	3,018	543,850	1,750,250	2,296,100	25,046	315,234	56,500	48,500	2,531,380	.....
Garwood Borough	66	3,467	1,116,469	2,455,230	3,571,699	41,722	706,020	84,300	16,500	4,218,641	5,695
Hillside Township	624	10,201	5,086,380	14,894,400	19,980,780	28,121	2,374,196	357,800	164,950	21,860,347	152,895
Kenilworth Borough	160	6,529	877,692	1,235,450	2,113,142	10,617	219,675	18,400	8,225	2,316,809	32,135
Linden Borough	16	3,657	1,443,940	3,867,450	5,311,390	30,000	502,796	85,900	54,350	5,703,936	.....
Linden Township	4,477	22,221	10,389,309	37,265,742	47,655,051	183,823	16,258,669	187,900	101,000	63,808,643	.....
Linden City	4,493	25,878	11,833,249	41,133,192	52,966,441	213,823	16,761,465	273,800	155,350	69,512,579	319,410
Mountainside Borough	1,263	1,436	609,850	1,013,575	1,623,425	.....	197,041	33,100	15,450	1,771,916	2,300
New Providence Borough	1,443	3,381	781,725	1,580,650	2,362,375	1,454	202,300	27,300	22,000	2,516,829	.....
New Providence Township	2,484	6,969	548,880	884,475	1,433,355	500	51,500	5,400	11,600	1,468,355	1,000
Plainfield City	352	28,511	17,793,725	35,056,050	52,849,775	286,945	6,863,920	621,500	350,800	59,028,340	245,570
Rahway City	....	13,961	5,614,000	13,744,375	19,358,375	357,466	3,223,925	362,600	190,075	22,387,091	90,075
Roselle Borough	495	10,719	3,953,185	11,128,525	15,081,710	27,393	1,610,600	357,700	205,400	16,156,603	124,975
Roselle Park Borough	64	6,131	2,961,875	8,016,850	10,978,725	62,635	1,002,674	234,100	121,500	11,688,434	43,300
Scotch Plains Township	3,871	9,608	1,848,055	3,445,055	5,293,110	148	531,943	111,100	42,050	5,672,051	26,138
Springfield Township	2,144	3,532	1,961,440	3,186,050	5,147,490	4,241	518,955	91,100	53,640	5,525,946	3,100
Summit City	1,154	4,190	9,545,350	19,028,700	28,574,050	172,430	2,698,414	283,500	171,450	30,989,944	120,675
Union Township	5,784	6,500	9,087,285	17,977,615	27,064,900	13,466	2,786,410	549,900	313,550	29,001,326	78,231
Westfield Town	994	9,404	10,530,350	23,532,350	34,062,700	127,393	3,145,625	438,300	346,300	36,551,118	260,050
Totals	31,550	201,469	$129,448,665	$297,083,187	$426,531,852	$4,748,227	$60,024,027	$5,191,100	$2,941,390	$483,171,616	$3,851,307

Abstract of Ratables and Exemptions in the County of Union, for the Year 1941—(Continued)

TAXING DISTRICT	Amounts Added Under Sec. 54:4-53 of Revised Statutes (Resulting from Corrected Errors)	Net Valuation on Which County, State and State School Taxes Are Apportioned	PROPERTY EXEMPT FROM TAXATION							
			Public School Property	Other School Property	Public Property	Church and Charitable Property	Cemeteries and Graveyards	Other Exemptions Not Included in Foregoing Classifications—Real	Other Exemptions Not Included in Foregoing Classifications—Personal	Total Amount of Exempt Property
Clark Township	.....	$2,899,918	$111,000	.....	$103,431	$9,600	$7,160	$20,000	.....	$251,191
Cranford Township	.....	20,098,086	2,311,800	.....	129,400	306,400	2,500	36,700	.....	2,786,800
Elizabeth City	.....	134,630,145	7,269,700	$1,120,950	6,514,950	7,499,800	7,700	754,400	.....	23,167,500
Fanwood Borough	.....	2,531,380	82,000	.....	8,700	8,900	.....	.....	.....	99,600
Garwood Borough	.....	4,212,946	300,600	.....	75,026	48,705	.....	.....	.....	424,331
Hillside Township	.....	21,707,452	2,315,500	.....	352,445	409,850	215,000	.....	.....	3,292,795
Kenilworth Borough	.....	2,284,674	90,200	.....	289,215	17,500	42,750	.....	.....	439,665
Linden Borough	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Linden Township	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Linden City	.....	69,193,169	2,011,616	55,250	876,526	259,800	191,300	100,500	.....	3,494,992
Mountainside Borough	.....	1,769,616	101,200	.....	281,000	125,850	.....	.....	.....	508,050
New Providence Borough	.....	2,516,829	115,000	.....	345,600	69,800	.....	.....	.....	530,400
New Providence Township	$2,400	1,469,755	51,100	.....	94,515	15,875	.....	695,775	.....	857,265
Plainfield City	.....	58,782,770	2,058,900	255,400	966,150	2,868,600	47,900	376,400	.....	6,573,350
Rahway City	.....	22,297,016	1,419,400	168,600	2,058,925	1,392,250	49,300	26,800	.....	5,115,275
Roselle Borough	.....	16,031,628	1,136,000	.....	630,525	662,100	.....	.....	.....	2,428,625
Roselle Park Borough	.....	11,645,134	752,650	19,450	154,200	75,350	.....	15,900	.....	1,017,550
Scotch Plains Township	.....	5,645,913	620,275	.....	133,850	123,200	112,500	141,075	.....	1,130,900
Springfield Township	.....	5,522,846	792,700	.....	225,020	138,325	11,300	.....	.....	1,167,345
Summit City	.....	30,869,269	1,458,300	282,900	447,525	1,180,100	3,000	111,900	.....	3,483,725
Union Township	.....	28,923,095	1,788,000	.....	336,100	279,675	89,900	.....	.....	2,493,675
Westfield Town	.....	36,291,068	1,266,300	.....	365,400	1,043,500	77,400	310,000	.....	3,062,600
Totals	$2,400	$479,322,709	$26,052,241	$1,902,550	$14,388,503	$16,535,180	$857,710	$2,589,450	.....	$62,325,634

Abstract of Ratables and Exemptions in the County of Union, for the Year 1941—(Concluded)

TAXING DISTRICT	APPORTIONMENT OF TAXES								General Tax Rate to Apply per $100 Valuation (Tax Rate for Local Taxing Purposes)
	State School Tax	County Taxes Apportioned (Exclusive of Bank Stock Taxes)	Local Taxes to Be Raised (Exclusive of Bank Stock Taxes)—District School Tax	Local Taxes to Be Raised (Exclusive of Bank Stock Taxes)—Other Local Taxes	Total Amount of Misc'l Revenues (Including Surplus Revenue Appropriated) for the Support of the Budget	District Court Taxes	Regional High School Tax	Bank Stock Taxes Due Taxing District	
Clark Township	$8,392.95	$20,921.71	$32,050.00	$40,664.30	$54,287.33	$183.06	$10,881.19	.....	$3.90
Cranford Township	58,167.95	144,999.40	309,956.81	350,453.47	227,728.51	1,268.69	.....	.....	4.29
Elizabeth City	389,647.03	971,300.94	2,230,466.79	2,481,385.58	1,968,679.45	11,684.00	.....	$1,358.76	4.45
Fanwood Borough	7,326.33	18,262.86	52,471.38	49,595.17	51,669.13	171.50	.....	.....	5.05
Garwood Borough	12,193.12	30,394.67	62,988.23	91,889.74	73,473.80	265.94	17,027.49	30.26	5.10
Hillside Township	62,825.78	156,610.31	429,037.50	406,602.63	380,519.23	1,538.28	.....	558.08	4.84
Kenilworth Borough	6,612.31	16,482.98	36,980.00	64,591.12	65,270.55	161.90	9,015.60	.....	5.78
Linden Borough	.....	.....	.....	.....	.....	.....	.....	.....	....
Linden Township	.....	.....	.....	35,304.68	.....	.....	.....	.....	.06
Linden City	200,259.11	499,200.16	663,321.55	976,591.35	264,444.44	4,367.81	.....	662.34	3.38
Mountainside Borough	5,121.63	12,767.05	28,050.01	15,978.47	40,141.51	119.89	6,719.29	.....	3.89
New Providence Borough	7,284.22	18,157.88	53,791.50	31,883.24	68,875.00	423.54	.....	.....	4.44
New Providence Township	4,253.77	10,603.68	22,001.25	16,551.75	47,200.00	247.33	5,318.82	.....	4.02
Plainfield City	170,129.30	424,093.43	962,519.90	932,027.93	724,140.62	3,982.44	.....	2,074.90	4.23
Rahway City	64,532.10	160,863.77	331,801.24	438,744.04	333,190.74	1,407.50	.....	1,125.32	4.46
Roselle Borough	46,398.79	115,661.58	302,265.29	273,429.71	227,605.33	1,012.00	.....	1,082.86	4.58
Roselle Park Borough	33,703.39	84,014.84	214,082.50	152,544.19	148,071.56	825.22	.....	400.43	4.16
Scotch Plains Township	16,340.42	40,732.93	117,572.37	106,501.87	99,819.49	382.50	.....	.....	4.97
Springfield Township	15,984.24	39,845.05	77,030.00	116,725.64	154,990.48	929.39	21,813.61	326.24	4.93
Summit City	89,341.95	222,709.04	482,097.25	486,327.38	307,405.56	5,194.74	.....	3,542.32	4.15
Union Township	83,709.32	208,668.20	473,621.21	396,973.61	638,475.01	2,049.60	.....	663.25	4.02
Westfield Town	105,033.73	261,825.08	540,192.75	488,619.39	313,900.00	2,458.67	.....	2,213.71	3.83
Totals	$1,387,257.41	$3,458,115.56	$7,422,297.53	$7,953,385.26	$6,189,887.74	$38,674.00	$70,726.00	$14,038.47	

Total County Taxes Appropriated $3,472,154.03
Bank Stock Taxes Due County 14,038.47

Net County Taxes Apportioned $3,458,115.56

Total Amount of Miscellaneous Revenues (Including Surplus Revenues Appropriated) for the Support of the County Budget $774,434.83

County Tax Rate per $100 of Valuation $0.721458736
State School Tax Rate per $100 of Valuation ..... .289420845

Exhibit P-36.

Abstract of Ratables and Exemptions in the County of Warren, for the Year 1941

TAXING DISTRICT	TOTAL NUMBER OF ACRES AND LOTS ASSESSED		Value of Land Assessed	Value of Improvements Thereon Assessed	Total Value of Land and Imp. Assessed Exclusive of Second Class R. R. Property	Value of Second Class R. R. Property	Value of Personal Property Assessed	DEDUCTIONS		Net Valuation Taxable	Amounts Deducted Under Sec. 54:4-49 and Sec. 54:4-53 of Revised Statutes (Resulting from Prior Appeals and Corrected Errors)
	Acres	Lots						Household Goods and Other Exemptions Under Sec. 54:4-3.16 of Revised Statutes	Property Exempted Under Sec. 54:4-3.12 of Revised Statutes		
Allamuchy Township	12,306	69	$201,032	$303,575	$504,607	$1,374	$135,880	$13,400	$3,550	$624,911	$31
Alpha Borough	698	1,975	102,045	517,950	619,995	8,223	394,875	50,300	6,275	966,518	209
Belvidere Town	457	642	242,815	1,188,675	1,431,490	10,658	230,505	53,800	18,100	1,600,753	281
Blairstown Township	18,401	228	191,450	647,600	839,050	11,500	161,155	38,000	10,050	963,655	594
Franklin Township	14,049	308	302,725	592,275	895,000	2,493	798,965	33,500	7,000	1,650,958	72
Frelinghuysen Township	14,482	99	168,550	314,925	483,475	2,306	111,050	18,500	3,500	574,831	3,802
Greenwich Township	6,146	443	245,355	552,875	798,230	4,020	249,605	33,150	9,200	1,009,505	90
Hackettstown Town	1,293	1,425	561,350	2,391,100	2,952,450	6,767	522,050	82,700	38,700	3,359,867	4,828
Hardwick Township	11,619	16	90,320	109,195	199,515	20	47,000	10,100	3,300	233,135	.....
Harmony Township	13,662	379	264,717	486,458	751,175	3,218	147,916	33,800	10,000	858,509	37
Hope Township	11,329	221	151,200	291,075	442,275	.....	93,950	10,800	5,500	519,925	50
Independence Township	12,139	174	250,750	421,285	672,035	5,913	96,250	22,600	9,525	742,073	442
Knowlton Township	14,341	300	205,685	394,650	600,335	5,717	110,980	25,800	7,000	684,232	246
Liberty Township	6,469	515	138,890	218,460	357,350	168	21,550	3,100	3,500	372,468	.....
Lopatcong Township	4,326	1,621	311,020	668,190	979,210	44,580	269,105	38,000	13,150	1,241,745	1,101
Mansfield Township	16,295	1,386	277,123	547,090	824,213	1,498	212,095	35,400	8,500	993,906	87
Oxford Township	3,322	669	111,529	325,000	436,529	2,165	135,800	39,550	5,000	549,944	167
Pahaquarry Township	7,809	115	65,179	49,310	114,489	16	10,950	3,400	.....	122,055	3,210
Phillipsburg Town, 1st Ward	.....	935	569,725	1,469,275	2,039,000	559,812	353,425	50,500	5,000	2,896,737	19,630
Phillipsburg Town, 2d Ward	.....	532	243,500	619,625	863,125	.....	122,725	40,500	3,500	941,850	.....
Phillipsburg Town, 3d Ward	.....	1,076	496,950	1,469,325	1,966,275	.....	177,150	80,500	14,500	2,048,425	.....
Phillipsburg Town, 4th Ward	60	650	309,275	801,450	1,110,725	.....	593,750	29,600	5,350	1,669,525	.....
Phillipsburg Town, 5th Ward	1	1,136	466,125	1,285,775	1,751,900	.....	171,575	68,400	17,000	1,838,075	.....
Phillipsburg Town, 6th Ward	545	3,826	1,108,275	3,744,525	4,852,800	.....	1,376,475	114,000	42,000	6,073,275	.....
Pohatcong Township	7,344	2,106	339,184	955,200	1,294,384	10,600	403,193	55,400	15,485	1,637,292	158
Washington Borough	608	1,493	924,721	2,645,607	3,570,328	35,045	680,656	109,700	28,500	4,147,829	14,808
Washington Township	10,896	612	341,909	614,148	956,057	2,283	288,430	40,700	14,663	1,191,407	40
White Township	14,761	206	261,890	516,800	778,690	5,713	185,240	34,400	7,700	927,543	95
Totals	203,358	23,217	$8,943,289	$24,141,418	$33,084,707	$724,089	$8,122,300	$1,174,600	$315,548	$40,440,948	$49,978

Abstract of Ratables and Exemptions in the County of Warren, for the Year 1941—(Continued)

TAXING DISTRICT	Net Valuation on Which County, State and State School Taxes Are Apportioned	Number of Polls Assessed	Dog Taxes	PROPERTY EXEMPT FROM TAXATION							
				Public School Property	Other School Property	Public Property	Church and Charitable Property	Cemeteries and Graveyards	Other Exemptions Not Included in Foregoing Classifications—Real	Other Exemptions Not Included in Foregoing Classifications—Personal	Total Amount of Exempt Property
Allamuchy Township	$624,880	160	$217	$37,300	.....	.....	$2,500	$200	.....	.....	$40,000
Alpha Borough	966,309	645	.....	31,700	$10,700	.....	17,650	1,800	$2,600	$400	64,850
Belvidere Town	1,600,472	492	.....	280,000	.....	$145,200	132,000	15,000	.....	.....	572,200
Blairstown Township	963,061	385	217	82,000	400,000	1,600	29,500	3,000	.....	.....	516,100
Franklin Township	1,650,886	415	150	66,500	.....	1,200	24,600	2,900	.....	.....	95,200
Frelinghuysen Township	571,029	167	89	8,800	.....	.....	8,800	6,500	.....	.....	24,100
Greenwich Township	1,009,415	316	193	32,200	.....	.....	19,300	26,300	.....	.....	77,800
Hackettstown Town	3,355,039	962	446	130,000	275,600	14,800	104,700	1,400	279,000	.....	805,500
Hardwick Township	233,135	.....	.....	1,200	.....	.....	6,990	50	.....	.....	8,240
Harmony Township	858,472	400	153	45,500	.....	.....	13,600	100	.....	.....	59,200
Hope Township	519,875	182	131	15,500	.....	.....	28,000	1,100	200	.....	44,800
Independence Township	741,631	242	153	71,000	.....	3,950	29,150	2,600	500	.....	107,200
Knowlton Township	683,986	330	162	18,125	.....	.....	24,450	3,950	5,000	.....	51,525
Liberty Township	372,468	96	62	3,600	.....	.....	1,750	200	.....	.....	5,550
Lopatcong Township	1,240,644	411	.....	49,500	.....	3,200	7,400	.....	.....	.....	60,100
Mansfield Township	993,819	320	156	11,725	.....	22,500	22,800	300	18,075	.....	75,400
Oxford Township	549,777	401	.....	60,500	.....	.....	46,050	600	.....	.....	107,150
Pahaquarry Township	118,845	36	9	1,000	.....	.....	1,000	1,100	.....	.....	3,100
Phillipsburg Town, 1st Ward	2,877,107	614	.....	196,850	.....	13,800	54,000	.....	750,000	.....	1,014,650
Phillipsburg Town, 2d Ward	941,850	468	.....	.....	42,000	.....	49,000	.....	.....	.....	91,000
Phillipsburg Town, 3d Ward	2,048,425	835	.....	108,000	.....	.....	41,500	.....	.....	.....	149,500
Phillipsburg Town, 4th Ward	1,669,523	322	.....	21,700	19,900	219,000	62,900	.....	.....	.....	323,500
Phillipsburg Town, 5th Ward	1,838,075	691	.....	.....	.....	25,500	22,600	28,000	.....	.....	76,100
Phillipsburg Town, 6th Ward	6,073,275	1,155	.....	1,040,000	.....	19,000	213,650	10,000	60,000	3,000	1,345,650
Pohatcong Township	1,637,134	575	.....	27,200	.....	1,500	19,500	200	.....	.....	48,400
Washington Borough	4,133,021	1,305	.....	235,450	.....	43,685	130,930	.....	6,800	.....	416,865
Washington Township	1,191,367	424	266	44,500	.....	11,000	7,200	4,000	.....	.....	66,700
White Township	927,448	384	.....	61,000	.....	1,000	23,000	2,000	.....	.....	87,000
Totals	$40,390,970	12,733	$2,404	$2,680,850	$748,200	$526,935	$1,144,520	$111,300	$1,122,175	$3,400	$6,337,380

Abstract of Ratables and Exemptions in the County of Warren, for the Year 1941—(Concluded)

TAXING DISTRICT	APPORTIONMENT OF TAXES							General Tax Rate to Apply per $100 Valuation (Tax Rate for Local Taxing Purposes)
	State School Tax	County Taxes Apportioned (Exclusive of Bank Stock Taxes)	Local Taxes to Be Raised (Exclusive of Bank Stock Taxes)—District School Tax	Local Taxes to Be Raised (Exclusive of Bank Stock Taxes)—Other Local Taxes	Total Amount of Misc'l Revenues (Including Surplus Revenue Appropriated) for the Support of the Budget	Library Tax	Bank Stock Taxes Due Taxing District	
Allamuchy Township	$1,826.13	$4,784.55	$15,100.00	$4,392.73	$11,011.50	$124.98	.....	$4.20
Alpha Borough	2,823.91	7,398.79	27,956.80	6,800.08	41,193.26	193.26	.....	4.67
Belvidere Town	4,677.17	12,254.41	30,021.15	19,012.91	26,861.00	.....	$680.37	4.12
Blairstown Township	2,814.42	7,373.92	24,886.00	7,201.42	29,373.02	192.61	444.77	4.41
Franklin Township	4,824.50	12,640.42	23,800.00	6,671.71	19,426.54	330.18	.....	2.92
Frelinghuysen Township	1,668.76	4,372.23	9,100.00	5,940.28	11,676.00	114.21	.....	3.69
Greenwich Township	2,949.88	7,728.84	19,457.00	2,234.59	14,376.50	201.88	.....	3.23
Hackettstown Town	9,804.66	25,688.70	52,240.00	29,264.53	56,026.48	.....	2,651.13	3.48
Hardwick Township	681.31	1,785.06	5,641.00	2,455.36	5,285.00	46.63	.....	4.55
Harmony Township	2,508.77	6,573.11	21,117.50	10,818.57	21,083.50	171.69	.....	4.80
Hope Township	1,519.27	3,980.55	9,782.00	2,047.88	12,666.00	103.98	300.05	3.35
Independence Township	2,167.32	5,678.48	15,500.00	8,662.53	19,085.29	148.33	.....	4.33
Knowlton Township	1,998.86	5,237.11	13,030.00	5,959.66	18,854.50	136.79	.....	3.85
Liberty Township	1,088.49	2,851.90	3,800.00	4,762.99	7,398.50	74.49	.....	3.38
Lopatcong Township	3,625.62	9,499.30	23,646.00	5,615.25	17,025.00	248.13	.....	3.43
Mansfield Township	2,904.31	7,609.42	8,200.00	15,570.43	10,930.00	198.76	.....	3.47
Oxford Township	1,606.65	4,209.50	23,900.00	1,711.38	17,645.50	109.96	.....	5.73
Pahaquarry Township	347.31	909.97	300.00	3,824.56	2,975.00	23.77	.....	4.43
Phillipsburg Town, 1st Ward	45,145.51	118,283.44	265,179.00	273,076.50	242,400.00	.....	2,543.67	4.54
Phillipsburg Town, 2d Ward	.....	.....	.....	.....	.....	.....	.....	.....
Phillipsburg Town, 3d Ward	.....	.....	.....	.....	.....	.....	.....	.....
Phillipsburg Town, 4th Ward	.....	.....	.....	.....	.....	.....	.....	.....
Phillipsburg Town, 5th Ward	.....	.....	.....	.....	.....	.....	.....	.....
Phillipsburg Town, 6th Ward	.....	.....	.....	.....	.....	.....	.....	.....
Pohatcong Township	4,784.31	12,535.13	26,212.50	8,500.49	20,041.00	327.43	.....	3.20
Washington Borough	12,078.21	31,645.51	62,467.85	52,134.43	47,674.60	.....	1,807.38	3.82
Washington Township	3,481.61	9,122.00	16,200.00	8,282.16	16,583.41	238.27	.....	3.13
White Township	2,710.35	7,101.24	21,037.50	1,175.66	23,262.00	185.49	.....	3.47
Totals	$118,037.33	$309,263.58	$718,574.30	$486,116.10	$692,853.60	$3,170.84	$8,427.37	

Total County Taxes Appropriated	$317,690.95	County Tax Rate per $100 of Valuation	$0.7656750
Bank Stock Taxes Due County	8,427.37	State School Tax Rate per $100 of Valuation	.2922369
Net County Taxes Apportioned	309,263.58	County Library Tax Rate	.02
Total Amount of Miscellaneous Revenues (Including Surplus Revenues Appropriated) for the Support of the County Budget	285,922.79		

Abstract of Ratables and Exemptions in the State of New Jersey, for the Year 1941

COUNTY	Value of Land Assessed	Value of Improvements Thereon Assessed	Total Value of Land and Imp. Assessed Exclusive of Second Class R. R. Property	Value of Second Class R. R. Property	Value of Personal Property Assessed	DEDUCTIONS		
						Household Goods and Other Exemptions Under Sec. 54:4-3.16 of Revised Statutes	Deduction for Debt (Other than Mortgage Indebtedness) Under Sec. 54:4-15 of Revised Statutes	Property Exempted Under Sec. 54:4-3.12 of Revised Statutes
Atlantic	$59,251,599	$63,498,838	$122,750,437	$982,174	$10,665,884	.....	.....	$680,750
Bergen	157,527,550	270,367,637	427,895,187	3,022,399	50,416,975	$7,959,040	.....	4,266,003
Burlington	13,735,504	37,971,606	51,707,110	157,380	7,491,642	1,504,175	.....	759,490
Camden	67,076,696	154,862,545	221,939,241	2,997,868	30,544,891	6,023,025	.....	1,885,960
Cape May	19,813,423	28,410,108	48,223,531	410,525	3,344,110	73,550	.....	384,080
Cumberland	14,048,061	28,090,735	42,138,796	258,167	8,181,336	1,600,850	.....	532,590
Essex	413,200,051	738,762,046	1,151,962,097	10,230,127	229,022,648	10,829,375	*$743,600	3,759,825
Gloucester	13,905,232	34,372,780	48,278,012	220,546	7,196,875	1,470,000	.....	676,500
Hudson	368,474,044	500,611,481	869,085,525	139,683,483	111,921,089	.....	.....	.....
Hunterdon	6,482,944	18,061,810	24,544,754	219,418	59,286,148	778,175	.....	279,270
Mercer	55,482,492	144,628,285	(d)199,860,852	2,536,627	36,456,092	2,028,425	.....	855,954
Middlesex	61,395,802	105,854,273	167,250,075	5,831,544	24,066,214	750,838	650	1,164,335
Monmouth	69,884,417	100,986,416	170,870,833	794,794	25,941,547	1,839,753	.....	1,431,630
Morris	34,526,099	71,036,831	105,562,930	711,437	11,878,081	1,728,425	.....	1,078,295
Ocean	18,002,191	22,645,469	40,647,660	207,665	4,004,304	476,640	.....	536,030
Passaic	104,110,314	221,241,010	325,351,324	1,397,896	31,992,244	.....	.....	1,553,950
Salem	7,033,350	21,846,547	28,879,897	78,557	15,295,657	790,225	.....	248,770
Somerset	17,794,017	39,376,440	57,170,457	709,674	7,833,319	98,500	13,750	553,725
Sussex	12,764,517	15,887,145	28,651,662	81,405	2,982,723	408,500	.....	225,400
Union	129,448,665	297,083,187	426,531,852	4,748,227	60,024,027	5,191,100	.....	2,941,390
Warren	8,943,289	24,141,418	33,084,707	724,089	8,122,300	1,174,600	.....	315,548
Totals	$1,652,900,257	$2,939,736,607	$4,592,386,939	$176,004,002	$746,668,106	$44,725,196	$758,000	$24,129,495

* Parsonages.

Abstract of Ratables and Exemptions in the State of New Jersey, for the Year 1941—(Continued)

COUNTY	Net Valuation Taxable	Amounts Deducted Under Sec. 54:4-49 and Sec. 54:4-53 of Revised Statutes (Resulting from Prior Appeals and Corrected Errors)	Amounts Added Under Sec. 54:4-53 of Revised Statutes (Resulting from Corrected Errors)	Amounts Added for Equalization Under Sec. 54:3-17 of Revised Statutes	Amounts Deducted for Equalization Under Sec. 54:3-17 of Revised Statutes	Net Valuation on Which County, State and State School Taxes Are Apportioned	Number of polls Assessed	Dog Taxes
Atlantic	$133,717,745	$1,389,310	.....	$1,305,650	.....	$133,634,085	8,088	.....
Bergen	469,109,518	11,887,354	$870,316	.....	$3,964,157	454,128,323	.....	.....
Burlington	57,092,467	132,682	150	.....	.....	56,959,935	6,960	$2,710
Camden	247,573,015	10,854,458	366,030	.....	.....	237,084,587	11,716	475
Cape May	51,520,536	164,500	14,525	.....	.....	51,370,561	381	84
Cumberland	48,444,859	68,440	.....	.....	.....	48,376,419	8,208	751
Essex	1,375,882,072	77,519,105	2,275,378	.....	.....	1,300,638,345	16,131	.....
Gloucester	53,548,933	62,325	4,420	.....	.....	53,491,028	12,907	1,552
Hudson	1,120,690,097	24,095,713	.....	.....	.....	1,096,594,384	.....	.....
Hunterdon	82,992,875	66,703	24,130	.....	.....	82,950,302	9,501	4,084
Mercer	235,969,192	6,762,589	17,437	.....	.....	229,224,040	250	.....
Middlesex	195,232,010	3,398,102	35,704	.....	.....	191,869,612	.....	129
Monmouth	194,335,791	1,242,153	.....	1,139,468	389,421	193,843,685	4,799	1,608
Morris	115,345,728	216,075	4,905	.....	.....	115,134,558	3,468	149
Ocean	43,846,959	219,963	.....	392,785	.....	44,019,781	.....	.....
Passaic	357,187,514	3,095,976	29,050	.....	.....	(g)355,494,033	17,461	.....
Salem	43,215,116	52,414	14,385	.....	.....	43,177,087	6,317	2,010
Somerset	65,047,475	168,506	.....	.....	.....	64,878,969	.....	.....
Sussex	31,081,890	23,375	.....	.....	.....	31,058,515	2,265	587
Union	483,171,616	3,851,307	2,400	.....	.....	479,322,709	.....	.....
Warren	40,440,948	49,978	.....	.....	.....	40,390,970	12,733	2,404
Totals	$5,445,446,356	$145,321,028	$3,658,830	$2,837,903	$4,353,578	$5,303,641,928	121,185	$16,543

Abstract of Ratables and Exemptions in the State of New Jersey, for the Year 1941—(Continued)

COUNTY	PROPERTY EXEMPT FROM TAXATION							
	Public School Property	Other School Property	Public Property	Church and Charitable Property	Cemeteries and Graveyards	Other Exemptions Not Included in Foregoing Classifications—Real	Other Exemptions Not Included in Foregoing Classifications—Personal	Total Amount of Exempt Property
Atlantic	$3,806,485	.....	$12,432,971	$2,906,736	$124,065	.....	.....	$19,270,257
Bergen	26,598,524	$2,856,400	23,513,196	9,033,392	1,311,919	$11,644,170	$85,625	75,043,226
Burlington	2,811,025	1,825,065	2,422,508	2,896,168	242,645	7,741,421	.....	17,438,832
Camden	14,582,465	2,277,730	27,937,535	10,121,853	1,236,095	990,832	268,300	57,414,810
Cape May	1,406,605	81,120	5,032,757	1,281,215	11,400	1,987,030	.....	9,800,127
Cumberland	2,917,525	86,500	5,250,125	1,847,900	151,800	16,045	.....	10,269,895
Essex	62,429,650	7,753,800	138,379,760	53,149,330	5,942,500	343,200	7,318,675	275,316,915
Gloucester	3,290,525	26,375	2,528,030	1,382,235	72,875	256,130	48,175	7,604,345
Hudson	50,251,027	10,946,150	121,208,204	33,123,650	3,156,700	1,822,750	.....	220,508,481
Hunterdon	1,234,700	11,200	650,965	1,159,450	105,900	3,638,905	118,708	6,919,828
Mercer	18,762,015	23,290,575	40,315,611	13,755,405	638,745	1,779,010	87,000	98,628,361
Middlesex	13,900,872	9,372,020	12,908,667	9,588,868	430,625	3,369,825	49,700,350	99,271,227
Monmouth	7,935,200	1,121,775	13,932,790	6,103,720	463,000	10,889,760	.....	40,446,245
Morris	5,141,485	1,720,520	3,429,810	5,716,300	424,600	13,433,995	3,650	29,870,360
Ocean	1,574,160	545,400	3,289,263	889,250	53,700	452,815	2,400	6,806,988
Passaic	21,022,320	1,347,430	30,571,445	19,439,355	836,925	962,225	120,100	74,299,800
Salem	1,119,300	228,900	730,440	684,400	92,890	72,850	32,700	2,961,480
Somerset	3,221,200	321,600	1,661,800	1,936,400	89,600	3,485,758	521,411	11,237,769
Sussex	1,314,320	29,750	359,470	692,175	77,075	196,530	57,000	2,726,320
Union	26,052,241	1,902,550	14,388,503	16,535,180	857,710	2,589,450	.....	62,325,634
Warren	2,680,850	748,200	526,935	1,144,520	111,300	1,122,175	3,400	6,337,380
Totals	$272,052,494	$65,993,060	$461,470,785	$193,387,502	$16,432,069	$66,794,876	$58,367,494	$1,134,498,280

Abstract of Ratables and Exemptions in the State of New Jersey, for the Year 1941—(Concluded)

COUNTY	APPORTIONMENT OF TAXES							
	State School Tax	County Taxes Apportioned (Exclusive of Bank Stock Taxes)	Local Taxes to Be Raised (Exclusive of Bank Stock Taxes)—District School Tax	Local Taxes to Be Raised (Exclusive of Bank Stock Taxes)—Other Local Taxes	Total Amount of Misc'l Revenues (Including Surplus Revenue Appropriated) for the Support of the Budget	District Court Taxes	Library Tax	Bank Stock Taxes Due Taxing District
Atlantic	$392,712.00	$1,575,949.23	$1,941,527.80	$5,205,451.86	$2,225,479.85	.....	$8,649.99	$7,743.03
Bergen	1,300,716.73	(a)3,625,752.18	8,922,336.13	8,813,270.19	8,863,495.13	$51,500.00	.....	32,103.76
Burlington	163,932.26	628,834.23	(b)1,430,361.02	542,557.96	1,077,388.80	3,135.00	14,132.09	8,660.09
Camden	680,892.95	2,442,009.09	(c)3,967,651.32	4,723,320.91	6,081,356.56	.....	16,159.07	7,894.67
Cape May	149,971.08	288,542.17	524,262.75	2,031,149.18	1,561,023.24	.....	9,013.90	3,878.00
Cumberland	140,095.84	415,099.22	910,873.85	558,111.87	1,169,918.50	.....	.....	6,605.24
Essex	3,991,057.85	9,379,346.11	19,062,225.03	35,839,382.09	18,546,614.37	23,500.00	.....	99,010.24
Gloucester	153,783.09	423,771.73	1,156,514.15	657,422.51	683,744.08	.....	.....	8,228.27
Hudson	3,052,578.17	11,128,231.09	13,739,343.29	28,756,718.70	8,144,341.01	29,500.00	.....	23,055.99
Hunterdon	227,707.25	249,298.75	361,389.42	323,236.01	320,390.50	.....	7,246.10	7,101.59
Mercer	675,509.24	1,939,719.44	4,015,524.98	3,653,823.85	5,011,167.53	.....	7,598.67	15,850.61
Middlesex	549,699.70	2,375,000.98	4,014,306.11	3,816,102.59	5,667,006.47	.....	.....	14,635.20
Monmouth	533,113.80	2,069,327.96	2,846,046.23	4,580,189.11	2,552,232.87	4,717.50	16,166.44	14,834.84
Morris	328,995.57	1,078,236.03	2,473,781.98	1,484,910.73	2,497,730.67	12,096.00	24,169.91	12,587.66
Ocean	125,848.72	637,110.44	638,264.03	1,066,598.73	1,287,364.60	.....	8,770.96	7,889.56
Passaic	1,029,608.43	3,020,586.94	(e)5,917,022.29	6,249,624.22	6,911,619.42	.....	.....	41,366.88
Salem	121,970.09	367,587.65	531,164.11	232,820.35	402,222.87	.....	.....	5,483.59
Somerset	186,970.33	442,325.03	1,180,064.39	872,766.34	840,370.02	.....	10,213.85	7,719.48
Sussex	89,691.82	302,486.58	560,037.44	287,392.38	510,344.63	.....	.....	5,598.00
Union	1,387,257.44	3,458,115.56	(f)7,493,023.53	7,953,385.26	6,189,887.74	38,674.00	.....	14,038.47
Warren	118,037.33	309,263.58	718,574.30	486,116.10	692,853.60	.....	3,170.84	8,427.37
Totals	$15,400,149.69	$46,156,593.99	$82,404,294.15	$118,134,350.94	$81,245,552.46	$163,122.50	$125,291.82	$352,712.54

(a) This includes $275,000.00 shown separately by Bergen County for County Hospital Tax.
(b) This includes $56,419.00 shown separately by Burlington County for Rancocas Valley Regional High School Tax.
(c) This includes $53,130.00 shown separately by Camden County for Lower County Regional High School Tax.
(d) City of Trenton is entitled to a deduction of $249,925.00 for exemptions on Parsonages included in Column "D" under exempt property.
(e) This includes $58,988.84 shown separately by Passaic County for Regional High School Tax.
(f) This includes $70,726.00 shown separately by Union County for Regional High School Tax.
(g) There is an assessment of $1,373,445.00 on property of the S. U. M. located in the City of Paterson, subject to State Taxation only. County taxes are apportioned on a valuation of $354,120,588.00.

Average State Tax Rate, $4.818 per $100.

Exhibit P-37
7/22/43

7. Total amount of Franchise Tax for the year 1941, apportioned to each of the following municipalities

Municipality	Amount
Jersey City	$1,202,868.46
Hoboken	103,461.72
Weehawken	143,434.29
West New York	74,981.42

1941
50% of franchise tax $2,013,406.45
Total valuation 2nd Cl. property in State $175,698,683

			Tax
J. City Valuation 2nd Cl. / Total valuation State	$\frac{104,967,581}{175,698,683}$	= 59.74295265% × $2,013,406.45 =	$1,202,868.46
Hoboken valuation 2nd Cl. / Total valuation State	$\frac{9,028,524}{175,698,683}$	= 5.138640,680% × $2,013,406.45 =	$103,461.72
Weehawken valuation 2nd Cl. / Total valuation State	$\frac{12,516,706}{175,698,683}$	= 7.123961196% × $2,013,406.45 =	$143,434.29
West New York Val. 2nd Cl. / Total valuation State	$\frac{6,543,208}{175,698,683}$	= 3.724107596% × $2,013,406.45 =	$ 74,981.42

Opinion of Supreme Court.

(Filed August 29, 1945.)

NEW JERSEY SUPREME COURT.

Nos. 210, 211, 213, January Term 1944.
(Reported 133 N. J. L. 202, 43 Atl. (2d) 799.)

CITY OF JERSEY CITY, et als.,
Prosecutors,
v.
STATE BOARD OF TAX APPEALS, et als.,
Respondents.

Argued Jan. 19, 1944; decided Aug. 29, 1945.

On Certiorari.

Before Justices PARKER, HEHER and PERSKIE.

For prosecutors: Charles A. Rooney, Charles Hershenstein, Raymond C. Connell, John J. Fallon, John N. Platoff, Irwin Rubinstein.

For respondents: David T. Wilentz, John Solan, Maximilian M. Stallman; Collins & Corbin; Conover English; Raymond Schroeder; Katzenbach, Gildea & Rudner; Carpenter, Gilmour & Dwyer; Wall, Haight, Carey & Hartpence; Walter T. Margetts, Jr., Henry Lanahan.

The opinion of the court was delivered by

PERSKIE, *J.* These are railroad tax cases. They involve the "railroad tax law of 1941." Three questions require decision.

1. Is the "railroad tax law of 1941," P. L. 1941, Ch. 291, as amended by P. L. 1942, Ch. 169, constitutional?

2. Are the provisions of R. S. 54:26-10 and section 34 of P. L. 1941, supra, requiring the State Board of Tax Appeals to conclude its hearings on or before October fifteenth following the filing of the complaint (cf. R. S. 54:29A-34) directory or mandatory?

3. Are prosecutors qualified to prosecute these writs?

The facts which give rise to the posed questions are substantially and briefly stated in what follows. The State Tax Commissioner (hereafter referred to as Commissioner), pursuant to the law prevailing at each time, made three separate computations of and levies for the taxes due from the railroad companies to the State, for the tax year of 1941, upon the property used by these railroad companies for railroad purposes.

The first was made on June 3, 1941 pursuant to R. S. 54:19-1, et seq., (Taxation of Railroad and Canal Companies). This computation was based upon the "average rate of taxation" (R. S. 54:24-2), for the year of 1941, of $4.818 on each one hundred dollars of valuation, as ascertained under R. S. 54:24-3, and resulted in a total tax against the railroads of $18,322,164.33.

The second was made on November 15, 1941, pursuant to P. L. 1941, Ch. 291 ("railroad tax law of 1941"). This computation, based upon the fixed statutory rate of $3 for each one hundred dollars of valuation, resulted in an ad valorem tax of $11,016,118.17, and based upon the prescribed

statutory formula resulted in a separate franchise or excise tax of $4,163,108.43, or a total of $15,179,-226.60.

The third was made on May 16, 1942, pursuant to P. L. 1941, Ch. 291, as amended by P. L. 1942, Ch. 169. This computation resulted in a franchise or excise tax of $4,026,812.90, which when added to the ad valorem tax of $11,016,118.17, fixed under P. L. 1941, supra, totals $15,042.913.07. Thus the net face difference between the first and third computation is $3,279,233.26.

No useful purpose would be served in detailing each of the many appeals taken to the State Board of Tax Appeals by prosecutors allegedly consisting of aggrieved municipalities and citizens and taxpayers thereof, or to detail the many writs allowed by the Supreme Court, or to set down the many reasons asserted in support of either or both of the remedies invoked.

For, conceding all other reasons to be secondary, prosecutors applied for and were allowed rules limiting the issues first to be argued and reserving all other reasons. The issues so limited relate (1) to the first posed question, "excepting however any constitutional issue based upon contentions that the assessment of the property for the year 1941 purporting to have been made under Ch. 291 (P. L. 1941) are not at true value," and (2) to the second posed question. The third posed question relates to respondents' challenge of prosecutors' right to be heard.

As to the First Question.

From the very beginning, property used for railroad purposes has occupied and continues to

occupy a separate classification, from all other property, in the field of taxation. The particular or special use to which railroad property has been and continues to be put is the basis which supports both its separate classification and the legislative power to impose a separate tax to be paid on property so classified and used. When, as here, the separate classification is proper and embraces all property in that classification, a law which taxes the property so classified may provide what tax the railroad companies, owners of the separately classified property, shall pay, and in what way it should be assessed provided that the assessment of their property is made "under general laws and by uniform rules, according to its true value." (Art. IV, sec. VII, par. 12, State Constitution). That has been and is the settled law of this State. State Board of Assessors v. Central R. R. Co., 48 N. J. L. 146, 4 A. 578; cf. Bergen & Dundee R. R. Co. v. State Board of Assessors, 74 N. J. L. 742, 67 A. 668 (Duffield Act of 1905); Central R. R. Co. v. State Board of Assessors, 75 N. J. L. 771, 69 A. 239 (Perkins Acts of 1906).

However morally persuasive may be the philosophy underlying the contentions made that there can be no constitutional justification (cf. Art. I, par. 16, and Art. IV, sec. VII, par. 12, State Constitution), under our system of spreading the burden of taxation equally on all property, for imposing a lesser tax burden on property used for railroad purposes than is imposed on other property, that contention is logically inconsistent and legally without merit. It is inconsistent with the admission that property used for railroad purposes may properly be separately classed and runs afoul

of the aforestated cases. Equality of the burden upon all taxable property can only be attained if and when there shall be but one general tax law applicable alike to all taxable property irrespective of its particular use.

That, however, continues to be the "Dream unrealized." Central R. R. Co. of N. J. v. State Tax Dept., 112, N. J. L. 5, 15, 169 A. 489, cer. den. 293 U. S. 568, 79, L. ed. 667. There is no constitutional objection either to the classification or rate features to the legislation in question. Nor can there be any objection to the separation of the franchise tax from the ad valorem tax. Jersey Central Power & Light Co. v. Asbury Park, 128 N. J. L. 141, 24 A. 2d. 526, affirmed 129 N. J. L. 253, 29A. 2d. 129. As to future taxation for which it was designed, the legislation, upon its face, is free from constitutional restraint. As to the tax year of 1941 it is not free from such constitutional restraint.

The legislature is supreme in its exclusive field of taxation. For in a sense all taxes levied for state, county or municipal purposes are state taxes. But this supremacy is subject to its irrepealable contracts and constitutional restraints. State Board of Assessors v. Central R. R. Co. supra; cf. Jersey City v. Martin, 126 N. J. L. 353, 360, 361, 19A. 2d. 40.

As to the tax year of 1941, the legislation in question clearly contravenes Art. I, par. 20, of our State Constitution which provides: "No donation of land or appropriation of money shall be made by the State or any municipal corporation to or for the use of any society, association or corporation whatever."

For a little over a third of a century prior to the effective date (July 22, 1941) of the "railroad tax law of 1941," property used for railroad and canal purposes was taxed pursuant to R. S. 54:19-1, et seq., which has for its source P. L. 1888, Ch. 208, as amended and supplemented. Under that law (R. S. 54:19-1, et seq.), the Commissioner on or before the first day of June following his compilation of valuations and within ten days thereafter, was obliged to serve a statement upon the treasurer of each railroad company showing, inter alia, the amount levied against such company. R. S. 54:27-1. The amount as shown by this statement became due and payable on any day between June first and December first following. R. S. 54:27-2. If any part of these taxes remained unpaid on December first following the levying thereof such taxes were "considered in default" and bore interest. They were a "lien paramount to all other liens upon all the lands and tangible property and franchises of the (railroad) company in this state." That lien took effect on June first of the year in which it was payable and it was * * *" a debt due from the company to the State for which an action at law or a suit in equity may be maintained and * * * (it was) a preferred debt in case of insolvency." R. S. 54:27-4. The State admittedly had a vested right to the taxes as first computed under R. S. 54:27-4. Wilentz v. Hendrickson, 133 N. J. Eq. 447, 33A. 2d. 366, affirmed 135 N. J. Eq. 244, 38A. 2d. 199.

It was in this posture of the railroad tax law that the legislature, on July 22, 1941, passed P. L. 1941, Ch. 290, and later amended by P. L. 1942, Ch. 241 (Railroad Settlement Acts), and P. L.

1941, Ch. 291, later amended by P. L. 1942, Ch. 169 ("railroad tax law of 1941"). It is conceded—in-fact—urged by respondents, that Ch. 291 of P. L. 1941, "took up the matter (of railroad taxation) where Ch. 290 (P. L. 1941) left off," and that P. L. 1941, Ch. 291, "should not and can not be fairly construed without reference to its companion act Ch. 290 (P. L. 1941)." We concur.

We now know that P. L. 1941, Ch. 290, purporting to remit, cancel and abate the state's vested right to an integrated part of the tax debt which the railroads owed to it, a debt which had for its source compensation for the use of the money, etc., due the State, more commonly denominated as statutory delinquent interest, without legal, moral or equitable consideration, was unconstitutional. It contravened Art. I, par. 20 of our State Constitution. Wilentz v. Hendrickson, supra.

We turn to P. L. 1941, Ch. 291, as amended, supra, to the end of ascertaining whether it too is subject to the same infirmity inherent in P. L. 1941, Ch. 290, as amended, supra.

P. L. 1941, Ch. 291 ("railroad tax law of 1941") is entitled "An Act relating to taxation of railroads," and repeals "chapters nineteen through twenty nine, inclusive, of Title 54 of the Revised Statutes." See title and sec. 75. Notwithstanding the stated repealer, the legislative direction is that it ("railroad tax law of 1941") be construed as a revision of the aforesaid repealed chapters and is "not to affect any pending litigation, nor to repeal, cancel, cause to lapse or otherwise affect in any manner any assessment or the lien or obligation to pay any taxes heretofore assessed to any taxpayer, or the legal authority to collect taxes,

interest and penalties which have accrued under any provision of law repealed by this act, or under any other law, except as specifically provided in this act. Nor shall this act affect in any manner any distribution, allotment or apportionment of tax receipts made or required to be made under any provision of law repealed by this act."

It provides that "all other state and local taxes of or upon franchises or property used for railroad purposes, which may have been assessed for the first year in which the act becomes effective upon any taxpayer subject to taxation hereunder prior to the enactment of this act *shall be abated and be cancelled of record as of the effective date hereof.*" (Italics supplied.)

It provides that in the first year for which this act is operative, "valuations made by the Commissioner for that year, under chapters nineteen through twenty nine, inclusive, of Title 54 of the Revised Statutes shall constitute the basis of property assessments under this act," Sec. 73; it provides a flat rate of $3 for each one hundred dollars of valuation on "all property used for railroad purposes upon the true value thereof, Sec. 7; it removes the franchise or excise tax from its theretofore classification under sub-division IV of R. S. 54:22-1; it provides for a separate franchise or excise tax and for the specific base, rate and method of computing the tax thereon, and further provides that the receipt from the taxation of property used for railroad purposes, other than from assessments of class II property together with one-half of the receipts from the franchise tax imposed thereunder, shall be applied to the uses of the State according to law and that the

entire receipts derived from class II property and one-half of the receipts from the franchise tax shall be allocated and paid over to the local taxing districts. Sections 23 and 24.

The end result for the year 1941 is clear. The State "abated and cancelled" the difference between the amount based on the first computation, $18,322,161.33 pursuant to R. S. 54:19-1, et seq., and the amount based on the second and third computations, $15,042,931.07, including the franchise or excise taxes pursuant to the "railroad tax law of 1941," as amended, or $3,279,233.26. The "railroad tax law of 1941" as amended, is to the extent indicated clearly subject to the same "congenital infirmity," save as to the amount involved, that rendered the Settlement Acts (Ch. 290, P. L. 1941, as amended) unconstitutional. The fact that in the case at bar the taxes were not delinquent in no wise adversely affects the admitted vested right of the State to the debt due it by the railroads at the time of the passage of the legislation in issue.

We therefore hold that P. L. 1941, Ch. 291, as amended, supra, is unconstitutional as applied to the taxes due from the railroads to the State for the tax year of 1941.

As to the Second Question.

Are the provisions of R. S. 54:26-10 and P. L. 1941, Ch. 291, sec. 34, requiring that the State Board of Tax Appeals shall conclude its hearings on or before October fifteenth following the filing of the complaint (cf. R. S. 54:29A-34), directory or mandatory?

Prosecutors and the Attorney General take the position that they are directory. Respondents take

the position that they are mandatory and therefore the dismissals by the State Board of Tax Appeals of prosecutors' appeals from assessments made by the Commissioner for the tax years 1941 and 1942 were proper because no hearings were held within time.

We think that the provisions are directory. We need hardly labor the point that our function is to give force and effect to legislation as written. To that end, "we presume that words have been employed (save terms of art) in their natural and ordinary meaning." In re Act Concerning Alcoholic Beverages, 130 N. J. L. 123, 128, 31 A. 2d. 837. Ordinarily, the use of the word "shall" in a statute carries with it the presumption that it is used in the imperative rather than in the directory sense. But this is not a conclusive presumption. Both the character and context of the legislation are controlling. Cf. Haythorn v. Van Keuren & Sons, 79 N. J. L. 101, 105, 106, 74 A. 502. And so, too, when a fixed time is set down in a statute invoking either the jurisdiction of the subject-matter or of the parties, or both, such time is mandatory and not directory. Cf. State Highway Commission v. Repole, 111 N. J. L. 462, 463, 168 A. 464.

The fact that the legislature in 1933 (P. L. 1933, Ch. 423) extended the time beyond October fifteenth to determine appeals from 1933 assessments, and in 1937 (P. L. 1937, Ch. 137) validated a judgment of the State Board of Tax Appeals based on hearings held, as to 1936 assessments, after October fifteenth, is no more dispositive of the issue than are the answers thereto that the State Board of Tax Appeals heard and deter-

mined appeals from 1937 and 1938 assessments (State Board of Tax Appeals—Central R. R. Co. v. Martin, 19 N. J. Mis. R. 427, 20A. 2d. 330), and appeals from 1939 assessments (Jersey City v. Martin, 20 N. J. Mis. R. 283, 26A. 2d. 733) after the statutory time fixed without legislative sanction or validation.

The State Board of Tax Appeals conducts hearings in a quasi-judicial capacity. It has here acquired jurisdiction over the subject-matter and of the parties. Whatever may have been the reasons for not having conducted hearings on the complaints, there is no suggestion, and none is intimated by this Court, that the fault, if any, was on the part of the State Board of Tax Appeals or on the part of anyone else involved. Failure, in the circumstances, to observe the time provision could not and did not dissipate the jurisdiction which the State Board of Tax Appeals had properly acquired in the first instance over the subject-matter and of the parties. If the legislature had intended that the State Board of Tax Appeals lost jurisdiction to hear appeals after October fifteenth, it would clearly have said so. The mandatory sense to the word "shall" should not be given if by so doing the door to miscarriages of justice should be opened. To deny prosecutors the right to be heard as to allegedly unconstitutional legislation would indeed be unjust. No word or act of this court shall knowingly contribute to such a result. Cf. Grobarz v. Slayton, 130 N. J. L. 597, 599, 33A. 2d. 697, affirmed 131 N. J. L. 326, 36A. 2d. 429. The question submitted is not, as urged, whether the "railroad tax law of 1941" provides for a review of the valua-

tions for that year. The question as submitted is whether the State Board of Tax Appeals lost jurisdiction to hear the appeals after October fifteenth. As already stated, our answer is in the negative.

As to the Third Question

The supremacy of the State over its creature—the municipality, the right of the creator, to destroy its creation, the municipality—and the nebulously, autonomous status of the municipality, in relation to the State are, and have been ever since their respective existence, so deeply and firmly rooted in our form of government and so frequently acknowledged by our courts, as not to warrant further elaboration. See, Jersey City v. Martin, supra, and cases collated at p. 361, et seq., N. J. L. It is, however, well to bear in mind the limited nature of the position taken by the municipalities. They concede the vested right of the State to the taxes involved. They claim no such right to those taxes. They do assert the right to relief against the disposition of those taxes contrary to constitutional limitation. Thus they invoke the aid of the judicial branch of the government to determine whether the proposed remission and cancellation of the State's vested right to the taxes are not, in the circumstances, contrary to the limitation of the fundamental law of the State—the Constitution. (Art. I, par. 20.)

And it would seem that they are entitled to be heard even though their substantial stake in those taxes is not here in issue. Their right to be heard is not without precedent. Cf. Hoboken v. Martin,

123 N. J. L. 442, 9A. 2d. 332; Jersey City v. Martin, supra. Moreover, citizens and taxpayers of the respective municipalities are joined as co-prosecutors. Their status as such was not made the subject of attack by proofs or other proceedings prior to argument on final hearing. Hence their qualifications as co-prosecutors are, at this late day, as a matter of fact and law beyond attack. Jackson v. Mayor, &c. Gloucester City, 6 N. J. Mis. R. 451, 453, 141 A. 743; Jordan v. Borough of Dumont, 105 N. J. L. 197, 198, 143 A. 843.

The judgments of dismissal are reversed, without costs. The causes will be remanded to the tribunals below, there to be treated consistently with this opinion.

Rule for Judgment.

(Filed Oct. 16, 1945.)

NEW JERSEY SUPREME COURT.

CITY OF JERSEY CITY, a municipal corporation, et al, *Prosecutors,*

vs.

WILLIAM D. KELLY, State Tax Commissioner of New Jersey, et al, *Respondents.*

JAMES T. OWENS, *Prosecutor,*

vs.

WILLIAM D. KELLY, State Tax Commissioner of New Jersey, et al, *Respondents.*

CITY OF JERSEY CITY, a municipal corporation, et al, *Prosecutors,*

vs.

WILLIAM D. KELLY, State Tax Commissioner of New Jersey, et al, *Respondents.*

JAMES T. OWENS, *Prosecutor,*

vs.

WILLIAM D. KELLY, State Tax Commissioner of New Jersey, et al, *Respondents.*

On Certiorari to Review Assessments Under Chapter 291 of the Laws of 1941.

Rule for Judgment.

On Certiorari to Review Assessments Under Chapter 291 of the Laws of 1941, as Amended by Chapter 169 of the Laws of 1942.

These consolidated writs having come on for hearing, and the court having heard and considered argument and briefs submitted on behalf of prosecutors and of respondents, and being of the opinion that the assessments of property and franchise excise taxes made by the State Tax Commissioner for the year 1941 under the Railroad Tax Law of 1941 (Chapter 291, as amended by Chapter 169 of the Laws of 1942), were null and void so far as they were in substitution for assessments of railroad property already made and vested against

the same taxpayers for the year 1941, under the Revised Statutes of 1937;

It is, therefore, on this 16th day of October, 1945, ORDERED and ADJUDGED that all of the assessments of property and franchise excise taxes made by the State Tax Commissioner for the year 1941, under the Railroad Tax Law of 1941 (Chapter 291, as amended by Chapter 169 of the Laws of 1942), are null and void, and that the same be and they herewith are set aside and for nothing holden; and

It is FURTHER ORDERED and ADJUDGED that all of the assessments of railroad property made by the State Tax Commissioner for the year 1941, under and pursuant to the Revised Statutes of 1937, are, and have been since the making thereof, valid, lawful and subsisting obligations of the taxpayers assessed (without prejudice to any existing right of appeal therefrom), subject to credit in favor of such taxpayers against said obligations for any sums paid on account of property or franchise excise tax assessments purportedly made for the year 1941 under and pursuant to the Railroad Tax Law of 1941 (Chapter 291, as amended by Chapter 169 of the Laws of 1942), without prejudice to the rights, if any, of any taxpayer which has paid a larger amount for the year 1941 under the Railroad Tax Law of 1941 than it is liable for pursuant to the Revised Statutes.

For the Court:
CHARLES W. PARKER,
J. S. C.

Entered Oct. 16, 1945
On motion of

CHARLES A. ROONEY,
CHARLES HERSHENSTEIN,
Attorneys for Prosecutor
City of Jersey City.

Notice of Appeal.
D. L. & W. R. R. System.

(Filed Oct. 26, 1945.)

[Caption Omitted]

To: Charles A. Rooney, Esq.,
Attorney for Prosecutors, City of Jersey City, Janice Realty Corporation, William A. Nolan, Elmer A. Davison, Albert Burleigh, and Anna Pfitzner.

James J. Fallon, Esq.,
Attorney for Prosecutor, The Mayor and Council of the City of Hoboken, and August Eggert.

John N. Platoff, Esq.,
Attorney for Prosecutors, Township of Weehawken, and Harry C. Moore.

Raymond C. Connell, Esq.,
Attorney for James T. Owens.

Samuel Hirschberg, Esq.,
Attorney for Prosecutors, Town of West New York, and Bert Newman.

Charles Hershenstein, Esq.,
Of Counsel with Prosecutors.

Walter D. Van Riper, Esq.,
Attorney General of the State of New Jersey for the State Board of Tax Appeals, the State Tax Commissioners and the State Comptroller.

Conover English, Esq.,
Attorney for Trustee of Northern Railroad Company of New Jersey.

THOMAS L. PARSONNET, ESQ.,
Attorney for City of Newark.

KATZENBACH, GILDEA & RUDNER, ESQS.,
Attorneys for Reading Company and Baltimore & Ohio Railroad Company.

HARRY LANAHAN, ESQ.,
Attorney for Pohatcong Railroad Company.

CARPENTER, GILMOUR & DWYER, ESQS.,
Attorneys for Hudson & Manhattan Railroad Company.

WALL, HAIGHT, CAREY & HARTPENCE, ESQS.,
Attorneys of The Pennsylvania Railroad Company (System), The Pennsylvania-Reading Seashore Lines, et al.

WALTER T. MARGETTS, JR., ESQ.,
Attorney for New Jersey & New York Railroad Company.

and

TO WHOM IT MAY CONCERN:

SIRS:

TAKE NOTICE that the respondent, The Delaware, Lackawanna and Western Railroad Company, a corporation, appeals to the New Jersey Court of Errors and Appeals from the whole of the judgment entered in this cause in the New Jersey Supreme Court.

Dated: October 22, 1945.

MAXIMILIAN M. STALLMAN,
Attorney of Respondent, The Delaware, Lackawanna and Western Railroad Company, a corporation.

Notice of Appeal.
Erie R. R. System.

(Filed Oct. 26, 1945.)

[Caption Omitted]

To: Charles A. Rooney, Esq.,
Attorney for Prosecutors, City of Jersey City, Janice Realty Corporation, William A. Nolan, Elmer A. Davison, Albert Burleigh, and Anna Pfitzner.

James J. Fallon, Esq.,
Attorney for Prosecutor, The Mayor and Council of the City of Hoboken, and August Eggert.

John N. Platoff, Esq.,
Attorney for Prosecutors, Township of Weehawken, and Harry C. Moore.

Raymond C. Connell, Esq.,
Attorney for James T. Owens.

Samuel Hirschberg, Esq.,
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Charles Hershenstein, Esq.,
Of Counsel with Prosecutors.

Walter D. Van Riper, Esq.,
Attorney General of the State of New Jersey for the State Board of Tax Appeals, the State Tax Commissioner and the State Comptroller.

Conover English, Esq.,
Attorney for Trustee of Northern Railroad Company of New Jersey.

THOMAS L. PARSONNET, ESQ.,
Attorney for City of Newark.

KATZENBACH, GILDEA & RUDNER, ESQS.,
Attorneys for Reading Company and Baltimore & Ohio Railroad Company.

HARRY LANAHAN, ESQ.,
Attorney for Pohatcong Railroad Company.

CARPENTER, GILMOUR & DWYER, ESQS.,
Attorneys for Hudson & Manhattan Railroad Company.

WALL, HAIGHT, CAREY & HARTPENCE, ESQS.,
Attorneys of The Pennsylvania Railroad Company (System), The Pennsylvania-Reading Seashore Lines, et al.

WALTER T. MARGETTS, JR., ESQ.,
Attorney for New Jersey & New York Railroad Company.

and

TO WHOM IT MAY CONCERN:

SIRS:

TAKE NOTICE that the respondent, Erie Railroad Company, a corporation, appeals to the New Jersey Court of Errors and Appeals from the whole of the judgment entered in this cause in the New Jersey Supreme Court.

Dated: October 22, 1945.

COLLINS & CORBIN,
Attorneys of Respondent, Erie Railroad Company, a corp.

Notice of Appeal.
H. & M. R. R. System.

(Filed Oct. 26, 1945.)

[Caption Omitted]

To: Charles A. Rooney, Esq.,
Attorney for Prosecutors, City of Jersey City, Janice Realty Corporation, William A. Nolan, Elmer A. Davison, Albert Burleigh, and Anna Pfitzner.

James J. Fallon, Esq.,
Attorney for Prosecutor, The Mayor and Council of the City of Hoboken, and August Eggert.

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Conover English, Esq.,
Attorney for Trustee of Northern Railroad Company of New Jersey.

Notice of Appeal—H. & M. R. R. System.

THOMAS L. PARSONNET, ESQ.,
Attorney for City of Newark.

KATZENBACH, GILDEA & RUDNER, ESQS.,
Attorneys for Reading Company and Baltimore & Ohio Railroad Company.

HARRY LANAHAN, ESQ.,
Attorney for Pohatcong Railroad Company.

COLLINS & CORBIN, ESQS.,
Attorneys for Erie Railroad Company.

WALL, HAIGHT, CAREY & HARTPENCE, ESQS.,
Attorneys for The Pennsylvania Railroad Company (System), The Pennsylvania-Reading Seashore Lines, et al.

WALTER T. MARGETTS, JR., ESQ.,
Attorney for New Jersey & New York Railroad Company.

and

TO WHOM IT MAY CONCERN:

SIRS:

TAKE NOTICE that the respondent, Hudson and Manhattan Railroad Company, a corporation, appeals to the New Jersey Court of Errors and Appeals from the whole of the judgment entered in this cause in the New Jersey Supreme Court.

Dated: October 23, 1945.

CARPENTER, GILMOUR & DWYER,
Attorneys of Respondent, Hudson & Manhattan Railroad Company, a corporation.

Notice of Appeal.
L. V. R. R. System.

(Filed Oct. 26, 1945.)

[Caption Omitted]

To: Charles A. Rooney, Esq.,
Attorney for Prosecutors, City of Jersey City, Janice Realty Corporation, William A. Nolan, Elmer A. Davison, Albert Burleigh, and Anna Pfitzner.

James J. Fallon, Esq.,
Attorney for Prosecutor, The Mayor and Council of the City of Hoboken, and August Eggert.

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Attorney for Trustee of Northern Railroad Company of New Jersey.

Notice of Appeal—L. V. R. R. System.

THOMAS L. PARSONNET, ESQ.,
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Attorneys for Reading Company and Baltimore & Ohio Railroad Company.

HARRY LANAHAN, ESQ.,
Attorney for Pohatcong Railroad Company.

CARPENTER, GILMOUR & DWYER, ESQS.,
Attorneys for Hudson & Manhattan Railroad Company.

WALL, HAIGHT, CAREY & HARTPENCE, ESQS.,
Attorneys of The Pennsylvania Railroad Company (System), The Pennsylvania-Reading Seashore Lines, et al.

WALTER T. MARGETTS, JR., ESQ.,
Attorney for New Jersey & New York Railroad Company.

and

TO WHOM IT MAY CONCERN:

SIRS:

TAKE NOTICE that the respondent, Lehigh Valley Railroad Company, a corporation, appeals to the New Jersey Court of Errors and Appeals from the whole of the judgment entered in this cause in the New Jersey Supreme Court.

Dated: October 22, 1945.

COLLINS & CORBIN,
Attorneys of Respondent, Lehigh Valley Railroad Company, a corporation.

Notice of Appeal.
N. Y. C. R. R. System.

(Filed Oct. 26, 1945.)

[Caption Omitted]

To: Charles A. Rooney, Esq.,
Attorney for Prosecutors, City of Jersey City, Janice Realty Corporation, William A. Nolan, Elmer A. Davison, Albert Burleigh, and Anna Pfitzner.

James J. Fallon, Esq.,
Attorney for Prosecutor, The Mayor and Council of the City of Hoboken, and August Eggert.

John N. Platoff, Esq.,
Attorney for Prosecutors, Township of Weehawken, and Harry C. Moore.

Raymond C. Connell, Esq.,
Attorney for James T. Owens.

Samuel Hirschberg, Esq.,
Attorney for Prosecutors, Town of West New York, and Bert Newman.

Charles Hershenstein, Esq.,
Of Counsel with Prosecutors.

Walter D. Van Riper, Esq.,
Attorney General of the State of New Jersey for the State Board of Tax Appeals, the State Tax Commissioner and the State Comptroller.

Conover English, Esq.,
Attorney for Trustee of Northern Railroad Company of New Jersey.

THOMAS L. PARSONNET, ESQ.,
Attorney for City of Newark.

KATZENBACH, GILDEA & RUDNER, ESQS.,
Attorneys for Reading Company and Baltimore & Ohio Railroad Company.

HARRY LANAHAN, ESQ.,
Attorney for Pohatcong Railroad Company.

CARPENTER, GILMOUR & DWYER, ESQS.,
Attorneys for Hudson & Manhattan Railroad Company.

WALL, HAIGHT, CAREY & HARTPENCE, ESQS.,
Attorneys of The Pennsylvania Railroad Company (System), The Pennsylvania-Reading Seashore Lines, et al.

WALTER T. MARGETTS, JR., ESQ.,
Attorney for New Jersey & New York Railroad Company.

and

TO WHOM IT MAY CONCERN:

SIRS:

TAKE NOTICE that the respondent, New York Central Railroad Company, a corporation, appeals to the New Jersey Court of Errors and Appeals from the whole of the judgment entered in this cause in the New Jersey Supreme Court.

Dated: October 22, 1945.

MAXIMILIAN M. STALLMAN,
Attorney of Respondent, New York Central Railroad Company,
a corporation.

Notice of Appeal.
P. R. R. System.

(Filed Oct. 26, 1945.)

[Caption Omitted]

To: Charles A. Rooney, Esq.,
Attorney for Prosecutors, City of Jersey City, Janice Realty Corporation, William A. Nolan, Elmer A. Davison, Albert Burleigh, and Anna Pfitzner.

James J. Fallon, Esq.,
Attorney for Prosecutor, The Mayor and Council of the City of Hoboken, and August Eggert.

John N. Platoff, Esq.,
Attorney for Prosecutors, Township of Weehawken, and Harry C. Moore.

Raymond C. Connell, Esq.,
Attorney for James T. Owens.

Samuel Hirschberg, Esq.,
Attorney for Prosecutors, Town of West New York, and Bert Newman.

Charles Hershenstein, Esq.,
Of Counsel with Prosecutors.

Walter D. Van Riper, Esq.,
Attorney General of the State of New Jersey for the State Board of Tax Appeals, the State Tax Commissioner and the State Comptroller.

Conover English, Esq.,
Attorney for Trustee of Northern Railroad Company of New Jersey.

THOMAS L. PARSONNET, ESQ.,
Attorney for City of Newark.

KATZENBACH, GILDEA & RUDNER, ESQS.,
Attorneys for Reading Company and Baltimore & Ohio Railroad Company.

HARRY LANAHAN, ESQ.,
Attorney for Pohatcong Railroad Company.

CARPENTER, GILMOUR & DWYER, ESQS.,
Attorneys for Hudson & Manhattan Railroad Company.

COLLINS & CORBIN, ESQS.,
Attorneys for Respondent Erie Railroad Company, et al.

WALTER T. MARGETTS, JR., ESQ.,
Attorney for New Jersey & New York Railroad Company.

MAXIMILIAN M. STALLMAN, ESQ.,
Attorney for The Delaware, Lackawanna and Western Railroad Company, et al.

and

TO WHOM IT MAY CONCERN:

SIRS:

TAKE NOTICE, that the respondents, The Pennsylvania Railroad Company, and the Companies comprising the Pennsylvania Railroad System, and the Pennsylvania-Reading Seashore Lines, appeal to the New Jersey Court of Errors and Appeals from the whole of the judgment entered in this cause.

WALL, HAIGHT, CAREY & HARTPENCE,
Attorneys of said Respondents-Appellants.

Grounds of Appeal.

Of Erie, L. V., N. Y. C. and D. L. & W. Systems.

(Filed Nov. 8, 1945.)

[Caption Omitted]

The respondents-appellants, Erie Railroad Company, a corporation, Lehigh Valley Railroad Company, a corporation, New York Central Railroad Company, a corporation, and The Delaware, Lackawanna & Western Railroad Company, a corporation, state the following grounds of appeal:

The Supreme Court erred in adjudicating that:

1. Chapter 291 of the Laws of 1941 as amended by Chapter 169 of the Laws of 1942 (hereinafter referred to as "Chapter 291, as amended") was and is unconstitutional as applied to the taxes due from the railroads to the State for the year 1941.

2. Chapter 291 as amended was and is unconstitutional as applied to the taxes due from the railroads to the State for the year 1941 because it contravenes the provisions of Article I, paragraph 20 of the Constitution of New Jersey which provides:

> "No donation of land or appropriation of money shall be made by the state or any municipal corporation to or for the use of any society, association or corporation whatever."

3. The State of New Jersey had a vested right to the taxes computed according to Revised Statute 54:19-1 et seq., for the year 1941.

4. The State of New Jersey for the year 1941 abated and cancelled the difference between the amount based on the computation pursuant to Revised Statute 54:19-1 et seq., and the amount

based on the computations pursuant to Chapter 291 as amended.

5. The assessments of railroad property and franchise excise taxes made by the State Tax Commissioner for the year 1941 under Chapter 291 as amended are null and void and that the same should be set aside and for nothing holden.

6. The assessments of railroad property under and pursuant to the Revised Statutes of 1937 were and are valid, lawful and subsisting obligations of the taxpayers assessed.

7. The provisions of R. S. 54:26-10 and P. L. 1941, Chapter 291, Sec. 34, requiring that the State Board of Tax Appeals shall conclude its hearings on or before October 15th following the filing of the complaint (cf. R. S. 54:29A-34) were merely directory and not mandatory.

8. The prosecutors were qualified to prosecute the writs of certiorari herein.

The Supreme Court erred in not adjudicating that:

9. Chapter 291 of the Laws of 1941 as amended was and is constitutional as applied to the taxes due from the railroads to the State for the year 1941.

10. Chapter 291 as amended was and is constitutional as applied to the taxes due from the railroads to the State for the year 1941 because it does not contravene the provisions of Article I, Paragraph 20 of the Constitution of New Jersey, which provides:

"No donation of land or appropriation of money shall be made by the state or any municipal corporation to or for the use of any society, association or corporation whatever."

11. The State of New Jersey did not have a vested right to the taxes computed according to R. S. 54:90-1, et seq., for the year 1941.

12. The State of New Jersey for the year 1941 did not abate and cancel the difference between the amount based on the computation pursuant to R. S. 54:19-1 et seq., and the amount based on the computations pursuant to Chapter 291 as amended.

13. The assessments of railroad property and franchise excise taxes made by the State Tax Commissioner for the year 1941 under Chapter 191 were valid, lawful and subsisting obligations of the taxpayers assessed.

14. The assessments of railroad property under and pursuant to the Revised Statutes of 1937 were null and void and that the same should be set aside and for nothing holden.

15. The provisions of R. S. 54:26-10 and P. L. 1941, Chapter 291, Section 34, requiring that the State Board of Tax Appeals shall conclude its hearings on or before October 15th following the filing of the complaint, were mandatory and not directory.

16. The prosecutors were not qualified to prosecute the writs of certiorari herein.

Grounds of Appeal—Erie, L. V., N. Y. C. and D. L. & W. Systems.

17. The said judgment of the Supreme Court is in divers other respects discriminatory, illegal and unjust, and should be reversed.

Dated: October 31, 1945.

COLLINS & CORBIN,
Attorneys for Appellants Erie Railroad Company and the companies comprising the Erie Railroad System, and Lehigh Valley Railroad Company and the companies comprising the Lehigh Valley Railroad System.

MAXIMILIAN M. STALLMAN,
Attorney for appellants The Delaware, Lackawanna & Western Railroad Company and the companies comprising the Lackawanna System, and New York Central Railroad Company and the companies comprising the New York Central Railroad System.

Grounds of Appeal.
H. & M. R. R. Co.

(Filed Nov. 8, 1945.)

[Caption Omitted]

The respondent-appellant, Hudson & Manhattan Railroad System, a corporation, states the following grounds of appeal:

The Supreme Court erred in adjudicating that:

1. Chapter 291 of the Laws of 1941 as amended by Chapter 169 of the Laws of 1942 (hereinafter referred to as "Chapter 291, as amended") was and is unconstitutional as applied to the taxes due from the railroads to the State for the year 1941.

2. Chapter 291 as amended was and is unconstitutional as applied to the taxes due from the railroads to the State for the year 1941 because it contravenes the provisions of Article I, paragraph 20 of the Constitution of New Jersey which provides:

> "No donation of land or appropriation of money shall be made by the state or any municipal corporation to or for the use of any society, association or corporation whatever."

3. The State of New Jersey had a vested right to the taxes computed according to Revised Statute 54:19-1 et seq., for the year 1941.

4. The State of New Jersey for the year 1941 abated and cancelled the difference between the amount based on the computation pursuant to Revised Statute 54:19-1 et seq., and the amount based on the computations pursuant to Chapter 291 as amended.

5. The assessments of railroad property and franchise excise taxes made by the State Tax Commissioner for the year 1941 under Chapter 291 as amended are null and void and that the same should be set aside and for nothing holden.

6. The assessments of railroad property under and pursuant to the Revised Statutes of 1937 were and are valid, lawful and subsisting obligations of the taxpayers assessed.

7. The provisions of R. S. 54:26-10 and P. L. 1941, Chapter 291, Sec. 34, requiring that the State Board of Tax Appeals shall conclude its hearings on or before October 15th following the filing of the complaint (cf. R. S. 54:29A-34) were merely directory and not mandatory.

8. The prosecutors were qualified to prosecute the writs of certiorari herein.

The Supreme Court erred in not adjudicating that:

9. Chapter 291 of the Laws of 1941 as amended was and is constitutional as applied to the taxes due from the railroads to the State for the year 1941.

10. Chapter 219 as amended was and is constitutional as applied to the taxes due from the railroads to the State for the year 1941 because it does not contravene the provisions of Article I, Paragraph 20 of the Constitution of New Jersey, which provides:

> "No donation of land or appropriation of money shall be made by the state or any municipal corporation to or for the use of any society, association or corporation whatever."

11. The State of New Jersey did not have a vested right to the taxes computed according to R. S. 54:90-1, et seq., for the year 1941.

12. The State of New Jersey for the year 1941 did not abate and cancel the difference between the amount based on the computation pursuant to R. S. 54:19-1 et seq., and the amount based on the computations pursuant to Chapter 291 as amended.

13. The assessments of railroad property and franchise excise taxes made by the State Tax Commissioner for the year 1941 under Chapter 291 were valid, lawful and subsisting obligations of the taxpayers assessed.

14. The assessments of railroad property under and pursuant to the Revised Statutes of 1937 were null and void and that the same should be set aside and for nothing holden.

15. The provisions of R. S. 54:26-10 and P. L. 1941, Chapter 291, Section 34, requiring that the State Board of Tax Appeals shall conclude its hearings on or before October 15th following the filing of the complaint, were mandatory and not directory.

16. The prosecutors were not qualified to prosecute the writs of certiorari herein.

17. The said judgment of the Supreme Court is in divers other respects discriminatory, illegal and unjust, and should be reversed.

Dated: Nov. 16th, 1945.

CARPENTER, GILMOUR & DWYER,
Attorneys for Respondent,
Hudson & Manhattan Railroad System, a corporation.

Grounds of Appeal.
P. R. R. System.

(Filed Nov. 8, 1945.)

[Caption Omitted]

The respondents-appellants The Pennsylvania Railroad Company, and the Companies comprising the Pennsylvania Railroad System, and the Pennsylvania-Reading Seashore Lines, state the following Grounds of Appeal from the judgment of the New Jersey Supreme Court appealed from:

The Supreme Court erred in adjudicating that:

1. Chapter 291 of the Laws of 1941 as amended by Chapter 169 of the Laws of 1942 (hereinafter referred to as "Chapter 291, as amended") was and is unconstitutional as applied to the taxes due from the railroads to the State for the year 1941.

2. Chapter 291 as amended was and is unconstitutional as applied to the taxes due from the railroads to the State for the year 1941 because it contravenes the provisions of Article I, paragraph 20 of the Constitution of New Jersey which provides:

> "No donation of land or appropriation of money shall be made by the state or any municipal corporation to or for the use of any society, association or corporation whatever."

3. The State of New Jersey had a vested right to the taxes computed according to Revised Statute 54:19-1 et seq., for the year 1941.

4. The State of New Jersey for the year 1941 abated and cancelled the difference between the amount based on the computation pursuant to Revised Statute 54:19-1 et seq. and the amount

based on the computations pursuant to Chapter 291 as amended.

5. The assessments of railroad property and franchise excise taxes made by the State Tax Commissioner for the year 1941 under Chapter 291 as amended are null and void and that the same should be set aside and for nothing holden.

6. The assessments of railroad property under and pursuant to the Revised Statutes of 1937 were and are valid, lawful and subsisting obligations of the taxpayers assessed.

7. The provisions of R. S. 54:26-10 and P. L. 1941, Chapter 291, Sec. 34, requiring that the State Board of Tax Appeals shall conclude its hearings on or before October 15th following the filing of the complaint (cf. R. S. 54:29A-34) were merely directory and not mandatory.

8. The prosecutors were qualified to prosecute the writs of certiorari herein.

The Supreme Court erred in not adjudicating that:

9. Chapter 291 of the Laws of 1941 as amended was and is constitutional as applied to the taxes due from the railroads to the State for the year 1941.

10. Chapter 291 as amended was and is constitutional as applied to the taxes due from the railroads to the State for the year 1941 because it does not contravene the provisions of Article I, Paragraph 20 of the Constitution of New Jersey, which provides:

> "No donation of land or appropriation of money shall be made by the state or any municipal corporation to or for the use of any society, association or corporation whatever."

Grounds of Appeal—P. R. R. System.

11. The State of New Jersey did not have a vested right to the taxes computed according to R. S. 54:90-1, et seq., for the year 1941.

12. The State of New Jersey for the year 1941 did not abate and cancel the difference between the amount based on the computation pursuant to R. S. 54:19-1 et seq., and the amount based on the computations pursuant to Chapter 291 as amended.

13. The assessments of railroad property and franchise excise taxes made by the State Tax Commissioner for the year 1941 under Chapter 291 were valid, lawful and subsisting obligations of the taxpayers assessed.

14. The assessments of railroad property under and pursuant to the Revised Statutes of 1937 were null and void and that the same should be set aside and for nothing holden.

15. The provisions of R. S. 54:26-10 and P. L. 1941, Chapter 291, Section 34, requiring that the State Board of Tax Appeals shall conclude its hearings on or before October 15th following the filing of the complaint, were mandatory and not directory.

16. The prosecutors were not qualified to prosecute the writs of certiorari herein.

17. The said judgment of the Supreme Court is in divers other respects discriminatory, illegal and unjust, and should be reversed.

Dated: November 20, 1945.

WALL, HAIGHT, CAREY & HARTPENCE,
Attorneys for Respondents-Appellants, The Pennsylvania Railroad Company, and the Companies comprising the Pennsylvania Railroad System, and the Pennsylvania-Reading Seashore Lines.

New Jersey Court of Errors and Appeals

Case No. 2.

(See explanatory note as to Cases No. 3 and 4, p. 92, Case No. 2.)

CITY OF JERSEY CITY, a municipal corporation,
Prosecutor-Appellee,
vs.
STATE BOARD OF TAX APPEALS,
Respondent-Appellee,
and
DELAWARE, LACKAWANNA & WESTERN RAILROAD SYSTEM, et al, *Respondents-Appellants.*

CITY OF JERSEY CITY, a municipal corporation,
Prosecutor-Appellee,
vs.
STATE BOARD OF TAX APPEALS,
Respondent-Appellee,
and
ERIE RAILROAD SYSTEM, et al,
Respondents-Appellants.

CITY OF JERSEY CITY, a municipal corporation,
Prosecutor-Appellee,
vs.
STATE BOARD OF TAX APPEALS,
Respondent-Appellee,
and
HUDSON AND MANHATTAN RAILROAD SYSTEM, et al, *Respondents-Appellants.*

CITY OF JERSEY CITY, a municipal corporation,
Prosecutor-Appellee,
vs.
STATE BOARD OF TAX APPEALS,
Respondent-Appellee,
and
LEHIGH VALLEY RAILROAD SYSTEM, et al,
Respondents-Appellants.

CITY OF JERSEY CITY, a municipal corporation,
Prosecutor-Appellee,
vs.
STATE BOARD OF TAX APPEALS,
Respondent-Appellee,
and
NEW YORK CENTRAL RAILROAD SYSTEM, et al,
Respondents-Appellants.

CITY OF JERSEY CITY, a municipal corporation,
Prosecutor-Appellee,
vs.
STATE BOARD OF TAX APPEALS,
Respondent-Appellee,
and
PENNSYLVANIA RAILROAD SYSTEM, et al,
Respondents-Appellants.

On Certiorari.

On Appeal from New Jersey Supreme Court.

(Review of Assessments of 1941, made under Revised Statutes.)

Titles continued on next page.

New Jersey Court of Errors and Appeals

Case No. 5.

CITY OF JERSEY CITY, a municipal corporation,
Prosecutor-Appellant, Prosecutor-Appellee,
vs.
STATE BOARD OF TAX APPEALS,
Respondent-Appellee,
and
LEHIGH VALLEY RAILROAD SYSTEM, et al,
Respondents-Appellees, Respondents-Appellants.

CITY OF JERSEY CITY, a municipal corporation,
Prosecutor-Appellant, Prosecutor-Appellee,
vs.
STATE BOARD OF TAX APPEALS,
Respondent-Appellee,
and
ERIE RAILROAD SYSTEM, et al,
Respondents-Appellees, Respondents-Appellants.

CITY OF JERSEY CITY, a municipal corporation,
Prosecutor-Appellant, Prosecutor-Appellee,
vs.
STATE BOARD OF TAX APPEALS,
Respondent-Appellee,
and
DELAWARE, LACKAWANNA & WESTERN RAILROAD SYSTEM, et al,
Respondents-Appellees, Respondents-Appellants.

CITY OF JERSEY CITY, a municipal corporation,
Prosecutor-Appellant, Prosecutor-Appellee,
vs.
STATE BOARD OF TAX APPEALS,
Respondent-Appellee,
and
HUDSON AND MANHATTAN RAILROAD SYSTEM, et al,
Respondents-Appellees, Respondents-Appellants.

CITY OF JERSEY CITY, a municipal corporation,
Prosecutor-Appellant, Prosecutor-Appellee,
vs.
STATE BOARD OF TAX APPEALS,
Respondent-Appellee,
and
PENNSYLVANIA RAILROAD SYSTEM, et al,
Respondents-Appellees, Respondents-Appellants.

CITY OF JERSEY CITY, a municipal corporation,
Prosecutor-Appellant, Prosecutor-Appellee,
vs.
STATE BOARD OF TAX APPEALS,
Respondent-Appellee,
and
NEW YORK CENTRAL RAILROAD SYSTEM, et al,
Respondents-Appellees, Respondents-Appellants.

On Certiorari.

On Appeal from New Jersey Supreme Court.

(Assessments of 1942.)

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New Jersey Court of Errors and Appeals

[Caption Omitted]

BRIEF OF JERSEY CITY, HOBOKEN, WEEHAWKEN, WEST NEW YORK, AND CERTAIN TAXPAYERS THEREIN.

Cases No. 1 to 5, inclusive.

(Italics supplied unless otherwise stated.)

Introduction.

Three rules for judgment were entered by the Supreme Court in these cases. Certain railroad companies appeal from all three rules (Case No. 1, p. 522; Case No. 2, p. 90; Case No. 5, p. 99). The taxing districts of Jersey City, Hoboken, West New York and Weehawken, and certain taxpayers therein, object only to the rule in Case No. 5.*

Five sets of writs below brought up for review all the assessments of railroad property for the years 1941 and 1942, excepting the assessment of property of The Central Railroad Company of

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* Technically, only Jersey City appeals in Case No. 5, the other municipalities and individual taxpayers having not been parties therein, but only in Case No. 1. It was in Case No. 1 that the main question as to the constitutionality of the $3.00 railroad tax rate in P. L. 1941, Ch. 291, was argued. But Case No. 1 involved only the 1941 assessment, which was held invalid only because of violation of Art. I, para. 20, of the Constitution. The holding that the $3.00 tax rate is valid for years subsequent to 1941 aggrieves all the prosecutor municipalities and taxpayers, and they join in the argument that the rate is invalid for all years, even though they are, technically, respondents in Case No. 1, and, except for Jersey City, not parties to Case No. 5, in which the rule sustaining the $3.00 rate was entered.

New Jersey for 1942, that being the subject of separate writs submitted at the January, 1944, term of the Supreme Court.

Three series of assessments were made for the year 1941. The first was made and completed under the provisions of R. S. 54:19-1, *et seq.* (hereinafter referred to as "Revised Statutes"). The total of all assessments so made, after review by the State Tax Commissioner pursuant to R. S. 54:19-2, was $18,322,164.33 (Case No. 1, p. 37). These assessments were fully completed and reviewed by June 3, 1941 (Case No. 1, p. 37).

On July 22, 1941, Chapter 291 of the Laws of 1941 (hereinafter referred to as "Chapter 291") was adopted and approved, effective for the tax year 1941. By the terms thereof, all property used for railroad purposes was subjected to taxation at the flat rate of $3.00 per $100 of assessed valuation (Sec. 7). The franchise, which was subject to *ad valorem* taxation under Revised Statutes, was excluded from property taxation under Chapter 291, and in lieu thereof a "franchise excise tax" was imposed (Sec. 13). Section 73 of Chapter 291 provided that:

> "In the first year for which this act is operative, valuations made by the commissioner for that year under chapters nineteen through twenty-nine, inclusive, of Title 54 of the Revised Statutes shall constitute the basis of property assessments under this act."

Pursuant thereto, the taxes upon property for the year 1941 were determined under the provisions of Chapter 291, on November 5, 1941, to be in the total amount of $11,016,118.17 (Case No. 1, p. 48), representing a reduction in *ad valorem* assessments for 1941 of the sum of $7,306,045.66,

from the original 1941 levy made under the Revised Statutes.

The franchise excise taxes assessed for 1941 under Chapter 291 amounted to $4,163,108.43 (Case No. 1, pp. 71, 72). As pointed out, these excise taxes are in lieu of the assessment of the franchises as property, and in no way bear upon the *ad valorem* assessments of the remaining railroad property, but at any rate these taxes fail to equal the reduction in the *ad valorum* assessments by $3,142,937.23.

On May 8, 1942, Chapter 169 of the Laws of 1942 (hereinafter referred to as "Chapter 169") was approved, which purported to amend Chapter 291, with reference to the assessment of franchise excise taxes. Pursuant thereto, substitutionary franchise taxes were assessed for the year 1941, under date of July 1, 1942, in the total sum of $4,026,812.90.

Following the making of the new assessments for the year 1941 under Chapter 291, writs of certiorari were sought and obtained by the prosecutor municipalities who suffered huge reductions in their distributive shares. *Also prosecuting the writs are individual taxpayers of these municipalities, and, as well, individual taxpayers of other municipalities* wherein are situated substantial quantities of property used for railroad purposes. These writs are captioned collectively in the record as Case No. 1.

Following the new assessments for 1941 under Chapter 169, the same prosecutors obtained new writs to review these assessments. *These writs are included in the Record of Case No. 1,* all of the said writs having been consolidated.

The applications for the aforementioned writs were made without prior review by the State

Board of Tax Appeals (now the Division of Tax Appeals, but hereinafter referred to as the State Board) because constitutional issues were involved. The complaining municipalities, however, had already appealed to the State Board from the 1941 assessments made under Revised Statutes on the ground of improper valuation, and, after the new assessments for 1941 described above, protective appeals covering both valuation and constitutionality were taken to the State Board to preclude any quarrel over procedure. One group of appeals was from the assessments under Chapter 291 and another from the substituted 1941 assessments under Chapter 169. The State Board dismissed all of these appeals on the sole ground that its jurisdiction expired with the passage of the dates for hearing and decision prescribed by R. S. 54:26-10 and R. S. 54:29A-34. (Case No. 2, p. 22). Thereupon, writs were obtained bringing up for review the judgments of State Board entered on all those appeals. *These groups of writs comprise Case No. 2, Case No. 3 and Case No. 4.* All of these writs were argued together below.

The following were the issues raised with reference to the 1941 assessments (Cases Nos. 1-4):

(1) Are the assessments in accordance with the true value of the property? This issue was preserved by court order until the solution of the constitutional questions (Case No. 1, p. 135, l. 26).

(2) Do Chapter 291 and Chapter 169 effect a gift of state moneys to the extent of the difference between the amount of the vested assessments for 1941 theretofore made under the Revised Statutes, and the new assessments for that year, in violation of

Article I, paragraph 20 of the Constitution of New Jersey.

(3) Do Chapter 291 and Chapter 169 violate Article I, paragraph 16, and Article IV, Section 7, paragraph 12, of the Constitution of New Jersey, in providing for a discriminatory preferential rate of property taxation as to railroad property?

(4) Are the dates fixed by R. S. 54:26-10 and R. S. 54:29A-34 for the hearing and determination of railroad tax appeals by the State Board mandatory, or merely directory and non-jurisdictional?

Following the making of assessments for the year 1942 under Chapter 291, as amended by Chapter 169, appeals were prosecuted to the State Board by the complaining municipalities raising the same issues as to valuation, and the constitutional issues under Article I, paragraph 16, and Article IV, Section 7, paragraph 12. These appeals were dismissed by the Board without hearing upon the same ground described above with reference to the 1941 appeals, namely, the passage of the dates fixed by R. S. 54:29A-34. (Case, No. 5, p. 57.) *The writs which review this action comprise Case No. 5.* The determination of the issue as to 1942 valuations was deferred by court order (Case No. 5, p. 74, l. 24).

Thus, five sets of writs were argued together below, one for the year 1942, all others for the year 1941.

The opinion filed by the Supreme Court disposed of all the issues raised in the five cases as follows (Case No. 1, p. 509):

1. Chapter 291 and Chapter 169 were held invalid so far as they affected the taxes for the year

1941 only, on the ground that the taxes assessed for that year under the Revised Statutes were vested obligations of the railroad companies to the state, and that the substitution therefor of taxes under the new laws in an amount less by $3,279,-233.26, which amount was abated and cancelled, constituted gifts in such amount to the several railroad companies benefitting from the reductions, in violation of Article I, Paragraph 20, of the Constitution (Case No. 1, p. 517).

2. As to tax years subsequent to 1941, Chapter 291, as amended by Chapter 169, was held to be a constitutional enactment, notwithstanding the flat $3 tax rate on railroad property attacked by the prosecutors (Case No. 1, p. 513; Case No. 5, p. 99).

3. The statutory time limitations for the conclusion of the hearing and rendition of judgments in railroad tax appeals by the State Board of Tax Appeals were held directory and not mandatory, reversing the contrary determination of the State Board of Tax Appeals, and that board was ordered to reinstate for hearing the 1941 and 1942 appeals by the City of Jersey City from railroad tax valuations which it had dismissed (Case No. 1, pp. 517-520).

As an incident to its determination of the foregoing questions, the Supreme Court held that a municipality is entitled to assert constitutional objections to legislation by which it is adversely affected (Case No. 1, pp. 520, 521).

The City of Jersey City, as appellant from the judgment entered in Case No. 5, affirming the constitutionality of the Railroad Tax Law of 1941 for years subsequent to 1941, and the taxing districts of Hoboken, Weehawken and West New York, as well as the individual taxpayer prosecutors in Case No. 1, all appearing in the present

appeal as appellees, join with the City of Jersey City in the attack upon the constitutionality of the law, this brief being submitted on behalf of all of said parties, as well as of the City of Jersey City.

The several railroad companies which were respondents below are appealing the judgment of the Court entered in Case No. 1, setting aside the Railroad Tax Law of 1941 as to the tax year 1941 only. They also appeal from judgments entered in Cases No. 2 and No. 5, wherein the time limitations for the hearing and determination of tax appeals by the State Board of Tax Appeals were held by the Supreme Court to be directory and not mandatory.

The position of the Attorney General having been sustained on every issue argued below, we assume that he will argue for the affirmance of the judgments of the Supreme Court in all respects.

In view of the determination of the meritorious questions below by the New Jersey Supreme Court, it was unnecessary to enter any judgments below in Cases No. 3 and No. 4. See explanatory note as to such cases contained in Case No. 2, at page 92.

POINT I.

Chapter 291, as amended by Chapter 169, contravenes the provisions of Article I, Paragraph 20, of the Constitution of New Jersey.

Article I, paragraph 20 of the Constitution reads as follows:

> "No donation of land or appropriation of money shall be made by the state or any municipal corporation to or for the use of any society, association or corporation whatever."

As stated above, the assessments for the year 1941 made under the Revised Statutes were fully completed by June 3, 1941. The taxes so assessed were vested property rights of the State. The machinery for assessment for 1941 was initiated on the first Tuesday of March, 1940, "for the purpose of ascertaining the true value, as of the first day of January preceding, of all property used for railroad * * * purposes of each railroad * * *, including its franchises." R. S. 54:22-1. The same section further provides for the completion of valuations by November 1 following, and the service of statement of assessments on or before December 10.

Under R. S. 54:26-2 the commissioner sat in review of his assessments, and, as pointed out, the process of review was completed prior to June 3, 1941.

R. S. 54:27-1 provides that the state tax commissioner shall certify the assessment to the comptroller on or before June 1, and serve a statement

thereof upon the treasurer of each company within ten days thereafter.

R. S. 54:27-2 provides that the tax "shall be due and payable into the state treasury on any day between said June first and December first following."

R. S. 54:27-4 provides that:

> " * * * These taxes shall be a lien paramount to all other liens upon all the lands and tangible property and franchise of the company in the state. The lien shall take effect on June first of the year in which the tax is payable and shall be a debt due from the company to the state * * * ."

Hence there can be no doubt that prior to July 22, 1941, the date of the adoption of Chapter 291, the taxes upon assessments for the year 1941 under Revised Statutes had become vested rights of the state with the status of liens.

It is now thoroughly settled that Article I, paragraph 20, prohibits the release or discharge of a vested tax liability. This proposition is conclusively established by the case of *In re Voorhees,* 123 N. J. Eq. 142 (Prerogative Court, 1938), affirmed *per curiam* for the reasons expressed by the Prerogative Court in its opinion, 121 N. J. L. 594 (Sup. Ct., 1939), and by the Court of Errors and Appeals in 124 N. J. L. 35 (E. & A., 1940), where the court stated that "the determinations of the learned Vice Ordinary as applied to the facts in this case are in accordance with the law of this state." In accord: *Wilentz* v. *Hendrickson,* 135 N. J. Eq. 244 (E. & A., 1944).

In the *Voorhees* case a transfer inheritance tax of $75,816.29 was assessed by the state tax commissioner in respect of a legacy to New Jersey Col-

lege for Women. An appeal was taken from the assessment on the ground that the legacy was exempt from taxation under P. L. 1925, Chapter 102, which exempted any devise made since July 1, 1924, to any educational institution for whose benefit appropriations may have been or thereafter were made by the legislature. The decedent died September 21, 1924. The court held that although the cited statute, in terms, exempted the devise in question, the effect of the statute in that respect was unconstitutional, in that there was a violation of Article I, Section 20. The court stated at page 144:

> "The contention of the tax commissioner, however, is that the effect of the statute, so far as concerns the intention and result of its retroactive provision, *is the gift to the Women's College of a sum of money equal to the amount of the tax as to which the latter's liability and obligation had already theretofore become fixed;* and that as such gift it contravenes article I, section 20, of the state constitution.
>
> "The constitutional provision referred to, reads as follows:
>
> " 'No donation of land or appropriation of money shall be made by the state * * * to or for the use of any society, association or corporation whatever.'
>
> *"The commissioner's argument is that at and on the death of Elizabeth Voorhees on September 21, 1924, there immediately accrued to the state a vested right to the tax which was subsequently computed and assessed,* and a lien for the same on all property owned by decedent at her death.

"There can be no doubt that this is so. Under the provisions of the taxing statute, the right of the state vests at the instant of death; the tax is due and payable at that moment; the value of the decedent's property at that moment (unaffected by subsequent changes in value) is that upon which the tax is computed. The fact that the actual computation and assessment of the tax is not, and cannot be, completed at that instant, nor that the statute does not impose a penalty of interest for delay in payment of the tax until a year from the date of death, neither of these affects the immediately vested right of the state to the tax.

"The right to such tax having vested on September 21st, 1924, obviously the operation and effect of the statute of 1925, if it be valid and operative in that behalf, is to take away from the state its vested right to that tax and relieve the decedent's beneficiary from its 'vested' liability and obligation to the payment thereof. *It is certainly a reasonable argument that in substance and effect this is a giving by the state to that beneficiary of a sum of money in the amount of that tax; and it is concluded that in fact such is the operation and effect of the retroactive provision of this statute."*

Hence, Chapter 291, so far as it undertakes to vacate the existing tax liabilities and to substitute lesser *ad valorem* liabilities, as is expressly provided for in Section 74 thereof, plainly operates to effect a gift of public funds to the extent of the difference in assessments for the year 1941, to wit, the sum of $7,306,045.66, and is in that respect

void. The same infirmity exists in Chapter 169 so far as it purports to effect an additional gift of the difference between the franchise taxes assessed under Chapter 291 and that assessed under Chapter 169, as to all roads who received a reduction as the result of the new assessments, as appears in the returns to the writs (Case No. 1, p. 162).

It is therefore submitted that the judgment of the Supreme Court adjudicating the 1941 railroad tax assessments made under the Railroad Tax Law of 1941 void, as in violation of Article I, para. 20 of the Constitution, is correct, and should be affirmed.

POINT II.

Chapter 291 of the Laws of 1941, as amended by Chapter 169 of the Laws of 1942, contravenes Article I, Paragraph 16, and Article IV, Section 7, Paragraph 12, of the Constitution of New Jersey, for the reason that it deliberately discriminates in the distribution of the burden of taxation in favor of property used for railroad purposes, and at the expense of other property.

(a)

Analysis of Issues.

Chapter 291 of the Laws of 1941 provides for an *ad valorem* tax on property used for railroad purposes at a fixed rate of $3.00 per one hundred dollars of valuation. It also provides for an excise tax for the privilege of exercising franchises, to be computed in the manner hereinafter described, which tax is expressly stated to be "in lieu of any other tax or taxes of or upon such franchises" (Sec. 13). The statute preserves the basic classification of property used for railroad purposes, which classification, with some variations which are here unimportant, has been part of the law of this state ever since 1873, when the first general law relating to taxation of railroad property was enacted.

The fundamental question which we raise is whether railroad property, which certainly could not be exempted from taxation outright (see *Carteret Academy* v. *State Board,* 102 N. J. L. 525, 527 (Sup. Ct., 1926), aff'd. 104 N. J. L. 165 (E. & A., 1927); *Rutgers Chapter* v. *New Bruns-*

wick, 129 N. J. L. 238 (Sup. Ct., 1942), aff'd 130 N. J. L. 216 (E. & A., 1943)), may constitutionally be taxed at $3.00 per hundred, when other property generally is taxed at approximately $5.00 per hundred. If so, as held by the Supreme Court, may it be taxed at $1.00 per hundred, or ten cents per hundred dollars, or one mill per hundred? If none of the latter, where will the line be drawn? Is not the inevitable answer that, unless the prohibition of exemption of commercial property is to be indirectly nullified, property taxes on all property contributing to the common burden of government are constitutionally required to be levied with at least substantial, or approximate equality? We hope to demonstrate that proposition herein, and that the Railroad Tax Law of 1941 is void because it deliberately and intentionally fixed a preferentially unequal tax rate in favor of railroad property.

The history of the taxation of railroads in New Jersey will be presently set forth, but for the purpose of considering the constitutional problem raised by the enactment of Chapter 291, it is sufficient to state that for a period of thirty-six years prior to the adoption of Chapter 291, the following were the facts relating to the tax burden imposed upon railroad property: Class I railroad property consisted of the main stem, to a width not exceeding 100 feet; Class II railroad property consisted of all real property other than Class I property; Class III consisted of the tangible personal property, and Class IV consisted of the remaining property, including the franchise. Classes I, III and IV property were all taxed at the "average rate of taxation." This average rate was arrived at by taking the assessed value of all property throughout the state, other than railroad property, and dividing it by all moneys to be

raised by property taxation. Class II railroad property was taxed at the local rate of taxation prevailing in the municipality in which such Class II property was located. Property not used for railroad purposes was and remains subject to local taxation.

It is thus apparent that under the law in effect at the time when Chapter 291 was adopted, such property used for railroad purposes as partook of a statewide nature was subjected to a burden which approximated the burden imposed upon all other property throughout the state. The remaining real property used for railroad purposes, which might be said to have local aspects, was subjected to the same burden as all other property in the respective municipalities.

Chapter 291 preserves "true value" as the base of valuation, which base has been in effect with respect to railroad property ever since the adoption in 1875 of Article IV, Section 7, paragraph 12, of the Constitution. Nor does Chapter 291 interfere with the assessing methodology which has been used in this state since that date in order to arrive at the true value of such railroad property. It does, however, drastically alter the *rate of taxation,* reducing it to the flat figure of $3.00 per one hundred dollars of valuation on all four classes of property, and it completely excludes the franchise from *ad valorem* taxation. The extent of the consequent discrimination in favor of the railroads and against all other owners of property is manifested by a comparison of this rate of 3 per cent with the average tax rate, as calculated by the State Tax Commissioner, of $4.818 for the year 1941, and as contrasted with the local rates of taxation for the year 1941 in the municipalities which prosecute this writ, which averages approximately $5.00 per hundred. (Case No. 1,

p. 462), and in the municipalities in which property of the individual prosecutors are located.

The average tax rate throughout the state since the inception of the use of that rate in 1906 is as shown on the following schedule (rate indicated is per hundred dollars of assessed valuation, according to the records in the Department of Taxation and Finance, of which the Court will take judicial notice):

AVERAGE TAX RATE IN N. J.
1906 TO DATE

1906	$1.801	1923	$3.561
1907	1.627	1924	3.671
1908	1.681	1925	3.728
1909	1.808	1926	3.615
1910	1.856	1927	3.762
1911	1.896	1928	3.877
1912	1.961	1929	3.929
1913	1.979	1930	4.055
1914	2.024	1931	4.081
1915	2.115	1932	4.048
1916	2.193	1933	3.756
1917	2.340	1934	3.968
1918	2.377	1935	3.997
1919	2.853	1936	4.153
1920	2.853	1937	4.222
1921	3.44	1938	4.535
1922	3.561	1939	4.620
		1940	4.718

It is thus apparent that the present average and local tax rates in the neighborhood of $5.00 per one hundred dollars of assessed valuation, represent a fairly consistent rate which may not reasonably be expected to decrease to any substantial extent, if at all, within the foreseeable future. The record also sets forth the local tax

rates for the year 1941 throughout the state, together with the assessed valuation of all non-railroad properties located in the various municipalities, and also sets forth a breakdown of the amount of Class II property in each municipality.

An examination of these figures shows that only a negligible amount of assessed property is situated in municipalities having a tax rate of less than $3.00 per hundred and that a greatly preponderant amount of such assessed property, both railroad and non-railroad property, is situated in taxing districts having tax rates well in excess of $4.00 per one hundred dollars of assessed valuation. The average situation is, of course, expressed by the average tax rate of $4.818 for the year 1941.

Class II railroad property constitutes a large percentage of the total ratables of the prosecutor municipalities. The record shows the total assessed real property in each of the prosecutor municipalities, exclusive of Class II railroad property, and the total amount of Class II railroad property therein (Case No. 1, pp. 426, 427).

The sharp difference between the tax burden imposed upon railroad property under Chapter 291 and that imposed upon taxable property generally throughout the state, is not the result of an accidental or incidental inequality resulting unavoidably from an attempt by the legislature to achieve an equal or fairly equal distribution of the tax burden upon all property. On the contrary, this discrimination was deliberate. This discrimination is the result of legislative compliance with a long campaign by railroad corporations to reduce to a substantial extent the tax burden imposed upon them prior to the adoption of Chapter 291. The burden sought to be avoided by the railroads had progressed since the adop-

tion of the first general railroad tax law in 1873, step by step, *commensurately with the increase in burden borne by taxable property generally.* The share of the general burden thus allocated to railroad property prior to Chapter 291 has been adjudicated to be in consonance with the constitution and the laws of this state by all of the courts of New Jersey, and has been further adjudicated by the federal courts not to violate the federal Constitution. These issues were fully resolved against the railroads in the following cases:

Central R. R. Co. v. *Thayer-Martin,* 114 N. J. L. 69 (Sup. Ct., 1934);

Central R. R. of N. J. v. *State Board of Tax Appeals,* 109 N. J. L. 395 (Sup. Ct., 1932), affirmed 112 N. J. L. 5 (E. & A., 1933);

Lehigh Valley R. R. Co. v. *Martin,* 19 Fed. Supp. 63 (D. N. J., 1936), affirmed 100 Fed. (2d) 139 (C. C. A. 3rd, 1938); writ of certiorari denied 306 U. S. 651, 670;

Central R. R. Co. of N. J. v. *Martin,* 30 Fed. Supp. 41 (D. N. J., 1939), reversed 115 Fed. (2d) 968 (C. C. A. 3rd, 1940); writ of certiorari denied 313 U. S. 568.

The principal controversy in the past has been over the method of valuation of railroad property employed by the state assessing authorities, the charge being that the method used failed to arrive at true value. It was also charged that the concept of true value employed by the State Tax Commissioner deviated from that used by the local assessors to the prejudice of the railroads. These issues, as already stated, were resolved judicially against the railroads.

Chapter 291 does not undertake in any way to endorse the charges made by the railroads in the prior litigation; there is no modification of the assessing methodology theretofore employed by the State Tax Commissioner for the determination of the true value of railroad property. *The manifest and inescapable purpose of Chapter 291 and its inevitable effect was to slash the railroad tax burden, thus exempting the railroad property of a portion of its fair share of the burden of government and necessarily saddling the amount of that exemption upon the remaining owners of property throughout the state, already subject to substantial tax burdens.*

This purpose is not only manifest from the inevitable operation of Chapter 291, but is further evidenced by the legislative history preceding its adoption. The statement annexed to the bill which became Chapter 291 expressed the purpose of following out the recommendation contained in the "Report to the Governor on Railroad Taxation in New Jersey (1932-1940)," dated February 22, 1941, wherein the slash of the railroad tax rate was recommended with the following concluding remarks, at page 22:

> "We believe that legislation giving effect to the foregoing recommendations could be beneficial to the State of New Jersey as a whole because *it would materially reduce railroad taxes* which appear to us to be presently too high, especially as compared with the ability of the New Jersey railroads to earn money. If railroad taxes are not reduced, we believe that our railroads will deteriorate and become increasingly unable to render efficient service.
>
> "Our suggestions are not as drastic as they may at first appear to be since up to about

1905 railroad property was taxed in New Jersey at a limited rate of one and one-half per cent (1½%)."

The court may judicially notice these proceedings and reports:

23 *C. J.* 90, 102, 161, 169;
Wigmore, Evidence, (3rd 1940), Vol. 9, Sec. 2555 (d);
Home B. & L. Assn. v. *Blaisdell,* 290 U. S. 398 (1934);
Temple v. *U. S.,* 248 U. S. 121 (1918).

In this connection the contention is made by the railroad appellees that the franchise tax provisions of Chapter 291 will result in substantial equalization of the tax burden, by yielding, in years of plenty, a sum which will offset the losses in the lean years.* During the war years, the

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* As a matter of fact, the brief of the railroads attempts to demonstrate that the combined effect of the property and franchise tax provisions of the Railroad Tax Law of 1941 amounts to a tax taking all of their net railway operating income earned in New Jersey. This is an obvious fallacy. The allocation, under the franchise tax provisions of the law, of railroad system net railway operating income to New Jersey on the proportion of all track miles contained in the state, is purely a computation device and in nowise intended by the legislature of New Jersey as a means of taxation of the proportion of the system income *earned* in New Jersey. Nor has it anything like such effect.

There is no rule more thoroughly settled than that the state in which an interstate railroad system has its heavy terminal investment is conclusively deemed to earn for the railroad a sum substantially in excess of the proportion that would be reflected by the ratio of miles of track in the state to total track miles. *Wallace* v. *Hines,* 253 U. S. 66; *Pittsburgh, etc. Ry. Co.* v. *Backus,* 154 U. S. 421; *Cleveland, etc. Ry. Co.* v. *Backus,* 154 U. S. 439; *Fargo* v. *Hart,* 193 U. S. 490; *Rowley* v. *Chicago & Northwestern Ry Co.,* 293 U. S. 102; *Union Tank Lines Co.* v. *Wright,* 249 U. S. 275.

New Jersey is the heavy terminal state of each of the interstate railroads having property here. To New Jersey is, therefore, attributable a proportion of the earnings vastly in excess of that proportion of such earnings as would be reflected by the application of a track mileage formula.

railroads were enjoying tremendous earnings, and the franchise taxes for a while made up the difference between the property taxes levied under the challenged statutes and the property taxes due under the statutes which they purport to supplant (although they did not prior to the tax year 1943). But it is inevitable that at the conclusion of the current war situation there will be a sharp return to normalcy. The fundamental constitutional issues here involved, which are so apparent in the background of normal railroad operations, may not be obscured by temporary and unnatural excesses in earnings.

The franchise tax is based upon the value remaining after deducting the assessed valuation from the capitalized valuation. R. S. 54:29A-15. Thus the intention of the legislature was to predicate the franchise tax upon the excess of the capitalized value over the assessed true value. The railroads heretofore contended in the pre-war period that such capitalized value was substantially less than the true value determined by the state tax commissioner. It is significant that for the year 1941, the total taxes, property and franchise, calculated under Chapter 291, were approximately $3,100,000 less than the amount of taxes theretofore fixed for the same year under the pre-existing law, and this, notwithstanding the fact that in the year 1940 (upon the basis of the earnings of which the calculations of franchise taxes were made), the railroads experienced a better than average earnings experience. The statute was adopted after much effort in an avowed move to lighten the amount of taxes levied on railroads. The railroad sponsors of this legislation were bent upon achieving that reduction and not upon paying a greater or equal burden.

But the decisive consideration is the carefully expressed legislative intention. Section 13 of Chapter 291 states:

> "Franchise excise. An annual excise tax is hereby levied upon all railroads operating within this State for the privilege of exercising their respective franchises, to be computed in the manner hereinafter provided. *This tax shall be in lieu of any other tax or taxes of or upon such franchises.*"

The franchise had theretofore been subject to *ad valorem* assessment as part of Class IV railroad property. R. S. 54:22-1. The expressly stated legislative intent was to levy an excise tax *in lieu of such property tax on the franchise.* The existence of the franchise tax does not therefore affect the determination of the basic question whether the legislature may levy a tax upon selected property at the rate of $3. per $100. of assessed valuation while other property is liable to taxation at a tremendously higher rate, thus casting an additional burden of government upon such other property owners. Moreover, both in the Supreme Court opinion (Case No. 1, p. 512), and in the briefs of the railroads, it is flatly held that the legislature may fix any tax rate it chooses for railroad property apparently regardless of the franchise tax. This, then, is the issue before this Court.

It is our contention that such legislation violates the inherent limitation upon the power of taxation, and each of the following provisions of the Constitution of the State of New Jersey:

> Article I, paragraph 16:
> "Private property shall not be taken for public use, without just compensation; * * *."

Article IV, Section 7, paragraph 12:

"Property shall be assessed for taxes under general laws, and by uniform rules, according to its true value."

(b)

Chapter 291 of the Laws of 1941 violates the inherent limitation upon the power of taxation and contravenes Article I, Paragraph 16.

The first Constitution of New Jersey, adopted in 1776, did not contain any provision which applied immediately to the power of taxation. However, it does not follow from this that the power of the legislature in matters of taxation was without limit or beyond review by the judiciary.

Without exploring the field of inherent limitations upon the power of taxation, we point out that the United States Supreme Court in the leading case of *Loan Association* v. *Topeka,* 20 Wall. 655 (Sup. Ct., 1875), enforced one such limitation, to wit, that a tax may not be levied for a private purpose. The action was predicated upon coupons attached to bonds issued by the City of Topeka to a bridge manufacturing company to aid and encourage that company in establishing bridge shops in the city. The question was whether a tax could lawfully be levied to pay for such bonds. The court expressly determined this issue on the basis of the limitations upon legislative power arising out of the very compact of Government and totally apart from any state or federal constitutional provisions. The court held that the broad purpose for which such tax would be levied was a private purpose and beyond the power of a legislature under our form of government. Mr.

Justice Miller said of the taxing power at page 663:

> "There are limitations on such power which grow out of the essential nature of all free governments. Implied reservations of individual rights, without which the social compact could not exist, and which are respected by all governments entitled to the name. * * *"

Further on page 664:

> " * * * This power can as readily be employed against one class of individuals and in favor of another, so as to ruin the one class and give unlimited wealth and prosperity to the other, if there is no implied limitation of the uses for which the power may be exercised.
>
> "To lay with one hand the power of government on the property of the citizen, and with the other to bestow it upon favored individuals to aid private enterprises and build up private fortunes, is none the less a robbery because it is done under the forms of law and is called taxation.* * * "

In *State* v. *Newark,* 26 N. J. L. 519 (E. & A. 1856), it was said at page 521:

> " * * * By the theory of a Republican government, taxation reaches to all property and persons belonging to the body politic; every member in society is interested in its fair and equal exercise; the enjoyment of property within a state being protected by the laws of that state, such property should bear its proper share of the burthen required for upholding and executing those laws. While it is generally conceded that, for the purposes

> of encouraging learning, and of inducing, for the public benefit, investments of capital questionable in point of profit, and for promoting other commendable objects, state legislatures, without express constitutional authority, may relieve some institutions and aggregations of capital from liability to contribute, in common with all other property within a municipality, to the support of its government, yet such deliberate intent of a legislature must clearly appear."

In other cases in this jurisdiction which will be discussed hereinafter, comparable references will be found to restrictions upon the powers of taxation which arise from the inherent quality of natural justice. Although the *Loan Association* case dealt with the power to give away moneys raised by taxation, it must be obvious that both in principle and in result there is no difference between, on the one hand, raising money by taxation and then bestowing it upon a favored group, and on the other hand, excluding the property of that favored group from the burdens of government, and thus casting the additional burden upon the rest of the public.

The Constitution of New Jersey adopted in 1844 provides in Article I, paragraph 16, that:

> "Private property shall not be taken for public use, without just compensation; * * *."

The following are the broad principles of taxation which were developed by our courts, resting in part on the requirements of natural justice, and in part on the requirements of Article I, paragraph 16, of the Constitution, which principles forbid a discriminatory distribution of the burden of government:

1. There is a conclusive presumption that all property within the community derives an equal share of the benefits of government paid for by general taxation.

State, Hoey, Pros. v. *Collector of Ocean Township,* 39 N. J. L. 75 (Sup. Ct., 1876); affirmed 39 N. J. L. 501 (E. & A., 1877);

State, Baldwin, Pros. v. *Fuller,* 39 N. J. L. 576 (Sup. Ct., 1877); affirmed 40 N. J. L. 615 (E. & A., 1878);

Van Giesen v. *Bloomfield,* 47 N. J. L. 442 (Sup. Ct., 1885);

Bailey v. *Manasquan,* 53 N. J. L. 162 (Sup. Co., 1890).

2. The legislature may not single out any particular class of property and levy upon that property the entire cost of government, or any particular part of such cost which is raised by general taxation, and as a corollary from that proposition, the burden of government which is to be raised by general taxation may not be assessed upon any area which is less than the political subdivision within which that government functions.

State, Trenton Water Co., Pros. v. *Parker, Receiver,* 32 N. J. L. 426 (Sup. Ct., 1868);

State, ex rel., Trustees, etc. v. *Township Committee of Readington,* 36 N. J. L. 66 (Sup. Ct., 1872);

State, M'Closky, Pros. v. *Chamberlin,* 37 N. J. L. 388 (Sup. Ct., 1875);

State, Baldwin, Pros. v. *Fuller,* 39 N. J. L. 576 (Sup. Ct., 1877); affirmed 40 N. J. L. 615 (E. & A., 1878);

State, Vail's Executors, Pros. v. *Runyon,* 41 N. J. L. 98 (Sup. Ct., 1879);
State, Lydecker, Pros. v. *Englewood,* 41 N. J. L. 154 (Sup. Ct., 1879);
Morgan v. *Comptroller of Elizabeth,* 44 N. J. L. 571 (Sup. Ct., 1882);
Auryansen v. *Hackensack Improvement Commission,* 45 N. J. L. 113 (Sup. Ct., 1883);
Van Giesen v. *Bloomfield,* 47 N. J. L. 442 (Sup. Ct., 1885);
Peck v. *Township of Raritan,* 52 N. J. L. 319 (Sup. Ct., 1890);
Water Co. v. *Wade,* 59 N. J. L. 78 (Sup. Ct., 1896);
Howell v. *Millville,* 60 N. J. L. 95 (Sup. Ct., 1897);
Street Light District No. 1 v. *Drummond,* 63 N. J. L. 494 (Sup. Ct., 1899);
Allison v. *Corker,* 67 N. J. L. 596 (E. & A., 1902);
Van Cleve v. *Passaic Valley Sewerage Com'rs,* 71 N. J. L. 574 (E. & A., 1904).

Referring to the first of the two principles, we point out that inevitably the benefits of government cannot be equally distributed. The expenditures for education do not benefit all owners of property equally. Some property receives more police and fire protection than other property. The owners of property must contribute to the maintenance of paved roads, even though individual owners may have no use for such highway. The law wisely raises a conclusive presumption that as to public works which are to be paid for by general taxation, the benefit to all property is equal. That presumption is so strong that aside

from the power of government to levy a special assessment measured by the actual benefit to property, the legislature is powerless to attempt to allocate the cost of government.

It is frequently said that equality of taxation is a "dream unrealized." This statement has particular reference to this very inequality of benefit for which no adequate provision can be made by any practical method of distributing the burden.

In *State, Hoey, Pros.* v. *Collector of Ocean Township,* 39 N. J. L. 75; affirmed 39 N. J. L. 501, the following were the facts: By statute enacted in 1867, the Long Branch Police, Sanitary and Improvement Commission was established, and to its control was committed the district within which the prosecutor's property was located. In the year 1873 the Commission levied a tax for the general purposes of the corporation. The complaint of the taxpayer appears in the language here quoted from page 77 of the opinion of Mr. Justice Knapp:

> "By the eleventh reason, it is insisted that he is not liable to be taxed for police, fire department or lighting streets; because his property is some distance from street lights, police patrol and the depository of the fire apparatus, he has and can have no benefit from and should not pay tax for them.
>
> "The tax is for the general purposes of the municipality, in which those mentioned are included. Those objects of government for which the tax is laid are committed to the control of the corporation by the legislature. That body—subject only to constitutional limitations—is, in dispensing such powers, supreme. It may grant at request, or impose,

of its own authority, municipal charters upon the inhabitants of a territorial subdivision of the state. As necessarily included in the power to create a corporation, it has power to establish the limits of territory over which such government shall extend, and of taxation for its support. It may designate classes of persons and kinds of property to bear the cost; and if the burden of taxation be imposed upon those who, or the property which, by legislative designation, are to bear it, upon rules of uniformity, they become subject to its payment. *City of Paterson* v. *Society for Useful Manufacturers,* 4 Zab. 385; *State, ex rel., Trustees, &c.,* v. *Township Committee of Readington,* 7 Vroom 66; 1 *Dillon on Mun. Corp.,* Sec. 124.

"There may be just objection to including within municipal boundaries of a city, rural or agricultural lands, merely for the purpose of contributing, by its tax, to the city treasury, but this objection must be addressed to the legislature, not the courts, for it must be regarded as established law, that the power to create, enlarge and diminish such limit rests entirely in the legislative will. Whether any case can arise in which the courts of this state would relieve such property entirely from taxation, imposed purely for city purposes, because in no wise benefited, (as seems, by the cases cited by the counsel of prosecutor, to have been done in Kentucky, Iowa and Nebraska,) it is not necessary to consider. It is sufficient to say that no such case is here presented.

"The subjects of expense complained of are for the comfort of the citizens of the dis-

trict and the protection of their property; they are a common benefit to all, not equally so to each, perhaps, but this is not necessary to the validity of a tax. The citizen who keeps no carriage pays his road tax as well as he who owns and rides in one."

In *Van Giesen* v. *Bloomfield,* 47 N. J. L. 442, Mr. Justice Van Syckel said at page 448:

"The last objection relied upon is that provision has not been made to supply every part of the township with water. To support this reason the plaintiff must maintain the proposition that the water tax cannot lawfully be imposed until every house within the township is supplied with water. I know of no authority upon which such a doctrine can be supported. The contrary view was taken in *Hoey* v. *Collector of Ocean Township,* 10 Vroom 75. The burden of taxation cannot be adjusted with perfect equality. Whether or not the taxpayer has children to send to school, or a carriage to drive upon the road, he must pay his school tax and his road tax."

In *Bailey* v. *Manasquan,* 53 N. J. L. 162, the prosecutor contended that his land was in fact outside of the Village of Manasquan, as developed, and that his property was agricultural and received no benefit from the expenditure of the tax money. As pointed out in the *Hoey* case, *supra,* the courts of Iowa, Kentucky and Nebraska had granted relief from taxation on such basis. Our court, however, refused to follow these decisions, saying at page 164:

"Actual benefit lies at the foundation of a valid special assessment for local improve-

ments. In the case of general taxation for governmental purposes benefit is presumed to accrue to all. But it does not accrue to each one in the same manner or in equal degree. Inequality is the rule arising out of the inevitable variations of personal environment. Hundreds are assessed in a city for the expenses of electric lights who have to content themselves with gas or nothing; for sewers, when no sewer runs within a mile of their property; for public parks, which are located on the opposite side of the city, and are practically unreachable for the purposes of recreation, and for police, when such an officer is rarely visible. Many of the levies for the support of these and similar features of municipal government are as inequitable as the levy of urban taxes upon rural property. It has never been successfully urged that, because of the inequality of return, the tax was abatable."

It must accordingly be assumed that the benefits of government conferred upon property used for railroad purposes are equal to the benefits conferred upon property used for all other purposes.

We turn now to the second of the broad principles referred to above, to wit, that the legislature may not select some property to bear the entire cost of government, and that general taxes may not be levied upon less than the entire taxing district.

There will be found in the cases decided both before and since 1875, statements which seem to conflict with the second proposition. The usual form of that statement is that the legislature need

not tax *all* property. Obviously, if this latter statement means that the legislature may select certain groups of property at its whim, it is wholly incompatible with the long line of authorities cited above and about to be discussed, which condemn a process of taxation which seeks to select out of the whole mass of property, limited portions thereof for the purpose of bearing the burden of government. The two statements must be read together, and thus construed, the latter means only that the legislature may, within definite limits, exempt or exclude certain properties from taxation. For example, it may exempt certain types of property because they are devoted wholly to the ultimate benefit of the public, thus rendering a *quid pro quo* for the exemption which is accorded them. This is so because it would be pointless to assess a share of the public burden upon property thus wholly devoted to the public. Our courts have said:

> "Exemptions from the burden of taxation, which the great masses of the people are called upon to sustain, as a requisite of civil government, are only favored in legislation upon the theory that the concession is due as a *quid pro quo* for the performance of a service essentially public, and which the state thereby is relieved *pro tanto* from the necessity of performing * * * and *without that concurring prerequisite, an exemption becomes essentially a gift of public funds at the expense of the taxpayer, and indefensible both under our public policy of equal taxation, and our constitutional safeguard against illegal taxation.*" *Princeton &c. School* v. *State Board, &c.*, 113 N. J. L. 515 (Sup. Ct., 1934), at 520; *Carteret Academy* v.

State Board, 102 N. J. L. 525, 528 (Sup. Ct., 1926); affirmed 104 N. J. L. 165 (E. & A., 1927).

This quoted language manifestly is repugnant to any idea that the legislature may omit to tax property at will. This principle has been reiterated in the recent case of *Rutgers Chapter &c.* v. *New Brunswick,* 129 N. J. L. 238 (Sup. Ct., 1942), affirmed 130 N. J. L. 216 (E. & A., 1943).

The power of selection also embraces the legislative right to determine not to tax property owned by the state and its agencies. The justification for this power is obvious.

So also, the power of selection carries with it the power to omit certain types of property from taxation where double taxation would otherwise result. For example, although the legislature may tax both the assets of a corporation and the corporate shares, and both property and mortgages thereon, yet the taxation of both properties would result in a double burden on a single ultimate value. Hence the legislature may select one of the two. Such selection does not avoid an equal distribution of the burden of government, but rather furthers equality.

It may also be that the legislature may differentiate between *kinds* of property, that is, between real property and personal property. Such selection might be justifiable on the ground that in a rough way the burden is distributed equally among all, since both kinds of property are freely available for acquisition by all people. But where the classification is based upon the *use* of property, classification may be made for only two purposes: (1) for total exemption, and then only where there is the *quid pro quo* referred to above or a purpose to avoid double taxation; or (2) for

the purpose of employing a technique of assessment required by the peculiar use of the property in order that its true value may be ascertained and a proportion of the tax burden accurately levied thereon. Hence, by reason of the use to which property is put, the legislature may *select* property for taxation under a law applicable to it alone. That power of selection is made necessary by the peculiar attributes of the property necessitating a different technique for the appraisal of its true value. Notable examples of the exercise of this power of selection is the selection of property used in the business of railroads, banks, and insurance companies.

Thus the legislative power of selection is subordinate to the basic principle that there must be a correlation between the benefit conferred by government and the burden imposed upon property, and, except in cases where the property is devoted wholly for the public benefit, thereby warranting exemption, the other rights of selection are all designed to further the ultimate objective of an equal distribution of burden and not to thwart it.

Judicial statements will also be found to the effect that the legislature may fix an arbitrary rate of taxation upon specified classes of property. Some such are relied upon in the opinion of the Supreme Court below (Case No. 1, p. 512). Such statements, if taken from their context and without integration with the fundamental rules hereinabove referred to, would be irreconcilable with the rules demonstrated above. Obviously, if groups of property may be promiscuously separated and a lesser rate imposed, there would be no meaning left to the proposition that the burden of government may not be saddled upon one class of property, either entirely or in disproportion to

the presumptive benefit which that property receives from government. The true meaning of statements as to legislative freedom in the fixing of tax rates is that where the objective of equal distribution of burden *necessitates* a special rate, such rate may be fixed.

This is well illustrated by the New Jersey method of assessing main stem railroad property. It is obvious that the main stem can be valued only as a unit. Separate valuations of the portions of the main stem located in the many taxing districts would not result in the determination of the true value of the property used for that purpose. Accordingly, the main stem has always been separated for valuation as an entity. Manifestly, it would be impossible to use the rates of taxation which prevail in the many taxing districts, because such use would require the doing of what has already been found to be impossible, namely, the separate valuing of portions of the main stem. It therefore is necessarily within the competence of the legislature to select an arbitrary rate, which approximates the average burden borne by property generally, either estimated, as was done prior to 1906 in this state, or by use since that date and until the adoption of Chapter 291, of the technique of the average tax rate. Thus it is apparent that the power of the legislature to select a rate is subservient to and in aid of the principle of equal distribution of burden, and cannot be resorted to for the purpose of thwarting that principle. With these general thoughts in mind, we turn to a discussion of the decisions setting forth the second of the broad principles described above, i.e., that the legislature may not select some property to bear the entire cost of government, and that general taxes may not be levied upon less than the entire taxing district.

In the case of *State, Trenton Water Power Co., pros.* v. *Parker, Receiver,* 32 N. J. L. 426 (Sup. Ct. 1868), the court said, at page 435:

> "This unlimited power of taxation does not, however, include the power to levy an arbitrary sum upon a single corporation. It extends only to the right to subject the property of a corporation to such taxation as by the general laws of the state may be imposed on the kind of property of which it is the owner, or to subject it to such taxation as corporations, as a class, are made liable to. Beyond the exercise of this power of taxation, the legislature cannot assess upon a single corporation an arbitrary assessment, and compel its payment, because that would be a taking of private property for public use without compensation, unless the power to make such an assessment is expressly reserved."

The reference to the taxation of corporations as a class undoubtedly is to franchise or excise taxes which, as will be pointed out later on, have always been regarded as outside of the constitutional concepts relating to the taxation of property.

In *State, ex rel. Trustees, etc.* v. *Township Committee of Readington,* 36 N. J. L. 66 (Sup. Ct. 1872), the following were the facts: The statute authorized the Township to levy a tax not exceeding $2,000 to pay the cost of a public improvement and provided that everything over $1,000 should be levied solely on those taxpayers who were delinquent in the payment of an earlier levy for the same purpose. The court, in declaring this statute invalid, said at pages 69-70:

> " * * * It is the assumption by the legislature of the power to subject the delinquents

to a penalty of $1,000 for a delinquency of $200, in the discretion of the township committee. That this is the real import of the act is apparent. Indeed, the learned and astute counsel who argued this motion in behalf of the realtors, so clearly discerned the exact import of this legislation that he was driven to maintain before the court that it was within the power of the legislature to select certain individuals as subjects of taxation, and impose upon them individually such burdens as the legislature saw fit, even to the extent of the payment of the state debt, or defraying the entire expenses of the state government.

"The power of the legislature in the matter of taxation is said to be unlimited. Such undoubtedly is the theory of our government. But it is not every exaction made under color of taxation that can be supported as the legitimate exercise of the sovereign power of taxation. *It is of the very essence of taxation that it should be equal and uniform, and that where the burden is common there should be a common contribution to discharge it. Cooley's Const. Law* 495. Not that it is essential to the validity of taxation that it should be levied according to rules of abstract justice. The legislature may create special taxing districts, defining their limits in its discretion, or designate certain occupations, trades or employments as special subjects for taxation; or discriminate between different kinds of property in the rate of taxation; or may apportion the tax among the classes of persons or property made liable to taxation, in such manner as may seem fit. In this way inequalities in the

share of the public burden, or even double taxation may arise without any relief except by appeal to the legislature. But when the taxing district has been defined, and the classes of persons or kind of property specially set apart for taxation have been designated, the tax must be apportioned among those who are to bear the burden upon the rule of uniformity. *Cooley's Const. Law,* pp. 493-513. Taxation operates upon a community, or a class in a community, according to some rule of apportionment. When the amount levied upon individuals is determined without regard to the amount or value exacted from any other individual or classes of individuals, the power exercised is not that of taxation but of eminent domain. *The People* v. *Mayor of Brooklyn,* 4 Comstock 420. A tax upon the persons or property of A, B and C individually, whether designated by name or in any other way, which is in excess of an equal apportionment among the persons or property of the class of persons or kind of property subject to the taxation, is, to the extent of such excess, the taking of private property for a public use without compensation. The process is one of confiscation and not of taxation."

This case clearly demonstrates the soundness of the thesis which we set forth above, to the effect that the rules of taxation are subordinate to the basic principle of equal distribution of burden. It will be observed that the court introduced the discussion of the subordinate rules with the bald statement that "It is of the very essence of taxation that it should be equal and uniform, and that where the burden is common there should be a

common contribution to discharge it." Thereafter follows a statement to the effect that certain occupations may be selected, which is a reference to the power of selection as to excise taxes. There also follows a reference to discrimination between *kinds* of property in the rate of taxation, which, unless it be regarded as a contradiction of the basic premise, can only mean a selection of rate by reason of the peculiar nature of the property, or the imposition of different rates on real as against personal property, as outlined in our introductory discussion.

In *State, Agens, pros.* v. *Mayor, etc. of Newark,* 37 N. J. L. 415 (E. & A., 1874), the Court of Errors and Appeals held that a statute which provided that the expense of paving the roadbed of the city street should be assessed, two-thirds on abutting property owners and one-third on the public at large, was an unconstitutional method of imposing the burden of such improvement. The Chief Justice stated that the applicable principle was by that time clearly delineated by a number of decisions. He summarized the rule to be (p. 420):

> "The doctrine that it is competent for the legislature to direct the expense of opening, paving, or improving a public street, or at least some part of such expense, to be put as a special burthen on the property in the neighborhood of such improvement, cannot, at this day, be drawn in question. There is nothing in the constitution of this state that requires that all the property in the state, or in any particular subdivision of the state, must be embraced in the operation of every law levying a tax. That the effect of such laws may not extend beyond certain prescribed limits, is perfectly indisputable. It is upon this

principle that taxes raised in counties, townships, and cities, are vindicated. But while it is thus clear that the burthen of a particular tax may be placed exclusively on any political district to whose benefit such tax is to enure, *it seems to me it is equally clear that, when such burthen is sought to be imposed on particular lands, not in themselves constituting a political subdivision of the state, we at once approach the line which is the boundary between acts of taxation and acts of confiscation.* I think it impossible to assert, with the least show of reason, that the legislative right to select the subject of taxation, is not a limited right. For it would seem much more in accordance with correct theory to maintain, that the power of selection of the property to be taxed cannot be contracted to narrower bounds than the political district within which it is to operate, than that such power is entirely illimitable. If such prerogative has no trammel or circumscription, then it follows that the entire burthen of one of these public improvements can be placed, by the force of the legislative will, on the property of a few enumerated citizens, or even on that of a single citizen. In a government in which the legislative power is not omnipotent, and in which it is a fundamental axiom that private property cannot be taken without just compensation, the existence of an unlimited right in the law-making power to concentrate the burthen of a tax upon specified property, does not exist."

This case was cited with emphatic approval by this Court in the very recent case of *Jersey City* v. *Zink*, 133 N. J. L. at 448.

It is clear from this excerpt that the legislature must comply with the controlling principle that the burden of government must be distributed equally upon property in proportion to the benefit conferred, and that this principle is as fully applicable in the distribution of the general burden of government, as it is in the imposition of special assessments where the public improvement confers a particular benefit upon a more limited area. In either case, the burden imposed must coincide with the benefit, that is, the actual benefit in the case of special assessments, and the presumedly equal benefit in the case of general taxation.

In *State, M'Closky, pros.* v. *Chamberlin,* 37 N. J. L. 388 (Sup. Ct. 1875), it appeared that by statute enacted in 1874, the legislature divided parts of Hoboken and Weehawken into drainage districts, which districts were not coterminous with either Hoboken or Weehawken, and authorized the levying of a tax upon property located within the drainage district for certain operating expenses connected with the drainage project, said tax to be uniform on every lot according to the size of the surface thereof. The court, in declaring the statute unconstitutional, said, at page 390:

> "As a special tax or assessment which embraces the property benefited, this cannot be sustained. It is arbitrarily fixed by the legislature, and is not graduated or limited by the benefit received. Nor can it be maintained, as the ordinary or general tax which is imposed on all persons or property, for which the taxpayer is supposed to receive in compensation the protection which government affords to his life, liberty and property, and incidentally an increase in the value of his possessions.

"The proposition that the power of the legislature over the subject of taxation is unlimited, must be understood with some qualifications. This essential attribute of government, when abused, becomes usurpation, so that any unlawful assumption of power under it may be successfully resisted. Of necessity, the discretion in the choice of ways and means for supplying the public treasury must be very wide, and it will be much easier to state instances in which the attempt to exercise it would be an encroachment, than to define with precision the scope and extent of the power itself. The legislature may establish, at discretion, special taxing districts, but within the territory so selected, a just standard of taxation must be adopted.

"In *The State, ex rel. Trustees, &c.*, v. *Readington,* 7 Vroom 66, this court did not intend to give its sanction to the doctrine that the power of the legislature in this direction was without limitation.

"In *The State, Agens, pros.* v. *Newark,* the Chief Justice very clearly expressed his view to be, that 'the legislative right to select the subject of taxation is limited, and the power of selection cannot be contracted to narrower bounds than the political district within which it is to operate.' If this is not regarded as the extent to which the exaction can be enforced, it would be competent for the legislature to constitute a taxing district of the territory within a radius of five hundred feet of the public buildings of a municipality, upon which the entire cost of lighting, repairing, and maintaining such buildings should annually fall, and lands to the depth of one hundred

feet on either side of a street might be formed into an improvement district, upon which the expense of grading, paving, and improving the street could be imposed without regard to any special benefit to be derived from the work. Thus, if the legislative will is untrammeled by the simple device of creating a taxing district out of any area, however small, private property within it might, without any regard to resulting advantage, be confiscated under the form of ordinary or general taxation, and the protection which it has heretofore been supposed our fundamental law secured to individual property rights, and which has so frequently been recognized and enforced by our courts, would be swept away.

"The district over which the law now under examination is to operate, is not coextensive with the political or municipal division of the state, of which it is a part. The proposed scheme is primarily for the public welfare, and incidentally for the benefit of the land owner. Its cost, to the extent of the special value imparted to the lands within this district might, under proper provision for the purpose, be assessed upon it; *whatever is in excess of that must, in the exercise of the general taxing power, be thrown upon the entire political district. This is a most salutary rule, free from any difficulty in its application, and is essential to secure to private property immunity against oppression.*"

In *State, Baldwin, pros.* v. *Fuller,* 39 N. J. L. 576, affirmed 40 N. J. L. 615 (E. & A., 1878), an act of the legislature, passed in 1875 authorized the Township Committee of Montclair to create

lamp districts and to levy a tax upon the property within the lamp district, one-half of the tax to be levied upon all the property located therein, and the other half to be levied exclusively upon the lands fronting on the roads which were lighted, in proportion to lineal feet. The prosecutor's property was subjected to both taxes. In setting aside the assessment the court said at page 578:

> "That the legislature may designate certain occupations, trades, or employments as special subjects of taxation, or discriminate between different kinds of property in the rate of taxation, or apportion the tax among classes of persons or property made liable to taxation, in such manner as may seem fit, provided it is apportioned upon the rule of uniformity, may be conceded. From the operation of such laws, no injustice necessarily flows. The class of tradesmen upon which they act, must add the burden to the selling price of their wares, and thus, ultimately, it is distributed over the community with an approximation to equality. Where real estate is selected to bear the heavier load, uniformity is still preserved—it acts on each and all in their turns, as they become owners of lands, and ceases to be exacted of them, when they no longer hold the estate in respect of which the duty is required.
>
> "But it seems equally clear that a tax for state purposes must fall upon the state at large; for county purposes, upon the county; and for the public uses of any lesser political district, upon such district. The county of Hudson could not be required to defray the entire expense of the state government, nor could one township, in

that county, be compelled to yield the whole revenue necessary for county purposes; nor could the legislature impose upon a single citizen the whole burden of taxation in the township in which he may reside. Any such fiscal scheme would be pronounced, by the common judgment of mankind, so contrary to the principles of natural justice, that we would be driven to conclude that there was some radical error in the premises upon which its justification was grounded. Not that courts may pronounce a law which it is within the general sphere of legislation to pass, to be void merely because it is, in their judgment, contrary to the principles of equity. The rule is conceded to be otherwise, but there are some things so repugnant to our sense of justice, that we cannot admit that they are comprehended, in our system, in the powers of government. As an instance, we unhesitatingly declare that the legislature cannot make a man to be a judge in his own case. *Aside from this consideration, laws of the character specified would, to the extent that one man's property is appropriated by them, in excess of his just contribution, to relieve others of a public burden properly resting upon them, take private property for public use, without just compensation. It would be confiscation, not taxation.* * * * The reason upon which this well-settled doctrine, in this state, is rested is, that it would be a violation of our constitutional provision 'that private property shall not be taken for public use without just compensation.' ''

Further, at page 582:

''To the extent that a locality is peculiarly benefited, the legislature may, at will, de-

clare it to be a special taxing district, for the purpose of bearing the burden, and provide a way in which such special benefits shall be computed and levied; but to impose upon A, because he chances to reside upon a certain street where the work is done, or the expense incurred, so much of the cost as enures to the public benefit, in which he has no greater interest than any other citizen, would violate established principles as clearly as if the expenditure has been incurred in a part of the township remote from him. The existence of such power can be maintained only by asserting that the law-maker is the final arbiter who is to determine whether the individual citizen derives such benefit from any given measure as will justify the burden cast upon him; a doctrine which has hitherto found no countenance in our courts."

Further, at page 584:

"Taxation is tolerated, as the contribution of each one's proportion to the support of his government, only to serve public ends, and must, from its very nature, be imposed upon the public. This is fundamental in the idea of a tax. Any attempt to appropriate the property of a designated locality, to discharge the duty which an entire community owes to its local government, must be regarded as a proceeding in which an essential attribute of taxation is absent, and as a palpable perversion of the true principle upon which the taxing power is based.

"No one would assert that it was a legal exercise of the taxing power, to enact that the residents on a block of a certain street in a

city should be required to pay the annual salaries of all city officers, because that would imply a right to cast upon a single citizen the entire expenses of the state."

That the foregoing rules are still the law of this state is indicated by the emphatic approval and reliance upon the *Baldwin* case by this Court in the very recent decision in *Jersey City* v. *Zink*, 133 N. J. L. at p. 449. By Chapter 291, even as by the laws condemned in the *Zink* case, "one man's property is appropriated * * * in excess of his just contribution, to relieve others of a public burden properly resting upon them."

In *Morgan* v. *Comptroller of Elizabeth*, 44 N. J. L. 571 (Sup. Ct., 1882), the court held that the legislature could not delegate to a municipal corporation a power of selection of property, which the legislature, under the cases outlined above, could not itself exercise. The court said at page 573:

"The question is therefore presented whether it is competent to delegate to the local government the right to select the area upon which shall be cast the entire cost of lighting the streets, improving the public parks, constructing crosswalks, supporting the police and fire departments, and supplying the city with water.

"If such authority be bestowed upon the city, who will determine whether it is fairly exercised?

"The power committed to the common council is absolute, and if, under it, an area less than the whole of the municipal territory may be selected for taxation purposes, who will challenge its exercise if the whole of the enu-

merated burdens be laid upon a single square of the city?

"Where, in the judicial mind, will the line be drawn between the whole and a part, or how limited in extent must be the oppressed district, to justify the court in pronouncing that the granted authority has been abused?

"If the cost of supporting the fire and police departments, and the expense of supplying the city with water, may be cast wholly upon a part of the municipality, why may not the entire cost of the city government, including all official salaries, be exacted from the same source?"

In *Water Co.* v. *Wade,* 59 N. J. L. 78 (Sup. Ct., 1896), it appeared that the legislature consolidated several school districts and provided for a method of taxation which would have the effect of repaying to the inhabitants of a school district, a sum equal to the excess in the value of that district's school property over the value of the school property of the other districts. The court held that the moneys originally raised by taxation for the purpose of constructing the school improvements was lawfully raised and could not be thus remitted to persons who might well not be the ones who contributed to the public fund. On page 82 the court said:

"No right can be based upon the payment of taxes except those rights which the taxpayer enjoys in common with all persons residing in the political district in which the burden is laid.

"The effect of this legislation is to take by taxation the property of one part of the taxpayers, in ease of another part, for purposes

to which both are alike legally liable to contribute."

After quoting with approval from the case of *State* v. *Readington,* the court said at page 83:

"In the case *sub judice* it is the taking of private property for private use."

"In this respect it violates not only the spirit of our constitutional provision, but also general fundamental principles.

"The effect of the remittance is to cast the tax upon a part only of the political district without regard to the special benefits which may accrue to those upon whom it is made to fall; it must, therefore, be denounced as an illegal exercise of the taxing power. *Baldwin* v. *Fuller, supra.*"

In *Van Cleve* v. *Passaic Valley Sewerage Com'rs,* 71 N. J. L. 574 (E. & A., 1904), the Court of Errors and Appeals restated the foregoing propositions as the settled law of the state, saying at page 584:

"'It must be regarded as settled in this state,' is the language of Mr. Justice Dixon, in *Lydecker* v. *Englewood,* 'that the legislature has no power to impose a tax upon any territory narrower in bounds than the political district of which it is a part.'

"'I think the true rule deducible from sound reason,' said Mr. Justice Van Syckel, in the opinion adopted by this court in *Baldwin* v. *Fuller,* 'is that legitimate taxation is limited to the imposing of burdens like those in question, as far as they are for the public benefit, upon the persons or

property within the political district possessing powers of local government, *so that the exactions are distributed over the entire territory upon the rule of uniformity'.*"

In summary, it is respectfully submitted that the inherent limitations on the taxing powers and Article I, paragraph 16, of the New Jersey Constitution, as construed and interpreted in the foregoing cases, establish:

1. That it is conclusively presumed that the functions of government which are paid for by general taxation inure to the equal benefit of all property owners;
2. That in view of the existence of this presumption, no one class or classes of property may be selected out of the great mass of property for subjection to any particular segregated portion of the public burden of taxation;
3. That the cost of any special improvement or project may be assessed against those property owners who can be shown to be specially benefited therefrom, the assessment, however, to be limited to the precise amount of the special benefit conferred upon such property owners by any such improvement;
4. That the burden of supporting the general government beyond the cost of that which is raised properly by special assessment, must be distributed equally on all property within the jurisdiction of the taxing authority; and that subordinate to and in aid of the effectuation of this principle are the subservient rules:

(a) That property which is devoted solely to the public weal may be exempted entirely for taxation, and that one form of property may be exempted to avoid double taxation where the ultimate value represented by that property is taxed;

(b) That classes of property may be selected for assessment in a special way by the legislature by virtue of the special use to which such property is devoted and the consequent necessity of adopting special methods of assessing and valuing same so as to effectuate the purpose of arriving at the true value of such property;

(c) That in connection with such special technique referred to in (b), an arbitrary rate may be selected, but only to the end that the valuation and the rate so selected, taken together, will result in an allocation to that property of its proportionate share of the burden of government.

It is submitted that no authority in this state authorizes the selection of an arbitrary rate of taxation *where either the purpose or necessary result of such selection is a discrimination in the allocation of the burden of government.* No such case is cited either in the briefs of our adversaries or in the opinion of the Supreme Court.

(c)

Taxation of property prior to 1875.

There are two kinds of property taxes: (1) specific taxes, and (2) *ad valorem* taxes. A specific tax is one which imposes a specific sum by head or number or by some standard of weight or measurement, and which requires no assessment before a listing and classification of the subjects to be taxed. An *ad valorem* tax is a tax upon the property, measured, as the words indicate, by the *value* of the property. *Cooley, Taxation* (4th ed. 1924), Vol. 1, p. 143, Sec. 52.

Prior to 1851, the property tax system in New Jersey consisted of a combination of specific taxes and *ad valorem* taxes. The act concerning the raising of taxes for the use of the state, adopted in 1791 (*Elmer's Digest,* 1838, p. 553), required the assessors to levy an arbitrary amount of tax upon specific items of property to be designated from time to time by the legislature, the subject matter of such specific taxes being referred to as "certainties." The act provided that the remainder of the quota above what was thus raised by specific taxes on the "certainties" should be assessed on other taxable property according to the valuation thereof. For examples of subsequent annual legislation fixing the amount to be raised for state purposes, and designating the "certainties" for specific taxes, and providing for *ad valorem* taxes for the remainder of the quota, see Laws of 1844, page 259; Laws of 1845, page 267; Laws of 1846, page 158; Laws of 1847, page 177.

So also, in the act respecting raising of taxes for county and township purposes, adopted March 13, 1837 (*Elmer's Digest,* 1838, p. 569),

the assessors were enjoined to levy specific taxes on the certainties therein indicated, with the further provision that any additional sum needed over and above what was raised from the certainties should be obtained by an assessment on all real estate upon a fair valuation thereof. This plan for both kinds of property taxes was continued in the Revision of April 14, 1846 (*Nixon's Digest,* 1709-1868, p. 938).

In 1851, specific property taxes were eliminated from the general tax laws of the state by an act of that year (p. 271). It was provided in section 2 thereof:

> "That all lands, and all personal estate within the state, whether owned by individuals or by corporations, shall be liable to taxation, subject to the exemptions hereinafter specified, and shall be assessed at the actual value thereof, at such rate per dollar as will be sufficient to produce the sum required, after deducting the poll tax."

The particular virtue of the specific property tax is the simplicity of the technique since it eliminates all methodology of valuation. Its infirmity is that it lends itself to discriminatory taxation because manifestly specific property taxes cannot be readily measured against one another in order to determine whether the burden of government is being equally distributed upon property. The *ad valorem* system embraces the virtue of assurance against discrimination, either unintentional or intentional. The people of this state, after long experience with both kinds of property taxes, have adopted the *ad valorem* system exclusively.

The taxation of railroad property prior to the adoption of the amendment of 1875, in nowise con-

flicts with the principles of taxation which have been outlined. An examination of the railroad charters granted by the legislature prior to 1875 discloses that every such act of incorporation contained a provision dealing with the taxation of the property of the company. These provisions may be divided into roughly four categories. Some charters provided that no taxes would be paid during the first five years; that for the following five-year period the tax would be one-fourth of one per cent. upon the cost of the roads, and, thereafter, at one-half per cent. of such cost. Other charters provided that no taxes would be levied until the earnings of the road reached a specified percentage of its cost or of its paid-in capital, and that thereafter the tax would be at the rate of one-half per cent. of the cost of the road. Another group of charters provided for a fixed tax for each person carried and each ton of merchandise transported. As the net result, the varying periods for the commencement of the obligation to pay taxes, the roads were subjected, generally speaking, to liability to pay a tax of one-half of one per cent. upon the cost of the roads.

Prior to 1846, some of the charters expressly provided that they were subject to amendment; other charters were silent with respect thereto, and were held by the courts to be irrepealable contracts foreclosing any change in the tax burden prescribed in said charters.

State v. *Branin,* 23 N. J. L. 484 (Sup. Ct., 1852);

State, United R.R. and Canal Co. v. *Com'r of R.R. Taxation,* 37 N. J. L. 240 (Sup. Ct., 1874).

By the Laws of 1846, page 16, section 6, it was provided that every charter thereafter granted by the legislature would be subject to alteration, suspension and repeal. By virtue of that provision subsequent charters were held to be irrepealable, although in at least one instance the United States Supreme Court held that, notwithstanding this statutory provision, it found in a supplement to a pre-existing charter a statutory intent to contract away irrepealably the power of taxation. *New Jersey* v. *Yard*, 95 U. S. 104 (1877), reversing *State, Morris & Essex R.R. Co., pros.* v. *Com's of R.R. Taxation*, 38 N. J. L. 472 (E. & A., 1875), which affirmed 37 N. J. L. 228 (Sup. Ct., 1874).

The making of these contracts of exemption was not an exercise of the power of taxation. On the contrary, it constituted the bargaining away of that power based upon the higher power of the state to make an agreement. The reason for such contracts is expressed in *State* v. *Minton*, 23 N. J. L. 529 (Sup. Ct., 1852), as follows, at page 531:

> "* * * The enterprise proposed was one of public importance. It was certain that the construction of the road would benefit the public, but it was not so certain that it would be profitable to the stockholders; and the legislature, therefore, held out to them the immunity of exemption from taxation as a consideration for the public benefit to be conferred, and an inducement to encounter the hazard; and this immunity was to continue until the profits of the road should be such as to enable the company to pay a reasonable tax. * * * "

In *State* v. *Bentley*, 23 N. J. L. 532 (Sup. Ct., 1852), it was said at page 538:

> "* * * Great and important works of a public character, by which all the citizens of the state were to be directly or indirectly benefited, requiring a heavy expenditure, and admitting of doubt as to their ultimate profit, were to be constructed by private capital. Individuals having the means were encouraged to subscribe and pay the money necessary to complete the undertakings, by provisions, that until the net earnings of the company should amount to a reasonable and fixed per centum, that is until these individual subscribers should receive certain dividends, the corporation should pay no bonus or tax; and when the prescribed dividends should be realized, then the corporation should pay a fixed tax, and that no other tax or impost should be levied or assessed upon the said companies. The contract was with the stockholders individually, as well as collectively."

In *State* v. *Newark,* 26 N. J. L. 519 (E. & A., 1856), the court said, at page 522:

> "When the act of incorporation was passed which we are considering, railroads were in their infancy, and, as an encouragement for capitalists to embark in an important undertaking, intended for public use and benefit, the legislature introduced into the charter the clause exempting the corporators from taxation; nevertheless a limit must be placed upon acquisitions by the company, when organized, of property which would be within the exemption."

The sole constitutional question raised by these charters was whether the legislature had the power to bargain away the right of taxation. That power

was found by the United States Supreme Court in *New Jersey* v. *Yard*, cited above. In the absence of such contract, it was the obligation of all property owners to share equally the burden of government. Thus, it was stated in the early case of *State* v. *Branin*, 23 N. J. L. 484 (Sup. Ct., 1852), at page 503:

> "* * * The general rule is, that all persons and property, and every branch of business in the community, is subject to the burthen of taxation; and the rule by which these burthens are to be distributed is, within certain limitations, for the discretion of the legislature. Corporations take their charters and hold their property subject to their share of these necessary public burthens, if nothing appears to the contrary. * * *"

The courts of this state never looked with favor upon contracts bargaining away the power to tax, but were reluctantly compelled to abide by the decision of the United States Supreme Court. See *State Board of Assessors* v. *Morris & Essex R. R. Co.*, 49 N. J. L. 193 (E. & A., 1866), where our court, speaking of *New Jersey* v. *Yard*, said at page 198:

> "* * * The decision must stand as a warning of the danger of indiscreet legislation, from the consequences of which the judiciary is unable to afford relief. * * *"

At page 199, the court placed the tax immunity of the railroad squarely upon the binding effect of the contract, saying:

> "The contract between the Morris and Essex Railroad Company and the state is a contract for the commutation of taxes by the

> payment, annually, of a certain percentage upon the cost of its railroad, in lieu of other taxation. The legal effect of the contract is to secure to the company immunity from other taxation in consideration of the prescribed tax to be paid."

At page 217 the court added:

> " * * * And so long as the federal courts continue to uphold the power of the legislature to make contracts with respect to the exercise of the sovereign power of taxation, the courts must give effect to the language in which the legislature has made the contract."

These charter provisions were nothing more than specific property taxes, in keeping with the then accepted method of levying property taxes. The exemption from taxes for a period of time was, of course, a preferential treatment, but the rate of taxation was quite consistent with the general burden imposed upon other property at the time. The first available information on the rate of taxation in the State of New Jersey is contained in the United States Census for the year 1850. It there appears that the total assessed value of real property was $153,151,619.00. The assessed value of personal property was not returned, undoubtedly because of the use of specific property taxes at that time. The total taxes to be raised in the state were $599,404.00. Even if we leave out the value of the personal property, the average rate of tax per hundred dollars of assessed valuation was 0.39%. The decennial report of the United States Census for the year 1913 shows that the average rate of tax in New Jersey

per hundred dollars of assessed value in 1860 was 0.49%. Thus, the rate of one-half of one per cent, fixed in the charters, exceeded the average rate of taxation and was intended, undoubtedly, to include a certain amount of tax for the use of the franchise.

With the passage of time, these charter provisions resulted in a serious inequality in the distribution of the tax burden for the reason that the rate failed to keep pace with the cost of government. See opinion of Mr. Justice Joel Parker in *Central Railroad Co. ads. State Board of Assessors,* 48 N. J. L. 146 (E. & A., 1886), at page 294. These rising costs, greatly accentuated by the Civil War and by the depression of 1873, are best illustrated by the increase in the average rate of taxation per hundred dollars of assessed value as set forth in the volume published by the United States Census Bureau referred to above. The following table contains the figures which are pertinent to the historical development now being discussed, as well as to the change in the taxation of railroad property after 1875:

Year	Average Tax Rate per Hundred Dollars of Assessed Value.
1860	0.49
1870	1.19
1880	1.28
1890	1.58

In the face of the greater financial need, of government, the people were confronted with contracts, some of which were irrepealable, and the remainder of which the legislature would not undertake to repeal, perhaps persuaded by a concept of moral obligation not to exercise a right of amendment present in a contract based upon a

consideration which the state exacted and received from the incorporators, and perhaps by the fact that the outstanding utility of that day, the Camden & Amboy R. R. & Transportation Company and Delaware & Raritan Canal Company, constituting the so-called "Joint Companies," held irrepealable charters (acts approved Feb. 4, 1830). The struggle of the people to escape from the additional burden thus cast upon them will be developed under the sub-point which follows immediately. At the moment it suffices to point out that there was no recognition at any time of a right in the legislature to treat railroads separately as a class and to levy upon them a tax burden which was less than the burden cast upon other property. The exercise of the power to contract for a stipulated sum in lieu of all other taxes upon property appears not to have been confined to railroad property. There is at least one other instance in which a similar agreement was made with a company engaged in a wholly private enterprise. See *Singer Mfg. Co.* v. *Heppenheimer,* 58 N. J. L. 633 (E. & A., 1896).

(d)

Chapter 291 of the Laws of 1941, as amended by Chapter 169 of the Laws of 1942, contravenes Article IV, Sect. 7, Paragraph 12.

We have endeavored thus far to establish that both the inherent limitation on the power of taxation and Article I, paragraph 16 of our Constitution preclude the deliberate levying of a lesser burden upon property used for railroad purposes than upon property generally, and that Chapter 291 of the Laws of 1941 results in a discrimination against taxpayers other than railroad com-

panies, in the allocation of the general tax burden, which is in violation of these rules of constitutional law.

We propose now to demonstrate that, whatever doubt may be suggested as to the state of the constitutional law prior to 1875, *it was the purpose and effect of the amendment of that year, Article IV, Section 7, paragraph 12, formally to imbed in our law, beyond further cavil and dispute, the principle of equal taxation of property, that is, equal distribution upon property of the burden of government which is to be met by property taxation.*

We have alluded to the popular dissatisfaction with specific taxes, and particularly with the specific taxes provided in railroad charters, which failed to keep pace with growing needs of government. This dissatisfaction is evidenced by a determined, but essentially unsuccessful, effort by taxing districts to reach for taxation the property of the railroads, nowithstanding the charter provisions.

State v. *Berry,* 17 N. J. L. 80 (Sup. Ct., 1839);

Camden & Amboy R. R. Co. v. *Hillegas,* 18 N. J. L. 11 (Sup. Ct., 1840);

Camden & Amboy Traction Co. v. *Com'rs of Appeal,* 18 N. J. L. 71 (Sup. Ct., 1840);

Gardner v. *The State,* 21 N. J. L. 557 (E. & A., 1845);

State v. *Branin,* 23 N. J. L. 484 (Sup. Ct., 1852);

State v. *Commissioners of Mansfield,* 23 N. J. L. 510 (Sup. Ct., 1852);

State v. *Minton,* 23 N. J. L. 529 (Sup. Ct., 1852);

State v. *Bentley*, 23 N. J. L. 532 (Sup. Ct., 1852);

State v. *Betts*, 24 N. J. L. 555 (Sup. Ct., 1854);

State v. *Newark*, 26 N. J. L. 519 (E. & A., 1856);

Morris Canal & Banking Co. v. *Jersey City*, 12 N. J. Eq. 227 (Ch. 1859);

McGavisk, Collector, etc. v. *State, Morris & Essex R. R. Co.*, 34 N. J. L. 509 (E. & A., 1869);

State, Morris and Essex R. R. Co., pros. v. *Haight, Rec'r*, 35 N. J. L. 40 (Sup. Ct., 1870);

State, The N. J. Railroad & Transportation Co. v. *Hancock*, 35 N. J. L. 537 (E. & A., 1871);

State, Camden & Amboy R. R. & T. Co. v. *Woodruff*, 36 N. J. L. 94 (Sup. Ct., 1872);

State, Morris Canal & Banking Co. v. *Love*, 37 N. J. L. 60 (Sup. Ct., 1874).

In a general way the success of the taxing authorities was confined to establishing the proposition that the charter exemptions or commutations embraced only such property as was suitable and proper for railroad purposes, all other property owned by the companies being subject to local taxation.

State v. *Commissioners of Mansfield, supra;*

State v. *Betts, supra;*

State v. *Newark, supra.*

The power partially to remedy this situation rested with the legislature, since the bulk of the

railroad charters were repealable. *The people, however, were unable to persuade the legislature to exercise that right.* In 1862 there was fleeting success, when, in the enactment of a general tax law (P. L. 1862, p. 344), provision was made for the taxation (p. 349) of "all private corporations of this State, except those which by virtue of any irrepealable contract in their charters or other contracts with this State, are expressly exempted from taxation."

Our courts seized upon the word, "irrepealable," to arrive at the result that the legislature had thereby indicated its intention of taxing under that law all railroad companies whose charters were repealable.

State v. *Miller,* 30 N. J. L. 368 (Sup. Ct., 1863); affirmed 31 N. J. L. 521 (E. & A., 1864);

State, Jersey City & Bergen R. R. Co. v. *Jersey City,* 31 N. J. L. 575 (E. & A., 1865);

State, Warren R. R. Co. v. *Person, Collector,* 32 N. J. L. 566 (E. & A., 1867).

The legislature quickly reacted to these decisions, and, by a supplement adopted in 1866 (P. L. 1866, p. 1078, at p. 1084), the word "irrepealable" was omitted. The judiciary was thereby compelled to conclude that the legislature intended to leave in force the contract or charter provisions.

State, Camden & Burlington R. R. Co. v. *Cook,* 32 N. J. L. 338 (Sup. Ct., 1867); affirmed 33 N. J. L. 474 (E. & A., 1868);

State, Orange & Newark Horse R. R. Co. v. *Douglass, Rec'r,* 34 N. J. L. 82 (Sup. Ct., 1869); affirmed 34 N. J. L. 485 (E. & A., 1869).

The decisions speak of the rising resentment of the people in the face of the increased burden of government.

In *State* v. *Miller,* 30 N. J. L. 368, in which the court interpreted the Laws of 1862, page 344, to impose a tax upon railroad companies with repealable charters, this reference was made, at page 374: "* * * in these times of heavy taxation, the inconvenience of depriving many townships of the right to tax valuable real estate within their limits."

In *State, Orange & Newark Horse R. R. Co.* v. *Douglass, Rec'r,* 34 N. J. L. 82 (Sup. Ct., 1869), the court, in discussing the Laws of 1862, observed, at page 84, as follows:

> "The legislature at this time also adopted a new system of taxation for private corporations, for the purpose of including within a general method of rating, all that were not protected by irrepealable contract with the state. This, while serving the purpose of correcting existing abuses pointed at by the former statute, would greatly add to the amount of taxable property in the state. The increase of taxes about this time, caused by the extraordinary expenses of the state, counties, townships, and municipalities, made it necessary and equitable that all persons and property should, so far as practicable, be made to share the burden. In such an exigency, it was felt that every possible aid should be evoked for the public relief; that not only the state should receive a tax as provided by those charters, but that counties, towns, and cities should also have their fair proportion. The supplement to the tax law, approved

March 28, 1862 (Laws 344) was carefully prepared for these purposes."

The fantastic story of railroad domination of politics in this state during the era prior to 1873 is vividly described by Professor Wheaton J. Lane in his book "From Indian Trail to Iron Horse" (Princeton University Press, 1939), Chapter 12, entitled "Monopoly and Politics" (pp. 323-370). It is there revealed that the railroad monopoly which centered around the Camden and Amboy Railroad, the Delaware and Raritan Canal, the so-called "Joint Companies," had succeeded in dominating the political picture and controlling a substantial portion of the press. It had repeatedly demonstrated its ability to get from the legislature such legislation as it desired, and to suppress legislation which was inimical to its interests.

By 1873 several circumstances combined to provide the people of the state with their opportunity to banish tax inequality and to effect constitutional changes to prevent its recurrence. As already stated, the tax burden resulting from the Civil War was great. In 1869 the "Joint Companies," which by then had assumed control of additional roads under the new corporate name of United New Jersey Railroad and Canal Company, leased its lines for 999 years to the Pennsylvania Railroad Company, which locally was regarded as a "foreign company." With this lease the activities of the state monopoly naturally lost some of their vigor. In addition, there was a severe panic in 1873. The combination of these circumstances set the stage for reform.

In 1873 the legislature finally adopted a general tax law applicable to the taxation of all railroad

property (P. L. 1873, page 112). The title of the act is "An Act to establish just rules for the taxation of railroad corporations, and to induce their acceptance and uniform adoption." The preamble is illuminating. It reads as follows:

> "Whereas, for the encouragement of railroad enterprise, laws creating and regulating railways in this state usually provide for the payment by them, in consideration of their chartered privileges, of a fixed rate upon their capital stock or the cost of their works, in lieu of all other public impositions whatever; *and whereas,* it is nevertheless contended that the property of such corporations being largely acquired for, or through the growth and extension of their prosperity, should contribute to the charges and expenses essential for municipal and county purposes; *and whereas,* it is desirable in order to the avoidance of litigation and future dissatisfaction that such municipal and county taxation shall be authorized, and that the same shall be permanently fixed and regulated;"

With reference to railroads having irrepealable charters, the legislature addressed this appeal and offer (page 115):

> "And Whereas, certain railroad corporations owning or occupying railroads in this state, claim exemption from all taxation, whether state, county or municipal, further than is provided for by their charters or by special laws for their benefit now existing, which claims, even if legal subject said corporations to public ill will, and make it their

interest to forego the same and agree to the scheme of taxation hereby established; now, therefore,

"10. *Be it enacted,* That any such railroad corporation may within six months from the approval of this act, make and execute under their common seal and the signature of their president, and file in the office of the secretary of state, a declaration in writing, surrendering all claim to exemption from taxation by them heretofore had or made, and accepting the provision of this act in lieu thereof."

The provisions of the act relating to the burden thereby imposed upon railroads are as follows:

"First, such companies shall pay upon the cost, equipment and appendages of said railroads respectively, a state tax after such rate of taxation as may have heretofore been fixed by law upon such companies, or in default thereof, after the rate of one-half of one per centum upon such cost; Second upon all the real property by them as aforesaid occupied, used or owned for the purposes of their road or otherwise, excepting their main stem or road bed and track, not exceeding one hundred feet in width, such companies shall pay a county and municipal tax for the benefit of the counties, townships and cities respectively where the same is situate, after the rate of one per centum upon a valuation thereof, and of all improvements thereon, not by way of repairs, now or hereafter to be made, which valuation shall be made as hereinafter stated; *provided, however,* that at the termini of their said roads, each com-

pany may hold a tract of land not exceeding ten acres, to be in one parcel, which with the buildings and improvements thereon, shall be free from the payment of county, township, and municipal taxes whatsoever."

This statute was, of course, held to supersede all *repealable* charters.

> *State, Morris and Essex R. R. Co., pros.* v. *Com'r of R. R. Taxation,* 37 N. J. L. 228 (Sup. Ct., 1874); affirmed 38 N. J. L. 472 (E. & A., 1875); reversed by the U. S. Sup. Ct. on a finding that the contract in question was irrepealable;
>
> *State, Board of Assessors* v. *Paterson, etc. R. R. Co.,* 50 N. J. L. 446 (E. & A., 1888).

Irrepealable contracts were unaffected in the absence of voluntary consent under Section 10 of that law. See in addition to *New Jersey* v. *Yard, supra,* the case of *State, United R. R. & Canal Co.* v. *Com'r of R. R. Taxation,* 37 N. J. L. 240 (Sup. Ct., 1874).

It is significant that this statute was adopted on April 2, 1873, and that on April 9, 1873, a joint resolution was adopted authorizing the appointment by the Governor of a commission to recommend amendments to the Constitution of this state, which commission ultimately recommended, among other amendments, Article IV, Section 7, Paragraph 12, which provides that:

> "Property shall be assessed for taxes under general laws, and by uniform rules, according to its true value."

Non-general laws, condemned by the amendment, are in two categories, (1) local, and (2) special. The local laws were those which enabled certain municipalities to levy taxes in a manner not conforming to the general laws adopted with reference to the taxation of property generally. Illustrative is the local law declared invalid in *North Ward National Bank of Newark* v. *City of Newark,* 40 N. J. L. 558 (E. & A., 1878). The *special* laws which this amendment was intended to eliminate were manifestly the repealable contracts for the taxation of railroad companies. The railroads were, with slight exception, the only group which held such special legislation for its taxation. In *State* v. *Miller,* 31 N. J. L. 521 (E. & A., 1864), a dissenting judge, speaking of the Law of 1862, referred to above, said at page 527:

> "* * * The language of the exception is, 'except those (corporations) which, by virtue of any *irrepealable* contract in their charters or other contract with the state, are expressly exempted from taxation.' I am not aware of any corporations in the state to which this exception applies but to railroad companies. Various of the railroad companies of the state, perhaps all of them, have, by their charters, contracts with the state, by which they are expressly exempt from taxation; some of them are repealable, and some of them are irrepealable contracts. And these two kinds are the only known contracts between the state and any of its corporations which exempts them from taxation, and these two are in all cases substantially alike, except that one is repealable and the other is not; but they are cer-

tainly both contracts with the state, and they are certainly both exemption contracts. * * *"

The purpose of the people in amending the Constitution in 1875 was apparent. They had succeeded, by the law of 1873, in adopting general legislation relating to the taxation of railroads, which superseded the charter provision. They proposed by this amendment to prevent any legislature from ever repealing such legislation and thereby reviving the vitality of the charter exemptions, as the legislature of 1866 had done when it amended the law of 1862 which, as noted above, had been construed by the courts to result in the taxation of railroads under the general tax law. *It was the intention of the people to prevent legislatures from ever again subjecting the state to the evil of unequal distribution of the tax burden.*

To that end, two limitations upon the taxing power were added by the amendment. The requirement of "general laws" prevented the creation of special contracts of exemption. The requirement of assessment "according to true value" was designed to prevent the use of specific taxes such as were contained in these charters, and thus there was written into the Constitution the decision made by the people in 1851 that equality shall be insured by the taxation of property upon true value, rather than by some arbitrary standard which invites and protects discrimination.

The people of the State of New Jersey were not alone in this reaction against favored treatment of railroads. Throughout the breadth of the land there was a unanimous movement to alleviate the hardship which the people suffered

by reason of the preferential treatment of railroads, both by way of lighter taxation, and by way of gifts of public funds. The correlation between preferential tax burden and gifts of public funds, and the identical effects of these two devices, were recognized by our courts in *Princeton &c. School* v. *State Board, &c.,* 113 N. J. L. 515 (Sup. Ct., 1934), at page 520:

> " 'Exemptions from the burden of taxation, which the great masses of the people are called upon to sustain, as a requisite of civil government, are only favored in legislation upon the theory that the concession is due as a *quid pro quo* for the performance of a service essentially public, and which the state thereby is relieved *pro tanto* from the necessity of performing * * * and without that concurring prerequisite, an exemption becomes essentially a gift of public funds at the expense of the taxpayer, and indefensible both under our public policy of equal taxation, and our constitutional safeguard against illegal taxation'."

The following constitutional amendments of 1875 demonstrate the common purpose of barring preferential treatment by either method:

1. Article IV, Section 7, paragraph 12, provides for equal and uniform taxation.

2. Article IV, Section 7, paragraph 11, which will be quoted presently, provides for the elimination of legislation granting special privileges under a wide variety of classifications.

3. Article I, paragraph 19, provided that:

> "No county, city, borough, town, township or village shall hereafter give money or property or loan its money or credit to or in aid

of any individual, association or corporation, or become security for, or be directly or indirectly the owner of, any stock or bonds of any association or corporation."

4. Article I, paragraph 20, provided that:

> "No donation of land or appropriation of money shall be made by the state or any municipal corporation to or for the use of any society, association or corporation whatever."

All of these amendments had the common design to protect the many against the powerful few who had repeatedly demonstrated their ability to obtain preferential treatment in the legislative halls.

That the provisions relating to gifts of funds were aimed at preventing aid to railroads is indicated by the statement of the court in *Carr* v. *Borough of Merchantville,* 102 N. J. L. 553 (Sup. Ct., 1926), to the effect that:

> "The reason * * * was because of a practice that had grown up very largely in the West in the furtherance of aid to railroads and other private corporations, which, of course were corporations, it is true, in most instances, affecting the public interest. * * *"

See also:

Runnemede v. *New Jersey Water Co.,* 123 N. J. L. 383 (E. & A., 1939); and *Wilentz* v. *Hendrickson,* 133 N. J. Eq. 447, 487; aff'd. 135 N. J. Eq. 244.

In *Loan Association* v. *Topeka,* 20 Wall. 655 (Sup. Ct., 1875), wherein, as stated above, the

court had before it the question of the power of the municipality to give financial aid to a private company engaged in the business of manufacturing bridges, the court discussed extensively the early cases concerning the power of state and municipal governments to give such aid to railroads. It pointed out that in the majority of the cases involving that issue, it was held that because of the public benefits resulting from the construction of railroads, such aid could lawfully be given, but that such decisions were accompanied by vigorous dissents, and that there was a considerable minority of cases which condemned the practice. The court said (pp. 660-662):

> "We have already said the question is not new. The subject of the aid voted to railroads by counties and towns has been brought to the attention of the courts of almost every state in the Union. It has been thoroughly discussed and is still the subject of discussion in those courts. It is quite true that a decided preponderance of authority is to be found in favor of the proposition that the legislatures of the States, *unless restricted by some special provisions of their constitutions,* may confer upon these municipal bodies the right to take stock in corporations created to build railroads, and to lend their credit to such corporations. Also to levy the necessary taxes on the inhabitants, and on property within their limits subject to general taxation, to enable them to pay the debts thus incurred. But very few of these courts have decided this without a division among the judges of which they were composed, while others have decided against the existence of the power altogether.

"In all these cases, however, the decision has turned upon the question whether the taxation by which this aid was afforded to the building of railroads was for a public purpose. Those who came to the conclusion that it was, held the laws for that purpose valid. Those who could not reach that conclusion held them void. In all the controversy this has been the turning point of the judgments of the courts. And it is safe to say that no court has held debts created in aid of railroad companies, by counties or towns, valid on any other ground than that the purpose for which the taxes were levied was a public use, a purpose or object which it was the right and the duty of State governments to assist by money raised from the people by taxation. The argument in opposition to this power has been, that railroads built by corporations organized mainly for purposes of gain—the roads which they built being under their control, and not that of the State—were private and not public roads, and the tax assessed on the people went to swell the profits of individuals and not to the good of the State, or the benefit of the public, except in a remote and collateral way. On the other hand it was said that roads, canals, bridges, navigable streams, and all other highways had in all times been matter of public concern. That such channels of travel and of the carrying business had always been established, improved, regulated by the State and that the railroad had not lost this character because constructed by individual enterprise, aggregated into a corporation.

"We are not prepared to say that the latter view of it is not the true one, especially as

there are other characteristics of a public nature conferred on these corporations, such as the power to obtain right of way, their subjection to the laws which govern common carriers, and the like, which seem to justify the proposition. *Of the disastrous consequences which have followed its recognition by the courts and which were predicted when it was first established there can be no doubt.''*

As suggested by the opinion of the Supreme Court, constitutional amendments were adopted by states to overcome the effect of the decisions permitting such financial aid to railroads. The presence in some form of prohibition against such gifts of public funds is quite universal in this country. See:

Wilentz v. *Hendrickson,* 133 N. J. Eq. 447, 487; aff'd. 135 N. J. Eq. 244.

(e)

Analysis of Article IV, Section 7, Paragraph 12.

We contend that the purpose and meaning of Article IV, Section 7, paragraph 12, is that the burden of government shall be distributed equally among all owners of property so far as is practicable, subject only to the power to exempt in the proper cases which we have heretofore discussed. The railroad respondents must necessarily contend that this amendment requires uniformity of treatment of all property only within such classes as the legislature may from time to time prescribe, without reference to the comparative burden borne by different classes of property.

This plainly was the view of the Supreme Court in this case.

It is to be noted that Article IV, Section 7, paragraph 11, adopted at the same time as paragraph 12, as a constitutional amendment in 1875, provides that:

> "The legislature shall not pass private, local or special laws in any of the following enumerated cases, that is to say:
>
> "Laying out, opening, altering and working roads or highways.
>
> "Vacating any road, town plot, street, alley or public grounds.
>
> "Regulating the internal affairs of towns and counties; appointing local offices or commissions to regulate municipal affairs.
>
> "Selecting, drawing, summoning or impaneling grand or petit jurors.
>
> "Creating, increasing or decreasing the percentage or allowance of public officers during the term for which said officers were elected or appointed.
>
> "Changing the law of descent.
>
> "Granting to any corporation, association or individual any exclusive privilege, immunity or franchise whatever.
>
> "Granting to any corporation, association or individual the right to lay down railroad tracks.
>
> "Providing for changes of venue in civil or criminal cases.
>
> "Providing for the management and support of free public schools.
>
> "The legislature shall pass general laws providing for the cases enumerated in this paragraph, and for all other cases which, in

its judgment, may be provided for by general laws. The legislature shall pass general laws under which corporations may be organized and corporate owners of every nature obtained, subject, nevertheless, to repeal or alteration at the will of the legislature."

If it were the intention of the framers of these amendments to require uniformity of tax treatment only *within a class of taxpayers,* then the framers would undoubtedly have merely included within Article IV, Section 7, paragraph 11, an additional category of prohibited special legislation relating to the assessment of property for taxation. This observation is sound because if a tax law failed to provide for uniform treatment of all property within a class, it would, by definition, cease to be a general law. It is true that paragraph 12 is self-operative and immediately vitiated all local and special tax legislation (*State, North Ward National Bank of Newark* v. *City of Newark,* 40 N. J. L. 558 (E. & A., 1878)), whereas paragraph 11 was intended only to apply to future special legislation. Nevertheless, such automatic operation could easily have been prescribed within the confines of a single amendment.

The fact that paragraph 12 contains the additional words, "according to uniform rules," compels the conclusion that *some further additional meaning* was intended beyond that which would normally attach to the phrase "general laws." It is fundamental that meaning must be given to all words and phrases contained in legislation and, *a fortiori,* in constitutional provisions, particularly where a constitutional provision was adopted at the very same time as another constitutional provision, otherwise identical in phraseology. The

respondents must, to sustain their argument, take the position that the phrase "according to uniform rules", in paragraph 12, adds nothing to the phrase "general laws" and is, therefore, superfluous.

The construction suggested by the opposition further also fails to give adequate effect to the presence in paragraph 12 of the requirement that property be assessed "according to true value." The reference to true value indicates the framers' intention that there should be a correlation between the value of the property assessed and the burden of taxation to be imposed upon such property. If the only objective were uniformity within a class, it would be of no consequence whether that objective were attained on the basis of true value or some other standard. This being so, the framers' purpose is obviously frustrated by a construction which would enable the legislature, after valuing property for taxation at its true value, then to proceed to classify the property in such manner as it might deem appropriate, and apply to the several classes thus set up, arbitrarily varying and divers rates of taxation, calculated to impose varying burdens upon the several classes of property and to reduce the determination of true value to a useless gesture.

Still further, there was no public evil which would have impelled the people to adopt an amendment which had as its sole objective, equality within a class. Since 1851, property had been consistently assessed equally and at its actual value, Laws of 1851, page 271, Sec. 2. The sole substantial exception was property used for railroad and canal purposes, and this exception rested upon the charters. Surely, it cannot be reasonably supposed that the people would go to the trouble of

adopting a constitutional amendment *merely to guarantee to railroads equality of treatment as among themselves.* Indeed there was no claim that railroads and canals were being unequally treated as among themselves. The amendment embodies the principles of equality in the distribution of burden that had been developed in this jurisdiction, both as a matter of natural justice and under Article I, Section 16. The amendment was intended to crystalize these principles and to preclude any further deviation therefrom, either by individual contracts of exemption, as had been the technique for evasion in the past, or by the adoption of any law granting preferential treatment to any group through the repudiated technique of specific taxes.

Finally, approval of the rule sustained by the Supreme Court would render practically useless the prohibition of complete exemption of railroad property, demonstrated above. If the legislature may apply *any* rate to railroad property, what is to prevent it from taxing such property at one mill per $100, (one-five-thousandths the rate applied on the average today on ordinary real property) and thus nullify the prohibition of tax exemption of such property, for all practical purposes? To us it seems incomprehensible that this Court will countenance such an indefensible nullification of the 1875 amendment to the constitution.

The difference between a $3.00 rate and a one mill rate is only one of degree. In either case, there is a concededly substantial preference as against property paying a $5.00 rate, or more, as in the case of non-railroad property in Jersey City and many other of the larger taxing districts of the state.

(f)

The decisions interpreting Article I, Section 7, Paragraph 12, hold that this provision requires that there be an equal distribution of the burden of government upon property taxed.

We are not left to reliance upon the strong logic of the rule of substantial equality of tax burden, for which we contend. The decided cases cogently reinforce our position.

In *State, North Ward National Bank, pros.* v. *City of Newark,* 39 N. J. L. 380 (Sup. Ct., 1877), reversed on grounds which are not here pertinent, 40 N. J. L. 558 (E. & A., 1878), the court, speaking of the grievances which led to the adoption of both Paragraph 11 and Paragraph 12 of Article IV, Section 7, said at page 391:

> "Nor should the circumstances connected with the adoption of the constitutional amendments of 1875 be overlooked in the search after the intent of this amendment. The two grievances which, in a great measure, led to the creation of a commission to frame amendments to be proposed for adoption by the people, were the existence of a multitude of local and special laws on a variety of subjects, and the *inequality of taxation* arising from local and special laws."

In *State, Vail's Executors, pros.* v. *Runyon.* 41 N. J. L. 98 (Sup. Ct., 1879), the court stated the purpose of this amendment at page 106, as follows:

> "* * * The object of this constitutional provision was *the equalization of taxation* in its relation to the several parts of the state, and

the *prevention of unjust discriminations in the apportionment of the public burdens among its citizens liable to taxation.* The requirements of the constitutional provision relate to the essentials of a tax law which shall operate on citizens as tax payers *in invito.* * * * "

In *Trustees of Public Schools* v. *City of Trenton,* 30 N. J. Eq. 667 (E. & A., 1879), the court said at pages 677-678:

"The constitutional provision invoked relates only to the assessment of taxes, and in that respect it concerns only such equalization of the burdens of taxation as will result from the designation of the property which shall be the subjects of taxation, and the apportionment of the taxes thereon under general laws, by uniform rules and upon true valuations. The reasons which induced the adoption of this constitutional provision are deep seated in principles of public policy. Its object was to secure to the people of the state the equalization of taxation so far as was practicable, by requiring the imposition of taxes on property by general laws, on the principle of uniformity in the subjects of taxation and in valuations."

In *State, Trenton Iron Co., pros.* v. *Yard,* 42 N. J. L. 357 (Sup. Ct., 1880), the court said at pages 363-364:

"No one can doubt the impracticability of applying to the various sorts of corporations, controlling, as they do, property widely different in character, a method of taxation alike in all its details. *To attain to equal and*

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> *uniform results,* means must be adopted suited to their varying conditions. It is in recognition of this necessity that we have special methods of assessing upon railroad, bank, and each of the other corporations mentioned in the proviso, their due proportion of the public tax levies. These particular modes of levying taxes are being constantly enforced and approved. *State, North Ward Nat. Bank, pros.* v. *Newark,* 10 Vroom 380; S. C. on error, 11 Vroom 558. If they are not objectionable, a law which groups in one class all other corporations, certainly cannot be called a special law. In the case of *State, W. B. & L. Ass'n, pros.* v. *Hornbaker,* 12 Vroom 519, a tax upon a building and loan association, assessed under the act of 1878, was sustained."

This opinion very clearly points out that the purpose of classification of properties (beyond classification for the purpose of exemption as in the case of charities, public property, or corporate shares, etc., where double taxation would otherwise result), is to permit the application of special techniques necessitated by the characteristics or uses of the property, to achieve the ultimate goal of an equal distribution of the burden of government, and not a saddling on some property of a burden which ought, on principles of equality, to be placed upon other property.

In *Stratton* v. *Collins,* 43 N. J. L. 562 (Sup. Ct., 1881), after referring to the same power of selection described above, the Court said, at page 565:

> "The property to be taxed being thus indicated, the direction that it shall be assessed by uniform rules, according to its true value, becomes then applicable. This direction re-

quires, and is fulfilled by such regulations as should impose the same percentage of its actual value upon all the taxable property in the township for township purposes, in the county for county purposes, and in the state for state purposes. *Exchange Bank* v. *Hines*, 3 Ohio St. 1; *State, Vail's Ex'rs, pros.*, v. *Runyon*, 12 Vroom 98."

In *Morgan* v. *Comptroller of Elizabeth*, 44 N. J. L. 571 (Sup. Ct., 1882), the court found in Article IV, Section 7, paragraph 12, an embodiment of the principles which had been developed under Article I, paragraph 16, which prohibited the imposition of the burden of government upon a lesser area than the political district in which the burden of government was created. At page 574 the Court said:

"In my judgment, this scheme of taxation is also in contravention of the amended constitution of this state (Sec. 7, Par. 12), which provides that property shall be assessed for taxes, under general laws, by uniform rules, and according to its true valuation.

"The provision permitting the common council of Elizabeth to select, within the city limits, any area in its discretion, upon which the taxes for the purposes enumerated may be levied, is not taxation under general laws or by uniform rules. It violates both the letter and spirit of the constitution, and selects persons and objects upon which the public burdens are laid by special rules, applicable to one locality, and not by general laws uniform in their operation.

"For the general laws and uniform rules required by the constitution, it substitutes the

unrestrained will of the common council, as expressed through city ordinances.

"The scheme is fatal to *equality and uniformity,* and in conflict with fundamental law, and was therefore abrogated by that provision of the constitution which has been referred to. *State* v. *City of Newark,* 10 Vroom 380.

"In *Trustees of Public Schools* v. *City of Trenton,* 3 Stew. Eq. 667, the object of this constitutional guaranty was declared to be to secure to the people of the state the equalization of taxation, so far as was practicable, requiring the imposition of taxes on property by general laws on the principle of uniformity in the subjects of taxation and in valuations."

"Equalization of taxation, so far as practicable," requires legislation designed to accomplish equality and excuses only such inequality as inevitably results from the most determined effort to apply the principles of equality. It does not excuse intentional discrimination.

The United States Supreme Court in *Tappan* v. *Merchants' National Bank,* 19 Wall. 490, said at page 504:

"* * * Absolute equality in taxation can never be attained. That system is the best which comes the nearest to it. The same rules cannot be applied to the listing and valuation of all kinds of property. Railroads, banks, partnerships, manufacturing associations, telegraph companies, and each one of the numerous other agencies of business which the inventions of the age are constantly bringing into existence, require different machinery for the purposes of their taxation. The object

should be to place the burden so that it will bear as nearly as possible equally upon all. For this purpose different systems, adjusted with reference to the valuation of different kinds of property, are adopted. * * *"

Implicit in this language is the fundamental concept that classification of property for taxation is permitted as a means to attaining equality in distribution of burden, except for such inequalities as the genius of man cannot avoid. Patently different and unjustifiable, are those inequalities which the genius of man deliberately creates, as in this case.

(g.)

Central R. R. Co. v. State Board of Assessors (19 Vroom).

The first case judging the constitutionality of a general law relating to the taxation of railroad property was *Central R. R. Co.* v. *State Board of Assessors,* 48 N. J. L. 1 (Sup. Ct., 1886), reversed 48 N. J. L. 146 (E. & A., 1886). Since there are many cases in this state bearing the same name, this case is, for the sake of convenience, referred to herein as "19 Vroom."

We have heretofore pointed out that the first general law for the taxation of railroad property was Laws of 1873 (p. 112). That statute provided that the railroad company should pay upon the cost, equipment and appendages of the railroad a state tax at such rate as might thereafter be fixed by law, or in default thereof, at the rate of one-half of one per cent, upon such costs, and that the company should further pay a county and municipal tax for the benefit of the counties and municipalities wherein the property is situated, at the rate of one per cent upon the valuation of all real property, except main stem, not exceed-

ing 100 feet in width, and excepting also a tract of land not exceeding ten acres, with all buildings and improvements thereon, located at the termini of the roads. The valuations were to be made by the Commissioner of Railroad Taxation.

By the Laws of 1876 (p. 129), the statute referred to above was amended so as to require the levying of the tax upon the *value* of the railroad's equipment and appendages, rather than upon the cost thereof. This amendment manifestly was required by the constitutional amendment of 1875, which called for assessment according to true value. The valuations were to be made by the Board of Railroad Commissioners.

In 1884, a new act for the taxation of railroad and canal property was adopted (P. L. 1884, p. 142). This statute divided railroad property into four categories (Section 3, p. 143):

> "I. The length and value of the main stem of each railroad, and of the water-way of each canal and the length of such main stem and water-way in each taxing district;
>
> "II. The value of the other real estate used for railroad or canal purposes in each taxing district in this state, including the roadbed, (other than main stem) waterways, reservoirs, tracks, buildings, water-tanks, water-works, riparian rights, docks, wharves and piers, and all other real estate, except lands not used for railroad or canal purposes;
>
> "III. The value of all the tangible personal property of each railroad and of each canal company;
>
> "IV. The value of the franchise."

It provided for the valuation of that property by the State Board of Assessors and that upon such valuation (Section 12, p. 147):

> "* * * each company shall pay to the state, for state purposes, a tax at the rate of one-half of one per cent. annually upon each dollar of valuation, and the state board of assessors shall compute the same; each company shall also pay, in addition to said tax of one-half of one per cent., a tax at the local rate as fixed and assessed for county and municipal purposes, upon other property in each taxing district, upon the valuation of its property in the several taxing districts, separately valued and assessed under the provisions of subdivision two of section three of this act, which tax shall also be computed by the state board of assessors; but the last-mentioned rate shall in no case exceed one per cent. of the valuation of the property valued under the provisions of subdivision two of section three of this act; the sum of the estimates or computations for each company shall constitute the tax to be paid by each company, * * *"

The act further provided at page 148:

> "* * * That if said board upon complaint of any company shall in any case ascertain that the addition of the state tax of one-half of one per cent. to the local rate as limited in this act would compel any company to pay more tax than the tax such company would pay if such company did not pay the state tax of one-half of one per cent. but did pay full local rates on all the property and franchises mentioned in section three, without any other exemption than such as would be

allowed to an individual citizen on such property, that then and in such case, the said board shall make such deduction as will make the tax equal to the amount that such company would pay upon all the property and franchises mentioned in section three if assessed at full local rates without any state tax of one-half of one per cent.; the board, for the purpose of ascertaining this amount, but for no other purpose, to be authorized to apportion the value of the franchise among the local taxing districts."

The Act of 1884 enlarged the burden of the railroads by levying a tax on the franchise and by subjecting to the tax for local purposes, property located at the termini which had theretofore been excluded from the tax for local uses.

The test of the constitutionality of the Act of 1884 in *19 Vroom* was characterized by sharp differences of opinion among the judges of the Supreme Court and the Court of Errors and Appeals. In an opinion by Chief Justice Beasley, the Supreme Court declared the act unconstitutional. Seven separate opinions were read by the Court of Errors and Appeals. Respondents in the present case confidently quote isolated excerpts from one or more of these opinions as stating the law of that decision. We shall demonstrate the aimlessness of such scholarship.

The Court of Errors and Appeals reversed the judgment of the Supreme Court and sustained the constitutionality of the act, both as to the tax for state uses and the tax for local uses. Three judges dissented in the Court of Errors and Appeals. Mr. Justice Depue declared both phases of the tax to be unconstitutional. Mr. Justice Dixon and Mr. Justice Reed agreed that the tax for

local purposes was invalid, but voted to affirm the tax for state uses.

The importance of that case to the issue *sub judice* warrants a detailed analysis of the briefs of counsel and of the many opinions referred to.

We believe that this analysis will establish the following propositions: A fundamental line of demarcation along which the judges disagreed was whether the statute levied a single tax, the proceeds of which were to be distributed in part to the state and in part to counties and municipalities, or whether the act levied two independent taxes, one for state uses and the other for local uses. The Supreme Court and the dissenting judges in the Court of Errors and Appeals construed the Act of 1884 as prescribing two independent taxes. The majority of the Court of Errors and Appeals regarded the act as creating one tax.

Another fundamental line of cleavage which separated the opinions of the judges was whether the burden of local government must be isolated from the burden of state government, and the burdens of both governments separately assessed upon all property within the reach of the levying authority. The Supreme Court and Justice Depue in the Court of Errors held the view that the constitution required an equality of distribution of burden among all property in the state for state purposes, among all property in the county for county purposes, and among all property in the lesser municipalities for the purposes of such local government. This requirement had support in the language of *Stratton* v. *Collins, supra.* Upon this basis, the law of 1884 would manifestly be unconstitutional because the burden of state government was not at that time imposed (with small exception) upon any property other than railroad

and canal property, and the burden of county and municipal government was not equally levied on railroad property in that the Act of 1884 placed a ceiling of one per cent. on that tax, and, further, did not apply at all as to classes I and III railroad property.

The Attorney General contended, and the majority of the Court of Errors and Appeals agreed, that the Act of 1884 levied but a single tax and that the constitutionality of the statute must be judged on that basis. It was argued that the Act of 1884 must be construed in *pari materia* with the other legislation in the state relating to taxation; that the purpose of the separate statute relating to railroad and canal property was to permit the application of valuation methodology required by the peculiarities of railroad property, to wit, the state-wide character of the main stem, and the value of the franchise which was reflected in property thus spread throughout the state, in order to ascertain the true value of that property; that in the last analysis all taxes are state taxes and all forms of local government stem out of the state, as mere agencies of the state, in the grand scheme of providing government.

Thus viewed, the issue as to distribution of burden was whether railroad and canal property was caused to bear a burden which, by and large, equalled the proportionate burden of all government levied upon all other classes of property in the state. *No one undertook to prove, or even to assert, that the legislature by this act had levied an unequal proportion of the burden of government upon railroad and canal property, either by design or by the inevitable effect of the law.* Nor did the Attorney General or the majority of the Court of Errors and Appeals, or the Supreme

Court, or Justice Depue, subscribe to the idea that railroad and canal property could be deliberately subjected to a disproportionate share of the burden of government. *Only two judges subscribed to such theory.* They were Justice Dixon and Justice Reed, both of whom were *dissenters* in the Court of Errors and Appeals.

Obviously, the legislature had to prescribe some rate of taxation. The varying local rates could not be justly applied to Classes I, III or IV property, since the value of such property could not be allocated among the municipalities without doing violence to the initial hypothesis that such properties could be valued only as a statewide unit. Hence, the legislature sought to fix a rate, necessarily arbitrary, which, however, *would approximate the average burden of taxation borne by other properties.* The rate selected was in keeping with the average burden placed upon property generally. The average rates of taxation in New Jersey, as set forth in the 1913 Decennial of Census Bureaus which bear upon the periods in question are the following:

Year	Rate per $100 of Assessed Valuation
1860	0.49
1870	1.19
1880	1.28
1890	1.58

Accordingly, it is apparent that the legislature, in prescribing a tax of one-half of one per cent on all railroad property, plus an additional tax of one per cent on Class II property, was attempting to attain a fair distribution of the burden of government. The possibility of such tax exceeding the amount of tax at local rates is indicated by the presence in the statute of the pro-

vision protecting the railroads upon proof of that eventuality. The railroads themselves presumably felt that they would be better off if taxed at local rates, and apparently had little faith in the practical application of the protective measure just referred to. *At any rate, no one contended that, viewed as a state-wide proposition, the burden of government cast upon the railroads was disproportionate to the burden cast upon all other property.*

With these thoughts in mind we turn to an analysis of the argument of counsel and of the opinion of the court.

Chief Justice Beasley in his opinion for the Supreme Court said at pages 9-11 (48 N. J. L.):

> "The next subject that is to be disposed of by the court is one obviously of great and abiding importance. It is the question whether, by the law and constitution of this state, it is competent for the legislature, at will, to select the property of two classes of corporations and impose a tax upon such property [meaning the state tax of one-half of one percent], at the same time exempting all other property from the burden."
>
> * * * * * * *
>
> "If it is competent for the legislative power to put in force such a measure, it is plain such power is absolutely untrammeled by constitutional circumscriptions. Such an authority, if it exists, would seem to have no bounds, and to be entirely arbitrary in its nature. It cannot be questioned that a government that can choose, at pleasure, groups of property and impose, at its own will, a tax to an indefinite amount on such property, possesses in that department a truly despotic faculty.

It is not to be denied that many expressions are to be found in judicial decisions, as well as in theoretical works, that would seem to sanction the doctrine that this power, even in this extreme form, is possessed by the public. Thus, it has been said the right to tax is an incident of sovereignty, and is co-extensive with that of which it is an incident. In the celebrated case of *McCulloch* v. *Maryland*, 4 Wheat. 428, it is declared that 'the power of taxing people and their property is essential to the very existence of government, and may be legitimately exercised on the objects to which it is applicable to the utmost extent to which the government may choose to carry it. * * * The power of the state as to the mode, form and extent of taxation is unlimited where the subjects to which it applies are within her jurisdiction.'

"But while such phrases as these may be said to indicate truly enough, as a general description, the nature and scope of this prerogative of sovereignty, nevertheless there are authorities of the highest character that have denied that on the general principles of jurisprudence, it is without limit. When, in the exercise of this power, a tax has been imposed without regard to the rule of national justice, that the common burden should be sustained by common contributions, and that it should be apportioned according to some ration of equality, there have not been wanting judicial adjudications pronouncing such enactments to be void on the ground that they exact, not taxes, but forced contributions. In the case of the *State* v. *Township of Readington*, 7 Vroom 66, Mr. Justice Depue ex-

presses his views on this subject with the utmost directness. He says: 'The power of the legislature in the matter of taxation is said to be unlimited. Such undoubtedly is the theory of our government. But it is not every exaction made under color of taxation that can be supported as the legitimate exercise of the sovereign power of taxation. It is of the very essence of taxation that it should be equal and uniform, and that where the burden is common there should be a common contribution to discharge it.'"

Further at page 13:

"It is plain from these references that although, as a matter of theoretical statement, it was sometimes said that the legislative power to tax was unlimited, nevertheless, when it exhibited itself in any of the tyrannous forms to which it inevitably tended, it was refused recognition and enforcement by the judicial power. But if its existence was thus left in doubt, no thoughtful person failed to perceive that it was a prerogative liable to great abuse, and a standing menace to the security of private property. Hence the restrictions put upon such prerogative by so many of the states, and hence the amendment, in this particular, of our own constitution in the year 1875. We have already seen what that amendatory clause is. Its words are: 'Property shall be assessed for taxes under general laws, and by uniform rules, and according to its true value.'"

Further at page 21:

"* * * As we have construed it, the rule thus established is of essential value, as it

leans strongly to the great principle of justice that an equal ratio of the common burden of taxation shall be placed on all the same kinds of property, under similar conditions, no matter by whom such property may be used or owned."

It is clear from the foregoing quotations that the Supreme Court, speaking through Chief Justice Beasley, subscribed wholeheartedly to the proposition that there must be an equal distribution of the burden. Starting, however, with the basic assumption that the statute levied two independent taxes and that the equal distribution of burden required an equal allocation of the state burden and the local burden, each treated separately, Chief Justice Beasley reached the inevitable conclusion that the state tax was unconstitutional.

The brief filed by the Attorney General with the Court of Errors and Appeals in *19 Vroom* contains the following criticism of Chief Justice Beasley's opinion at page 3*:

"It is submitted that the opinion misconceives the case, and that neither of the propositions fairly states the question which was brought before the court by the writs of certiorari; that the tax is not a separate, independent, property tax, *but a part of a system of taxation which aims at subjecting all property, by general laws and uniform rules, to the proportionate share of the public burden, by ascertaining in a reasonable and constitutional mode its true value;* and

* These references are to the original brief, on file in the State Library.

"That the property is not arbitrarily selected for the purpose of taxation, and set apart from property of the same kind, but by the act is brought under the same conditions as applied to all other property."

Further, at page 4* of the brief, it was said:

"'It was confidently said that the exactions under this law would not amount to so much a sum as would result from taxing this property in the ordinary mode. This may be so but judicially we can have no knowledge on the subject, for it is impossible for us, as a matter is placed before us, to establish an equalization between the known quantity of this exaction and the unknown quantity that would accrue from the imaginary tax suggested.'

"This argument, however, to which the Chief Justice is replying is misstated.

"It was not that, even if the state tax be an exclusive exaction, nevertheless the railroads are still favored classes inasmuch as their property or some part of it, is exempted from certain taxation to which other property is subject.

"It was an absolute denial that the tax was an exclusive exaction and a positive claim that this act was simply a part of a general system of taxation on the property within the jurisdiction of the State—an assertion that all property in the State was liable to be taxed by the sovereign for such purposes as the sovereign saw fit.* * *"

Further, at page 19:

"The Chief Justice says that the court cannot establish an equalization between the

known quantity of this taxation and the unknown quantity which would occur from an imaginary tax, yet the court was told by the acts that the tax assessed under which all railroads and canals could never exceed the amount which individuals paid at local rates under an act in *pari materia*. This much, at least, they knew judicially. It is not an imaginary tax."

Thus the Attorney General contended that the railroad tax law was to be construed as part of a system of taxation and read in conjunction with other tax laws, so that while railroad property was excepted from the general tax law, and while property generally did not fall within the railroad tax law, yet the two acts, read together, resulted in one scheme of taxation which achieved the constitutional objective of equality in the distribution of burden.

It is further plain from the foregoing quotations that *the Attorney General did not contend that the legislature had the power to select railroad property for the purpose of imposing any quantity of burden, disproportionately small or disproportionately large.* The Attorney General subscribed to the same basic proposition enunciated by Chief Justice Beasley, that there must be an equal distribution of burden. The difference between the Chief Justice and the Attorney General was solely on the question whether the railroad act levied *a single tax* to be measured from the standpoint of the distribution of the general burden of all government borne by all property. There was definitely no claim that the legislature had the constitutional power deliberately to discriminate in favor of or against property used for railroad and canal purposes. The Attorney Gen-

eral conceived the purpose of the Act of 1884 to be merely to provide a method for ascertaining the value of railroad property. At page 17 he said:

> "The Railroad Tax Act of 1884 is but one part of this seemingly complicated, yet simple system; it attempts to provide a method for getting at the value of railroad property, as the other acts provide for ascertaining the value of the property of other corporations and of individuals."

Naturally, counsel for the railroads did not disagree with the fundamental proposition as to equality of burden. Their principal contention was that the act created *two taxes,* each of which must be measured independently of the other, and from the standpoint of the extent to which each tax represented a fair proportion of the burdens of state and local governments, respectively.

At page 17* of the brief of Mr. Williamson, of railroad counsel, appear the observations:

> "*Equality of burden* is the essence of lawful taxation.
>
> "Unequal taxation, to the extent of such inequality, is confiscation, not taxation.
>
> "This fundamental principle of justice, older than our laws and Constitution, has never been more forcibly stated than by a judge of this court before the Constitution of 1875 made it a part of the written as well as the unwritten law of the State."

At page 24,* his position, consonant with the analysis given above, is stated as follows:

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* These references are to the original brief, on file in the State Library.

"Uniform rules are such as secure *equality in the burden of taxation.* Equality of burden necessarily involves: (1) Valuation by a uniform standard of value; (2) Assessment at a uniform rate; (3) Application of this valuation by uniform standard and assessment at uniform rate to all taxable property in the territory to which the tax applies. If a State tax, it must extend to all taxable property in the State. If a county tax, to all taxable property in the county. If a municipal tax, to all taxable property in the municipality."

Mr. Joseph D. Bedell, of railroad counsel, in his brief said at page 9*:

"Classification may be lawful and useful in the equal distribution of burden, but will be unlawful if it disturbs or defeats that purpose."

Further at page 13*, speaking of Article IV, Section 7, paragraph 12:

"We may revolve this amendment in our minds as much as we choose, and sometimes be on different sides of its construction, yet at last its natural reading and purpose seem to be that all property, whether corporate or individual, shall bear the common burden of taxation, upon an estimate of true value secured by general laws and uniform rules.

"It does not necessarily follow that the purpose to subject all property to the common burden of taxation deprives the legislature from making certain exemptions, which are nothing more than a designation of such

*These references are to the original brief, on file in the State Library.

property as is not a proper subject of taxation consistent with the duty and correct policy of the government in encouraging and fostering public virtue, character and the elevation of the masses."

It is not clear whether any of the opinions handed down by the judges of the Court of Errors and Appeals can be regarded as *the* opinion of the court. At any rate, the opinion of Chancellor Runyon appears first in the reports, beginning at page 271. At page 278 the Chancellor said:

> "* * * The property separated, so far from being taken by mere arbitrary selection, is, all of it, so circumstanced by reason of the peculiar use to which it is put as to make it on that account a class by itself. To value and tax such property in the same way in which other property is valued would be unjust. To do justice to the companies, and in common fairness, not only must the main stem of a railroad and the water-way of a canal be each valued and taxed as a unit, but the other property used in connection therewith and for the same purposes must also be valued and taxed with reference to such use. To make a just valuation thereof, property used for railroad or canal purposes must be estimated with regard to its value for such purposes. * * *
>
> "This peculiarity of the property in question constitutes it a legitimate class for the purposes of taxation—a class which, in order to deal with it fairly in the matter of taxation, must be treated separately."

It thus appears that in the mind of the Chancellor the purpose of classification was to arrive

at true value of property which could not be properly assessed by the technique employed in the valuation of property generally. This is the statement of the true purpose of classification of property for the purpose of taxation, for which we have been contending throughout our argument.

At pages 279-280 the Chancellor continued:

> "If the legislature has power to exempt, on account of the special use to which they are put, certain kinds of property from the taxation to which other property of the same kind, but put to general uses, is subjected, it has the right to provide, in its discretion, that such special property shall be assessed at a different rate and in a different way from the other. Judge Cooley, in his work on Constitutional Limitations, says (page 497) that constitutional requirements that taxation upon property shall be according to value do not include every species of taxation, but that all special cases, such as those which he specifies, among which are those where corporations are required to pay a certain sum annually, in proportion to their capital stock or by some other standards, which methods are regarded by the state as most convenient and suitable for the taxation of such organizations, are by implication excepted. In fact, under our laws various methods, which have received express judicial sanction, are employed for the taxation of the property of various kinds of corporations in order that such property may be taxed at, and not beyond, its true value.
>
> "Railroad and canal property being peculiar property, which cannot in justice to

> the owner be valued in the same way as other property of a like nature, the legislature was bound to provide a proper method of valuing it justly for the purposes of taxation. Such method must be a peculiar one. The machinery provided for the purpose by the act—a state board of assessors—is appropriate, and such as is necessary in view of the peculiar character of the property. *If by the method adopted the companies are required to bear no more than their just share of the public burden of taxation, they surely have no ground of complaint.* Whether the tax which they pay is appropriated to state purposes alone, or to state and county and municipal purposes, is a matter which does not concern them. All taxes, whether levied for state, county or municipal purposes, are state taxes—they can be imposed by no other authority than that of the state. The state appropriates the proceeds to what purposes it sees fit; but however the proceeds may be appropriated, every tax is a state tax. *Camden and Amboy R. R.* v. *Commissioners of Appeals,* 3 Harr. 71; *State, Camden and Burlington R. R. Co., pros.* v. *Cook,* 3 Vroom 338; *Vreeland* v. *Jersey City,* 14 Vroom 135."

The foregoing quotation is a perfect example of the collection in one short space of ideas, any one of which, if lifted individually from its context, thereby receives an expansiveness of meaning which would render the complete quotation meaningless. The Chancellor baldly states as the supreme guiding principle that "if by the method adopted the companies are required to bear no more than their just share of the public burden of

taxation, they surely have no ground of complaint." The quotation further emphasizes the *justice* of separate methodology in valuing railroad property, all in support of the basic objective of equal distribution of burden. In the same quotation, and subordinate to the basic proposition of equality, is the statement that the legislature may select "a different rate." Read in its context, this means only that where the peculiarities of the property, or its use, require a special valuation technique, the legislature may, in pursuance of the end result of an equal distribution of burden, select a fixed rate which is calculated to attain that end.

Thus, in that case, where railroad property was being valued as a state-wide proposition, with the properties located in many municipalities with varying local rates, of necessity the legislature was compelled to fix a rate. But it is manifestly improper to assert that the Chancellor subscribed to the proposition that a rate may be selected for any purpose, that is, to levy either a disproportionately small or a disproportionately large burden. If the Chancellor entertained any such notion, he would merely have said that the burden of government need not be distributed equally and that since railroad and canal property may be classified separately, it is of no moment whether none, or all, of the burden of government is placed upon railroad and canal property. This analysis of the Chancellor's opinion is further fortified by the following statement therein on page 283:

> "It is manifest from the provision that the companies shall not be required to pay more tax for all purposes under the act than they would be required to pay at full local

rates, that *the act is not liable to the criticism that it selects the property of two classes of corporations from the mass of similar property, not to put upon it a proportionate part of a general tax, but to charge it with the whole amount of a separate tax;* for, so far from putting upon the property a separate tax, the legislature has carefully provided that it shall not pay any more than it would pay if taxed at precisely the same local rates as other property, without any taxation for state purposes."

At page 285 the Chancellor, referring to the *San Mateo* case, said:

"* * * It may be remarked that in what are known as the *San Mateo Case,* 8 Am. & Eng. R. R. Cas. 1, and the *Santa Clara Case,* 9 Sawy. 165, in the United States Circuit Court for the district of California, the adjudication in reference to the fourteenth amendment was upon a provision of the constitution of California denying to railroad and other *quasi* public corporations the same right of exemption from the taxable value of their property of the amount of a mortgage debt thereon which was allowed to others. This discrimination was held to be a denial of the equal protection of the laws. *Those cases deal with a constitutional discrimination. They have no bearing upon the cases in hand* to which the authoritative decisions of the United States Supreme Court above referred to are pertinent."

If the Chancellor entertained the view that the Act of 1884 sought to levy a discriminatory bur-

den and that the Constitution of New Jersey permitted the legislature to do so, he would not have distinguished the *San Mateo* case on the ground that that case involved the imposition of a discriminatory burden upon railroad property by reason of the denial to railroads in that case of the right to deduct the amount of the mortgage debt. Obviously, if the Chancellor believed that there was a right to discriminate in the distribution of burden, he would simply have said that the *San Mateo* case was unsound and would not be followed.

Mr. Justice Scudder said at page 290:

> "* * * If the property of railroad and canal companies admits of this distinctive classification, founded on real differences *and not on mere devices for the manifest purpose to oppress and harass them by unequal taxation,* then the law which classifies them for taxation is general within the description of such a law in the well-known and oft-quoted decisions of our own courts."

This language plainly is incompatible with any concept that an unequal burden may be cast *upon railroad property or upon non-railroad property,* and further evinces the true basis of classification of railroad property, to wit, the ascertainment of its true value and the application to such peculiar property of a method of taxation which will arrive at a proportionate share of the burden. At page 292, Mr. Justice Scudder said:

> "It is argued that 'the equal protection of the laws,' under the fourteenth amendment of the constitution of the United States, exempts from any greater burden or charges than such

as are equally imposed upon all others under like circumstances, and that this equal protection forbids unequal exactions of any kind, and among them that of unequal taxation. Admitting this to be so, and I am not disposed to deny it, the limitation to all persons and property in like circumstances restricts the comparison to all those within the same classification for taxation. This law does not stand alone in the classification of property for taxation, but is part of a system of tax laws by which this burden is distributed among all classes of persons and upon all taxable property, with slight exemptions within the state, and taxes are thereby raised for the expenses of the state, county and municipal governments in their different departments, and according to their several requirements. *Thus far, as it appears to me, there has been a fair effort throughout this whole system to place all persons and property, so far as may be practicable, within the equal protection of the laws, both constitutional and legislative.* That there are errors in details, and in some of the methods of assessment, all will probably admit, and doubtless when these are made plain by the practical working of the laws they will be corrected. But *substantial and not exact equality* is all that can be required under any system of legislation for taxes."

Plainly, Mr. Justice Scudder believed that the Act of 1884 was calculated to levy a fair portion of the burden. He had no intention of sustaining any other kind of a law.

Mr. Justice Joel Parker reviewed the history of the taxation of railroads in the following language at page 294:

> "* * * In the infancy of this class of corporations, when struggling for existence, the amount of tax they were required to pay into the state treasury was small. The state favored them by limiting the annual tax to be paid by such corporations to the one-half of one per cent on the cost of their respective roads. This tax was for state purposes, and they were not assessed for local taxes. The wise and liberal policy adopted by the state was founded in part on the fact that the enterprises in which such companies were engaged were at that time of doubtful success, and in part on the belief that if successful they would contribute vastly to the public good.
>
> "As time progressed, these corporations extended their business operations and acquired additional property, often of great value, until in some sections of the state, especially in the cities, the exemptions from local taxation became so great as to encumber the property of citizens liable to be taxed with a heavy burden.
>
> "To prevent injustice arising from inequality of taxation, and to equalize as far as possible the public burdens, the legislature, on the 2d day of April, 1873, passed an act the avowed object of which was to establish just rules for the taxation of railroad property."

This language shows that Mr. Justice Parker regarded the Act of 1873 and, accordingly, the

Act of 1884, as efforts to attain equality of distribution of burden rather than inequality.

At page 297, Mr. Justice Parker said:

> "One so-called vice of the act of 1884 is stated in the opinion of the Supreme Court in the form of an interrogatory. It is asked 'whether by the law and constitution of the state it is competent for the legislature, at will, to select the property of two classes of corporations and impose a tax upon such property, at the same time exempting all other property from the burden?' *If the act of 1884 was the only tax law on the statute book, the answer should be that it was not competent so to do.* But that act is only one of a series of tax laws under which property in the state is taxed. If by virtue of the various tax laws in force all the property in the state (except that which is devoted to collegiate, academic, religious or charitable purposes) is taxed, how can it be said that the legislature, at will, selected the property of two classes of corporations and imposed a tax upon such property, and at the same time exempted all other property from the burden of taxation? All taxes are, in one sense, state taxes. They are assessed and raised under different laws enacted by the legislature of the state, all forming one general scheme of taxation, designed to bring all the property in the state (liable to tax) under general laws and uniform rules according to its true value. Different agencies are employed to assess and collect, and the sums raised are applied to various public purposes. But this does not vitiate the system of taxation nor render invalid any one of the acts which, with others, constitute the

system, if the constitutional prohibition be not violated."

There could be no plainer repudiation of any idea that the Constitution permits an unequal distribution of burden. If the premise that such discrimination is permitted were the true premise, the interrogatory posed in the quotation would have to be answered in the affirmative, for if there is the power to discriminate in the allocation of burden of government, that power of discrimination necessarily involves the lowering of the burden on some property and the increasing of the burden on the remaining property. If in principle that may be done, the limitation would of necessity rest with the legislature and the entire burden of government could logically be imposed upon railroads alone. Mr. Justice Parker plainly held to the contrary. Finding that the Act of 1884 imposed a single tax, and that, taken in conjunction with the other existing tax laws, it was calculated to distribute a fair share of the burden of government of and on behalf of the state, Mr. Justice Parker reached the conclusion that there was compliance with the constitutional mandate of equality.

That the purpose of the classification was merely to arrive at the true value of the property was emphasized by Mr. Justice Parker at page 300 in the following language:

> " * * * The true value of property used for railroad or canal purposes cannot be arrived at except by treating it as a class by itself."

At page 305, Mr. Justice Parker carefully pointed out:

> "The act in question is not only constitutional, but is founded on a just basis. While it requires of the companies the payment of one-half of one per cent. for state purposes, it so guards against imposition in the assessment of local taxes that in no case can a company be forced to pay more than the local rate, but may pay much less. If there be any inequality, it is favorable to the companies, and of this they have no legal right to complaint. It is the injured party who has the right to move for the correction of errors."

If Justice Parker entertained the view that discrimination was constitutionally possible, this quoted language would have been completely superfluous, for the brief answer would then have been simply that the legislature is untrammeled in the distribution of the burdens of government.

At pages 306 and 307, Mr. Justice Parker distinguished the *San Mateo* case exactly as the Chancellor had done, namely, on the basis that the statute there "worked inequality." The basis of distinction suggested by him demonstrates again that he regarded the Constitution of our state as prescribing a rule of equality and that he regarded the Act of 1884 on the record before him as a sincere effort to attain that result.

Next follows the opinion of Mr. Justice Dixon which, as stated above, disagreed with the majority opinions. Mr. Justice Dixon disagreed with the majority in two respects: (1) He regarded the Act of 1884 as levying two independent taxes, thus agreeing with both Chief Justice Beasley and Justice Depue, but he also entertained the view that (2) the burden of government need not be distributed equally upon all classes of property.

He accordingly concluded that the state tax was valid and this, notwithstanding the fact that the burden of state government was thus levied almost exclusively on railroad and canal property. He concluded that the tax for local uses was unconstitutional because some of the railroad property was not subjected to the tax for local purposes, there thereby being an improper failure to treat all railroad and canal property equally. In order to arrive at that result, Justice Dixon had to say of the amendment of 1875, at page 310:

> "* * * The expression 'uniform rules' is not of wider import than the expression 'general laws,' and if the latter may be confined to a class, with equal propriety may the former.* * *"

In short, to arrive at his conclusion that the Constitution required only uniformity within a class, Mr. Justice Dixon, appreciating that the requirement of "general laws" would of itself compel such uniformity within a class, was forced to disregard the phrase "by uniform rules" as being superfluous redundancy. In so doing Mr. Justice Dixon obviously violated a most elementary principle of statutory and constitutional construction. Curiously enough, Mr. Justice Dixon condemned the type of inequality which ought to be regarded as inevitable and, therefore, not vitiating as to constitutionality (p. 318). He there points out that because of the differences in the quantity of main stem and Class II property owned by each road, the railroads, as among themselves, would be subjected to a varying rate of distribution of burden. It is precisely this kind of inequality, which the majority of the court held not to violate the Constitution of the state, when

resulting unintentionally from an effort to tax by general laws.

At any rate, the decision of Mr. Justice Dixon represents the minority view, at variance with the fundamental premise of equality upon which the majority of the Court of Errors and Appeals, Mr. Justice Depue, the Attorney General, and the Supreme Court were fundamentally in agreement.

Mr. Justice Reed agreed with Mr. Justice Dixon both in regarding the act as creating two taxes, and in concluding that the Constitution requires only uniformity within a class, rather than uniformity as among classes as well. Mr. Justice Reed said at page 323:

> "* * * Inasmuch as all property taxed is to be taxed at its true value by the express terms of the amendment, if it is also held that all property must be taxed at a uniform rate, then the power of classification is a barren privilege. Besides, I think it would follow from this construction that there is no power in the legislature to exempt property from taxation."

The first sentence contains an obvious *non sequitur*. It is the same as that unfortunately indulged by the Supreme Court in the present case (Case No. 1, p. 512, l. 29, *et seq.*). The power of classification is plainly intended only to permit a *valuation* at true value, as repeated in half a dozen judicial decisions cited above, and hence is not incompatible with an equal distribution of burden upon all classes of property. To conclude that property which may be classified for valuation may, by the same token, be separately classified

for all other purposes, including the purpose of unequal taxation, is thoroughly illogical.

The second sentence in the quotation also fails to follow from the initial premise. The requirement that there be an equal apportionment of burden does not preclude the exemption of property which is completely devoted to the public weal, such as property used for charitable or governmental purposes, or the exemption or exclusion of one form of property where it is already in fact burdened by a tax upon property represented by the excluded species of property. There is no incompatibility or conflict of principle between the two propositions.

Let us appraise the view of Mr. Justice Dixon and Mr. Justice Reed from another approach. Franchise, excise and business taxes are not within Article IV, Section 7, paragraph 12.

Johnson v. *Loper,* 46 N. J. L. 321 (Sup. Ct., 1884);

Trenton Savings Fund v. *Richards* 52 N. J. L. 156 (Sup. Ct., 1889);

Honduras Co. v. *Board of Assessors,* 54 N. J. L. 278 (Sup. Ct., 1892);

Johnson v. *Asbury Park,* 58 N. J. L. 604 (Sup. Ct., 1896); affirmed 60 N. J. L. 427 (E. & A., 1897);

Unwen v. *State,* 73 N. J. L. 529 (Sup. Ct., 1906); affirmed 75 N. J. L. 500 (E. & A., 1907);

State v. *Corson,* 67 N. J. L. 178 (Sup. Ct., 1901);

Standard Underground Cable Co. v. *Attorney General,* 46 N. J. Eq. 270 (E. & A., 1889);

Eastern Pennsylvania Power Co. v. *State Board,* 103 N. J. L. 281 (Sup. Ct., 1926).

It is a definitely accepted principle of law that in this field of taxation the legislature has an almost unlimited power of classification and may base its groupings on relatively slight distinctions. It may tax some businesses and omit to tax others; it may use widely varying rates of taxation upon various callings. Nevertheless, even with respect to such taxation, the legislature is constrained by the requirement that the law shall be a general law, which necessarily requires that there be equal treatment of all falling within the class. This was the requirement prior to 1875.

This requirement is embodied in Article IV, Section 7, paragraph 11, since manifestly this type of taxation falls within the requirement contained therein, that no private or special law shall be passed granting to any corporation exclusive franchises, privileges or immunities.

In the levying of excise taxes, the legislature is free to base the tax upon the quantity of assets, the gross income, the net income, or the ability of the owner to pay the tax. See *State, ex rel. Trustees, etc.* v. *Township Committee of Readington*, 36 N. J. L. 66, at page 70 (Sup. Ct., 1872). Thus two systems of taxation complement each other. Property taxation must be levied on the principle of equality of distribution of so much of the burden of government as the legislature may determine to raise by such taxation. The extent of one's holdings, or the owner's ability to pay, are factors foreign to the philosophy of the taxation pertaining thereto. On the other hand, in the case of franchise, excise or business taxes, the legislature may be guided by the contending political and economic philosophy that ability to pay should be the guiding consideration.

If the view of Justices Dixon and Reed (and the same applies to the Supreme Court *dictum* in the

present case) were adopted, then it is clear that there would be no appreciable distinction between the legislative power to levy excise taxes and the legislative power to levy *ad valorem* taxes. Both kinds of taxation would be limited only by the requirement that the law be general and operate uniformly as to all within the class. In fact, Justice Dixon, at page 311, compares the requirement of uniformity in Paragraph 12 with the requirement of uniformity under the Federal Constitution with reference to the levying of duties, imposts and excises. The comparison is unwarranted because the federal provision requires only *territorial* uniformity, that is, that such duties, etc. "shall be uniform throughout the United States" (Art I, Sec. 8).

A reading of these two opinions indicates that the view of the two justices goes so far as to establish a legislative right to provide for the total exemption of property classified on the basis of its use, entirely apart from the question whether such property is used for the general common weal, as in the cases of property used for charitable and governmental purposes, so that property devoted to the profit of the owner thereof may be thus exempted. See for example the statement in the opinion of Mr. Justice Reed at page 322. The subsequent decisions of our courts plainly disagree, as we shall later see.

Furthermore, under the view of these dissenting justices, the constitutional requirement of assessment of property at true value would be reduced to a mere intermediate step in the mechanics of the computation of a tax, not restricting the legislature in any way so far as the distribution of the tax burden is concerned.

The view embraced by the majority of the judges in *19 Vroom,* that the purpose of classification (other than in the instances of exemption which have been alluded to) is to aid in the ascertainment of the true value of the property to be taxed, is a workable basis. On the other hand, the view embraced by Justices Reed and Dixon and by the Supreme Court in the present case, would leave the basis of classification substantially unknown, because manifestly the propriety of classification can only be judged when the objective of such classification is first made clear, and if the objective is the same as in the case of excise taxes, that is, distribution of tax burden on the basis of ability to pay, then the classification may be predicated on the multitude of distinctions which may be found in the status of the owners of property.

Mr. Justice Depue, as stated above, dissented from the majority of the Court of Errors and Appeals. However, the basic point of difference was that in his opinion the Act of 1884 levied two independent taxes which, judged separately, failed to conform to a second principle which Justice Depue adopted, to wit, that the burden of state government must be distributed equally among all property in the state, and the burden of local government must be distributed equally among all property within the locality. It will thus be noted that Mr. Justice Depue agreed completely with the majority on the principle of equal taxation, but that he fell apart from them on their construction of the law as levying but a single tax, and also on their construction of the principle of equality, to wit, that all taxes are in the last analysis state taxes, and that so long as all property bears its approximate share of the burden of all government, it is of no consequence how the tax, after collection, is distributed.

Since Justice Depue regarded the taxes as two separate taxes, he found that the limitation of the rate of one per cent on the tax for local uses on the Class II railroad property in municipalities where the local rate exceeded that amount, violated the principle of uniformity and constituted a partial exemption. He pointed out that there is no power to exempt partially; that if property is subject to taxation the constitutional requirements operate in full force; and that there must either be full exemption in a proper case or none at all. This latter view is sound and obviously not at variance with the basic principles adopted by the majority.

We also should comment briefly on the role of certain municipalities in *19 Vroom*. The only attacking parties were the railroads. There was no one in a legally qualified position to raise the question of preferential treatment of the railroads. Several municipalities interviewed and sought to raise that question. However, the argument advanced by those municipalities was based upon the same assumption entertained by Chief Justice Beasley and Justice Depue, to wit, that there were two taxes and that each tax must be separately measured within each locality from the standpoint of equality. In other words, the municipalities simply relied upon the fact that their own local rate exceeded one per cent. They did not attack the law along the line that the taxation of railroad property is a state-wide proposition; that there was but one tax levied; and that that single tax failed to levy a proportionate share of the burden borne by property generally throughout the state. As a matter of fact, as pointed out above, the record was wholly silent on any such issue, and it appeared to have been

agreed by all that, viewed from a state-wide point of view, the tax did represent an equal distribution of the burden of government, or at least one not demonstrated to be substantially disproportionate. We have already pointed out that a comparison of the rate fixed in the state with the average rate of taxation as published by the Census Bureau demonstrates that the rate imposed was in consonance with the average burden at the time.

(h)

The relevant railroad cases since 19 Vroom.

The decisions since *19 Vroom* definitely interpret that case consistently with the analysis made above.

In *Williams* v. *Battle,* 51 N. J. L. 512 E. & A., 1889), the railroads contend that the valuations of railroad property should be included in the calculation of the local rate, for purposes of the tax rate applicable to the railroad property. Justice Dixon, in refusing to adopt that interpretation of the Act of 1884, said, at page 516:

> "On the other hand, if the theory of the plaintiff in error were adopted, one object of legislative policy, clearly indicated by this statute, would fail, viz., that of taxing railroad property as heavily as other property, within the prescribed limits of one-half of one per centum for state purposes, and one per centum for local purposes. For, by this theory, while other property was taxed in the township of Union at one per centum, and in the township of Weehawken at one and four hundred and ninety-five thousandths per

centum, the railroad property would be taxed in Union at only two hundred and eighty-eight thousandths per centum, and in Weehawken at only seven hundred and forty-three thousandths per centum. *Such discrimination the legislature plainly did not intend.*"

Thus it is clear that the judges of the Supreme Court and of the Court of Errors and Appeals who participated in the decision of *19 Vroom* regarded the law before them as one which sought to impose an equal portion of the burden of government upon railroads. There is negation of any idea that the judges who decided *19 Vroom* regarded the problem before them to be whether the legislature might impose a disproportionate share of the public burden upon property used for railroad purposes.

In *Bergen and Dundee R. R. Co.* v. *State Board of Assessors*, 74 N. J. L. 742 (E. & A., 1907), the court sustained the validity of the Duffield Act (Laws of 1905, Chapter 91), which act confined the one-half of one percent feature of the tax to Classes I, III and IV, and subjected Class II property to the full local rate, thus eliminating the ceiling of one per cent which the Act of 1884 contained. Some of the language in the opinion of Mr. Justice Pitney would appear to indicate that he regarded the Act of 1884 as imposing two independent taxes. This departure from the fundamental position of the majority justices in *19 Vroom* was shortly thereafter repudiated by the Court of Errors and Appeals in the very important case of *Central R. R. of N. J.* v. *State Board of Assessors*, 75 N. J. L. 771 (E. & A., 1907), affirming 75 N. J. L. 120 (Sup. Ct., 1907). For the sake of convenience the latter case is referred to herein as "75 Law."

Chief Justice Gummere in the decision for the Court of Errors and Appeals presents, at pages 72 to 76, the history of the various amendments to the Act of 1884, which we now enumerate. In 1888 the Act of 1884 was amended so as to eliminate two features which had theretofore been declared to be unconstitutional, and which are here referred to only for the purpose of completeness. Our courts had held that the provision of the Act of 1884, which compelled the State Board to accept the valuation of second class property made by the local assessors, was invalid as in conflict with the requirement of assessment at true value, and had also held that the provision that the State Board shall designate which branch of the road shall be the main stem was also invalid as an improper delegation of legislative power. The amendments of 1884 eliminate these two invalid provisions.

The amendment of 1897 (P. L. 1897, p. 147), provided that all of the moneys raised on Class II property should be distributed to the local taxing districts. Thus the one-half of one per cent on Class II property which formerly went to the state, was distributed to the municipality. This amendment was inferentially sustained in the *Bergen and Dundee* case just referred to.

In 1905 (P. L. 1905, p. 189), the act was further amended so as to eliminate the existing total tax of one and one-half per cent on Class II property and to subject Class II property to the local rate of taxation. This amendment was sustained by the *Bergen and Dundee* case.

In 75 Law the court had before it three supplements to the Law of 1884. The first supplement (Laws of 1906, p. 121) substituted for the rate of one-half per cent upon Classes I, III and IV prop-

erty, the average rate of taxation throughout the state. The second supplement (Laws of 1906, p. 220) provided that passenger depots (theretofore assessed as Class I property) and freight depots shall be assessed as Class II property. The third supplement (Laws of 1906, p. 571) provided for assessment of Class II property by the local assessors rather than by the State Board, which had theretofore assessed all four classes of property.

Both the Supreme Court and the Court of Errors and Appeals sustained the constitutionality of the first of these supplements. The Supreme Court sustained the constitutionality of the third supplement, and its judgment in this respect was reversed by the Court of Errors and Appeals, which held that the purpose of the classification of railroad property was to enable the legislature to apply a method of assessment which would arrive at true value and that in view of this justification for classification, it was improper to divide railroad property into two classes and impose upon each class a different technique of assessment.

Mr. Justice Pitney in the opinion for the Supreme Court, in speaking of the average rate of taxation, said at page 129 (75 Law):

> "Next, it was not claimed upon the argument that the rate of taxation imposed by Chapter 82—what is called the 'average rate' of taxation, to be computed by the state board of assessors as in that chapter provided—is violative to the constitutional right of the prosecutors. The act manifests an effort on the part of the legislature to approximate the annual burden of taxation upon first-class railroad and canal property to that which is

borne generally by taxpayers throughout the state, and an intent to deal fairly with this class of property, not at all to discriminate against it in favor of other taxpayers. A Michigan statute, similar in principle, was sustained by the Supreme Court of the United States in *Michigan Central Railroad Co.* v *Powers,* 201 U. S. 245."

At page 138 Mr. Justice Pitney expressed the view that the majority of the judges in *19 Vroom* did not really regard the Act of 1884 as levying a "single tax," but rather that the court had, by that opinion, justified the classification of railroad property into two categories. On that assumption he easily concluded that the third of the supplements referred to above providing for the assessment of Class II property by the local assessor was valid, saying at page 145 that the basis was "germane to the main purpose of imposing two separate and distinct taxes, one for strictly state uses at one rate upon one class, the other for local uses at local rates (either with or without a general state tax) upon the other class."

The influence of the opinions of Justices Dixon and Reed upon the views of Justice Pitney are manifest throughout his decision.

In writing for the Court of Errors and Appeals, Chief Justice Gummere plainly repudiated all portions of the Supreme Court's opinion which followed in the steps of Justice Dixon and Reed. He declared invalid the supplement which provided for the assessment of Class II property by the local assessors. The theory upon which the last mentioned supplement was held invalid, was that the true purpose and justification for

classification of railroad property was to facilitate the ascertainment of its true value by applying a technique of valuation peculiarly suited to the nature of the property assessed, and that by reason of such justification it was improper to divide railroad property into two subclasses and to apply to each a different methodology. The court flatly reaffirmed the principle of the majority in *19 Vroom* to the effect that the Act of 1884 imposed a single tax and not two taxes and, further, that the purpose of the legislature was to arrive at a proportionate allocation of the public burden. It is manifest that the adoption by the legislature of the average rate of taxation was intended to continue the legislative policy of maintaining a correlation between the general burden borne by taxpayers throughout the state and that imposed upon railroad property, the use of the average tax rate being a variable rate which would reflect the changes from year to year.

With reference to whether the Act of 1884 imposed a single or two separate taxes, Chief Justice Gummere stated the issue at page 783 as follows (75 Law):

> "* * * The act of 1884 was capable of being construed as designed to authorize either (1) an annual tax for the direct use of the state, and also an independent annual tax for each taxing district, to be levied upon 'real estate outside of main stem or waterway,' or (2) as designed to authorize a single annual tax to be levied on all property in the state used for railroad or canal purposes under a franchise."

After discussing the opinions in *19 Vroom*, the Chief Justice pointed out that the Court in that

case adopted the view of Chancellor Runyon, whose conclusion is quoted at page 785 as follows:

> "* * * The tax applied to state purposes and that applied to county and municipal purposes are one tax, and are to be so regarded."

The Court continued at pages 779, 780:

> "* * * The decisions of this court in the cases referred to having established that a scheme for the taxation of property used for railroad and canal purposes which requires the taxing board, in ascertaining the true value thereof, to ascertain separately the value of several arbitrarily designated parts, and which taxes one of those parts at a different rate from the others, does not violate the provisions either of the state or federal constitution appealed to by the plaintiffs in error, and we must either refuse to follow those decisions or else declare that the supplement under consideration does not operate either to make the law special or to make the rate of taxation non-uniform; that it does not prescribe a rule for assessing property at other than its true value or deny to the plaintiffs in error the equal protection of the laws. As we have already stated, we accept as settled the principles established by those decisions, and we therefore declare that the supplement of April 5th, 1906, does not, by becoming a part of the act for the taxation of railroad and canal property, render that act unconstitutional.
>
> "It has not been contended before us that an 'average rate,' to be computed by the state

board of assessors, is unconstitutional merely because it is an average rate to be so ascertained, rather than some other rate definitely fixed by the legislature. As the question is in the case, however, we deem it proper to say that it has received consideration by us, and that we concur entirely in what was said by Mr. Justice Pitney, speaking for the court below, in dealing with it. We think, further, that this court by its decision in the *19 Vroom* case, that an arbitrary rate of one-half of one per cent fixed by the legislature, and which was to continue for an indefinite period, without regard to what amount of money would be required from year to year for the needs of the state, was constitutional, *established the right of the legislature to arbitrarily fix such rate for the taxation of this class of property as it might from time to time see fit, provided that the burden imposed was not at any time greater than that which the property of the other taxpayers in the various taxing districts of the state was required to bear.*"

This decision by the highest court reaffirms two basic principles: (1) that the true purpose of classification of railroad property is to ascertain the true value thereof rather than to permit preferential or hostile treatment, and (2) that the selection of a rate of taxation is subordinate to and in aid of the fundamental proposition that the distribution of the burden of taxation may not be disproportionate.

We should like the railroad respondents to answer this question: Is it contended that the legislature may segregate railroad property as a class

and impose upon the class a greater burden than is imposed upon property generally? If the answer is in the affirmative, then we ask them to reconcile that position with the above italicized language of 75 Law. If the answer is in the negative, then we ask for a statement of the theory upon which railroad property may, as alleged by the railroads, be constitutionally taxed at a rate of $3.00 per one hundred dollars on the true value thereof, while property generally is taxed, *ad valorem,* at a rate of approximately $5.00 per one hundred dollars.

Surely, if railroads may be preferentially treated, with a consequent increase in the burden upon other property, it must follow that other property may be preferentially treated, even though the consequence be an increase in the burden borne by railroad property.

We respectfully submit that the Court of Errors and Appeals in 75 Law absolutely repelled any idea that the legislature may constitutionally discriminate in favor of or against either group.

The proposition that the Act of 1884 imposed one tax and not two is further reaffirmed in *United New Jersey R. R. and Canal Co.* v. *State Board of Assessors,* 75 N. J. L. 789 (E. & A., 1907), at page 792.

In *Long Dock Co.* v. *State Board of Assessors,* 78 N. J. L. 44 (Sup. Ct., 1909), affirmed for reasons below, 79 N. J. L. 604 (E. & A., 1940), the issue before the court was whether the franchise is an element to be included in the valuation of Class II property. In holding that it was not, since the franchise was separately taxed under the statute, the court reaffirmed the proposition that the true purpose of the separate classification of railroad property is to permit the application of a tech-

nique which would lead to the ascertainment of its true value. At page 49 the court said:

> "The elements that entered into this problem were deemed by the legislature and subsequently by the court of last resort to be sufficiently marked and characteristic to form the basis of a general law for the assessment and taxation of the property of railroads and canals, chief among which was the circumstance that the franchise value, which it was the paramount object of the act to reach, was in the nature of things distributed over the entire property, real and personal, that was used under it, imparting some modicum of such value to every item thereof wherever situated and however used in furtherance of the object for which such franchise was granted. The practical impossibility of the apportionment by any uniform rule of this unique value among the hundreds of thousands of items of property of these companies by the assignment by the local assessors to each item of the increment in value specially imparted to it was the effective characteristic laid hold of by the legislature upon which to rest a comprehensive and constitutional scheme for the assessment and taxation of all of the property of these corporations including their franchises. * * *"

At page 51 the court reaffirmed the proposition that the Act of 1884 levied a single tax.

In *Lehigh Valley Railroad Co.* v. *Jersey City*, 80 N. J. L. 299 (E. & A., 1910), the question was whether piers which were used both for railroad purposes and for some non-railroad purposes were properly taxable as railroad property by the State

Board, or as non-railroad property by the local assessor. The court concluded that it was the legislative intention to include within the category of railroad property all property used for railroad purposes, whether or not exclusively so used. Chief Justice Gummere at page 301 reviewed the history of taxation under the charters and the enactment of the first general law for the taxation of railroad property in 1873, as follows:

> "* * * Prior to the year 1873 all railroad companies of this state were incorporated by special charter. Without exception every such charter provided that the company incorporated by it should pay into the state treasury an annual tax of one-half of one per cent upon its capital stock, or upon the cost of its railroad and appendages, or a fixed sum in commutation thereof, and that no other tax should be imposed upon it. This exemption from other taxation, however, was held not to apply to all the property of these incorporated companies, but only to such as was suitable and proper for their operations, and the accomplishment of the purposes of their charters. *State* v. *Hancock,* 6 Vroom 536. Property owned by such companies, but not suitable and proper for carrying into execution the powers granted to them, was taxable at the same rates and by the same machinery as the general mass of property in the state. In the year last mentioned the legislature of the state, perceiving that, under the method of taxation created by these special charters, the property of railroad corporations did not contribute to the funds needed for governmental purposes to the same extent as that owned by individuals, passed a law providing

for a more equitable and uniform method of taxing it. *Pamph. L.* 1873, p. 112. * * *''

After thus expressing the purpose of the Act of 1873, the Court said at page 303:

'' * * * Then came the present act (passed in the year 1884) and the same purpose is manifested in it.''

To recapitulate, the history of legislation for the taxation of railroads and the judicial determination of the constitutional issues raised, clearly demonstrate (1) that from the time of the first general law for the taxation of railroad property enacted in 1873, until the enactment of Chapter 291 of the Laws of 1941, the legislature consistently sought to allocate to railroad property its proportionate share of the general burden of all government; (2) that the courts of this state have consistently held that classification of railroad or other property for the purpose of *ad valorem* taxation is justifiable only as an aid in the determination of the true value of such property and not for purposes of preferential or discriminatory treatment; and (3) that the power to select a rate of taxation is subordinate to and must be exercised consistently with and in aid of the fundamental necessity of distributing the burden of taxation equally.

(i)

Bank shares cases.

We have heretofore pointed out that it has been held that the legislature may properly select bank stocks for the application thereto of a separate act for taxation. The decisions relating to the taxation of bank stock will illustrate the fundamental propositions outlined above.

Bank shares are thus separately treated for several reasons. A dominant consideration in this separate classification is the fact that the laws of the United State have permitted the imposition by states of an *ad valorem* tax upon the shares of stock of national banks, rather than upon the assets of the bank, with the proviso that the rate of taxation be not in excess of that levied against other moneyed capital. Manifestly, in order to obtain the benefit of this permission to tax, and yet not to run afoul of the proviso, it was practically imperative to assess banks on the basis of their shares rather than upon their assets. Furthermore, because of the peculiar nature of the business of banking, which deals with the very medium of exchange and makes profit by increasing indebtedness, that is, its obligations to depositors, any effort to evaluate the assets of the bank by the application of ordinary mechanics of valuation would be impractical.

It was early settled that the justification for the separate taxation of bank shares was the need of appropriate machinery for ascertaining true value and not for the purpose of levying either a preferential or discriminatory share of the public burden.

In *Fidelity Trust Co.* v. *Vogt, Rec'r,* 66 N. J. L. 86 (Sup. Ct., 1901), the court, after summarizing

the principles established by 19 Vroom, said at page 90:

> " * * * It is within the legislative discretion to create classes upon a substantial basis for the convenience of effecting the levying and collection of taxes, and so long as the mode provided substantially assesses the property of the class at its true value, the legislature is within the exercise of its granted power, and the courts cannot interfere with its action.
>
> "Different methods of ascertaining true value may be prescribed in such classifications, *and so long as the public burden is imposed substantially and proximately according to true value,* there will be no infirmity in the declaration of the legislative will. The recognition of that rule is necessarily involved in the decision of the Central Railroad case, before cited."

Applying these principles, the court concluded that it would be beyond the power of the legislature to exempt, in the ascertainment of true value, the value of assets which would be taxable in the hands of other owners thereof. The court held that by reason of constitutional requirements, the proper construction of the statute must be that the legislature intended the assessment to be based upon the true value of the shares and not upon par value.

At the time of the foregoing decision, bank stocks were taxable at the local rates in the municipalities where the shareholders resided, except in the case of non-resident shareholders, whose shares were taxable in the taxing district where the principal office of the bank was situated.

In 1914 (P. L. 1914, p. 141), the legislature for the first time selected an arbitrary rate of taxation of three-fourths of one per cent to be imposed upon bank shares. The average rate of taxation in the state in 1914 was 2.024. The constitutionality of this tax was sustained in *Commercial Trust Co.* v. *Hudson Board of Taxation,* 86 N. J. L. 424 (Sup. Ct., 1914), affirmed 87 N. J. L. 179 (E. & A., 1914).

Accordingly, the obvious question is raised, whether the legislature thereby imposed a preferential burden on this class of property, contrary to the principles discussed above. An analysis of the history of the assessment of bank stocks and an examination of this statute will demonstrate that the tax laid thereby is in perfect consonance with these principles.

We have pointed out two reasons why the legislature properly chose to tax the shares of stock rather than the assets of the bank.

Under the general tax laws of this state, corporations are taxed upon their property and the shares of stock are exempt, in order to avoid a double taxation of the assets of the corporation (R. S. 54:4-3.8; 54:4-18). While the shares of stock represent the assets of the company, nevertheless the shares usually have a greater value than the component assets, and hence a tax upon the value of the shares is a tax on a broader base than a tax upon the corporate assets themselves. This is apparent from the standard of valuation of bank shares prescribed in the case of *Newark* v. *Tunis,* 81 N. J. L. 45 (Sup. Ct., 1911), affirmed 82 N. J. L. 461 (E. & A., 1911). In the Supreme Court opinion the court said at page 51:

> " * * * The court added that this value 'embraced not only the book value of all the assets of the corporation, but the good will,

> the dividend earning power, the ability with which the corporate affairs were managed, the confidence reposed in the capacity and permanency of tenure of the officers, and all those other indirect and intangible increments of value which enter into the estimate of the worth of stock and help to fix the market value or selling price of the shares.' "

Manifestly, there is thus embraced in the valuation of the shares of stock elements going into their value which would not be reached by a direct taxation upon the corporate assets.

While in the assessment of the property of corporations the assessor is required to deduct from the taxable valuation such of the assets of the corporation as consist of exempted securities, such as governmental securities, bonds secured by mortgages, cash, etc. and while this principle has furthermore been applied in the valuation of the stock of insurance companies which are taxable at local rates of taxation, *Fidelity Trust Co.* v. *Board of Equalization,* 77 N. J. L. 128, affd. 130 (Sup. Ct., 1908), shares of bank stock on the other hand are valued by the addition of the capital, surplus, and undivided profits of the banking corporation, and the deduction thereof of only the assessed real estate (which is taxable locally) but not of any of the exempted securities forming part of the assets of the bank.

Section 2 of the Act of 1914 specifically provides that:

> "No deduction or exemption shall be allowed or made from the value determined as herein provided."

This is in sharp contrast with the situation which existed immediately prior to the adoption

of the 1914 revision of the bank stock provisions, in that heretofore, while the local rate of taxation was employed, nevertheless the valuation of the bank shares was determined after an allowance on account of such deductions and exemptions (Laws of 1905, Chapter 234).

Section 4 of the Act of 1914 further provided that:

> "The owners of such stock shall be entitled to no deduction from the taxable value of their shares because of the personal indebtedness of such owners, or for any other reason whatsoever."

It is fairly presumable that the legislature was conscious of the fundamental necessity of maintaining the correlation between the true value of the property assessed and the general burden of taxation imposed upon such property, when it adopted the uniform rate of three-fourths of one per cent and at the same time broadened the assessment base for the valuation of such property. In short, when the legislature adopted the Act of 1914, it was simply invoking a new technique which, in its judgment, was better calculated to arrive at the ultimate goal of an equal distribution of the burden of government.

No one contended in the *Commercial Trust Co.* case that the purpose of the legislature, or the effect of the law, was to create an unequal distribution of that burden. Although the use of a rate of three-fourths of one per cent, standing alone, sounds preferential, yet, taken in conjunction with the broader base, the net result is substantial equality. It is significant that in that case, the attacking party was the bank, which presumably felt that its shareholders would fare better upon the basis of taxation at local rates under the old law.

(j)

The effect of Chapter 291 of the Laws of 1941 is to discriminate in favor of railroad property and against other property in the levying of the general tax burden, contrary to the principles hereinabove analyzed.

Having thus concluded an analysis of the general principles of constitutional law applicable to the problem of distributing the burden of government upon property and having determined that that burden must, under principles of natural justice inherent in our very form of government, and under the provisions of Article I, Paragraph 16, and under Article IV, Section 7, Paragraph 12, of the New Jersey Constitution, be distributed with substantial equality among all classes of property by legislation having the intent and practical effect of attaining that goal, with the exception of those situations in which a total exemption of property is warranted by virtue of the service performed by such property for the general public benefit, it is appropriate to consider whether Chapter 291 is not offensive to these principles.

In our analysis of the provisions of Chapter 291 hereinabove, it was shown that the property tax provisions of the statute provided for the levying of a flat three per cent rate of taxation upon the true value of all property used for railroad purposes. This rate was projected against a background of taxation of railroad property under which such property was being, and for many years theretofore had been, taxed at a rate in close proximity to five per cent of true value. It is further seen that other taxable property

throughout the state was subject to taxation in 1941 at the average tax rate of 4.818 and that the bulk of other taxable property, situated in taxing districts where railroad property is largely concentrated, is taxed at local rates in excess of five per cent.

It was further seen that the tax burden imposed upon railroad property prior to the enactment of Chapter 291 had been sustained as fully consonant with the provisions of the State Constitution and of the Federal Constitution by all of the tribunals before which the question of its validity had been argued over a period of many years.

It was further seen that the legislative history preceding the adoption of Chapter 291 demonstrated conclusively that it was the legislative purpose radically to change the existing equality of distribution of the general tax burden by shifting a large part of the burden theretofore resting upon railroad property, to the shoulders of other taxpayers.

In the light of this background it is inescapable that the legislature has done that which the whole tenor of the cases in this state, both before and since 1875, has shown to be unpermitted, *i.e.*, a deliberate saddling of one segment of the taxpaying population of the community with an unequal portion of the burden of government.

We submit that, by reason of the violation of these constitutional principles, Chapter 291 of the Laws of 1941 is invalid.

(k)

Chapter 291 of the Laws of 1941 creates a partial exemption of railroad property in violation of Article IV, Section 7, Paragraph 12, of the Constitution.

We have established that Chapter 291 violates the constitutional requirement of an equal distribution of the burden of government. The question now suggests itself whether this discrimination in the allocation of the burden of government may be justified upon any power of exemption vested in the legislature.

We have already shown that property may be classified for the purpose of taxation, that is, for the purpose of applying methodology required by the circumstance that ordinary methods would not be adequate for the appraisal of the value of property. Property may also be classified for the purpose of exemption. Obviously, property which may be classified for one purpose, may not necessarily be separately classified for the other. The propriety of the classification depends upon its objective. The right to classify for either purpose is not arbitrary, nor are the courts concluded from inquiry by a legislative finding that the classification is proper. This is manifest from a long line of cases wherein the courts of this state have in fact concluded that certain taxing statutes were wholly or in part invalid for violation of these principles. Those cases are here collected:

Howell v. *Richards,* 47 N. J. L. 434 (Sup. Ct., 1885);

Saunders v. *Morris,* 48 N. J. L. 99 (Sup. Ct., 1886);

Trenton Savings Fund v. *Richards,* 52 N. J. L. 156 (Sup. Ct., 1889);

Bray v. *Hudson,* 50 N. J. L. 82 (Sup Ct., 1887);

Warren Mfg. Co. v. *Dalrymple,* 56 N. J. L. 449 (Sup. Ct., 1894), aff'd 57 N. J. L. 708 (E. & A., 1895);

Shotwell v. *Dalrymple,* 49 N. J. L. 530 (Sup. Ct., 1887);

Tippett v. *McGrath,* 70 N. J. L. 110 (Sup. Ct., 1903), aff'd 71 N. J. L. 338 (E. & A., 1904);

Central R. R. Co. v. *State Board of Assessors,* 75 N. J. L. 771 (E. & A., 1908);

Lang v *Berrien,* 77 N. J. L. 214 (Sup. Ct., 1908);

Essex Co. Park Comm. v. *West Orange,* 77 N. J. L. 575 (E. & A., 1908);

Secaucus v. *Huber,* 87 N. J. L. 464 (Sup. Ct., 1915);

Koch v. *Essex Co. Board of Taxation,* 97 N. J. L. 61 (Sup. Ct., 1922);

Braunstein v. *Jersey City,* 98 N. J. L. 478 (E. & A., 1922);

Jersey City v. *Blum,* 101 N. J. L. 93 and 219 (E. & A., 1924);

State v. *Mercer County Board of Taxation,* 118 N. J. L. 408 (Sup. Ct., 1937);

Newark v. *West Paterson,* 2 N. J. Misc. 190 (Sup. Ct., 1924);

Alpha Rho Alumni Society v. *City of New Brunswick,* 126 N. J. L. 233 (Sup. Ct., 1941), affd' 127 N. J. L. 232 (E. & A., 1941).

Nor are the courts concluded by the legislative expression of the purpose to be attained. The

courts may with realism cut through such declarations.

Erie R. R. Co. v. *The State,* 31 N. J. L. 531 (E. & A., 1864);

Singer Mfg. Co. v. *Heppenheimer,* 58 N. J. L. 633 (E. & A., 1896);

Macallon Co. v. *Massachusetts,* 279 U. S. 620 (1929).

In the latter case, it was said at page 625:

> "* * * As it many times has been decided, neither state courts nor legislatures, by giving the tax a particular name, or by using some form of words, can take away our duty to consider the nature and effect * * *."

It has frequently been pointed out that the Constitution does not require that *all* property be taxed and that there is a power of selection in the legislature. The inquiry is as to the scope of that power. The power to select is subordinate to the requirement of equality of distribution .The legislature may, for example, exempt public property for the obvious reason that it is completely devoted to the benefit of the public. It may "exempt" shares of corporations where the assets are taxed, or bonds which are secured by mortgages. Strictly speaking, in such instances, there is no exemption in the sense that the burden of taxation is evaded, but rather the purpose of such non-taxation is to avoid double taxation where, in the last analysis, two forms of property represent one and the same taxable value. So, also, properties devoted to charitable uses may be exempt from taxation, and on the theory, as will be presently pointed out, that those properties, devoted as they are to the public weal, ren-

der a *quid pro quo* to the State for the exemption. There is also a legislative right of selection in the sense that property may be classified for the purposes of taxation by legislation specially designed to ascertain true value, as set forth above. Beyond these powers of classification, thus limited, there is no power of selection.

The classification of property, whether the purpose of that classification be taxation or exemption, must be based either upon the characteristics of the property or the use to which it is put. The leading case in this regard is *Tippett* v. *McGrath*, 70 N. J. L. 110 (Sup. Ct., 1903), aff'd on opinion below, 71 N. J. L. 338 (E. & A., 1904). The statute provided for an exemption in favor of active firemen. It was held invalid. At page 112, the Court said:

> "Confining our attention to the matter of exemption from taxation, the judicial rulings that have been cited have sustained statutes that exempted colleges, seminaries of learning, buildings used exclusively for religious worship, cemeteries, the property of hospitals and the buildings and land of numerous charitable institutions. The uniform purport of these decisions is that the legislature may, for the purpose of exemption from taxation, classify property either by some common feature possessed by it, or by the uses to which it is put by its owners. Taking this much as established, the question, now for the first time presented for judicial decision, is whether the legislature, instead of classifying property for the purpose of exemption either by its characteristics or by its uses may classify the owners of property according to some characteristic possessed by them, or arising

from some status acquired by them, or connected with their conduct, past, present or future, and thereupon base an exemption of the property of such persons, regardless of the characteristics possessed by it and of the uses to which it is put. The mere statement of the proposition leaves such classifications without constitutional support, for by the terms of that instrument it is property that is to be assessed—it is property with respect to which taxing laws must be general and rules uniform. The decisions construing this constitutional provision, insofar as they have sanctioned classifications as the basis of legislation, either for taxation or for exemption, have done so upon the express ground that such classifications were based upon features that inhered in the property itself or in the purposes to which it or its *usufruct* was devoted. *To substitute for property in such classifications the persons who own property and then to base the proposed exemption upon the status or vocation or avocation of such persons is without any constitutional warrant.* Exemptions from taxation, therefore, of property, real or personal, that are based not upon any characteristic possessed by such property, or upon the uses to which it is put, but upon the personal status of the owners of such property, are void. Insofar, therefore, as the prosecutor's claim to deduction is based upon his partial exemption from taxation by virtue of his being an active fireman, it must be denied."

What, then, are the uses which will constitutionally justify the exemption of property from

taxation? Manifestly, not every use will suffice for that purpose. Any such principle would totally nullify the constitutional amendment. We think that the best exposition of the limitation which must attend any legislative attempt to exempt property on the basis of its use, is to be found in the statement of the Supreme Court in the case of *Carteret Academy* v. *State Board,* 102 N. J. L. 525 (Sup. Ct., 1926), affirmed on opinion below, 104 N. J. L. 165 (E. & A., 1927). The Court expressed the matter in this way at page 527:

> "* * * Exemption from taxation is a privilege accorded by the people to an institution in recognition of the fact that the institution as *quid pro quo* for the concessions is practically performing a public work essentially of service to the state, without hope or expectation of remuneration for the service thus performed. When an institution functions as a business concern, with the economic factor of profit, instead of the legislative conception of philanthropy as the basis for its existence, it *ipso facto* eliminates itself from the legislative purview of exemption. The legislature has emphasized this essential by the language employed in describing the exemption, viz., 'provided the same are not conducted for profit.' "

Further at page 528:

> "Exemptions from the burdens of taxation which the great masses of the people are called upon to sustain, as a requisite of civil government, are only favored in legislation, upon the theory that the concession is due as *quid pro quo* for the performance of a service essentially public, and which the state thereby

is relieved *pro tanto* from the necessity of performing, such as works of charity and education, freely and charitably bestowed, as evidenced by the legislation under consideration. *Without that concurring prerequisite, an exemption becomes essentially a gift of public funds at the expense of the taxpayer, and indefensible both under our public policy of equal taxation and our constitutional safeguard against illegal taxation.* 2 Kent Com. 331.

"Thus, says Dillon: 'As the burden of taxation ought to fall equally upon all, statutes exempting persons or property are construed with strictness, and the exemption should be denied to exist, unless it be so clearly granted as to be free from fair doubt. Such statutes claiming the exemption.' 4 Mun. Corp. 2443, will be construed most strongly against those and cases cited."

The *rationale* of the constitutionality of the exemption of property devoted to charitable uses has been repeatedly approved in the decision of this state.

Princeton, etc. School v. *State Board, etc.*, 113 N. J. L. 515 (Sup. Ct., 1934);

Dwight School, etc. v. *State Board,* 114 N. J. L. 594 (Sup. Ct., 1933), aff'd, 117 N. J. L. 113 (E. & A., 1936);

Camden v. *Camden County Board of Taxation,* 121 N. J. L. 262 (Sup. Ct., 1938), aff'd, 122 N. J. L. 381 (E. & A., 1939);

Rutgers Chapter Delta Upsilon, etc. v. *New Brunswick,* 129 N. J. L. 238 (Sup. Ct., 1942), aff'd 130 N. J. L. 216 (Sup. Ct., 1943).

Applying this principle to property used for public utility purposes, it is manifest that an exemption of such property could not be justified. This property is devoted exclusively for the profit of the shareholders and bondholders, and not for the profit and benefit of the public.

From the standpoint of exemption, property used for utility purposes is utterly indistinguishable from property used for any other commercial purpose. The history of the struggle for equality in taxation, starting with the injustice which ultimately arose out of the charter exemptions discussed hereinabove, precludes any thought that the framers of this amendment to the Constitution contemplated that the legislature could exempt utility property. The most compelling force behind the adoption of that amendment was the preferential treatment of railroads. It would be a curious perversion of that amendment if there were found within its wording the power even to exceed such preferential treatment and to extend outright exemption.

The principle of *Tippett* v. *McGrath, supra,* that the identity or status of the owner is not a proper basis for classification for exemption, is attested by the cases of

Fidelity Trust Co. v. *Vogt,* 66 N. J. L. 86 (Sup. Ct., 1901);

State v. *Mercer County Board of Taxation,* 118 N. J. L. 408 (Sup. Ct., 1937);

Alpha Rho Alumni Society v. *City of New Brunswick,* 126 N. J. L. 233 (Sup. Ct., 1941), aff'd, 127 N. J. L. 232 (E. & A., 1941);

Rutgers Chapter Delta Upsilon, etc. v. *New Brunswick,* 129 N. J. L. 238 (Sup. Ct., 1942), aff'd, 130 N. J. L. 216 (Sup. Ct., 1943).

In the case of *Fidelity Trust Co.*, v. *Vogt, supra,* the court, in reaching the conclusion that bank shares had to be assessed at their true value, based that conclusion on the unconstitutionality of the partial exemption which would follow from the assessment of property at par value, saying at page 90:

> "But when, for a given class, an arbitrary mode of assessment is provided, which subjects to taxation a part only of the true value of the property classified, the constitutional provision is disregarded, and the prescribed method cannot be invoked to inhibit a legal assessment.
>
> "Conceding that trust companies may be classified for the purposes of taxation, there is nothing in the character of their property, or the uses to which it is devoted, which differentiates it from like property held by others not within the class.
>
> "The stocks, bonds, notes and mortgages of trust companies are held as an investment of their funds for the purpose of earning dividends for their stockholders, as similar property is held by banks of discount and deposit and by individuals.
>
> "These securities have the same value, no matter by whom they are held.
>
> "There is no peculiarity in such property, or in its use by a trust company, which can justify the exemption of part of its value from taxation, which will not apply to like property in the ownership of a bank discount and deposit, or in the hands of an individual.
>
> "*Classification cannot be resorted to for the purpose of justifying the evasion of the constitutional mandate.*

"The fact that these securities are held by trust companies gives them no different value, and does not assimilate them to railroad property, which is properly valued according to its peculiar use."

So also it has been held that the location of property is not a valid basis for classification for the purpose of exemption.

Essex County Park Commission v. *West Orange,* 77 N. J. L. 575 (E. & A., 1908);
Secaucus v. *Huber,* 87 N. J. L. 464 (Sup. Ct., 1915);
Newark v. *West Paterson,* 2 N. J. Misc. 190 (Sup. Ct., 1924);
Jersey City v. *Blum,* 101 N. J. L. 93 and 219 (E. & A., 1924) cf. *Lang* v. *Berrien,* 77 N. J. L. 214 (Sup. Ct., 1908).

On the same principle, classification for exemption based upon the date of acquisition is unconstitutional.

Warren Mfg. Co. v. *Dalrymple,* 56 N. J. L. 449 (Sup. Ct., 1894), aff'd, 57 N. J. L. 708 (E. & A., 1895).

Classification for exemption on the basis of time of construction in unconstitutional even on a legislative finding of an emergency.

Koch v. *Essex Co. Board of Taxation,* 97 N. J. L. 61 (Sup. Ct., 1922);
Braunstein v. *Jersey City,* 98 N. J. L. 478 (E. & A., 1922).

In *Jersey Central Power & Light Co.* v. *Asbury Park,* 128 N. J. L. 141 (Sup. Ct., 1942), affirmed on opinion below, 129 N. J. L. 253 (E. & A., 1942),

the municipality challenged the constitutionality of the statute which provided for an excise tax upon the gross receipts of certain ultility companies, which tax was, by the express language of the statute, provided to be in lieu of all other taxes against the corporation, its property, franchise, or gross receipts. It was contended that the statute violated Article IV, Section 7, paragraph 12, in that it provided for an exemption from property taxation. Following an earlier decision in which the validity of a predecessor statute had been sustained, the Supreme Court said at page 146:

> "What has been done here does not constitute an exemption in the true, unqualified sense, but rather the substitution of a gross receipts tax for the local direct tax. It is the exclusion of a class that is otherwise taxed. *Public Service Coordinated Transport* v. *State Board of Tax Appeals,* 115 N. J. L. 97. The case of *Salem and Pennsgrove Traction Co.* v. *State Board of Taxes and Assessment,* 97 Id. 386; affirmed, 98 Id. 570, is directly in point, and is therefore controlling. It treats of taxes of the class levied under section 6 (b) of the act of 1938, *supra.* It was contended that such 'a tax upon gross receipts is not a tax according to true value, as required by the constitution;' and the holding was that it was a license rather than a property tax, imposed by the state as a condition precedent to the exercise of special privileges in the streets. Mr. Justice Trenchard declared: 'The act discloses a legislative intent to substitute in place of the personal property tax an additional franchise tax in the nature of a license tax, based upon gross

receipts, for the use of the streets. It is within the province of the legislature to exempt certain classes of corporations from personal property taxation, and treat them as a separate class by themselves, and, as long as those of that class are taxed according to uniform rules, no exception can be taken to that method. Public utilities, by reason of the peculiar nature of their business, form a separate and distinct class in themselves, and, as such, can be used as a proper classification for the purpose of taxation without violating the constitution.' "

The decision is an unfortunate one and is at variance with the rule universally adopted in other jurisdictions where there obtained constitutional principles identical with those established in the earlier decisions in this state. The case must, however, be accepted as controlling, at least on the specific facts therein involved. The court was undoubtedly considerably influenced by the fact that the predecessor statute had been sustained in an earlier case. At any rate, it will be observed that the opinion of the Supreme Court carefully points out that the act "does not constitute an exemption," thus apparently agreeing with the contention there made by the municipality that the constitutional provision would prevent the exemption of utility property from taxation.

We are not here concerned with a statute which provides for an excise tax in lieu of an *ad valorem* tax upon all of the property of the company holding the franchise, since, as pointed out above, Section 13 of Chapter 291 expressly provides that the franchise tax shall be in lieu of an *ad valorem* tax *upon the franchise.* There is no indication whatever that the excise tax is intended to be in lieu

of the differential between the railroad property tax burden resulting from the use of a $3.00 rate, and the burden which would result from the use of an average tax rate and local tax rates. The legislative statement that it intended the franchise tax to be in lieu of a property tax upon the franchise itself, is conclusive. We concede the validity of the exemption of the franchises from *ad valorem* taxation, in view of the *Jersey Central Power* case.

It was established in *North Jersey St. Ry. Co.* v. *Jersey City,* 74 N. J. L. 761 (E. & A., 1907), that franchises could be exempted from taxation because of the characteristics thereof, among which is included the fact that usually an excise tax is imposed for use of the franchise. In other words, the exemption was sustained, not because of the fact that an excise tax was imposed, but because the peculiar characteristics of franchises described in the opinion of the Court of Errors and Appeals in that matter warrant the separate classification of that type of property right for the purpose of exemption.

It should be noted that it was not contended in the *Jersey Central Power* case that the tax there imposed in lieu of the property tax, resulted in the levying of an unequal burden upon the property of the utility companies. It was not demonstrated in the record that the intent of the legislature, or the necessary effect of the statute there under review, was to discriminate in favor of utility company property and against property generally. Hence, although the decision sustains the power to levy an excise tax in lieu of a tax upon property, thus reverting to what is substantially the equivalent of a specific property tax, such as was used in this state prior to 1851, there is nothing in the opinion which in anywise militates

against the uniform holdings in this state to the effect that property used for profit must bear its proportionate share of the cost of government. The record in this case, on the other hand, plainly demonstrates that the *ad valorem* tax provided for in Chapter 291, at the rate of $3.00 per one hundred dollars of assessed valuation, is unquestionably much less than the average rate of taxation in the State of New Jersey, and than the local rates of taxation in the municipalities in which the bulk of railroad property is located.

We have pointed out that the statute expressly provides that the excise tax is imposed in lieu of the tax upon the franchise, and not in lieu of any portion of a proper tax upon the other property used for railroad purposes. But even if the legislature had stipulated that the excise tax be in lieu of a portion of the *ad valorem* tax upon the remaining railroad property, the failure of the combined taxes to approximate the burden borne by property generally throughout the state, is demonstrated by the fact that for the year 1941 the assessments under Chapter 291, as amended by Chapter 169, were $3,100,000 less than the *ad valorem* assessments for the year 1941 made under the Revised Statutes. The fact that in certain years the total yield may exceed the yield which would be provided by a proper *ad valorem* tax would not satisfy the fundamental requirement that the burden of government be distributed equally, for it is manifestly unequal treatment to levy a relatively uniform burden upon non-railroad property, regardless of the vicissitudes of business cycles, and at the same time to grant to the owners of railroad property the preferential position of paying a considerably reduced burden during the periods when the cost of government

will be greatest. Hence, whereas in the *Jersey Central Power* case there was nothing before the court to indicate that the rate of taxation resulting from the taxes upon the relatively uniform gross receipts of the utilities there involved, was less than the burden based upon property generally, there is before the Court in this case positive proof, both of a legislative intent to reduce the burden upon railroad property below that borne by other property, and that the inevitable effect of the statute under review will be to create a great disparity in tax burden treatment of property. It is, therefore, submitted that even if the legislature had expressly provided that the franchise tax be in lieu of a tax upon railroad property, there would here be a situation palpably distinguishable from the one presented to the court in the *Jersey Central Power* case.

The combination in Chapter 291 of both a property and a franchise tax speaks volubly of the purpose of the legislature to accomplish a discrimination. It will be recalled that the particular benefit of the old specific tax was the avoidance of the need for an assessment valuation of property. That benefit supposedly compensated for the possible evil of escape from the full tax burden. But no such objective was here in view, for the continuation of the *ad valorem* tax procedure preserved all of the assessment effort which that procedure entails, and to such effort is now added the further complication of an involved method of calculating the franchise tax. Simplicity was not the objective. Rather, as the history of the adoption of Chapter 291 reveals, it was the legislative purpose to achieve the result of relieving the railroads of part of their equal burden, and to saddle it upon other property.

At any rate, since Section 13 expressly states that the franchise tax is in substitution only of the tax upon the franchises, there is clearly presented in this case the question whether the legislature may deliberately undertake a program of unequal taxation of property, placing upon property used for railroad purposes a substantially reduced proportion of the cost of government and casting a necessarily increased burden upon all other property. It is respectfully urged that no such power existed even prior to the adoption of Article IV, Sec. 7, paragraph 12, by the constitutional amendment of 1875; that the decisions in this state demonstrate that there is an inherent limitation upon the power of taxation which requires that all property share equally the burden of government which is to be raised by taxation upon property; that a discrimination in the distribution of the burden of government upon property constitutes confiscation and not taxation, in violation of Article I, paragraph 16; that the provocative cause of the adoption of Article IV, Section 7, paragraph 12, was the preferential treatment resulting from tax contracts made with the railroad companies; and that the intention of the people in adopting this amendment was to crystallize the principle of equality which had been theretofore firmly established, and to prevent the surrender of that principle of equality by way of contracts, or any other means subversive to the uniform application of that rule of fundamental justice.

In the case of *Schwartz* v. *Essex County Board of Taxation,* 129 N. J. L. 129 (Sup. Ct., 1942), aff'd 130 N. J. L. 177 (E. & A., 1943), R. S. 54:4-3.20, the exemption from taxation of property stored in public warehouses, was sustained as a constitutional measure. In the course of the opinion the court said, at page 134:

"* * * In order to place New Jersey warehouses on an equal footing with other competitors in the two states named, the legislature saw fit to grant exemption from taxation on personal property so stored. In *Burlington Distilling Co.* v. *State Board of Assessors,* 86 N. J. L. 92; affirmed 87 Id. 315, the court said: 'A legislative policy exhibiting such a liberal scheme of industrial encouragement should not receive a construction so narrow and illiberal as to subvert the very policy which quite obviously such legislation was intended to erect and subserve.' A legislative policy of encouraging industry or business by granting exemption from taxation is both logical and reasonable."

It must be apparent from the decisions hereinabove discussed that although "a legislative policy of encouraging industry or business by granting exemption from taxation" may be "both logical and reasonable," it is not constitutional. *The concept of reasonableness is not coextensive with the concept of constitutionality.* Many approaches may be "reasonable" or "logical," but when one view is embodied into the Supreme Law of the State, the test of constitutionality becomes the one thus established. If constitutionality of a law depended solely upon whether the measure was reasonable or logical, there obviously would be no constitution at all, beyond the single concept that a legislature may do what it wishes if there is room for difference of opinion as to the wisdom of its acts. The very function of constitutional limitation is to bar such legislative choice, for in adopting a constitutional limitation, the people thereby make the choice, and confine the authority

of their representatives to act within the prescribed course.

If an exemption may be granted whenever it is logical or reasonable, the legislature could exempt property devoted to the production of toy balloons, for if the legislature should desire to encourage the production of toy balloons, the existence of that desire would be the definitive constitutional requirement, for who could quarrel with the legislative conclusion that the industry should be encouraged? And on what basis could a quarrel be maintained? Every exemption heretofore declared invalid could be sustained on such premise. For example, in *Tippett* v. *McGrath,* the statute may well be said to foster a legislative desire to encourage service in the work of fire fighting. In the case of the statute condemned in *Koch* v. *Essex County Board of Taxation,* 97 N. J. L. 61 (Sup. Ct., 1922), and *Braunstein* v. *Jersey City,* 98 N. J. L. 478 (E. & A., 1923), there was an express legislative finding of an emergency in housing upon the basis of which the legislature undertook to exempt all new dwellings for a period of five years for the express purpose of encouraging the construction thereof. The test quoted from the *Schwartz* case is utterly incompatible with the history and judicial construction of our constitutional provision. A legislative desire to encourage industry was never the test of the taxing power even in the absence of a positive constitutional restriction.

The *Burlington Distilling Co.* case relied upon in the *Schwartz* decision is obviously of no pertinence since it involved an excise tax, and not a property tax. There was, accordingly, no constitutional issue involved and the quoted language related only to the question of statutory construction.

The *Schwartz* case was decided by the Supreme Court on September 30, 1942, and affirmed with three dissenting votes, on May 13, 1943, 130 N. J. L. 177 (E. & A.). However, the Supreme Court, since its decision in the *Schwartz* case, to wit, on November 20, 1942, decided the case of *Rutgers Chapter* v. *City of New Brunswick,* 129 N. J. L. 238, wherein the correct and classical basis of constitutional exemption is reiterated at page 240:

> "The existence of grounds for exemption is a mixed question of law and fact. For obvious reasons, exemptions from taxation are not favored, and so are strictly construed. Such renunciation of sovereignty is sustainable only on grounds of public policy, i.e., the service of an interest fundamentally public and not private. Exemptions not so grounded place an unequal and unjustifiable burden upon property taxed for the operation of government in the common interest. Apart from the criteria laid down in the statute, *unless the exemption is founded on a 'quid pro quo for the performance of a service essentially public, and which the state thereby is relieved pro tanto from the necessity of performing,' it constitutes a 'gift of public funds at the expense of the taxpayer,' and is 'indefensible both under our public policy of equal taxation and our constitutional safeguard against illegal taxation.' Carteret Academy* v. *State Board of Taxes and Assessments,* 102 N. J. L. 525; *affirmed,* 104 Id. 165. Equality is the basic principle of taxation, and a valid exemption therefrom must needs serve the common interest in substantial particulars. *Dwight School* v. *State Board of*

Tax Appeals, 114 Id. 594; *affirmed,* 117 Id. 113. To the same effect is *City of Camden* v. *Camden County Board of Taxation,* 121 Id. 262; *affirmed,* 122 Id. 381."

This decision was affirmed by the Court of Errors and Appeals, on the opinion below, *on the same day* on which the *Schwartz* case was approved, 130 N. J. L. 216. Obviously, both tests cannot coexist for the constitutionality of an exemption statute, being irreconcilably inconsistent.

The conclusion must be that the *Schwartz* case stands on its precise facts, upon which basis conciliation with the precedented authority of the *Rutgers Chapter* case is possible. It will be noted that the statute involved in the *Schwartz* case did not purport to exempt property used by the warehousemen, but rather property stored with them. In short, the ultimate basis for exemption was a characteristic of the property, to wit, its disuse so far as active commerce is concerned. No particular owner of property is thus enriched, for the exemption is available to all persons who undertake to store personal property. In a sense, property thus stored is akin to property in transit, the exemption of which is sustained on the basis of the questionable existence of a taxable *situs.*

(I)

It is the duty of the judiciary to declare invalid any unconstitutional exemption of property or unconstitutional method of taxation.

The duty of the judiciary to declare invalid laws which conflict with the Constitution of the state or of the United States, was established in the historic case of *McCullough* v. *Maryland*. This proposition has never since been seriously questioned.

This thoroughly established duty has been repeatedly observed by the courts of this state in passing upon the validity of laws relating to the levying of taxes. We have, in the preceding argument, listed a large number of cases, both before 1875 and since, in which the courts of this state have examined the validity of such legislation and in many of which the courts concluded that the particular legislation before them was unconstitutional and void. In many of these cases the issue was raised by municipalities. In the present case, of course, the *taxpayer-prosecutors* eliminate any possible attack upon these proceedings based upon any supposed idea that the prosecutor-municipalities may not attack the act. These taxpayers, though respondents in Case No. 1 on this appeal, join the attack upon Chapter 291 in this brief. *Cf. Jersey City* v. *Zink*, 133 N. J. L. 437 (E. & A., 1945). The exercise of this judicial function is exemplified by the cases which declare invalid efforts to levy the general burden of government upon less than a political area. This judicial function is further exemplified by the decisions since 1875 in which our courts declared invalid improper

classifications of property, both where the purported purpose was the taxation at true value, and where the purpose was exemption.

In *Jersey Central Power & Light Co.* v. *City of Asbury Park,* referred to hereinabove, an issue before the court was whether intangible property owned by the prosecutor utility company could be classified as property used for utility purposes. In this regard the court said:

> "It is reasonable to assume that the intangible personal property of such a corporation is concerned with the conduct of its business, and therefore that it has contributed in some substantial measure to the quantum of the gross receipts from its lines or mains; at least, that assumption seems to have been indulged by the Legislature. The fact that there may be intangibles not so classable and thus inequality in the distribution of the tax burden, does not call for a different construction. That is a matter for the Legislature; it does not nullify the classification."

If the court by this language intended to say that the question of the propriety of the classification of property for taxation is purely a legislative matter with which the judiciary has no concern, then the court departed from the well established law of the state. If classification is not subject to judicial review, then there was no basis for cases like *Trenton Savings Bank* v. *Richards, supra,* where the classification was declared invalid by the court because property acquired by foreclosure was not included in the classification of the property of the bank, and cases like *Essex County Park Commission* v. *West Orange, supra,* wherein a law providing for the classification of

property used for public purposes on the basis of its location, with the result that some parcels of public property were denied an exemption granted to most public property, was declared invalid, and cases like *Rutgers Chapter, etc.* v. *New Brunswick, supra,* wherein the law exempting fraternal organizations, but excluding college fraternities, was judicially held to be an unconstitutional classification of property. So also, this language cannot be reconciled with the holding in the *Central Railroad* case in 75 Law, wherein an act which authorized the application of local machinery for assessment upon only some but not all railroad property was held to exceed the legislative power of classification.

All these cases and many others hereinabove cited, amply attest the judicial right and duty to examine and appraise legislative classifications of property for tax purposes in order to determine whether they transcend the constitutional limitations.

The general statements as to legislative discretion in handling the burden of taxation are addressed rather to the function of the legislature in determining how much of the burden of government will be met by property taxation and how much shall be met by other forms of taxation. That plainly is a legislative field which the court cannot invade. So, also, in the distribution of the burden to be met by excise taxes, the legislature has relatively unlimited discretion in determining how much of the burden shall be distributed upon different classes of taxpayers. But, as to the subject of property taxation, the legislature is constitutionally bound to distribute such taxes as are to be raised on property, equally upon property according to its true value. That constitutional mandate is as much a matter of judicial

enforcement as any other constitutional limitation upon the power of the legislature. Any other conclusion would result in a surrender by the judiciary of this well established duty, and the enforcement by the judiciary of the will of the legislature, rather than the higher mandate of the constitution.

(m)

Importance of constitutional issue presented.

The shocking nature of the discrimination possible under Chapter 291, in unquestionable violation of the rule laid down by Chief Justice Gummere in 75 N. J. L., (at p. 780), *supra,* is made even clearer by events since the adoption of Chapter 291. The Jersey City local tax rate for the year 1945 was $6.07 per $100. The increase over the 1941 tax rate is partly due to reductions in valuations and partly to increased costs of government since 1941. The railroads owning Class II property within the confines of the City of Jersey City will, under Chapter 291, continue to enjoy the flat rate of $3 per $100, permanently shielded from rises in tax rates caused, to a considerable measure, by the rise that has occurred since 1941 in the cost of everything. Thus the governmental services rendered by the City of Jersey City on behalf and in protection of all of the physical property situated within the confines of the city is paid for at a ratio of $2 for the ordinary non-railroad taxpayer to every $1 that is contributed by the railroad taxpayer. Nor is that all.

It will be recalled that under Chapter 291 the municipalities wherein Class II railroad property is situated, receive one-half the proceeds of the franchise taxes payable by the roads. It is con-

tended by the railroads and by the Attorney General, that the Jersey City taxpayer is not discriminated against in the ratio of 2 to 1, since the railroads contribute not only the property tax dollar, but also one-half of the franchise tax dollar to the burden of government in Jersey City. But at the moment of the dictation of this brief there is under preparation a legislative bill designed to execute a recommendation of the Governor to the 1946 legislature that the statutory right of the municipalities having railroad property to one-half of the franchise taxes be taken away from them. We do not have the slightest doubt but that the Attorney General, who contends in this case that the $3 railroad rate is constitutional, will also contend that the diversion of future franchise taxes from the municipalities is also constitutional. If he should be right as to the latter proposition (as to which we express no opinion at this time), it will surely result, when and if the proposed legislation is enacted, that the individual taxpayers of the City of Jersey City, including Janice Realty Corporation, William A. Nolan, Elmer A. Davison, Albert Burleigh and Anna Pfitzner, prosecutor-respondents in Case No. 1 herein, will pay for the cost of government in Jersey City almost exactly twice the number of dollars per true value of their property as the railroad companies owning second class railroad property in Jersey City, and receiving the governmental service and protection therefore, and this without even the partial recompense of a share in the franchise tax.

Can it for one moment be supposed that the people of this state, who, as we have seen above, were primarily interested in ending railroad tax preferences when they amended the Constitution in 1875 by adding Article IV, Section 7, Paragraph 12, intended to countenance such an unconscionable railroad tax preference as this?

If, as was clearly stated by Chief Justice Gummere in 75 N. J. L. *supra,* the constitutional provision (Art. IV, Sec. 17, par. 12), prohibits the imposition of a burden upon railroad property "greater than that which the property of the other taxpayers in the various taxing districts of the state was required to bear" (75 N. J. L., p. 780), is it now to be held that it is, nevertheless, constitutional *to impose a property tax burden upon such "other taxpayers" in an amount twice that of the property tax burden imposed upon railroad taxpayers?*

Leaving the position of the City of Jersey City and the other municipalities out of the picture entirely, and keeping in mind the individual taxpayers of Jersey City and of the other municipalities who were parties to the writ below and are being heard on these appeals, will this Court now tell them, Chief Justice Gummere to the contrary notwithstanding, that they may constitutionally be compelled to contribute *to the burden of local government in their municipalities* the sum of $2 for every $1, per $100 of true value, contributed thereto by railroad taxpayers? We respectfully submit that the answer to this question cannot admit of the slightest doubt. The duty of this Court is clear. The harmfulness and evil consequences of the unconstitutional preferences set up by Chapter 291 will be of permanent duration once past the barrier of the instant constitutional test. No more important challenge to the judiciary of this state to preserve and protect the constitutional mandate of the people of the state is readily conceivable than that here presented.

We should like to advert to a consideration which may well be present in the minds of the individual members of the Court in considering our appeal. We are satisfied that the justices and

judges of the Court cannot help but conclude that the $3 railroad tax rate is unconstitutional. The Court may ponder the thought, however, that if Chapter 291 of the Laws of 1941 is held to be unconstitutional, each of the railroad tax assessments since 1941 will have to be set aside and new assessments made under and pursuant to the Revised Statutes, which were purportedly superseded by the Railroad Tax Law of 1941. The practical difficulties thus arising may give the members of the Court cause for hesitation in performing their duty to declare this statute void. In this connection we call the attention of the Court to the unparalleled demonstration of judicial courage by Chief Justice Beasley, when, in 1886 he delivered the opinion of the Supreme Court holding the Railroad Tax Law of 1884 unconstitutional. *Central R. R. Co.* v. *State Board of Assessors,* 48 N. J. L. 1 (reversed in 48 N. J. L. 146, "19 Vroom"). The situation confronting Chief Justice Beasley was comparable with that confronting the Court in this case. In concluding his opinion holding the 1884 Act unconstitutional, the Chief Justice said (at p. 22):

> "In leaving this subject it is proper for us to say that every step leading us to the foregoing conclusion has been carefully examined, for *we are well aware, if the result thus reached by us should be finally sustained, of the very great embarrassment and confusion that would fall upon the financial affairs of the state.* But believing as we do, after full consideration, that the people of the state have declared in plain terms, in their constitution, that no property shall be arbitrarily selected for exclusive taxation, and that the present act makes such selection and imposition, we have felt constrained under

the obligations of our office, *no matter what the consequences may be,* to pronounce such act to be unconstitutional and void."

No less conscientious an exercise of the duties and obligations of the members of this Court is called for in the present case.

We point out, parenthetically, that the practical problems of adjustment which will arise upon invalidation of Chapter 291 will by no means be insuperable. Under unquestioned principles of law the repealer of the Revised Statutes tax provisions, contained in Chapter 291, will undoubtedly fall with the invalidation of Chapter 291, and the obligations of the roads computed under the Revised Statutes will continue in effect. It will be a simple matter to enter a rule for judgment crediting each of the railroad taxpayers with the amount of their payments made under Chapter 291 against their obligations accrued under the Revised Statutes. No re-valuations of property will have to be made since the system of property valuation is exactly the same under Chapter 291 as it was under the Revised Statutes. All that will be required involving any labor is a multiplication of the assessed valuations by the average tax rate, applicable to Classes I, III and IV railroad property, and the various municipal rates as against Class II property.

We respectfully submit that such practical inconvenience as may accrue to the personnel of the State Department of Taxation and Finance in recomputing taxes payable by the various railroad companies since 1941 should not, and we are confident, will not, dissuade this Court from its duty to uphold the Constitution of New Jersey in this most crucial test of its strength and service in behalf of the people of the State, who adopted it.

POINT III.

The provisions of R. S. 54:26–10 and R. S. 54:29A–34 prescribing the time for the conclusion by the State Board of Tax Appeals of hearings and the rendering of decisions are directory and not mandatory or jurisdictional.

It is pointed out in the introductory remarks that both the 1941 and 1942 appeals taken by the prosecutor municipality to the State Board of Tax Appeals were dismissed by that tribunal on the sole ground that its jurisdiction to entertain and determine the appeals expired with the passage of the dates fixed for hearing and decision in R. S. 54:26-10 and R. S. 54:29A-34. R. S. Sec. 54:26-10, applicable to the first 1941 appeal, reads as follows:

> "The state board of tax appeals shall conclude its hearing on or before the fifteenth day of October following the filing of the complaint, and, between November first and November fifth following, shall certify to the state tax commissioner its final determination, and the state tax commissioner shall forthwith certify to the state comptroller all changes and corrections in the assessment and tax."

R. S. 54:29A-34, the corresponding section of Chapter 291, and applicable to the 1941 appeals filed by prosecutor under that act, as well as to the 1942 appeals, reads substantially the same as R. S. 54:26-10, although the dates were later

changed by P. L. 1942, Ch. 337 (not here pertinent).

This action and construction of the statutes by the State Board, which is complained of in the Reasons in Cases Nos. 2-5, was a sudden departure from prior practice. In the past, in a number of years, hearings continued long after the statutory date in question without the suggestion by any party, or by the then members of the State Board, that the statutory times were jurisdictional. While extension acts were adopted in 1933 and 1937, the Board has heard and determined appeals in other years, 1938 and 1939 taxes, for example, long after the statutory dates. See the cases reported in 19 N. J. Misc. 427 and 20 N. J. Misc. 283. It is in fact well known that it is physically impossible for the State Board to hear appeals by all railroads and taxing districts during the statutory period, and to consider the briefs of counsel and determine the issues within the limited period. The prosecutor municipalities were at all times prepared to present proof but, in accordance with prior practice, the time for hearing was continued to meet the convenience of the State Board and the parties. In the year 1942, when the attitude of the present State Board with reference to this question had become known, there was totally lacking any opportunity to try the cases within the statutory time, and the State Board action completely deprives the prosecutor municipalities of any review of the assessments for 1941 and 1942, unless this or the Supreme Court is to assume the burden of determining the complex factual and valuation issues presented, in these certiorari proceedings.

With reference to the 1941 appeals, the writs of certiorari run directly to the assessments, as well as to the judgments of the State Board, and

if the Supreme Court should be disposed ultimately itself to determine issues of valuation in the first instance, the question now discussed would, of course, be academic. In the event, however, that the court should be of the view, normally to be expected, that such issues of fact should first be heard by the State Board, there would necessarily have to be determined the question whether the State Board has the statutory jurisdiction to consider the issues of valuation beyond the times fixed in the act.

With reference to the 1942 assessments, the issue of the State Board's jurisdiction is necessarily involved. If the State Board's duty and jurisdiction continued beyond the statutory dates, as we contend that it did, then the matter should go back to the State Board (now the Division of Tax Appeals) on the issue of valuation, if that should remain after the determination of the constitutional question. If the jurisdiction of the State Board has expired, then it would follow that the Supreme Court must itself review such issue of fact in the first instance. The practical difficulties of presenting the complicated and voluminous records upon depositions under a writ are manifest. The extreme burden which would be imposed upon the Court is equally clear. The issue raised by the decision of the State Board is accordingly one of tremendous importance, both with reference to litigation involved in this case, and the voluminous railroad tax litigation pending in and since 1943, much of which has been undisposed of by the Division of Tax Appeals because of not being able, despite valiant effort, to hear and determine all of the cases in time each year.

The railroad respondents contend that the statutory provision is jurisdictional and that following

the expiration of the time periods indicated, the board is without authority to hear the cases or render a judgment. In other words, speaking abstractly, such respondents contend that the failure of a board or court to carry out a statutory mandate somehow deprives a party to litigation of a constitutional right to be heard. *It must be kept in mind that the ruling of the Board would be effective to bar review at the instance of a taxpayer as well as by a taxing district,* after the statutory dates. A mere statement of the proposition, we respectfully submit, suggests the answer.

Reliance was made below upon the case of *State, ex rel. Folwell* v. *Warford,* 32 N. J. L. 207 (Sup. Ct., 1867). That case holds only that the time fixed for revision of the assessment rolls is mandatory. The commissioners, of course, are acting there not as a court or judiciary body, but wholly as assessors.

The case of *New Jersey Zinc* v. *Sussex County Board,* 70 N. J. L. 186 (Sup. Ct., 1903), likewise deals with time limitations affecting the functions of a board as equalizer and in nowise relates to the functions of a board as a judicial or *quasi* judicial body.

The respondents also cited the State Board case of *Toome* v. *Camden,* 19 N. J. Misc. 600. This decision holds that the time limitation in R. S. 54:3-26 with reference to determinations by the County Board does relate to the jurisdiction of the board. We do not think it is necessary to discuss the soundness of this decision, because, although it is at variance with the law which we are about to cite, nevertheless, it would appear that there is a basis in our statutory system for this unusual holding as to the county boards. By this statement we mean that it might fairly be inferred from the fact that there is both a County Board and State

Board, that the legislature intended the County Board to complete its *quasi* judicial functions by a specified date, with the State Board picking up at that point. Where, however, the issue relates to the jurisdiction of the State Board, the problem is obviously different because there is no further board of review. Hence, although it may be said in the case of County Boards that the legislature had in mind that the hearing before the State Board would equally well satisfy a constitutional requirement of due process, so that the County Board's jurisdiction might be held to be thus limited in time, the same assumption can hardly be made with reference to the State Board, where it is the final quasi-judicial tribunal.

Furthermore, the statute dealing with the County Board completely terminates the functions of the County Board as a quasi-judicial body. On the other hand, the statute here involved relates only to the termination of specific cases and must be interpreted in the light of the basic situation, that the general authority and jurisdiction of the State Board continues beyond the date fixed in the statute relating to railroad appeals. This circumtsance points to the conclusion that the Railroad Act intended to establish *directory* provisions, rather than a *mandatory* provision affecting jurisdiction.

At any rate, the issue is concluded by the following authorities:

In *Weinberger* v. *Erie R. R. Co.*, 86 N. J. L. 259 (E. & A., 1914), the statute there involved provided that:

> "The court before whom a Supreme Court issue shall be tried shall return the transcript with a verdict and other proceedings had thereon to the Supreme Court at the next term, and the Supreme Court shall receive

and file the same, and give judgment thereon according to law."

The court failed to return the papers to the Supreme Court at the next term. The Court of Errors and Appeals, in overruling the contention that the judgment entered after the next term was erroneous, said, at page 261:

"As to the first reason, it will be observed that the duty of returning the circuit record or transcript, with the verdict and other proceedings, into court at the next term, is by the statute imposed, not on the party or attorney, but on the trial judge. It is plain that the party must procure the circuit record in the first instance and present it to the trial judge before he can have his trial (*Practice Act* 1903, Sec. 207); but after it is in custody of the judge, the act seems to say that he, and not the party, is to return it into court."

Further, at page 262:

"These views lead to the second proposition, that the statute is simply *directory*, notwithstanding the word 'shall' is used. It cannot be that the legislature intended a successful party to lose the benefit of his verdict by the inaction of a trial judge. The case is similar to *Morrel* v. *Buckley*, 20 N. J. L. 667, where it was the duty of the clerk on issuing an attachment to make certain entries in a particular book. As was said by Chief Justice Beasley, commenting on that case in *Proprietors ads. Jones*, 36 Id. 206, 210, 'the inconvenience and unjust consequences of such a circumstance would have been so great as to forbid the court from concluding that such

a purpose was intended in the absence of express terms, or something equivalent compelling to such a conclusion.' Similar cases may readily be imagined, as for example, the lapse of *certiorari* or a writ of error for failure or refusal to make a return. Where the relief depends on an act of a party, the rule is of course different, as for example, in the case mentioned in *Warwick* v. *Cox,* of failure to give recognizance in error within the fifteen days, and in the case of *Haythorn* v. *Van-Keuren,* 79 Id. 101, where jury was not demanded in due season."

Further, at page 263:

"We conclude, then, that the statute, if applicable to a party at all, is *directory only,* and this result seems to be supported by the great weight of authority. 23 Cyc. 839, and cases cited in note 15."

See also—

Nitti v. *Public Service Ry. Co.,* 104 N. J. L. 67 (E. & A., 1927);

Hugg v. *Camden,* 39 N. J. L. 620 (Sup. Ct., 1877).

As stated by the Court of Errors and Appeals, this is the uniformly accepted rule. Thus, in 64 *C. J.,* at page 1225, the rule is stated as follows:

"Statutes and constitutional provisions of many states provide that decisions in cases tried without a jury shall be rendered and filed within a designated time after the cause is submitted. However, in construing these provisions, it has been uniformly held that the failure of the courts to render its decision

within the time so prescribed does not deprive the court of jurisdiction to decide the case and file its decision at a later date, or affect the validity of a judgment based on a decision so rendered. In most decisions in which the foregoing views were enunciated it was expressly declared that provisions of this character are directory only, and it is stated in effect in numerous decisions, as a ground for holding the provisions to be directory, that, as the parties have no control over the action of the court, they should not be punished for its dereliction of duty.

"*Waiver.* The failure of the trial judge to render judgment at least two days before the end of the trial term, as required by a rule of court, may be waived by the parties litigant, and defendant cannot object to a judgment rendered on the day preceding the close of the term, where he stood by at the time and made no protest."

This proposition is supported by the following cases:

Williams v. *Williams,* 29 Ariz. 538, 243 Pac. 402 (1926);

Idaho Comstock Min. & Mil. Co. v. *Lundstrom,* 9 Idaho 257, 74 Pac. 975 (1903);

Landry v. *Bertrand,* 48 La. Ann. 48, 19 So. 126 (1896);

Sannes v. *McEwan,* 10 Pac. (2d) 81 (Calif. 1932);

Farmers & Merchants National Bank of Los Angeles v. *Paterson,* 55 Pac. (2nd) 867 (Calif., 1936);

Hoppin v. *Lang,* 74 Mont. 558, 241 Pac. 636 (1925);

Gould v. *Loughren,* 10 Neb. 392, 27 N. W. 397 (1886);
Ratcliff v. *Sadlier,* 299 Pac. 674 (Nev., 1931);
Lynch v. *Coviglio,* 17 Utah 106, 53 Pac. 983 (1898);
Brown v. *Porter,* 7 Wash. 327, 34 Pac. 1105 (1893);
Demaris v. *Barker,* 33 Wash. 200, 74 Pac. 362 (1903);
Moylan v. *Moylan,* 48 Wash. 341, 95 Pac. 271 (1908);
State v. *Delaney,* 166 Wis. 141, 164 N. W. 825 (1917).

In *Demaris* v. *Barker, supra,* the court observed, at page 263, in construing a constitutional provision requiring a decision within ninety days:

> "To give it this construction is to prolong the very evil it was sought to avoid, and to punish the very persons whom it was intended should be its beneficiaries. * * * Were the delay something within the control of the litigant, were it caused by his own dereliction, the conclusion contended for might be tolerated."

A recent decision which is pertinent to the jurisdictional question here presented is *Grobarz* v. *Slayton,* 130 N. J. L. 597 (Sup. Ct., 1943). In that case, there was involved the construction of R. S. 39:5-8, which provides that in a motor vehicle prosecution before a magistrate the hearing of the complaint may be adjourned for "a period not exceeding 30 days from the return day named in a summons or warrant or from the date of an arrest without warrant, as the case may be."

Upon an arrest under the statute, a hearing day was fixed during the 30 day period but was adjourned to and concluded upon a day subsequent to the 30 day period, because of the inability to procure the presence of a necessary witness. After conviction of the defendant, he prosecuted a writ of certiorari upon the ground that the magistrate had lost jurisdiction because the hearing had not been disposed of within the 30 day period. The Supreme Court dismissed this contention, saying, at page 599:

> "The primary purpose of the particular provision of section 39:5-8, supra, was to secure a reasonably prompt disposition of the complaint in the public interest, and at the same time to afford the accused the means of a fair trial. It is provided that, on the request of either party, or in the discretion of the magistrate, the hearing of the complaint shall be adjourned for 'a period not exceeding thirty days from the return day named in a summons or warrant or from the date of an arrest without warrant, as the case may be.' Here, the trial day designated was within the statutory period; and it would be a capricious construction that would deny to the magistrate the power to continue the trial where that course was necessary to serve the ends of essential justice. This provision is to be read in the light of the context and is to be given a reasonable construction to effectuate the general policy of the enactment. We are enjoined to interpret it so as 'to oppose all prejudice to public interest. * * * The consideration of evil and hardship may properly exert an influence in giving a construction to a statute when its language is ambiguous or uncer-

tain and doubtful, but not when it is plain and explicit.' Lewis' Southerland Statutory Construction (2d ed.), S. 490. *The exercise of the interpretative function must needs be restrained by the reason and spirit of the enactment.''*

The court went on to say, at page 600:

''It would indisputably be within the magistrate's province to fix the thirtieth day as the time of trial. If it were impossible to complete the taking of testimony on that day, would a continuance to the following day be fatal to jurisdiction? Certainly not, if the statute is to be given a rational view, consistent with the general object to be served. And if this would be a valid exercise of power, so also would a continuance to a later and more convenient time within the bounds of reason and the exigencies of the case. If the provision be given the strict literal interpretation demanded by prosecutor, an inability to procure the testimony of an indispensible witness within the prescribed period, no matter what the cause, would be fatal to the prosecution. Illness of a witness, or his concealment within or absence from the jurisdiction, even though the motivation was the obstruction of justice, would render the proceeding abortive. A construction that would thus open the door to miscarriages of justice is to be rejected in favor of one that will advance the essential legislative purpose. It is to be presumed that the legislature designed certain as well as swift justice. The circumstances that will serve to deprive the magistrate of jurisdiction once acquired must be clearly and imperatively

> laid down in the statute. This view of the enactment will not defeat the purpose to avoid undue delay in the prosecution of such complaints, for the right to and the length of the adjournment are measured always by the requirements of justice in the particular circumstances. The course t aken here fully accords with the spirit of the law."

The reasoning of Mr. Justice Heher in the foregoing excerpt should plainly control the present situation. The policy of the statute governing the State Board of Tax Appeals, as in the case of the statute involved in the *Grobarz* case, is to afford a prompt disposition of railroad tax cases. If at all possible, the Board is directed to conclude its hearings by October 15th, and render a decision by November 5th. But in a case where the Board, because of pressure of other business or for other reasons, fails to proceed to hear such a case within the statutory period, without any fault or default of an appellant who has filed his appeal with the Board within time and thereby vested it with jurisdiction, it would obviously be an absurd construction of the statute to hold that the legislature thereby intended that the appellant should receive no hearing whatsoever.

The fact that for two years, 1933 and 1937, the legislature adopted statutes extending the time for the conclusion of hearings and determination of railroad tax appeals, in nowise militates against our position. The purpose of such statutes is merely to relieve the State Board of the responsibility of concluding the hearings and rendering a decision in compliance with such directory provisions. There is nothing about the adoption of such statutes which demonstrates that such provisions

are mandatory. Even if the adoption of such statutes were evidence of such interpretation of the existing law by the legislature, nevertheless, the adoption of such statutes would not be controlling, since clearly, a legislature may not bind the courts by an expression of its interpretation of a statute adopted by some other legislature. That is wholly a judicial problem.

We respectfully submit that the only sound construction of the statutory provision in question is that the legislature intended to direct the State Board to act with expedition by prescribing time for hearing and decision, but did not intend the ludicrous situation which would obtain if the jurisdiction of the board expired with the time limitation. The great probability is that any effort by the State Board to hear and determine railroad tax appeals within the time allotted would fail with the necessary consequence that a decision would be rendered upon an incomplete record and without adequate argument, or that monumental effort in the presentation of proof would be wasted upon the passage of the statutory dates. In rendering decision in the 1943 *Central Railroad of New Jersey* tax case, a majority of the Board members held that the very unfortunate contingency just referred to had transpired in the disposition of the 1942 case. See *Pitney and Gardner* v. *State Tax Commissioner,* 21 N. J. Misc. 405. Such a construction is not consonant with good sense. The legislative plan was to have issues of valuation determined by this special tribunal. It could not have intended that those issues should burden the Supreme Court as an original proposition under the court's inherent power to review assessments. A statutory provision fixing a time limitation can obviously be interpreted to be either mandatory or directory, depending upon which

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is reasonable. Reason dictates that the correct interpretation here is that the time limits are wholly directory and non-jurisdictional. The Supreme Court was correct in holding that the judgments of the Board should be reversed and that those cases requiring factual determination should be remanded for hearing to the Board.

(a)

The form of the Jersey City petitions of appeal to the State Board of Tax Appeals is not an issue in these proceedings.

As an additional basis of support for the dismissal by the State Board of Tax Appeals of the Jersey City petitions of appeal from 1941 and 1942 assessment valuations in Cases No. 2, 3, 4 and 5, appellant railroads argue that the said petitions were defective as not in compliance with the rules of the board, in that they assertedly failed to specify the property under appeal with sufficient particularity. By express rule of court entered in the Supreme Court, that was not a proper issue and was therefore properly ignored by the Supreme Court in its opinion (Case No. 2, p. 82; Case No. 5, pp. 73, 74). It was clearly intended by the Court below, as indicated in said rules, that the argument herein should be limited to the constitutional issues and to the question as to the directory or mandatory nature of the time limitations for the hearing of railroad tax cases by the State Board of Tax Appeals. The point made by respondent railroads as to insufficiency of the petitions of appeal of the City of Jersey City is properly to be addressed to that board when the cases are returned thereto for hearing.

POINT IV.

Chapter 291 of the Laws of 1941, as amended, does not preclude the right of appeal from a property valuation assessment for the tax year 1941.

Respondent railroads contend that Chapter 291, by its provision that the 1941 assessment valuations should be those previously made for that year under the Revised Statutes (Chap. 291, Sec. 73; Chap. 169, Sec. 4), abolished any right of appeal from 1941 assessment valuations. This point was not considered by the Supreme Court, apparently for the reason that it was not included within the issues which, by rule of the court, were settled as the issues to be considered by the court in the first instance (Case No. 1, p. 135, l. 18). For the sake of expedition, however, we are satisfied to have this Court determine that question at this time. We submit that the point made is without substance.

Section 73 of P. L. 1941, relied upon by the railroad companies, reads, so far as material, as follows:

> "In the first year for which this act is operative, valuations made by the commissioner for that year under chapters nineteen through twenty-nine, inclusive, of Title 54 of the Revised Statutes shall constitute the basis of property assessments under this act."

The purpose of this provision was obviously merely to facilitate, and avoid unnecessary duplication in the mechanics of assessment for, the first year of operation of the new tax law. The act was adopted July 22, 1941. The procedure for

fixing the valuations for the tax year 1941 under the Revised Statutes had begun on March 1, 1940 (R. S. 54:23-1), had continued throughout the remainder of the year 1940 (R. S. 54:22-1; 54:22-3 to 54:22-6, inclusive; 54:24-8; 54:26-1), and into the year 1941 (R. S. 54:26-2; 54:24-9). Final assessments were certified to each railroad taxpayer on June 1, 1941 (R. S. 54:27-1), and the taxes assessed became a lien on June 1, 1941 (R. S. 54:27-4). The legislative purpose in Section 73 of Chapter 291 was obviously to eliminate the necessity for a repetition of the year and a half of assessment machinery already had for the year 1941 under the Revised Statutes, since the assessment methodology for property valuations was exactly the same under Chapter 291 as it had been under the Revised Statutes. There is utterly no warrant for concluding therefrom that the legislature intended to deprive either taxpayers or taxing districts of the right of appeal from the valuations made for the year 1941, a right which had been granted under the Revised Statutes to railroad taxpayers, the Attorney General of the state, and the taxing districts (R. S. 54:26-7), and was expressly repeated, without qualification, in Chapter 291 (Sec. 31).

Section 31 provides:

> "Any taxpayer, the Attorney General on behalf of the State, *or the authorities of a taxing district,* desiring to contest the validity or amount of *any* assessment or re-assessment made by the commissioner under this act may, * * * file a written complaint with the State Board of Tax Appeals * * * ."

The assessments for the year 1941 returned by the State Tax Commissioner, pursuant to the writ herein, were assessments "made by the commis-

sioner under this act" notwithstanding that Section 73 directed that in making the assessments for the year 1941 the valuations previously made by the commissioner for that year under the Revised Statutes should constitute the basis thereof. The question as to whether the legislature could constitutionally deny any right of appeal from the 1941 assessment to municipalities is not the issue here. It is essential that we keep in mind that if the argument of the respondent railroad companies is correct, the legislature was depriving *railroad taxpayers, as well as taxing districts,* of such right of appeal, and that such deprivation of a taxpayer's right of appeal, if intended, would unquestionably constitute an unconstitutional denial of due process. A taxpayer has the constitutional right to be heard as to the validity and extent of a tax or his liability thereto.

Turner v. *Wade*, 254 U. S. 64;
Londoner v. *Denver*, 210 U. S. 373;
People's National Bank v. *Marye*, 191 U. S. 272;
Central of Georgia Railroad Co. v. *Wright*, 207 U. S. 127.

If Section 73 were to be considered, moreover, as contended by the railroad respondents, as a legislative act conclusively fixing the value of property for taxation purposes, the constitutionality thereof would be doubtful, since it is well established that "the valuation of property is a quasi-judicial act, requiring the exercise of judgment and discretion by the assessors and that an arbitrary valuation of land made without taking into consideration the facts and circumstances of each piece of property is void." 51 *Am. Jur.* 651.

It is so well established as not to require citation of authority that, unless plainly and expressly

required by the unambiguous language used by the legislature, an act will not be given a construction which would render it unconstitutional. Read together with Section 31, Section 73 does not expressly and unambiguously abolish the right of appeal from 1941 assessments. Since it would, as to railroad taxpayers, render Section 73 unconstitutional to construe it as depriving them of a right of appeal from the 1941 valuations under the new law, and since there is utterly no basis whatever for concluding that the legislature intended taxing districts to have any more or less right of appeal for the year 1941 than railroad taxpayers, the conclusion is here required that the right of appeal of the City of Jersey City existed for the year 1941.

Respondent taxpayers urge as an additional ground for their contention that Jersey City has no right of appeal from the assessment valuations for the year 1941 that such conclusion follows from a reading of Chapter 290 of the Laws of 1941, and Chapter 291, taken together, as statutes assertedly in *pari materia*. The position is taken that Chapter 290 (Railroad Tax Settlement Act) cancelled the right of appeal by railroad taxpayers from the 1941 assessments and that it is therefore reasonable to suppose that Section 73 of Chapter 291, enacted on the same day as Chapter 290, contemplated that there should be no right of appeal from 1941 assessments on the part of either taxpayers or taxing districts. But the premise thus advanced is quite unfounded. Chapter 290 did not cancel or abate any rights of appeal of taxpayers whatever.

We put to one side the obvious point that since Chapter 290 has been held to be unconstitutional (*Wilentz* v. *Hendrickson*, 135 N. J. Eq. 244), it can have no weight whatever in the construction of

Chapter 291. We also point out that Chapters 290 and 291 are separate enactments having entirely different purposes and effects, and are, therefore, in no legal sense, statutes in *pari materia*. But assuming that Chapter 290 were an appropriate source for aid in construction of the legislative intent in Chapter 291, we point out that Chapter 290 may be searched in vain for any provision thereof abating or cancelling the right of railroad taxpayers to appeal from assessment valuations for the year 1941.

It is true that the various railroad companies in arrears of taxes for the years 1932-1940, were, by Chapter 290, extended an offer by the legislature to obtain a cancellation and abatement of all of their interest arrears of unpaid taxes if they would, among other things, deliver to the state waivers of any right to contest the legality of assessments made prior to December 1, 1941, and discontinuances of any pending proceedings appealing such assessments. But it was, at the same time, open to any railroad taxpayer to decline the offer of the state and continue to prosecute its appeal of assessments for the year 1941. In the case of a railroad which had no interest arreas to be forgiven, such as the Pennsylvania Railroad Company, there was not the slightest possibility of a discontinuance of its appeals for the tax year 1941, except by its own voluntary waiver thereof. It is, therefore, a plain misstatement of the law to assert, as do railroad respondents, that Chapter 290 abolished the right of railroad taxpayers to appeal assessments for the year 1941.

We respectfully submit that all rights of appeal from 1941 assessments under the new law, whether by taxpayers, the Attorney General, or the taxing districts, were preserved under Chapter 291, exactly as they had theretofore existed under the Revised Statutes.

POINT V.

Conclusions.

It is, accordingly, respectfully submitted that:

1. Chapter 291, as amended by Chapter 169, undertakes to effect a gift of public moneys to the extent of the difference between the 1941 assessments under the Revised Statutes and the lesser *ad valorem* assessments under the challenged statutes, in violation of Article I, Section 20, of the Constitution of this State, and that in that respect such statutes are inoperative and void. The judgment of the Supreme Court in Case No. 1 should be affirmed.

2. Chapter 291, as amended by Chapter 169, violates inherent limitations upon the taxing power, the provisions of Article I, Section 16, and Article IV, Section 7, paragraph 12, in that it undertakes to provide for the levy of an unequal and discriminatory share of the burden of government upon property used for railroad purposes, and to cast the additional burden upon other property. The assessments made under its pretended authority are null and void. The judgment below in Case No. 5, so far as it sustains the validity of Chapter 291, should be reversed.

3. With reference to the decision of the issues of valuation, the jurisdiction of the State Board of Tax Appeals did not expire with the passage of the dates fixed for hearing and decision by R. S. 54:26-10 and R. S. 54:29A-34, and the appeals of prosecutor municipalities were correctly ordered by the judgments of the Supreme Court in Cases No. 2 and 5 to be reinstated by the State

Board. To that extent such judgments should be affirmed.

4. Chapter 291, as amended by Chapter 169, does not preclude a right of appeal by taxing districts from assessment valuations for the year 1941.

Respectfully submitted,

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To be argued orally by
MR. HERSHENSTEIN.

New Jersey Court of Errors and Appeals

FEBRUARY TERM—1946

(Title of Case No. 2)

CITY OF JERSEY CITY, a municipal corporation,
Prosecutor-Appellee,
vs.
STATE BOARD OF TAX APPEALS,
Respondent-Appellee,
and
DELAWARE, LACKAWANNA & WESTERN RAILROAD SYSTEM, *et al.*,
Respondents-Appellants.

CITY OF JERSEY CITY, a municipal corporation,
Prosecutor-Appellee,
vs.
STATE BOARD OF TAX APPEALS,
Respondent-Appellee,
and
ERIE RAILROAD SYSTEM, *et al.*,
Respondents-Appellants.

CITY OF JERSEY CITY, a municipal corporation,
Prosecutor-Appellee,
vs.
STATE BOARD OF TAX APPEALS,
Respondent-Appellee,
and
HUDSON AND MANHATTAN RAILROAD SYSTEM, *et al.*,
Respondents-Appellants.

CITY OF JERSEY CITY, a municipal corporation,
Prosecutor-Appellee,
vs.
STATE BOARD OF TAX APPEALS,
Respondent-Appellee,
and
LEHIGH VALLEY RAILROAD SYSTEM, *et al.*,
Respondents-Appellants.

CITY OF JERSEY CITY, a municipal corporation,
Prosecutor-Appellee,
vs.
STATE BOARD OF TAX APPEALS,
Respondent-Appellee,
and
NEW YORK CENTRAL RAILROAD SYSTEM, *et al.*,
Respondents-Appellants.

CITY OF JERSEY CITY, a municipal corporation,
Prosecutor-Appellee,
vs.
STATE BOARD OF TAX APPEALS,
Respondent-Appellee,
and
PENNSYLVANIA RAILROAD SYSTEM, *et al.*,
Respondents-Appellants.

On Certiorari

Review of Assessments of 1941, Made Under Revised Statutes

(See explanatory note as to Cases 3 and 4 on page 92 of Case No. 2)

New Jersey Court of Errors and Appeals

FEBRUARY TERM—1946

(Title of Case No. 5)

CITY OF JERSEY CITY, a municipal corporation,
Prosecutor-Appellant, Prosecutor-Appellee,

vs.

STATE BOARD OF TAX APPEALS,
Respondent-Appellee,

and

LEHIGH VALLEY RAILROAD SYSTEM, *et al.*,
Respondents-Appellees, Respondents-Appellants.

CITY OF JERSEY CITY, a municipal corporation,
Prosecutor-Appellant, Prosecutor-Appellee,

vs.

STATE BOARD OF TAX APPEALS,
Respondent-Appellee,

and

ERIE RAILROAD SYSTEM, *et al.*,
Respondents-Appellees, Respondents-Appellants.

CITY OF JERSEY CITY, a municipal corporation,
Prosecutor-Appellant, Prosecutor-Appellee,

vs.

STATE BOARD OF TAX APPEALS,
Respondent-Appellee,

and

DELAWARE, LACKAWANNA & WESTERN RAILROAD SYSTEM, *et al.*,
Respondents-Appellees, Respondents-Appellants.

CITY OF JERSEY CITY, a municipal corporation,
Prosecutor-Appellant, Prosecutor-Appellee,

vs.

STATE BOARD OF TAX APPEALS,
Respondent-Appellee,

and

HUDSON AND MANHATTAN RAILROAD SYSTEM, *et al.*,
Respondents-Appellees, Respondents-Appellants.

CITY OF JERSEY CITY, a municipal corporation,
Prosecutor-Appellant, Prosecutor-Appellee,

vs.

STATE BOARD OF TAX APPEALS,
Respondent-Appellee,

and

PENNSYLVANIA RAILROAD SYSTEM, *et al.*,
Respondents-Appellees, Respondents-Appellants.

CITY OF JERSEY CITY, a municipal corporation,
Prosecutor-Appellant, Prosecutor-Appellee,

vs.

STATE BOARD OF TAX APPEALS,
Respondent-Appellee,

and

NEW YORK CENTRAL RAILROAD SYSTEM, *et al.*,
Respondents-Appellees, Respondents-Appellants.

On Certiorari

Assessments of 1942

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A

Statement of the Case

This brief covers the appeals contained in three states of case which bear the titles set forth at the beginning hereof. One opinion in the Court below covered all of the writs of certiorari involved in the three cases presented to this Court as well as two other cases with respect to which there is an explanatory note in Case No. 2 at page 92. The opinion is printed in Case No. 1 at page 509, and is reported in 133 N. J. L. 202, and 43 Atl. (2d) 799.

In the opinion the Court below summarized the questions involved in these five cases, as follows (133 N. J. L. 203):

> "These are railroad tax cases. They involve the 'railroad tax law of 1941.' Three questions require decision.
>
> 1. Is the 'railroad tax law of 1941,' Pamph. L. 1941, Ch. 291, as amended by Pamph. L. 1942, ch. 169, constitutional?
>
> 2. Are the provisions of R. S. 54:26-10 and section 34 of Pamph. L. 1941, supra, requiring the State Board of Tax Appeals to conclude its hearings on or before October 15th following the filing of the complaint (Cf. R. S. 54:29A-34) directory or mandatory?
>
> 3. Are prosecutors qualified to prosecute these writs?"

The Court below answered these questions as follows (Headnotes, 133 N. J. L. 202):

"1. The particular or special use to which railroad property has been and continues to be put is the basis which supports both its separate classification and the legislative power to impose a separate tax to be paid on property so classified and used. When the separate classification is proper and embraces all property in that classification, a law which taxes the property so classified may provide what tax the railroad companies, owners of the separately classified property, shall pay, and in what way it should be assessed provided that the assessment of their property is made under general laws and by uniform rules, according to the true value.

2. As to future taxation for which it was designed, the Railroad Tax Law of 1941 (Pamph. L. 1941, ch. 291) as amended by Pamph. L. 1942, ch. 169, is free from constitutional restraint.

3. Pamph. L. 1941, ch. 291, as amended by Pamph. L. 1942, ch. 169, is unconstitutional as applied to the taxes due from the railroads to the state for the tax year of 1941.

4. The provisions of R. S. 54:26-10 and Pamph. L. 1941, ch. 291, Sec. 34, requiring that the State Board of Tax Appeals shall conclude its hearings on or before October 15th following the filing of the complaint are directory and not mandatory.

5. Ordinarily, the use of the word 'shall' in a statute carries with it the presumption that it is used in the imperative rather than in the directory sense. But this is not a conclusive presumption. Both the character and context of the legislation are controlling. The mandatory sense to the word 'shall' should not be given if by so doing the door to miscarriages of justice should be opened.

6. A municipality is qualified to be heard and to invoke the aid of the judicial branch

of the government to determine whether the proposed remission and cancellation of the state's vested right to taxes are not, in the circumstances, contrary to the limitation of the fundamental law of the state—the constitution."

It will be noted that the Court below held:

1. That the new Railroad Tax Act of 1941 as amended in 1942 was unconstitutional as to the year 1941 because it resulted in a gift or donation to the railroads.

2. That this legislation as to future taxation for which it was designed, that is for the year 1942 and the years thereafter, was constitutional.

3. That the statute requiring the State Board of Tax Appeals to conclude its hearings on or before October 15th following the filing of a complaint was directory and not mandatory; and

4. That a municipality was qualified to invoke the aid of the judicial branch of the government to determine whether these statutes were constitutional.

In the Court below it was the contention of the railroad companies involved that this legislation, was constitutional and applied to the year 1941 as well as to subsequent years. This was also the contention of the then Attorney General of the State of New Jersey, David T. Wilentz, and John Solan, who was of counsel with the Attorney General. They represented William D. Kelly, State Tax Commissioner; Homer C. Zink, State Comptroller, and James B. Sautter, Deputy State Treasurer.

It was also the contention of the railroad companies involved and of the Attorney General representing the State officials aforesaid, that the City of Jersey City and the other municipalities, prosecutors herein, had no right to question the assessments brought up by the writs of certiorari on the ground that this legislation was unconstitutional.

On the application for the writs the Attorney General joined with the railroad companies in opposing the allowance of the writs on the ground, among others, that the prosecutors were without legal capacity to prosecute this review. In their brief in the Supreme Court the State Tax Commissioner, the State Comptroller and the Deputy State Treasurer, through Mr. Wilentz and Mr. Solan, said (p. 2): "We take the same position here."

With respect to whether the provisions of the statute which require the State Board of Tax Appeals to conclude its hearings on or before October 15th following the filing of the complaint was mandatory or directory, the railroads contended that these provisions were mandatory, but the Attorney General representing the State officials in question, and the municipalities and other prosecutors, contended that these provisions were directory.

On the opinion below three rules for judgment were entered.

In Case No. 1 (p. 522) the rule provides that the assessments by the State Tax Commissioner, under the new law for the year 1941, are null and void and are therefore set aside and the assessments under the prior law are declared valid

and lawful, but without prejudice to the right of the municipalities to appeal therefrom.

In Case No. 2 (which involved a review of the assessments made under the prior law, viz., the Revised Statutes), the Court below in the rule for judgment adjudged that the State Board of Tax Appeals was in error in dismissing the appeals of Jersey City because they were not concluded within the time limit provided by the statute, and further adjudged that the said appeals be reinstated before the State Board, there to be proceeded with as provided by law (Case No. 2, pp. 90 and 91).

Cases Nos. 3 and 4 for the time being have fallen by the wayside because they were reviews of the assessments for the year 1941 made under the 1941 and 1942 Tax Acts respectively when they became effective, and since the Court below held that the 1941 and 1942 Tax Acts were unconstitutional as to 1941 taxes, there was no need of providing for a hearing before the State Board of Tax Appeals with respect to the appeals taken by Jersey City and the other municipalities of the assessments made under those statutes (see explanatory note, Case No. 2, p. 92).

The rule for judgment in Case No. 5 (p. 99) adjudges that the State Board of Tax Appeals was in error in dismissing the appeals of the municipalities of the assessments for the year 1942 because the provisions of the statute requiring the hearings to be concluded before October 15th following the filing of the complaint were directory and not mandatory, and the said rule for judgment further provided that those appeals of the municipalities be reinstated before the State

Board, there to be proceeded with as provided by law.

There are appeals before this Court from the three judgments in question (all of which are based on the one opinion, *supra*) as follows:

> The six railroad companies named in the headings at the beginning are appellants in all three cases and maintain their position taken in the Court below that:
>
> 1. The Tax Acts of 1941 and 1942 are constitutional for the year 1941 as well as for subsequent years;
>
> 2. The provisions of the statute requiring proceedings before the State Board to be concluded on or before October 15th following the filing of the complaint are mandatory and not directory; and
>
> 3. That the prosecutors were without legal capacity to prosecute this review.

The State officials represented by the Attorney General, namely, the State Tax Commissioner, the State Comptroller and the State Treasurer have not appealed from the judgments below. They presumably will take the same position here as they did below.

The only prosecutor to appeal is the City of Jersey City and it has appealed only from the judgment entered in Case No. 5 (p. 110). That appeal is based on the ground that the new tax acts of 1941 and 1942 are unconstitutional as to the year 1942, the Court below having held those acts to be constitutional as to that year and the years thereafter for the reasons stated in the headnotes quoted *supra*.

In short, the six railroad companies named in the headings at the beginning of this brief appeal from each of the three rules for judgment, and Jersey City appeals only from the rule for judgment in Case No. 5.

We shall hereinafter refer to the prosecutors including Jersey City, even though it is an appellant, as prosecutors and to the railroad company appellants as either railroad companies or as appellants.

B

Grounds of Appeal

The grounds of appeal are covered in the statement of the case *supra.* The grounds of appeal of each of the six railroad companies are identical (in case No. 1, see p. 536, *et seq.;* in case No. 2, see p. 101 *et seq.;* and in case No. 5, see p. 115 *et seq.*).

C

BRIEF OF THE ARGUMENT

I

Prefatory Statement

Prior to the enactment of Chapter 291 of the Laws of 1941, property used for railroad purposes was subject to taxation by the State at an average tax rate (R. S. 54:24-2), except "second class" railroad property, which was taxed by the State at the local rates established in the taxing district in which such property was situate (R. S.

54:24-10). The taxes derived by the State on such "second class" railroad property were then allocated to and paid over to such taxing districts (54:24-11).

Chapter 291 (1941) and the amendment thereof (Ch. 169 of 1942) established a new method of taxing railroad property. There was first provided a property tax of 3% on the assessed valuation of the tangible real and personal property, and in addition thereto an excise or franchise tax at the rate of 3% on the capitalized value of the earnings of the railroad. As the capitalization rate and tax rate were both 3%, the specified earnings of one year became the measure and amount of the total tax for the following year. The 3% property tax as applied to second class railroad property is allocated by the State to the taxing districts as before, and in addition thereto, one half of the new excise or franchise tax is also allocated to the taxing districts by a prescribed formula. P. L. 1941, Ch. 291, Sec. 24.

In the Court below the prosecutors presented the question of the constitutionality of these two statutes in two points as follows:

> "Point I—
>
> Chapter 291, as amended by Chapter 169, contravenes the provisions of Article I, Paragraph 20, of the Constitution of New Jersey."

Article I, Paragraph 20 of the Constitution reads as follows:

> "No donation of land or appropriation of money shall be made by the state or any municipal corporation to or for the use of any society, association or corporation whatever."

Point II was as follows:

"POINT II—

Chapter 291 of the Laws of 1941, as amended by Chapter 169 of the Laws of 1942, contravenes Article I, Paragraph 16, and Article IV, Section 7, Paragraph 12, of the Constitution of New Jersey, for the reason that it deliberately discriminates in the distribution of the burden of taxation in favor of property used for railroad purposes, and at the expense of other property."

Article I, Paragraph 16 of the Constitution is as follows:

"Private property shall not be taken for public use, without just compensation; * * *."

Article IV, Section 7, paragraph 12 is as follows:

"Property shall be assessed for taxes under general laws, and by uniform rules, according to its true value."

In this brief we shall present the argument with respect to Point II, *supra,* first.

II

Chapter 291 of the Laws of 1941 and Chapter 169 of the Laws of 1942 are valid legislation because they are general laws applicable to all of the property classified as railroad property and such property may be taxed at such rates as the Legislature sees fit to prescribe, without conflicting with any provision of the Constitution.

The Court below in these cases, in dealing with this question held (italics ours):

> "From the very beginning, property used for railroad purposes has occupied and continues to occupy a separate classification, from all other property, in the field of taxation. The particular or special use to which railroad property has been and continues to be put is the basis which supports both its separate classification and the legislative power to impose a separate tax to be paid on property so classified and used. When, as here, the separate classification is proper and embraces all property in that classification, a law which taxes the property so classified may provide what tax the railroad companies, owners of the separately classified property, shall pay, and in what way it should be assessed provided that the assessment of their property is made 'under general laws, and by uniform rules, according to its true value.' Art. IV, sec. VII, par. 12, State Constitution, N. J. S. A. That has been and is the settled law of this State. *State Board of Assessors* v. *Central R. R. Co.*, 48 N. J. L. 146, 4 A. 578; cf. *Bergen & Dundee R. R. Co.* v. *State Board of Assessors*, 74 N. J. L. 742, 67 A. 668 (Duffield Act of 1905 (N. J. S. A. 54:19-2, 54:23-1 et seq., 54:24-7

et seq.); *Central R. R. Co.* v. *State Board of Assessors,* 75 N. J. L. 120, 67 A. 672; *Central R. Co. of New Jersey* v. *Baird,* 75 N. J. L. 771, 69 A. 239 (Perkins Acts of 1906 (N. J. S. A. 54:19-2, 54:23-1 et seq., 54:24-1 et seq.).

However morally persuasive may be the philosophy underlying the contentions made that there can be no constitutional justification (cf. Art. 1, par. 16, and Art. IV, sec. VII, par. 12, State Constitution), under our system of spreading the burden of taxation equally on all property, for imposing a lesser tax burden on property used for railroad purposes than is imposed on other property, that contention is logically inconsistent and legally without merit. It is inconsistent with the admission that property used for railroad purposes may properly be separately classed and runs afoul of the aforestated cases. Equality of the burden upon all taxable property can only be attained if and when there shall be but one general tax law applicable alike to all taxable property irrespective of its particular use. That, however, continues to be the 'Dream unrealized.' *Central R. R. Co. of New Jersey* v. *State Tax Department,* 112 N. J. L. 5, 15, 169 A. 489, certiorari denied 293 U. S. 568, 55 S. Ct. 79, 79 L. Ed. 667. There is no constitutional objection either to the classification or rate features to the legislation in question. Nor can there be any objection to the separation of the franchise tax from the ad valorem tax. *Jersey Central Power & Light Co.* v. *Asbury Park,* 128 N. J. L. 141, 24 A. 2d 526, affirmed, *Jersey Central Power & Light Co.* v. *Monmouth County Board of Taxation,* 129 N. J. L. 253, 29 A. 2d 139. *As to future taxation for which it was designed, the legislation, upon its face, is free from constitutional restraint. As to the tax year of 1941 it is not free from such constitutional restraint.*"

The foregoing conclusions may be summarized as follows (see 43 Atl. 2d, 799):

> "The particular use to which railroad property has been and continues to be put is the basis which supports both its separate classification and legislative power to impose a separate tax to be paid on property so classified and used.
>
> When the separate classification of railroad property is proper and embraces all property in that classification, a law which taxes the property so classified may provide what tax the railroad companies, owners of the separately classified property, shall pay, and in what way it should be assessed provided that assessment of their property is made under general laws, and by uniform rules, according to its true value. N. J. S. A. Const. art. 1, par. 16; art. 4, Sec. 7, par. 12.
>
> The railroad tax law of 1941 is not unconstitutional on ground that it imposes a lesser tax burden on property used for railroad purposes than on other property and on ground that franchise tax is separated from the ad valorem tax. N. J. S. A. 54:29A-1 et seq.; N. J. S. A. Const. Art. 1, par. 16; art. 4, Sec. 7, par. 12."

An examination of the prior decisions of this Court demonstrates that the foregoing conclusions of the Court below are unassailable.

The general taxation of railroad property by the State was first established by the Act of April 10, 1884, amended by the Act of March 27, 1888. A rate of one-half of one per cent. was there established for the first, third and fourth classes of property, and an additional rate of not more than one per cent. was applied to second class property. The first assessments and taxation under

that legislation were reviewed by this Court in *State Board of Assessors* v. *Central R. Co. of New Jersey,* 48 N. J. L. 146. It was urged in that case that the Legislature could not constitutionally establish a tax rate for railroad property different from local tax rates. This contention was rejected by the Judges in the several opinions read in that case. Chancellor RUNYON said (p. 278):

> "The property separated, so far from being taken by arbitrary selection, is, all of it, so circumstanced by reason of the peculiar use to which it is put as to make it on that account a class by itself. To value and tax such property in the same way in which other property is valued would be unjust * * *.
>
> The peculiarity of the property in question constitutes it a legitimate class for the purpose of taxation—a class which, in order to deal with it fairly in the matter of taxation, must be treated separately * * *."

(p. 279) "The constitutional provision requires not only that the assessment shall be under general laws, but that it shall be by uniform rules also. It does not require that all property shall be assessed for taxes, but that property when assessed for taxes—or in other words such property shall be assessed for taxes, shall be assessed under general laws, etc. Certain property has been exempt from taxation ever since the amendments to the Constitution were adopted, and such exemption has received judicial sanction * * *.

If the Legislature has power to exempt, on account of the special uses to which they are put, certain kinds of property from the taxation to which other property of the same kind, but put to general uses, is subjected, it has the right to provide in its discretion, that such special property shall be assessed at a

different rate and in a different way from the other."

(p. 282) "The objection is made that under the act * * * the companies escape their share of county and municipal taxation in respect of main stems * * * and the tangible property in the taxing districts. But if the taxes be but one tax and the Legislature has the right to fix the amount of that tax by the means adopted it follows that the objection is without actual foundation; for the Legislature has the right to say what tax the companies, in view of the peculiar character of their property, shall pay, and in what way it shall be assessed * * *. To hold otherwise would be to hold that the Legislature is bound to tax all property at the same rate and in the same way, without regard to the use to which it is put.

To summarize the views above presented. The power of taxation is in the legislative branch alone. It is unbounded except as it may be limited by constitutional restraint. A law which taxes a class of property separately is not unconstitutional if it embraces all property of that class, and applies to it uniform rules and taxes it according to its true value. The constitutionality of such a law is to be determined in the same way in which it would be determined if the property taxed were the only property taxed in the state."

That case constitutes one of the landmarks of tax law in this State. It has been cited hundreds of times as a sound and controlling exposition of the nature of taxation and the powers of the Legislature on that subject.

The question of the validity of a special tax rate as applied to railroad property was again raised

under the Duffield Act (P. L. 1905, p. 189, R. S. 54:24-10) which eliminated the 1½% rate on "second class" property and substituted a tax by the State at local rates. The opinion of this Court in that case (*Bergen & Dundee R. Co.* v. *State Board, etc.*, 74 N. J. L. 742) was written by Mr. Justice (afterwards Chancellor) PITNEY. He said (p. 745):

> "The Duffield Act * * * further changes the law with respect to the taxation of second class property, and with respect to this alone * * *." (And bottom of p. 744):
>
> "As we read this act its purpose is plain * * *. The local rate is then to be certified by the local authorities to the State Board, and a tax at that rate is to be imposed by the State Board upon the second class property."

After disposing of certain technical objections relating to the administration of the act, he said (p. 749):

> "In other respects, it seems to us that the arguments adduced in the effort to show the Duffield Act unconstitutional are disposed of by the decision of this court in 19 Vr. 146 (48 N. J. L.) * * *.
>
> The decision in 19 Vroom not only vindicated the classification of property according to its use, for purposes of taxation, and the separate treatment of railroad and canal property as a class set apart by characteristics that substantially distinguish it from other taxable property; but that decision also sustained an act whose details were not essentially different from those of the act now under criticism."

Reviewing the opinions expressed by Justices PARKER and REED, and the dissenting opinion of

Justice DEPUE in the earlier *Central Railroad* case, with reference to the power of the Legislature to establish tax rates for specific classes of property, this Court held that the Duffield Act was not in conflict with our constitutional provision that "property shall be assessed for taxes under general laws, and by uniform rules, according to its true value," or with any provision of the Federal Constitution.

The one-half per cent. rate on *main stem* property was then changed by the Perkins Acts of April 15, 1906 and April 18, 1906, and by which an "average rate of taxation" was established for that class of property (R. S. 54:24-2). These acts were considered by this Court in *Central R. Co. of New Jersey, et al.* v. *State Board, etc.*, 75 N. J. L. 771. The views of this Court as to their validity were the same as those expressed by it in the earlier cases above mentioned, and approved the judgment of Mr. Justice PITNEY, who wrote the opinion in the Supreme Court (75 N. J. L. 129, 130), holding the act constitutional.

From these leading cases it must be taken as established that the Legislature has untrammeled power to prescribe the specific tax rate to be applied to all of a recognizable class of property.

> "The power of taxation is an essential inherent attribute of sovereignty. In our state government it is vested in the legislative department. It is unlimited in extent, except as it may be restrained by constitutional provision or irrepealable legislative contract. * * *
>
> *Unless the legislation is found to be clearly in contravention of some constitutional provision, or outside the scope of governmental authority, the Court will not annul it. With*

> *the policy or impolicy, justice or injustice of the legislation, irrespective of constitutional considerations, the courts have nothing whatever to do.'' State Board, etc.* v. *C. R. R. Co.*, 48 N. J. L. 146, 277, *supra.*

It seems to be seriously urged by the prosecutors that the cases applying these principles were either wrongly decided or that they do not mean what they say. Succinctly stated, the argument is that when the Legislature by statute fixes a particular rate for railroad taxation, its validity must be determined by a comparison with the burden resulting from other tax rates applicable to property not within the class. The function and power of the Legislature with respect to matters of taxation is thus sought to be controlled by the judicial branch of the government, a notion that has always been disclaimed and rejected by our courts.

In their suggestion that the judiciary encroach upon the legislative field in controlling a tax rate, a case is attempted to be made by showing that in the first year of operation of the new statute the total amount of taxes levied upon railroads was less than the amount computable under the prior law; but it is also conceded that under the operation of the new law the taxes payable thereunder might be a good deal more. Thus it is said:

> "Currently, railroads are enjoying tremendous earnings, and the franchise taxes may for a while make up the difference between the property taxes levied under the challenged statutes and the property taxes due under the statutes they purport to supplant * * *. But it is inevitable that at the conclusion of the current war situation and the probable post war boom, there will be a

> sharp return to normalcy. The *fundamental constitutional issues* here involved * * * may not be obscured by temporary and unnatural excesses in earnings."

Again it is said:

> "The fact that in certain years the total yield may exceed the yield which would be provided by a proper *ad valorem* tax would not satisfy the *fundamental requirement* that the burden of government be distributed equally, for it is manifestly unequal treatment to levy a relatively uniform burden on non-railroad property, regardless of the vicissitudes of business cycles, and at the same time to grant to the owners of railroad property the preferential position of paying a considerably reduced burden during the periods when the cost of government will be the greatest."

It is apparent that what the prosecutors complain of is not so much the statute now under discussion, but the whole theory and practice of taxation in the state ever since and before the adoption of the amendments to the constitution.

The question will undoubtedly and immediately arise in the mind of the Court, what power has the Court to substitute its judgment for the determination of the Legislature to base a tax on railroad earnings (including the most important feature of an arbitrary minimum excise tax in years of low earnings, a feature which counsel ignore altogether)?

Another question which will confront the Court is, what is the "fundamental constitutional issue" here involved? We all know that there is nothing in our constitution on the subject of taxes, except

as such imposition is embraced in the clause "property shall be assessed for taxes under general laws, and by uniform rules, according to its true value." However, counsel say, notwithstanding the many decisions rejecting the contention, that the tax clause of the constitution must be construed "beyond further cavil and dispute" to require the "equal distribution upon property of the burden of government which is to be met by property taxation." This statement means that this Court should now strike down, once and for all, the power of the Legislature to classify property and to apply a particular tax thereto. It brushes aside what has been regarded for 70 years as a correct construction of the constitution, which, as expressed in 48 N. J. L. at page 279, is:

> "The constitutional provision does not take away from the legislature the power of selecting the subject of taxation * * *. But it does require that all members of the class selected shall be included in the taxing law, and that the rule applied thereto shall be uniform as to the whole of the class, * * * and if these requirements are answered by the law, it is not in conflict with the constitutional provision * * *."
>
> "(The legislature) has the right to provide, in its discretion, that such special property shall be assessed at a different rate and in a different way from the other. (p. 282) * * * for the legislature has the right to say what tax the companies, in view of the peculiar character of their property, shall pay, and in what way it shall be assessed, provided it makes the assessment under general laws and by uniform rules * * *. To hold otherwise would be to hold that the legislature is bound to tax all property at the same rate and in the same way without regard to

> the use to which it is put. * * * The power of taxation is in the legislative branch of the government alone."

In prosecutors' brief it will be said as it was in the Supreme Court:

> "Hence, by reason of the use to which property is put, the legislature may select property for taxation under a law applicable to it alone. That power of selection is made necessary by the peculiar attributes of this property necessitating a different technique for the appraisal of its true value. Notable examples of the exercise of this power is the selection of property used in the business of railroads, banks and insurance companies,"

to which is added the statement that such selection

> "is subordinate to the basic principle that there must be a correlation between the benefit conferred by government and the burden imposed on property."

To the extent that this rule applies in the cases of assessment for local improvements it may be sound, but it has no basis, historical or otherwise, in the realm of taxation for revenue.

With respect to the assertion of the prosecutors that all other taxes in New Jersey are based on some scheme of equalization of the tax burden on property, which is violated by the railroad tax law, it is necessary, as pertinent to the present discussions, to notice the laws relating to the taxation of an important class of property, to wit, the public utilities. Lands and buildings of street railways, gas and power companies are taxed locally, but tracks, wires, machinery, equipment and other tangible property are not directly taxed as

property. Those companies pay in lieu thereof a franchise tax on gross receipts (R. S. 54:30-1 *et seq.*). This franchise tax is normally 5%, but if the revenues are less than $50,000 the rate is 2%. This law was held valid in *Bergen Aqueduct Co.*, 95 N. J. L. 486. Other franchise taxes (in addition to property taxes) are provided in R. S. 54:32A, *et seq.* These are familiar instances of the long established practice in New Jersey of subjecting certain kinds of property to taxes which fluctuate from year to year in relation to the earnings derived from their operation, and only by a great stretch of the imagination can be said to be predicated upon a scheme of distributing the tax burden with mathematical equality. But if the prosecutors' contention were sound, then these statutes, which impose on the utilities franchise taxes, in addition to property taxes, are unconstitutional because the total tax (including the "in lieu" taxes with respect to the tangible property above mentioned) will fluctuate with the volume of revenues from their operation, while taxes on farm, residential and other property do not reflect the same variations. If the validity of a tax on any class of property or owners may depend on the weight of the burden it imposes, the railroad tax act contains a large percentage of constitutional virtue, because the whole amount of "net railway operating income" in normal years becomes the amount of the tax the next year (Case No. 1, pp. 160, 164) and in poor years, in addition to the property tax the railroad must give up at least 30% of its said income (Case No. 1, p. 168, ll. 8 and 15).

Under section 14 of Chapter 291 (1941), the new excise tax on railroads was imposed on a

franchise valuation ascertained by capitalizing the New Jersey net railway operating income at three percentum (or by multiplying such income by 33 1/3) less the valuation of the physical property. "Net railway operating income" is defined by the statute. It is the balance of revenues after deducting expenses of operation and taxes, but without deducting anything for interest on mortgage debt, rent of leased lines, or any fixed charges; and such figure becomes the tax liability for the following year. The act apparently did not contemplate any return on the investment in the New Jersey railroads.* In the case of railroads operating entirely within the state, their total operating income is the basis of calculating the franchise base; while in the case of "systems," *i. e.,* interstate railroads, the operating income of the entire system (defined as stated) is allocated for this purpose to the lines in New Jersey in proportion to the *trackage* in this state. (A mile of railroad with four *tracks* has a weight of four miles; and a yard one mile long with 25 *tracks* has a weight of 25 miles in computing the New Jersey allocation of operating income.)

It is also obvious that if a given railroad of New Jersey or the New Jersey division of an interstate system should have in a given year $1,-

* In the report to the Governor (February 22, 1941) of the Special Committee appointed by him to investigate the railroad tax situation, it was said (pp. 11-12):

> "Railroad income is expended first for labor and taxes. If anything is left, payment is made to the owners * * *. Inasmuch as the owners (that is, the stockholders and bondholders) of the four railroads in bankruptcy are not receiving any part of the fund, we believe the real problem involved in this branch of our discussion is how each dollar of railroad income shall be distributed among two of the three major claimants named above: the workers and the government."

500,000 of net railway operating income as above defined, that amount capitalized at 3% becomes $50,000,000, and the combined property and franchise taxes at 3% would therefore normally be $1,500,000 for the following year.

There, are, however, maximum and minimum taxes which should be noticed. If such railroad property for example, is valued and assessed at $35,000,000 and its income of $1,500,000 capitalized to $50,000,000, the franchise value is the difference, or $15,000,000. In that case the tax would be:

Property,	$35,000,000	@ 3%, tax	$1,050,000
Franchise	15,000,000	@ 3%, tax	450,000
Total	$50,000,000	@ 3%, tax	$1,500,000

Maximum. The maximum franchise tax is 120% of the property tax, so that if the property valuation remained at $35,000,000 while the allocated income went to $2,400,000, the total computed value would be $80,000,000, and the taxes:

Property,	$35,000,000	@ 3%, tax	$1,050,000
Franchise	45,000,000	@ 3%, tax	1,350,000
Total	$80,000,000	@ 3%, tax	$2,400,000

In the foregoing example the computed franchise tax is about 129% of the property tax and would therefore be reduced to the maximum of 120%, which would be $1,260,000, or a total tax of $2,310,000, which is equal to 6.6% of the property value, and which is substantially higher than any property tax rate applicable under the old law.

Minimum. The minimum franchise tax is 30% of the specified income, or the sum of $4,000,

whichever is greater. In the foregoing example, if the stated income dropped to $900,000, the capitalized value would be $30,000,000, or $5,000,000 less than the property assessment, and therefore normally there would be no remaining franchise value, or franchise surtax; but the minimum franchise tax of 30% on the $900,000 income would nevertheless amount to $270,000, which is equivalent to assuming an arbitrary franchise valuation of $9,000,000. The total taxes in this case would therefore be $1,320,000.

It is obvious that if this system of taxation prevailed in other states every railroad company in the country having outstanding bonds would be in danger of being rendered insolvent. It is equally obvious that a New Jersey company without trackage in other states to produce the necessary additional revenues required to meet interest on its New Jersey debt would likewise be faced with bankruptcy without hope of reorganization.

The plight of the electric passenger railroads such as Hudson & Manhattan Railroad Company and Atlantic City & Shore Railroad Company, was even worse since they had no freight revenue and only fixed fares for their comparatively short lines, practically all of which were within the State of New Jersey. Take as an example the situation of the Hudson & Manhattan Railroad Company.

It was determined by the Commissioner that the number of miles of track over which the Hudson & Manhattan Railroad operated in New Jersey was 67.29 of the total number of miles of all track over which Hudson & Manhattan Railroad

operated, the net railway operating income for the year 1940 was $886,469 and the amount of such income allocable to the State of New Jersey under the act for the purpose of determining its franchise base was $596,505. The Commissioner assessed a property tax for 1941 of $225,738.45 and a franchise tax of $370,766.55, or a total of $596,505, which will be observed was the total of the net railway operating income of Hudson & Manhattan Railroad for the year 1940 allocable to its mileage in New Jersey (the year 1940 being the base used for estimating the 1941 tax).

The fact that the total tax exactly equalled the earnings attributable to the mileage in New Jersey was not a coincidence. If Hudson & Manhattan had earned ten times as much, the net amount of railway income allocable to the mileage in New Jersey would still have been just the same as the total property and franchise tax. Whatever the earnings of the railroad amounted to, the two taxes would have absorbed 100% of the net railway operating income allocable to the New Jersey mileage.

The Legislature, realizing the effect of Chapter 291 on railroads located wholly within the State and electric railroads at least 75% of whose revenue is derived from passenger traffic, enacted Chapter 169 of the Laws of 1942, which, in short, provided that in computing the franchise base the sum of $200,000 should be deducted from the preceding years' net railway operating income and further that in cases of all electrically operated railroads at least 75% of whose revenues are derived from passenger traffic, the franchise base for each year shall be the amount so allocable and capitalized at 8%. It further provided as con-

cerned electrically operated railroads as above described that the minimum franchise tax shall be 15% of the allocated earnings and the maximum franchise tax shall be 60% of the property taxes.

From the standpoint of the formulas for determining this franchise base and the minimum and maximum franchise taxes, the electric passenger railroads are subjected to a relatively smaller tax than the steam railroad companies.

A parallel to or precedent for this legislation is found in *Bergen Aqueduct Co.* v. *State Board, etc.*, 95 N. J. L. 486, where this Court sustained the right of the Legislature to impose a certain rate of tax on companies having more than $50,000 per annum of gross income, and a lower rate of tax incomes of smaller gross income.

At page 489, this Court said:

> "the legislative test at all times being the relative abilities of such companies from the viewpoint of conceded general gross income to sustain and meet the tax."

In their discussion the prosecutors seem to question or deny the right of the Legislature, for reasons deemed sufficient by it, and in its discretion, to provide for one class of utilities a high property rate and a low franchise rate, while for other utilities a relatively lower property tax rate and a high franchise tax rate in connection with a formula producing a high franchise valuation.

It should not be overlooked, as we think the prosecutors have done, that prior to the legislation under discussion "the franchise" was considered as railroad property in Class IV

(R. S. 54:22-1). The nature of this property and the reason for subjecting it to state taxation are full explained by Mr. Justice Garrison in *Long Dock Co.* v. *Board,* 78 N. J. L. 44; affd. 79 N. J. L. 604. Under the new act "the franchise" is removed from Class IV, but is made subject to valuation and taxation separate from the "property" (R. S. 54:29A-13). We doubt, however, whether such change in treatment works any change in the concept of franchises as property, or that the tax thereon can be regarded with realism as other than a supplementary property tax. By fixing a 3% rate on the tangible property, and limiting the tax on the franchise to 120% of the property tax, such limit becomes 3.6% of the "property" tax or a maximum of 6.6% on such "property" valuation. Thus the entire annual tax on railroads constitutes one tax, as was held in the *Central* case in 48 N. J. L. (p. 282), and in 75 N. J. L. 789, 792.

What was said by this Court in *Jersey Central P. & L. Co.* v. *Asbury Park,* 128 N. J. L. 141, affd. 129 N. J. L. 253, with respect to utility franchise taxes is consistent with this view. It was there pointed out that the omission of certain tangible property from local taxation was not in fact or effect an exemption, but a detail in the subjection of such property to a "substitute tax," a method of taxation to which "no exception can be taken."

We have discussed such points of the prosecutors' long brief as we think are necessary to show the fallacy of the argument presented. Both in reason and in consideration of the doctrine of contemporaneous construction of the constitution (*State* v. *Wrightson,* 56 N. J. L. 126, 206; *Kenny* v. *Hudspeth,* 59 N. J. L. 504; *In re Hudson*

County, 106 N. J. L. 62), particularly of Art. IV, Sec. 7, par. 12, and in view of the tax structure which had been erected in this state and administered for so many years upon the expounding of this provision by our courts, we apprehend that it is now too late to read into the constitution other regulations of or restraint on the power of the Legislature in this connection which are not within the accepted understanding and application of this clause.

The brief filed in the Court below by Attorney General Wilentz and John Solan, of counsel, in Point II argued (heading of the point):

> "Chapter 291 of the Laws of 1941 as amended by Chapter 169 of the Laws of 1942 is Valid Legislation."

Under Point II the Attorney General demonstrates beyond peradventure that the statutes are constitutional. At page 4 he refers to the leading case of *State, Trenton Water Power Co.* v. *Parker,* 32 N. J. L. 426, which was decided prior to the constitutional amendment of 1875 and which sets forth the settled law as laid down by our courts as of that time. Justice DEPUE in 1868, speaking for the Court at page 435, said:

> "The power of taxation is an essential attribute of sovereignty, reaching to all persons, and property belonging to the body politic. It resides in the government as part of itself, and need not be reserved where property of any description, or the right to use it in any manner, is granted to individuals or corporate bodies, and it will never be presumed to be relinquished unless the intention to do so is declared in clear and unambiguous terms. *Provident Bank* v. *Bil-*

lings, 4 Pet. 514; *Philadelphia and Wilmington R. R. Co.* v. *Maryland,* 10 How. 393; *State* v. *Newark,* 2 Dutcher 519.

> This power is necessarily unlimited in its extent, unless restrained or qualified by constitutional provisions, or legislative enactment, assuming the form of an irrepealable contract, and for that reason within the protection of the constitution. No limitation or restriction upon the exercise of this essential attribute of government, will be raised by implication. The intention to limit or abridge must be declared by positive legislative enactment, expressed in as clear and unambiguous terms as would be required to constitute a total renunciation of the power of taxation."

The Attorney General at page 4 of his brief in the Court below, after referring to the foregoing case, said:

> "It must therefore be taken as settled that, except as restrained by our constitutional provision, or the United States Constitution, the Legislature has unlimited power to impose such taxes as it may, in its discretion, deem proper, the only restriction being that if it creates a class for the purpose of taxation the tax shall be uniform as to that class. This Amendment of 1875, Article IV, Section 7, paragraph 12, is the only constitutional provision in this State bearing on the subject of taxation. Aside from this provision there is nothing which prescribes, limits or regulates the Legislature as to taxes, either by way of imposition, rates, collections, or dispositions of the yield."

Referring to the amendment of 1875, the Attorney General at page 5 of his said brief, said:

> "The amendment reads as follows:

> 'Property shall be assessed for taxes by general laws and uniform rules, according to its true value.'
>
> It appears to be the position of our adversaries that in providing for the taxation of property the Legislature, as a result of this constitutional amendment, is under a duty to provide a method that will equalize the taxes imposed on railroad property with the taxes imposed on property generally. But such has not been the construction. Classification of property is permissible thereunder. It does not require that all property be taxed. Any class of property may be taxed or may be exempted from taxation according to legislative policy. The requirement is not that property shall be taxed by a general law and a uniform rule but by 'general laws' and by 'uniform rules.' "

A wealth of authority is cited by the Attorney General to support his text.

After reviewing and discussing the history of rates applied in the taxation of railroad property, the Attorney General at page 10 of his said brief, said:

> "In short, the history of the railroad rate shows that separate, specific rates were applied in 1884 and that separate, specific rates have been applied in all the tax rate changes that have occurred since that time. To repeat, it will be observed that the agitation respecting railroad rates in 1905 and 1906 was conducted primarily in the legislative and political forums and not in the Courts on constitutional issues respecting relative burdens of taxation as between railroad and other property."

Another very pertinent observation is made by him on page 10, as follows:

"We submit that it cannot be assumed from a legal viewpoint that the objective of the legislation of 1905 and 1906 was to bring about parity of taxation such as prosecutor here contends the constitution requires. The existence of separate assessing agencies for the railroad and the other taxable property made imperative a provision for equalization. It is only when the *product* of the rate times the assessment is excessive that property bears an undue tax burden. The absence in this 1905 and 1906 legislation of any effective provision for equalization or for the correction of the tax rates determined by the use of unequalized local rates in striking the so-called average rate, indicates the legislation of these years was after all but a continuance of the specific rate policy as to the railroad taxation that had been in effect from 1884 to 1905. *Long Dock Co.* v. *State Board,* 89 N. J. L. 108, at 114."

Discussing the prosecutor's contention that the so-called Average Rate Act resulted in the imposition of a substantially equal burden on all taxable property, the Attorney General said (p. 11):

"Prosecutors appear to contend that prior to the rate change in the 1941 Act, the application of the so-called Average Rate Act has resulted in the imposition of a substantially equal burden on all taxable property. However, the facts are that this Average Rate Act has, during all the years up to 1941, been applied to railroad property without any adequate provision for a comparison of valuations for the standards of assessments between railroad property and other taxable property, and the result does not appear to have been altogether satisfactory. The trend in the average rates from $1.80 per $100 of valuation in 1906 to $4.81 per $100 of valuation in 1941 tells its story. *Central*

Railroad Co. v. *State Board,* 109 N. J. L. 395; aff'd 112 N. J. L. 5. (See the Report of the Commission on County and Municipal Taxation and Expenditures, dated January 11, 1932, filed in the State Library.)

It thus appears, we submit, that it is proper for the Legislature to fix the $3.00 rate in Chapter 291, P. L. 1941, without raising any constitutional questions as to whether or not the burden thereby imposed on railroad property becomes less than the burden imposed upon other property in a different class."

The Attorney General concludes his argument that the statutes in question are "valid legislation" by stating a well settled rule as follows (p. 11):

"In the absence of any showing of a constitutional requirement of equalization of the burden of taxation as between railroad property and other property, we submit that the unconstitutionality of Chapter 291 as amended, with respect to the substitution of a new specific rate for the rates heretofore used is not 'obvious' and hence after this long period of time will not be disturbed."

In *Legg* v. *Passaic Co.,* 122 N. J. L. 100, 102; aff'd 123 N. J. L. 263, the Court said:

"'* * * one of the fundamental policies of our jurisprudence is not to declare unconstitutional a statute which has been in force without any substantial challenge for many years unless its unconstitutionality is obvious.'"

It is respectfully submitted that Chapter 291 of the Laws of 1941, as amended by Chapter 169 of the Laws of 1942, is valid legislation.

III

Chapter 291 of the Laws of 1941 and Chapter 169 of the Laws of 1942 are valid legislation and do not contravene Article I, Paragraph 20 of the Constitution which does not prohibit the Legislature from changing a tax rate for current State taxes.

While the Court below, as shown in Point I, *supra,* declared these statutes to be constitutional as to the tax year 1942 and thereafter, it nevertheless concluded that these statutes were unconstitutional as to the tax year 1941 because the Court found they resulted in an alleged gift *in the aggregate* to all of the railroads in the State, and that such gift was in effect a donation or appropriation of money prohibited by Article I, Paragraph 20 of the Constitution. The Court below said (133 N. J. L. 202 at 206):

> "As to the tax year 1941, the legislation in question clearly contravenes article 1, paragraph 20, of our state constitution which provides: 'No donation of land or appropriation of money shall be made by the state or any municipal corporation to or for the use of any society, association or corporation whatever.' "

In reaching this conclusion, the Court below relied on certain facts, but omitted certain other facts which are pertinent. The facts relied on were some of the facts with respect to the taxation of railroad property under prior law; the Court below found that the State had a vested right in the taxes thus assessed simply because

they became a lien as of June 1st, 1941. The Court said (133 N. J. L. 206):

> "Under that law (R. S. 54:19-1, *et seq.*), the Commissioner on or before the 1st day of June following his compilation of valuations and within ten days thereafter, was obliged to serve a statement upon the treasurer of such railroad company showing, *inter alia,* the amount levied against such company. R. S. 54:27-1. The amount as shown by this statement became due and payable on any day between June 1st and December 1st following. R. S. 54:27-2. If any part of these taxes remained unpaid on December 1st following the levying thereof such taxes were 'considered in default' and bore interest. They were a 'lien paramount to all other liens upon all the lands and tangible property and franchises of the (railroad) company in this state.' That lien took effect on June 1st of the year in which it was payable and it was * * * 'a debt due from the company to the state on that date for which an action at law or a suit in equity may be maintained and * * * (it was) a preferred debt in case of insolvency.' R. S. 54:27-4. The state admittedly had a vested right to the taxes as first computed under R. S. 54:27-4. *Wilentz* v. *Hendrickson,* 133 N. J. Eq. 447; 33 Atl. Rep. (2d) 366; affirmed, 135 N. J. Eq. 244; 38 Atl. Rep. (2d) 199."

The Court below also relied on some of the provisions of the new tax act. The Court said (133 N. J. L. 208):

> "It provides that in the first year for which this act is operative, 'valuations made by the Commissioner for that year, under chapters nineteen through twenty-nine, inclusive, of title 54 of the Revised Statutes shall constitute the basis of property assess-

ments under this act,' section 73; it provides a flat rate of $3 for each $100 of valuation on 'all property used for railroad purposes upon the true value thereof,' section 7; it removes the franchise or excise tax from its theretofore classification under subdivision IV of R. S. 54:22-1; it provides for a separate franchise or excise tax and for the specific base, rate and method of computing the tax thereon, and further provides that the receipts from the taxation of property used for railroad purposes, other than from assessments of class II property together with one-half of the receipts from the franchise tax imposed thereunder, shall be applied to the uses of the state according to law and that the entire receipts derived from class II property and one-half of the receipts from the franchise tax shall be allocated and paid over to the local taxing districts. Sections 23 and 24.

The end result for the year 1941 is clear. The state 'abated and canceled' the difference between the amount based on the first computation, $18,322,161.33 pursuant to R. S. 54:19-1, *et seq.*, and the amount based on the second and third computations, $15,042,-931.07, including the franchise or excise taxes pursuant to the 'railroad tax law of 1941,' as amended, or $3,279,233.26. The 'railroad tax law of 1941' as amended, is to the extent indicated clearly subject to the same 'congenital infirmity,' save as to the amount involved, that rendered the Settlement Acts (Chapter 290, Pamph. L. 1941, as amended) unconstitutional. The fact that in the case at bar the taxes were not delinquent in nowise adversely affects the admitted vested right of the state to the debt due it by the railroads at the time of the passage of the legislation in issue. We, therefore hold that Pamph. L. 1941, ch. 291, as amended, *supra,* is unconstitutional as applied to the taxes

due from the railroads to the state for the tax year of 1941."

The Court below in concluding that these statutes violate Article I, Paragraph 20, proceeded upon the theory that there were "three assessments." That statement is not quite accurate. The properties of the railroad companies had been valued or assessed for 1941 before the new act was passed. After the passage of the act the Commissioner recalculated the taxes on the tangible property and computed the excise tax on the franchise. Later, when the act was amended with respect to the franchise base (P. L. 1942, Ch. 169), the franchise tax had to be recalculated (compare pp. 71 and 163, Case 1). We take it that it is these computations of the taxes which prosecutors refer to as "assessments," and not to any changes in the valuations of the property, because there was no change in valuations.

Under the old law (R. S. 54:27-1) the State Tax Commissioner was directed to complete his valuations and compute the railroad taxes for 1941 on or before June 1st of that year and he did so. In the ordinary course of events such taxes, if not changed by revision of the assessments on review or otherwise, would become payable to the State Treasurer on December 1, 1941 (R. S. 54:27-2).

The taxes would not be delinquent until December 1, 1941.

The certification and report of the State Tax Commissioner to the Comptroller on June 1, 1941 of his valuations and his computation of the taxes was merely a part of the beginning and not the end of the procedure provided by statute *to de-*

termine the amount of taxes owing by each railroad company.

Within ten days after such certification and report the Commissioner under the statute was required to serve upon the treasurer of each railroad company a statement of the assessed valuation of the property and the amount of tax payable by that company (R. S. 54:27-1). Not until December 1st thereafter shall the railroad company so served be considered in default, and such taxes do not bear interest until said December 1st (R. S. 54:27-4).

Any railroad company desiring to contest the determination of the State Tax Commissioner had the right on or before the third Monday of June following the levying or imposing of the taxes to file a complaint with the State Board of Tax Appeals and to prosecute an appeal before that Board (R. S. 54:26-7). Such appeals for the year 1941 were filed by the railroad companies and by Jersey City, *et al.* (Case No. 2, p. 16). Those appeals are still pending, and as a matter of fact the Court below has ordered those appeals to be heard so that even at this time there has been no final determination as to the amount due *in the aggregate* from all of the railroad companies. As a matter of fact, Jersey City is contending in these proceedings that the assessments were inadequate and the rules for judgment in these cases provide that it should proceed before the State Board of Tax Appeals for the purpose of having the assessments increased (Case No. 2, p. 90).

The appeals from the certification and report of the State Tax Commissioner under the stat-

ute shall be heard by the State Board on or after the third Monday of June in the given year. The Attorney General shall appear on behalf of the State. If it shall be made to appear upon such hearing before the State Board that any assessment or tax is illegal, excessive, insufficient, or that there has been illegal discrimination in the assessment, the Board shall correct, adjust, and equalize the assessment and tax of such property (R. S. 54:26-9).

The State Board shall conclude its hearing on or before October 15th of the given year, and between November 1st and November 5th following, shall certify to the State Tax Commissioner its determination, and the State Tax Commissioner shall forthwith certify to the State Comptroller all changes and corrections in the assessment and tax (R. S. 54:26-10). The assessment and the tax are not as yet finally determined, because under R. S. 54:26-11 it is provided that the Attorney General or a railroad company desiring to contest the determination of the State Board, shall do so by certiorari provided the application for the writ shall be made within three months from the date of certification to the State Tax Commissioner by the State Board. The Supreme Court on certiorari shall give relief where the assessment is made on an erroneous principle, as well as where the amount of the tax is excessive or insufficient, and the Court reviews the facts as well as the law. *Long Dock Co.* v. *State Board,* 86 N. J. L. 592, reversing 85 N. J. L. 536. That Court not only reviews the valuation fixed by the State Board, but of necessity and as a matter of law examines the evidence, and in a proper case directs a reassessment. It may take

testimony or direct testimony to be taken in addition to that already taken before the State Board. *Long Dock Co.* v. *State Board,* 89 N. J. L. 108, affd. 90 N. J. L. 701 and 90 N. J. L. 702. The Supreme Court on certiorari to review the assessment of railroad property by the State Board could take the testimony of the members of the Board. *Long Dock Co.* v. *State Board,* 86 N. J. L. 592, reversing *Long Dock Co.* v. *Hendrickson,* 85 N. J. L. 536. From the Supreme Court appeal can be taken to this Court to correct any error.

Under the existing law there was nothing final as to the assessment or the tax or the amount of either, or the valuation of the property of any railroad company when the new tax law became effective on July 22, 1941.

The new act provided that for the year 1941, the first year for which it would be operative, valuations made by the Commissioner for that year under the old law shall constitute the basis of property assessments under the new (Chap. 291, P. L. 1941, par. 73, p. 797).

It provided for a new tax rate.

After the filing of appeals to the State Board under the old law on May 29, 1941 all of the proceedings to determine the 1941 tax liability of the D. L. & W., Erie, Lehigh Valley, and New York Central Railroad Systems, were subsequent to the enactment of the new act on July 22, 1941 and were as follows (see Index, Case 2):

1941

May 29 Appeals to State Board under old R. S. 54:26-7.

July 22 New Tax Law (Chap. 291), effective.

1941

Nov. 5 Taxes under Chap. 291, calculated by Tax Commissioner.

Dec. 1 Taxes paid.

" 23 Certiorari allowed, Owens and Jersey City, to review new tax levy (Case No. 1).

1942

May 8 Chapter 169, Laws of 1942, effective changing franchise tax base.

" 20 Jersey City's appeals to State Board from assessments of Nov. 5, 1941 under Chapter 291.

" 21 Franchise taxes "relevied" under Chapter 169 of 1942.

June 15 Jersey City's appeals to State Board from assessment under Chapter 169.

" 20 Certiorari allowed, Owens and Jersey City, to review relevied taxes under Chapter 169 (Case No. 1).

Sept. 15 Motion before State Board of Tax Appeals to dismiss appeals.

1943

Jan. 19 First 1941 appeals under old law dismissed by State Board.

Mar. 30 Appeals of May 20 and June 15, 1942 dismissed.

Apr. 16 Certiorari allowed to review dismissals of appeals from original assessment.

Certiorari allowed to review dismissals of appeals of May 20, 1942 from assessment under Chap. 291.

Certiorari allowed to review dismissals of appeals of June 15, 1942 from assessment under Chap. 169.

1944

Jan. 19 The foregoing certioraris argued before the Supreme Court at the January Term, 1944 (before Justices PARKER, HEHER and PERSKIE).

1945

Aug. 29 Opinion of Supreme Court filed concluding that the new tax acts were unconstitutional as to the year 1941, but constitutional as to subsequent years. Opinion also holds that the statutory provision requiring the State Board to conclude its hearings on or before October 15th following the filing of the complaint was directory and not mandatory and therefore judgments of dismissal of appeals by the State Board, *supra,* are reversed and proceedings are remanded to the State Board to proceed with the hearings of the appeals to determine the assessments and taxes.

Oct. 16 Rules for judgment entered in accordance with Supreme Court's opinion.

" 22 Date of first appeals to this Court (see Case No. 1, p. 525).

It will be noted that Jersey City and the other municipalities had appeals pending before the State Board of Tax Appeals to increase the assessments for 1941

(1) Under the old Revised Statutes;

(2) Under Chapter 291 of the Laws of 1941; and

(3) Under Chapter 169 of the Laws of 1942.

The amount of the assessment was uncertain and not finally determined whether the old or the new law was applicable to the year 1941 and in view of the decision below that the State Board has a right to proceed with these appeals at this time, it is clear that until the State Board disposes of the appeals of Jersey City, the other municipalities and the railroads, no one can tell whether the tax under the old law will be more or less than under the new. The only way that could be determined would be by having the State Board proceed with all three appeals so that it could be determined just what the tax would be in each instance, and of course if it appeared eventually either before the State Board or the Supreme Court that the tax under the new tax law of 1941 and 1942 equals the tax under the old law, then it would have to be held that the new tax law was constitutional as to the year 1941.

The old law did not contemplate that the amount of tax liability for any given year should be definitely and finally fixed or determined as of June 1st or even December 1st, but that such determination thereof might of necessity be postponed to a later date in the event of an appeal by the Attorney General or any railroad company. This is clear from an examination of R. S. 54:26-12, which provided for payment of the part of the taxes admitted to be due and the withholding of the part in controversy pending the judgment of the Supreme Court, and that the Supreme Court on review "shall correct, adjust and equalize the assessment and tax, etc."

The judgments in Cases Nos. 2 and 5 in the Court below order the dismissals by the State

Board of the appeals by Jersey City to review the adequacy of the assessments for those years set aside and the appeals reinstated by the State Board and direct that the appeals be passed upon by that body. It is therefore apparent that a rather peculiar situation is presented. The Court below condemned as unconstitutional the application of the new law to the determination of the tax for the year 1941 on the assumption that the amount of the tax liability for that year was finally determined and vested in the State before the new tax law took effect; yet, as a matter of fact the amount of the tax liability could not be and was not finally determined until the appeals of the railroads and the municipalities had been heard and determined by the State Board. By a perfectly legal statutory procedure the amount of the taxes for 1941 was in process of being finally determined and fixed. In this judgment which first condemns the application of the new tax law as unconstitutional on the theory that the amount of the tax *having been once determined cannot be altered,* is a further paragraph remanding the tax proceeding to the State Board *to determine* how much taxes are due from the companies for the year 1941.

In this judgment which condemns the new tax act as unconstitutional for the year 1941 because the assessment of taxes thereunder is less in amount than the assessment under the prior law, such unconstitutionality being adjudged on the theory that there is a gift of the difference in the amount of the assessments referred to, we have a further adjudication that the assessment under the new law as well as under the prior law is not final and may be inadequate and should be

further reviewed so that it may be increased if it is found inadequate, in which event there would be no gift assuming the increase in the assessment equalled the difference between the assessments as they then existed under the prior law and the new law.

The adjudication of unconstitutionality has no basis either in fact or in law.

A number of the railroad companies pay more under the new law than under the old for the year 1941. For instance (Case No. 1, p. 162) the Reading Company would pay $570,102.26 under the new law whereas it only pays $457,686.67 under the old. The Reading Company profits by the judgment of the Court below in that the new tax law is unconstitutional as to the year 1941 to the extent of $112,415.59. If that decision is sound should the new tax law be declared constitutional for 1941 as to the Reading and other roads that pay less under the old law than they do under the new? A conclusion which would hold that the new tax law was both constitutional and unconstitutional for the same year would be absurd. This demonstrates that the basis and reasoning of the decision is erroneous. The following twelve companies pay more under the new law for the year 1941 (p. 162, Case No. 1):

Baltimore & Ohio
East Jersey R. R. & T. Co.
Ferro Monte R. R.
Hudson R. R. & T. Co.
Lehigh & Hudson R. R. Co.
Lehigh & New England R. R. Co.
Lucaston R. R.
New York, Ontario & Western R. R.

Pohatcong R. R.
Rahway Valley Co.
Southern New Jersey R. R. and
Staten Island Rapid Transit Co.

For the purpose of determining the constitutionality of the new tax laws it is improper and illegal to combine or merge all of the numerous railroad companies into one unit and then calculate the aggregate taxes owing by that unit under the old law, and then under the new, and by finding that all in the aggregate pay less under the new law, hold that the new law is unconstitutional for 1941.

We are dealing with statutes imposing taxes. As has been pointed out in Point I, the power of the Legislature to enact tax laws does not rest upon a grant from the people expressed in a state constitution. The power of taxation is an attribute of sovereignty. Justice DEPUE in *State* v. *Parker,* 32 N. J. L. 426, 435, said:

> "The power of taxation is an essential attribute of sovereignty, reaching to all persons, and property belonging to the body politic. It resides in government as part of itself, and need not be reserved where property of any description, or the right to use it in any manner, is granted (by the state) to individuals or corporate bodies, and it will never be presumed to be relinquished unless intention to do so is declared in clear and unambiguous terms.
>
> This power is necessarily unlimited in its extent, unless restrained or qualified by constitutional provisions * * *. No limitation or restriction upon the essential attribute of government will be raised by implication."

In an earlier case, *Rudderow* v. *State,* 31 N. J. L. 512 (1864), Justice ELMER wrote:

> "Our state constitution contains no restrictions upon the power of taxation, and, in the absence of such restrictions or of restrictions in the constitution of the United States, all persons inhabiting or doing business in this state * * * may be taxed, at the discretion of the legislature, *to such extent as the public exigencies may require;* and such taxation may be universal or limited, discriminatory or general, equal or unequal."

In the foregoing opinion the Court considered an act approved March 28, 1862, in which the legislature provided (Sec. 7):

> "that all real and personal estate within this state, whether owned by individuals or corporations, shall be liable to taxation in the manner and subject to the exemptions hereinafter specified, and shall be assessed at the full and actual value thereof" (Rev., p. 1150).

The idea of uniformity in taxation expressed in the section quoted was therefore not a new one when it was embodied in the constitutional amendment of 1875, where it was provided in paragraph 12 of Section VII of Article IV (Title Legislature):

> "Property shall be assessed for taxes under general laws, and by uniform rules, according to its true value."

There is no other reference in the fundamental law to taxation. The amendment just cited is not in terms a restriction of the legislative power to tax; it does not limit or qualify the power of taxation except in the sense that what is directed

to be done implies that the contrary shall not be done. But it is obvious that the inherent and broad tax powers of the legislature have not been regarded, in the history of the state or of its fundamental law, to be subject to implied limitations or restrictions.

In *State Board, etc.* v. *Central R. R. Co.*(1886), 48 N. J. L. 146, at page 277, Chancellor RUNYON said (italics ours):

> "The power of taxation is an essential inherent attribute of sovereignty. In our state government it is vested in the legislative department. It is unlimited in extent, except as it may be restrained by constitutional provision or irrepealable legislative contract. Of course, to be exercised legitimately, it must be exercised within the scope of governmental authority as limited and circumscribed in our polity. To exercise it outside of the sphere of such authority would be usurpation. It is the province of the judiciary to determine whether in any legislation submitted for its decision, the constitutional restraints or limitations have been disregarded or transcended. But unless the legislation is found to be clearly in contravention of some constitutional provision, or to be outside of the limit of governmental authority, the Court will not annul it. With the policy or *impolicy,* justice or *injustice* of the legislation, irrespective of such constitutional considerations, the courts have nothing whatever to do."

These views have been repeated and adopted by the courts of this state, without qualification of any kind, in numerous opinions. *Jersey City* v. *Martin,* 126 N. J. L. 353, 361; 127 Id. 18, 22.

The law is settled by the courts that every presumption favors the validity of an act of the legislature and that all doubts must be resolved in support of the act. Likewise it will be presumed that the legislature acted with integrity and with an honest purpose to keep within constitutional limits. This presumption is valid for legislatures are co-ordinate branches of government and are equally pledged to support the constitution.

Buttfield v. *Stranahan,* 192 U. S. 470, 48 L. Ed. 525, 24 Sup. Ct. 349 (1904);
State ex rel. Bragg v. *Rogers,* 107 Ala. 444, 19 So. 909 (1895);
In re Bonds Madera Irrigation Dist., 92 Cal. 296, 28 Pac. 272, 27 Am. St. Rep. 106, 14 L. R. A. 755 (1891);
People ex rel. Bussey v. *Gaulter,* 149 Ill. 39, 36 N. E. 576 (1894);
Parker v. *State,* 133 Ind. 178, 32 N. E. 836, 18 L. R. A. 567 (1892);
State v. *Roby,* 142 Ind. 168, 41 N. E. 145, 33 L. R. A. 213 (1895);
Sweet v. *Syracuse,* 129 N. Y. 316, 29 N. E. 289 (1891);
In re Sugar Notch Borough, 192 Pa. St. 349, 43 Atl. 985 (1899);
Young v. *Commonwealth,* 101 Va. 853 (1903).

In *Buttfield* v. *Stranahan,* 192 U. S. 470, at page 492, Mr. Justice WHITE, speaking for the United States Supreme Court, said:

> "In examining the statute in order to determine its constitutionality we must be guided by the well-settled rule that every intendment is in favor of its validity. It must

> be presumed to be constitutional, unless its repugnancy to the Constitution clearly appears. *Nicol* v. *Ames,* 173 U. S. 509, 514, 515; *Gettysburg Park Case,* 160 U. S. 668, 680."

The real question involved is whether the Legislature in the exercise of its inherent broad powers to enact laws providing for taxation, has contravened the constitutional provision regarding a donation or gift to a corporation merely because it so happened that at a given date when the new tax act became effective in the course of proceedings to determine the amount of the taxes under the old law it appeared that all of the numerous railroads in the State, as a whole or unit in the aggregate might pay less under the new law (although a number of them individually pay more).

We submit that this question answers itself.

The Legislature, by substituting new and different taxes for the current year of the enactment while the pending taxes were still subject to review and revision, did not make a gift or donation.

It is important to note that under the new act as enacted in *1941,* 13 railroad companies had their taxes increased 113% for the year 1941. The formula of that act, while reducing the rate on physical property to 3% and providing for a franchise tax of 3% on capitalized earnings, produced the following fantastic results (Case No. 1, p. 162):

System	*Original (Rev. Stat.)*	*1941 Taxes Chap. 291*	*Increase Amount*	*%*
Reading Co.	$ 457,686.67	$ 765,920.01	$ 308,233.34	40%
N. Y. S. & W. R. R.	270,292.58	430,170.99	159,878.41	59%
Atlantic C. etc.	2,143.80	10,212.99	8,069.19	376%
Balt. & Ohio	35,730.69	327,618.00	29,188.73	817%
East Jersey R. R.	9,026.87	29,406.99	20,380.12	225%
Hud. & Manhattan	372,920.85	596,505.00	223,584.15	60%
Lehigh & H. R.	70,671.95	106,371.99	35,700.04	50%
Lehigh & N. E.	30,642.45	144,512.01	113,869.56	371%
Morristown & Erie	6,500.60	19,373.01	12,873.41	198%
Rahway Valley	9,796.45	15,663.99	5,867.54	60%
Raritan River	32,971.75	143,180.01	110,208.26	334%
Mt. Hope Mineral	865.35	18,060.00	17,194.65	1980%
Wharton & Nor.	3,181.05	164,868.00	161,687.94	418%
13 Companies	$1,302,431.06	$2,771,863.98	$1,469,432.92	113%

When it was realized by the Legislature that the 1941 act resulted in such enormous increases in certain instances, it amended the 1941 law by adopting Chapter 169 of the Laws of 1942. If the opinion below is sound, the Legislature had no right in 1942 to reduce the amounts to be paid by these railroad companies under the 1941 Act, which amounts were clearly excessive and confiscatory.

According to the learned Court below, if the Legislature once enacts a tax law containing error it is helpless and can do nothing to correct it. According to the contention of the prosecutors once a tax is assessed by the State Tax Commissioner and before it has been reviewed according to the statute by the State Tax Board or by the courts, the money of the levy is constructively placed in the State Treasury or at the disposal of the municipalities, which eventually are to receive it, and the Legislature can do nothing about

it, notwithstanding its broad powers with respect to taxation, because any attempt to change the tax liability at a time when it was not finally determined would be tampering with the Treasury of the State in violation of the gift section of the Constitution.

If we keep in mind the unlimited power of the Legislature with respect to taxation and the real purpose of the constitutional ban on gifts to corporations, it is clear that that section cannot be construed so broadly or technically as to hamper the Legislature in the exercise of its conceded tax powers. The conclusion of the Court below ignores the purpose and spirit of the Constitution and puts a strained construction on the gift section and a narrow and improper construction on the broad powers of the Legislature with respect to tax legislation.

The error of the learned Court below is further emphasized when we consider that not only did Chapter 291 of the Laws of 1941 impose an enormous increase in the taxes of certain railroad companies over the amounts previously levied for 1941, but in addition, Chapter 169 of the Laws of 1942 increased the taxes of 13 other companies substantially above the taxes originally provided for by Chapter 291 of the Laws of 1941. These increases are as follows (Case No. 1, p. 162):

Company	*Increase*
Pennsylvania - Reading Seashore Lines	$ 4,000.00
C. R. R. N. J.	239,749.60
Erie	310,670.00
New Jersey & New York	4,000.00
Northern R. R. of N. J.	4,000.00
D. L. & W.	327,062.40
Lehigh Valley	255,056.73

Company	*Increase*
New York Central	93,405.60
Hoboken Mfrs.	4,000.00
Hud. R. R. & T.	1,797.37
N. Y. O. & W.	2,300.98
Rahway Valley	471.96
Staten Island	1,647.97
	$1,248,162.81

In order to sustain the decision below we would have to hold that the Legislature in 1942 could not correct the increase made in 1941 in the taxes of the Mount Hope Mineral Railroad, which were increased in 1941 by about 2000% (see p. 50, *supra*).

The change in tax of this railroad was made because the Legislature believed it had not properly expressed its will, and in that respect there is raised the fundamental question of the power of the Legislature in the field of taxation, and the further question whether that power is to be subjected to a strained construction of the gift clause of the Constitution.

The Legislature was enacting a tax law. There was no donative intent, thought or purpose. This is demonstrated by the fact that when the taxes were computed under Chapter 291 of the Laws of 1941, and under 169 of the Laws of 1942, the result as to many of the railroad companies was to substantially increase the amount which had been levied under the old law. As to other companies, the resulting figures showed decreases from the original amounts for the year 1941 which indicated that the new tax act was operating as it was intended to operate, that is to establish a new basis for taxation but including in the

formula an element which was not in the existing law, viz.: an excise tax on earnings. The varying results with different railroad companies for the year 1941 were fortuitous, were not intentional or planned and did not evince any purpose of the Legislature to make a gift or to ruin or befriend any particular railroad company.

In determining the constitutionality of the new tax law, regard must be had for its provisions which contemplate the receipt in the future of higher taxes. A feature of the franchise tax is that the net earnings allocated to New Jersey as a valuation basis do not permit of any deduction for interest on bonds or rental of leased lines. The allocated income is that from "operations," from or out of which "fixed charges" must be paid if earned, but these charges are not deductible in computing franchise value. When these operating earnings are capitalized at 3%, *i. e.*, multiplied by 33⅓, such capitalized amount is then taxed at 3%, with the result that the taxes are exactly the amount of the earnings to be capitalized, without regard to the fixed charges on the properties which produce such earnings. For illustration, assume a railroad system whose physical property in the state is assessed at $50,000,000, and having an operating income allocated to the New Jersey lines amounting to $3,000,000. Then we have the following:

	Valuation	*Tax 3%*
$3,000,000 capitalized at 3%	$100,000,000	
Property valuation	50,000,000	$1,500,000
Excess Franchise Value	$ 50,000,000	1,500,000
Total Tax		$3,000,000

The tax formula however, in anticipation of higher taxes, provides for a maximum franchise tax of 120% of the property tax. 120% of the 3% property tax would be 3.6% of the property value, so that the maximum total tax (property and franchise) would equal 6.6% of the property valuation. This would be applicable in case the earnings of our example railroad amounted to $3,600,000 instead of $3,000,000. We would then have:

	Valuation	*Tax*
$3,600,000 capitalized at 3%	$120,000,000	
Property Valuation	50,000,000	$1,500,000
Excess franchise value...	$ 70,000,000	2,100,000

Here the franchise tax is 140% of the property tax, while the maximum under the Statute of 1942 of 120% would be $1,800,000, so that the combined tax would be a maximum of $3,300,000 or equivalent to a tax of 6.6% on the property valuation of $50,000,000. By reference to page 37 of the record (Case No. 1) it will be seen that the total railroad property valuation for 1941 was $369,993,023 and the total taxes on that valuation were $18,322,164.33, or at an average rate of 4.95%. The maximum tax under the new law being 6.60% of the property valuation contemplated a difference of 1.65% or an increase of 33⅓% over the existing rate.

If our typical railroad has earnings allocated to New Jersey in the amount of only $1,320,000, this amount would capitalize into $44,000,000, or $6,000,000 less than the property value, and there would be no excess of franchise value to be taxed. But in that circumstance the act lays a special

minimum franchise tax on this property of 30% of the earnings, which would be ($1,320,000 x .30) $396,000, making the total tax $1,896,000. This special franchise tax is equivalent to a regular franchise tax of 3% on $13,200,000. *In other words, the franchise tax without any franchise value is exactly the same as if the earnings for the year were $1,896,000 instead of $1,320,000,* as

	Valuation	*Tax*
$1,896,000 capitalized at 3% is	$63,200,000	
Property Valuation	50,000,000	$1,500,000
Franchise Value	$13,200,000	396,000
Total Tax		$1,896,000

which is $576,000 more than the allocated income of $1,320,000.

These provisions of the new tax law demonstrate beyond question the purpose of the Legislature not to make a gift but to enact a general tax law providing for higher taxes over a period of years. If it is so viewed, it cannot be confined in its purpose or effect to the single year of 1941. Its constitutionality cannot be determined merely by the results obtained in any one year but its validity must be tested by its effect over a period of years which the Legislature undoubtedly envisioned. It is a cardinal rule of construction that the entire statute must be viewed and given effect in determining its purposes and validity. The new tax law so viewed definitely had for its purpose the imposition of taxes over a period of years. It is plainly discernible that the Legislature was not only changing the method

of computing taxes but providing a formula by which it hoped to collect more taxes than had been collected in the past. The very fact that a ceiling of 120% in the franchise tax was fixed is evidence of the fact that the Legislature was looking forward to the time when more taxes would be collected if the earnings of the railroad companies justified it.

The opinion below refers to taxes computed under the prior law which involved tax rates averaging 4.95% of the valuations. The property tax under the new law is fixed at 3% and at a given valuation, a certain amount of property tax results. By providing a maximum franchise tax of 120% of the property tax computed at 3%, the franchise tax is limited to an amount which is 3.6% of the property tax, making the tax 6.6% of the property tax. The maximum franchise tax is automatically increased in proportion to any increase in property tax which may result in property valuations.

It is impossible to conclude that the act as a whole provides for a gift or grant to taxpayers either individually or in the aggregate, or that it discloses a purpose to produce less instead of more taxes. To say that a statute is constitutional if for the year 1941 it increased the taxes and to say that it is unconstitutional if it by chance happened to decrease the taxes for one or more of the numerous railroads operating in the State is absurd. Whether on the whole as to all the railroads in the aggregate the taxes will be less under the new act than under the old for 1941, is still open, because until the State Tax Board of Appeals finally determines the amount of the assessments there is no way of telling

whether the taxes under the new law will be more or less than under the old.

Considering the new tax law as a whole and viewing its results on a long-term basis it is plain that the formula for computing taxes thereunder does not leave the reduction with respect to some roads (assuming that the assessments as made are eventually sustained although they are still in dispute and may be higher), without recovery or recoupment in subsequent years. The statute was not designed to fix taxes only for the year 1941 and its real design cannot be ignored. If it appears from its general provisions and continuous operation that the Legislature provided a plan and formula to increase its revenues on a long-term basis, the fact, if it be a fact which is not proven at this time, that for 1941 some of the railroads may pay less taxes under the new law than under the old does not render the law unconstitutional because basing a decision on that incidental fact alone ignores the valid effect of the statute as a whole.

The cases of *In re Voorhees* and *Wilentz* v. *Hendrickson*.

The prosecutors in support of their contention that the new law contravenes Article I, paragraph 20 of the Constitution, rely on two decisions, neither of which is in point and both of which are easily distinguishable. The first is *In Re Voorhees,* 123 N. J. E. 142 (Prerogative Court 1938), affirmed per curiam for the reasons expressed by the Prerogative Court in its opinion, 121 N. J. L. 594 (Supreme Court 1939), and by this Court, 124 N. J. L. 35 (1940). The other is *Wilentz* v. *Hendrickson,* 133 N. J. E. 447, affirmed 135 N. J. E. 244.

In the *Voorhees* case, a transfer inheritance tax of $75,816.29 was assessed by the State Tax Commissioner in respect of a legacy to the New Jersey College for Women. An appeal was taken from the assessment on the ground that the legacy was exempt from taxation by virtue of an amending statute which exempted any devise made since July 1, 1924 to any educational institution. The statute was passed after the tax had become fixed. The Prerogative Court in presenting the question there decided, said (123 N. J. E. 143):

> "The sole question on this appeal is as to whether or not this exempting statute, in so far as it is intended to, and does, affect transfers which occurred prior to its enactment, is constitutional. More specifically the issue is narrowed by the briefs of the parties to a determination as to whether or not the statute, to the extent of such expressed retroactive operation is in violation of article I, paragraph 20, of the constitution of this state in that it operates to donate moneys of the state to a private corporation. If the statute be unconstitutional in this respect, the tax must be affirmed; otherwise it must be set aside *in toto*."

At page 144, BUCHANAN, Vice Ordinary, held:

> "The contention of the tax commissioner, however, is that the effect of the statute, so far as concerns the intention and result of its retroactive provision, is the gift to the Women's College of a sum of money equal to the amount of the tax as to which the latter's liability and obligation had already theretofore become fixed; and that as such gift it contravenes article I, section 20, of the state constitution.
>
> The constitutional provision referred to reads as follows:

'No donation of land or appropriation of money shall be made by the state * * * to or for the use of any society, association or corporation whatever.'

The commissioner's argument is that at and on the death of Elizabeth Voorhees on September 21st, 1924, there immediately accrued to the state a vested right to the tax which was subsequently computed and assessed, and a lien for the same on all property owned by decedent at her death.

There can be no doubt that this is so. Under the provisions of the taxing statute, the right of the state vests at the instant of death; the tax is due and payable at that moment; the value of the decedent's property at that moment (unaffected by subsequent changes in value) is that upon which the tax is computed. * * *

The right to such tax having vested on September 21st, 1924, obviously the operation and effect of the statute of 1925, if it be valid and operative in that behalf, is to take away from the state its vested right to that tax and relieve the decedent's beneficiary from its 'vested' liability and obligation to the payment thereof. It is certainly a reasonable argument that in substance and effect this is a giving by the state to that beneficiary of a sum of money in the amount of that tax; and it is concluded that in fact such is the operation and effect of the retroactive provisions of this statute.''

The Prerogative Court having held that there was a gift, the case was eventually appealed to this Court and this Court in a one-paragraph opinion limited the decision to the facts in the case as follows (124 N. J. L. 35):

> "The appeal in this case is from an affirmance in the Supreme Court of a decree of Vice-Ordinary Buchanan affirming a transfer tax assessment, *In re Voorhees,* 123 N. J. Eq. 142. After a careful examination of the record and the briefs of counsel, we conclude that the determinations of the learned vice-ordinary as applied to the facts in this case are in accordance with the law of this state."

Justice Case in his dissenting opinion in *Wilentz* v. *Hendrickson,* 135 N. J. E. 261, at page 280 analyzes the *Voorhees* case and his analysis demonstrates its inapplicability to the case at bar. Justice Case held (135 N. J. E. 280):

> "*In re Voorhees,* 123 N. J. Eq. 142, cited *contra* the constitutionality of the tax statutes, is not, in my judgment even relevant to the present issue. That litigation had to do with a transfer inheritance tax of $75,000 which was assessed on a gift under the will of Elizabeth Rodman Voorhees, deceased, to the New Jersey College for Women. Miss Voorhees died September 21st, 1924. The right to the tax vested immediately at her death. The tax was due and payable at that moment. Later a statute was passed exempting any bequests made since the 1st of July, 1924, to or for the use of any institution solely educational for whose benefit there might have been or might thereafter be appropriations made by the legislature of the state. It was held that the right to the tax had vested, and that the attempted annulling of it by the legislature was invalid; but at the same time the decision conceded the validity of annulling even a vested obligation if that remission was supported by some legal, equitable or moral consideration."

In the opinion below justice Perskie relies on his opinion in *Wilentz* v. *Hendrickson,* 135 N. J.

E. 244, as authority for his conclusion that there was an unconstitutional donation here. That conclusion is based on his further conclusion that when the Tax Act of 1941 took effect on July 22, 1941, the State of New Jersey had a vested right to the taxes as first computed, under the prior law, R. S. 54:27-4. That conclusion in turn is founded solely on the fact that the taxes for 1941 became a lien as of June 1st of that year, R. S. 54:27-2. We shall hereinafter prove that these conclusions are all fallacious. We do not admit that the State had a vested right to the taxes for 1941 on July 22, 1941 simply because taxes became a lien on June 1, 1941. Before going into the question of whether the right was vested we wish to show that *Wilentz* v. *Hendrickson* is clearly distinguishable because there the taxes were taxes that were owing in 1941 for the years 1932 to 1940. These taxes had been finally determined and the right to the taxes had become vested when the tax settlement statute was passed.

In the opinion in *Wilentz* v. *Hendrickson,* 135 N. J. E. 244 at page 258, Justice PERSKIE concluded that the litigation as to the validity of those back taxes was at an end and that in 1941 when the Tax Settlement Act became effective on July 22nd, there was nothing remaining for the railroads to do but to pay up. At page 260, he said:

> "In light of these facts, in light of the lack of any new issues involved, and in light of the fact that there is no proof that the debt is not collectible, it becomes altogether clear that the asserted rights of the railroad taxpayers are 'illusory' rather than real."

In the case at bar, the situation is to the contrary. Not only were some of the railroad companies appealing from their 1941 assessments in 1941 when the new tax act was passed, but a number of municipalities, including Jersey City, were contending that the assessments as made were substantially inadequate and that they had the right to proceed before the State Tax Board to have the assessments increased. That right has been sustained and the rules for judgment in these cases provide that the assessments shall be reviewed by the State Tax Board so that they may be increased if the evidence warrants. In the opinion below (Case No. 1, p. 517) Justice PERSKIE admits that the taxes were not delinquent (p. 514). However, he stresses the fact that they became a lien on June 1, 1941 and he erroneously concludes that under the statute they were a debt for which an action at law or a suit in equity might be maintained on July 22, 1941. Justice PERSKIE fails to consider that at the time the new act was passed on July 22, 1941, appeals were pending by the municipalities as well as by the railroad companies and that because of that litigation no action to collect could have been maintained. Also under the statute they were *not* a debt that could be sued for or upon which interest could be collected until December 1, 1941 (R. S. 54:27-4).

When we consider that the taxes for 1941 assessed under the prior law were not payable until December 1, 1941; that the taxpayer was not delinquent; that no interest penalty was running against the taxpayer; that the assessment was not finally determined; that the proceedings to determine the tax had only reached the stage

where the State Tax Commissioner on June 1, 1941 had completed his valuations and had computed the tax and had made his certification and report, which was the beginning of the proceedings to determine the amount owing rather than the final determination thereof; that appeals were pending from his valuations not only by the railroad companies but by the municipalities; that these had not yet been heard by the State Board of Tax Appeals, and that even at this date the amount of the assessment has not yet been finally determined, it is plain that it could not be said that the amount of the assessment had become vested.

If the amount of the assessments under the prior law were vested as of June 1st because the lien attaches as of that date, then it is necessary to conclude that the statutory provisions for review by the State Board of Tax Appeals of the assessments of the State Tax Commissioner, which review must take place subsequent to June 1st, is unconstitutional because the vested right of the State in the amount of the assessments cannot after June 1st be disturbed, diminished or wiped out.

To state it another way, the fact that the taxes became a lien as of June 1st did not give the State a vested right in the amount of the assessments fixed by the State Tax Commissioner because (1) of the provisions which the Legislature made for a review of the assessments and possible reduction of the amount between June 1st and November 5th by the State Board of Tax Appeals and (2) the provision that there should be no default in the payment of the tax until

December 1st and that the taxes were not to be regarded as delinquent until that date and were not to bear any interest penalties until that date.

Under the prior tax law, railroad taxes became a lien on June 1st of the year in which they were payable. Under the new act of 1941 as amended they became a lien on January 1st of the year in which they were payable. The Legislature did not make a gift by changing the date upon which the lien attached so as to make the lien start five months earlier than under the existing law. Assuming that Article I, paragraph 20 of the Constitution applies to a case of this character, which is denied, in the final analysis the question is whether undetermined railroad taxes were reduced by the new law merely by the enactment of that act; not because of reduction in the applicable tax rates because there is none, but in respect to the total amount of taxes that may be collected under the new law not for one year, but during the years that it will be in force. In short this legislation must be viewed in its entirety and not cut up into parts arbitrarily determined by the calendar year.

There was no vested right in the undetermined taxes being reviewed under the old law.

In the reply brief of the prosecutors in the Court below at page 9, they say: "Defendants cannot and do not deny that the taxes originally assessed were vested rights of the State prior to the adoption of Chapter 291" citing *Lehigh Valley R. R. Co.* v. *State Board,* 101 N. J. L. 298. The defendants emphatically deny that the taxes originally assessed were vested when Chapter 291 became effective on July 22, 1941 and emphat-

ically deny that *Lehigh Valley* v. *State Board,* 101 N. J. L. 298 is an authority that they were vested as of that date. A mere reading of the headnotes of that case decided by the Court below in 1925 will reveal that it is entirely inapplicable to the situation in the case *sub judice.* Those headnotes are as follows (101 N. J. L. 298):

> "1. An agreement dated November 29th, 1922, providing for the conveyance to the prosecutor and to the State of New Jersey certain properties therein described, under the provisions of the statute (Pamph. L. 1922, p. 367), as follows: 'Said companies shall not, nor shall either of them, be responsible for any taxes assessed for the calendar year 1923, or for any period after January 1st, 1923, in the property conveyed.' Held, the agreement does not apply to taxes levied under a statute, which requires the valuations to be complete, and a lien to take effect on the first day of November, 1922.
>
> The words in the agreement, 'taxes assessed for the calendar year 1923,' describes the act of laying the tax, the word 'assessed' is synonymous with the word 'levy.' It means an official valuation of property for taxation. It does not mean simply the computation of the tax."

A "vested right" is one that is absolute, complete and unconditional in itself. A "vested right" is an immediate fixed right where the interest does not depend on a period or an event that is uncertain. Rights are "vested" when right to enjoyment has become property. A "vested right" is an immediate fixed right of present or future enjoyment. To be vested in its accurate legal sense, a right must be complete and consummated, and one of which the person

to whom it belongs cannot be divested without his consent. A "vested right" is a right to do or possess certain things which are either authorized by the statute or to the exercise of which no obstacle exists in the laws which have been enacted. Rights are "vested" when the right of enjoyment, present or prospective, has become the property of some particular person. "Vested right" cannot be one which is to be examined, settled and defended.

Numerous authorities sustaining the foregoing definitions of "vested right" will be found in 44 Words and Phrases (Permanent Edition), page 203. Other cases are as follows:

When the phrase "a vested right" or "a vested interest" is used in other relations, it may with reasonable precision be held to mean some right or interest in property that has become fixed or established, and is no longer open to doubt or controversy. *Graham* v. *Great Falls Water Power & Town-Site Co.,* 76 P. 808, 810, 30 Mont. 393, citing *Evans-Snider-Buel Co.* v. *McFadden,* 105 F. 293, 44 C. C. A. 494, 58 L. R. A. 900.

A "vested right" is defined to be an immediate fixed right to present or future enjoyment, or where the interest does not depend on a period or an event that is uncertain. *Clarke* v. *McCreary,* 20 Miss. (12 Smedes & M.) 347, 353; *Marshall* v. *King,* 24 Miss. (2 Cushm.) 85, 90; *Oriental Bank* v. *Freeze,* 18 Me. 109, 36 Am. Dec. 701; *Edworthy* v. *Iowa Savings & Loan Ass'n,* 86 N. W. 315, 316, 114 Iowa, 220, citing *Louisville & T. Turnpike Road Co.* v. *Boss, Ky.,* 44 S. W. 981; *Gladney* v. *Sydnor,* 72 S. W. 554, 556, 172 Mo. 318, 60 L. R. A. 880, 95 Am. St. Rep. 517.

Right which is not absolute but dependent for its existence upon action or inaction of another is not "basic" or "vested," and deprivation thereof does not constitute deprivation of property without "due process." U. S. C. A. Const. Amend. 14. Land sale proceedings giving defendants their day in court of record, probate court having been made such by Const. Ohio art. 4 Sec. 8, and adequate provision having been made for service of process, the filing of pleadings, the introduction of evidence, and the right of appeal constitute "due process," essential elements of which are notice and opportunity to be heard. *Hatch* v. *Tipton,* Ohio, 2 N. E. 2d 875, 877.

Neither taxpayer nor school district could challenge constitutionality of Acts 41st Gen. Assem. c. 173, as amended by Acts 41st Gen. Assem. c. 174, and Acts 42d Gen. Assem. cc. 92, 266, since the interest on deposits of the school district constituted a fund created by the Legislature in view of Code 1924, Secs. 4319, 5548, 5651, 7404, and was entirely within its power, and neither the school district nor any citizen had any "vested rights" therein; "rights" being "vested" when the right to enjoyment, present or prospective, has become the property of some particular person or persons as a present interest, and not where the interest is a mere expectancy of future benefit or contingent interest in property founded on an anticipated continuance of existing laws. *Boyd* v. *Johnson,* 238 N. W. 61, 64, 212 Iowa, 1201.

In the light of the foregoing authorities it is difficult to perceive how it can be said that on July 22, 1941 the State had a vested right in the

amount of the assessment as made by the State Tax Commissioner unless the Court further holds that the provisions of the prior statute giving the State of New Jersey, the railroad companies and the municipalities interested the right to appeal to the State Board of Tax Appeals and giving that Board jurisdiction to hear such appeals on or before October 15th and the right to decide those appeals from November 1st to November 5th, are unconstitutional. There is no provision of the constitution which is violated by the giving of the appeal to the State Board of Tax Appeals, and if that appeal were not given by the statute there would be a common law appeal by certiorari to the Supreme Court.

There is no magic in the fact that a lien is imposed as of June 1st which makes the right vested to the amount of assessment determined by the State Tax Commissioner when in fact his fixing of the amount of the assessment is not final but is subject to change without the consent of the State.

In this Court's recent opinion filed November 29, 1945 in *Jersey City* v. *Zink,* 133 N. J. L. 437 at 444, this Court, speaking through CAMPBELL, *C.* said (italics ours):

> "Generally speaking, all taxes are state taxes and may be distributed by the legislature without control of the judicial department. * * *
>
> We so held in *Jersey City* v. *Martin,* 126 N. J. L. 353, and this is conceded by the relators *as well as that they have not vested interest in the funds.*"

Although this Court held that Jersey City in that case was entitled to the interest penalties

collected on the delinquent railroad taxes which had been paid to the State, it nevertheless recognized that the only reason why that was so was not that Jersey City had any "vested interest" but simply because the statutes changing the distribution of the interest penalties were contrary to Article IV, Section 7, Paragraph 11 of the Constitution, because they were discriminatory and special enactments regulating the internal affairs of municipalities.

In the opinion in the *Zink* case (133 N. J. L. 446) this Court further said:

> "There is no doubt but that the legislature may do as it will with tax funds, collected or uncollected, distributed or undistributed, in whole or in part, so long as it is accomplished in a way and manner, which under the facts presented, do not violate the constitutional restraints and limitations and fundamental principles of taxation."

There are other pertinent rules of law which are referred to in *Wilentz* v. *Hendrickson.* They clearly indicate that the new tax acts are constitutional. For instance, at page 251 (135 N. J. E.), Justice Perskie says:

> "Proper regard and respect for the legislative branch requires, among other things, that courts should not act as censor of the reasonableness or wisdom of legislative enactments. (*Douglass* v. *Chosen Freeholders of Essex County,* 38 N. J. Law 214, 216; that no statute shall be declared void if its 'unconstitutionality is in anywise doubtful' (*Attorney-General* v. *McGuinness,* 78 N. J. Law 346, 371, et seq.; 75 Atl. Rep. 455), or if there be 'permissible doubt' as to the existence of the constitutional limitation invoked against the validity thereof, *Attorney-General* v. *McGuin-*

ness, supra; *State Board of Milk Control* v. *Newark Milk Co.,* 118 N. J. Eq. 504; 179 Atl. Rep. 116; and that courts resort to the permissible rule of practical contemporaneous construction, to which we give great but not necessarily conclusive weight to sustain the constitutionality of a statute, but only if doubt exists as to the proper construction of a statute, or of the construction or application of the constitutional provision invoked."

At page 252, Justice PERSKIE said:

"In the case of *Lohen* v. *Thompson,* 88 N. J. Law 40; 95 Atl. Rep. 447, the late Mr. Justice SWAYZE stated the rule as follows (at p. 42): '* * * the constitutionality of an act of the legislature is not to be determined by a consideration of verbal or rhetorical niceties; the act must be judged on a broader basis, and according to its effect as a whole.'

That is a sound rule of judicial review to determine the constitutionality of a statute. For it aims to ascertain the true intent of the legislature. That is the rule we here employ."

The enactment of a tax law to take the place of an existing tax law cannot be compared to the enactment of a statute which retroactively exempts from taxation a bequest already subject to tax (without imposing any other tax in lieu thereof) as in the *Voorhees* case, *supra.* Also it cannot be compared to the cancellation of the back taxes which had accrued years before and to which there was no legal defense at the time of the passage of the Tax Settlement Act, which were compromised for a sum less than was due as in *Wilentz* v. *Hendrickson, supra.* In the case at bar there is no exemption from taxation. We are dealing solely with the power of the legisla-

ture to change a tax law with respect to the rate of taxation applicable at a time before the tax is due and payable and at a time when it is in dispute and the amount thereof is being ascertained by legal proceedings brought not only by the railroad companies but by the municipalities affected. It would be difficult as a practical matter because of the time elements involved to currently enact a tax law if it should be decided that in every instance the taxes under the new law must at least equal taxes under the old law. The utter confusion which would inevitably result from a failure to distinguish the power to make and amend tax laws from the constitutional prohibition against donations, would be insuperable.

The general powers of the Legislature in the matter of taxation cannot be rationally restricted or controlled by distorting or enlarging the purpose and meaning of Article I, paragraph 20 of the Constitution. In *Skinkle* v. *Essex Road Board*, 47 N. J. L. 93 at 96 (affirmed 49 N. J. L. 65 and 641, and 140 U. S. 334) Van Syckle said:

> "As against the state there can be no vested right in the granted power to tax, or to the taxes after they are assessed. The right to repeal such laws at any stage of the proceedings for their enforcement has the fullest recognition. *Belvidere* v. *Warren R. R. Co.*, 5 Vroom 193; S. C., 6 Vroom 584.
>
> There is no restraint upon the power of legislation to control and modify the method of taxation and its collection, or to reduce or altogether extinguish an assessment laid, provided the law is uniform and general in its application, and in its operation co-extensive with the limits of the political bodies to which it relates."

That is the rule which should be applied in the case at bar.

Justice Case, in his dissenting opinion in *Wilentz* v. *Hendrickson,* 135 N. J. E. 244 at 280, refers to the various decisions in the *Shinkle* case and aptly says with respect to the effect of those decisions:

> "In *Essex Public Road Board* v. *Skinkel,* 49 N. J. Law 641, this court reviewed chapter 186 P. L. 1882, the title of which was 'An Act to authorize the compromising or settling by arbitration of any tax or assessment laid by any public road board in this state.' The opinion said (at p. 672): 'No constitutional right is violated, and the public is benefited. When the legislature found that a mistaken and oppressive policy had been pursued, it was not only its right, but its duty, to furnish a mode of relief.' See, also, the decision below in the same case, 47 N. J. Law 93. The statute was retrospective in character and authorized a compromise of an assessment legally imposed and delinquent before the passage of the act. There is the element of good law supplemented by sound business sense, as applied to tax penalties not yet reduced to judgment or otherwise metamorphosed into a vested interest, in a recent expression by the Supreme Court of Ohio in *State* v. *Guckenberger,* 17 N. E. Rep. (2d) 743: 'It seems certain and indisputable that none of the provisions of the federal and state constitutions was intended so to manacle and shackle legislatures that they could not remit accrued charges against delinquent taxpayers for the purpose of aiding in the collection of taxes when it became evident that such charges no longer accomplished the purpose for which they were imposed but hindered and delayed the collection.' "

The prosecutors in their reply brief in the Court below (p. 9) attempt to minimize the law as laid down in the *Shinkle* case by saying that

the statute in the *Shinkle* case merely had the effect of providing for an appeal from a special assessment, a right of appeal which did not theretofore exist. However, this is a distinction without a difference because the undisputed facts were that assessments were levied and property was sold for the non-payment of the assessment and there was no question but what the assessment was legally imposed and that the amount due was delinquent before the passage of the statute in question.

The Court (47 N. J. L. 96) after concluding on authority referred to therein that as against the State there could be no vested right in the granted power to tax or to the taxes after they were assessed, and further that the right to repeal such laws at any stage of the proceedings for their enforcement must be fully recognized, said at page 99 (the page referred to by prosecutors—italics ours):

> "In this view of the act its effect and scope is to give an appeal to the land-owner in a case *where the judgment against him would otherwise be final.* Restoration to the injured party, by the judgment of the tribunal established by this law, of the sum taken from him in excess of the benefits conferred, cannot constitute an illegal taking of property from the road board. In such legislation there is no infirmity.
>
> Is the act retrospective as regards property sold before it was passed? The act applies in terms to 'any assessment or assessments that may have been or may hereafter be laid or imposed;' * * *
>
> This language clearly gives the act a retrospective effect."

The case is directly in point here and was affirmed by this Court in 49 N. J. L. 641.

We respectfully submit that Chapter 291 of the Laws of 1942 did not contravene Article I, paragraph 20 of the Constitution, which clearly does not prohibit the legislature changing a tax rate for current state taxes which were not delinquent and which were not payable for more than five months and upon which no interest penalty is running and which had not been finally determined or fixed when the change in the tax law became effective, and which were still in litigation as to the amount thereof at that time not only by the railroad companies, but by the municipalities having an interest therein. We further respectfully submit that there was no vested right in the State to the amount of the taxes as determined by the State Tax Commissioner as of July 22, 1941, when the new tax law became effective and that therefore there was no donation to the railroads contrary to the Constitution.

Finally, we respectfully submit that as against the State there can be no vested right in the granted power to tax or to the taxes after they are assessed. The right of the State to repeal such laws at any stage of the proceedings for their enforcement is settled.

In the Court below the respondent State officials, William D. Kelly, State Tax Commissioner, Homer C. Zink, State Comptroller and James B. Sautter, Deputy State Treasurer, in their brief filed by David T. Wilentz, Attorney General and John Solan of counsel, at page 2 had the following to say with respect to this question:

> "The State officers, who are respondents herein by reason of the duty incumbent upon them to recalculate the property tax on railroad property for 1941 under Chapter 291,

P. L. 1941, as amended, and to otherwise apply said statute, do not feel obliged, in this action, to meet the charge of the prosecutors (as outlined in 'Point I' of their brief), that the recalculation of said property tax and its collection, and the collection of the other taxes, from the railroad taxpayers (rather than the sums fixed on the initial assessment of said taxes against said taxpayers), constitutes a 'donation' of moneys of State to the railroad taxpayers to an amount equal to the difference between the taxes initially fixed for 1941 and the taxes fixed by applying Chapter 291, P. L. 1941, as amended by Chapter 169, P. L. 1942, and thereby contravenes the provisions of Article 1, paragraph 20 of the Constitution of New Jersey.

On the application for this writ we joined with the other respondents in opposing the allowance thereof on the grounds among others that these prosecutors are without legal capacity to prosecute this review. We take the same position here, and in the last part of this brief will set up reasons for our position deeming it more helpful to the Court to first discuss grounds for relief asserted by the prosecutors.

On July 21, 1941, after taxable railroad property had been valued and assessed for 1941 but the taxes not collected and before payment thereof could be exacted (R. S. 54:27-2) the Legislature adopted Chapter 291, P. L. 1941, which was made applicable to 1941 and future years and which substantially reenacted the then existing Railroad Tax Act, except that it embodied a change in the tax rate by providing a property tax rate of $3.00 per hundred dollars of assessed valuation, and further provided for the imposition of an excise tax on railroad earnings. The excise feature of the Act was changed by an amendment in Chapter 169, P. L. 1942."

The conclusion of the brief (p. 15) was as follows:

> "The assessments under review made pursuant to Chapter 291 of the Laws of 1941 as amended by Chapter 169 of the Laws of 1942 should be affirmed. The Writs of Certiorari should be dismissed."

The very statement of the facts as made by Attorney General Wilentz and John Solan, of counsel, quoted *supra,* would seem to give the answer that these tax laws are not unconstitutional because they substantially reenacted the existing railroad tax act except for the change in rate and the imposition of an excise tax on earnings, and this was done at a time prior to the collection of the taxes and before payment thereof could have been exacted.

In conclusion, we repeat the heading of Point II of the Attorney General's brief in the Court below (p. 3):

> "Chapter 291 of the Laws of 1941 as amended by Chapter 169 of the Laws of 1942 is Valid Legislation."

IV

The provisions of R. S. 54:26-10 and Pamph. L. 1941, Ch. 291, Section 34 (R. S. 54:29A-34) prescribing the time for the conclusion by the State Board of Tax Appeals of hearings and the rendering of decisions are mandatory.

The State Board of Tax Appeals dismissed Jersey City's appeals complaining of the 1941 and 1942 assessments (see Case No. 2 for 1941 assessments and Case No. 5 for 1942 assessments)

for the reasons stated in its opinion with respect to its dismissal of the appeals from 1940 assessments as follows (Case No. 2, p. 23):

> "At the time of calling the calendar of appeals on September 15, 1942, the respondent, Delaware, Lackawanna & Western Railroad System, moved to dismiss this appeal on the ground, among others, that the State Board of Tax Appeals had lost jurisdiction to hear and determine the appeal because the hearing thereon was not held and concluded on or before October 15, 1940, in accordance with the provisions of Section 54:26-10 of the 1937 Revised Statutes of New Jersey.
>
> The assessed value of the railroad properties of the respondent, Delaware, Lackawanna & Western Railroad System, which is the subject matter of this appeal, was finally determined by the State Tax Commissioner and certified to the comptroller of New Jersey on or before June 1, 1940 (1937 R. S. 54:27-1). Any appeal from his final determination had to be taken by filing a written complaint with the State Board of Tax Appeals on or before Monday, June 17, 1940 (1937 R. S. 54:26-7). This appeal should have been heard on or before October 15, 1940, and the final determination of the State Board of Tax Appeals should have been certified to the State Tax Commisisoner between November 1st and November 5th, 1940. The statute reads as follows:
>
> > 'The State Board of Tax Appeals shall conclude its hearing on or before the fifteenth day of October following the filing of the complaint, and, between November first and November fifth following, shall certify to the State Tax Commissioner its final determination, and the State Tax Commissioner shall forthwith certify to the State Comptroller all changes and corrections in the assessment and tax' (1937 R. S. 54:26-10).

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The 'Railroad Tax Laws of 1941' (Chapter 291, P. L. 1941) which supersedes the act under which this appeal was taken, provides the same method for assessing second class railroad properties used for railroad purposes, and for taking appeals from the assessments levied by the State Tax Commissioner. Section 34 of the 'Railroad Tax Law of 1941' provides as follows:

> 'The State Board of Tax Appeals shall conclude its hearing on or before the fifteenth day of October following the filing of the complaint, and between November first and November fifth following shall certify to the State Tax Commissioner its final determination.'

In an opinion filed on November 4, 1942, in the case of Jersey City v. William D. Kelly, State Tax Commissioner and New York Central Railroad System, et als., this Board, in referring to the dates set forth in Section 34 of the 'Railroad Tax Law of 1941,' held that, 'all of such dates are mandatory and that this Board must conclude its hearings on or before the fifteenth day of October following the filing of the complaint.'

It is the opinion of this Board that this appeal should have been heard and the hearing concluded on or before October 15, 1940, and since the appeal was not heard before that date, the Board has lost jurisdiction to hear the appeal now.

This appeal is accordingly dismissed and the tax assessments levied by the State Tax Commissioner for the taxes due in the year 1940 against the above named company are affirmed.''

The statement in the record (Case No. 2, p. 69) reveals that the factual situation with respect to all six railroad company appellants is the same.

In Point III, page 39, *supra,* we set forth the dates with respect to the various proceedings taken to review 1941 assessments and taxes. Case No. 5 covers the 1942 assessments (see index). The opinion of the State Board of Tax Appeals in dismissing the 1942 appeals said (Case No. 5, pp. 58, *et seq.*—italics ours):

> "On September 15, 1942, at the time of the calling of the calendar of appeals from the assessments of railroad property and excise taxes by the State Tax Commissioner for the year 1942, the President of this Board directed the attention of all counsel to that section of the statute which provides that the State Board of Tax Appeals shall conclude its hearings on or before the 15th day of October following the filing of the complaint, and stated that the Board was ready to proceed with the hearings at once and to continue from day to day in order to comply with the statutory provision. During the hearings of the appeals, it became evident that it would be impossible for the Board to conclude its hearings before the 15th day of October, and the interested parties in such appeals had a bill drafted and submitted to the legislature to extend the time beyond the 15th of October, but the legislature took no action thereon.
>
> On October 15th, 1942, the calendar of appeals not yet heard was called. All of such appeals were answered ready, and counsel for four of the respondent railroad companies then moved that the appeals be dismissed on the ground that there is no appeal pending because the appeal complaints contained no specification of the parcels of land and the improvements, as required by statute and the rules of this Board. *Counsel for all of the other respondent railroad companies and the Attorney General, on behalf of the State Tax Commissioner, joined in such motion.* Argu-

ment was had and the parties requested the privilege of submitting briefs. No testimony, however, was offered on any of such appeals.

While the objection made to the form of these complaints, in so far as they deal with the valuation of second class property, seems to be substantial, it appears unnecessary to determine this motion in view of the fact that in the opinion of the Board, no hearings on these appeals could legally be held after October 15, 1942.

The Railroad Tax Law, Chapter 291 of the Laws of 1941, under Article 6, sets out in detail the procedure to be pursued on appeal and review, and in Section 31 fixes the third Monday of June following the assessment as the day on or before which an appeal in the form of a written complaint may be filed with the State Board of Tax Appeals. Section 33 then provides that the State Board of Tax Appeals shall meet on the third Monday of June in each year for the purpose of fixing a time and place for the hearings of any such complaints so filed; Section 34 then provides, 'The State Board of Tax Appeals shall conclude its hearing on or before the 15th day of October following the filing of the complaint, and between November 1st and November 5th following shall certify to the State Tax Commissioner its final determination.'

It is the opinion of the Board that in so far as the Railroad Tax Law of 1941 is concerned, all of such dates are mandatory and that this Board must conclude its hearings on or before the 15th day of October following the filing of the complaint.

These appeals are accordingly dismissed, and the tax assessments levied by the State Tax Commissioner for the year 1942 against the above named companies are affirmed without prejudice.''

The State of Case (Case No. 5, p. 65) contains a statement that the factual situation with respect to all six railroad company appellants is the same.

It is respectfully submitted that the appeals of Jersey City were properly dismissed by the State Board of Tax Appeals.

(a)

The municipalities failed to file with the Board of Tax Appeals the notice or petition of appeal required by law and the rules of the Board so that the Board had no jurisdiction to entertain, hear or decide the cases.

R. S. 54:26-7 provides, *inter alia,* that if a taxing district desires to contest the railroad assessments it shall file a written complaint, "specifying the general grounds of complaint and the relief sought, which should be in such form and contain such information as may be from time to time prescribed by the rules of the State Board of Tax Appeals." The rule of the Board (No. 4) provides:

> "Appeals in all cases shall be by petition in writing summarizing the nature of the application for appeal, the relief sought, the character and location of the property involved, and the petition shall set forth the full name of the petitioner and recite a clear and concise statement of the matter in controversy, the action, determination or judgment appealed from, and of the facts upon which the appellant depends for relief. Said statement shall include a description of the property or commodity taxed, stating the value made by the taxing authority, and in the case of property so assessed, a designation of the block and lot number and street number thereof if same can be ascertained."

In Case No. 2, page 16, there is set forth the first complaint and appeal for 1941, to which was appended a "schedule" (p. 19). There is nothing in this document that specifies any property which was assessed, or the amount of assessment, or claimed true value thereof. If the "schedule" was intended to show that all of the various tracts of land and numerous structures of the railroad company were valued in the aggregate at the figures mentioned, it does not inform any one of what the city's grievance is as to any particular property. The Board of Tax Appeals, speaking as a *quasi-judicial* tribunal, held in *Jersey City* v. *Martin,* 20 Misc. 283, 286, that *a railroad company could not question the aggregate amount of second class valuations in a given municipality,* because such property was not valued or assessed in that fashion, and that the law required the tax commissioner to value *each and every parcel of land and each item of improvement,* wherefore it would be unlawful to make any reduction with reference to the aggregate amount of assessments in a taxing district.

We submit that a tax appeal, to be entitled to a hearing, must apprise the Board and the respondent of the matter complained of. In this respect the same rule should be applied as in the case of complaints for omitted property. In *Newark* v. *Essex County,* 127 N. J. L. 527, as in *Duke Power Co.* v. *Board,* 122 N. J. L. 589, affirmed 124 N. J. L. 1, it was held that a complaint addressed to a general sum or indefinite property does not comply with the law.

We submit that the prosecutor may not now complain of the dismissal of proceedings which

were not instituted according to the requirements of the statute.

It is well settled that a judgment will be affirmed if sustainable on any legal ground. *Pierson* v. *N. Y. S. & W. R. R. Co.*, 83 N. J. L. 661. Even though the Court below were to base its judgment upon a ground which is untenable, that does not justify a reversal of the judicial action by an appellate tribunal The question to be determined upon review is the propriety of the judicial action, not the soundness of the reason which prompted it. We do not wish to imply that the decision of the State Board was predicated upon a ground which is untenable. We wish to affirm that ground and further insist that there was no proper appeal pending before the State Board.

As a matter of fact a motion was made to dismiss the appeals of Jersey City pending before the State Board because no proper petition of appeal was before the State Board (p. 59, ll. 1-25). With respect to that motion the State Board held (p. 59, ll. 20-25):

> "While the objection made to the form of these complaints, in so far as they deal with the valuation of second class property, seems to be substantial, it appears unnecessary to determine this motion in view of the fact that in the opinion of the Board, no hearings on these appeals could legally be held after October 15, 1942."

The only answer that Jersey City can make to this contention is that it could amend its fatally defective appeal so as to supply what is missing. Here again there is a statute of limitations which prevents such action because the statute requires

Jersey City if it desires to contest the final determination of the State Tax Commissioner to file its written complaint with the State Board on or before the third Monday of June following the levying of the tax, which in these instances would be June 1st of 1941 and 1942, and such written complaint must under the statute "specify the grounds of complaint" which shall be in such form and contain such further information as shall be required by the rules of the State Board.

As stated *supra,* a mere cursory examination of the complaints and appeals of Jersey City reveals that they do not in the slightest degree specify the grounds of complaint or in any degree give the information required by Rule 4 of the Board (Case No. 2, p. 16). Amendments to a complaint which would set up an entirely new and different cause of complaint are not permissible after the statute of limitations has run against the claim. *Macknowski* v. *Hudson & Manhattan R. R. Co.,* 121 N. J. L. 126.

(b)

The municipalities may not prosecute an appeal from an assessment made or adopted by the Legislature unless the statute authorizes such review.

The appeals of the municipalities for 1941 are directed to the valuation which was completed by the tax commissioner on June 1, 1941. Those valuations, as we have seen, were directed by P. L. 1941, Chap. 291 to be the basis of the new taxes imposed for that year. The act does not provide that such valuations, so adopted by the

legislature, should be reviewed or thereafter changed; and we submit that the Board of Tax Appeals had no right to review them.

The City of Jersey City contends that the Legislature had no power or authority to adopt the Commissioner's valuations for 1941 because such valuations might be at less than "true value" as required by the Constitution. It must be remembered, however, that the assessments made by the State Tax Commissioner are presumed to be valid and in accordance with the constitutional requirements. *Hackensack Water Co.* v. *State Board,* 122 N. J. L. 596. The Legislature had the right to act upon that presumption, and the presumed fact of the reasonableness of such valuations is not at all impaired by the mere assertion of the City of Jersey City that the aggregate of the valuations ought to have been at some other figure.

In *Jersey City* v. *Martin,* 127 N. J. L. 18, Justice HEHER wrote:

> "In sum, it is argued that the Legislature could have directed the State Tax Commissioner to establish and certify values *de novo* * * * but that it had no constitutional power to dispense with the need of establishing valuation *de novo,* nor any power itself to establish the valuations.
>
> "These contentions are wholly untenable * * *. While it may entrust the effectuation of its declared policy to an administrative agency * * *, it may, if it chooses, adopt valuations or other factual findings made by a subordinate agency, and this without regard to whether such administrative action was in pursuance of a lawful grant of authority. Certainly, it is within the province of the legislative authority to adopt the valuations

and formula established by the State Tax Commissioner as designed to effect the distribution of these revenues * * *."

The foregoing is substantially a restatement of the Court's views on this subject as expressed in *Jersey City* v. *Martin,* 126 N. J. L. 353, 361.

Under the former tax act, as well as under Chapter 291 of the laws of 1941 and the revision thereof constituting Chapter 169 of the laws of 1942, any appeal from the valuations of a given year must be filed with the Board *on or before the third Monday of June.* As the new act was not approved until July 22nd, 1941, the assessments specified and adopted by the Legislature and taxes thereunder for the year 1941 could not be reviewed without statutory provision therefor as of some later date, and such provision was not made.

It might well be repeated at this point that the Legislature is not required to create, provide or employ any agency for the purpose of levying state taxes. It is fundamental that what a legislature may authorize an agency to do it may do directly (*Faitoute Steel & Iron Co. v. Asbury Park, supra; Jersey City* v. *Martin,* 126 N. J. L. 353, 362). Under the statutes the State Tax Commissioner was required to review his valuations on the protest or complaint of any taxpayer (54:26-2, 3, 4), which he did in 1941, and the Legislature was under no constitutional duty to provide any further review by a Board of Tax Appeals. The State Board of Assessors was created in 1884 to value and tax railroad property, and that board (later called the Board of Taxes and Assessment) reviewed its own assessments in the

same manner as the state tax commissioner now does (R. S. 54:26-2); but it was not until 1933 that the Board of Tax Appeals was created (P. L. ch. 305) for the purpose of providing an additional review between the assessor and the Supreme Court. It is clear therefore, that another creature of the Legislature, such as a municipality, cannot complain of the action of the legislature if it does not provide such additional review in any year. As shown above, the City had no vested right of appeal to the State Board of Tax Appeals which was beyond the control of the Legislature. Its right of appeal was statutory and subject to change by the Legislature at any time. Unlike taxpayers, the City does not enjoy the protective provisions of the Fourteenth Amendment of the Federal Constitution in matters of taxation. It was said by Justice Cardozo in the case of *Williams, Receiver* v. *Mayor and City Council of Baltimore,* 289 U. S. 36, 49, in which Baltimore claimed the benefit of the equal protection of the laws provision of the Fourteenth Amendment in a tax exemption case:

> "A municipal corporation, created by a state for the better ordering of government, has no privileges or immunities under the federal constitution which it may invoke in opposition to the will of its creator."

Counsel for the prosecutor, Jersey City, may contend that if Chapter 291 of the Laws of 1941 fails to provide for a right of review before the State Board the effect would be that such review could be had by certiorari before the Supreme Court. This argument, we submit, begs the question. Merely because the court below might have the right to grant a writ of certiorari to review the

assessments or taxes does not create the right to review in the State Board when none is given by the statute. We respectfully submit that with respect to the assessments for the year 1941, since Chapter 291 of the Laws of 1941 gave no such review before the State Board and since that Board is purely a statutory body it has only the powers that are given to it and that no such review exists and therefore the appeals for 1941 were properly dismissed.

(c)

The State Board of Tax Appeals was without jurisdiction to hear and decide the tax appeals after the expiration of the time limited therefor by law.

It is plain that the State Board of Tax Appeals which is purely a statutory body had no right to hear and decide these tax appeals after the expiration of the time allowed by the statute.

The rights of the defendants, as taxpayers, to a review of the assessments of their property are not involved in these cases. The questions involved relate only to the rights of a municipality of this state to appeal from assessments made by state officers for state taxation, or more specifically to maintain an appeal beyond the time expressly limited by the law creating the right. It will doubtless be conceded that while the legislature may give the municipalities a part of the state tax revenues, the municipalities as such have no right under the constitution to participate in any way in the determination of the amount of the taxes to be levied by the state. Whatever right the municipalities may have in that connec-

tion exists solely by reason of the statute, and is limited by its terms. The assessments of 1941 come within R. S. 54:26-7, which provides:

> "* * * the Attorney General on behalf of the state, or, in respect to second class property, the authorities of the taxing district, desiring to contest the final determination of the state tax commissioner * * * may, on or before the third Monday of June following the levying or imposition of the tax, file a written complaint with the board of tax appeals, specifying the grounds of complaint and the relief sought, which shall be in such form and contain such other information as may be prescribed by the rules of the board of tax appeals for the better understanding and determination of the complaint."

Sec. 54:26-8 regulates the service of complaints and Sec. 54:26-9 directs the board to meet on the third Monday of June for the purpose of fixing a day for the hearing thereof. The act then continues:

> "54:26-10. The state board of tax appeals shall conclude its hearing on or before the fifteenth day of October following the filing of the complaint, and, between November first and November fifth following shall certify to the state tax commissioner its final determination."

The prosecutors now contend that this legislative limitation as to the time in which the Board could act is of no particular force, and may be disregarded to suit conveniences or meet certain exigencies, and that the courts may control the situation and prescribe or allow other periods of time for such purpose. Our contention is that the entire program of valuation, taxation and review

thereof is purely statutory, and that the court may not detract from, add to, or in any wise change the legislative prescription for these procedures.

" 'Tax' is a legal imposition, exclusively of statutory origin" (*Bente* v. *Bugbee,* 103 N. J. L. 608), or as expressed in *Township of Bernards* v. *Allen,* 61 N. J. L. 228, the right of taxation is vested in the people, but legislation is necessary to its exercise.

We think it necessarily follows that the legislature is entirely without restraint in establishing such conditions as it sees fit for the regulation of state officials and agencies in respect of taxing functions. The 14th Amendment to the Federal Constitution has been held to provide protection to a taxpayer against unlawful or unjust acts of taxing authorities, and he is entitled to have tax statutes judicially examined for any failure to afford him due process of law in proceedings relating to his tax liability, including the right to be heard before such liability is finally determined (*Brinkerhoff-Faris Tr. Co.* v. *Hill,* 281 U. S. 673); but there is no authority for the proposition suggested by the prosecutors that a state agency, such as a municipality, has a common law or constitutional right to a review of state tax proceedings beyond the letter of the law governing such proceedings, or that it may appeal to the judicial department of the government for the granting of a privilege which the legislature has not seen fit to provide.

The argument of the prosecutors is in effect that the statute limiting the time for action by the board does not mean what it says. There is however no room for interpretation. The act says

plainly "the board * * * shall conclude its hearing on or before the fifteenth day of October." There are no exceptions or extensions provided under any circumstances.

We submit that the many cases cited where the courts have held a time limitation to be directory rather than mandatory are not in point. We are not dealing with the assertion or prosecution of a legal or constitutional right of an individual with respect to his person or property (*Lapp* v. *Belvedere,* 116 N. J. L. 563), wherein the courts have been jealous to preserve a suitor's status against an inadvertent or excusable failure to comply with a procedural requirement. In the present cases the limitation applies expressly to the state government itself represented by the board of tax appeals, and also to a municipality, another a creature of the legislature, and it surely cannot be denied that the legislature is fully authorized and competent to control its own agencies in this regard.

With reference to the board of tax appeals, that body can function only in the manner and to the extent specified in the law creating it. The mandate of the section above quoted requires the board to conclude its hearings on or before a specified date, and by giving effect to this language the board has no jurisdiction to conduct a hearing after that date, and it certainly cannot acquire any continued jurisdiction from any other source.

In *Newark* v. *Civil Service Commission,* 115 N. J. L. 26, 29, Mr. Justice Heher wrote:

> "This body is a creature of statute. Its powers are special and limited and it can ex-

> ercise only such authority as is legally conferred by express provisions of law, or such are by fair implication and intendment incident to and included in the authority expressly conferred * * *. Any reasonable doubt of the existence of any particular power in the commission should be resolved against the exercise of such authority."

In this connection we think that the views of the same Justice in *Public Service E. & G. Co.* v. *Camden,* 118 N. J. L. 245, are particularly in point. He said (p. 255):

> "It is not the judicial function to disregard or qualify what reasonably seems to be the legislative will in a proper sphere. It is a mere truism to say that the courts are under a constitutional duty to effectuate the legislative purpose as written."

In proceedings of a purely statutory nature the rule is recognized that the word "shall" is mandatory, or as expressed by Mr. Justice TRENCHARD in *Haythorne* v. *Van Keuren,* 79 N. J. L. 101:

> "The presumption is that the word 'shall' in a statute is used in an imperative and not a directory sense. If a different interpretation is sought it must rest upon something in the character of the legislation or in the context which will justify a different meaning."

The foregoing language was adopted by Mr. Justice GARRISON for the Court of Errors and Appeals in *Foley* v. *Walsh,* 91 N. J. L. 554, and by this court in *Ervolini* v. *Camden County,* 127 N. J. L. 473. So in the decision of this court, *In re Van Noort,* 85 Atl. 813, it is said:

> "'Affirmative words make the statute imperative, if they are obsolute, explicit, and

> peremptory, and show that no discretion is intended to be given.' Potter's Dwarris on Statutes, 228. 'If an affirmative statute introductive of a new law directs a thing to be done in a certain manner, that thing cannot, even although there are no negative words, be done in any other manner.' Cook v. Kelly, 12 Abb. Prac. (N. Y.) 35; Com'rs. v. Gains, 3 Brev. (S. C.) 396; Norwegian Street, 81 Pa. 349."

The rule finds particular application in the cases dealing with the jurisdiction of statutory tax tribunals.

Mr. Cooley in his work on Taxation, in Section 1216, states the rule thus:

> "If a statute expressly limits the time during which the Board may act, it has no power to act after the expiration of such time, and hence changes made thereafter are illegal."

In *Folwell* v. *Warford,* 32 N. J. L. 207, the statute required the commissioners of appeal to revise assessments within 10 days after the receipt of the complaint, and the court said:

> "A failure to comply with any one of these requirements renders the whole proceeding *non coram judice,* and void. It not appearing by the certificate now under review that the judgment against the relators was rendered within the time required by the statute, the assessment must for that reason be reversed and set aside."

So in *New Jersey Zinc Co.* v. *Sussex County Board, etc.,* 70 N. J. L. 186, it appears that P. L. 1900, page 137, provided that the Board should complete its work of equalization "on the last

day of September in any year." The Board however gave notice of a meeting to be held on October 1, which the Court held to be beyond the time in which the Board could legally act.

In the recent case of *Hoboken Local No. 2 etc. Association* v. *Hoboken,* 23 N. J. Misc. 334 at 339, it was held:

> "As already observed this statute provides that 'the days of employment' of such policemen 'shall not exceed six days in any one week' except in cases of emergency when a day off is allowed for each extra day served during such emergency. The presumption is that the word 'shall' in a statute is used in an imperative and not in a directory sense. If a different interpretation is sought, it must rest upon something in the character of the legislation or in the context which justify a different meaning. *Haythorn* v. *Van Keuren & Son,* 79 N. J. L. 101, 105; 74 Atl. Rep. 502; *State* v. *Wilcox,* 2 N. J. Mis. R. 320. It was used in a mandatory or imperative sense in this statute which embodies the public policy of protecting the health and efficiency of regularly employed policemen."

Thus the Courts of this state have uniformly held that the inferior tribunals are strictly governed by statutory requirements, and their proceedings, to be valid, must show on the face of the record to conform to such requirements (*Eatontown* v. *Monmouth Electric Co.,* 75 N. J. L. 459, 462).

In *Duke Power Co.* v. *State Board of Tax Appeals,* 129 N. J. L. 449, Mr. Justice Bodine, in referring to R. S. 54:3-26, which requires the county board of taxation "to hear and determine all such appeals within three months after the last day for filing such appeals," said:

> "This requires a determination before November 15, 1939 * * *. The County Board could not, on its own motion, make the assessment on November 22, 1940, and then act as an appellate body on December 2, 1940. It was not acting according to law at any time."

In *State Highway Commission* v. *Repole,* 111 N. J. L. 462 (E. & A.), Chief Justice BROGAN said:

> "We think the appeal was properly dismissed and that the court below never acquired jurisdiction over the subject matter of the appeal * * *. The appeal never came within the Court's jurisdiction. The court acquires jurisdiction by virtue of the provisions of the statute. When the words of a statute directing the time of the doing of a particular act are clear, the provisions cannot be deemed merely directory."

If, as suggested in *Haythorne* v. *Van Keuren,* and *Hoboken Local* v. *Hoboken, supra,* we look at the context of other sections of the act, we find that the machinery for the annual assessment and taxation of railroad property in any given year is initiated on the first Tuesday of March of the prior year and in order to complete the process of valuing and taxing railroad property for a given year a period of at least 21 months is consumed from March 1st of the prior year when the returns are filed by the railroad companies with the State Tax Commissioner to December 1st of the year for which the tax is levied, which is the date when it becomes payable and the time from which it becomes delinquent and interest penalties are payable thereon. It is indispensable that the time schedule be carried out otherwise there would be intolerable confusion, delay and chaos. This is obvious if we check the various

sections of the statute as to the proceedings which make up the process of valuing and taxing railroad property. That process will be found as follows in the following sections of the Revised Statutes together with the amendments as made in the new tax law in 1942.

(54:23-1) On or before March 1 returns "shall" be made by the railroad companies to the state tax commissioner.

(54:26-1) On the *first Monday of July* the commissioner "shall sit" for a hearing, but if the first Monday falls on the 4th or 5th of the month the meeting shall be held on the first Tuesday.

(54:22-1) The commissioner "shall complete" his valuations by the *first of November* * * * and on or before *December 10th* * * * "shall serve" a statement thereof on each railroad company.

(54:26-2) The state tax commissioner "shall sit" on the *second Monday of January* to review his assessment.

(54:26-3) Complaints of such assessments may be filed on that date.

(54:26-4) Copies of such complaint "shall be" served *five days previously* on the Attorney General; and the hearings shall be completed *before the first day of April.*

(54:27-1) The state tax commissioner "shall certify and report" the taxes levied to the comptroller *on or before the first day of June* (changed to May first, R. S. 54:29A-17) *and within 10 days thereafter* serve a copy on the railroad company.

(54:26-7) Appeals may be filed *on or before the 3rd Monday of June* (advanced to third Monday of May by R. S. 54:29A-31).

(54:26-8) Copies thereof "shall be served" on the Attorney General *five days in advance* thereof.

(54:26-9) The board "shall meet on the *3rd Monday of June* to fix a date for the hearing (changed to 3rd Monday of May, R. S. 54:29A-33)."

(54:26-10) Hearings to be concluded *before October 15th* (changed to November 1, R. S. 54:29A-34), "final determination" shall be certified to state tax commissioner *between November 1 and November 5.*

(54:26-10) State tax commissioner "shall forthwith certify to state comptroller all changes and corrections."

(54:26-11) Application for certiorari to review board's determination "shall be made within *three months* after certification."

(54:27-2) Taxes shall be payable * * * *December first.*

(The changes in dates above noted were made P. L. 1942, Ch. 337, effective December 21, 1942.)

It will be observed as stated that the complete process of valuing and taxing railroad property for a given year extended over a period of at least 21 months, from the filing of returns on March 1st of one year to the payment of the taxes on December 1st of the following year, involving

an over-lap of nine months in the procedures. It is obvious that only a rigid time-table and its observance can prevent intolerable confusion, delay and chaos in the determination of the valuations and taxes relating to railroad companies. In prescribing the various duties and dates mentioned, the word *"shall"* is used throughout. *If any one of these specified dates can be slighted or ignored, who shall say which ones must be observed?*

Taking the very section which provides that the hearing before the State Board "shall" be concluded on or before October 15th, we have the further mandatory language that the State Board between November 1st and November 5th following "shall" certify to the State Tax Commissioner its final determination and the further mandatory language that the State Tax Commissioner "shall forthwith certify to the State Comptroller all changes and corrections in the assessment and tax (R. S. 54:26-10)." If plain words mean what they say and if the settled law of this State as laid down in this Court is to control as expressed by Mr. Justice Trenchard in *Haythorne* v. *Van Deuren,* 79 N. J. L. 101, *supra,* then there can be no question but what the word "shall" is used in the imperative sense because no different interpretation can be found from anything in the character of the legislation or in the context which would justify a different meaning, but the character of the legislation and the entire context demonstrate that the word "shall" is used in the imperative sense.

That the Legislature did not regard this time-table as merely directory, and therefore subject to extention at the discretion of the state officials,

is made manifest by the fact that when extensions of time were deemed necessary the Legislature prescribed them. Thus in 1933 a special act was passed (Ch. 423) extending the date for completing the Board's hearings from October 15th to December 15th (two months), and the date for the payment of taxes from December 1 to January 15, 1934 (45 days). In 1937 (Ch. 131) and 1938 (Ch. 22) there was special legislation of this character. In 1939 the Legislature found it advisable to give the tax commissioner 60 days additional time to certify his valuations, but extended the time for filing appeals by only 14 days (Ch. 22).

It is also significant that in rewriting the act for the revision of 1941 (Ch. 291; R. S. 54:29A-1) most of these dates were retained, with only slight changes. Former section 54:22-1 (*supra*) was changed to read:

> (54:29A-17) "*on or before November 1* * * * the commissioner shall determine the true value * * *" and "upon the completion of his valuation * * * *but not later than December 10* * * * deliver a detailed statement * * *."

The "second Monday of January" in 54:26-2 was changed to the third Monday in section 18 of the new act; and the "first day of June" specified in 54:27-1 was changed to the first day of May by 54:29-19. Other changes in dates were made, above stated by Chap. 337 of the Laws of 1942.

We think the foregoing specification of particular dates limiting the time for action by the state officials indicates the legislative purpose that they

shall be meticulously observed and followed. In the section now under discussion the requirement that this board "shall conclude its hearing *on or before the fifteenth day of October*" is followed by the further command that its determination be certified *between November first and November fifth following,* so that if the hearings are not concluded at the time specified, the other duties of the Board and other officials cannot be done pursuant to the law. As there is nothing in these statutes, in the rules of construction, or in the decisions of our courts, which countenances a failure to follow these legislative directions for the handling of tax appeals, it is respectfully submitted that the State Board of Tax Appeals properly dismissed the appeals in question and that the judgments of dismissal should be affirmed.

Jersey City contends that such a conclusion would necessarily result in an application to the Supreme Court for writ of certiorari to complete reviews of assessments and taxes when they could not be completed under the statute before the State Board of Tax Appeals. This argument begs the question because the mere fact that this Court might be called upon to review assessments and taxes in a given set of circumstances does not confer jurisdiction on the State Board to do so when none is given to that statutory body by the statute which authorizes the procedure before it.

The reasoning of the opinion below emphasizes the error into which that Court fell in holding that these mandatory provisions of the tax law were merely directory. After reiterating the settled law of this Court that the word "shall" in

a statute carries with it the presumption that it is used in the imperative rather than in the directory sense and that the character and context of the legislation are controlling (Case No. 1, p. 518) the learned Court below proceeds to conclude that it would not so construe these statutes if the effect of such construction would be to deny the prosecutors the right to be heard as to allegedly unconstitutional legislation because that would "indeed be unjust (p. 519, ll. 30-35)."

Whether the new tax law is declared constitutional or not, in no way affects the question here presented because the statutory provisions now to be construed are the same in both laws, as shown *supra*. Even if the new law were unconstitutional in its entirety not only as to the year 1941 but as to the year 1942, this Court would still have to decide whether all of these mandatory provisions of the old tax law (they are substantially the same in the new law) were merely directory, so that time meant nothing in the determination of the valuations, assessments and taxes. If there is a presumption that the word "shall" is used in the imperative rather than in the directory sense and both the character and the context of the legislation are controlling, then there can be no question here but what the word "shall" was used in the imperative sense and it would not be unjust to so hold.

If the State Board does not have to conclude its hearings before October 15th, then it does not have to certify its conclusions before November 5th and the State Tax Commissioner need not certify forthwith to the Comptroller the changes and corrections which have not been made (R. S. 54:26-10) *supra*, and of course ap-

plication for certiorari to review the Board's determinations need not be made within three months after such certification (R. S. 54:26-11) and taxes are not payable by December 1st (R. S. 54:27-2).

To go back to the beginning of the procedure to determine the assessments and taxes, the railroad need not make their returns on or before March 1st of the prior year and the Commissioner does not have to sit for a hearing on the first Monday of July thereafter and he does not have to complete his valuations by the first of November, and he does not have to sit on the second Monday of January to review his assessments, etc. (R. S. 54:23-1 to R. S. 54:26-4) *supra.* The machinery for the annual assessment and taxation of railroad property would completely fall apart if these mandatory provisions of the statute were not followed. If the character and context of this legislation does not indicate that it is imperative that the time schedule should be followed, then it is difficult to conceive of language that could make it so.

The Court below refers to the fact that on several occasions the State Board of Tax Appeals heard cases after the statutory time fixed (Case No. 1, p. 518, l. 35-p. 519, l. 10). Such violations of the statute cannot change their plain meaning, particularly when the question of the right to proceed after the time fixed by statute was not raised, considered or decided.

Finally, the Court below relies upon *Grobarz* v. *Slayton,* 130 N. J. L. 597, affirmed 131 N. J. L. 326, as an authority for the conclusion that the statute here in question is merely directory. The

Grobarz case is completely beside the issue presented. In that case the statute (R. S. 39:5-8) provided that a magistrate shall in his discretion at the request of either party adjourn for a period not exceeding 30 days from the return day of the summons the hearing of a motor vehicle violation." The magistrate in that case started the hearing *within* the 30 day period but failed to complete the hearing within the 30 days, the adjournment being taken to serve the ends of essential justice. It appeared that all of the evidence had been taken except that of a physician who had examined the prosecutor shortly before his arrest on a charge of operating a motor vehicle while under the influence of intoxicating liquor. In order to get the testimony of this witness the case was adjourned with the consent of the defendant. Upon the adjourned date the defendant objected to proceeding on the ground that the magistrate had lost jurisdiction to hear the matter. It is plain that the hearing was not adjourned for more than 30 days and the fact that the hearing continued for more than a day was immaterial. Furthermore, the defendant there consented to the adjournment. The case was a criminal case where the ends of justice required the decision that was rendered.

There is no such situation in the case at bar because no hearing was ever held or even begun and there was no consent; and the character and context of the legislation including all of the various sections covering the procedure extending over a period of 21 months plainly indicates that the word "shall" is used in the imperative sense. There is no such character or context to

Section R. S. 39:5-8 involved in the *Grobarz* v. *Slayton* case.

The ends of justice require no such distortion of the tax statutes. Furthermore the parties interested are not without a remedy because this Court by certiorari can always control the proceedings so as to make certain that justice is done.

The Court below further says (Case No. 1, p. 519, l. 20):

> "Whatever may have been the reasons for not having conducted hearings on the complaints, there is no suggestion and none is intimated by this Court that the fault, if any, was on the part of the State Board of Tax Appeals or on the part of anyone else involved."

The question of the Court's jurisdiction does not depend upon the fault of any party. It depends upon the plain words of the statute. Unless the statute says that the State Board has the right to proceed after October 15th, it has no such right.

We respectfully submit that irrespective of whether the new or the old tax law is held to apply to the years 1941 and 1942, that it was mandatory and imperative that the State Board of Tax Appeals should have concluded its hearings before October 15th and should have certified to the State Tax Commissioner its final determination between November 1st and November 5th, and the State Tax Commissioner should have certified forthwith to the State Comptroller all changes and corrections; and since that manda-

tory procedure was not followed, the State Board of Tax Appeals properly dismissed the appeals and the judgments of dismissal of that Board should be affirmed.

V

The prosecutors do not have the right to question the constitutionality of the new tax law or the assessments made thereunder which are brought up for review by the writs of certiorari herein.

One of the elementary doctrines of constitutional law firmly established by the authorities is that the constitutionality of a legislative act is open to attack only by a person whose rights are directly affected thereby. Before a law can be assailed by any person on the ground that it is unconstitutional he must show that he has an interest in the question in that the enforcement of the law would be an infringement on his rights. While there is no New Jersey case on the subject there is a multitude of authorities in the U. S. Supreme Court and in 29 of the other states of the Union, including New York, Massachusetts, Illinois and Connecticut (see 11 Am. Jur. 748, Sec. 111).

Assailants must show the applicability of the statute and that they are thereby directly injuriously affected. The burden of proof is upon those who claim themselves harmed by a statute to show how, as to them, the statute is unconstitutional. Thus, one who invokes the power of the court to declare an act of Congress to be unconstitutional must be able to show not only that the

statute is invalid, but that he has sustained some direct injury as a result of its enforcement and not merely that he suffers in some indefinite way in common with people generally.

The corollary to the general rule is that one who is not prejudiced by the enforcement of an act of the legislature cannot question its constitutionality (see multitude of authorities, 11 Am. Jur. 750).

Thus, one against whom no attempt has been made to enforce a statute may not challenge its constitutionality. *Stephenson* v. *Binford,* 287 U. S. 251. Nor may one excepted from the operation of the statute attack it. *Gorieb* v. *Fox,* 274 U. S. 603.

Even though a person may come within the main purpose of a statute he has no standing to raise constitutional questions which do not directly affect him, for unless a party can show that he himself has been wrongfully included in the terms of law he can have no just ground of complaint. Hence a litigant can be heard to question the validity of a statute only when and in so far as it is applied to his disadvantage (see numerous authorities, Am. Jur. 752).

No one can obtain a decision as to the invalidity of a law on the ground that it impairs the rights of others, for one attacking the constitutionality of a statute is not the champion of any rights except his own. 11 Am. Jur. 752.

A Court cannot pass on the question of the constitutionality of a statute abstractly, but only as it applies and is sought to be enforced in the determination of a particular case before the Court, for the power to revoke or repeal a statute is not judicial in its character. For example, one

who challenges the validity of state taxation on the ground that it violates the equal protection clause of the federal constitution, cannot rely on theoretical inequalities but must show that he himself is affected unfavorably by the discrimination of which he complains. Thus, a corporation, all the authorized capital stock of which is issued, cannot raise the question of the validity of a statute which measures franchise taxes by authorized instead of issued capital stock. *Roberts & Esko* v. *Emmerson,* 271 U. S. 50.

These principles of law are all well settled by numerous authorities. 11 Am. Jur. 754.

Where the class which includes the party complaining is in no manner prejudiced, the general rule is that it is immaterial whether a law discriminates against other classes or denies to other persons equal protection of the laws. Constitutional guaranties of equal rights and privileges are for the benefit of only those persons whose rights are affected and cannot be taken advantage of by any other person.

While taxpayers may have a degree of interest essential to give the requisite standing to attack the constitutionality of a statute, the general rule is that such interest has to do with the constitutionality of statutes requiring the expenditure of public moneys and the issuance of bonds which might cast a cloud on the title to real estate of the taxpayer. However, in a number of jurisdictions a different doctrine is adhered to and no taxpayer's action can be maintained against the auditing or disbursing officers of the state in reference to the enforcement of a law alleged to be unconstitutional. It has been said that if such relief is sought it must be in an action by the state

itself, either brought by the Attorney General or in case of his refusal by authority of the Court itself on relation of a private citizen. 11 Am. Jur. 761.

With these rules of law in mind we shall now analyze the facts and the situation presented in the case at bar.

(a)

The municipalities have no right to prosecute the writs of certiorari herein.

The complaint of Jersey City and the other municipalities in these proceedings is based on the fact that the state has heretofore levied and collected all railroad taxes as one state tax and then apportioned and paid a part of such moneys to the municipalities; and they now fear that under the provisions for allocating the state revenues derived from the new scheme of taxation they will receive less than they have heretofore. It is clear, however, that what the municipalities get from the state depends on the generosity of the legislature. It may be assumed that if in allocating the new revenues the legislature had adopted a plan of allocation which maintained substantially the same amount of distribution as before there would and could have been no attack on the statue by these prosecutors. It is significant that no such attack has been made by the Attorney General or anyone else interested in the state's revenue.

The municipalities are mere agents of the State for the purpose of local government. Conceding that there may be instances where such agents may raise and present constitutional questions for

judicial review the matters complained of here are concerned solely with individual rights. The municipalities have no constitutional or legislative power or duty in the premises. They are not required to seek judicial relief for any individual who may be injured by the making of the assessments complained of. The municipalities have no contract with the State, which this legislation violates. There are no taxpayers who may be relieved in the event that the assessments are declared to be unenforceable.

There is no "home rule" provision in our constitution which requires that these local districts shall receive any part of the railroad taxes. The tax is a State tax levied on property which has a State situs and no part thereof can be used to defray local expenditures unless the State through its legislature appropriates that part.

As shown, *supra,* it is fundamental that the judiciary does not act upon its own initiative but only when some suitor duly authorized by law having a direct interest and whose rights are infringed, presents in due form a cause appropriate for its consideration.

A careful and exhaustive reading and examination of the new tax laws of 1941 and 1942 fail to reveal any invalidity therein. It is only when a long-winded, complicated, uncertain calculation of undetermined aggregate taxes of all of the railroads of the State are estimated to be less under the new law than under the old and assuming further that the taxes under the old law were vested in the State and that the State could not change the tax law that there is the slightest indication that these laws are in any degree or in any way unconstitutional.

We submit that it is only when some person attempts to resist an act performed under these statutes and invokes the aid of the judicial power to pronounce such act unenforceable as to him, his property, or his rights, that the objection of unconstitutionality can be properly presented to the Court and considered.

It has been frequently recognized and held in this state that the municipalities are the creatures and agents of the Legislature and bound by its enactments. They may not assert any right, privilege, authority or power inconsistent with statutory provisions or outside the scope of statutory delegation or grant. As pointed out by Vice-Chancellor BERRY *in State Highway Commission* v. *Elizabeth,* 102 N. J. Eq. 221, the municipal corporations of the state are created by the Legislature as a matter of convenience for the administration of local government, but they have no rights which may be asserted against some different disposition of their municipal affairs. In *N. J. Bridge & Tunnel Commission* v. *Jersey City,* 93 N. J. Eq. 550, the Court said:

> "Municipalities are creatures of the state and the powers given to them are always subject to be abridged or repealed by the sovereign who conferred them. The State is the supreme and sovereign power."

In the Asbury Park debt case (*Faitoute Iron & Steel Co.* v. *Asbury Park*), 316 U. S. 502, the Court quoted from *U. S.* v. *B. & O. R. R. Co.,* 17 Wallace 322, as follows:

> "A municipal corporation * * * is a representative not only of the state, but is a portion of its governmental power * * *. The

> state may withdraw these local powers of government at pleasure and may through its legislative or other appointed channels govern the local territory as it governs the state at large. It may enlarge or contract its powers or destroy its existence."

The status of the municipalities of this State has been definitely and clearly stated by Mr. Justice HEHER speaking for the Court of Errors and Appeals in the *City of Jersey City, et als.* v. *Martin,* 126 N. J. L. 353. At page 361 he wrote as follows:

> "A municipality is merely a political subdivision or department of the state. It is an agency created for the exercise, within the prescribed limits of the governmental functions and powers of the state. It is but the creature of the state, and exists at its pleasure. As respects both its strictly governmental office and its municipal character for the conduct of local self-government, the Legislature is the exclusive source of its authority; and its continued corporate existence as well as the scope of its powers, depends upon its will. Unless constitutionally secured, the municipality has no inherent right of self-government beyond the control of the state. *Public Service Electric & G. Co.* v. *Camden,* 118 N. J. L. 245. See, also, *Van Cleve* v. *Passaic Valley Sewerage Commissioners,* 71 Id. 183. The state's authority over the rights and property of its municipalities is not restricted by the contract or due process clauses of the Federal Constitution. The state 'at its pleasure, may modify or withdraw all such powers, may take without compensation such property, hold it itself, or vest it in other agencies, expand or contract the territorial area, unite the whole or a part of it with another municipality, repeal the

> charter and destroy the corporation. All this may be done, conditionally or unconditionally, with or without the consent of the citizens, or even against their protest. In all these respects the state is supreme, and its legislative body, conforming its action to the State Constitution, may do as it will, unrestrained by any provision of the Constitution of the United States. * * * The power is in the state, and those who legislate for the state are alone responsible for any unjust or oppressive exercise of it.' *Hunter* v. *Pittsburgh,* 207 U. S. 161; 28 S. Ct. 40; 52 L. Ed. 151. See also, *Trenton* v. *New Jersey, supra; Worcester* v. *Consolidated Street Railway Co.,* 196 U. S. 539; 25 S. Ct. 327; 49 L. Ed. 591."

It is therefore clear that a municipality, as such, cannot question the wisdom of the Legislature in enacting a state tax law, and it must follow that in the absence of any constitutional provision concerning the apportioning of state taxes to municipalities, a municipality has no basic right to a portion of the state's revenues and no vested right in the continuance of a grant once given. This subject was adverted to in the *Central Railroad* case in 48 Law above cited. Chancellor RUNYON there said (p. 280):

> "Whether the tax which (the railroads) pay is appropriated to state purposes alone, or state and county and municipal purposes, is a matter which does not concern them * * *. The state appropriates the proceeds to what purposes it sees fit * * *.
>
> The power of apportionment is not limited or affected by the constitution, and the judiciary has no control whatever over it."

These views have been adopted and followed in recent cases by this Court and the Court of Errors and Appeals in the cases dealing with the allocation of state franchise taxes. In *Jersey City* v. *Martin,* 126 N. J. L. 353, 359, Mr. Justice HEHER wrote as follows:

> "Moreover, the issue here concerns the apportionment among the several municipalities of excise charges levied and collected by the state; and the principles governing the levying of taxes have no relation to their distribution by the sovereign." Citing *State Board of Assessors* v. *Central Railroad Co.,* 48 N. J. L. 146 and other cases.

(p. 360)

> "The wisdom or policy of such legislation beyond the range of constitutional interdict is not a justiciable question. And there are no restraints upon the disposition of such revenue, if made for a proper governmental purpose. It is not within the province of the appellant municipalities to assail the distribution of these taxes because not in consonnance with their concept of fairness and equality."

In *Reiner* v. *Fidelity Union Trust Co.,* 126 N. J. E. at page 90, the Court said:

> "It is fundamental that a person seeking to rely upon constitutional rights must rely upon those which he himself possesses not upon those of others and he must show that he is injured. 11 Am. Jur. tit. 'Constitutional Law' 748, sec. 111; *Aikins* v. *Kingsbury,* 247 U. S. 484; 62 L. Ed. 1226; *Red River Valley National Bank* v. *Craig,* 181 U. S. 548; 45 L. Ed. 994; *Premier-Pabst Sales Co.* v. *Grosscup,* 298 U. S. 226; 80 L. Ed. 1155, and a legion of other cases."

The only reason why the municipalities are concerned is that the legislature provided in the prior tax law that they should have a portion of the taxes resulting from the taxation of second class railroad property. Having given its creature an interest in such taxes the legislature at any time can take it away.

In *Collingswood Sewerage Co.* v. *Collingswood,* 92 N. J. L. 509 at 511, this Court held:

> "To hold that by delegating the rate-fixing power to its creature it had deprived itself of the right thereafter to modify the rate, would be tantamount to declaring that the creature is greater than the creator. It would be strange, indeed, if the state, which has power to terminate the existence of the municipalities created by it whenever it may see fit, could not revoke authority granted by it to them, and, in the exercise of its sovereignty, cancel conditions which it had permitted them to impose upon other classes of corporations which had also been created by it."

In *New Brunswick* v. *Williamson,* 44 N. J. L. 165 at 168, Dixon, *J.* said:

> "For the present case, it is sufficient to decide whether one legislature can confer upon such a corporation a power of taxation which subsequent legislatures are unable to revoke against the objection of the municipality itself. For the affirmative of this question, no semblance of authority has been produced to us. The general principle is, that the power of the legislature over corporations created for purposes of local government is supreme, and that no contract with such corporations arises from the delegation of authority to them."

It is settled that a municipal corporation created by a state has no privileges or immunities under the federal constitution which it may invoke in opposition to a statute of the state or in opposition to the will of its creator. *Williams* v. *Baltimore,* 289 U. S. 36, 40. In that case the U. S. Supreme Court did not pass upon whether the municipality had any standing to complain of the violation of the constitution of the state by the enactment of a state statute. What the Court said was that that question was one of state practice. 289 U. S. 48.

(b)

The citizen and taxpayer prosecutors have no right to prosecute the writs of certiorari herein.

This is plain from the law set forth at the beginning of this point. They are in no way directly involved in these tax acts which relate solely to the taxation of railroad companies. As general citizens and taxpayers of the state their interest in the moneys of the state treasury, partly realized from taxation and partly from other sources, is shared by millions of others. It is comparatively minute and indeterminable. Moreover, the effect on future taxation on the general taxpayers of the state of the change in the amount to be collected by the state treasury under the new law as compared with the old, which is still undetermined, is so remote, fluctuating and uncertain that no basis is afforded for an appeal by such general taxpayers.

A case directly in point is *Massachusetts* v. *Mellon,* 26 U. S. 447. In that case the U. S. Supreme Court held that a taxpayer of the United

States cannot bring suit to enjoin enforcement of a federal appropriation act on the ground that it is invalid and will increase the burden of his taxes. The Court said that the relationship of a taxpayer of the United States to the federal government was different from the relation of a taxpayer to the municipal corporation. His interest in the moneys of the treasury of the United States, partly realized from taxation and partly from other sources, is shared with millions of others. It is comparatively minute and indeterminable. Moreover, the effect on future taxation of any payment out of the funds is so remote, fluctuating and uncertain that no basis is afforded for an appeal to the preventive powers of the court. That case is much stronger on the facts than the case at bar because in the case at bar there is no appropriation act for the purpose of disbursing funds. The situation here is merely the passage of a railroad tax act in which the old tax law is substantially re-enacted, the change merely being a change of rate and the imposition of an excise franchise tax on earnings of the railroad companies. No proof is offered that this change in the tax law concerning the taxation of railroads will in the slightest degree increase the taxes of the general taxpayer of the state, but on the contrary, the proof is undisputed that whether the amount to be realized under the new tax law will be greater or less than under the old is still undetermined; and even if it should be determined that it would be less under the new there is no proof that the general taxpayer would pay more.

Furthermore, fundamentally the individual taxpayers have no interest in this controversy for the further reason that as the Court below held the particular use to which railroad property has been

and continues to be put is the basis which supports both its separate classification and the legislative power to impose a separate tax to be paid on property so classified and used. In short, under the settled law the individual taxpayer cannot complain that he is deprived of any right by reason of the fact that the legislature has prescribed a separate classification and a separate rate of taxation on railroad property even though it may be different or less than the rate of taxation fixed for the property of an individual taxpayer who is not in that class. That being the settled law, the individual taxpayer can have no standing to question such a law.

We therefore respectfully submit that an action to test the constitutionality of these tax laws must be an action by the state itself either brought by the Attorney General or someone else properly authorized to represent the state.

(c)

The Court below erroneously says in its opinion (Case No. 1, p. 521) that the status of the prosecutors was not attacked prior to the argument on final hearing in the Court below.

The fact is that from the very beginning the status of the prosecutors was attacked, not only by the railroad companies but by the state itself through its Attorney General appearing for the State Officials who were parties respondent to the writs of certiorari. The brief of Attorney General Wilentz, John Solan, of counsel, in the Court below, accurately states the facts on page 2 as follows:

> "On the application for this writ we joined with the other respondents in opposing the

> allowance thereof on the grounds among others that these prosecutors are without legal capacity to prosecute this review. We take the same position here, and in the last part of this brief will set up reasons for our position deeming it more helpful to the Court to first discuss grounds for relief asserted by the prosecutors."

In the last point of the brief beginning at page 12, the status of the prosecutors is again attacked and the following statement is made with numerous authorities to support it:

> "The principle is fundamental that the judiciary acts not upon its own motion but only when some suitor, duly authorized by law, presents in due form a cause appropriate for its cognizance. Prima facie, and upon the face of the statute itself, nothing appears to show that this act is not valid and we submit that it is only when some person attempts to resist an act performed under it and invokes the aid of the judicial power to pronounce such an act unenforceable as to him, his property, or his rights that the objection of unconstitutionality can be presented and sustained."

As stated by the Attorney General the railroad respondents all attacked the status of the prosecutors.

In addition, with respect to the individual taxpayers who are prosecutors, further objection was made on the taking of their testimony to their status to prosecute the writs (Case No. 1, p. 251). When the prosecutors called their first witness, Davison, who was a taxpayer prosecutor to establish his status, counsel for all of the railroads objected to his status and particularly stated that

he had no right to act as a prosecutor. One of the reasons given was that the individual taxpayer has no right and is not deprived of any right by the fact that the legislative prescribed a certain rate of taxation on property used for railroad purposes which may be different or less than the rate of taxation fixed by a municipality on property outside of that class. That this is so was settled by the Court below when it held that the particular or special use to which railroad property has been and continues to be put is the basis which supports its separate classification and the legislative power to impose a separate tax to be paid on property so classified and used. This objection is part of the general objection which has been discussed *supra,* namely, that the individual taxpayer in a case of this kind has no direct right or interest in the controversy and there is no infringement of any right of his. Whatever interest he might have, and none is shown by the proofs, is so comparatively minute and indeterminable that it cannot afford a basis by him for an appeal to the courts.

The prosecutors have conceded in their brief below that the taxpayer, Owens, has no status. At page 172 they said:

> "The intervention of the prosecutor, Owens, is based upon the deprivation of federal constitutional rights (Case No. 1, p. 124, l. 25; p. 125, ll. 22, 34; p. 230, ll. 5, 39; p. 231, l. 15). It is not conceived by counsel for prosecutor, Owens, that the New Jersey courts will, in order to preserve a federal constitutional right, set aside the assessment of the property of the taxpayer alleging discrimination. It is believed that the federal courts may do so, in the event that adequate relief is not afforded by the action of the state courts with respect to the assessments of railroad prop-

> erty complained of. For said reasons, no discussion is had in this brief with respect to the federal questions nor any claim specifically argued herein with respect to the right of the prosecutor, Owens, to have the assessment upon his property set aside, although such claim is not to be deemed abandoned by said prosecutor."

It is respectfully submitted that Owens has just as much of a status as any other taxpayer, notwithstanding that he came from Essex County instead of Hudson. The Owens' writs of certiorari should be dismissed. The failure to prosecute his writs is an abandonment and waiver thereof necessarily resulting in dismissal of those writs.

In the opinion below it is also stated that the status of the prosecutors was not made the subject of attack *by proofs* (Case No. 1, p. 152).

No proofs were required to show their lack of status for neither the municipalities nor the taxpayers had any status and that fact appeared on the face of the record and the law applicable thereto.

Finally, the Court below said that the municipalities as prosecutor seemed to be entitled to be heard even though their substantial stake in taxes was not in issue. The Court below refers to *Hoboken* v. *Martin,* 123 N. J. L. 442, and *Jersey City* v. *Martin,* 127 N. J. L. 353. However, in neither of those cases was the question of the status of the prosecutors raised, considered or passed upon.

We respectfully submit that the prosecutors may not lawfully question the assessments brought up by the writs of certiorari herein on the ground that the new tax acts are unconstitutional.

VI

CONCLUSION

We respectfully submit that the assessments under review for the years 1941 and 1942 made pursuant to Chapter 291 of the laws of 1941 as amended by Chapter 169 of the Laws of 1942, should be affirmed and the writs of certiorari should be dismissed, with costs.

February Term, 1946.

Respectfully submitted,

EDWARD A. MARKLEY,
MAXIMILIAN M. STALLMAN,
Of Counsel with the Respondents-Appellants, Erie Railroad Company, Lehigh Valley Railroad Company, The Delaware, Lackawanna & Western Railroad Company, New York Central Railroad Company, and their respective systems.

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To be argued orally by
EDWARD A. MARKLEY.

3 FEB T.1946 to 22 FEB T.1946

New Jersey Court of Errors and Appeals

February Term, 1946

(Title of case No. 1.)

CITY OF JERSEY CITY, a municipal corporation, *et al.*,
Prosecutors-Respondents,

vs.

WILLIAM D. KELLY, State Tax Commissioner of New Jersey, *et al.*,
Respondents below,

THE PENNSYLVANIA RAILROAD COMPANY, *et al., etc.*,
Appellants.

JAMES T. OWENS,
Prosecutor-Respondent,

vs.

WILLIAM D. KELLY, State Tax Commissioner of New Jersey, *et al.*,
Respondents below,

THE PENNSYLVANIA RAILROAD COMPANY, *et al., etc.*,
Appellants.

CITY OF JERSEY CITY, a municipal corporation, *et al.*,
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Respondents below,

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Appellants.

On Certiorari to Review Assessments under Chapter 291 of the Laws of 1941.

On Appeal from New Jersey Supreme Court

On Certiorari to Review Assessments under Chapter 291 of the Laws of 1941, as Amended by Chapter 169 of the Laws of 1942.

BRIEF IN BEHALF OF RESPONDENTS-APPELLANTS THE PENNSYLVANIA RAILROAD COMPANY AND THE COMPANIES COMPRISING THE PENNSYLVANIA RAILROAD SYSTEM, AND THE PENNSYLVANIA-READING SEASHORE LINES.

New Jersey Court of Errors and Appeals

February Term, 1946

(Title of case No. 2.)

CITY OF JERSEY CITY, a municipal corporation,
Prosecutor,

vs.

STATE BOARD OF TAX APPEALS,
DELAWARE, LACKAWANNA & WESTERN RAILROAD SYSTEM, *et al.,*
Respondents.

CITY OF JERSEY CITY, a municipal corporation,
Prosecutor,

vs.

STATE BOARD OF TAX APPEALS,
ERIE RAILROAD SYSTEM, *et al.,*
Respondents.

CITY OF JERSEY CITY, a municipal corporation,
Prosecutor,

vs.

STATE BOARD OF TAX APPEALS,
HUDSON AND MANHATTAN RAILROAD SYSTEM, *et al.,*
Respondents.

CITY OF JERSEY CITY, a municipal corporation,
Prosecutor,

vs.

STATE BOARD OF TAX APPEALS,
LEHIGH VALLEY RAILROAD SYSTEM, *et al.,*
Respondents.

CITY OF JERSEY CITY, a municipal corporation,
Prosecutor,

vs.

STATE BOARD OF TAX APPEALS,
NEW YORK CENTRAL RAILROAD SYSTEM, *et al.,*
Respondents.

CITY OF JERSEY CITY, a municipal corporation,
Prosecutor-Respondent,

vs.

STATE BOARD OF TAX APPEALS,
PENNSYLVANIA RAILROAD SYSTEM, *et al.,*
Respondents below,
THE PENNSYLVANIA RAILROAD COMPANY, *et al., etc.,*
Appellants.

On Certiorari

(Review of Assessments of 1941 made under Revised Statutes.)

On Appeal from New Jersey Supreme Court

BRIEF OF RESPONDENTS-APPELLANTS THE PENNSYLVANIA RAILROAD COMPANY AND THE COMPANIES COMPRISING THE PENNSYLVANIA RAILROAD SYSTEM.

New Jersey Court of Errors and Appeals

February Term, 1946

(Title of case No. 5.)

CITY OF JERSEY CITY, a municipal corporation,
Prosecutor,

vs.

STATE BOARD OF TAX APPEALS,
LEHIGH VALLEY RAILROAD SYSTEM, *et al.,*
Respondents.

CITY OF JERSEY CITY, a municipal corporation,
Prosecutor,

vs.

STATE BOARD OF TAX APPEALS,
ERIE RAILROAD SYSTEM, *et al.,*
Respondents.

CITY OF JERSEY CITY, a municipal corporation,
Prosecutor,

vs.

STATE BOARD OF TAX APPEALS,
DELAWARE, LACKAWANNA & WESTERN RAILROAD SYSTEM, *et al.,*
Respondents.

CITY OF JERSEY CITY, a municipal corporation,
Prosecutor,

vs.

STATE BOARD OF TAX APPEALS,
HUDSON AND MANHATTAN RAILROAD SYSTEM, *et al.,*
Respondents.

CITY OF JERSEY CITY, a municipal corporation,
Prosecutor,

vs.

STATE BOARD OF TAX APPEALS,
NEW YORK, SUSQUEHANNA & WESTERN RAILROAD SYSTEM, *et al.,*
Respondents.

CITY OF JERSEY CITY, a municipal corporation,
Prosecutor-Respondent,

vs.

STATE BOARD OF TAX APPEALS,
PENNSYLVANIA RAILROAD SYSTEM, *et al.,*
Respondents below,
THE PENNSYLVANIA RAILROAD COMPANY, *et al., etc.,*
Appellants.

CITY OF JERSEY CITY, a municipal corporation,
Prosecutor,

vs.

NEW YORK CENTRAL RAILROAD SYSTEM, *et al.,*
Respondents.

On Certiorari (Assessments of 1942)

On Appeal from New Jersey Supreme Court

BRIEF OF RESPONDENTS-APPELLANTS THE PENNSYLVANIA RAILROAD COMPANY AND THE COMPANIES COMPRISING THE PENNSYLVANIA RAILROAD COMPANY SYSTEM.

The Pennsylvania-Reading Seashore Lines joins in the Brief of the Delaware, Lackawanna and Western Railroad Company, Erie Railroad Company, Lehigh Valley Railroad Company, and New York Central Railroad Company, and their respective systems, by consent of their respective Counsel, in so far as it relates to the issue of the constitutionality of the Railroad Tax Law of 1941, and amendment, therein referred to, and the lack of legal status of the Prosecutors-Respondents. (Case No. 1.)

WALL, HAIGHT, CAREY & HARTPENCE,
Of Counsel with Respondent-Appellant the Pennsylvania-Reading Seashore Lines.

To be argued orally by
JOHN A. HARTPENCE,
Of Counsel.

The Pennsylvania Railroad Company and the Companies comprising the Pennsylvania Railroad System, join in the Brief of the Delaware, Lackawanna and Western Railroad Company, Erie Railroad Company, Lehigh Valley Railroad Company, and New York Central Railroad Company, and their respective systems, by consent of their respective Counsel, in so far as it relates to the issue of the constitutionality of the Railroad Tax Law of 1941, and amendment, therein referred to, and the lack of legal status of the Prosecutors-Respondents. (Cases Nos. 1, 2 and 5.)

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Of Counsel with Respondents-Appellants The Pennsylvania Railroad Company and the Companies comprising the Pennsylvania Railroad Company System.

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JOHN A. HARTPENCE,
Of Counsel.

13 FEB T.1946 to 22 FEB T.1946

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CITY OF JERSEY CITY, a municipal corporation, *et al.*,
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BRIEF OF RESPONDENTS - APPELLANTS, HUDSON AND MANHATTAN RAILROAD COMPANY AND THE COMPANIES COMPRISING HUDSON AND MANHATTAN RAILROAD SYSTEM.

New Jersey Court of Errors and Appeals

February Term, 1946

(Title of case No. 2.)

CITY OF JERSEY CITY, a municipal corporation,
Prosecutor,

vs.

STATE BOARD OF TAX APPEALS,
DELAWARE, LACKAWANNA & WESTERN RAILROAD SYSTEM, *et al.*,
Respondents.

CITY OF JERSEY CITY, a municipal corporation,
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STATE BOARD OF TAX APPEALS,
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CITY OF JERSEY CITY, a municipal corporation,
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CITY OF JERSEY CITY, a municipal corporation,
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Appellants.

On Certiorari.

(Review of Assessments of 1941 made under Revised Statutes.)

On Appeal from New Jersey Supreme Court.

BRIEF OF RESPONDENTS - APPELLANTS, HUDSON AND MANHATTAN RAILROAD COMPANY AND THE COMPANIES COMPRISING HUDSON AND MANHATTAN RAILROAD SYSTEM.

New Jersey Court of Errors and Appeals

February Term, 1946

(Title of case No. 5.)

CITY OF JERSEY CITY, a municipal corporation,
Prosecutor,

vs.

STATE BOARD OF TAX APPEALS,
LEHIGH VALLEY RAILROAD SYSTEM, *et al.,*
Respondents.

CITY OF JERSEY CITY, a municipal corporation,
Prosecutor,

vs.

STATE BOARD OF TAX APPEALS,
ERIE RAILROAD SYSTEM, *et al.,*
Respondents.

CITY OF JERSEY CITY, a municipal corporation,
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STATE BOARD OF TAX APPEALS,
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THE PENNSYLVANIA RAILROAD COMPANY, *et al., etc.,*
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CITY OF JERSEY CITY, a municipal corporation,
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vs.

NEW YORK CENTRAL RAILROAD SYSTEM, *et al.,*
Respondents.

On Certiorari.
(Assessments of 1942.)

On Appeal from New Jersey Supreme Court.

BRIEF OF RESPONDENTS - APPELLANTS, HUDSON AND MANHATTAN RAILROAD COMPANY AND THE COMPANIES COMPRISING HUDSON AND MANHATTAN RAILROAD SYSTEM

The Hudson and Manhattan Railroad Company and the Companies comprising Hudson and Manhattan Railroad System join in the brief of Delaware, Lackawanna and Western Railroad Company, Erie Railroad Company, Lehigh Valley Railroad Company, New York Central Railroad Company, and their respective systems.

CARPENTER, GILMOUR & DWYER,
Of Counsel with Respondents-Appellants, Hudson and Manhattan Railroad Company and Hudson and Manhattan Railroad System.

CARL S. KUEBLER,
Of Counsel.

Jersey Law Print, 78 Montgomery Street, Jersey City, N. J. - BErgen 4-1589

New Jersey Court of Errors and Appeals.

Case No. 2.

City of Jersey City, a municipal corporation,
Prosecutor-Appellee,
vs.
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City of Jersey City, a municipal corporation,
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vs.
State Board of Tax Appeals,
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and
Erie Railroad System, et al.,
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City of Jersey City, a municipal corporation,
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On Certiorari.

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(Review of Assessments of 1941, made under Revised Statutes.)

Titles continued on next page.

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City of Jersey City, a municipal corporation,
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State Board of Tax Appeals,
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and
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City of Jersey City, a municipal corporation,
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Titles continued on next page.

New Jersey Court of Errors and Appeals.

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(Assessments of 1942.)

MacCrellish & Quigley Co., Printers, Trenton, New Jersey

NEW JERSEY
Court of Errors and Appeals

(CAPTION OMITTED.)

BRIEF ON BEHALF OF THE STATE OF NEW JERSEY, ACTING THROUGH ITS DULY APPOINTED STATE OFFICERS.

Cases Nos. 1 to 5, Inclusive.

STATEMENT.

No useful purpose will be served in restating the many decisions of the State and Federal Courts in connection with the great volume of litigation having to do with the assessment of property used for railroad purposes in the State of New Jersey by the operating railroad companies in the 10-year period from 1931 to 1940. This Court is acquainted with the volume of that litigation. Such litigation was continuous and costly to the State, not only with regards the actual expenses attendant thereto but because of the failure to receive prompt payment of sorely-needed revenues during a period of financial crisis.

Notwithstanding that the State was uniformly successful in the outcome of all such litigation, there were those who were of the mind that the method used by our State to determine the burden to be placed upon the operating railroad properties was not without fault and that there should be a change in the method of determining the amount

which the said railroads should contribute annually to the cost of the government of our State. This seems to have been the view of Judge Biggs when he said in *Lehigh Valley Railroad Company* vs. *Martin,* 100 F. 2nd 139, at page 142:

> "None the less it is not an exaggeration to say that physical valuations constitute the assessments, valuation of franchises aside, as contended by the appellants, and it is obvious that many items which could properly be considered in estimating valuations for tax assessments have not been considered by the taxing authorities at all. System values have been disregarded except to the very slight degree indicated in arriving at the valuations of franchises. Capitalized average income and capital charges have not been considered. Revenue ton miles, passenger and freight miles, both as to the entire systems and as to trackage in New Jersey, have been disregarded. Little emphasis has been placed upon the functional values of the appellants' properties. The record now before us convinces us that the method of assessment employed by the State of New Jersey for railroad properties may be justly criticized and might well be subject to revision.
>
> "None the less the methods of assessment and valuation employed in the case at bar have received the sanction of the Court of New Jersey and are now firmly embodied in its laws. *Central R. R. Co.* vs. *Thayer Martin,* 114 N. J. L. 69, 175 A. 637; *Central R. R. Co.* vs. *State Tax Department,* 112 N. J. L. 5, 169 A. 489; *State Board* vs. *Central R. R. Co.,* 48 N. J. L. 146, 4 A. 578, *Central R. R. Co.* vs. *State Board,* 49 N. J. L. 1, 7 A. 306."

The suggestion of the learned judge brings to mind the observation of Mr. Justice Holmes of the United States Supreme Court in *Erie Railroad Company* vs. *Public Utility Commissioners,* 254 U. S. 394, having to do with the question of imposing the cost of grade crossing eliminations upon a railroad company, when he said at page 411:

> "If the burdens imposed are so great that the road cannot be run at a profit it can stop, whatever the misfortunes the stopping may produce. *Brooks-Scanlon Co.* vs. *Railroad Commission of Louisiana,* 251 U. S. 396. Intelligent self-interest should lead to a careful consideration of what the road is able to do without ruin, but this is not a constitutional duty."

Quite obviously impressed by the magnitude of litigation and the necessity of finding some formula that would operate without such constant friction, the Legislature appointed a commission to make a study of this urgent and important problem. As a result of its finding, Chapter 291 of the Laws of 1941 was passed, wherein there is provided a franchise excise tax which with a property tax at a fixed rate of $3.00 per hundred provides the total tax burden of an operating railroad company for a given year. Sections 54:29a–13 and 14, providing for the franchise excise tax, read as follows:

> "An annual excise tax is hereby levied upon all railroads operating within this state for the privilege of exercising their respective franchises, to be computed in the manner hereinafter provided. This tax shall be in lieu of any other tax or taxes of or upon such franchises.

"For the purpose of this section, net railway operating income shall be computed as total railway operating revenues from all sources, including any revenue whatever derived directly or indirectly from property which is used for railroad purposes, less costs of railroad maintenance, operation and depreciation, railway tax accruals, uncollectible railway revenues, rentals (both debits and credits) for equipment leased for less than one year or interchanged, and joint facility rents (both debits and credits), and the amount remaining shall constitute the net railway operating income hereinafter mentioned. Deductions from operating revenues for depreciation, additions and betterments, and compensation for personal services shall be subject to regulation by the commissioner, as to reasonableness of amount and appropriateness of accounting distribution. Depreciation charges shall in no instance, however, exceed the amount claimed by the railroad for depreciation in its report or reports to the interstate commerce commission and fixed, or if none was claimed then as fixed, by the interstate commerce commission in determining the net railway operating income of the railroad for the year under consideration. A 'franchise base' shall be computed for each year by deducting the sum of two hundred thousand dollars ($200,000.00) from the next preceding year's net railway operating income for each system, and railroad not part of a system, as above defined, and allocating such part of the remainder to the state of New Jersey, as the number of miles of all track over which the railroad or system operates in this state bears to the total number of miles of all track over which it operates. The franchise base for each year

shall be the amount so allocated capitalized at three per centum (3%), except that in the case of all electrically operated railroads at least seventy-five per centum (75%) of whose railroad revenues is derived from passenger traffic, the franchise base for each year shall be the amount so allocated capitalized at eight per centum (8%)."

The Prosecutor-Appellants, the City of Jersey City and certain other municipalities, hereinafter referred to as Jersey City, contested the constitutionality of the new acts. The Supreme Court below held that (1) Chapter 291 of the Laws of 1941, as amended by Chapter 169 of the Laws of 1942, hereinafter called the New Tax Acts, are constitutional as to taxes assessed for 1942 and for all years subsequent thereto; (2) That the said New Tax Acts were unconstitutional insofar as it was sought to assess the railroad companies for 1941 taxes pursuant to the terms of such New Tax Acts, for the reason that the State already had acquired vested rights in and to a larger amount of taxes which had already been assessed pursuant to the provisions of R. S. 54:19–1 et seq., hereinafter referred to as the Old Tax Acts, and that the reduction in taxes constituted a gift to the railroad companies in contravention of Article I, section 20, of the New Jersey Constitution; and (3) that the statutory requirement for the conclusion of hearings on or before the 1st day of November and the certification to the State Tax Commissioner of the findings of the State Board of Tax Appeals between November 5 and November 10 is directory and not mandatory.

The several railroad companies have now appealed to this Court from the judgment of the Supreme Court with respect to the constitutionality of the 1941 assessments under the New Tax

Acts and with respect to its determination concerning the directory nature of the statutory requirement for the completion of the review of assessments and certification to the State Tax Commissioner by the State Board of Tax Appeals on or before the said date of November 10. Jersey City has appealed to this Court from that portion of the judgment of the Supreme Court which holds that the New Tax Acts are constitutional insofar as taxes assessed thereunder for the years 1942 and subsequent thereto are concerned.

In its brief Jersey City has made this statement:

> "The position of the Attorney-General having been sustained on every issue argued below, we assume that he will argue for the affirmance of the Supreme Court in all respects."

It will be the purpose of the present Attorney-General to urge the same points that were urged by the Honorable David T. Wilentz, who was Attorney-General at the time of the argument below. But the statement of Jersey City does not accurately state the position of the Attorney-General below. In the argument before the Supreme Court, the Attorney-General argued that the New Tax Acts were constitutional. He argued that the statutory date was directory and not mandatory. The present Attorney-General is of the same opinion on both of these points. Concerning the question of the 1941 taxes, we are unable to say just exactly what the position of the Attorney-General was below. In his brief, the Attorney-General stressed the point that the new tax law was adopted before payment of the taxes levied under the Old Tax Act could be exacted. He stated in his brief that the State officers "do not feel obliged to meet the charge of Jersey City that the change in assessment method constituted a donation to the

railroads.'' This statement is peculiarly significant in view of the fact that the Attorney-General was at that very time diligently and successfully urging that the forgiveness of the past due interest constituted an unconstitutional gift.

A reading of the brief of the Attorney-General below, in the light of the position taken by him in the tax settlement dispute, reported in *Wilentz* vs. *Hendrickson,* 135 N. J. Eq. 244, must convince one that the Attorney-General made a very definite distinction between the situation created in the two cases and did not consider the 1941 taxes severable from the operation of the New Tax Acts. Notwithstanding that it might be argued that the judgment concerning the 1941 taxes was not in accord with the views of the Attorney-General below, the State has not taken an appeal on this phase of the matter. We shall, therefore, confine ourselves to a discussion of the constitutionality of the New Railroad Tax Acts generally and on the question of the directory or mandatory nature of the statutory date for review, on both of which points the State agrees with the determination of the Supreme Court.

Due to the great amount of railroad tax litigation, had it become necessary for the State to take a definite position on the narrow question of the constitutionality with respect to the 1941 taxes, it would have been necessary for the State to have asked for a continuance of the matter to permit the taking of an appeal if such course should be deemed desirable. Counsel for Jersey City requested that there be no such delay as the city was particularly desirous of having an early determination of this matter. We make this statement so that it may not be said that the failure of the State to take an appeal from this portion of the judgment must be construed as an acquiescence in the views expressed by the Supreme Court concerning the 1941 taxes.

We repeat that on the narrow and close question of the constitutionality of the 1941 taxes we shall express no opinion, leaving this matter to be argued by the city of Jersey City and the railroad companies who have already filed very able and voluminous briefs on this matter.

Jersey City (B., p. 3) has stated that the franchise taxes "in no way bear upon the *ad valorem* assessments of the remaining railroad property." This was not just a passing observation but the statement has been repeated several times in the city's brief. The statement shows such a misunderstanding of the workings of the New Tax Acts that we believe that a discussion of such workings under a separate point will assist the Court in an understanding of the matter presently before it. It is the very feature of the integration of the franchise provisions of the New Tax Acts with property valuations which is the particular virtue of the new method of determining the burden which a given railroad company operating in the State of New Jersey must bear in any year.

We shall develop our argument under the following points:

POINT I. Jersey City misunderstands the workings of the New Tax Acts when it states that the excise tax "in no way bears upon the *ad valorem* assessments of remaining railroad property."

POINT II. Chapter 291 of the Laws of 1941, as amended by Chapter 169 of the Laws of 1942, is valid legislation.

a. The Legislature has the power to make classifications in order to determine the tax burden to be borne by those who are included within a given class.

b. Property in railroad use constitutes a proper classification.

c. The present legislation fully complies with the rule that a class must include all property similarly situated.

POINT III. Concerning the applicability of the New Tax Acts to 1941 taxes.

POINT IV. The statutory provision requiring final determination by the State Board of Tax Appeals on or before the 1st day of November is directory and not mandatory.

POINT I.

Jersey City misunderstands the workings of the New Tax Acts when it states that the excise tax "in no way bears upon the ad valorem assessments of remaining railroad property."

We have already pointed out that, after continuous and costly litigation, the Legislature of the State of New Jersey sought to devise a method whereby the earnings of an operating railroad should be considered in determining the tax burden to be borne by an operating railroad company in a given year. By sections 54:29A–13 and 14, there was provided a franchise excise tax. Those sections read as follows:

> "An annual excise tax is hereby levied upon all railroads operating within this state for the privilege of exercising their respective franchises, to be computed in the manner hereinafter provided. This tax shall be in lieu of any other tax or taxes of or upon such franchises.

"For the purpose of this section, net railway operating income shall be computed as total railway operating revenues from all sources, including any revenue whatever derived directly or indirectly from property which is used for railroad purposes, less costs of railroad maintenance, operation and depreciation, railway tax accruals, uncollectible railway revenues, rentals (both debits and credits) for equipment leased for less than one year or interchanged, and joint facility rents (both debits and credits), and the amount remaining shall constitute the net railway operating income hereinafter mentioned. Deductions from operating revenues for depreciation, additions and betterments, and compensation for personal services shall be subject to regulation by the commissioner, as to reasonableness of amount and appropriateness of accounting distribution. Depreciation charges shall in no instance, however, exceed the amount claimed by the railroad for depreciation in its report or reports to the interstate commerce commission and fixed, or if none was claimed then as fixed, by the interstate commerce commission in determining the net railway operating income of the railroad for the year under consideration. A "franchise base" shall be computed for each year by deducting the sum of two hundred thousand dollars ($200,000.00) from the next preceding year's net railway operating income for each system, and railroad not part of a system, as above defined, and allocating such part of the remainder to the state of New Jersey, as the number of miles of all track over which the railroad or system operates in this state bears to the total number of miles of all track over which it operates. The franchise base for each year shall be the

amount so allocated capitalized at three per centum (3%), except that in the case of all electrically operated railroads at least seventy-five per centum (75%) of whose railroad revenue is derived from passenger traffic, the franchise base for each year shall be the amount so allocated capitalized at eight per centum (8%)."

From the above we find that the State has provided a means whereby the tax burden to be borne by a railroad company shall include a factor of earnings but that the earning or revenue figure which is used is the net operating income before any deduction has been made for interest upon bonds, rentals of right of way, and other fixed charges. A franchise base is determined as follows: If the net operating income is $6,200,000, there is deducted therefrom the sum of $200,000. If 25% of the number of miles of all tracks of the railroad or system lies in the State of New Jersey, then ¼ of the $6,000,000 or $1,500,000 becomes the franchise base for the succeeding year.

At page 3 of Jersey City's brief, we find the following:

"As pointed out, these excise taxes are in lieu of the assessment of the franchises as property, and in no way bear upon the *ad valorem* assessments of the remaining railroad property, but at any rate these taxes fail to equal the reduction in the *ad valorem* assessments by $3,142,937.23."

As we stated above, the fact that the gist of this statement is repeated several times indicates quite clearly that Jersey City has leaned heavily upon this incorrect premise to support its otherwise wholly untenable position.

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Jersey City has failed to point out that the property tax upon the franchises of all of the railroads operating in New Jersey for the year 1941 under the old law would have amounted to the sum of only $138,377, which is 4.818% of a total assessed valuation of $2,872,089. When we realize that the total assessed valuation of all railroad property for the year 1941 was $367,203,939, we see clearly that the property assessment on franchises of $2,872,089 or less than eight-tenths of one per cent of the total was too insignificant of itself to have been a major factor in bringing about passage of the new tax legislation. As Mr. Justice Perskie pointed out in his opinion the franchise tax under the 1941 act would have been $4,163,108.43 and under the 1941 act, as amended by Chapter 169 of the Laws of 1942, the sum of $4,026,812.90, or over 30 times the amount of the franchise property tax under the old act.

There can be no doubt but that the Legislature sought by the new legislation to find a more equitable method of taxing the railroad companies who had been continuously complaining for over 10 years that the burden which they were forced to carry was unjust and inequitable. We have given you the views of Judge Biggs expressed in the course of litigation having to do with the Old Tax Acts. We have stated the view of Mr. Justice Holmes concerning the attitude of a State toward such corporations. It is clear from a reading of the New Tax Acts that said Tax Acts were intended to be treated as a whole and to be a substitution for the old property tax on such basis. The very careful method of integration set forth in the act clearly shows this to be the case.

We believe that we can be of help to this Court if we set out certain figures showing the operation of the New Tax Acts. We have prepared a schedule marked "Schedule 1" showing the taxes

to be paid by a railroad company which has an assessed valuation of $35,000,000. We have shown on this schedule the amount of property tax, franchise tax and of total tax that will be paid to the State on the earnings of such company if it operates within the normal range provided by statute. In our discussion we shall treat as the normal range those situations where neither the minimum or maximum provisions of the act shall be operative. On this schedule we have shown a range of earnings from $1,500,000, below which the minimum operation of the act is applicable and $2,310,000, above which the maximum provision of the act is applicable. We have shown on this schedule the capitalization of the said earnings at 3%, at 4% and at 5%, in each instance the property tax to be figured at the same rate as that of capitalization, which is the basis of the New Tax Acts. The schedule is as follows:

SCHEDULE 1

On Assessed Value of $35,000,000—Earnings Capitalized at 3%

Earnings	*Capitalized at 3%*	*Amount Subject to Franchise*	*Franchise Tax at 3%*	*Property Tax at 3%*	*Total Tax*	*Remarks*
$1,500,000	$50,000,000	$15,000,000	$450,000	$1,050,000	$1,500,000	
$1,800,000	$60,000,000	$25,000,000	$750,000	$1,050,000	$1,800,000	
$2,100,000	$70,000,000	$35,000,000	$1,050,000	$1,050,000	$2,100,000	Equals 120% of
$2,310,000	$77,000,000	$42,000,000	$1,260,000	$1,050,000	$2,310,000	Property Tax.
Any greater amount tax remains constant—			$1,260,000	$1,050,000	$2,310,000	

On Assessed Value of $35,000,000—Earnings Capitalized at 4%

Earnings	*Capitalized at 4%*	*Amount Subject to Franchise*	*Franchise Tax at 4%*	*Property Tax at 4%*	*Total Tax*
$1,500,000	$37,500,000	$2,500,000	$100,000	$1,400,000	$1,500,000
$1,800,000	$45,000,000	$10,000,000	$400,000	$1,400,000	$1,800,000
$2,100,000	$52,500,000	$17,500,000	$700,000	$1,400,000	$2,100,000
$2,310,000	$57,750,000	$22,750,000	$910,000	$1,400,000	$2,310,000

Note—Above within normal range of present 3% Act and excludes maximum and minimum.

On Assessed Value of $35,000,000—Earnings Capitalized at 5%

Earnings	*Capitalized at 5%*	*Amount Subject to Franchise*	*Franchise Tax at 5%*	*Property Tax at 5%*	*Total Tax*
$1,500,000	Earnings too low to permit operation.				
$1,800,000	$36,000,000	$1,000,000	$50,000	$1,750,000	$1,800,000
$2,100,000	$42,000,000	$7,000,000	$350,000	$1,750,000	$2,100,000
$2,310,000	$46,200,000	$11,200,000	$560,000	$1,750,000	$2,310,000

Note—Above within normal range of present 3% Act and excludes maximum and minimum.

From the above it is apparent that in the normal range the State will always take as total tax in a given year the full amount of the franchise base determined from the prior year's net operating income. But we also note from this schedule that it makes no difference, if we are in the normal range, whether the tax is 3% or 3½% or 4% and the capitalization is upon the same basis, nevertheless the total amount of tax paid to the State will always be the same. When we have as a franchise base an amount of $1,800,000, which is considerably below the average of earnings within the normal range, we can capitalize and tax at a rate as high as 5% and we will still receive for the State of New Jersey the exact same amount of total tax.

But the operation of the new act has other very interesting features. We have prepared a schedule marked "Schedule 2" which gives certain figures for different earning experiences. The said "Schedule 2" is as follows:

SCHEDULE 2

Example .....Net Operating Income — $6,200,000
Statutory Base — $6,000,000
Allocation Factor 25%
Allocated to New Jersey — $1,500,000
(Franchise Base)

Assessed Value	*Capitalized at 3%*	*Property Tax*	*Franchise Tax*	*Total Tax*
$23,000,000	$50,000,000	$690,000	$810,000	$1,500,000
$25,000,000	$50,000,000	$750,000	$750,000	$1,500,000
$30,000,000	$50,000,000	$900,000	$600,000	$1,500,000
$35,000,000	$50,000,000	$1,050,000	$450,000	$1,500,000

NOTE—Below $23,000,000 the 120% maximum would apply.

Above $35,000,000 assessed valuation, the minimum provisions of the Act would apply. Thus at $36,000,000 the State would receive $1,080,000 property tax plus 30% of $1,500,000 or $1,530,000.

NOTE—Above within normal range of present 3% Act and excludes maximum and minimum.

Example .....Net Operating Income — $7,400,000
Statutory Base — $7,200,000
Allocation Factor 25%
Allocated to New Jersey — $1,800,000

Assessed Value	*Capitalized at 3%*	*Property Tax*	*Franchise Tax*	*Total Tax*
$28,000,000	$60,000,000	$840,000	$960,000	$1,800,000
$30,000,000	$60,000,000	$900,000	$900,000	$1,800,000
$35,000,000	$60,000,000	$1,050,000	$750,000	$1,800,000
$40,000,000	$60,000,000	$1,200,000	$600,000	$1,800,000
$42,000,000	$60,000,000	$1,260,000	$540,000	$1,800,000

NOTE—Maximum would apply a little below $28,000,000 and minimum at an assessed value of $42,000,000.

Example .....Net Operating Income — $8,600,000
Statutory Base — $8,400,000
Allocation Factor 25%
Allocated to New Jersey — $2,100,000

Assessed Value	*Capitalized at 3%*	*Property Tax*	*Franchise Tax*	*Total Tax*
$33,000,000	$70,000,000	$990,000	$1,110,000	$2,100,000
$35,000,000	$70,000,000	$1,050,000	$1,050,000	$2,100,000
$40,000,000	$70,000,000	$1,200,000	$900,000	$2,100,000
$45,000,000	$70,000,000	$1,350,000	$750,000	$2,100,000
$50,000,000	$70,000,000	$1,500,000	* $630,000	$2,130,000

NOTE—Maximum would apply just below assessed value of $33,000,000 and minimum (*) would apply just short of $50,000,000.

Example .....Net Operating Income — $9,440,000
Statutory Base — $9,240,000
Allocation Factor 25%
Allocated to New Jersey — $2,310,000

Assessed Value	*Capitalized at 3%*	*Property Tax*	*Franchise Tax*	*Total Tax*
$35,000,000	$77,000,000	$1,050,000	$1,260,000	$2,310,000
$40,000,000	$77,000,000	$1,200,000	$1,110,000	$2,310,000
$45,000,000	$77,000,000	$1,350,000	$960,000	$2,310,000
$50,000,000	$77,000,000	$1,500,000	$810,000	$2,310,000
$54,000,000	$77,000,000	$1,620,000	* $693,000	$2,313,000

NOTE—Maximum would apply at assessed valuation of $35,000,000 and minimum at (*) approximately an assessed value of $54,000,000.

From this schedule we note that if the net operating income of a railroad for the year 1945 is $6,200,000, the statutory base less $200,000 would be $6,000,000, and if the allocation factor is 25% the franchise base, the amount allocated to New Jersey would be $1,500,000. This amount would be paid to the State of New Jersey as the total of its 1946 taxes no matter whether the assessed valuation of the property for 1946 should be $23,000,000 or any sum between that amount and $35,000,000. If, of course, the valuation should be below $22,500,000, then the maximum provision of the act would come into play and the State would not receive the full amount of $1,500,000. Also, if the assessed valuation should be in excess of $35,000,000, then the property tax at 3% would be such that with the 30% minimum the total tax to be paid the State would be in excess of $1,500,000.

Similar tables have been prepared and submitted in Schedule 2 above, for earnings of $1,800,000, $2,100,000 and $2,310,000, which is the maximum figure used on our "Schedule 1" above. From the schedules we note that with earnings of $1,800,000, it makes no difference what the assessed valuation is within a range from $28,000,000 to $42,000,000, nevertheless the total amount of the tax will be the same. If the earnings are $2,100,000, the range would be from $33,000,000 to $50,000,000, and notwithstanding the amount of the assessed valuation, the tax paid to the State would be the same. The same comment applies to earnings of $2,310,000, in which case we have a range from $35,000,000 to $54,000,000, where the total tax paid to the State will be the same notwithstanding the amount of the assessed valuation within such range.

We have prepared a further schedule showing the taxes to be paid on varying earnings if the assessed valuation is $35,000,000.

This is marked "Schedule 3." It will be noted that upon an assessed valuation of $35,000,000 and the operation of the normal provisions of the act the State will receive from 4.28% to 6.6% of the assessed valuation. The complaint of Jersey City to the effect that a railroad company is to pay a 3% tax upon property is not well founded. We have also shown that when the earnings fall below that which was contemplated by those who prepared the plan, the State nevertheless secures a very substantial rate upon the assessed valuation. Thus, if the franchise base upon a $35,000,000 assessed valuation should fall 20% from $1,500,000 to $1,200,000, the State nevertheless would receive a 4% tax upon the assessed valuation. If the franchise base should fall 40% below the minimum prescribed by the act, the State would still receive 3.8% upon the assessed valuation. Herewith Schedule 3.

SCHEDULE 3

TAXES TO BE PAID ON VARYING EARNINGS IF ASSESSED VALUATION IS $35,000,000

Earnings Allocated to New Jersey	*Property Tax*	*Franchise Tax*	*Total Tax*	*% of Assessed Value*
Above $2,310,000	$1,050,000	$1,260,000	$2,310,000	6.6%
$2,310,000	$1,050,000	$1,260,000	$2,310,000	6.6%
$2,100,000	$1,050,000	$1,050,000	$2,100,000	6%
$1,800,000	$1,050,000	$750,000	$1,800,000	5.1%
$1,500,000	$1,050,000	$450,000	$1,500,000	4.28%
$1,200,000	$1,050,000	$360,000	$1,410,000	4%
$900,000	$1,050,000	$270,000	$1,320,000	3.8%
$600,000	$1,050,000	$180,000	$1,230,000	3.5%
$300,000	$1,050,000	$90,000	$1,140,000	3.3%

NOTE—To determine system net operating income of our suppositious case with 25% allocation factor multiply first column by 4 and add $200,000.

We have prepared a further table showing that a tax rate of 4.2857143% is the lowest that can obtain within the normal range. This table is

marked "Schedule 4" and shows that the said rate applied to any assessed valuation between $30,000,000 and $70,000,000 would always work out in such manner as to be the lowest possible tax that a railroad company could pay to the State on such assessed valuation and yet operate within the normal range of the statute. If the several figures are examined, it will be found that the total tax is the sum of 3% of the assessed valuation plus 3% of the capitalized value in excess of the assessed valuation and that at the same time the amount of the franchise tax constitutes 30% of the total of the two. In each instance this is the breaking point between the operation of the act within the normal range and the operation of the minimum provisions of the said act. Herewith Schedule 4:

SCHEDULE 4

TABLE SHOWING THAT A TAX RATE OF 4.2857143% IS LOWEST WITHIN THE NORMAL RANGE

Assessed Value	*Total Tax at Above Rate*	*Property Tax at 3%*	*Franchise Tax at 3%*	*Percentage of Net Operating Income*
$30,000,000	$1,285,713	$900,000	$385,713	30%
$35,000,000	$1,500,000	$1,050,000	$450,000	30%
$40,000,000	$1,714,285.72	$1,200,000	$514,285.72	30%
$45,000,000	$1,928,571.43	$1,350,000	$578,571.43	30%
$60,000,000	$2,571,428.58	$1,800,000	$771,428.58	30%
$70,000,000	$3,000,000.00	$2,100,000	$900,000	30%

It is thus apparent that in a case where a railroad company has net operating income in a given year that will place the said company within the normal range in the succeeding year, the State has placed a tax burden upon such railroad for the succeeding year equal to the allocated portion of the said net operating income. Thus, if in 1945, a given railroad company having an assessed valuation of $35,000,000 and with a 25% allocation factor

has net operating income of $6,200,000, the franchise base and the total tax for the succeeding year of such railroad company is $1,500,000.

But we must remember that when we speak of net operating income we speak of the income of one year and when we speak of the taxes predicated upon such net operating income we are speaking of taxes of another year. The State does not take any portion of the said net operating income of the preceding year. We want to make this clear because certain remarks made by the railroad companies are misleading on this score. We repeat that at the end of 1945 a railroad company having a net operating income available for fixed charges may use that money for those fixed charges. The franchise excise tax is not an additional tax for 1945 or in the nature of an income tax for that year. That figure simply fixes the limits for the succeeding year and the amount that is paid to the State comes out of total operating revenue, from which is deducted certain operating charges to arrive at the net operating income of the said succeeding year. Only if the operating experience of a railroad company is so poor that there is not even enough revenue to pay operating charges would there ever be any necessity of resorting to anything but current revenues for payment of current taxes. While on this point, it should be pointed out that in many instances the net operating income allocated to New Jersey will even be less than the taxes paid in such preceding year on the basis of which the said net operating income was determined.

The Legislature has devised a scheme that truly gives effect to the operating experiences of a railroad company in the determination of the tax burden to be borne by such railroad. But more, it has devised a scheme which makes it unnecessary as long as a railroad company is operating within the normal range to determine accurately that

which our Courts have said cannot be accurately determined, the exact value of a given operating railroad property. The ranges within which the tax would be the same is clearly shown on "Schedule 2" above. The argument of Jersey City to the effect that the State is taxing the railroad companies at a rate of only 3% as against a much higher rate on other property is likewise without merit. In no year has the result even approached 3%. We have shown by "Schedule 3" that within the normal range the interest rate varies from a low of 4.28% to a high of 6.6%.

The Legislature has devised a method of taxation which should show at any given period whether railroad companies are operating within the normal range contemplated by those who made the studies necessary to the framing of the new legislation. If a number of the said railroad companies should be operating below the normal range, then a resurvey can be made to determine whether or not the time has come to take the advice of Mr. Justice Holmes concerning the "intelligent self-interest" which should lead the State of New Jersey carefully to consider what the railroads are able to do without ruin. If, on the other hand, it should happen that due to advancement in the art or the installation of economies, railroads generally should begin to operate in the maximum class, then a resurvey would be in order to determine whether or not a change is warranted in the act to require a greater contribution from the companies.

There can be no doubt that the present act does provide for that which, Judge Biggs said in the case above mentioned (*Lehigh Valley Railroad Co. of New Jersey* vs. *Martin,* 100 F. 2nd 1939, 142), the Old Tax Act failed to do. It does take into account the revenues and applies income factors that within a wide range returns to the State an identical amount of taxation regardless of assessed

value or of capitalized factors. The legislation under review has been a step in the direction of correcting a very obvious lack that has been apparent for many years to all those except those who would not see.

The sole question is whether the Legislature has the power to classify the properties used for railroad purposes in the manner provided in the New Tax Acts. The Attorney-General below was of the opinion that the power does exist. The Supreme Court in its opinion agreed with that position. The present Attorney-General is of the same mind—the New Tax Acts are constitutional.

POINT II.

Chapter 291 of the Laws of 1941, as amended by Chapter 169 of the Laws of 1942, is valid legislation.

We have shown above what the Legislature has sought to do by enacting Chapter 291, of the Laws of 1941, as amended by Chapter 169 of the Laws of 1942. This matter has been argued extensively by Jersey City and the railroad companies in their respective appeals and cross-appeals. There is not much that we can add to this discussion. However, we beg leave to submit a few observations in connection with the question of the constitutionality of the New Tax Acts. We do not feel that the issue is as involved as is made to appear by the voluminous brief of Jersey City. We believe that the answer to the whole problem is contained in answering three very simple questions: (1) Does the Legislature have the power to make classifications in order to determine the tax burden which shall be borne by those who are included within a given class? (2) Is property in railroad use the proper subject of classification? and (3) Has the Legis-

lature complied with the rule that once a class has been created that all who are similarly situated must be included within that class?

a.

The Legislature has the power to make classifications in order to determine the tax burden to be borne by those who are included within a given class.

In *State, Hoey, Pros.,* vs. *Collector of Ocean Township,* 39 N. J. L. 75, affirmed 39 N. J. L. 501, the Court said at page 78:

> "It (the Legislature) may designate classes of persons and kinds of property to bear the cost; and if the burden of taxation be imposed upon those who, or the property which, by legislative designation, are to bear it, upon rules of uniformity, they become subject to its payment. *City of Paterson* vs. *Society for Useful Manufacturers,* 4 Zab. 385; *State, Rel., Trustees, etc.,* vs. *Township Committee of Readington,* 7 Vroom 66; 1 Dillon on Mun. Corp., Sec. 124."

In *Trenton Water Power Company* vs. *Parker,* 3 Vroom 426, at page 435, the Court said:

> "This power (of taxation) is necessarily unlimited in its extent, unless restrained or qualified by constitutional provisions, or legislative enactment, assuming the form of an irrepealable contract, and for that reason within the protection of the Constitution. No limitation or restriction upon the exercise of this essential attribute of government, will be raised by implication. . . ."

Jersey City has argued that the action in the instant case in taxing the several railroad companies under the terms of the New Tax Acts constitutes a taking of property without compensation. If the Legislature does have the power to make proper classifications for the purpose of determining the tax burden to be borne by those within a particular class, the argument of the said city is without merit. It would seem that in the final analysis, as involved as the argument of Jersey City seems to be, it all resolves around the answer to a single basic question—does the Legislature have the power to make classifications for tax purposes?

It is the position of the city that in providing for taxation of property the Legislature in order to comply with Article IV, sec. 7, par. 12 of the State Constitution, is under a positive duty to provide a method that will equalize taxes imposed upon railroad property with those imposed upon property generally. We do not need at this time to discuss the position that was taken by the Railroad Company during the last ten years of tax litigation to the effect that they were required to pay taxes out of all proportion to those paid by other owners of properties, for the reason that it has been held, without exception in our State, that so long as there is uniformity within a proper class the Legislature may determine the amount of tax burden that shall be borne by such class.

As pointed out by the Attorney-General below, it has been held that classification of property is permissible under Article IV, sec. 7, par. 12. He pointed out that this section does not require that all property be taxed. Any class of property may be taxed or may be exempted from taxation according to legislative policy. The requirement of the said section is not that property shall be taxed by

a general law and a uniform rule but by "general laws" and by "uniform rules."

Jersey Central Power and Light Co. vs. *Asbury Park,* 128 N. J. L. 141; Aff'd. 129 N. J. L. 253.

Salem and Penns Grove Traction Co. vs. *State Board,* 97 N. J. L. 386; Aff'd. 98 N. J. L. 570.

Schwarz vs. *Essex County Board,* 129 N. J. L. 129; Aff'd. 130 N. J. L. 177.

Commercial Trust Co. vs. *Hudson Board,* 86 N. J. L. 424; Aff'd. 87 N. J. L. 179.

Bergen Aqueduct Co. vs. *State Board,* 95 N. J. L. 486.

Central Railroad of N. J. vs. *State Board,* 48 N. J. L. 1, 146.

In *Jersey City* vs. *Martin,* 126 N. J. L. 353, Mr. Justice Heher said for this Court at page 360:

"The phrase 'uniform rules,' in constitutional intendment, 'does not refer to those regulations that pertain to the agencies and methods employed in the assessment and collection of taxes, but only to the basic rules for taxation—those that settle how the public burden is to be distributed, including the designation of the property that is to contribute, and the rate or ratio by which the taxes are to be laid and apportioned,' and 'the constitutional provision is satisfied by a uniformity that obtains without discrimination throughout a class of property set apart on reasonable grounds for separate treatment.' *Central Railroad Co.* vs. *State Board of Assessors,* 75 N. J. L. 120; affirmed, Ibid. 77."

A reading of this case will show that a portion of the tax under review was "a gross receipts tax in lieu of the taxation of personal property" (p. 364).

The rule concerning classification of property for taxation is not peculiar to New Jersey but is of wide application. We find in 61 *Corpus Juris* 126, Section 58, the following:

> "The Legislature may exercise wide discretion in selecting and classifying the subjects of taxation, and may arrange and divide the various subjects of taxation into distinct classes and impose different rates on the several classes without violating the requirement of equality and uniformity * * *."

To support this premise the said volume cites cases from 29 jurisdictions, including two cases from New Jersey. Those cases are *Essex County Park Commission* vs. *Town of West Orange,* 77 N. J. L. 575, and *State Board of Assessors* vs. *Central Railroad of New Jersey,* 48 N. J. L. 146.

In its argument concerning the question of classification for the purpose of taxation, Jersey City has cited many cases having to do with persons within a class complaining because others whose property belonged within that class had been excluded or having to do with situations where persons claimed they did not properly belong in a given class. It is quite obvious that Jersey City does not claim to be within the class of an operating railroad company nor do any of the individual prosecutors claim any such status. If such prosecutors have any grounds for complaint, such complaint should be directed toward relief of the tax to which they are presently subjected on the ground that properties which should have been included within the class under which they are paying taxes have been excluded.

Great emphasis is placed by Jersey City upon cases which do not contain facts in any wise similar to the case under discussion. The city emphasizes that "in the case of general taxation for governmental purposes benefit is presumed to accrue to all." This question was raised in cases where one within a class was claiming that he was not receiving benefits in proportion to the burden sought to be placed upon him as a member of the class. Such cases would be applicable only if the Legislature had included certain properties of the prosecutors within the class of railroad property and such prosecutors were now insisting that they be relieved because of lack of benefit. The argument has no place in a case where the Legislature has included all railroad property used by operating railroads within a given class such as in the instant case and only property in railroad use.

Considering the wealth of authority on the point, there can be no doubt but that the Legislature is fully empowered to make classifications in order to determine the burden to be borne by those who are included within the said classification.

b.

Property in railroad use constitutes a proper classification.

Jersey City has stated at page 144 of its brief that

> "This property (meaning property in railroad use) is devoted exclusively for the profit of the share-holders and bond-holders and not for the profit and benefit of the public."

The argument of Jersey City concerning the lack of power in the Legislature to provide for a separate classification for property in railroad use is predicated upon this false premise. Property in railroad use cannot be treated exactly as other privately owned property nor can we gainsay the fact that property in railroad use has generally been considered of a quasi public nature. And this is not only so with respect to taxation but with respect to other rights arising out of the operation of railroads generally. In *Beseman* vs. *Pennsylvania Railroad Company,* 50 N. J. L. 235, the plaintiff sought to obtain damages alleged to have been caused as an incident to the operation of a railroad company. The plaintiff sought to establish that the operator of a railroad property was under the same duty to adjoining property owners as any other private owner of property would be. In disallowing any such contention, and in sustaining the contention of the railroad company, the Court said at page 240:

> "This latter contention must, I think, be sustained. The legislative power is amply competent for such a purpose, and it is obvious that it has put forth such power. It is a radical error to regard these corporations as simply private. They have a public as well as a private aspect, and it is on this account that the immunity in question belongs to them. That they possess, in some degree, the nature of a public corporation cannot, and will not, be denied, for they could not otherwise acquire a foot of land for their roadway in this state by condemnation. The constitution prohibits the taking of private property for any other than a public purpose, so that the concession that a railroad company can compel the sur-

render of the land necessary for its purpose is an admission that such purpose is a public one, and the running of trains is as much a part of such purpose as the laying of the road bed is. It would seem quite irrational to say that the making of the track is an act done so far in behalf of the community that the eminent domesne of the state may be resorted to for its furtherance; but that the running of trains upon such track is a purely private affair, in which the people at large have no interest. These roads, in view of their effect upon social and commercial interests, are of vastly more importance than are most of the public highways, and it is on account of this transcendent usefulness that they, to a large extent, have been and must be regarded as public agencies."

That an operating railroad company does not have the same latitude in dealing with the public that the ordinary private corporation has is borne out by *O'Connor* vs. *Board of Public Utility Commissioners,* 129 N. J. L. 263, wherein this Court dealt with a situation where a railroad company sought to discontinue the losing business of carrying passengers while continuing to keep the profitable freight business. This Court said at page 265:

"It is hornhook law that a public service corporation enjoying special franchises as a grant from the public in consideration of service to be performed for the public, having the right of eminent domain, and in the case of a railway, having the right of way at road crossings, must either exercise the franchise as required by law, or surrender it."

A railroad company cannot, as is the case with the ordinary private corporation, refuse to undertake the non-profitable business while retaining that which returns to them a profit on their investment. The public is entitled, if a railroad company would continue in business, to have certain services performed notwithstanding they are performed at a loss by the companies. We cannot escape the fact that such a rule is of great benefit to the public nor can we deny that the continued operation of the railroad companies in New Jersey is essential to the orderly functioning of the economy of our State. Having just come through a war that has taxed to its capacity every resource of this country, we are particularly conscious at this time of the contribution which the successful operation of the several railroad companies in our State makes to the sum total of our success and prosperity. Were this question a novel one, there can be no doubt but that this Court must hold that the separate treatment of the operating railroad companies to determine their tax burden is a proper matter for legislative consideration.

But we do not have to rely upon any new theories of classification. Since this Court passed upon the constitutionality of the Railroad Tax Act of 1884, as reported in *Central Railroad* vs. *State Board,* 48 N. J. L. 146, it has been held without exception that the Legislature had the right and power to place property used for railroad purposes in the State of New Jersey in a separate class for the purposes of taxation. Notwithstanding the fact that there were a great number of separate opinions delivered in the just-mentioned case, the fact remains that since the date of that opinion, the Central Railroad case has been cited as authority for the proposition that property and particularly railroad property is a proper subject of classifica-

tion for tax purposes. Not only has such been the uniform determination by our own courts but the same rule has been laid down in the Federal Courts. In *Central Railroad* vs. *Martin,* 115 F. 2nd 968, 971, the Court said:

> "The separate classification by the State of railroad property for taxation was valid under both state and federal Constitutions. *State Board of Assessors* vs. *Central R. R. Co.,* 48 N. J. L. 146, 4 A. 578; Kentucky Railroad Tax Cases (*Cincinnati, N. O. & T. P. R. Co.* vs. *Kentucky*), 115 U. S. 321, 6 S. Ct. 57, 29 L. Ed. 414; *New York Rapid Transit Corp.* vs. *New York,* 303 U. S. 573, 58 S. Ct. 721, 82 L. Ed. 1024. In view of this separate classification by the New Jersey Tax laws, such discrimination, even if it had existed, would not have violated the Fourteenth Amendment. *Nashville, C. & St. L. Ry.* vs. *Browning, supra.* So far as discrimination within the railroad class is concerned, it was neither alleged nor shown."

c.

The present legislation fully complies with the rule that a class must include all property similarly situated.

There has been no allegation by Jersey City or by any of the individual owners of property that any property belonging within the classification of property in railroad use has been omitted from the operation of the New Railroad Tax Acts. Nevertheless, we believe it advisable to make a short statement concerning this phase of the subject. Reference to the records of the State Tax Department show that the said department has been me-

ticulous in including every known element in order to determine the value of property in railroad use. The department's summary sheet shows the following 21 items listed under Real Estate and 7 additional items under Tangible Personal Property.

Real Estate.

1. Land
2. Clearing and Grubbing
3. Graduation
4. Tunnels
5. Bridges, Retaining Walls and Culverts
6. Track and Its Appurtenances
7. Fencing
8. Crossings, Cattle Guards, Gates and Signs
9. Block signaling
10. Interlocking
11. Miscellaneous Signals
12. Passenger and Freight Stations
13. Shop Buildings and Engine Houses
14. Docks and Piers
15. Telegraph and Telephone Lines
16. Turn-tables, Transfer-tables, Track Scales and Track Cranes
17. Pintsch Gas Plants
18. Electric Light and Power Plants
19. Grain Elevators
20. Miscellaneous Structures
21. Electrification

Tangible Personal Property.

22. Shop, Machinery, Machine Tools and Appurtenances
23. Locomotives
24. Passenger-train Equipment
25. Freight-train Equipment
26. Miscellaneous Road Equipment
27. Floating or Marine Equipment
28. Materials and Supplies

We question whether or not any general tax act anywhere provides for the wealth of detail that has developed out of the administration of the New Jersey Railroad Tax Act. Not only has the Railroad Tax Acts provided for such detail in connection with assessment of railroad property but such acts specifically excludes from its operation property not used for railroad purposes. It is provided in R. S. 54:29a–4:

> "All the property of a railroad company not used for railroad purposes shall be assessed and taxed by the same assessors, in the same manner and at the same rate as the taxable property of other owners in the same taxing district."

The act also provides for the determination of dispute in the event of a difference of opinion as to the use of any given property for railroad purposes. Sections 54:29a–41 and 42 of the Revised Statutes provide a method for settling such disputes. It is obvious therefore that the Legislature not only sought to include within the operation of the New Railroad Tax Act all property used for railroad purposes but, in addition, has provided a method for excluding property not used for such railroad purposes.

In conclusion of this point it is urged that the Supreme Court correctly held that the Legislature had acted within its constitutional powers when it provided for a new method of taxing property in railroad use. Mr. Justice Perskie stated in his opinion in this case, as reported in 133 N. J. L. 202, at page 204:

> "From the very beginning, property used for railroad purposes has occupied and continues to occupy a separate classification, from all other property, in the field of taxation. The particular or special use to which railroad property has been and continues to be put is the basis which supports both its separate classification and the legislative power to impose a separate tax to be paid on property so classified and used. When, as here, the separate classification is proper and embraces all property in that classification, a law which taxes the property so classified may provide what tax the railroad companies, owners of the separately classified property, shall pay, and in what way it should be assessed provided that the assessment of their property is made 'under general laws and by uniform rules, according to the true value.' (Article IV, section VII, paragraph 12, state constitution.) That has been and is the settled law of this state. *State Board of Assessors* vs. *Central Railroad Co.,* 48 N. J. L. 146; Atl. Rep. 578; Cf. *Bergen and Dundee Railroad Co.* vs. *State Board of Assessors,* 74 N. J. L. 742; 67 Atl. Rep. 668 (Duffield Act of 1905); *Central Railroad Co.* vs. *State Board of Assessors,* 75 N. J. L. 771; 69 Atl. Rep. 239 (Perkins Acts of 1906).
>
> "However morally persuasive may be the philosophy underlying the contentions made that there can be no constitutional justification

(Cf. Article I, paragraph 16, and article IV, section VII, paragraph 12, state constitution), under our system of spreading the burden of taxation equally on all property, for imposing a lesser tax burden on property used for railroad purposes than is imposed on other property, that contention is logically inconsistent and legally without merit. It is inconsistent with the admission that property used for railroad purposes may properly be separately classed and runs afoul of the aforestated cases. Equality of the burden upon all taxable property can only be attained if and when there shall be but one general tax law applicable alike to all taxable property irrespective of its particular use. That, however, continues to be the 'dream unrealized.' *Central Railroad Company of New Jersey* vs. *State Tax Department,* 112 N. J. L. 5, 15; 169 Atl. Rep. 489, cer. den., 293 U. S. 568; 79 L. Ed. 667. There is no constitutional objection either to the classification or rate features to the legislation in question. Nor can there be any objection to the separation of the franchise tax from the ad valorem tax. *Jersey Central Power and Light Co.* vs. *Asbury Park,* 128 N. J. L. 141; 24 Atl. Rep. (2d) 526; affirmed, 129 N. J. L. 253; 29 Atl. Rep. (2d) 129. As to future taxation for which it was designed, the legislation, upon its face, is free from constitutional restraint. * * *."

This is a restatement of the law as it has existed in this State since the passage of the Act of 1884 and should be sustained.

POINT III.

Concerning the applicability of the New Tax Acts to 1941 taxes.

This Court having determined that it is within the power of the Legislature to prescribe for the classification of property in railroad use in the manner set forth in the New Railroad Tax Acts, it then becomes necessary to determine whether or not the said New Tax Acts are applicable to the 1941 taxes of the said railroad companies. Whether such acts are applicable to the 1941 taxes depends upon the answer to these questions: (1) Had the State acquired a vested right in and to a definite amount of taxes pursuant to the terms of the Old Tax Act which was in effect at the time of the passage of the said New Tax Acts? (2) If the answer to this question is in the affirmative, did the discontinuance by the railroad companies of the pending litigation concerning the amount and validity of the taxes assessed pursuant to the Old Tax Act furnish adequate consideration for the settlement of such taxes on the basis of the amount provided by the New Tax Acts?

Since the railroad companies generally will find it to their advantage to have the New Tax Acts apply inasmuch as they will pay a less amount of taxes for the year 1941 thereunder, it would appear to be in the public interest to let them sustain the burden of proving the applicability of the New Tax Acts to the year 1941. We have made our position clear in the statement preceding our argument and we merely wish to emphasize that we are taking no position on this narrow issue.

POINT IV.

The statutory provision requiring final determination by the State Board of Tax Appeals on or before the 1st day of November is directory and not mandatory.

The railroad companies contend that the provisions of R. S. 54:29a–34 of the New Railroad Tax Act, which reads as follows:

> "The state board of tax appeals shall conclude its hearings on all complaints provided for by section thirty-one (R. S. Cum. Supp. 54:29A–31) of this act (chapter) on or before the first day of November following the filing of the complaints, and between November fifth and November tenth following shall certify to the state tax commissioner its final determination."

is mandatory and that the State Board of Tax Appeals was not authorized to make any final determination after that date.

It is significant that notwithstanding all the railroad companies were conversant with a similar provision of the law contained in R. S. 54:26–7, yet the taking of testimony on the appeals of the said railroad companies and of Jersey City did not begin in many instances until after such date, and in several cases did not conclude until many months thereafter. During the pendency of such litigation the present jurisdictional question was never raised, but instead the participants proceeded to create records involving as many as 9 large volumes and comprising many thousands of pages of testimony and countless exhibits. Of course, if there was no jurisdiction in the first instance, ob-

viously the parties by their action could not give jurisdiction to the board. The answer to this course of conduct is that the provision of the Act had generally been deemed to be directory and not imperative or mandatory. The Legislature when it adopted the provisions of the new Act did so in the knowledge that such provisions had always been deemed to be directory. If it should be held that the provision is mandatory, then as will be shown hereafter the right of appeal given could very well be illusory instead of real and the very salutary provisions of *Arkansas Corporation Commission* vs. *Thompson,* 313 U. S. 132, which is predicated upon the premise that the State has afforded an adequate remedy of appeal to railroad taxpayers, would be lost to the State of New Jersey.

In *Sheldon* vs. *Sheldon,* 100 N. J. Eq. 24, the Court said at page 25:

> "The word 'Shall' is to be construed as merely permissive when no public benefit or private right requires it to be given an imperative meaning. 36 Cyc. 1161. (Cited approvingly by the court of errors and appeals in *McDonald* vs. *Freeholders of Hudson,* 99 N. J. Law 170—at p. 172). Even 'must' has been construed as merely directory where, from a construction of the entire statute and the object to be accomplished by it, such appears to have been the intention of the legislature. Ibid.
>
> "In *Hugg* vs. *Camden,* 39 N. J. Law 620, Mr. Justice Scudder, speaking for the supreme court, said (at p. 623): 'If it be intended by this statement that the statute is so far directory in fixing the time for this action by the city counsel that if it be determined afterwards acts done under it will be valid, it is undoubtedly true, for where a statute directs a person

in the discharge of a public duty, to do a thing at a certain time, without any negative words restraining him from doing it afterwards, or any expression from which such intent can be gathered, the naming of the time is but directory, and not a limitation of authority. While, therefore, the duty enjoined may be performed at a time subsequent to that named in the statute, and the action be valid, yet, the statute should be obeyed, and the duty performed at the time specified.' Pott. Dwar. Stat. 221 and note."

In the *Sheldon* case the Court made a distinction between a provision of an act which is the essence of the thing required to be done and a provision which relates to form and manner. In the several provisions of our own Railroad Tax Act, we can see the distinction. Thus, it is required by this act that any application for a writ of certiorari shall be made within three months after certification. The time limit placed upon the privilege is a condition of the enjoyment of that privilege. The time limit is adequate and reasonable and is of the essence of the privilege granted.

Such is not the case with the provision of the statute presently under review. The requirement in this instance goes not to the essence of the right but rather to the form or manner of enjoying the right. As was said by Mr. Justice Scudder, supra, "The statute should be obeyed, and the duty performed at the time specified.", and the unexplained failure so to do could very well lay the board open to disciplinary action. But neither public benefit nor private right requires that the language should be construed to be imperative and mandatory.

As pointed out above, hearings in cases before the State Board of Tax Appeals have consumed

many, many months. It is obvious that the State Board of Tax Appeals could not have physically completed hearings of the magnitude of such cases within the period prescribed by statute for the hearing of all railroad tax appeals.

Certainly, it was not the intention of the Legislature to require that a matter of such importance should go to final determination upon an incomplete record or that the taxpayer should not be given adequate time in which to present its case.

Proprietors of Morris Aqueduct Ads. vs. *Jones*, 36 N. J. L. 206, is authority for the rule that, when the words of a statute directing the mode or time of doing an act, are clear, the provision cannot be deemed to be merely directory unless the literal interpretation will lead to a result so absurd or highly inconvenient as to demonstrate that such could not have been the legislative intent. Chief Justice Beasley speaking for the Court said at page 210:

> "These cases, and many others of a like kind, rest upon a sure foundation. They are examples of judicial rejections of the letter of the act to prevent it running into absurdity. Some of the cases seem to me to have been pushed to an extreme, and have decided that circumstances were nonessentials, which appear to have been of the very essence of the particular transaction. But the rule being so general, it is hardly surprising that the results, each conclusion resting on peculiar grounds, should not be able to give universal satisfaction. However this may be, I am sure that the following proposition is established by the large majority of these authorities, viz.: That every requirement of the act must have the full effect the language imports, unless

> such interpretation of the words will lead to great inconvenience, injustice, or a subversion of some important object of the act."

It is submitted that the construction urged by the railroads would lead to a result that is absurd and highly inconvenient. Public benefit and private right demands only that the preliminary jurisdictional requirements be complied with. Thereafter, it is only required that the matter should be expeditiously carried on to final determination. It does not demand that, in the event it should become physically impossible for the board to comply with the statutory provisions that they should be compelled to determine the matter upon an incomplete record, or worse, that they should be required to summarily disallow the appeal of a taxpayer.

In the event that the board is required to make its determination before the statutory date and thereafter is without power to make any determination, we might very well ask what shall the board do with respect to an uncompleted appeal of a railroad taxpayer? Will the appeal be dismissed? Will the appeal be allowed in part and dismissed in part? Will the prayers of the petitioner be granted without proof? It certainly cannot mean that the railroad company shall be relieved of the requirement to pay any tax.

It might be argued that it was intended that all of the work of the appeals should be terminated by November 1st, so that on the date when the payments were due in December, the matter should be completely finished. But such is not the case. After the determination by the State Board of Tax Appeals, the railroad companies, the city and the State have the statutory right to have the matter reviewed by certiorari. It is urged therefore that

the Legislature could not have deemed time to be of the essence in this respect.

It was not the practice of the State Board of Tax Appeals, functioning under the Old Tax Act pursuant to R. S. 54:26–7 to treat the statutory date as mandatory. On the contrary, when the appeals have been voluminous and involved, such as has usually been the case with the railroad tax litigation, the Board has always felt that it had the power to require such time as was required by the magnitude of the case. It does seem that any other construction would be unsound and against public interest. Such was the state of affairs when the Legislature passed section 54:29a–34. There can be no doubt but that the Legislature intended that the date prescribed be directory and not mandatory. The judgment of the Supreme Court so holding should be affirmed.

CONCLUSION.

It is respectfully submitted that the judgment of the Supreme Court with respect to the constitutionality of Chapter 291 of the Laws of 1941, as amended by Chapter 169 of the Laws of 1942, and with respect to the directory nature of section 54:29a-34 should be affirmed.

Respectfully submitted,

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New Jersey Court of Errors and Appeals

FEBRUARY TERM—1946

Causes Nos. 13 to 22 Inclusive

(Title of Case No. 1)

CITY OF JERSEY CITY, a municipal corporation, *Prosecutor-Appellee,* *vs.* WILLIAM D. KELLY, State Tax Commissioner of New Jersey, *et al.*, *Respondents-Appellees,* and LEHIGH VALLEY RAILROAD SYSTEM, ERIE RAILROAD SYSTEM, DELAWARE, LACKAWANNA and WESTERN RAILROAD SYSTEM, HUDSON and MANHATTAN RAILROAD SYSTEM, PENNSYLVANIA RAILROAD SYSTEM and NEW YORK CENTRAL RAILROAD SYSTEM, *Respondents-Appellants.*	On Certiorari to Review Assessments under Chapter 291 of the Laws of 1941 On Appeals from New Jersey Supreme Court
JAMES T. OWENS, *Prosecutor-Appellee,* *vs.* WILLIAM D. KELLY, State Tax Commissioner of New Jersey, *et al.*, *Respondents-Appellees,* and LEHIGH VALLEY RAILROAD SYSTEM, ERIE RAILROAD SYSTEM, DELAWARE, LACKAWANNA and WESTERN RAILROAD SYSTEM, HUDSON and MANHATTAN RAILROAD SYSTEM, PENNSYLVANIA RAILROAD SYSTEM and NEW YORK CENTRAL RAILROAD SYSTEM, *Respondents-Appellants.*	On Certiorari to Review Assessments under Chapter 291 of the Laws of 1941, as Amended by Chapter 169 of the Laws of 1942

ANSWERING BRIEF OF THE APPELLANT RAILROAD COMPANIES TO REPLY BRIEF OF JERSEY CITY, ET AL.

[Submitted on Cases Nos. 1, 2 and 5]

I

Prefatory Statement

Counsel for Jersey City, *et al.*, in their reply brief have attempted to answer the oral argu-

ment of the Attorney General and the railroad appellants with a presentation of alleged facts which are not contained in the States of Case and a legal argument based thereon which is not pertinent and which is contrary to the law as settled by this Court for more than seventy years, whereas the reply brief was supposed to answer the briefs already filed at the time the oral argument was made on March 5, 1946. Because of the importance of the cause counsel for the railroad company appellants have therefore taken the liberty of presenting and filing this answer and respectfully request this Court to consider it.

The reply brief in Point I attempts to argue "contentions" of the Attorney General and of the railroad company appellants which were in fact statements of minor consideration and which were referred to incidentally in the briefs and on the oral argument, but which in no way determine the main question of the constitutionality of the tax acts of 1941 and 1942.

What Jersey City is attempting to do in the reply brief (as well as in its main brief) is to reargue the settled law as laid down by this Court in *State Board* v. *Central R. R. Co.,* 48 N. J. L. 146. In that case the judges of this Court considered all of the questions which are now again raised in opinions which cover approximately 200 pages. The Court then determined that the statute before it was constitutional and that statute is no different than the one now before the Court except that the tax rate varied. Thereafter this Court repeatedly, during a period of 70 years has sustained statutes which are identical in principle, although the rate in each instance was changed (see our main brief, p. 10 *et seq.*).

The Court below in an opinion by PERSKIE, *J.*, clearly recognized the settled law and therefore concluded that the statutes were constitutional. Justice PERSKIE also wrote the opinion of this Court in *Wilentz* v. *Hendrickson,* 135 N. J. E. 244. Nevertheless counsel in the reply brief urged that Justice PERSKIE's decision in *Wilentz* v. *Hendrickson* is an authority supporting their contention (see pp. 25, 26 of reply brief). A reading of the opinion in the *Wilentz* case and of the opinion below demonstrates that Jersey City's contention is absurd and Justice PERSKIE in the *Wilentz* case recognized that (135 N. J. E. 244 at 251):

> "Proper regard and respect for the legislative branch requires, among other things, that courts should not act as censor of the reasonableness or wisdom of legislative enactments (*Douglass* v. *Chosen Freeholders of Essex County,* 38 N. J. Law 214, 216); that no statute shall be declared void if its 'unconstitutionality is in anywise doubtful' (*Attorney-General* v. *McGuinness,* 78 N. J. Law, 346, 371, et seq.; 75 Atl. Rep. 455), or if there be 'permissible doubt' as to the existence of the constitutional limitation invoked against the validity thereof, *Attorney General* v. *McGuinness, supra*; *State Board of Milk Control* v. *Newark Milk Co.,* 118 N. J. Eq. 504; 179 Atl. Rep. 116; and that courts resort to the permissible rule of practical contemporaneous construction, to which we give great but not necessarily conclusive weight to sustain the constitutionality of a statute, but only if doubt exists as to the proper construction of a statute or of the construction or application of the constitutional provision invoked."

Counsel in the reply brief also refer to the decision of JAYNE, *V. C.,* in *Wilentz* v. *Hendrickson,*

133 N. J. E. 447, as supporting their contention. However, there is nothing in the opinion of Vice Chancellor JAYNE which is at all pertinent to the question presented here except the following statement (133 N. J. E. 447 at 457):

> "The duty devolving upon the judicial department to determine, when so required, the constitutionality of legislative enactments is indeed a grave and solemn undertaking which is ordinarily approached with reluctance and must be discharged with the most patient and extensive deliberation. It is not on slight implication and vague conjecture that the legislature shall be declared to have transcended its powers and ignored constitutional limitations. The constitutional limitation must be clear and imperative, and a legislative enactment will not be nullified unless its repugnancy to the constitution is so manifest as to exclude reasonable doubt. It is not the province of courts to supervise legislation, but it is the imperative duty of the courts to condemn that which contravenes the constitution."

It is respectfully submitted that whether

1. The new tax laws of 1941 and 1942 give the railroad companies a return or not on their investment in New Jersey;

2. The rate is as contended for by the Attorney General or by Jersey City;

3. The legislature has the right to fix a low rate; and

4. The legislature has the constitutional right to exempt railroad property from taxation

(the four "contentions argued in Point I of the reply brief) are matters which (in view of the settled law) do not control in determining whether the new tax laws are constitutional.

II

The attempt in the reply brief to prove that the State will collect less under the new tax laws than under the old is based on alleged facts which are not in the record and which cannot be proven.

It is respectfully submitted that whether the new laws bring in more taxes than the old is immaterial to the question of the constitutionality of the new laws. Reference was made on the oral argument to what the new acts would produce merely for the purpose of indicating that this Court should view the new tax laws as a whole and as covering a period of years and not merely the year 1941 (see p. 52 *et seq.* of our main brief). That was in connection with the point that the legislature did not make a gift in violation of paragraph 20, Article I of the Constitution.

In the reply brief counsel, realizing the hopelessness of their contention that the Court below erred in concluding that the new tax laws were constitutional as to the year 1942 and the years thereafter, attempt to bolster their position, which otherwise is unsupportable, by contending on a factual basis that does not exist, that the new tax laws bring in less than the old.

Jersey City has set forth alleged facts and calculations which have no substantiation in the rec-

ord. This is particularly true of the figures and calculations set forth on pages 4 and 6 of the reply brief. At the bottom of page 16 of the reply brief, counsel says:

> "If the Attorney General intends to give the Court the impression that the state can generally expect from the railroads taxes of between 4.28% and 6.6% upon the assessed valuations, how is he going to explain away our demonstration hereinabove that the railroads in New Jersey will pay in 1946, approximately $3,500,000 in franchise taxes and $13,118,511.93 in property taxes, or a total of approximately $16,618,511.93, which is at the rate of only 3.8% upon the 1946 aggregate railroad property valuations of $437,283,731?"

There is no evidence indicating that the taxes for 1946 will be the amounts stated. The amounts of the taxes for the years 1941 to 1946 inclusive are still in dispute and in litigation. At page 5 counsel says that operating income of all the railroads for the calendar year 1945 has now become known and primary 1946 property tax valuations have been made by the State Tax Commissioner and that therefore it is possible to "estimate" the 1946 railroad taxes, property and franchise. There is no proof sustaining these statements. The operating income of the railroads for 1945 has not become known. Appeals are pending to determine the net railway operating income for a number of the roads for the year 1945. The 1946 primary tax valuations of the State Tax Commissioner determine nothing as to what the final amount will be. If the time schedule with respect to determining

railroad taxes is examined (see p. 96 of our main brief) it will be found that the Tax Commissioner sits on the second Monday in January to review his primary assessment, that complaints are filed on that date by interested parties, and that the hearings on those complaints "shall be completed before the first of April." The State Tax Commissioner is not required to certify and report the taxes to be levied until June 1, 1946 and has not done so to date.

Counsel in the reply brief at page 6 admit that the average state tax rate for 1946 is not yet available but speculate on what it might be, overlooking entirely that this Court should base its conclusions on the proofs in the case.

At page 16 counsel say that the probable explanation of the reduced net railway operating income for 1946 will be found in the fact that interstate railroads were given by federal agencies extraordinary rights of accrual of depreciation in 1945. This is true, and these extraordinary items of depreciation will not recur in subsequent years. They amount to millions of dollars. Counsel in the reply brief have also overlooked that many of the railroads were in the excess profits class so far as federal income taxes were concerned in 1945 and that therefore 85% of their net income was taken by the Federal Government. This also will not recur. This likewise involves millions of dollars. It is therefore not fair to take the year 1946 as representative of what will be paid in future years, because the franchise tax is based upon the net railway operating income of the railroads for 1945, in which year these extraordinary deductions were permitted.

Since counsel has resorted to alleged facts without the record to indicate that the State of New Jersey is losing money by reason of the enactment of the new tax acts of 1941 and 1942, the appellant railroad companies have prepared a schedule which they believe to be accurate covering two years, 1943 and 1944, during which the new tax law was able to fully operate upon railroad property and net railway operating income. These were also years in which a number of the railroad companies paid excess profit taxes on their income. The schedule is as follows:

INCREASES IN TAXES UNDER NEW LAW

Year	D. L. & W. R. R. Co.	Lehigh Valley Railroad Co.	Pennsylvania Railroad Co.	Pennsylvania-Reading Seashore
1943	$ 70,888.79	$112,841.00	$1,970,555.00	
1944	82,193.13	195,267.00	1,215,384.00	$50,372.00
	$153,081.92	$308,108.00	$3,185,939.00	

Delaware, Lackawanna & Western R. R...	$ 153,081.92
Lehigh Valley Railroad Co.....	308,108.00
Pennsylvania Railroad Co.....	3,185,939.00
Pennsylvania Reading Seashore Lines....	50,372.00
Total	$3,697,500.92

DECREASES IN TAXES UNDER NEW LAW

Year	Erie Railroad Company	New York Central Railroad Co.	Pennsylvania-Reading Seashore
1943	$365,229.64	$239,021.00	$217,024.00
1944	431,891.98	318,649.00	
	$797,121.62	$557,670.00	

Erie Railroad Company.....	$ 797,121.62
New York Central Railroad.....	557,670.00
Pennsylvania Reading Seashore Lines....	217,024.00
	$1,571,815.62
Total increases for 1943 and 1944.....	$3,697,500.92
Total decreases for 1943 and 1944.....	1,571,815.62
Net increases for 1943 and 1944.....	$2,125,685.30

The six appellant railroad companies paid for these two years $2,125,685.30 more under the new law than they would have paid under the old. The foregoing does not include the appellant, Hudson & Manhattan Railroad Company. An examination of State of Case No. 1, page 162, will reveal that the Hudson & Manhattan Railroad Company's taxes are only approximately $11,000 less under the new law for the year 1941. Its income is limited to passenger traffic and most of its railroad is within the State of New Jersey. The Hudson & Manhattan's taxes under the old law for 1940 were $369,847.53, whereas under the new law they are as follows for the following years:

1941	$361,181.52
1942	388,702.71
1943	416,315.66
1944	415,153.78
1945	414,125.62

From this small electric railroad the State has received more in each year under the new law, beginning in 1942, than it received under the old law in 1940; and more than in 1941 when it assessed $372,920.85 under the old law (Case No. 1, p. 162). Its real property has remained substantially the

same. The State of New Jersey has profited by the increased income of this railroad.

Inquiry at the Office of the Department of Taxation and Finance of the State of New Jersey at Trenton will reveal that gross railroad taxes (including taxes on main stem, second class and franchise) assessed against the railroads of New Jersey under the new tax laws of 1941 and 1942 for the years 1942 to 1946 inclusive, are as follows:

Year	Taxes	Average for 4-year Period
1942	$18,053,032.48	
1943	23,552,216.82	$21,003,702.32
1944	21,956,983.85	
1945	20,452,576.15	

The Office of Taxation and Finance of the State of New Jersey advises that 1946 taxes have not yet been ascertained. When we compare the foregoing taxes for the years 1942 to 1945 inclusive, with the gross taxes under the old law for the year 1941 (Case No. 1, p. 162) of $18,322,164.33 and with the average taxes for the years 1935 to 1940 under the old law (see p. 4 of reply brief of Jersey City, *et al.*) of $19,238,814, it is apparent that the State of New Jersey has suffered no loss by the enactment of the new tax laws.

If the belief prevalent at this time is true, that we are entering an era of great prosperity during which there will be the manufacture and sale of all kinds of goods and merchandise to a consuming public which is in great need, and which has the money with which to make the purchases, then it should follow that the railroads ought to do a tremendous business, in which event the State of New Jersey by virtue of the franchise tax will share in the income of the railroads.

III

Jersey City's contention in the reply brief that the Tax Act "guarantees" the railroads one-half of the net railway operating income before taxes, is erroneous.

Here again, whether the contention stated is sound or not, is immaterial to the question of the constitutionality of the new tax laws. However, the railroad appellants cannot permit this contention to stand uncontradicted when it is palpably false.

The formula referred to at page 11 of the reply brief of Jersey City is not applicable to an interstate railroad system because only a percentage of the net income is allocated to New Jersey in determining the base for the franchise tax. For instance, in the case of the Lehigh Valley the percentage is 16.73%. Second, the formula is one that would not be true if there is an increase or decrease in income. The formula only applies where the income from year to year does not vary. This also involves a lack of variance in operating expenses and other items. The City in dealing with this contention at pages 8 to 15 of its reply brief, makes the flat assertion that (p. 12):

> "The act guarantees to each railroad that it will have *in* any given year, free and clear, over and above its taxes for that year, net income equal to the amount of taxes which it paid for the prior year, *Federal and State.*"

The reply brief quotes at length from the Hendrickson report and sets forth at page 11 the

formula referred to from which it draws the conclusion stated.

Let us examine the workings of the act as it is actually worked out and we will take as an example the case of the Lehigh system which is a representative interstate railroad for the year 1944. The assessment is as follows:

1.	System net railway operating income for year ended Dec. 31, 1943	$14,406,632.00
2.	Flat deduction	200,000.00
3.	Remaining income to be allocated	$14,206,632.00
4.	Allocation factor to New Jersey based on track miles	16.5820%
5.	1943 Railway operating income allocated to New Jersey	$ 2,355,744.00
6.	1944 franchise base line (5 capitalized at 3%)	78,524,800.00
7.	Deduction for physical property as per 1944 assessment	40,888,061.00
8.	1944 excess of franchise base over property valuation for 1944 (line 6 minus line 7)	37,636,739.00
9.	Effective franchise excess tax for 1944 (3% of line 8)	1,129,102.17

It will be seen that the aggregate tax is as follows:

Property tax, 3% x $40,888,061 (line 7)	$ 1,226,641.83
Franchise tax as above (line 9)	1,129,102.17
Total	$ 2,355,744.00

This exactly equals the allocated net railway operating income to New Jersey for the previous year which is Item 5 in the above calculation.

This result is entirely in conformity with the statement in the Hendrickson Report of April 20, 1942 that under the new act "the total bill of each railroad will amount annually either to 3% of its property valuations or the net railway operating income of the preceding year allocable to New Jersey, whichever is greater."

Thus, as shown by the above example, the aggregate New Jersey tax accrual for the calendar year 1944 was exactly equal to the allocated railway operating income of the prior year.

Under some conditions the aggregate tax may exceed the allocated net railway operating income of the prior year.

The actual workings in the case of the Erie Railroad furnish an example, viz.:

	1942	*1943*	*1944*	*1945*
1. State taxes paid to New Jersey	$1,757,363.28	$1,684,585.05	$1,797,191.79	$1,816,486.89
2. New Jersey net railway operating income as computed by State for previous year.....	1,514,832.00	1,672,520.00	1,717,849.00	1,683,324.00
3. Excess of line 1 over line 2....	$ 242,531.28	$ 12,065.05	$ 79,342.79	$ 133,162.89

The formula from the Hendrickson Report deals with net railway operating income *before* the New Jersey tax. It deals with a hypothetical *intrastate* railroad with *hypothetical* figures. In practical operation, the principal revenue producers to the State are the seven *interstate* railroads which are the appellants in this case.

Jersey City would like the Court to believe that under the workings of the formula, approximately 50% of net railway operating income before taxes is "available for fixed charges or dividends." In fact, the brief asserts that "the act necessarily guarantees" that result.

Let us examine the actual workings in the case of the Lehigh system, since it is believed that this would be illustrative of the situation of the other interstate railroads. The following tabulation shows that in the case of Lehigh only approximately 17% and not 50% as alleged by Jersey

City is left for the payment of "fixed charges or dividends."*

		1943	*1944*
1.	Net railway operating income	$14,406,632	$13,783,391
2.	Add current year New Jersey tax accrual	2,161,110	2,355,744
3.	Net railway operating income before New Jersey tax accruel	$16,567,742	$16,139,135
4.	Allocation factor	16.73	16.582
5.	Portion (line 3 multiplied by line 4) of "allocated net railway operating income before New Jersey tax" available for (a) New Jersey tax and (b) fixed charges	$ 2,771,783	$ 2,676,191
6.	Less current year New Jersey tax	2,161,110	2,355,744
7.	Balance available for fixed charges after payment of New Jersey tax	$ 610,673	$ 320,447
8.	Ratio of line 7 to line 5	22.03	11.97

Since the purpose of the above tabulation is to show the portion of allocated net railway operating income before taxes which is available for payment of (a) the current New Jersey tax and (b) fixed charges, amounts are stated without the flat deduction of $200,000 which is allowed under the statute in the tax computation primarily for the benefit of small railroads and electric railroads.

We particularly call attention to the statement in the reply brief at page 12 that the act "guarantees to each railroad that it will have in any given year free and clear over and above its taxes for that year net income equal to the amount of taxes which it paid for the prior year, Federal and State." We are completely unable to understand the basis of this statement. It will be seen from the above tabulation that in 1944 the amount available for fixed charges out of the allocated

* Parenthetically it is to be noted that Lehigh has paid no dividends since 1932. Fixed charges which must be paid out of net railway operating income for 1944, for example, were in excess of $7,000,000.

New Jersey earnings was only $320,447. Manifestly, this sum is only a small fraction of the New Jersey tax alone for the prior year which was $2,161,110.

IV

The Settled Law

It is inconceivable that Justice PERSKIE who wrote the opinion in *Wilentz* v. *Hendrickson,* 135 N. J. E. 244, could have erred in concluding in the opinion below in this case that under the settled law the tax acts of 1941 and 1942 were constitutional (see p. 10 of our main brief). That Justice PERSKIE's decision in this case is unassailable is emphasized by what Attorney General Wilentz and his deputy, John Solan said in their brief in the Court below which is reaffirmed in the brief of Attorney General Van Riper and his deputy, Mr. Van Tine, in this Court.

In the Court below Attorney General Wilentz and his deputy, John Solan, stated the claim of Jersey City, *et al.* and answered it as follows:

> "The basis of the claim of the prosecutors for relief in this proceeding is that the provision in Chapter 291, P. L. 1941, as amended, fixing a rate on railroad property of $3.00 per one hundred dollars of assessed valuation is invalid, the contention being that it is beyond the power of the Legislature to fix any rate for railroad property taxation that is not equal or substantially equal to the rate applied in the taxation of other property without causing constitutional discrimination against such other property.
>
> It is our position here that it is constitutionally and otherwise valid for the Legislature

to set up a rate for property in railroad use differing from the rate or rates applied to taxing property generally and hence that the $3.00 rate provided for and used in making the 1941 railroad tax assessment is not unlawful."

The discussion of the history of rates applied in the taxation of railroad property contained in the brief below of Attorney General Wilentz and of John Solan, of counsel, is also enlightening (p. 5, *et seq.*—italics ours):

"*Discussion of the History of Rates Applied in the Taxation of Railroad Property.*

In 1884 (P. L. 1884, Chapter 101, amended in 1888, Chapter 208) a new method of taxing property in railroad use was adopted and its main features have been retained to the present time. This statute segregated such property for taxation, divided the same into four classes, and provided for a State Board to value the property and to otherwise administer the law. Specific rates of taxation provided that each company shall pay to the State, for general State purposes, a tax at the rate of ½ of 1% annually upon each dollar of valuation, and, in addition, a tax at the local rate fixed upon other property in each taxing district upon the valuation of its Class II property in the several taxing districts, but the last mentioned rate shall in no case exceed 1% of the valuation of said Class II property. According to the volume published by the United States Census Bureau, the average tax rate in New Jersey for 1880 was $1.28 per hundred dollars of assessed valuation.

It was provided that the proceeds of the so-called Class II property be appropriated to the districts where the property was physically located and that the proceeds from

the taxation of Classes I, III, and IV be appropriated for State purposes. This statute was subjected to judicial attack, on constitutional grounds, in the case of *Central Railroad Co. of N. J.* v. *State Board.* The judgment of the Supreme Court (48 N. J. L. 1) invalidating the statute, was reversed, after an elaborate consideration, by the Court of Errors and Appeals (48 N. J. L. 146).

The rates fixed in the statute were more favorable to the railroads than to other taxpayers, and one of the grounds of the attack in this case was this apparent discrimination in favor of the railroads in the matter of rates, and this was one of the bases of the reversal by the Supreme Court, and of the dissent in the Court of Errors and Appeals. In his opinion in this case (48 N. J. L. 146, at 282) *Chancellor* RUNYON *in part says:*

'* * * for the legislature has the right to say what tax the companies, in view of the peculiar character of their property, shall pay, and in what way it shall be assessed, provided it makes the assessment under general laws and by uniform rules, according to the true value of the property. To hold otherwise would be to hold that the legislature is bound to tax all property at the same rate and in the same way, without regard to the use to which it is put.'

As a result of this tax litigation reported in 48 N. J. L. the following rules were established:

1. That the Legislature may, in its discretion, treat the property of railroad companies as a separate class and subject it to a separate method of assessment, and a separate rate of tax.
2. That it must, however, make all the property of any class which it creates subject to a uniform method of assessment and impose upon it a uniform tax.

In short, said tax litigation made it certain that there is no constitutional requirement which necessitates the use of rates that will insure the imposition of an equal tax upon property in railroad use and property of others; with the result that it is permissible for the Legislature to deal with railroad property for taxation differently as to rates than with the property of other taxpayers. Notwithstanding this firm holding, prosecutor discusses the constitutional requirements in matters of taxation as though the Constitution declared 'There shall be equal taxation' or 'Taxation shall be equal.'

In his argument to the Court of Errors and Appeals in the Central Railroad Case, Attorney-General Stockton in part said in 48 N. J. L., at page 253:

'* * * equal taxation is such as is uniform on the class, and the class that possesses the inherent qualities which render it necessary that their taxes should be equal, to be just, are principally the individuals of a class who would suffer by competition in the same business if taxed more than others engaged in it * * *'

The holding of this case in 48 N. J. L. was reaffirmed by Chief Justice GUMMERE for the Court of Errors and Appeals in 1907 in the case of *Central Railroad Company* v. *State Board,* 75 N. J. L. 771, at 786, as follows:

'The fundamental proposition underlying the decision in the 19 Vroom case is that property used for railroad or canal purposes constitutes a class for taxation by reason of its use * * *'

Although since the enactment of the Railroad Tax Act of 1884 there has occurred frequent complaints respecting the relative burden of taxation of railroads and of other property so far as the agitation in question

has dealt with the rate to be imposed on any well defined class of property the issue has involved a question of legislative discretion and policy and not a question of constitutional law since the decision in the aforesaid Central Railroad case in 48 N. J. L. (See Report of the Commission appointed by Governor Griggs to investigate the subject of taxation, 1897, p. 60, on file in the State Library.) Down to April 3, 1905 this Class II property paid taxes at a lower rate than the rate imposed on other taxable property, but by Chapter 91, P. L. 1905, the Legislature removed the aforesaid limitation with the result that thereafter this class of property was taxed at the local rate without limitation. It will be observed however that this statute, commonly referred to as the 'Duffield Act', did not provide that railroad property and other property shall be equally assessed, but the mandate is that the railroad property in question shall be taxed at the local rate without any provision whereby owners of the railroad might test the relative basis of the local and State assessments of the properties involved. In effect, therefore, what was therein provided was a *fixed rate* to be *ascertained in a fixed way.*

This Act of 1905 was held to be valid in the case of *Bergen and Dundee Railroad Co.* v. *State Board,* 74 N. J. L. 742. Thereafter and until the passage of Chapter 291 of the Laws of 1941, the statute here in question, second class railroad property, continued to be taxed at the local rates, on valuation made by the State agencies.

On April 5, 1906, Chapter 82 of the Laws of that year was approved. It is known as the 'Average Rate Law' and it was imposed upon railroad property known as Classes I, III and IV. Under this statute a rate which was called the 'average rate of taxation' of the State was to be *ascertained* by the State Board by dividing the 'aggregate value of the

> general property of the State' into the 'aggregate taxes of the State.' The figure thus obtained constituted the so-called 'average rate of taxation' for the year. This too was a specific tax, definitely prescribed by the Act, so that said rate was simply a matter of computation. This statute was held constitutional in *Central Railroad of New Jersey* v. *State Board,* 75 N. J. L. 120, at 130, aff'd. by the Court of Errors and Appeals in 75 N. J. L. 771. This rate continued to be imposed until superseded by the rate prescribed by Chapter 191 of the Laws of 1941 as amended.
>
> From this presentation it will be observed that from 1884 to 1906 the policy prevailed for separate specific tax rates for property in railroad use and that since 1906 second class property has been taxed at the rate prevailing in the district where the property is located and the other classes of railroad property have been taxed by a rate computed by the use of *the assessments* placed on the local property by the local assessors and the use of the local rates of taxation."

The foregoing quotation should be read in connection with the extracts from the brief of Attorney General Wilentz which are given in our main brief beginning at page 28, *et seq.*

These statements and the authorities referred to clearly demonstrate that the constitutionality of the new railroad tax law does not depend upon whether the railroads have imposed upon them a substantially equal burden with that imposed upon other taxpayers. Attorney General Wilentz and John Solan, of counsel, answer this contention in the Court below, as follows:

> "Prosecutors appear to contend that prior to the rate change in the 1941 Act, the application of the so-called Average Rate Act has re-

sulted in the imposition of a substantially equal burden on all taxable property. However, the facts are that this Average Rate Act has, during all the years up to 1941, been applied to railroad property without any adequate provision for a comparison of valuations for the standards of assessments between railroad property and other taxable property, and the result does not appear to have been altogether satisfactory. The trend in the average rates from $1.80 per $100 of valuation in 1906 to $4.81 per $100 of valuation in 1941 tells its story. *Central Railroad Co.* v. *State Board,* 109 N. J. L. 395; aff'd. 112 N. J. L. 5. (See the Report of the Commission on County and Municipal Taxation and Expenditures, dated January 11, 1932, filed in the State Library.)

It thus appears, we submit, that it is proper for the Legislature to fix the $3.00 rate in Chapter 291, P. L. 1941, without raising any constitutional question as to whether or not the burden thereby imposed on railroad property becomes less than the burden imposed upon other property in a different class.

In the absence of any showing of a constitutional requirement of equalization of the burden of taxation as between railroad property and other property, we submit that the unconstitutionality of Chapter 291 as amended, with respect to the substitution of a new specific rate for the rates heretofore used is not 'obvious' and hence after this long period of time will not be disturbed.

In *Legg* v. *Passaic Co.,* 122 N. J. L. 100, 102; aff'd 123 N. J. L. 263, the Court said:

"* * * one of the fundamental policies of our jurisprudence is not to declare unconstitutional a statute which has been in force without any substantial challenge for many years unless its unconstitutionality is obvious.' "

The weakness of the contention of Jersey City, *et al.,* is emphasized when we consider the great reliance that is placed by counsel (pp. 19, *et seq.* of reply brief), on a short phrase from the opinion of Chief Justice GUMMERE in *Central Railroad Company* v. *State Board,* 75 N. J. L. 771. The 17 page opinion in that case is relied on by the railroad appellants as well as by the Attorney General (see our main brief, pp. 16 and 27; see also quotations from Attorney General's brief in the Supreme Court, *supra*).

In *Central R. R. Co.* v. *State Board,* 75 N. J. L. 771, at page 777, GUMMERE, *C. J.,* after reciting the legislative scheme for the taxation of property used for railroad and canal purposes, was careful to say that this Court accepted as settled the principles established by the early decisions and that those decisions were controlling in the Court's determination in 1907 as to the constitutionality of the railroad legislation then before the Court.

The Court then held (headnotes 2 and 3):

> "2. A scheme for the taxation of railroad and canal property which provides that the main stems or rights of way of railroads, and the waterways of canals, not exceeding one hundred feet in width, and the franchises and personal property used for railroad or canal purposes of the companies owning such railroads and canals, shall be taxed at the average rate of taxation which prevails in the various taxing districts of the state, and that the remaining portion of the property of such companies which is used for railroad or canal purposes shall be taxed at the local rate which prevails in the respective taxing districts, in which it is located, does not violate either the state or the federal constitution.
>
> 3. There is no constitutional prohibition against legislation which provides for the

> taxation of the main stem or right of way of a railroad at one rate, and of the passenger stations located thereon at a different rate."

This was carrying out the settled law of our State as laid down in the earlier case of *State Board* v. *Central R. R. Co. of N. J.*, 48 N. J. L. 146 (pp. 12 and 13 of our main brief, *et seq.*).

In the course of the opinion at page 780, Chief Justice GUMMERE said (italics portion relied on by Jersey City):

> "It has not been contended before us that an 'average rate,' to be computed by the state board of assessors, is unconstitutional merely because it is an average rate, to be so ascertained, rather than some other rate definitely fixed by the legislature. As the question is in the case, however, we deem it proper to say that it has received consideration by us, and that we concur entirely in what was said by Mr. Justice PITNEY, speaking for the court below, in dealing with it. We think, further, that this court by its decision in the 19 Vroom case, that an arbitrary rate of one-half of one per cent, fixed by the legislature, and which was to continue for an indefinite period, without regard to what amount of money would be required from year to year for the needs of the state, was constitutional, established the right of the legislature to arbitrarily fix such rate for the taxation of this class of property as it might from time to time see fit, *provided that the burden imposed was not at any time greater than that which the property of the other taxpayers in the various taxing districts of the state was required to bear.*"

In the reply brief (p. 19) counsel for Jersey City says that the foregoing decision is "the crucial decision on the point" and "is completely

ignored both by the Attorney General and the railroads." At page 20 of the reply brief counsel say:

> "There is not a single statement in the briefs of the Attorney General or the railroad companies, either in the Supreme Court or here, indicating their agreement, lack of agreement, or attempted distinction of the rule thus plainly recognized by Chief Justice GUMMERE as having been laid down by the Court of Errors and Appeals in 19 Vroom, that the legislature does *not* have the right arbitrarily to fix a rate for the taxation of railroad property *if* the burden imposed upon such property 'is greater than that which the property of other taxpayers in the various taxing districts of the state is required to bear.' If that proposition of law is accepted by our adversaries, and it is impossible to see how they can avoid accepting it, how are they consistently to take the position that the *tax burden imposed upon railroad taxpayers' property* can at any time be constitutionally fixed at a rate *substantially less* than that which the non-railroad taxpayer in the various taxing districts is required to bear? Is the rule of equality laid down by the late Chief Justice now to be held a one-way affair?"

We respectfully submit that the settled law set forth in our main brief in Point II (p. 10) and the law set forth in this point is a complete answer to Jersey City's contention. *However, there is another complete answer which is dispositive of Jersey City's contention,* an examination of which reveals that Jersey City has not even fairly presented the factual situation arising out of the wording of the statute there referred to which led to the phrase in the opinion relied upon by Jersey City.

Counsel for Jersey City takes hold of the italicized clause and presents it as though it was a judicial conclusion by Chief Justice GUMMERE *when as a matter of fact the Chief Justice was merely setting forth in substance the words of the statute to which he was referring.* Having thus misinterpreted what the Chief Justice was saying, it concludes without any legal basis that the right to tax railroads as a class necessarily includes the power to exempt them all together and therefore the right to tax them as a class cannot possibly exist notwithstanding all of the law to the contrary.

This answer to Jersey City's contention is that Chief Justice GUMMERE in the quotation referred to was referring to the decision of this Court in 19 Vroom and the statute which was there construed and found to be constitutional, and which decision settled the law that the legislature had the right to discriminate among classes as to rates and more particularly so with respect to railroads. The law sustained in 19 Vroom as constitutional was the Railroad Tax Act of 1884 (P. L. 1884, p. 142). What was the provision of that statute? It will be found in paragraph 12 and is as follows (P. L. 1884, p. 148):

> "That if said board upon complaint of any company shall in any case ascertain that the addition of the state tax of one-half of one per cent. to the local rate as limited in this act would compel any company to pay more tax than the tax such company would pay if such company did not pay the state tax of one-half of one per cent. but did pay full local rates on all the property and franchises mentioned in section three, without any other exemption than such as would be allowed to an individual citizen on such property, that then

> and in such case, the said board shall make such deduction as will make the tax equal to the amount that such company would pay upon all the property and franchises mentioned in section three if assessed at full local rates without any state tax of one-half of one per cent.; the board, for the purpose of ascertaining this amount, but for no other purpose, to be authorized to apportion the value of the franchise among the local taxing districts."

It will be noted that the statute in question divided the property of the railroad into certain categories. It then proceeded to levy a combination tax, consisting of a tax of ½ of 1% on main stem plus a tax at the local rate on second class but not to exceed 1%. It then added the proviso that this combination burden should not at any time exceed that which would have attached if the total railroad property had been taxed at the full local rates, *i. e.*, did not exceed the burden "which the property of the other taxpayers in the various taxing districts of the state was required to bear."

Thus, we see that this proviso on which Jersey City places its total reliance was not a proviso establishing a general principle of law, but a proviso which formed a part of the statute itself which was sustained as valid. Thus the 75 N. J. L. case is brought in harmony with all the cases of this Court and reinforces rather than weakens the long established settled law that railroad property may be separately classified at different rates.

We submit that this very paragraph sustains as constitutional the legislation now before this Court for review. Even if the last clause is taken

out of its context and read literally, all that it says is that the burden imposed upon railroads shall not be greater than that which the property of other taxpayers is required to bear. Inferentially, it holds that a rate of ½ of 1% on certain railroad property would be constitutional even though the rate on non-railroad property might be higher.

In this regard, the following comment in the brief below of Attorney General Wilentz and of Deputy Solan of counsel, is most enlightening. In speaking of the 19 Vroom case, the brief states:

> "* * * This statute was subjected to judicial attack, on constitutional grounds, in the case of *Central Railroad Co. of N. J.* v. *State Board.* The judgment of the Supreme Court (48 N. J. L. 1) invalidating the statute, was reversed, after an elaborate consideration, by the Court of Errors and Appeals (48 N. J. L. 146).
>
> *The rates fixed in the statute were more favorable to the railroads than to other taxpayers, and one of the grounds of the attack in this case was this apparent discrimination in favor of the railroads in the matter of rates, and this was one of the bases of the reversal by the Supreme Court, and of the dissent in the Court of Errors and Appeals. In his opinion in this case* (48 N. J. L. 146, at 282) *Chancellor* RUNYON *in part says:*
>
> '* * * for the legislature has the right to say what tax the companies, in view of the peculiar character of their property, shall pay, and in what way it shall be assessed, provided it makes the assessment under general laws and by uniform rules, according to the true value of the property. To hold otherwise would be to hold that the legislature is

> bound to tax all property at the same rate and in the same way, without regard to the use to which it is put.' "

It will be seen from the above quotation that the statute under consideration in 19 Vroom was there attacked on the very same ground that is urged before this Court, viz., an apparent discrimination in favor of the railroads in the matter of rates.

With respect to the power of the legislature to exempt, the New Jersey cases are replete with expressions such as the following from 48 N. J. L. 146:

> "Certain property has been exempt from taxation ever since the amendments to the constitution were adopted, and such exemption has received the judicial sanction."

Whether the property of railroads might under certain circumstances, such as long continued unprofitable operation which made help from the State essential in order to continue public service, be the subject of exemption, it is unnecessary to consider for the purposes of this case. A law which produces annual taxes of between $18,000,000 and $23,000,000 (p. 10, *supra*) does not raise a question of exemption or near-exemption.

The law operates on the basis of practicalities and under the facts of this case, the method of argument by *reductio ad absurdum* which Jersey City employs has no place. In the last analysis Jersey City concedes the power of the legislature to classify for the purposes of taxation but contends that that does not permit of a difference in rates between classes. That contention runs counter to the settled law.

In *State Board of Assessors* v. *Central Railroad Company,* 48 (19 Vroom) N. J. L. 146, 323, this Court said:

> "* * * if it also held that all property must be taxed at a uniform rate, then the power of classification is a barren privilege."

and again:

> "* * * the right to legislate for classes as to *rate* of taxation must be recognized." (Italics ours.)

The constitutional power of taxing railroad companies at rates different from the general mass of the property in the state is not peculiar to New Jersey.

The Supreme Court of the United States in *Rapid Transit Corp.* v. *New York,* 303 U. S. 573, said:

> "This Court has approved the adoption of modes and methods of assessment and administration peculiar to railroads (*Kentucky Railroad Tax Cases,* 115 U. S. 321, 337), and upheld *tax rates for railroads differing from those on other property,* and as between railroad taxpayers, *Michigan Central R. Co.* v. *Powers,* 201 U. S. 245, 300; *Ohio Tax Cases,* 232 U. S. 576, 590; *Columbus & G. Ry. Co.* v. *Miller,* 283 U. S. 96" (p. 579). (Emphasis supplied.)

In 61 Corpus Juris 126, Section 58, the general law is stated as follows:

> "The legislature may exercise wide discretion in selecting and classifying the subjects of taxation, and may arrange and divide the various subjects of taxation into distinct

> classes and impose different rates on the several classes without violating the requirements of equality and uniformity * * *."

As was so pertinently stated by Attorney General Wilentz at page 10 of his brief below:

> "We submit that it cannot be assumed from a legal viewpoint that the objective of the legislation of 1905 and 1906 was to bring about parity of taxation such as prosecutor here contends the constitution requires. The existence of separate assessing agencies for the railroad and the other taxable property made imperative a provision for equalization. It is only when the *product* of the rate times the assessment is excessive that property bears an undue tax burden. The absence in this 1905 and 1906 legislation of any effective provision for equalization or for the correction of the tax rates determined by the use of unequalized local rates in striking the so-called average rate, indicates the legislation of these years was after all but a continuance of the specific rate policy as to the railroad taxation that had been in effect from 1884 to 1905. *Long Dock Co.* v. *State Board,* 89 N. J. L. 108, at 114."

We submit that in the absence of any showing of a constitutional requirement of equalization of the burden of taxation as between railroad property and other property, that the unconstitutionality of the new tax laws with respect to the substitution of a new specific rate for the specific rate heretofore used is not "obvious" and therefore, after this long period of time will not be disturbed. *Legg* v. *Passaic Co.,* 122 N. J. L. 100, 102, affirmed 123 N. J. L. 263.

V

Matters referred to in Point I of reply brief of Jersey City.

In view of the fact that counsel for Jersey City, *et al.*, in their reply brief have gone so far afield in dealing with matters which are not to be found in the record and the wild speculation dealt in with respect to the future, it becomes necessary to make a few observations that are pertinent to the subject matter of these new tax laws and to give data which will present the Court with a proper perspective as to their nature and operation.

The question before the Court is not, for example, whether the Jersey Central has brought proceedings before the I. C. C. to set up a Pennsylvania operating unit. This is entirely extraneous to the questions presented here.

At page 14 of Jersey City's reply brief, under a heading which raises an immaterial issue (p. 8) counsel makes a prejudicial statement which is not true and which is not supported by the cases cited in support thereof in the footnote referred to. The statement is as follows:

> "As we have shown in the footnote at page 20 of our main brief, it has been recognized by the United States Supreme Court that the state in which an interstate railroad system has its heavy terminal investment is conclusively deemed to earn for the railroad a sum substantially in excess of the proportion that is reflected by the ratio of miles of track in the state to total track miles."

Taxes by a state on a carrier's property have been repeatedly sustained if apportioned according to mileage.

Pittsburgh, C., & C. & St. L. Ry. Co. v. *Backus,* 154 U. S. 421;
Adams Express Co. v. *Ohio,* 165 U. S. 194, 166 U. S. 185;
American Express Co. v. *Indiana,* 165 U. S. 255;
Adams Express Co. v. *Kentucky,* 166 U. S. 171;
Wells, Fargo & Co. v. *Nevada,* 248 U. S. 165;
St. Louis & E. St. L. Ry. Co. v. *Hagerman,* 256 U. S. 314;
Southern Ry. Co. v. *Watts,* 260 U. S. 519;
Nashville C. & St. L. Ry. v. *Browning,* 310 U. S. 362.

The strongest case cited in the note at page 20 of the main brief of Jersey City for the alleged statement quoted *supra,* is *Wallace* v. *Hines,* 253 U. S. 66, and the main holding of that case is as follows:

> "The method of taxing an interstate railroad company by assessing the value of its property within the State at that proportion of the total value of its stocks and bonds that the main track mileage within the State bears to the main track mileage of the entire line, is indefensible when it is shown that the cost of construction per mile was much less within than without the taxing State, and that the large and valuable terminals are elsewhere. P. 68."

This is quite different from saying "that the State in which an interstate railroad system has

its heavy terminal investment is conclusively deemed to earn for the railroad a sum substantially in excess of the proportion that is reflected by the ratio of miles of track in the State to total track miles." There is no factual basis proven for the statement made. The main terminals of the larger roads are without the State of New Jersey. Income is realized by the railroads from freight which originates without the State and not from passenger traffic within. Under the laws of 1941 and 1942, the net income allocated to New Jersey is based on "track" miles and not "road" miles (P. L. 1942, p. 514). Thus there would be counted all the yard tracks that make up the terminals.

A state cannot tax the privilege of carrying on commerce among the states; neither can it tax property outside of its jurisdiction belonging to persons domiciled elsewhere. Therefore, as stated in *Union Tank Line Co.* v. *Wright,* 249 U. S. 275 (headnote):

> "To meet the difficulties of appraisement where the tangibles constitute part of a going concern operating in many States, and where absolute accuracy is generally impossible, the court has sustained methods producing results approximately correct, for example, the mileage basis in the case of a telegraph company and the average amount of property habitually brought in and carried out by a car company. Id. *Western Union Telegraph Co.* v. *Massachusetts,* 125 U. S. 530; *American Refrigerator Transit Co.* v. *Hall,* 174 U. S. 70.
>
> But if the plan pursued is arbitrary and the consequent valuation grossly excessive, it must be condemned because of conflict with the commerce clause, or the Fourteenth Amendment, or both. Id."

This is one of the cases cited in the note in the main brief of Jersey City at page 20. It is only when the plan pursued is arbitrary and factually it appears by testimony in the case that the consequent valuation is grossly excessive, that it will be condemned. There is no such evidence in the case at bar and no such contention is made by the railroad companies, and they would be the only parties who could urge the alleged conflict with the commerce clause of the Federal Constitution or the Fourteenth Amendment thereof (see cases cited below).

In *Fargo* v. *Hart,* 193 U. S. 490 at 499, Mr. Justice Holmes, speaking for the U. S. Supreme Court, said:

> "The general principles to be applied are settled. A State cannot tax the privilege of carrying on commerce among the States. Neither can it tax property outside of its jurisdiction belonging to persons domiciled elsewhere. On the other hand, it can tax property permanently within its jurisdiction although belonging to persons domiciled elsewhere and used in commerce among the States. And when that property is part of a system and has its actual uses only in connection with other parts of the system, that fact may be considered by the State in taxing, even though the other parts of the system are outside of the State. The sleepers and rails of a railroad, or the posts and wires of a telegraph company, are worth more than the prepared wood and the bars of steel or coils of wire, from their organic connection with other rails or wires and the rest of the apparatus of a working whole. This being clear, it is held reasonable and constitutional to get at the worth of such a line in the absence of anything more special, by a mileage proportion."

That case is one of those cited in the note at page 20 of Jersey City's main brief. Finally, it is untrue that the alleged income that is realized from the alleged heavy terminal investment completely escapes taxation, because in any event, there is the property tax of 3% in addition to the tax on the income, which property tax is levied against the terminals and indirectly taxes the income thereof.

We have shown in our main brief (p. 10) that if all of the persons or corporations in the same class are taxed in the same way and at the same rate, there is no constitutional question presented under the New Jersey Constitution. It is settled that a municipal corporation created by a state has no privileges or immunities under the Federal Constitution which it may invoke in opposition to a statute of the state or in opposition to the will of its creator. *Williams* v. *Baltimore,* 289 U. S. 36, 40. Therefore, if a tax is laid without apportionment or if the apportionment when made is plainly inequitable so as to bear unfairly on the commerce by compelling the carrier to pay the taxing state more than its fair share of the tax measured by the full value of its property, the federal courts may set aside the tax at the instigation of the railroad companies as an unconstitutional burden on interstate commerce in violation of the commerce clause, or the Fourteenth Amendment, or both (*Northwestern Air Lines* v. *Minnesota,* 322 U. S. 292 at 315), but no municipality would have any such right. *Williams* v. *Baltimore, supra.*

In *Reiner* v. *Fidelity Union Trust Co.*, 126 N. J. E. 90, the Court said:

> "It is fundamental that a person seeking to rely upon constitutional rights must rely upon those which he himself possesses, not upon those of others and he must show that he is injured. 11 Am. Jur. Tit. 'Constitutional Law' 748, sec. 111; *Aikins* v. *Kingsbury*, 247 U. S. 484; 62 L. Ed. 1226; *Red River Valley National Bank* v. *Craig*, 181 U. S. 548; 45 L. Ed. 994; *Premier-Pabst Sales Co.* v. *Grosscup*, 298 U. S. 226; 80 L. Ed. 1155, and a legion of other cases."

As was well stated by this Court in the *City of Jersey City, et als.* v. *Martin*, 126 N. J. L. 353:

> "The state's authority over the rights and property of its municipalities is not restricted by the contract or due process clauses of the Federal Constitution. The State 'at its pleasure, may modify or withdraw all such powers, may take without compensation such property, hold it itself, or vest it in other agencies, expand or contract the territorial area, unite the whole or a part of it with another municipality, repeal the charter and destroy the corporation. All this may be done, conditionally or unconditionally, with or without the consent of the citizens, or even against their protest. In all these respects the state is supreme, and its legislative body, conforming its action to the State Constitution, may do as it will, unrestrained by any provision of the Constitution of the United States. * * * The power is in the state, and those who legislate for the state are alone responsible for any unjust or oppressive exercise of it.' *Hunter* v. *Pittsburgh*, 207 U. S. 161; 28 S. Ct. 40; 52 L. Ed. 151. See also, *Trenton* v. *New Jersey, supra; Worcester* v. *Consolidated Street Railway Co.*, 196 U. S. 539; 25 S. Ct. 327; 49 L. Ed. 591."

The alleged contention sarcastically advanced that the new tax laws manifestly must mean a

large reduction in taxes otherwise the railroads would not seek to uphold them, is not supported by a fair consideration of the facts. It is impossible to do more than venture a guess as to whether the new tax laws will bring in more or less. Their virtue rests in the fact that if the railroads make more money they will pay more taxes. On the other hand, if the railroads run into a period of low earnings or losses as they have in the past, they will not be forced into bankruptcy by taxes that they will not be able to pay.

In the years of high earnings the impact of the New Jersey taxes is lessened because of the federal income tax deduction which attaches to such payments. On the other hand, in years of losses a high New Jersey tax would fall upon the railroads with full force and would be detrimental not only to the railroads, but to the State of New Jersey.

Counsel for Jersey City, argue indirectly that the new franchise tax is simply in lieu of the prior limited tax on franchises (which was practically nil) and therefore that it is proper to compare simply the new 3% property rate with the average State rate. A casual examination of Chapter 291 of the Laws of 1941 reveals that it creates a new system for the taxation of railroads. As has been so clearly stated by the Attorney General in his brief in this Court at page 16:

> "Jersey City has failed to point out that the property tax upon the franchises of all of the railroads operating in New Jersey for the year 1941 under the old law would have amounted to the sum of only $138,377, which is 4.818% of a total assessed valuation of $2,872,089. When we realize that the total

> assessed valuation of all railroad property for the year 1941 was $367,203,939, we see clearly that the property assessment on franchises of $2,872,089 or less than eight-tenths of one per cent of the total was too insignificant of itself to have been a major factor in bringing about passage of the new tax legislation. As Mr. Justice PERSKIE pointed out in his opinion the franchise tax under the 1941 act would have been $4,163,108.43 and under the 1941 act, as amended by Chapter 169 of the Laws of 1942, the sum of $4,026,812.90, or over 30 times the amount of the franchise property tax under the old act."

The Hendrickson report of April 20, 1942 states that the 1941 tax law "was designed to protect both the State and the railroads in two ways:

> "Second: The property tax is *integrated* with a franchise tax measured by earnings. Under this provision, the total tax bill of each railroad will amount annually either to 3 per cent of its property valuations or the net railway operating income of the preceding year allocable to New Jersey, *whichever is greater.*" (Emphasis supplied.)

Counsel charge the legislature with legislating according to whim. This is a most unfair charge. The railroad tax problem in relation to the needs of the State for first class service was carefully considered by several legislatures and by three governors. Many hearings were held and Jersey City appeared and presented its views. No one can read the Edison Report of February 22, 1941, without being impressed with the sincerity and public mindedness of its sponsors.

Counsel contend (without proof—all the proof is to the contrary) that the new law was designed

deliberately to reduce taxes. As stated *supra*, time alone will tell whether the taxes will be lower or higher. Counsel has taken one or two sentences from reports which, when taken from their context are distorted and appear to support the statement made. For instance, at page 15 of the 1941 Hendrickson report, after referring to the minimum 3% property tax and the tax on earnings we find the following:

> "There is nothing in this procedure which insures that the total levies in future years will be less than those of the past. Even for the first year of operation under it, the estimated tax bill against a few of the roads is larger than the 1940 levy."

Again, in the Hendrickson 1942 Report, page 7, it is stated:

> "In 1942, total railroad taxes are expected to exceed those which would have resulted from the old law."

This is supported by the table at page 11 which shows a 1942 tax under Chapter 291 of $18,855,000 as compared with a 1941 levy under the old law of $18,372,000. After the 1942 amendment the estimate for 1942 is $18,221,000 which is slightly under the 1941 levy under the old law.

That the Hendrickson Reports of 1941 and 1942 were not far wrong in their prognostications as to the future, is revealed by an examination of the records in the Department of Taxation and Finance of the State of New Jersey with respect to the gross taxes assessed against the Railroads of New Jersey under the new law for the years 1942 to 1945 inclusive, as shown in Point I, *supra*. In those years the following taxes were assessed:

Year	*Taxes*	*Average for 4-year Period*
1942	$18,053,032.48	
1943	23,552,216.82	$21,003,702.32
1944	21,956,983.85	
1945	20,452,576.15	

Taxes for 1946 have not yet been ascertained by the Department of Taxation and Finance. As shown in Point I, the total taxes under the old law for 1941 aggregated $18,322,164.33 (Case No. 1, p. 162) and the average tax for the years 1935 to 1940 inclusive, a six year period, was only $19,238,814 under the old law (see p. 4, Jersey City's Reply Brief).

It is impossible to read the 1941 and 1942 Hendrickson Reports (see, for example, p. 7 of the 1941 Report) without a full realization that the legislature was setting up a new system of taxation for railroads which would enable the State and its subdivisions to become partners in any prosperity enjoyed by the railroads. The legislature realized that New Jersey has vital need for the railroads and that forcing the railroads into bankruptcy would also spell ruin for the State.

> "During the years of substantial railroad earnings the State and its subdivisions will receive additional revenues to offset reductions allowed in lean years (p. 7, 1942 Report)."

The Edison Report of February 22, 1941 (p. 10) has the following significant statement, which is unassailable:

> "The railroads are, of course, public utilities in whose welfare the public has an im-

> portant and profound interest. For this reason the railroads are not free as other corporations are to fix the terms and conditions upon which they do business. They cannot regulate their income because they cannot fix their own freight or passenger rates; they cannot relinquish unprofitable lines or property at will but only with the approval of public authority which is usually difficult to obtain; their rates of wages are matters of public concern and regulation; they are completely subservient to public regulatory bodies because they are public corporations. Their income is therefore largely beyond their individual control."

The State of New Jersey was vitally and properly interested in devising a system of taxation that would keep the railroads healthy and solvent. "Intelligent self interest," according to Mr. Justice HOLMES of the United States Supreme Court in *Erie* v. *Public Utility Commissioners,* 254 U. S. 394, "should lead (the State of New Jersey) to a careful consideration of what the railroads are able to do without ruin." This could be done and was done by a tax based *in part* upon the ability to pay. This thought is clearly expressed in the Edison Report referred to *supra,* on page 12, as follows:

> "The limited area of New Jersey and her intensive industrial development make her peculiarly dependent upon efficient transportation at reasonable cost because only in that way can she secure adequate raw materials at low cost and the necessary opportunity to send her finished products throughout the country at competitive prices. Only railroads which are efficiently and economically managed can supply this service which is unusually necessary to New Jersey. If our

railroads should deteriorate, the state would suffer economically."

The same Report on page 20 further says:

"We believe it is common knowledge that real estate and other property is not assessed in New Jersey at full value. * * * The properties of the railroads, however, are undoubtedly assessed for at least full value * * *."

As stated in Point I, if the belief based on knowledge of known facts is true, that a great post-war reconversion boom with heavy traffic is in the offing and will continue for years, then the State of New Jersey under the new tax laws of 1941 and 1942 will receive substantially more by many millions of dollars than it would under the old law. Nevertheless, the railroad companies favor the new law because they pay when they earn and they are not compelled to pay when they do not earn and cannot pay.

One of the fundamental policies of our jurisprudence as expounded by this Court is not to declare unconstitutional a statute which has been in force without any substantial change for many years, unless its unconstitutionality is obvious. *Legg* v. *Passaic Co.*, 122 N. J. L. 100, 102; affirmed 123 N. J. L. 263.

VI

The new tax laws do not make a gift to the railroad companies in violation of Article I, paragraph 20 of the Constitution.

The reply brief of Jersey City, like its main brief, fails completely to answer the argument of the railroad companies in their main brief (see p. 33 *et seq.* of our main brief). The argument advanced in the main brief of the railroads admittedly "passes the understanding" of counsel for Jersey City (p. 41). While contending that it was the legislative intent and design to make a gift of the unascertained difference collectable under the old law as against the new, it offers no proof to show that in fact there will be any difference to be collected when the amount is eventually ascertained. On the other hand, it fails to answer the argument, which is unassailable, that there was no donative intent, thought or purpose with respect to the year 1941 or any other year. It fails to discuss the varying results under the new law with respect to the different railroad companies, as outlined in our main brief, which demonstrate that the results for the year 1941 were fortuitous, merely by accident, not by design, and of course were not intentional or planned, and do not evince any purpose of the legislature to make a gift to any railroad company.

The attempt at page 35 of the reply brief to limit the reasons given by the railroad companies in its main brief for sustaining the new acts as to

the year 1941 should not be overlooked. Many of the reasons given in our main brief are not even referred to. The weakness of Jersey City's position is demonstrated by its lengthy argument at page 40 of the reply brief as to whether a suit could or could not be brought between June 1st and December 1st to collect the taxes.

Counsel says (reply brief, p. 40):

> "The statement in the railroad company brief at page 62, that the Supreme Court 'erroneously concludes that under the statute' the taxes 'were a debt for which an action at law or a suit in equity might be obtained on July 22, 1941,' is not understandable in view of the fact that the statute expressly states in so many words that the taxes were a 'debt due from the company to the state on that date (June 1st) for which an action at law or suit in equity may be maintained.' R. S., 54:27-4."

Counsel refers to one section of the statute and omits reference to the other sections immediately before and after, which demonstrate that a railroad company has until December 1st in a given year to make payment and that no interest accrues until December 1st and that the taxes are not in default until December 1st. While it is true that in Section R. S. 54:27-4 we find the language that the lien shall take effect on June 1st and that the taxes shall be a debt due from the company to the State for which an action at law might be maintained, it is perfectly plain that if the company came in and answered that it had until December 1st to pay and that no interest was chargeable until December 1st and that the taxes were not in default until December 1st, that

nothing could happen in a suit that might be brought on June 1st (R. S. 54:27-2 and 54:27-4). Furthermore, if under R. S. 54:26-7 appeals were taken from June 1st certifications of the State Tax Commissioner by the railroads or the Attorney General, such appeals would hold up any suit for the taxes pending the decision by the State Board which does not have to conclude its hearings before October 15th and does not have to render its decision before November 5th following. Even then under R. S. 54:26-11 the Attorney General or the railroads could apply for writ of certiorari to review the taxes and under R. S. 54:26-12 if the railroad company after November 5th applied for a writ and obtained it, it could withhold payment of the disputed part of the taxes until the decision of the certiorari by this Court, all of which proves that the right to institute suit as of June 1st is merely theoretical and as a practical matter means nothing as of the date when the tax law became effective on July 22, 1941.

Again, counsel for Jersey City in the reply brief make the absurd statement at page 40 that it is necessary to overrule the *Voorhees* case in order to sustain the new tax acts as to the year 1941. No attempt is made to answer the argument in our main brief in which we distinguish the *Voorhees* case (see p. 57, main brief). No reference is made to the short opinion of this Court in the *Voorhees* case in which the Court specifically pointed out: "We conclude that the determinations of the learned Vice Chancellor as applied to the facts of this case are in accordance with the law of this State (see p. 60, main brief)."

The reply brief has failed completely to answer the contention of our main brief that there could not be a gift of $3,200,000 for the year 1941 when the amount was unascertained. Jersey City overlooks that in the case *sub judice* the legislature merely substituted a new tax act for the existing tax act and that there is no question of exemption or gift involved here.

Under the new law taxes for a given year become a lien on the 1st of January of the year rather than on June 1st (P. L. 1941, Chap. 291, p. 79, Sec. 54; R. S. 54:29A-54). It would be strange indeed if after January 1st in a given year the legislature would be powerless to reenact a tax law for that year simply because a lien is given as of January 1st although the taxes may not be payable or in default until December 1st and do not bear interest until that date.

CONCLUSION

It is respectfully submitted that the Railroad Tax Act of 1941 as amended in 1942 is constitutional as to the year 1941 as well as for subsequent years.

Dated: February Term, 1946.

Respectfully submitted,

EDWARD A. MARKLEY,
MAXIMILIAN M. STALLMAN,
Of Counsel with the Respondents,
Erie Railroad Company, et al.

13 FEB T.1946 to 22 FEB T.1946

New Jersey Court of Errors and Appeals

FEBRUARY TERM—1946

(Title of Case No. 1)

CITY OF JERSEY CITY, a municipal corporation,
Prosecutor-Appellee,
vs.
WILLIAM D. KELLY, State Tax Commissioner of New Jersey, *et al.*,
Respondents-Appellees,
and
LEHIGH VALLEY RAILROAD SYSTEM, ERIE RAILROAD SYSTEM, DELAWARE, LACKAWANNA and WESTERN RAILROAD SYSTEM, HUDSON and MANHATTAN RAILROAD SYSTEM, PENNSYLVANIA RAILROAD SYSTEM and NEW YORK CENTRAL RAILROAD SYSTEM,
Respondents-Appellants.

On Certiorari to Review Assessments under Chapter 291 of the Laws of 1941

JAMES T. OWENS,
Prosecutor-Appellee,
vs.
WILLIAM D. KELLY, State Tax Commissioner of New Jersey, *et al.*,
Respondents-Appellees,
and
LEHIGH VALLEY RAILROAD SYSTEM, ERIE RAILROAD SYSTEM, DELAWARE, LACKAWANNA and WESTERN RAILROAD SYSTEM, HUDSON and MANHATTAN RAILROAD SYSTEM, PENNSYLVANIA RAILROAD SYSTEM and NEW YORK CENTRAL RAILROAD SYSTEM,
Respondents-Appellants.

On Appeals from New Jersey Supreme Court

On Certiorari to Review Assessments under Chapter 291 of the Laws of 1941, as Amended by Chapter 169 of the Laws of 1942

REPLY BRIEF IN BEHALF OF THE DELAWARE, LACKAWANNA AND WESTERN RAILROAD COMPANY, ERIE RAILROAD COMPANY, LEHIGH VALLEY RAILROAD COMPANY, AND NEW YORK CENTRAL RAILROAD COMPANY, AND THEIR RESPECTIVE SYSTEMS, RESPONDENTS-APPELLANTS

[Submitted on Cases Nos. 1, 2 and 5.]

New Jersey State Library

There was no vested right in the undetermined taxes being reviewed under the old law.

This reply supplements the argument in our main brief beginning at page 64 where we refer to the reliance of the prosecutors on the case of *Lehigh Valley Railroad Co.* v. *State Board, etc.,* 101 N. J. L. 298. At page 9 of the reply brief in behalf of the prosecutors in the Court below, the following statement was made:

> "With reference to the meritorious question as to whether the statute, in calling for a lesser assessment for the year 1941 accomplishes a gift of property of the state in violation of Article I, paragraph 20. Defendants cannot and do not deny that the taxes originally assessed were vested rights of the state prior to the adoption of Chapter 291, *Lehigh Valley Railroad Co.* v. *State Board,* 101 N. J. L. 298."

When we answered the foregoing contention in our main brief at page 64, we were unaware of the fact that the decision of the Supreme Court in *Lehigh Valley Railroad Co.* v. *State Board,* 101 N. J. L. 298, was reversed by this Court in 105 N. J. L. 349 by a unanimous vote of eleven judges.

The Supreme Court in that case concluded that because the taxes in question, which were for the year 1923, were levied under a statute which required the valuations to be complete, and the lien to take effect on the first day of November, 1922, that therefore the Lehigh Valley Railroad Company was responsible for those taxes notwithstanding that the agreement under which it sold

the property in question (upon which the taxes were levied) to the State provided that the Lehigh Valley Railroad Company should not be responsible for any taxes "assessed for the calendar year 1923."

This Court in reversing the Court below stated the facts as follows:

> "This is an appeal of the Lehigh Valley Railroad Company from a judgment of the Supreme Court in a *certiorari* proceeding, affirming a tax levied upon certain property of which it was formerly the owner. The tax was assessed by the state board of taxes and assessment under authority conferred upon it by the provisions of the Railroad Tax act of 1888 (Comp. Stat., p. 5260) and its amendments and supplements including that of 1918 (Pamph. L., p. 1079). The property upon which the tax was imposed was owned by the railroad company prior to 1923, and conveyed by it to the state on January 1st of that year, pursuant to an agreement entered into with commissioners appointed under an act of the legislature for the purpose of acquiring certain property originally belonging to the Morris Canal and Banking Company, and later to the appellants. By this agreement, which was entered into on November 29th, 1922, it was provided, among other things, that 'said company shall not be responsible for any taxes assessed for the calendar year 1923, or for any period after January 21st, 1923, on the property conveyed and transferred or to be conveyed and transferred to the State of New Jersey under the terms of this agreement.' "

It then stated the contentions of the Railroad Company and of the State, as follows:

> "The contention on the part of the railroad company is that the tax under review was

assessed for the calendar year 1923, and that consequently, by the express terms of the contract no obligation for the payment thereof rests upon it. The contention on the part of the state authorities, on the other hand, is that although the tax covers the land embraced in the contract, it was admittedly assessed thereon in the year 1922, and therefore, is a tax for that year, and does not come within the exemption of the contract provision which has been recited. The Supreme Court considered the contention of the state authorities well founded and, as has already been stated, affirmed the tax."

This Court then concluded:

"In our opinion, the Supreme Court fell into error in the conclusion which it reached. The Railroad Tax act, and its amendments and supplements, provide for the imposition of an *annual* tax upon the property of railroad and canal companies. They also provide the machinery by which the amount of the annual tax shall be ascertained; the initial steps in so ascertaining being required to be taken early in the year preceding that for which the tax is to be assessed; and the assessment of the tax to be made not later than November 1st of that year. The taxing authorities, in determining the amount of the tax to be imposed for a given year, are bound to conform to the procedure provided by the legislature, but their action in doing so does not operate to defeat the very purpose for which the legislature created that procedure and transmute the annual tax imposed for a given year into a tax imposed for the year in which the assessment is made. The tax in dispute, although assessed in 1922, is the annual tax directed by the legislature to be imposed for the calendar year 1923.

The only other contention on the part of the state is that, conceding that the tax in

question is the annual tax imposed for the year 1923, it is not embraced in the tax exemption provision contained in the contract between the legislative commission and the railroad company; that the clear purpose indicated by this provision is to relieve the company from any obligation to pay any tax assessed upon the property *during* the year 1923 or thereafter; and that, as the tax which is the subject of the present litigation was assessed in 1922, the railroad company is under a legal obligation to pay it. We consider this contention to be manifestly without merit, and in plain disregard of the language of the contract. The word 'for' contained therein clearly indicates that the exemption was to be from the annual tax imposed for, and not that to be assessed during, the calendar year 1923; and from any subsequent taxation, without regard to the time when such assessment or assessments should be made.

Our conclusion is that the railroad company is under no legal obligation to pay the tax imposed, and that the judgment under review should be reversed."

It would therefore appear that the case is not only not an authority for the contention of the prosecutors as quoted, *supra*, but it is an authority to the direct contrary.

Dated: February Term, 1946.

Respectfully submitted,

EDWARD A. MARKLEY,
MAXIMILIAN M. STALLMAN,
Of Counsel with the Respondents,
Erie Railroad Company, et al.

See next page re definition of lien

Insertion to follow page 5 of reply brief of the Delaware, Lackawanna & Western Railroad Company in Jersey City vs. Kelly and Lehigh Valley Railroad Co. et al, involving 1941 and 1942 railroad assessments and taxes.

The Court below seemed to think that the giving of a lien as of June 1st when the taxes were not payable until December 1st and were not in default until the latter date, gave a vested right in the undetermined amount of the taxes on some theory of property right becoming settled and final as of June 1st. However, this Court has held that a lien is neither a right of property in a thing nor a right of action for a thing; it is simply a right of detainer.

In Lanterman v. Luby, 96 N.J.L. 255 at 257, this Court in a unanimous affirmance of eleven judges, defined the word "lien" as follows (italics ours):

> "Derivatively, the word 'lien' means a 'string,' a 'tie,' a 'bind.' Century Dictionary. Stansbury v. Patent Cloth Manufacturing Co., 5 N.J.L. 433. In its pure legal sense it 'implies that one is in possession of property of another, and that he detains it as security for some demand which he has in respect to it. A lien, therefore, implies, first, possession by the creditor; second, title in the debtor, and third, a debt arising out of the specific property.' Jones Liens (3d ed., 1914), Sec. 20, citing Grant, M. R., in Gladstone v. Birley, 2 Mer. 404. 'Title in the debtor,' as here used, does not necessarily mean absolute title. It is enough if with permission of the real owner the one who contracts the debt legally seemed to be the owner or his authorized representative and was believed to be such by the one who performed the service or furnished the supplies which gave rise to the lien. White v. Smith, 44 N.J.L. 105; Crucible Steel Co. v. Polack Tyre and Rubber Co., 92 Id. 221 'A lien is neither a right of property in a thing, nor a right of action for a thing; it is simply a right of detainer.' Brace v. Marlborough, 2 P. W. 491; Hammonds v. Barclay, 2 East 227; Peck v. Jennes, 7 How. (U. S.) 612. A lien differs from a mortgage, in that a mortgage is a transfer of title as security (Colton v. Depew, 60 N.J.Eq. 454), whereas a lien confers no title; it differs from a pledge, in that a pledge is a transfer of possession as security, whereas in the case of the lien the transfer of possession is not for the purpose of security, but in order that the service may be rendered to the chattel in question, and the lien arises from the rendering of that service if such service be not paid for. It is essentially a right to detain."

This is the law generally. In 37 C. J. 311 the author says that a "lien is not a right of property in or to the subject matter of the lien nor does it constitute a right of action for the property." In 33 Am. Jur. 419, the author says that a "lien confers no general right of property or title upon the holder; on the contrary it necessarily supposes the title to be in some other person." This author says that a lien is a right which the law gives to have a debt satisfied out of a particular thing.

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(Italics ours except where otherwise indicated.)

Preliminary Statement.

This reply brief is filed by special leave of Court in order to respond to those of the arguments made in the briefs of the Attorney General and the railroad companies which are not adequately anticipated in our main brief.

POINT I.

With respect to the constitutionality of the $3 railroad property tax rate.

The Attorney General appears to offer, in support of the constitutionality of the $3 tax rate provided by Chapter 291 of the Laws of 1941, as amended, two basic defenses, of which only one, the first hereinafter stated, was expressly relied upon by the Supreme Court and by the railroad company respondents. These are:

1. That the railroads pay more than a $3 rate since they pay a franchise tax in addition, and that the combined property and franchise taxes result in an effective gross tax rate exceeding 3 per cent.

2. That property used for railroad purposes, being concededly classifiable separately for purposes of taxation, may, therefore, be taxed at any rate the legislature chooses, no matter how low.

We should like first to reply to the first above-stated defense of the $3 rate advanced by the Attorney General. It is to be noted, preliminarily, that the Attorney General assumes that the legislature intended the franchise excise tax to be in partial substitution for the property taxes formerly assessed, and that, therefore, the franchise

excise taxes must be considered as property taxes, for purposes of comparison of the *property tax burden* of the railroads, under the new law, with the burden imposed upon taxpayers generally. But this assumption completely ignores the language of Section 13 of Chapter 291, which, as we have shown in our brief (p. 22), recites that the excise franchise tax, "shall be in lieu of any other tax or taxes of or upon such franchise". The Attorney General is not at liberty to substitute his characterization of the franchise tax as one in substitution or in lieu of railroad property taxes, for that which the legislature has itself plainly made, *in haec verba,* as a tax in lieu only of other *franchise taxes.*

It may readily be conceded that the legislature probably would not have imposed a substantial excise franchise tax (variable though it is in amount from year to year), had it not provided for a 40 per cent reduction in the property tax rate, but that consideration is of no importance in judging the constitutionality of the *property tax* imposed, from the standpoint of its discriminatory impact as against other *property* taxpayers.

As we have shown at length in our brief, Article 4, Section 7, Paragraph 12 of the Constitution has no effect whatever upon franchise taxes. *Jersey Central Power and Light Co.* v. *Asbury Park,* 128 N. J. L. 141 (S. C., 1942). It deals solely with property taxation. The legislature may constitutionally impose as large or as small a franchise excise tax as it chooses against any category of taxpayer without regard to the limitations of Article 4, Section 7, Paragraph 12, provided that it complies with the prohibition of special legislation provided by Article 4, Section 7, Paragraph 11 of the Constitution. All general cor-

porations have for many years paid a franchise tax (R. S. 54:13-1 et seq.) *in addition to* local property taxes. Under the Corporation Business Tax Act, P. L. 1945, Ch. 162, they now pay a very substantial franchise tax, being freed only of *intangible* property taxes, taxes which the railroads have never paid, and do not now pay. The Attorney General may not, therefore, use the imposition by the legislature in Chapter 291 of a franchise excise tax, which the legislature has pointedly avoided denominating or treating as a substituted property tax (Section 13), as a constitutional remedy for the unconstitutional discriminatory *property tax preference* granted by Chapter 291 to railroad property owners.

That Article 4, Section 7, Paragraph 12 of the Constitution forbids a substantial departure from equality of *property tax burden* as among classes of property, is abundantly demonstrated in our brief, and is almost completely without refutation in the briefs of the Attorney General and the railroads, as we shall more particularly elaborate presently.

But even if we were to assume, contrary to what is shown hereinabove, that the Court may take into account the proceeds of the franchise tax in determining whether the new law is calculated to result in substantial equality of railroad and non-railroad taxpayers, we submit that the conclusion would nevertheless have to be that the railroads obtained a deliberately intended substantial tax preference—one which they are vigorously attempting to retain in the present litigation. A few concrete statistics will conclusively demonstrate our contention.

Gross railroad taxes assessed against the railroads of New Jersey under the Revised Statutes from 1935 to 1940 inclusive, were as follows:

Year	Gross Railroad Taxes assessed under Revised Statutes, 1935-1940, inclusive.	Average for 6-year period
1935	$19,252,591.79	
1936	19,418,206.95	
1937	19,361,765.29	$19,238,814.
1938	20,364,920.76	
1939	18,738,704.13	
1940	18,296,689.39	

For the year 1941, there was assessed under the Revised Statutes the sum of $18,322,164.33. The gross taxes, property and franchise, which would have been effective for the year 1941 under the new law, had the assessment for that year not been reversed by the Supreme Court in the present case, would be $15,042,913.07. The legislature certainly knew, therefore, that in the first year of operation of the new law, the new act would operate to give the railroads a tax reduction of $3,279,233.26 or by approximately 17.7%. The best evidence as to the legislative intent to prefer the railroads in gross tax burden is the experience of the effect of the operation of the law for its first year, an experience based upon 1940 earnings of the railroads, which were "normal." The legislature knew that the 1941 assessment, as made under the Revised Statutes, represented a tax burden approximating that levied upon property generally throughout the State, since approximately half of the tax (that imposed upon Class I, III, and IV property) was levied at the average tax rate for the State, and the remaining half (Class II) was levied at the local municipal rates obtaining in the taxing districts where such property was

situated. Yet the legislature deliberately adopted a law which it knew would give the railroads, in the first year of its operation, a 17.7% reduction in their existing burden, which, as determined and adjudicated by the courts, was substantially equal to that imposed upon property generally throughout the State.*

It is true that during the recent war years the earnings of the railroads were so extraordinarily large that the franchise excise taxes, combined with the property taxes, resulted in gross taxes payable to New Jersey in two or three of those years equal to, or exceeding, the $19,238,000.00 average annual tax bill paid by the railroads in New Jersey under the old law. But the most significant indication of what may be expected in railroad tax receipts from the new law, upon a long-term basis, is indicated by the prospective, effective railroad gross tax rate for the year, 1946.

Since the net railway operating income of all railroads for the calendar year 1945 has now become known, and primary 1946 property tax valuations have been made by the State Tax Commissioner, it is now possible to estimate the 1946 railroad taxes, property and franchise. This we have

*We do not ignore the contention which the railroads frequently made to the effect that the average tax rate assessed against their main stem property was excessive because of local under-valuation of non-railroad property in many parts of the State. But that legal contention was expressly held by the courts not to be substantiated, *Central Railroad Co. of New Jersey* vs. *State Tax Department*, 112 N. J. L. 5, (E. & A. 1933); *Central Railroad Co. of New Jersey* vs. *Martin*, 115 F. 2d 968, 971 (C. C. A. 3d 1940). Moreover it is a generally accepted fact that main stem property of the railroad companies has continuously been undervalued. Despite the great number of tax appeals filed by the railroad companies during the 1930's, none of them ever undertook to charge or prove that the physical true value of specific main stem property was less than the valuation thereof by the State Tax Department. Furthermore, intangible property of the railroads, as such, was not being taxed under the Revised Statutes, whereas such property was being taxed locally in many of the taxing districts, in the hands of ordinary taxpayers.

done, and our calculations indicate an approximate franchise tax payment of the railroads for 1946 of $3,500,000.00. The property taxes payable for 1946, according to the primary valuations will be $13,118,511.93. The gross 1946 tax will thus be about $16,618,511.93, *almost three million dollars less* than the average annual taxes payable by the railroads under the old law from 1935 to 1940.

And most significant of all is the fact that the 1946 total railroad tax bill, *property* and *franchise,* will represent an effective tax rate of approximately 3.8% against the aggregate 1946 valuations of railroad property amounting to $437,283,731.00. While the average state tax rate for 1946 is not yet available, there is every reason to believe, in view of recent trends in municipal tax rates, that it will be in excess of the $4.818 rate for the year 1941. If the average state tax rate for 1946 is conservatively estimated at $5 per $100, we find that the railroads will enjoy an effective rate of only $3.80 per $100, *including the franchise tax,* or 25% less than the tax burden imposed upon non-railroad taxpayers. In Jersey City, moreover, where local non-railroad taxpayers face a 1946 tax rate of approximately $6.50 per $100, their fellow taxpayers, the railroad companies, pay the 3.8% gross effective rate, or in a proportion of approximately 42% of that of the non-railroad taxpayer in Jersey City. We repeat that railroad tax payments for 1946 are a much more reliable index of prospective long-term tax burden under the new law than the 1942-1945 payments during the period of unprecedented war earnings, with their abnormal inflation of franchise taxes.

The picture we are painting bids fair to grow worse, not better. The general increase in the cost of living and in the price scale of practically everything since 1941 is so wide-spread as to be a matter of judicial notice. Taxpayers generally are necessarily called upon to meet, by constantly rising tax rates, the natural increases in the cost of government. The railroads, on the other hand, enjoy under Chapter 291 the haven of a permanent preferential ceiling on their tax liability.

We earnestly submit that an effective gross tax rate of 3.8%, such as the railroads of New Jersey receive under the Railroad Tax Law of 1941 for the year 1946, and prospectively for the future, is an unconscionable preference over the mass of taxpayers of New Jersey, and particularly over the taxpayers of Jersey City and other Hudson County municipalities where great quantities of second class railroad property are situated, necessarily requiring and receiving local governmental protection at a cost borne by non-railroad taxpayers at rates almost double that accorded by this law to the railroad property owners. This preference is not merely *morally* reprehensible, as hinted in the opinion of the Supreme Court (Case No. 1, p. 512, l. 29), but unconstitutional for the reasons advanced in our main brief.

Thus, whether, as we have shown, the proceeds of the franchise excise tax are legally immaterial in considering the preferential effect of the $3 railroad property tax rate, or whether it is necessary to consider the franchise and property tax burdens in their entirety, for that purpose, it is plain that the railroad tax law of 1941 grants the railroad taxpayer a deliberately preferential burden and saddles a correspondingly discriminatory imposition upon the non-railroad taxpayers who are represented in the present proceedings.

The contention that the Railroad Tax Law of 1941 gives the railroad companies no "return on the investment."

In an effort to obscure and becloud the tax preference which the statutes under attack accomplish for the railroads, a thoroughly unfounded representation as to the total effect of the Railroad Tax Law of 1941 is indulged in by the railroad companies. They say at page 22 of their brief:

> "The act apparently did not contemplate any return on the investment in the New Jersey railroads."

Some of the figures and calculations contained in the brief of the Attorney General may also have the effect of appearing to support this statement by the railroad companies. For example, Schedule 1, at page 18 of the Attorney General's brief, purports to show "earnings" of a New Jersey railroad as being equal to the total tax imposed by the law. At page 24 of the brief of the Attorney General, however, he does point out that the quoted statement of the railroad companies in this connection is "misleading." How thoroughly misleading the railroads' statement is, we shall now make clear.

The argument of the railroad companies that the New Jersey tax takes all of their earnings has been made by them several times before and is now repeated before this Court, notwithstanding that the Joint Legislative Committee which drafted the Railroad Tax Law of 1941 has given at least one conclusive demonstration of its fallacy, while we have given another in the footnote at page 20 of our main brief. These demonstra-

tions have been reiterated by us through many phases of the varied litigations which have arisen from the Railroad Tax Law of 1941.

The showing of the fallacy by the Legislative Committee is contained at page 11 of the "Report on Railroad Taxation by Joint Legislative Committee Constituted by Senate Concurrent Resolution No. 8 (1941)." We shall quote therefrom verbatim. Before doing so, however, and in order better to understand what the Legislative Committee shows, it is necessary to apprehend, as the Attorney General has correctly shown in his brief, that within the "normal" operation of the law (i.e., where neither the maximum nor minimum limitations on the franchise tax, provided for in the amendment of Chapter 291, by Chapter 169 of the Laws of 1942, have any operation), the gross tax, property and franchise, payable under the law, will exactly equal so much of the net railway operating income *of the prior year,* as the law arbitrarily allocates to New Jersey on the proportion of all track miles. We point out, parenthetically, that this arbitrary allocation of earnings to New Jersey is the third of three separate and independent bases for the fallacy in the railroad assertion. We shall refer to it again presently.

But at the moment, and considering a purely intrastate railroad for purposes of simplification, it is true that within the "normal" operation of the law, the gross tax for each year is automatically equal to the net railway operating income of the railroad for the *prior year* (less a $200,000 deduction also hereafter to be noted). Next, it is necessary to understand exactly what "net railway operating income" is. This is a standard term of railroad accounting, formulated by the Interstate Commerce Commission. See "Uniform System of Accounts for Steam Railroads, Account-

ing Classifications," (published by the Association of American Railroads) and incorporated by definition in the Railroad Tax Law of 1941, in Section 14 thereof. "Net railway operating income" is computed by taking total railway operating revenues and deducting costs of operation, depreciation, railway tax accruals (federal and state), and certain other minor items. The balance is "net railway operating income," and is the fund which, together with "other income," that is, income from non-railroad investments, is available, after deductions of "miscellaneous deductions," to pay "fixed charges," such as interest on indebtedness and rent for leased lines, and dividends on stock, etc. It is "net railway operating income" which is the figure required to be used by the Interstate Commerce Commission to determine whether a railroad company is earning an adequate return on its investment in railroad property. Federal Transportation Act of 1920 (49 U. S. C. A., Sec. 15a(2)).

We are now in a position to see how the New Jersey Joint Legislative Committee, which submitted Chapter 291 for adoption, conclusively disposed of the railroads' contention made before the committee, and now repeated by the railroads before this Court, that the total effect of the new law confiscated their net railway operating income. The Committee said this (p. 11 of the Report of the Committee, *supra*):

> "(1) *Does the formula for taxing railroad franchises as recommended by the Governor's Citizens Committee result in confiscation of net operating income allocated to New Jersey?*
>
> "There is nothing inherent in the proposed formula which yields such a result. An assumption that taxes levied in any year shall

exactly equal net railway operating revenue after deducting all taxes in the preceding year, tends to guarantee exactly the opposite situation. This can be demonstrated by a simple illustration:

"Assume a railroad with constant net railway operating income before taxes. Also assume that tax accruals in the first year amounted to 45 per cent of that income. Its tax history would become:

"YEARS OF OPERATION UNDER PLAN

	1	2	3	4	Total
Net railway operating income before tax	100	100	100	100	400
Railway tax accruals	45	55	45	55	200
Net remaining for fixed charges	55	45	55	55	200

"It will be noticed that, for any two-year period, the amount available for fixed charges equals exactly one-half of the net railway operating income before taxes. This procedure could be carried on indefinitely without altering this situation." (Italics are by the committee.)

It will be noted that the example given by the committee assumes a constant amount of net railway operating income before taxes.

Now, assuming that the figure 100 in the foregoing quotation is $1,000,000, and that railway tax accruals in 1940 had been $450,000, the law, as first enacted in Chapter 291, necessarily assured the railroad company of $450,000 in 1941, out of $1,000,000 of net income before taxes, to pay interest on bonds, dividends on stock, etc. That $450,000 being net railway operating income

of the year 1941, automatically became the measure of the amount of the gross tax in the third year, 1942. There accordingly would be available to the railroad, out of its 1942 income in that year, *after taxes for 1942,* $550,000 to pay interest on bonds and dividends on stock *in 1942.* By the same process the railroad would have available, out of its 1943 income for the same purpose, *after taxes,* the sum of $450,000 *in 1943.* Thus, in every year in which the gross revenues and operating expenses were substantially the same, the law assured the hypothetical railroad of an average of $500,000 to meet interest on bonds and dividends on stock. Thus, the act necessarily guarantees to the railroads, within the assumptions basic to the railroads' assertion, that for any given two-year period a railroad taxpayer will have available for fixed charges or dividends a sum equal to one-half of the total "net railway operating income before taxes" for that two-year period. To express it in a slightly different way, the act guarantees to each railroad that it will have *in* any given year, free and clear, over and above its taxes for that year, net income equal to the amount of taxes which it paid for the prior year, *federal and state.*

The statement in the railroad companies' brief that the New Jersey law leaves the railroad companies nothing for return on investment is thus conclusively shown to be absolutely erroneous. Quite to the contrary, Chapter 291 guarantees to each railroad company that its total tax, property and franchise, will not, over any two-year period, cut into the aggregate amount of its "net railway operating income" for both of said years. Thus, the "net railway operating income" of each railroad company, which is the measure of the statutory fair return on the investment of the railroad as fixed by Congress, and regulated by the Inter-

state Commerce Commission, is untouched by New Jersey taxes.

Nor is this all! Since, under the amendment of the law by Chapter 169 of the Laws of 1942, there was provided a flat deduction for every railroad company of $200,000 from net railway operating income before applying the franchise tax formula, the hypothetical railroad company in the illustration given by the Joint Legislative Committee, shown *supra,* has available for fixed charges each year, *after payment of taxes,* not only the $500,000 average shown above, but one-half of an additional $200,000 annually. If the Joint Legislative Committee had given the foregoing example after adopting Chapter 169, it would have shown as available each year for fixed charges alternate figures of $650,000 and $550,000, instead of $550,000 and $450,000, respectively. Thus, in any given two-year period, the hypothetical railroad has available for fixed charges, over and above its New Jersey tax liability, a sum equal to one-half of its net railway operating income before tax for those two years, plus the further sum of $200,000.

In the case of interstate roads there is a third independent factor which refutes the railroads' contention that the new law confiscates all of their earnings in New Jersey. Not only is it true that interstate roads are assured by the tax law, as we have shown, amounts representing a fair return on their investment as determined by Congress (net railway operating income), plus the above mentioned sum of $200,000, (an assurance which no tax law gives the non-railroad taxpayers in New Jersey), but they also are given the benefit of the application of the fictional track mileage formula. In the case of an interstate railroad, with its heavy investment in terminals,

piers, waterfront facilities, more expensive roadbeds, etc., in this state, and the strategic value of its location in New Jersey, in the New York Harbor area, the portion of its system net railway operating income arbitrarily attributed to New Jersey operations by Chapter 291, on the basis of proportionate track miles, in no way adequately represents the proportion of such income truly attributable to its operations in New Jersey.

As we have shown in the footnote at page 20 of our main brief, it has been recognized by the United States Supreme Court that the state in which an interstate railroad system has its heavy terminal investment is conclusively deemed to earn for the railroad a sum substantially in excess of the proportion that is reflected by the ratio of miles of track in the state to total track miles. See cases there cited. Thus, the difference between the true income attributable to New Jersey operations, and the fictional income imputed to New Jersey by the track mileage formula, completely escapes taxation under the statutory formula.

Of course, with respect to wholly intrastate railroads, the railroad taxpayer obtains no benefit of the fictional track mileage formula. However, the remaining two factors mentioned above are applicable and, since those roads are relatively small, the $200,000 deduction referred to above operates to give them exceedingly substantial tax protection.

In conclusion of this subpoint, we observe that it would be a strange spectacle if these railroad companies were indeed here strenuously contending before this Court to save an act which, as they say, confiscates all of their earnings. On the contrary, it gives them, on the average, as we have

shown above, a tax which, by the experience of 1946 statistics, will represent a gross rate of only 3.8% against assessed valuation, as contrasted with average state tax rates in excess of $5 per $100 of valuation, and a Jersey City local rate of approximately $6.50 per $100.

The Attorney General's contention that the operation of the "normal" provisions of the Railroad Tax Law of 1941 assures the state of taxes equal to from 4.28% to 6.6% of assessed valuations.

The Attorney General has furnished a series of hypothetical examples purporting to support his conclusion that upon the assumption of a certain assessed valuation of a railroad company and "the operation of the normal provisions of the act, the state will receive from 4.28% to 6.6% of the assessed valuation" and that "a tax rate of 4.2857143% is the lowest that can obtain within the normal range" (p. 22 of his brief). He therefore concludes that our complaint that the railroad companies are to pay only $3 per $100, is not well founded.

We have already demonstrated that under the express language of Section 13 of Chapter 291, the franchise tax is not intended by the legislature to be a replacement of property taxes reduced by that law. But, assuming again for the sake of argument, that this Court may properly consider the franchise tax proceeds in judging the equality of burden, we respond that the Attorney General's conclusions are premised upon so many uncertain hypotheses that the theoretical results with which his brief abounds are useless and quite uninformative in judging the practical realities of the operation of the tax. If the Attorney General intends to give the Court the impression that the state

can generally expect from the railroads taxes of between 4.28% and 6.6% upon the assessed valuations, how is he going to explain away our demonstration hereinabove that the railroads in New Jersey will pay in 1946, approximately $3,500,000 in franchise taxes and $13,118,511.93 in property taxes, or a total of approximately $16,618,511.93, which is at the rate *of only 3.8%* upon 1946 aggregate railroad property valuations of $437,283,-731. His probable explanation that railroad companies were given by federal agencies extraordinary rights of accrual of depreciation in 1945, is a two-edged weapon. The legislature passed this law upon the supposed theory that when the railroads had high earnings they would pay high taxes. But in 1946, partly due to regulations issued by federal agencies having no concern whatever with New Jersey taxes, it has been made possible in a New Jersey tax year based upon the 1945 year of wartime operations by the railroads, for the roads to pay only $3,500,000, the lowest franchise tax since the adoption of this act. The annual yields from the franchise tax since 1941 have been as follows:

1941	$ 4,026,812.90	
1942	5,851,283.71	
1943	11,070,476.10	
1944	9,271,040.39	
1945	7,440,151.78	
1946	3,500,000.00	(approx.)

The Attorney General, at the oral argument, asked the Court to judge the yield from this law over a period of years. The foregoing figures indicate, over a period of years, how reliable is the revenue to be expected by the state and its municipalities from the franchise tax provisions

of the law. In addition to the sums stated, of course, the railroads pay the flat $3 per $100 property tax rate and, as indicated, the rate of the combined taxes for 1946 will be 3.8% against assessed valuations. The Attorney General's attempt to suggest or infer that the state may "normally" expect between 4.28% and 6.6% upon assessed valuations from this act in taxes is a thorough illusion.

As we have shown by the example of the 1945 railroad operating experience translated into 1946 tax dollars, the franchise tax provisions of the law are a plaything for the facile manipulations of railroad accountants and federal regulatory agencies (although we mean to impute no intent to such agencies to assist in avoidance of New Jersey taxes).

Another concrete illustration of how thoroughly unreliable for the taxpayers of New Jersey at large, are these franchise tax provisions, is the impending separation of The Central Railroad Company of New Jersey between its Pennsylvania and New Jersey segments, for the express and avowed purpose of practically eliminating payment of New Jersey franchise taxes. This is to be done by a bookkeeping arrangement under which the new Pennsylvania subsidiary company of the road will show substantial profit, while the New Jersey company, with the heavy expenses attendant upon terminal operations, and without the line road haul revenue needed to compensate for such expenses, will operate at annual losses requiring the payment of only the $4,000 minimum New Jersey franchise tax. This scheme has already been approved by the United States District Court in charge of the Central Railroad reorganization, and is now awaiting approval by

the Interstate Commerce Commission to become effective, if approved, this year.*

The Central of New Jersey is one of the six major railroad taxpayers in the State of New Jersey and is normally counted upon to pay a sixth, or more, of the franchise tax. Who is to say which of the other major railroads may not adopt similar franchise tax avoidance schemes if the Central is successful? How can it seriously be urged that the proceeds of this franchise tax cures the unconstitutional $3.00 property rate preference?

The contention of the railroads and of the Attorney General that the right to classify railroad property for taxation proves the legislative right to fix a preferential low tax rate upon railroad property.

So far as concerns the response made by the Attorney General and the railroads to our argu-

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* The legislature of New Jersey, when considering this law, naively believed no evasion of the franchise tax provisions was possible, despite the warning of the possibility of such evasion as is now being attempted, by Mr. Raymond Greer, financial adviser of the City of Jersey City. The report of the Joint Legislative Committee preceding the adoption of the new Railroad Tax Law disposed of the Greer objection as follows:

"(9) *Does the franchise formula as recommended, lend itself to easy evasion?*

"Mr. Raymond Greer of Jersey City has emphatically stated his belief that the proposed franchise tax can and will be easily evaded. . . . . .

"In considering and in drafting the formula, every precaution has been taken to render it as nearly impossible of evasion as it could be. Definitions used are those prescribed by the United States Interstate Commerce Commission. Accounting procedures by which the returns are filed are also prescribed and supervised by that Commission. The State Tax Commissioner is given broad powers to investigate and modify the returns as filed by the railroads. *The Committee feels that every possible precaution has been taken and that the franchise tax will not be easily evaded.*"

ment that the right to classify railroad property for taxation does not connote the right to fix an arbitrarily preferential rate of taxation upon such property, we merely point out that there is an utter failure in both the briefs of the Attorney General and of the railroads to meet the demonstration in our brief that the case authorities, properly construed, compel the conclusion that the legislative power of determination of rate is subordinate to the supervening requirement that the property tax burden assessed against different classes of taxable property shall be free from *substantial* or deliberate inequality.

The crucial decision on the point, *Central Railroad Co.* vs. *State Board of Assessors,* 75 N. J. L. 771, (E. & A., 1908), is completely ignored both by the Attorney General and the railroads. The decision in that case, written by the late Chief Justice Gummere, is particularly important since it is the latest and most authoritative discussion and consideration by our courts of the meaning and effect of the several opinions rendered in the *19 Vroom* case (*Central Railroad Co.* vs. *State Board of Assessors,* 48 N. J. L. 146), the leading case on the subject of constitutionality of railroad taxation. In our brief at page 125 we discussed and quoted from the opinion of Chief Justice Gummere, the following excerpt, which, because of its dispositive indorsement of the position which we have taken in our brief as to the meaning and effect of *19 Vroom,* and the total ignoring thereof by our adversaries, will bear repetition here.

The Chief Justice held (75 N. J. L. at p. 780):

> "We think, further, that this Court by its decision in the *19 Vroom* case, that an arbitrary rate of one-half of one per cent fixed by the legislature, and which was to continue

> for an indefinite period, without regard to what amount of money would be required from year to year for the needs of the state, was constitutional, *established the right of the legislature to arbitrarily fix such rate for the taxation of this class of property as it might from time to time see fit, provided that the burden imposed was not at any time greater than that which the property of the other taxpayers in the various taxing districts of the state was required to bear.*"

There is not a single statement in the briefs of the Attorney General or the railroad companies, either in the Supreme Court or here, indicating their agreement, lack of agreement, or attempted distinction of the rule thus plainly recognized by Chief Justice Gummere as having been laid down by the Court of Errors and Appeals in *19 Vroom,* that the legislature does *not* have the right arbitrarily to fix a rate for the taxation of railroad property *if* the burden imposed upon such property "is greater than that which the property of other taxpayers in the various taxing districts of the state is required to bear." If that proposition of law is accepted by our adversaries, and it is impossible to see how they can avoid accepting it, how are they consistently to take the position that the *tax burden imposed upon railroad taxpayers'* property can at any time be constitutionally fixed at a rate *substantially less* than that which the non-railroad taxpayer in the various taxing districts is required to bear? Is the rule of equality laid down by the late Chief Justice now to be held a one-way affair?

According to counsel who argued the case before this Court on behalf of the Lehigh Valley, Dela-

ware, Lackawanna and Western, New York Central, and Erie Railroad Systems, the answer to the question at the end of the preceding paragraph is in the affirmative. This was brought out in the colloquy between Judge McGeehan and said counsel, when Judge McGeehan asked whether the railroads would have any constitutional objection if the legislature fixed the tax rate upon railroad property at 10%. Counsel argued that they could object, relying upon Chief Justice Gummere's specific statement to that effect, quoted *supra.* At the same time, he nevertheless argued that non-railroad property owners could not complain if the railroads were granted a preferentially low rate. In other words, the above-named railroads wish the Court to accept the proposition that the railroad companies could be taxed at one mill per $100, *or even exempted outright* from property taxation, while property generally was paying taxes at the average rate of $5 per $100, so far as the Constitution of New Jersey is concerned, but that the same constitution would protect the railroads from a rate of $10 per $100, if non-railroad property owners were paying only $5 per $100. We submit that the mere statement of the proposition by the railroads imputes to the people who adopted the tax amendment to the Constitution in 1875 (Art. IV, Sec. 7, Para. 12), an intent so grotesquely contrary to that which is indicated by the history of the times contemporaneous with the adoption of the amendment, that further refutation by us would be supererogation (see our brief, pp. 52-75.)

We submit that the dilemma in which the Attorney General and the railroads thus find themselves is the reason for their failure to discuss the decision of Chief Justice Gummere in the *Central*

Railroad case or to distinguish its application in the present case.

Incidentally, the reliance in the brief of the railroad companies at page 32, upon an excerpt from the brief of the Attorney General in this case, in the Supreme Court, is nullified by the failure of the Attorney General below to take account of the above quoted language of Chief Justice Gummere in 75 N. J. L., *supra,* when he (the Attorney General) stated below in the excerpt quoted by the railroad companies here, the following:

> "In the absence of any showing of a constitutional requirement of equalization of the burden of taxation as between railroad property and other property, we submit that the unconstitutionality of Chapter 291 as amended, with respect to the substitution of a new specific rate for the rates heretofore used is not 'obvious' and hence after this long period of time will not be disturbed."

We have hereinabove shown that the Chief Justice, in the 75 N. J. L. case, *did* lay down a constitutional requirement of "equalization of the burden of taxation as between railroad property and other property." The Attorney General below did cite the decision in 75 N. J. L. for so much of the opinion as asserted that property used for railroad purposes constituted a class for railroad taxation by reason of its use, but totally ignored that portion of the decision which conditioned the constitutionality of a railroad tax rate upon the consequent equality of burden with other taxpayers.

The reference in the briefs of our adversaries to occasional isolated excerpts from judicial decisions cannot support their position. In par-

ticular we note the complete failure to meet our contention that the legislative right of classification of railroad property for taxation purposes is a right based solely upon the basis that property of a peculiar nature requires its own peculiar assessment valuation technique, and that it does not at all follow from the right of classification of railroad property *for that purpose,* that the legislature may accord to property in that class as low a rate as it chooses, regardless of comparative tax burden upon other property.

The brief of the railroads at page 13 quotes from the opinion of Chancellor Runyon in *19 Vroom,* apparently for the purpose of substantiating the position of the railroads that the right to classify necessarily carries with it the right deliberately to prefer as to tax rate. But the first paragraph of the opinion of the Court, quoted at page 13 of the railroad brief, omits an excerpt which conclusively demonstrates the soundness of our contention that the right of classification for taxation is based only upon the peculiar nature, character, and use of railroad property, making its separate classification *for valuation purposes* necessary and appropriate. The full excerpt from the opinion of the Chancellor which makes this clear will be found at page 100 of our brief.

The railroads' position as to the constitutional right of the legislature to exempt railroad property from taxation.

In the argument below and in our moving brief we posed a question to be answered by the railroads as to whether they contended that railroad property could be exempted outright from taxation, and we pointed out that if the legislature may constitutionally grant a preferential rate of

taxation upon railroad property of $3 per $100 of valuation, it could, by the necessary logic of such a rule, fix a $1.00 rate, or a 10¢, 1¢, or one mill per $100 rate on railroad property, and thus for all practical purposes accomplish an exemption of railroad property.

Counsel for the railroads assiduously avoided answering this question below and in their briefs before this Court. However, in the oral argument before this Court, in response to a question from the bench, their counsel was logically compelled to, and did take the position that constitutional authority exists to exempt railroad property from taxation. The position thus finally taken by counsel for the railroads is an acknowledgment of the soundness of our contention that the rule of legislative freedom in selection of a rate cannot logically be differentiated from the proposition that the legislature may constitutionally exempt such property from taxation. Thus, there is necessarily involved in the present issue, the power of the legislature to exempt privately owned railroad property from taxation outright.

In support of their position that constitutional power to exempt such property does exist, the railroad companies contend that a valid basis for such exemption is the circumstance that their business is affected with a public interest and that the nature of the service performed by railroads is an appropriate *quid pro quo* for the exemption from taxation. This position totally ignores the history of the adoption of the constitutional amendments of 1875, as we have set it forth at length in our main brief. There had grown up during the infancy of railroads the legislative practice of conferring benefits upon them of two kinds: (1) grants of public funds or property, and (2) full or partial exemption from taxation. It is, of

course, clear that whichever method of aiding railroads is adopted, that is, gift, or full or partial exemption from taxation, the net effect is the same, namely, that public funds are appropriated for the use of railroads. As was pointed out in *Carteret Academy* v. *State Board,* 102 N. J. L. 525, 527 (see p. 142 of our main brief), "an exemption becomes essentially a gift of public funds at the expense of the taxpayer."

As we have pointed out in our main brief, the constitutional amendments of 1875, including Article I, Paragraphs 19 and 20, as well as Article IV, Section 7, Paragraph 12, and Article IV, Section 7, Paragraph 11, were intended to prevent public aid to the railroads by either technique. The history of legislative preferential treatment of railroads in those times, with accompanying scandals of national scope, with consequent municipal bankruptcy, and with the imposition upon non-railroad property of the mounting burden of government, has already been fully considered by this Court because of the treatment thereof in the brief of former Attorney General Wilentz in the case of *Wilentz* v. *Hendrickson,* 135 N. J. Eq. 244 (E. & A., 1944), affirming 133 N. J. Eq. 449 (Ch., 1943). In that case, the then Attorney General was attacking the constitutionality of legislation in effect granting the railroads financial aid out of the state treasury, as violative of Article I, Paragraph 20, which, as seen above, was a companion and supplementary constitutional amendment to Article IV, Section 7, Paragraph 12, both having been recommended by the same commission and adopted together by popular referendum in 1875. The state treasurer, in defending the legislation, made exactly the same contention as now urged by the railroads in support of their position that

the power exists to exempt railroad companies from taxation, and made by the present Attorney General in support of his position that power exists to grant preferential tax treatment to railroads, namely, that the public service rendered by the railroads warrants such favorable treatment of railroad property, notwithstanding the constitutional provisions.

In the opinion of the Court of Chancery in that case, which was cited and adopted by the Court of Errors and Appeals as part of its opinion, the Court disposed of this argument as follows (133 N. J. Eq., at p. 479):

> "It is pretended that 'the probability (in the future) of bankruptcy proceedings by other railroad companies formed another moral consideration for the remission of the accumulated interest charges. This is capricious. If a financial donation of public funds can be lawfully made to a privately owned utility corporation to emancipate it from 'probable bankruptcy,' then the pertinent restriction in our constitution is a mere whimwham. From a financial point of view, the state in the case of railroads, had a paramount lien securing, even in insolvency, its preferred debt inclusive of both taxes and interest. R. S. 54:27-4; N. J. S. A. 54:27-4; *Meilink* v. *Unemployment Reserves Commission, supra.*
>
> "Another purpose introduced by the defendant as a moral consideration for the legislative action is 'The fostering of safe and efficient management thus enabling railroads to meet the transportation demands of the present emergency.' I take this to mean the fostering of 'private management.'

"The adoption of these constitutional provisions akin to ours throughout the country did not alter the basic premise that the promotion of transportation is a public purpose for which public funds may be expended. These constitutional amendments were, however, directed at the *means of effectuating that public purpose.* They were intended to prevent the accomplishment of that purpose by the means of aid to *private corporations not constituting public agencies controlled by the state.* This important distinction is stated with clarity by the New York Court of Appeals in *People* v. *Westchester County National Bank,* 231 N. Y. 465; 132 N. E. Rep. 241 (1921), where it was said (at p. 244):

" 'Whether the purpose is a public one, therefore, is no longer the sole test as to the proper use of the state's credit. *Such a purpose may not be served in one particular way. However important, however useful the objects designed by the legislature, they may not be accomplished by a gift or a loan of the credit to an individual or a corporation.* It will not do to say that the character of the act is to be judged by its main object—that because the purpose is public, the means adopted cannot be called a gift or a loan. To do so would make meaningless the provision adopted by the convention of 1846. Gifts of credit to railroads seemed an important public purpose. That purpose was distinctly before the legislature that made them. Yet they were still gifts and so were prohibited.' (Italics supplied.) (Sic.)

"In our own state, the decisions in *Rutgers College* v. *Morgan, supra; Trustees of Newark Free Public Library* v. *Civil Service Commis-*

sion, 83 N. J. Law 196; 83 Atl. Rep. 980;*affirmed,* 86 N. J. Law 307; 90 Atl. Rep. 261; *Romano* v. *Housing Authority, Newark,* 123 N. J. Law 428; 10 Atl. Rep. (2d) 181; *affirmed,* 124 N. J. Law 452; 12 Atl. Rep. (2d) 384, are similarly elucidative.

"* * *

"In the instance case, the railroad companies are privately owned corporations operated exclusively for private gain." (Italics are the court's.)

This Court supplemented its adoption of the language of the Court of Chancery in this connection, as follows (135 N. J. Eq. 244, 260):

> "Nor do we find anything in the proofs to support a moral or equitable consideration. There is nothing to indicate that the railroad taxpayers rendered any service past or present other than such services as each private railroad company was and had been rendering in operating pursuant to its franchise from the state. Such services invoke neither a moral nor an equitable consideration."

That Article I, Section 7, Paragraph 12, was adopted for the very purpose of preventing a repetition of the legislation (corporate charters) which had accomplished preferential tax treatment of railroad property prior to 1875, is additionally established by the discussion which appears at pages 60 through 75 of our main brief.

Moreover, the position now taken by the railroads that the power does exist to exempt railroad properties, notwithstanding their devotion to private commercial use and gain, is utterly

incompatible with the emphatic statement to the contrary in the *Carteret Academy* case, 102 N. J. L. 525, 527, affirmed by this Court in 104 N. J. L. 164, and reiterated by the courts of this state in many other opinions (see p. 142, et seq. of our main brief):

> "When an institution functions as a business concern, with the economic factor of profit, instead of the legislative conception of philanthropy as the basis for its existence, it *ipso facto* eliminates itself from the legislative purview of exemption. * * *"

Further, at page 528:

> "Exemptions from the burdens of taxation which the great masses of the people are called upon to sustain, as a requisite of civil government, are only favored in legislation, upon the theory that the concession is due as *quid pro quo* for the performance of a service essentially public, and which the state thereby is relieved *pro tanto* from the necessity of performing, such as works of charity and education, freely and charitably bestowed, as evidenced by the legislation under consideration. *Without that concurring prerequisite, an exemption becomes essentially a gift of public funds at the expense of the taxpayer, and indefensible both under our public policy of equal taxation and our constitutional safeguard against illegal taxation.* 2 Kent Com. 331."

We thus find that the contention of the railroad companies in this case, to the effect that the legislature may constitutionally exempt them outright from taxation, is without the slightest

scintilla of support, and cannot be sustained by this Court without both ignoring the history of these constitutional amendments, and overruling the many decisions of this Court announcing the constitutional inhibition against exemption from taxation of privately owned and commercially used property.

In summary, we submit that this Court must find that the legislature either has, or has not, unqualified *carte blanche* with respect to the rate to be imposed upon railroad property. The Supreme Court unmistakably held that it had such power. Our adversaries make the same contention. If the legislature has that power it can impose a rate so microscopically small as, in practical effect, to exempt such property from taxation. Since total exemption of commercial property has been specifically held by our courts to be contrary to the constitution, we submit that no construction of the constitution with respect to unlimited discretion as to rate in the legislature, should, or need be, entertained by this Court, as would nullify the prohibition against complete exemption, particularly when such a rule is equally offensive to the constitutional requirement of substantial equality of burden, shown above to have been laid down by the late Chief Justice in 75 Law.

POINT II.

With respect to the constitutionality of the abatement of 1941 taxes.

1. *The position of the Attorney General.*

The railroad companies forthrightly attack the judgment of the Supreme Court holding that the abatement of 1941 taxes already assessed under the Revised Statutes, provided for by Chapter 291 of the Laws of 1941, violates the prohibition against donation of state funds in Article I, paragraph 20 of the constitution. The Attorney General, however, straddles the issue, purporting to take no position thereon, but nevertheless indulging in completely inaccurate premises on the subject both on the oral argument and at page 40 of his brief. In the brief, he states that the question as to whether the Railroad Tax Law of 1941 is applicable to the 1941 taxes of the railroad companies depends upon the answers to the following questions:

> "(1) Had the State acquired a vested right in and to a definite amount of taxes pursuant to the terms of the Old Tax Act which was in effect at the time of the passage of the said New Tax Acts? (2) If the answer to this question is in the affirmative, did the discontinuance by the railroad companies of the pending litigation concerning the amount and validity of the taxes assessed pursuant to the Old Tax Act furnish adequate consideration for the settlement of such taxes on the basis of the amount provided by the New Tax Acts?

Question (1) thus stated suggests a faint indorsement of the argument of the railroad companies that there was no vested right in the State to the 1941 taxes assessed under the Revised Statutes at the time of the passage of Chapter 291, because appeals from 1941 tax assessments were then pending. We shall deal fully with this argument hereinafter. Question (2) assumes the quite erroneous premise that the legislature exacted the discontinuances of pending railroad tax litigation in Chapter 290 of the Laws of 1941 and Chapter 241 of the Laws of 1942 (the Settlement Acts) as a consideration for the assessment by Chapter 291 of the Laws of 1941 (Railroad Tax Law of 1941) of substitutionary 1941 taxes in a lesser amount than was assessed against the railroad companies for 1941 under the Revised Statutes.

The foregoing assumption by the Attorney General is plainly unfounded. The railroad companies do not and never have made any such contention. Chapter 290 and Chapter 291 of the Laws of 1941 were two entirely separate and distinct legislative enactments, having totally different purposes and objects, notwithstanding they were enacted by the legislature at the same time. The legislative offer to the railroads under Chapter 290 was to abate and cancel accumulated statutory interest on unpaid taxes if the railroad companies would, among other things, discontinue pending tax appeals. The proposal in Chapter 290 would not operate automatically as to any railroad company. Any railroad was free to accept or decline the proposal thus made. The Pennsylvania Railroad Company, for example, not owing any arrears of interest on taxes, never offered to discontinue its pending tax appeals.

The abatement of already vested 1941 taxes of the Pennsylvania Railroad Company accomplished by Section 74 of Chapter 291 thus could have no conceivable consideration arising out of Chapter 290, and it is quite obvious that the legislature did not intend that anything which any of the railroad companies might be required to do under Chapter 290, should be the consideration or bargain equivalent of the abatement of 1941 taxes given them by Chapter 291. Neither of the acts in any way depends upon, or even mentions the other.

In any event, as this Court well knows, Chapter 290 of the Laws of 1941 and Chapter 241 of the Laws of 1942, have been adjudicated by this Court to be unconstitutional and null and void. *Wilentz vs. Hendrickson,* 135 N. J. Eq. 244 (E. & A. 1944).

There is utterly no consideration for the remission of 1941 taxes and no consideration therefor was contemplated by the legislature.

The Attorney General at the oral argument further attempted to buttress the position of the railroad companies on this issue, although professing neutrality on the subject in his brief, by making the completely erroneous statement that the legislature in revising the statutes at large in 1937, changed the tax lien date from November 1st of the year in which the tax is payable, to June 1st of that year, and inferring that the legislative change was an oversight, and that had it not taken place, the abatement of 1941 taxes effected by Chapter 291 would have been completed prior to the 1941 tax lien date. An examination of the relevant statutes prior to the Revision of 1937 will demonstrate that taxes on railroad property formerly were a lien as of November 1st *of the year preceding the year in which the tax is payable.*

The November 1st (of the year preceding the payment year) lien date originated in the Railroad Tax Act of 1888 (P. L. 1888, Sec. 9, p. 274), and continued until the revision of 1937. Section 9 of the 1888 Act provided that "such lien shall take effect on the first day of November." That the first day of November thus specified was November of the year in which the original valuation is made, the year preceding the year in which the tax is payable, is demonstrated by a consideration of Section 10 of the same act. It is there provided that the State Board of Assessors "shall certify and report to the Comptroller of the state, on or before the first day of November in each year, a statement of the assessed valuation of the property of each company in the state, and of the separate valuation of property in each taxing district, as made by them, the amount of tax payable by such company" in each taxing district, the aggregate assessed valuations and the total tax levied upon each company. It is then provided, in the same section, that the tax shall be due and payable into the State Treasury "on any day between the *said* first day of November and the first day of February following."

As a result of the amendment of the provisions of Section 10 by Chapter 284 of the Laws of 1918, the date for certification by the board of the valuations to the comptroller was moved ahead to the first day of March in the year of payment of the tax, and the tax was made "due and payable into the state treasury on any day between the fifteenth day of April and the first day of December following."

A further amendment of this provision was provided for by Chapter 4 of the Laws of 1922, which fixed the first day of June in the year in

which the tax is payable, as the date for certification by the board to the comptroller of the assessed valuations and the taxes.

Neither of these amending statutes, undoubtedly through inadvertence, adjusted the lien date fixed in the 1888 Act. Thus there developed the anomalous situation that the taxes were a lien prior to the certification of the amount thereof to the comptroller and to the companies. Undoubtedly, the legislature, in revising the whole body of the law in 1937, decided to eliminate that anomaly and accordingly moved the lien date forward to June 1st of the year in which the tax is payable, which was the same date as was fixed in the 1922 statute as the date for certification of the taxes to the state comptroller. Thus, if the legislature had not so changed the law in the Revision of 1937, the taxes for the year 1941 assessed under the Revised Statutes would have been a lien on November 1, *1940,* and not, as the Attorney General has inferred in the oral argument, November 1, 1941.

2. ***The position of the railroad companies.***

The burden of the argument of the railroad companies seems to be that the 1941 taxes assessed under the Revised Statutes were not vested obligations to the State, and, therefore, constitutionally removed from remission or abatement without consideration under the rule of the *Voorhees* case (123 N. J. Eq. 142; aff'd. 121 N. J. L. 594; aff'd. 124 N. J. L. 35), because of the fact that appellate proceedings pertaining to such 1941 taxes were provided for by the statute and were being availed of by various appellants on July 22, 1941, when Chapter 291 of the Laws of 1941 were adopted. The railroad companies also rely upon the fact that statutory interest of delinquent 1941 taxes

assessed under the Revised Statutes was not to accrue until December 1, 1941, although they concede that under the statute such taxes were a lien as of June 1, 1941.

The best refutation of the railroad argument is a consideration of the statute involved in the *Voorhees* case, and the application of the decision of the Court in that case to the tax act there involved. In the *Voorhees* case the taxpayer decedent died on September 21, 1924. The exemption (or abatement) act there involved was passed March 13, 1925. The holding of the Court, affirmed by the Supreme Court and the Court of Errors and Appeals, was that a transfer inheritance tax consequent upon the death of the decedent was so far a vested obligation owing to the State on March 13, 1925, when the act was passed, that the legislative remission thereof without consideration was in violation of Article I, paragraph 20 of the constitution. But note all of the statutory events pertaining to the assessment and collection of the tax, or with reference to appeals therefrom, which could have brought the machinery of tax administration far beyond the March 13, 1925 date. R. S. 54:34-6 requires the appointment of appraisers, without limitation of time. Thereafter the appraiser makes his appraisal upon notice. R. S. 54:34-9. Thereafter the tax is assessed by the commissioner and notice thereof given by him to all interested parties. R. S. 54:34-12. An appeal from the assessment may be made to the Ordinary within sixty (60) days after the assessment. R. S. 54:34-13. There is no statutory limitation as to the time when the assessment by the state tax commissioner must be made. There is no statutory limitation of the period of time in which the Ordinary must act upon the

appeal from the assessment. Decisions of the Ordinary, may, of course, be appealed to the Supreme Court and thereafter to the Court of Errors and Appeals. The statutory procedure unquestionably contemplated a time schedule which, when applied to the dates involved in the *Voorhees* case could, and in fact there did, bring the appellate proceedings well beyond March 13, 1925, the date of the enactment of the remission statute there held unconstitutional. Yet the Court held the tax vested upon the date of the death of the decedent, and not constitutionally susceptible of remission thereafter.

Material to the argument of the railroad companies that the 1941 taxes did not become vested, because delinquency such as to incur interest charges would not commence until December 1, 1941, is squarely disposed of by the language of the Court in the *Voorhees* case to the effect that (123 N. J. Eq., at p. 145):

> "The fact that the actual computation and assessment of the tax is not, and cannot be, completed at that instant [date of death], nor that the statute does not impose a penalty of interest for delay in payment of the tax until a year from the date of death,—neither of these affects the immediately vested right of the state to the tax."

In the present case, by contrast, "the actual computation and assessment" of the 1941 railroad taxes was completed long before July 22, 1941. The completely fixed and vested status of the 1941 taxes by the time Chapter 291 was adopted on July 22, 1941, is clearly demonstrated by the statutory timetable applicable to the assessment of 1941 railroad taxes. The process of assessing 1941

taxes began on *March 1, 1940* and took the following course:

March 1, 1940—Railroad taxpayers file statement and schedules of their property with state tax commissioner. R. S. 54:23-1.

First Tuesday of March, 1940—State tax commissioner sits in Trenton for purposes of ascertaining true value as of January 1st preceding (Jan. 1, 1940), of railroad property. R. S. 54:22-1.

First Monday in July, 1940—State tax commissioner sits in Trenton and gives a hearing to all companies interested, regarding assessment of their property. R. S. 54:26-1.

November 1, 1940—State tax commissioner completes his assessed valuations. R. S. 54:22-1.

December 10, 1940—State tax commissioner serves upon treasurer of each railroad company, the assessed valuation of its property. R. S. 54:22-1.

Second Monday of January, 1941—State tax commissioner sits in review of his assessments "made as of January 1st of the previous year." R. S. 54:26-2.

April 1, 1941—Hearings and determinations are concluded. R. S. 54:26-4.

June 1, 1941—State tax commissioner certifies and reports to the state comptroller the assessed valuations, "the amount of tax payable by each company," for its property in each taxing district, "the aggregate assessed

valuation and the total tax levied upon each company." R. S. 54:27-1.

Within ten days after June 1, 1941—State tax commissioner serves upon each company the same data as certified to the state comptroller under the prior paragraph. R. S. 54:27-1.

Thus, the tax is a finished, completed, computed, assessed, and certified liability of the company to the state on June 1st, and the 1941 taxes were in that status on June 1, 1941. Moreover, under the statute, the 1941 taxes assessed under the Revised Statutes were a lien which, by the express language of R. S. 54:27-4, took effect on June 1, 1941. Furthermore, and contrary to the statement in the brief of the railroad companies that their taxes are not payable until December 1st, the statute states that the "amount of tax payable by each company as shown by the statement, shall be due and payable into the state treasury on *any day* between said June 1st and December 1st following." R. S. 54:27-2.

Not only is the tax a lien on June 1st but the statute provides that the tax "shall be a debt due from the company to the state *on that date* (June 1st) for which an action at law or suit in equity may be maintained." R. S. 54:27-4. If the Attorney General chose, he thus could have instituted suit against any railroad taxpayer for 1941 taxes on June 1, 1941. The statute specifically provided that the taxes should be payable at any time between that date and December 1st following, and that upon June 1st taxes should constitute a debt for which an action at law or in equity might be maintained. This extraordinary remedy was undoubtedly provided to anticipate the possible contingency that a railroad company might discontinue operations

and abscond with its assets on or after June 1st, the lien date, but prior to December 1st, when interest for delinquency attaches.

We submit that unless the ruling of this Court affirming the decision of the Supreme Court and of the Prerogative Court in the *Voorhees* case is to be overruled, the instant situation is one wherein the 1941 taxes abated by the legislature by Chapter 291 must be found to have been vested obligations owing the state and constitutionally beyond any remission without consideration on July 22, 1941, when Chapter 291 was adopted.

The statement in the railroad company brief at page 62, that the Supreme Court "erroneously concludes that under the statute" the taxes "were a debt for which an action at law or a suit in equity might be obtained on July 22, 1941", is not understandable in view of the fact that the statute expressly states in so many words that the taxes were a "debt due from the company to the state on that date (June 1st) for which an action at law or suit in equity may be maintained". R. S. 54:27-4.

The further statement at page 62 of the railroad company brief that because of appeals pending by municipalities, as well as by railroad companies, no action to collect the taxes could have been maintained on July 22, 1941, is also completely without foundation in the statute. There is the positive, express statutory permission for institution of action at any time on or after June 1st, which we have just noted, and there is no provision anywhere, abating the right of the state to collect taxes pending appellate proceedings, except for the express provision in R. S. 54:26-12 that if a writ of certiorari is allowed a railroad company to review its taxes, it must pay the amount of the taxes then not in substantial con-

troversy, whereupon the payment of the remaining taxes is stayed until final determination of the writ. Nothing is provided as to a stay because of appeals to the State Tax Board.

Conclusive as to the fact that under our statutory scheme, 1941 railroad taxes were considered as assessed on November 1, 1940, is the express holding to that effect by this Court in *Lehigh Valley Railroad Co. vs. State Board of Taxes and Assessment,* 105 N. J. L. 349, 351 (E. & A. 1929) where the Court said:

> "The Railroad Tax Act, and its amendments and supplements, provide for the imposition of an annual tax * * * . They also provide the machinery by which the amount of the annual tax shall be ascertained; the initial steps in so ascertaining being required to be taken *early in the year preceding* that for which the tax is to be assessed; and the assessment of the tax to be made not later than November 1st of that year."

How the railroads conclude, as they do in their reply brief at page 5, that the foregoing case is an authority against *our position* on the point under discussion, passes our understanding.

The brief of the railroad companies also makes the point, although with what intended legal significance we cannot perceive, that several of the individual small railroad companies did not obtain a net reduction of 1941 taxes by the effect of the abatement and assessment provision of Chapter 291 of the Laws of 1941, as applied to 1941 taxes. We are unable to see, however, how any of the railroad appellants who are being heard in this proceeding, The Lehigh Valley Railroad System, Erie Railroad System, the Delaware, Lackawanna & Western System, the Hudson

& Manhattan Railroad System, the Pennsylvania Railroad System, or the New York Central Railroad System, each of whom received a substituted 1941 tax assessment under Chapter 291 of the Laws of 1941, as amended by Chapter 169 of the Laws of 1942, substantially less than the existing 1941 assessment under the Revised Statutes, can escape the argument that the abatement to each of them of the difference is unconstitutional, by resorting to the fact that some few roads were assessed a higher amount for 1941 than they were subjected to for that year under the Revised Statutes. In other words, if the legislature makes a gift without consideration to railroad "A", that railroad certainly cannot excuse the unconstitutionality thereof by any argument that the legislature has not at the same time made a similar gift to railroad "B". The railroads here appealing to reverse the judgment of the Supreme Court holding the abatement of 1941 taxes unconstitutional, are in exactly the position of railroad "A" in the foregoing example. So far as *they* are concerned the legislature has made an unconstitutional donation to them of vested 1941 taxes.

There is no basis for the statement at page 44 of the railroad companies' brief that "A conclusion which would hold that the new tax law was both constitutional and unconstitutional for the same year would be absurd". It is a frequently recurring situation in statutory construction that an act may be found to be partly constitutional and partly unconstitutional, or constitutional in certain circumstances, or as to certain persons, and unconstitutional as to others. That the possibility of such a contingency was contemplated by the legislature in connection with the very legislation under review here is indicated by the

amendment of Chapter 291 by Chapter 169 of the Laws of 1942, which amended, *inter alia,* Section 74, the tax abatement section, and provided, in Section 6 (of Chapter 169):

> "If any provision of this act, or the application thereof to any person or circumstances, is held invalid, the remainder of this act, or application of such provision to other persons or circumstances, shall not be affected thereby."

It is, therefore, not at all absurd, as the railroad companies charge, to conclude that the effect of Chapter 291 for the tax year 1941 may be without offense to Article I, paragraph 20 of the constitution as to some railroad taxpayers, though violative of that provision as to the great bulk of the railroad companies of the state. Since every railroad company appealing in this case from the judgment of the Supreme Court did get an abatement of taxes assessed and vested for the year 1941 under Section 74 of Chapter 291, as amended by Chapter 169 of the Laws of 1942, none of them are in any position to avoid the nullification of such unconstitutional tax remissions because of the supposed effect of the new law with respect to other companies who are not here appealing from the judgment of the Supreme Court, though they were all parties below (including the Reading and B&O Railroad Companies).

The judgment of the Supreme Court invalidating the remission of 1941 taxes as unconstitutional should unquestionably be affirmed.

POINT III.

With respect to the directory nature of the dates for hearing and determining railroad tax appeals.

We do not deem that anything stated in the brief of the railroad companies with respect to this point requires reply by us.

POINT IV.

With respect to the status of the prosecutors below in raising the constitutional questions herein involved.

The railroad companies continue to urge that the Supreme Court was in error in finding that the municipal and citizen-taxpayer prosecutors below had no right to prosecute the writs of certiorari herein. The Attorney General does not make any such contention.

We believe that the argument made in the brief of the railroad companies that a municipality has no interest sufficient to give it a status to raise the question of constitutionality of a statute by which it is adversely affected in a pecuniary sense, is completely laid to rest by the very recent decision of this Court in *Jersey City* vs. *Zink,* 133 N. J. L. 437 (E. & A. 1945), the railroad tax interest distribution case. There certain municipalities as well as taxpayers resident therein, brought proceedings requiring, as a step in their successful prosecution, an attack upon the constitutionality of certain legislation. The Attorney General there argued, among other things, that the municipalities did not enjoy such status as would entitle them to attack the constitutionality of said legislation.

This Court regarded the objection advanced as so far devoid of merit, that in rendering decision in favor of the relators, it did not even deem the point as to lack of status worthy of mention. It is of further significance that neither the dissenting members of the Court of Errors and Appeals in the *Zink* case, nor the justices of the Supreme Court in that case, placed any reliance upon or made any mention of any supposed lack of status in the municipality or taxpayer railroads.

There are countless instances in this state of successful attacks by municipalities upon legislation deemed unconstitutional and adversely affecting the interests of such municipalities, without any question ever heretofore being judicially made concerning any supposed lack of interest or status of the municipalities in that regard. See, for example, the many cases cited at pp. 137 and 138 of our main brief wherein statutes exempting properties from taxation were held unconstitutional, most of them being instances where the constitutional question was successfully raised, without challenge as to status, by municipalities. See also the many cases in which municipalities have, without question as to status, been heard to attack the constitutionality of special legislation regulating internal affairs of municipalities, in violation of Article IV, Section 7, Paragraph 11 of the constitution. See also *Hoboken* vs. *Martin,* 123 N. J. L. 142 (E. & A. 1939); *Jersey City* vs. *Martin,* 126 N. J. L. 353 (E. & A. 1940). In the first of these cases this Court set aside certain legislation as unconstitutional at the instance of a municipality, and, in the other, entertained a similar attack, but rejected it, not for lack of status, but on the merits of the constitutional question raised.

If there were any doubt at all as to the status of the prosecutor municipalities below, absolutely no question can be entertained respecting the status of the individual taxpayers who joined with the municipalities as prosecutors below and are being heard in this brief, even though here as respondents. The right of an individual taxpayer to apply for one of the prerogative writs in order to prevent or review an unconstitutional act by a public officer whose action affects the entire state, even where such action is taken under the authority of an act of the legislature, was plainly stated in *Bott* vs. *Secretary of State,* 63 N. J. L. 289 (E. & A., 1889.)

It is universally laid down that a taxpayer has status to attack the constitutionality of a law dealing with disposition of public monies. 11 Am. Jur. 761. This rule fully substantiates the status of the individual taxpayer prosecutors below to object to the unconstitutional donation to the railroad companies of over three million dollars of 1941 railroad taxes. As to the unconstitutionality of the preferential $3 tax rate, the taxpayers resident in the Hudson County municipalities have a specific, as well as a general interest, since they are directly, and not merely in a representative capacity, injured by the grant by the legislature to railroad taxpayers, joint contributors with them to the burdens of local government, of the preference of a tax rate substantially below that required to be met by the prosecutor-taxpayers.

Conclusion.

It is, accordingly, respectfully submitted that nothing contained in the briefs of the railroad companies and the Attorney General militates against the Conclusions urged at pages 184, 185 of our main brief.

Respectfully submitted,

CHARLES A. ROONEY,
Attorney for Appellee-Appellant, City of Jersey City, and Appellees Janice Realty Corporation, William A. Nolan, Elmer A. Davidson, Albert Burleigh, and Anna Pfitzner.

JOHN J. FALLON,
Attorney for Appellees, The Mayor and Council of the City of Hoboken, and August Eggert.

JOHN N. PLATOFF,
Attorney for Appellees, Township of Weehawken, and Harry C. Moore.

SAMUEL HIRSCHBERG,
Attorney for Appellees, Town of West New York, and Bert Newman.

CHARLES HERSHENSTEIN,
MILTON B. CONFORD,
Of Counsel with Appellee-Appellant, City of Jersey City.

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Writ of Certiorari.

(Filed April 16, 1943.)

NEW JERSEY, ss:

THE STATE OF NEW JERSEY to THE STATE BOARD OF TAX APPEALS:

GREETING: We being willing for certain reasons to be certified of a certain (L.S.) judgment given or made by you on January 19, 1943, in a certain appeal brought by the City of Jersey City against William D. Kelly, State Tax Commissioner, and the several companies constituting the Delaware, Lackawanna & Western Railroad System, on appeal from the assessment by the State Tax Commissioner of the property of said companies for the year 1941, under and pursuant to the Revised Statutes, in and by which said judgment you, the State Board of Tax Appeals, dismissed said petition of appeal, do hereby command that you send under your seal to our Justices of our Supreme Court of Judicature at Trenton, on the 6th day of May, 1943, the said judgment, and all proceedings, testimony, orders, and all other things touching and concerning the same as fully and entirely as they remain in your court before you, by whatsoever names the parties may be called therein, together with this writ, that we may further cause to be done thereupon what of right we shall see fit to be done.

WITNESS, HON. THOMAS J. BROGAN, Chief Justice of our Supreme Court, at Trenton, this 16th day of April, 1943.

JAMES J. GAVIN,
Clerk.

CHARLES A. ROONEY,
Attorney for Prosecutor.

CHARLES HERSHENSTEIN,
Of Counsel.

(Endorsed on Back)

NEW JERSEY SUPREME COURT.

City of Jersey City, a Municipal Corporation,

Prosecutor,

vs.

State Board of Tax Appeals, Delaware, Lackawanna & Western Railroad System, et al.,

Respondents.

WRIT OF CERTIORARI.
(Assessments of 1941)
(Revised Statutes)

Charles A. Rooney,
Attorney for Prosecutor,
City Hall,
Jersey City, N. J.

This writ is allowed. Let it be sealed. Depositions may be taken on four (4) days' notice.

Dated: April 10, 1943.

Newton H. Porter,
J.S.C.

Writ of Certiorari.

(Filed April 16, 1943.)

NEW JERSEY, ss:

THE STATE OF NEW JERSEY to THE STATE BOARD OF TAX APPEALS:

GREETING: We being willing for certain reasons to be certified of a certain judgment given or made by you on January 19, 1943, in a certain appeal brought by the City of Jersey City against William D. Kelly, State Tax Commissioner, and the several companies constituting the Erie Railroad System, on appeal from the assessment by the State Tax Commissioner of the property of said companies for the year 1941, under and pursuant to the Revised Statutes, in and by which said judgment you, the State Board of Tax Appeals, dismissed said petition of appeal, do hereby command that you send under your seal to our Justices of our Supreme Court of Judicature at Trenton, on the 6th day of May, 1943, the said judgment, and all proceedings, testimony, orders, and all other things touching and concerning the same as fully and entirely as they remain in your court before you, by whatsoever names the parties may be called therein, together with this writ, that we may further cause to be done thereupon what of right we shall see fit to be done.

(L.S.)

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(Revised Statutes)

Charles A. Rooney,
Attorney for Prosecutor,
City Hall,
Jersey City, N. J.

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Dated: April 10th, 1943.

Newton H. Porter,
J. S. C.

Writ of Certiorari.

(Filed April 16, 1943.)

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Of Counsel.

Writ of Certiorari.

(Endorsed on Back)

NEW JERSEY SUPREME COURT.

City of Jersey City, a municipal corporation,

Prosecutor,

vs.

State Board of Tax Appeals, New York Central Railroad System, et al.,

Respondents.

WRIT OF CERTIORARI.
(Assessments of 1941)
(Revised Statutes)

Charles A. Rooney,
Attorney for Prosecutor,
City Hall,
Jersey City, N. J.

This writ is allowed. Let it be sealed. Depositions may be taken on four (4) days' notice.

Dated: April 10th, 1943.

Newton H. Porter,
J. S. C.

Writ of Certiorari.

(Filed April 16, 1943.)

NEW JERSEY, ss:

THE STATE OF NEW JERSEY to STATE BOARD OF TAX APPEALS:

GREETING: We being willing for certain reasons to be certified of a certain (L.S.) judgment given or made by you on January 19, 1943, in a certain appeal brought by the City of Jersey City against William D. Kelly, State Tax Commissioner, and the several companies constituting the Pennsylvania Railroad System, on appeal from the assessment by the State Tax Commissioner of the property of said companies for the year 1941, under and pursuant to the Revised Statutes, in and by which said judgment you, the State Board of Tax Appeals, dismissed said petition of appeal, do hereby command that you send under your seal to our Justices of our Supreme Court of Judicature at Trenton, on the 6th day of May, 1943, the said judgment, and all proceedings, testimony, orders, and all other things touching and concerning the same as fully and entirely as they remain in your court before you, by whatsoever names the parties may be called therein, together with this writ, that we may further cause to be done thereupon what of right we shall see fit to be done.

WITNESS, HON. THOMAS J. BROGAN, Chief Justice of our Supreme Court, at Trenton, this 16th day of April, 1943.

JAMES J. GAVIN,
Clerk.

CHARLES A. ROONEY,
Attorney for Prosecutor.

CHARLES HERSHENSTEIN,
Of Counsel.

Writ of Certiorari.

(Endorsed on Back)

NEW JERSEY SUPREME COURT.

City of Jersey City, a municipal corporation,

Prosecutor,

vs.

State Board of Tax Appeals, Pennsylvania Railroad System, et al.,

Respondents.

WRIT OF CERTIORARI.
(Assessments of 1941)
(Revised Statutes)

Charles A. Rooney,
Attorney for Prosecutor,
City Hall,
Jersey City, N. J.

This writ is allowed. Let it be sealed. Depositions may be taken on four (4) days' notice.

Dated: April 10, 1943.

Newton H. Porter,
J. S. C.

Writ of Certiorari.

(Filed April 16, 1943.)

NEW JERSEY, ss:

THE STATE OF NEW JERSEY to STATE BOARD OF TAX APPEALS:

GREETING: We being willing for certain reasons to be certified of a certain judgment given or made by you on January 19, 1943, in a certain appeal brought by the City of Jersey City against William D. Kelly, State Tax Commissioner, and the several companies constituting the Lehigh Valley Railroad System, on appeal from the assessment by the State Tax Commissioner of the property of said companies for the year 1941, under and pursuant to the Revised Statutes, in and by which said judgment you, the State Board of Tax Appeals, dismissed said petition of appeal, do hereby command that you send under your seal to our Justices of our Supreme Court of Judicature at Trenton, on the 6th day of May, 1943, the said judgment, and all proceedings, testimony, orders, and all other things touching and concerning the same as fully and entirely as they remain in your court before you, by whatsoever names the parties may be called therein, together with this writ, that we may further cause to be done thereupon what of right we shall see fit to be done.

(L.S.)

WITNESS, HON. THOMAS J. BROGAN, Chief Justice of our Supreme Court, at Trenton, this 16th day of April, 1943.

JAMES J. GAVIN,
Clerk.

CHARLES A. ROONEY,
Attorney for Prosecutor.

CHARLES HERSHENSTEIN,
Of Counsel.

Writ of Certiorari.

(Endorsed on Back)

NEW JERSEY SUPREME COURT.

City of Jersey City, a municipal corporation,

Prosecutor,

vs.

State Board of Tax Appeals, Lehigh Valley Railroad System, et al.,

Respondents.

WRIT OF CERTIORARI.
(Assessments of 1941)
(Revised Statutes)

Charles A. Rooney,
Attorney for Prosecutor,
City Hall,
Jersey City, N. J.

This writ is allowed. Let it be sealed. Depositions may be taken on four (4) days' notice.

Dated: April 10, 1943.

Newton H. Porter,
J. S. C.

Rule for Consolidation.

(Filed April 16, 1943.)

NEW JERSEY SUPREME COURT.

CITY OF JERSEY CITY, a municipal corporation, *Prosecutor,* *vs.* STATE BOARD OF TAX APPEALS, DELAWARE, LACKAWANNA & WESTERN RAILROAD SYSTEM, et al, *Respondents.*	On Certiorari. (Review of Assessments of 1941, Made Under Revised Statutes.) Rule for Consolidation.
CITY OF JERSEY CITY, a municipal corporation, *Prosecutor,* *vs.* STATE BOARD OF TAX APPEALS, ERIE RAILROAD SYSTEM, et al, *Respondents.*	
CITY OF JERSEY CITY, a municipal corporation, *Prosecutor,* *vs.* STATE BOARD OF TAX APPEALS, HUDSON AND MANHATTAN RAILROAD SYSTEM, et al, *Respondents.*	
CITY OF JERSEY CITY, a municipal corporation, *Prosecutor,* *vs.* STATE BOARD OF TAX APPEALS, LEHIGH VALLEY RAILROAD SYSTEM, et al, *Respondents.*	
CITY OF JERSEY CITY, a municipal corporation, *Prosecutor,* *vs.* STATE BOARD OF TAX APPEALS, NEW YORK CENTRAL RAILROAD SYSTEM, et al, *Respondents.*	
CITY OF JERSEY CITY, a municipal corporation, *Prosecutor,* *vs.* STATE BOARD OF TAX APPEALS, PENNSYLVANIA RAILROAD SYSTEM, et al, *Respondents.*	

This matter being opened to the court by Charles A. Rooney, attorney for City of Jersey City, by Charles Hershenstein, of counsel, in the presence of attorneys for the respondents named hereinabove, and it appearing to the court that good cause exists for the entry of this rule;

It is, on this 10th day of April, 1943,

ORDERED, that the above entitled proceedings be and they hereby are consolidated; and

Rule for Consolidation.

It is FURTHER ORDERED, that a single return be made to the writs of certiorari issued in the above entitled cause by the respondent, State Board of Tax Appeals; and

It is FURTHER ORDERED, that depositions may be taken by any party on four days' notice to the others; and

It is FURTHER ORDERED, that the argument on the consolidated writs of certiorari be had on the opening day of the October, 1943, Term of Court, without any further notice of argument to any of the parties to these proceedings.

NEWTON H. PORTER,
J. S. C.

Return to Writs of Certiorari.

(Filed April 16, 1943.)

NEW JERSEY SUPREME COURT.

CITY OF JERSEY CITY, a municipal corporation, *Prosecutor*,
v.
STATE BOARD OF TAX APPEALS, DELAWARE, LACKAWANNA & WESTERN RAILROAD SYSTEM, et al, (3)
Respondents.

CITY OF JERSEY CITY, a municipal corporation, *Prosecutor*,
v.
STATE BOARD OF TAX APPEALS, LEHIGH VALLEY RAILROAD SYSTEM, et al, (3)
Respondents.

CITY OF JERSEY CITY, a municipal corporation, *Prosecutor*,
v.
STATE BOARD OF TAX APPEALS, ERIE RAILROAD SLSTEM, et al, (3)
Respondents.

CITY OF JERSEY CITY, a municipal corporation, *Prosecutor*,
v.
STATE BOARD OF TAX APPEALS, NEW YORK CENTRAL RAILROAD SYSTEM, et al, (3)
Respondents.

CITY OF JERSEY CITY, a municipal corporation, *Prosecutor*,
v.
STATE BOARD OF TAX APPEALS, PENNSYLVANIA RAILROAD SYSTEM, et al, (3)
Respondents.

CITY OF JERSEY CITY, a municipal corporation, *Prosecutor*,
v.
STATE BOARD OF TAX APPEALS, HUDSON AND MANHATTAN RAILROAD SYSTEM, et al, (3)
Respondents.

On Certiorari.

The State Board of Tax Appeals doth herewith send to the Supreme Court of the State of New Jersey, the petition, judgment and proceedings in the matter of the appeal of City of Jersey City vs. William D. Kelly, State Tax Commissioner, and Delaware, Lackawanna & Western Railroad System, et al., for the year 1941, as within it is commanded, as by the transcript under the seal of said Board hereto annexed more fully appears.

STATE BOARD OF TAX APPEALS.

By CHAS. E. COOK,
Secretary.

(SEAL)

THE STATE BOARD OF TAX APPEALS
OF NEW JERSEY.

In the matter of the assessment and taxation of the property of the several companies constituting the DELAWARE, LACKAWANNA & WESTERN RAILROAD SYSTEM used for railroad purposes in the State of New Jersey, for the year 1941.	}	Complaint and Appeal.

To The State Board of Tax Appeals of New Jersey:

The CITY OF JERSEY CITY, a municipal corporation of the State of New Jersey, complains against the assessment of Second Class properties of each and all of the said companies, leased or held by the above named railroad system as determined by the State Tax Commissioner of New Jersey for the year 1941 as shown by the annexed schedule to this complaint designated as Schedule A, which is annexed hereto and made a part hereof. The City of Jersey City complains against the assessment on the following grounds:

1. The assessment as made by the State Tax Commissioner is made at less than the true value of the properties.

2. That the State Tax Commissioner in making his assessment could not have made it in accordance with the statute as he has not and never has required the several railroad companies to file with him the annual report as required by Sec-

tion 54:22-1, Revised Statutes of 1937 and amendments thereto.

3. The State Tax Commissioner has erred in making his assessments on the properties of the several railroad companies in that in classifying the properties as to main stem and second class, he has in many instances valued with the main stem structures and other improvements located wholly on second class land.

The City of Jersey City respectfully requests your Honorable Board to hear the matter and correct the assessment and taxes by increasing the assessment as made by the State Tax Commissioner to its true value and that the Board order the proper classification of railroad properties as between main stem and second class.

CITY OF JERSEY CITY.
By ARTHUR POTTERTON,
Director of Revenue and Finance.

Dated: May 29th, 1941.

State of New Jersey, }
County of Hudson, } ss.:

ARTHUR POTTERTON, being duly sworn according to law, upon his oath, deposes and says:

That he is the Director of Revenue and Finance of the City of Jersey City, a Municipal Corporation of the State of New Jersey and in charge of all municipal finances and taxes of the City of

Jersey City and that he has read the foregoing complaint and appeal and knows the contents thereof and that the matters stated therein are true, to the best of his knowledge and belief.

ARTHUR POTTERTON.

Sworn and subscribed to before me
this 29th day of May, 1941.

LAWRENCE H. BRANNAGAN.

(SEAL)

SCHEDULE A.

DELAWARE LACKAWANNA & WESTERN RAILROAD SYSTEM

Morris & Essex Railroad (Main Line)	
Assessed	18,929,655.00
Increase to:—	27,000,000.00
Morris & Essex Railroad (Boonton Branch)	
Assessed	100,570.00
Increase to:—	139,000.00

RR — 290

STATE BOARD OF TAX APPEALS
OF NEW JERSEY

In the matter of the assessment and taxation of the property of the several companies constituting the

Delaware, Lackawanna and Western Railroad System

used for railroad purposes in the State of New Jersey, for the year 1941.

COMPLAINT AND APPEAL

James A. Hamill,
City Hall
Jersey City, N. J.

Filed June 16, 1941

STATE BOARD OF TAX APPEALS

DOCKET

RR 290 CITY OF JERSEY CITY
Petitioner,
vs.
STATE TAX COMR. & DELAWARE, LACKAWANNA & WESTERN RAILROAD SYSTEM
1941 *Respondent.*

Petr's Atty. James A. Hamill by Frank P. McCarthy.
Respdt's Atty. Harry A. Walsh, for Tax Comr. M. M. Stallman, for Company.
Property:
Judgment: Appeal Dismissed.

Appeal from assessment by State Tax Comr. for 1941

1941

June 16 Petition filed. Hearing had already (May 19) been fixed for Sept 23 at Trenton.

Sept 9 Application of petr. to file amended appeal heard. Decision reserved.

" 23 Case called and continued to November 18th.

Nov. 18 Case called and continued to February 10, 1942.

1942

Feb. 10 Case called, and continued to April 14, 1942.

Return to Writs of Certiorari.

Apr. 14	Case called and continued to June 1st.
May 20	Supplemental appeal filed.
June 1	Case called and continued to Sept. 15.
" 15	Supplemental appeal filed.
Sept 15	Case called and continued to Jan. 19, 1943.
1943	
Jan. 19	Appeal dismissed for lack of jurisdiction. (See opinion filed in RR—224.)
Mar. 6	Application made by City for correction of judgment. Decision reserved pending filing of briefs.
" 30	Two additional judgments entered dismissing supplemental appeals filed.

Filed January 19, 1943.

THE STATE BOARD OF TAX APPEALS
OF NEW JERSEY

CITY OF JERSEY CITY,
Petitioner,
vs.
STATE TAX COMMISSIONER, DELAWARE, LACKAWANNA & WESTERN RAILROAD SYSTEM,
Respondent.

Opinion.

APPEARANCES

For the Petitioner: FRANK P. MCCARTHY, Esq.

For the State Tax Commissioner: HARRY A. WALSH, Esq.

For the Delaware, Lackawanna & Western Railroad System: M. M. STALLMAN, Esq.

WAESCHE, President: On June 17, 1940, the petitioner, the City of Jersey City, filed its appeal in this matter from the assessment of second class railroad properties of the Delaware, Lackawanna & Western Railroad System used for railroad purposes, for taxes due during the year 1940, as determined by the State Tax Commissioner. The hearing of this appeal has been adjourned from time to time by consent of counsel for the respective parties.

At the time of calling the calendar of appeals on September 15, 1942, the respondent, Delaware, Lackawanna & Western Railroad System, moved

to dismiss this appeal on the ground, among others, that the State Board of Tax Appeals had lost jurisdiction to hear and determine the appeal because the hearing thereon was not held and concluded on or before October 15, 1940, in accordance with the provisions of Section 54:26-10 of the 1937 Revised Statutes of New Jersey.

The assessed value of the railroad properties of the respondent, Delaware, Lackawanna & Western Railroad System, which is the subject matter of this appeal, was finally determined by the State Tax Commissioner and certified to the comptroller of New Jersey on or before June 1, 1940. (1937 R. S. 54:27-1.) Any appeal from his final determination had to be taken by filing a written complaint with the State Board of Tax Appeals on or before Monday, June 17, 1940. (1937 R .S. 54:26-7.) This appeal should have been heard on or before October 15, 1940, and the final determination of the State Board of Tax Appeals should have been certified to the State Tax Commissioner between November 1st and November 5th, 1940. The statute reads as follows:

> "The State Board of Tax Appeals shall conclude its hearing on or before the fifteenth day of October following the filing of the complaint, and, between November first and November fifth following, shall certify to the State Tax Commissioner its final determination, and the State Tax Commissioner shall forthwith certify to the State Comptroller all changes and corrections in the assessment and tax." (1937 R. S. 54:26-10.)

The "Railroad Tax Law of 1941" (Chapter 291, P. L. 1941) which supersedes the act under which

this appeal was taken, provides the same method for assessing second class railroad properties used for railroad purposes, and for taking appeals from the assessments levied by the State Tax Commissioner. Section 34 of the "Railroad Tax Law of 1941" provides as follows:

> "The State Board of Tax Appeals shall conclude its hearing on or before the fifteenth day of October following the filing of the complaint, and between November first and November fifth following shall certify to the State Tax Commissioner its final determination."

In an opinion filed on November 4, 1942, in the case of Jersey City vs. William D. Kelly, State Tax Commissioner and New York Central Railroad System, et als., this Board, in referring to the dates set forth in Section 34 of the "Railroad Tax Law of 1941," held that, "all of such dates are mandatory and that this Board must conclude its hearings on or before the fifteenth day of October following the filing of the complaint."

It is the opinion of this Board that this appeal should have been heard and the hearing concluded on or before October 15, 1940, and since the appeal was not heard before that date, the Board has lost jurisdiction to hear the appeal now.

This appeal is accordingly dismissed and the tax assessments levied by the State Tax Commissioner for the taxes due in the year 1940 against the above named company are affirmed.

STATE OF NEW JERSEY,
STATE BOARD OF TAX APPEALS.

In the matter of appeal of CITY OF JERSEY CITY v. WILLIAM D. KELLY, State Tax Commissioner, and DELAWARE, LACKAWANNA & WESTERN RAILROAD SYSTEM for the year 1941.	Judgment.

A duly verified petition of appeal having been filed by City of Jersey City complaining of the assessment by the State Tax Commissioner on property of Delaware, Lackawanna & Western Railroad System for the year 1941;

And the parties not having adduced any evidence with respect to said appeal, on or prior to October 15, 1941, and the Board being without power under the statute in such case made and provided, to hear appeals from assessments on railroad property for the year 1941 subsequent to October 15, 1941;

It is on this nineteenth day of January, 1943, at a session of the State Board of Tax Appeals, ORDERED, ADJUDGED and DECREED, that the appeal of the said petitioner be and the same is hereby dismissed, and that the assessment levied by the State Tax Commissioner for the year 1941, on property of the above named company, com-

plained of in said appeal, be and the same is hereby affirmed.

DONALD M. WAESCHE,
President.
THELMA PARKINSON SHARP,
J. WM. HUEGEL,
A. H. KREAMER,
RICHARD J. HARRIGAN,
JOSEPH S. HOFF,
State Board of Tax Appeals.

Attest:

CHAS. E. COOK,
Secretary.

ENDORSED:

RR-290
STATE OF NEW JERSEY
STATE BOARD OF TAX APPEALS

In re Appeal of
CITY OF JERSEY CITY
vs.
WILLIAM D. KELLY, State Tax Commissioner, and DELAWARE, LACKAWANNA AND WESTERN RAILROAD SYSTEM for the year 1941.

JUDGMENT

Decided and Filed January 19, 1943

STATE BOARD OF TAX APPEALS
OF NEW JERSEY.

In the matter of the assessment and taxation of the property of the several companies constituting the DELAWARE, LACKAWANNA & WESTERN RAILROAD SYSTEM, used for railroad purposes in the State of New Jersey, for the year 1941.	Complaint and Appeal.

To the State Board of Tax Appeals of New Jersey:

The City of Jersey City, a municipal corporation of the State of New Jersey, complains against the assessment of Second Class properties of each and all of the said companies, used for railroad purposes in the State of New Jersey, owned, leased or held by the above named railroad system as determined by the State Tax Commissioner of New Jersey for the year 1941, purportedly under Chapter 291 of the Laws of 1941, as shown by the annexed schedule to this complaint designated as Schedule "A", which is annexed hereto and made part hereof, and complains against the assessment of franchise taxes against said companies made by the State Tax Commissioner for the year 1941, purportedly under Chapter 291 of the Laws of 1941. The City of Jersey City complains against the assessments on the following grounds:

Return to Writs of Certiorari.

1. Chapter 291 of the Laws of 1941 (hereinafter referred to as "Chapter 291") and the assessments thereunder by the State Tax Commissioner of property used for railroad purposes contravene Article IV, Section 7, Paragraph 12 of the Constitution of the State of New Jersey, which provides that:

> "Property shall be assessed for taxes under general laws, and by uniform rules, according to its true value,"

for the reason that said Chapter 291 provides for the assessment of railroad property at a fixed rate of 3% of the true value thereof, whereas the average rate of taxation in the State of New Jersey for the year 1941 is 4.818% of true value, and whereas the great bulk of railroad property is situated in municipalities having local tax rates substantially in excess of 3% of true value; by reason of all of which, Chapter 291 is a special rather than a general law, and results in the taxation of railroad and other property under rules which are not uniform, imposing a burden of taxation upon railroad property substantially less than that imposed upon all other property.

2. Chapter 291 and the assessments thereunder by the State Tax Commissioner of property used for railroad purposes contravene said Article IV, Section 7, Paragraph 12, of the Constitution of the State of New Jersey, in that the provision therein for the rate of 3% for the taxation of railroad property was made with the deliberate intent and purpose of discriminating in favor of railroad company taxpayers and against all other taxpayers, and with the intent and necessary effect

of levying an hostile and oppressive burden on such other taxpayers.

3. Chapter 291 is a special law granting to railroad corporations an exclusive privilege and immunity in violation of Article IV, Section 7, Paragraph 11 of the State of New Jersey, providing that:

> "The legislature shall not pass private, local or special laws in any of the following enumerated cases, that is to say:
>
> "* * * Granting to any corporation, association or individual, any exclusive privilege, immunity or franchise whatever.
>
> "* * * the legislature shall pass general laws providing for the cases enumerated in this paragraph and for all other cases, which, in its judgment, may be provided for by general laws,"

in that it grants to such corporations the exclusive privilege and immunity of payment of taxes upon property for railroad purposes at the fixed rate of 3% of true value, whereas the great bulk of property in the State of New Jersey is taxable at local rates of taxation substantially in excess thereof, and in that it grants to such corporations the exclusive privilege and immunity of a fixed tax rate, regardless of the needs of government, whereas all other taxpayers are subject to variable local rates of taxation.

4. Chapter 291 is a special law granting a fixed tax rate of 3% of true value to railroad corporations, palpably in violation of the provisions of said Article IV, Section 7, Paragraph 11 of the Constitution, providing that the legislature shall

pass general laws in all cases, which, in its judgment, may be provided for by general laws.

5. Chapter 291, in providing for the abatement and cancellation of the assessments theretofore made for the year 1941, under R. S. Section 54:19-1, et seq., contravenes Article I, Paragraph 20, of the Constitution of the State of New Jersey, providing that:

> "No donation of land or appropriation of money shall be made by the State or any municipal corporation to or for the use of any society, association or corporation whatever."

in that it donates and appropriates to the railroad corporation taxpayers' money owing to the State, to which the right of the State had become vested prior to the adoption of Chapter 291, said donation and appropriation consisting of the said taxes payable to the State for the year 1941, under and by virtue of the said assessments of railroad property by the State Tax Commissioner under R. S. Section 54:19-1, et seq.

6. Chapter 291 contravenes said Article I, Paragraph 20, of the Constitution, in that it donates and appropriates to the railroad corporation taxpayers' money owing to the State, to which the right of the State had become vested prior to the adoption of Chapter 291, said donation and appropriation consisting of the taxes payable to the State for the year 1941, by each railroad company having property so assessed, under and by virtue of the assessment of railroad property by the State Tax Commissioner, under R.S. Section 54:19-1, et seq., less the property taxes assessed by the State Tax Commissioner upon the railroad

property of each of said railroad companies, respectively, under and pursuant to the provisions of Chapter 291.

7. Chapter 291 contravenes said Article I, Paragraph 20, of the Constitution, in that it compels such appropriation of money by all of the taxing districts in the State, in which Class II railroad property is located, with respect to the money due to said taxing districts, to which the right of said taxing districts had vested prior to the adoption of Chapter 291, said donation and appropriation consisting of the amount of such taxes to be paid over to the taxing districts for the year 1941, under the provisions of the Revised Statutes, for the taxation of railroad property upon the assessment made under said statutes.

8. Chapter 291 contravenes Article I, Paragraph 20, of the Constitution, in that it compels such appropriation of money by all of the taxing districts in the State, in which Class II railroad property is located, with respect to the said moneys due to said taxing districts, to which the right of said taxing districts had vested prior to the adoption of Chapter 291, said donation and appropriation consisting of the difference between the amount of such taxes to be paid over to the taxing districts for the year 1941, under the provisions of the Revised Statutes for the taxation of railroad property, and the amount of taxes upon Class II railroad property, to be paid over to said taxing districts for said year, under Chapter 291.

9. Chapter 291 contravenes Article I, Paragraph 19, of the Constitution of the State of New Jersey, providing that:

"No county, city, borough, town, township or village shall hereafter give any money or property, * * * to or in aid of any individual, association or corporation, * * *"

in that it compels the petitioning taxing district and all other taxing districts in which Class II property was situated, and assessed under R. S. Section 54:19-1, et seq., to forego their right to, and, therefore to give to the railroad corporations, the taxes assessed and payable by them under said statute, apportioned to and provided to be paid over to said taxing districts under said law, and to which the right of said taxing districts had become vested prior to the adoption of Chapter 291.

10. Chapter 291 contravenes Article I, Paragraph 19, of the Constitution, in that it compels the petitioning taxing district and all other taxing districts in which Class II property was situated, and assessed under R. S. Section 54:19-1, et seq., to forego their right to, and, therefore to give to the railroad corporations, the taxes assessed and payable by them under said statute, apportioned to and provided to be paid over to said taxing districts under said law, and to which the right of said taxing districts had become vested prior to the date of adoption of Chapter 291; the moneys so unconstitutionally given consisting of the difference between the amount of such taxes to be paid over to the taxing districts aforesaid, for the year 1941, under the Revised Statutes, and the amount of taxes upon Class II railroad property payable over to said taxing districts for said year, under Chapter 291.

Return to Writs of Certiorari.

11. Chapter 291 contravenes Article IV, Section 7, Paragraph 11, of the Constitution, in that it is a special law granting to railroad corporations the exclusive privilege and immunity of an abatement and cancellation of taxes assessed and payable for the year 1941.

12. Sections 13, 14 and 15 of Chapter 291 purport to levy an excise tax based upon the net railway operating income of the railroads attributable to their operations in the State of New Jersey. The "franchise base" upon which the tax is assessed, set up in Section 14, is computed by allocating to the State of New Jersey such part of net railway operating income of the railroad or system as the number of miles of all track over which the railroad or system operates in this state bears to the total number of miles of all track over which it operates, and by capitalizing the amount so allocated at three per centum. Certain railroad companies assessed under this chapter have all of their track within this State. Other railroad companies and systems have substantially all of their track within this State, and still other companies and systems have a large proportion of their track outside of the State. There are situated in the State of New Jersey, and principally in the prosecutor municipality, and other municipalities in Hudson County, extensive, costly, and very valuable railroad terminal and waterfront facilities, which form the principal railroad terminus in the eastern part of the United States. Because of this fact, a far greater net railway operating income per track mile is attributable to the railroad tracks located in New Jersey than to the tracks located outside of this State. As a result thereof, the for-

mula set up in said Section 14 for the allocation of net railway operating income to New Jersey results in a franchise tax against the interstate railroads which is disproportionately lower, arbitrarily and unreasonably, than the franchise tax assessed against the intrastate railroads, and further, as among interstate railroads, results arbitrarily and unreasonably in a disproportionately lower franchise tax upon those roads which have a greater proportion of track outside of this State. The said formula results in an arbitrary, unreasonable and discriminatory classification of railroads, from the standpoint of the objective of the said franchise tax as a tax based upon net railway operating income attributable to the use of the franchises granted by this State. The said provisions are in said respects violative of the said Article IV, Section 7, Paragraph 11, of the Constitution, in that the said law is a special law granting exclusive privileges, immunities and franchises to corporations.

The said provisions relating to a franchise tax are inseparable from the property tax provisions of Chapter 291, and, therefore, by reason of the unconstitutionality herein charged in the franchise tax provisions, Chapter 291, in its entirety, is unconstitutional and void.

13. The said franchise tax provisions of Chapter 291 further contravene Article IV, Section 7, Paragraph 11, of the Constitution, in that, by virtue of the facts recited in paragraph numbered 12 hereof, they constitute said Chapter 291 a special law and not a general law, palpably in violation of the provisions of said Article IV, Section 7, Paragraph 11, providing that the legislature shall pass

general laws, in all cases which, in its judgment, may be provided for by general laws.

The said provisions relating to a franchise tax are inseparable from the property tax provisions of Chapter 291, and, therefore, by reason of the unconstitutionality herein charged in the franchise tax provisions, Chapter 291, in its entirety, is unconstitutional and void.

14. The said franchise tax provided for by Chapter 291 is imposed upon the net railway operating income of each system and railroad not part of a system. Section 2 of Chapter 291 defines "system" as "any independently operating railroad which operates its facilities and those of one or more other railroads as a single utility for furnishing transportation service. A system shall include all companies the property of which is so operated either by virtue of control through direct or indirect ownership of a majority or more of capital stock, or under lease, trackage rights or under any other form of contract, and for which separate operating accounts are not maintained." A railroad is thereby permitted to offset against its actual earnings attributable to operations in New Jersey, which, standing alone, would result in a franchise tax against it, the losses sustained by affiliated or controlled companies. Further, such losses so offset may be losses of an affiliated or controlled company whose lines are wholly outside of this State. In either of said cases, accordingly such offset will result in a decrease or elimination of the franchise tax otherwise payable. Independently operating railroads, on the other hand, are not accorded said privilege and immunity.

The said provisions further place it within the power of any such system itself to determine from time to time what roads to operate as a single utility with joint operating accounts and thereby to control the amount of tax payable, on a basis other than that of the net railway operating income of each company, attributable to operations in New Jersey.

By reason thereof, the said provisions create an arbitrary, unreasonable and discriminatory classification of railroads as between those which are or may be part of a system and those which are independently operated, and also as between systems depending upon the manipulation of the membership of said systems. These provisions are in said respects violative of the said Article IV, Section 7, Paragraph 11, of the Constitution of the State of New Jersey in that the said law is a special law granting exclusive privileges, immunities and franchises to corporations.

The said provisions relating to a franchise tax are inseparable from the property tax provisions of Chapter 291, and therefore, by reason of the unconstitutionality herein charged in the franchise tax provisions, Chapter 291 in its entirety is unconstitutional and void.

15. The said franchise tax provisions of Chapter 291 further contravene Article IV, Section 7, Paragraph 11, in that, by virtue of the facts recited in paragraph numbered 14 hereof, they constitute said Chapter 291 a special law and not a general law, palpably in violation of the provisions of said Article IV, Section 7, Paragraph 11, providing that the legislature shall pass general laws in all cases, which, in its judgment, may be provided for by general laws.

The said provisions relating to a franchise tax are inseparable from the property tax provisions of Chapter 291, and, therefore, by reason of the unconstitutionality herein charged in the franchise tax provisions, Chapter 291, in its entirety, is unconstitutional and void.

16. The said franchise tax provided for by Chapter 291 permits the deduction from total railway operating revenues, in the determination of the net railway operating income upon which the tax is computed, of rentals paid to lessors of lines. Thus, the net railway operating income of a lessee railroad is reduced by a factor absent in the case of a railroad company operating its own lines, with the result that in the case of a lessee railroad the franchise tax is not levied upon the income attributable to the use of the franchise to the same extent as in the case of the railroad company operating its own lines.

By reason thereof, the said provisions create an arbitrary, unreasonable and discriminatory classification of railroads, as between those companies which operate as lessees, and those companies which operate their own lines. These provisions are in said respect violative of the said Article IV, Section 7, Paragraph 11, of the Constitution of the State of New Jersey, in that the said law is a special law granting exclusive privileges, immunities and franchises to corporations.

The said provisions relating to a franchise tax are inseparable from the property tax provisions of Chapter 291, and therefore by reason of the unconstitutionality herein charged in the franchise tax provisions, Chapter 291 in its entirety is unconstitutional and void.

17. The said franchise tax provisions of Chapter 291 further contravene Article IV, Section 7, Paragraph numbered 11, in that, by virtue of the facts recited in paragraph 16 hereof, they constitute said Chapter 291 a special law and not a general law, palpably in violation of the provisions of said Article IV, Section 7, Paragraph 11, providing that the legislature shall pass general laws in all cases which, in its judgment, may be provided for by general laws.

The said provisions relating to a franchise tax are inseparable from the property tax provisions of Chapter 291, and, therefore, by reason of the unconstitutionality herein charged in the franchise tax provisions, Chapter 291, in its entirety, is unconstitutional and void.

18. The provisions of Section 14 of Chapter 291, which provide that the State Tax Commissioner shall have the power of regulation with respect to reasonableness of amount and appropriateness of accounting distribution, of deductions from operating revenues for depreciation, additions and betterments, and of compensation for personal services, in the determination of net railway operating income, for purposes of computation of the franchise tax assessed under said Chapter 291, are violative of the provisions of Article III, Paragraph 1, of the Constitution of the State of New Jersey, which provides that:

> "The powers of the government shall be divided into three distinct departments—the legislative, executive and judicial; and no person or persons belonging to, or constituting one of these departments, shall exercise any of the powers properly belonging

to either of the others, except as herein expressly provided,"

and of Article IV, Section 1, of the Constitution of the State of New Jersey, which provides that:

"The legislative power shall be vested in a senate and general assembly,"

in that such provisions of Section 14 constitute a delegation of legislative power to the State Tax Commissioner, contrary to said provisions of the Constitution.

The said provisions relating to a francise tax are inseparable from the property tax provisions of Chapter 291, and, therefore, by reason of the unconstitutionality herein charged in the franchise tax provisions, Chapter 291 in its entirety is unconstitutional and void.

19. By virtue of the facts set forth in paragraphs numbered 14 and 16 hereof, Chapter 291 contravenes said provisions of Article III, Paragraph 1, and the provisions of Article IV, Section 1 of the Constitution, in that the franchise tax provisions of said Chapter 291 place it within the power of a railroad system, to control the amount of its tax payable by determining, from time to time, what roads to operate as a single utility with joint operating accounts, and further place it within the power of each railroad company owning a line in this State, to lease it to an affiliated or subsidiary company, thereby creating a rental offset against the operating income of the line; by reason of which there results a delegation of legislative power to said railroad systems and to each railroad, contrary to the said provisions of the Constitution.

The said provisions relating to a franchise tax are inseparable from the property tax provisions of Chapter 291, and therefore, by reason of the unconstitutionality herein charged in the franchise tax provisions, Chapter 291, in its entirety, is unconstitutional and void.

20. Chapter 291 contravenes the provisions of the Fourteenth Amendment to the Constitution of the United States, which provides that:

> "* * *nor shall any State deprive any person of life, liberty or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws,"

in that the provisions thereof which limit the rate of taxation of the property of railroad companies used for railroad purposes to three per centum upon the true value thereof were adopted by the legislature with the deliberate intent and purpose of discriminating in favor of railroad company taxpayers, and against all other taxpayers, and with the intent and effect of levying an hostile and oppressive burden on such other taxpayers, and such law results in depriving the prosecutor-taxpayers and all taxpayers in the State of New Jersey other than the railroad companies assessed under said Chapter 291, of property without due process of law, in that the rate of taxation fixed under the laws of the State of New Jersey upon the great bulk of the property of all taxpayers in the State of New Jersey other than railroad companies now is, and for many years heretofore has been, at a rate substantially in excess of the rate so fixed by Chapter 291 for the

taxation of railroad property, and results in the denial to said non-railroad taxpayers the equal protection of the laws.

21. By virtue of the facts set out in paragraphs numbered 12, 13, 14, 15, 16 and 17, hereof, the franchise tax provisions of Chapter 291 deny to certain of the railroad company taxpayers indicated in said paragraphs, the equal protection of the laws, and deprive such taxpayers of property without due process of law, all in violation of the Fourteenth Amendment of the Constitution of the United States.

The said provisions relating to a franchise tax are inseparable from the property tax provisions of Chapter 291, and, therefore, by reason of the unconstitutionality herein charged in the franchise tax provisions, Chapter 291 is in its entirety unconstitutional and void.

22. By virtue of the facts alleged in paragraphs numbered 1 and 2 hereof, the property of taxpayers other than railroad companies is taken for public use without just compensation, contrary to the provisions of Article I, Paragraph 16, of the Constitution of the State of New Jersey.

23. By reason of the facts set out in paragraphs numbered 12, 13, 14, 15, 16 and 17 hereof, the property of certain railroad company taxpayers is taken for public use without just compensation, contrary to the said provisions of Article I, Paragraph 16, of the Constitution.

The said provisions relating to the franchise tax are inseparable from the property tax provisions of Chapter 291, and, therefore, by reason of the unconstitutionality herein charged in the franchise

tax provisions, Chapter 291 in its entirety is unconstitutional and void.

24. The assessments for the year 1941 of Class II railroad properties located in the petitioning municipality are at less than the true value of said properties.

25. Said assessments of railroad property are erroneous, in that structures and improvements located wholly on Class II land within the petitioning municipality, are assessed as Class I property, whereas they should be assessed as Class II property.

26. In determining the franchise tax for the year 1941, the State Tax Commissioner allowed as deductions for railway tax accruals, sums in excess of the proper and lawful railway tax accruals for the year 1940.

27. The State Tax Commissioner failed to adopt any regulations as to the reasonableness of amount of deductions for depreciation, additions and betterments, and compensation for personal services, and as to the appropriateness of accounting distribution.

28. The State Tax Commissioner, in determining the franchise tax, used figures submitted by the railroad companies for deductions from operating revenues for depreciation, additions and betterments, and compensation for personal services, without investigating or verifying the said figures, and without in fact making any regulation or determination as to the reasonableness of the amount of such deductions, and of the appropriateness of accounting distribution.

Return to Writs of Certiorari.

29. The State Tax Commissioner, in determining the said franchise tax, allowed excessive and unreasonable deductions for the items specified in paragraph numbered 27 hereof.

The City of Jersey City respectfully requests your Honorable Board to hear the matter and correct the assessment and taxes by increasing the assessment as made by the State Tax Commissioner to its true value and that the Board order the proper classification of railroad properties as between main stem and second class.

Dated: May 8, 1942.

CITY OF JERSEY CITY,
By ARTHUR POTTERTON,
Director of Revenue and Finance.

State of New Jersey, }
County of Hudson, } ss.:

ARTHUR POTTERTON, being duly sworn according to law, upon his oath deposes and says:

That he is the Director of Revenue and Finance of the City of Jersey City, a municipal corporation of the State of New Jersey and in charge of all municipal finances and taxes of the City of Jersey City, and that he has read the foregoing complaint and appeal and knows the contents thereof, and that the matters stated therein are true to the best of his knowledge and belief.

ARTHUR POTTERTON.

Sworn and subscribed to before me,
this 8th day of May, 1942.

LAWRENCE H. BRANNAGAN,
Notary Public of New Jersey.
(SEAL)

SCHEDULE "A"

DELAWARE, LACKAWANNA & WESTERN RAILROAD SYSTEM

MORRIS & ESSEX RAILROAD (MAIN LINE)

Assessed	$18,929,655.00
Increase to	27,000,000.00

MORRIS & ESSEX RAILROAD (BOONTON BRANCH)

Assessed	100,570.00
Increase to	139,000.00

(ENDORSED)

RR—290

STATE BOARD OF TAX APPEALS
OF NEW JERSEY

In the matter of the assessment and taxation of the property of the several companies constituting the
DELAWARE, LACKAWANNA & WESTERN RAILROAD SYSTEM
used for railroad purposes in the State of New Jersey, for the year 1941.

COMPLAINT AND APPEAL

CHARLES A. ROONEY,
Corporation Counsel,
City Hall,
Jersey City, N. J.

FRANK P. MCCARTHY,
Of Counsel.

Filed May 20, 1942

STATE OF NEW JERSEY,
STATE BOARD OF TAX APPEALS.

In the Matter of Appeal of CITY OF JERSEY CITY *vs.* WILLIAM D. KELLY, State Tax Commissioner and DELAWARE, LACKAWANNA & WESTERN RAILROAD SYSTEM for the year 1941.	Judgment.

A duly verified petition of appeal having been filed by the City of Jersey City complaining of the assessment by the State Tax Commissioner on property of Delaware, Lackawanna & Western Railroad System for the year 1941, made under and pursuant to Chapter 291 of the Laws of 1941;

And the parties not having adduced any evidence with respect to said appeal, on or prior to October 15, 1942, and the Board being without power under the statute in such case made and provided, to hear appeals from assessments on railroad property for the year 1941 subsequent to October 15, 1942;

It is on this thirtieth day of March, 1943, at a session of the State Board of Tax Appeals, ORDERED, ADJUDGED and DECREED, that the appeal of the said petitioner be and the same is hereby dismissed, and that the assessment levied by the State Tax Commissioner for the year 1941, on property of the above named company, com-

plained of in said appeal, be and the same is hereby affirmed.

DONALD M. WAESCHE,
President.

J. WM. HUEGEL,
DAVID R. SMITH,
RICHARD J. HARRIGAN,
A. H. KREAMER,
JOSEPH S. HOFF,
State Board of Tax Appeals.

Attest:
CHAS. E. COOK,
Secretary.

ENDORSED:

RR-290

STATE OF NEW JERSEY,
STATE BOARD OF TAX APPEALS.

In re Appeal of
CITY OF JERSEY CITY
vs.
WILLIAM D. KELLY, State Tax Commissioner, and DELAWARE, LACKAWANNA & WESTERN RAILROAD SYSTEM for the year 1941.

JUDGMENT

Filed: March 30, 1943

STATE BOARD OF TAX APPEALS
OF NEW JERSEY

In the matter of the assessment and taxation of the property of, and the assessment of franchise taxes against, the several companies constituting the DELAWARE, LACKAWANNA & WESTERN RAILROAD SYSTEM, used for railroad purposes in the State of New Jersey, for the year 1941.	Complaint and Appeal.

To The State Board of Tax Appeals of New Jersey:

The City of Jersey City, a municipal corporation of the State of New Jersey, complains against the assessment of Second Class properties of each and all of the said companies, used for railroad purposes in the State of New Jersey, owned, leased or held by the above named railroad system as determined by the State Tax Commissioner of New Jersey for the year 1941, purportedly under Chapter 291 of the Laws of 1941, as amended by Chapter 169 of the Laws of 1942 as shown by the annexed schedule to this complaint designated as Schedule "A", which is annexed hereto and made part hereof, and complains against the assessment of franchise taxes against said companies made by the State Tax Commissioner for the year 1941, purportedly under Chapter 291 of the Laws of 1941, as amended by Chapter 169 of the Laws of 1942. The City of Jersey City

complains against the assessments on the following grounds:

1. Chapter 291 of the Laws of 1941 (hereinafter referred to as "Chapter 291") as amended by Chapter 169 of the Laws of 1942 (hereinafter referred to as "Chapter 169") and the assessments thereunder by the State Tax Commissioner of property used for railroad purposes contravene Article IV, Section 7, Paragraph 12 of the Constitution of the State of New Jersey, which provides that:

> "Property shall be assessed for taxes under general laws, and by uniform rules, according to its true value,"

for the reason that said Chapter 291 provides for the assessment of railroad property at a fixed rate of 3% of the true value thereof, whereas the average rate of taxation in the State of New Jersey for the year 1941 is 4.818% of true value, and whereas the great bulk of railroad property is situated in municipalities having local tax rates substantially in excess of 3% of true value; by reason of all of which, Chapter 291 as amended by Chapter 169 is a special rather than a general law, and results in the taxation of railroad and other property under rules which are not uniform, imposing a burden of taxation upon railroad property substantially less than that imposed upon all other property.

2. Chapter 291 as amended by Chapter 169 and the assessments thereunder by the State Tax Commissioner of property used for railroad purposes contravene said Article IV, Section 7, Paragraph 12, of the Constitution of the State of New Jersey,

in that the provision therein for the rate of 3% for the taxation of railroad property was made with the deliberate intent and purpose of discriminating in favor of railroad company taxpayers and against all other taxpayers, and with the intent and necessary effect of levying an hostile and oppressive burden on such other taxpayers.

3. Chapter 291 as amended by Chapter 169 is a special law granting to railroad corporations an exclusive privilege and immunity in violation of Article IV, Section 7, Paragraph 11 of the Constitution of the State of New Jersey, providing that:

> "The legislature shall not pass private, local or special laws in any of the following enumerated cases, that is to say:
>
> "* * * Granting to any corporation, association or individual, any exclusive privilege, immunity or franchise whatever.
>
> "* * * the legislature shall pass general laws providing for the cases enumerated in this paragraph and for all other cases, which, in its judgment, may be provided for by general laws,"

in that it grants to such corporations the exclusive privilege and immunity of payment of taxes upon property for railroad purposes at the fixed rate of 3% of true value, whereas the great bulk of property in the State of New Jersey is taxable at local rates of taxation substantially in excess thereof, and in that it grants to such corporations the exclusive privilege and immunity of a fixed tax rate, regardless of the needs of government, whereas all other taxpayers are subject to variable local rates of taxation.

4. Chapter 291 as amended by Chapter 169 is a special law granting a fixed tax rate of 3% of true value to railroad corporations, palpably in violation of the provisions of said Article IV, Section 7, Paragraph 11 of the Constitution, providing that the legislature shall pass general laws in all cases, which, in its judgment, may be provided for by general laws.

5. Chapter 291 as amended by Chapter 169, in providing for the abatement and cancellation of the assessments theretofore made for the year 1941, under R. S. Section 54:19-1, et seq., contravenes Article I, Paragraph 20, of the Constitution of the State of New Jersey, providing that:

> "No donation of land or appropriation of money shall be made by the State or any municipal corporation to or for the use of any society, association or corporation whatever,"

in that it donates and appropriates to the railroad corporation taxpayers' money owning to the State, to which the right of the State had become vested prior to the adoption of Chapter 291 as amended by Chapter 169, said donation and appropriation consisting of the said taxes payable to the State for the year 1941, under and by virtue of the said assessments of railroad property by the State Tax Commissioner under R. S. Section 54:19-1, et seq.

6. Chapter 291 as amended by Chapter 169 contravenes said Article I, Paragraph 20, of the Constitution, in that it donates and appropriates to the railroad corporation taxpayers' money owing to the State, to which the right of the State

had become vested prior to the adoption of Chapter 291 as amended by Chapter 169, said donation and appropriation consisting of the taxes payable to the State for the year 1941 by each railroad company having property so assessed, under and by virtue of the assessment of railroad property by the State Tax Commissioner, under R. S. Section 54:19-1, et seq., less the property taxes assessed by the State Tax Commissioner upon the railroad property of each of said railroad companies, respectively, under and pursuant to the provisions of Chapter 291 as amended by Chapter 169.

7. Chapter 291 as amended by Chapter 169 contravenes said Article I, Paragraph 20 of the Constitution, in that it compels such appropriation of money by all of the taxing districts in the State, in which Class II railroad property is located, with respect to the money due to said taxing districts to which the right of said taxing districts had vested prior to the adoption of Chapter 291 as amended by Chapter 169, said donation and appropriation consisting of the amount of such taxes to be paid over to the taxing districts for the year 1941, under the provisions of the Revised Statutes, for the taxation of railroad property upon the assessment made under said statutes.

8. Chapter 291 as amended by Chapter 169 contravenes Article I, Paragraph 20, of the Constitution, in that it compels such appropriation of money by all of the taxing districts in the State, in which Class II railroad property is located, with respect to the said moneys due to said taxing districts, to which the right of said

New Jersey State Library

taxing districts had vested prior to the adoption of Chapter 291 as amended by Chapter 169, said donation and appropriation consisting of the difference between the amount of such taxes to be paid over to the taxing districts for the year 1941, under the provisions of the Revised Statutes for the taxation of railroad property, and the amount of taxes upon a Class II railroad property, to be paid over to said taxing districts for said year, under Chapter 291 as amended by Chapter 169.

9. Chapter 291 as amended by Chapter 169 contravenes Article I, Paragraph 19, of the Constitution of the State of New Jersey, providing that:

> "No county, city, borough, town, township or village shall hereafter give any money or property, * * * to or in aid of any individual, association or corporation, * * * "

in that it compels the petitioning taxing district and all other taxing districts in which Class II property was situated, and assessed under R. S. Section 54:19-1, et seq., to forego their right to, and, therefore to give to the railroad corporations, the taxes assessed and payable by them under said statute, apportioned to and provided to be paid to said taxing districts under said law, and to which the right of said taxing districts had become vested prior to the adoption of Chapter 291 as amended by Chapter 169.

10. Chapter 291 as amended by Chapter 169 contravenes Article I, Paragraph 19, of the Constitution, in that it compels the petitioning taxing district and all other taxing districts in which

Class II property was situated and assessed under R. S. Section 54:19-1, et seq., to forego their right to, and, therefore to give to the railroad corporations, the taxes assessed and payable by them under said statute, apportioned to and provided to be paid over to said taxing districts under said law, and to which the right of said taxing districts had become vested prior to the date of the adoption of Chapter 291 as amended by Chapter 169; the moneys so unconstitutionally given consisting of the difference between the amount of such taxes to be paid over to the taxing districts aforesaid, for the year 1941, under the Revised Statutes, and the amount of taxes upon Class II railroad property payable over to said taxing districts for said year, under Chapter 291 as amended by Chapter 169.

11. Chapter 291 as amended by Chapter 169 contravenes Article IV, Section 7, Paragraph 11, of the Constitution, in that it is a special law granting to railroad corporations the exclusive privilege and immunity of an abatement and cancellation of taxes assessed and payable for the year 1941.

11a. Assessment of franchise taxes made for the year 1941 under Chapter 291 became vested and due and payable prior to the adoption of Chapter 169. Chapter 169 purports to vacate said assessment and to provide for the levy of a lesser franchise tax for the year 1941. Chapter 291 as amended by Chapter 169 contravenes provisions of the Constitution set forth in paragraphs 5, 6, 7, 8, 9, 10 and 11 hereinabove for the reasons set forth in said paragraphs.

12. Sections 13, 14 and 15 of Chapter 291 purport to levy an excise tax based upon the net railway operating income of the railroads attributable to their operations in the State of New Jersey. The "franchise base" upon which the tax is assessed, set up in Section 14, is computed by allocating to the State of New Jersey such part of net railway operating income of the railroad or system as the number of miles of all track over which the railroad or system operates in this State bears to the total number of miles of all track over which it operates, and by capitalizing the amount so allocated at three per centum. Certain railroad companies assessed under this chapter have all of their tracks within this State. Other railroad companies and systems have substantially all of their track within this State, and still other companies and systems have a large proportion of their track outside of the State. There are situated in the State of New Jersey, and principally in the prosecutor municipality, and other municipalities in Hudson County, extensive, costly, and very valuable railroad terminal and waterfront facilities, which form the principal railroad terminus in the eastern part of the United States. Because of this fact, a far greater net railway operating income per track mile is attributable to the railroad tracks located in New Jersey than to the tracks located outside of this State. As a result thereof, the formula set up in said Section 14 for the allocation of net railway operating income to New Jersey results in a franchise tax against the interstate railroads which is disproportionately lower, arbitrarily and unreasonably, than the franchise tax assessed against the intrastate railroads, and further, as

among interstate railroads, results arbitrarily and unreasonably in a disproportionately lower franchise tax upon those roads which have a greater proportion of track outside of this State, Chapter 169 purports to amend the provisions of Chapter 291 so as to provide for further arbitrary, unreasonable and discriminatory methods of determining the franchise tax. Chapter 169 provides for the arbitrary deduction of $200,000 from net railway operating income from each railroad system and each railroad not a part of a system, regardless of the size of the railroad or the extent of operations. Chapter 169 provides for an arbitrary, unreasonable and discriminatory rate of taxation for certain railroads operated by electricity. Chapter 169 provides for an arbitrary, unreasonable and diiscriminatory minimum franchise tax as to those railroad systems and railroads whose maximum franchise tax is less than the minimum franchise tax. The said formula as thus amended results in an arbitrary, unreasonable and discriminatory classification of railroads. from the standpoint of the objective of the said franchise tax as a tax based upon net railway operating income attributable to the use of the franchises granted by this State. The said provisions as thus amended are in said respects violative of the said Article IV, Section 7, Paragraph 11, of the Constitution, in that the said law is a special law granting exclusive privileges, immunities and franchises to corporations.

The said provisions relating to a franchise tax are inseparable from the property tax provisions of Chapter 291 as amended by Chapter 169, and, therefore, by reason of the unconstitutionality herein charged in the franchise tax provisions,

Chapter 291 as amended by Chapter 169, in its entirety, is unconstitutional and void.

13. The said franchise tax provisions of Chapter 291 as amended by Chapter 169 further contravene Article IV, Section 7, Paragraph 11, of the Constitution, in that, by virtue of the facts recited in paragraph numbered 12 hereof, they constitute said Chapter 291 as amended by Chapter 169 a special law and not a general law, palpably in violation of the provisions of said Article IV, Section 7, Paragraph 11, providing that the legislature shall pass general laws, in all cases which, in its judgment, may be provided for by general laws.

The said provisions relating to a franchise tax are inseparable from the property tax provisions of Chapter 291 as amended by Chapter 169, and, therefore, by reason of the unconstitutionality herein charged, in the franchise tax provisions, Chapter 291 as amended by Chapter 169, in its entirety, is unconstitutional and void.

14. The said franchise tax provided for by Chapter 291 as amended by Chapter 169 is imposed upon the net railway operating income of each system and railroad not part of a system. Section 2 of Chapter 291 as amended by Chapter 169 defines "system" as "any independently operating railroad which operates its facilities and those of one or more other railroads as a single utility for furnishing transportation service. A system shall include all companies the property of which is so operated either by virtue of control through direct or indirect ownership of a majority or more of capital stock, or under lease, trackage rights or under any other form of con-

tract, and for which separate operating accounts are not maintained." A railroad is thereby permitted to offset against its actual earnings attributable to operations in New Jersey, which, standing alone, would result in a franchise tax against it, the losses sustained by affiliated or controlled companies. Further, such losses so offset may be losses of an affiliated or controlled company whose lines are wholly outside of this State. In either of said cases, accordingly such offset will result in a decrease or elimination of the franchise tax otherwise payable. Independently operating railroads, on the other hand, are not accorded said privilege and immunity.

The said provisions further place it within the power of any such system itself to determine from time to time what roads to operate as a single utility with joint operating accounts and thereby to control the amount of tax payable, on a basis other than that of the net railway operating income of each company, attributable to operations in New Jersey.

By reason thereof, the said provisions create an arbitrary, unreasonable and discriminatory classification of railroads as between those which are or may be part of a system and those which are independently operated, and also as between systems depending upon the manipulation of the membership of said systems. These provisions are in said respects violative of the said Article IV, Section 7, Paragraph 11, of the Constitution of the State of New Jersey in that the said law is a special law granting exclusive privileges, immunities and franchises to corporations.

The said provisions relating to a franchise tax are inseparable from the property tax provisions

of Chapter 291 as amended by Chapter 169, and therefore, by reason of the unconstitutionality herein charged in the franchise tax provisions, Chapter 291 as amended by Chapter 169 in its entirety is unconstitutional and void.

15. The said franchise tax provisions of Chapter 291 as amended by Chapter 169 further contravene Article IV, Section 7, Paragraph 11, in that, by virtue of the facts recited in paragraph numbered 14 hereof, they constitute said Chapter 291 as amended by Chapter 169 a special law and not a general law, palpably in violation of the provisions of said Article IV, Section 7, Paragraph 11, providing that the legislature shall pass general laws in all cases, which, in its judgment, may be provided for by general laws.

The said provisions relating to a franchise tax are inseparable from the property tax provisions of Chapter 291 as amended by Chapter 169, and, therefore, by reason of the unconstitutionality herein charged in the franchise tax provisions, Chapter 291 as amended by Chapter 169, in its entirety, is unconstitutional and void.

16. The said franchise tax provided for by Chapter 291 as amended by Chapter 169 permits the deduction from total railway operating revenues, in the determination of the net railway operating income upon which the tax is computed, of rentals paid to lessors of lines. Thus, the net railway operating income of a lessee railroad is reduced by a factor absent in the case of a railroad company operating its own lines, with the result that in the case of a lessee railroad the franchise tax is not levied upon the income at-

tributable to the use of the franchise to the same extent as in the case of the railroad company operating its own lines.

By reason thereof, the said provisions create an arbitrary, unreasonable and discriminatory classification of railroads, as between those companies which operate as lessees, and those companies which operate their own lines. These provisions are in said respect violative of the said Article IV, Section 7, Paragraph 11, of the Constitution of the State of New Jersey, in that the said law is a special law granting exclusive privileges, immunities and franchises to corporations.

The said provisions relating to a franchise tax are inseparable from the property tax provisions of Chapter 291 as amended by Chapter 169, and therefore, by reason of the unconstitutionality herein charged in the franchise tax provisions, Chapter 291 as amended by Chapter 169 in its entirety is unconstitutional and void.

17. The said franchise tax provisions of Chapter 291 as amended by Chapter 169 further contravene Article IV, Section 7, Paragraph numbered 11, in that, by virtue of the facts recited in paragraph 16 hereof, they constitute said Chapter 291 as amended by Chapter 169 as a special law and not a general law, palpably in violation of the provisions of said Article IV, Section 7, Paragraph 11, providing that the legislature shall pass general laws in all cases which, in its judgment, may be provided for by general laws.

The said provisions relating to a franchise tax are inseparable from the property tax provisions of Chapter 291 as amended by Chapter 169, and,

therefore, by reason of the unconstitutionality herein charged in the franchise tax provisions, Chapter 291 as amended by Chapter 169, in its entirety, is unconstitutional and void.

18. The provisions of Section 14 of Chapter 291 as amended by Chapter 169, which provide that the State Tax Commissioner shall have the power of regulation with respect to reasonableness of amount and appropriations of accounting distribution, of deductions from operating revenues for depreciation, additions and betterments, and of compensation for personal services, in the determination of net railway operating income, for the purposes of computation of the franchise tax assessed under said Chapter 291 as amended by Chapter 169, are violative of the provisions of Article III, Paragraph 1, of the Constitution of the State of New Jersey, which provides that:

> "The powers of the government shall be divided into three distinct departments—the legislative, executive and judicial; and no person or persons belonging to, or constituting one of these departments, shall exercise any of the powers properly belonging to either of the others, except as herein expresssly provided,"

and of Article IV, Section 1, of the Constitution of the State of New Jersey, which provides that:

> "The legislative power shall be vested in a senate and general assembly,"

in that such provisions of Section 14 constitute a delegation of legislative power to the State Tax

Commissioner, contrary to said provisions of the Constitution.

The said provisions relating to a franchise tax are inseparable from the property tax provisions of Chapter 291 as amended by Chapter 169, and, therefore, by reason of the unconstitutionality herein charged in the franchise tax provisions, Chapter 291 as amended by Chapter 169 in its entirety is unconstitutional and void.

19. By virtue of the facts set forth in paragraphs numbered 14 and 16 hereof, Chapter 291 as amended by Chapter 169 contravenes said provisions of Article III, Paragraph 1, and the provisions of Article IV, Section 1, of the Constitution, in that the franchise tax provisions of said Chapter 291 as amended by Chapter 169 place it within the power of a railroad system, to control the amount of tax payable by determining, from time to time, what roads to operate as a single utility with joint operating accounts, and further place it within the power of each railroad company owning a line in this State, to lease it to an affiliated or subsidiary company, thereby creating a rental offset against the operating income of the line; by reason of which there results a delegation of legislative power to said railroad systems and to each railroad, contrary to the said provisions of the Constitution.

The said provisions relating to a franchise tax are inseparable from the property tax provisions of Chapter 291 as amended by Chapter 169 and therefore, by reason of the unconstitutionality herein charged in the franchise tax provisions, Chapter 291 as amended by Chapter 169, in its entirety, is unconstitutional and void.

20. Chapter 291 as amended by Chapter 169 contravenes the provisions of the Fourteenth Amendment to the Constitution of the United States, which provides that:

> " * * * nor shall any State deprive any person of life, liberty or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws,"

in that the provisions thereof which limit the rate of taxation of the property of railroad companies used for railroad purposes to three per centum upon the true value thereof were adopted by the legislature with the deliberate intent and purpose of discriminating in favor of railroad company taxpayers, and against all other taxpayers, and with the intent and effect of levying an hostile and oppressive burden on such other taxpayers, and such law results in depriving the prosecutor-taxpayers and all taxpayers in the State of New Jersey other than the railroad companies assessed under said Chapter 291 as amended by Chapter 169, of property without due process of law, in that the rate of taxation fixed under the laws of the State of New Jersey upon the great bulk of the property of all taxpayers in the State of New Jersey other than railroad companies now is, and for many years heretofore has been, at a rate substantially in excess of the rate so fixed by Chapter 291 as amended by Chapter 169 for the taxation of railroad property, and results in the denial to said non-railroad taxpayers the equal protection of the laws.

21. By virtue of the facts set out in paragraphs numbered 12, 13, 14, 15, 16 and 17, hereof, the

franchise tax provisions of Chapter 291 as amended by Chapter 169 deny to certain of the railroad company taxpayers indicated in said paragraphs, the equal protection of the laws, and deprive such taxpayers of property without due process of law, all in violation of the Fourteenth Amendment of the Constitution of the United States.

The said provisions relating to a franchise tax are inseparable from the property tax provisions of Chapter 291 as amended by Chapter 169, and, therefore, by reason of the unconstitutionality herein charged in the franchise tax provisions, Chapter 291 as amended by Chapter 169 is in its entirety unconstitutional and void.

22. By virtue of the facts alleged in paragraphs numbered 1 and 2 hereof, the property of taxpayers other than railroad companies is taken for public use without just compensation, contrary to the provisions of Article I, Paragraph 16, of the Constitution of the State of New Jersey.

23. By reason of the facts set out in paragraphs numbered 12, 13, 14, 15, 16 and 17 hereof, the property of certain railroad company taxpayers is taken for public use without just compensation, contrary to the said provisions of Article I, Paragraph 16, of the Constitution.

The said provisions relating to the franchise tax are inseparable from the property tax provisions of Chapter 291 as amended by Chapter 169, and, therefore, by reason of the unconstitutionality herein charged in the franchise tax provisions, Chapter 291 as amended by Chapter 169, in its entirety, is unconstitutional and void.

24. The assessments for the year 1941 of Class II railroad properties located in the petitioning municipality are at less than the true value of said properties.

25. Said assessments of railroad property are erroneous, in that structures and improvements located wholly on Class II land within the petitioning municipality, are assessed as Class I property, whereas they should be assessed as Class II property.

26. In determining the franchise tax for the year 1941, the State Tax Commissioner allowed as deductions for railway tax accruals, sums in excess of the proper and lawful railway tax accruals for the year 1940.

27. The State Tax Commissioner failed to adopt any regulations as to the reasonableness of amount of deductions for depreciation, additions and betterments, and compensation for personal services, and as to the appropriateness of accounting distribution.

28. The State Tax Commissioner, in determining the franchise tax, used figures submitted by the railroad companies for deductions from operating revenues for depreciation, additions and betterments, and compensation for personal services, without investigating or verifying the said figures, and without in fact making any regulation or determination as to the reasonableness of the amount of such deductions, and of the appropriateness of accounting distribution.

29. The State Tax Commissioner, in determining the said franchise tax, allowed excessive and un-

reasonable deductions for the items specified in paragraph numbered 27 hereof.

The City of Jersey City respectfully requests your Honorable Board to hear the matter and correct the assessment and taxes by increasing the assessment as made by the State Tax Commissioner to its true value and that the Board order the proper classification of railroad properties as between main stem and second class.

Dated: June 9, 1942.

CITY OF JERSEY CITY,
By ARTHUR POTTERTON,
Director of Revenue and Finance.

State of New Jersey, }
County of Hudson, } ss.:

ARTHUR POTTERTON, being duly sworn according to law, upon his oath deposes and says:

That he is the Director of Revenue and Finance of the City of Jersey City, a municipal corporation of the State of New Jersey and in charge of all municipal finances and taxes of the City of Jersey City and that he has read the foregoing complaint and appeal and knows the contents thereof, and that the matters stated therein are true to the best of his knowledge and belief.

ARTHUR POTTERTON.

Sworn and subscribed to before me,
this 9th day of June, 1942.

LAWRENCE H. BRANNAGAN,
Notary Public of New Jersey.
(SEAL)

SCHEDULE "A"

DELAWARE, LACKAWANNA & WESTERN RAILROAD SYSTEM

MORRIS & ESSEX RAILROAD (MAIN LINE)

Assessed	$18,929,655.00
Increase to	27,000,000.00

MORRIS & ESSEX RAILROAD (BOONTON BRANCH)

Assessed	100,570.00
Increase to	139,000.00

(ENDORSED)

RR—290

STATE BOARD OF TAX APPEALS
OF NEW JERSEY.

In the matter of the assessment and taxation of the property of, and the assessment of franchise taxes against, the several companies constituting the DELAWARE, LACKAWANNA & WESTERN RAILROAD SYSTEM used for railroad purposes in the State of New Jersey, for the year 1941.

COMPLAINT AND APPEAL

CHARLES A. ROONEY,
Corporation Counsel,
City Hall,
Jersey City, N. J.

Frank P. McCarthy,
Of Counsel.

Filed June 15, 1942

STATE OF NEW JERSEY

STATE BOARD OF TAX APPEALS.

In the Matter of Appeal of CITY OF JERSEY CITY *vs.* WILLIAM D. KELLY, STATE TAX COMMISSIONER and DELAWARE, LACKAWANNA & WESTERN RAILROAD SYSTEM for the year 1941.	Judgment.

A duly verified petition of appeal having been filed by City of Jersey City complaining of the assessment by the State Tax Commissioner on property of Delaware, Lackawanna & Western Railroad System, for the year 1941, made under and pursuant to Chapter 291 of the Laws of 1941, as amended by Chapter 169 of the Laws of 1942;

And the parties not having adduced any evidence with respect to said appeal, on or prior to October 15, 1942, and the Board being without power under the statute in such case made and provided, to hear appeals from assessments on railroad property for the year 1941 subsequent to October 15, 1942;

It is on this thirtieth day of March, 1943, at a session of the State Board of Tax Appeals, ORDERED, ADJUDGED and DECREED, that the appeal of the said petitioner be and the same is hereby dismissed, and that the assessment levied by the State Tax Commissioner for the year 1941, on property of the above named company, com-

plained of in said appeal, be and the same is hereby affirmed.

DONALD M. WAESCHE President
J. WM. HUEGEL
DAVID R. SMITH
RICHARD J. HARRIGAN
A. H. KREAMER
JOSEPH S. HOFF
State Board of Tax Appeals.

Attest:

CHAS. E. COOK
Secretary.

(ENDORSED)

RR—290

STATE BOARD OF TAX APPEALS
OF NEW JERSEY.

In re Appeal of
CITY OF JERSEY CITY
vs.
WILLIAM D. KELLY, STATE TAX COMMISSIONER, and DELAWARE, LACKAWANNA & WESTERN RAILROAD SYSTEM for the year 1941.

For the year 1941.

JUDGMENT

Filed March 30, 1943

STATE OF NEW JERSEY

STATE BOARD OF TAX APPEALS

I, CHAS. E. COOK, Secretary of the State Board of Tax Appeals, DO HEREBY CERTIFY, that the foregoing are true copies of the petition, judgment and proceedings in the matter of the appeal of City of Jersey City v. William D. Kelly, State Tax Commissioner, and Delaware, Lackawanna & Western Railroad System, et al., for the year 1941 as the same are taken from and compared with the originals, filed in the office of the State Board of Tax Appeals, on the sixteenth day of June, A. D. 1941, and other dates and now remaining on file and of record therein.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Board, at Trenton this tenth day of June, A. D. 1943.

(SEAL)

CHAS. E. COOK,
Secretary.

STATEMENT

Petitions filed by the City of Jersey City for the increase of assessments against the Lehigh Valley Railroad System, the Erie Railroad System and the New York Central Railroad System, the Pennsylvania Railroad System and the Hudson and Manhattan Railroad System for the year 1940 are in substantially the same form as the foregoing petitions of the City of Jersey City or the increase of the assessment of the Delaware,

Lackawanna & Western Railroad System, and the docket entries and judgments are the same.

The assessed valuation of property of each of the above named companies, as stated by the petitions of the City of Jersey City, and the increase prayed for in the said petitions are as follows:

SCHEDULE A.

LEHIGH VALLEY RAILROAD SYSTEM

MAIN LINE	
Assessed	5,052,162.00
Increase to:—	
Land	4,530,820.00
Structures	1,457,469.00
Total	5,988,289.00
EDGEWATER BRANCH	
Assessed	25,095.00
Increase to:—	
Structures	30,023.00
NATIONAL DOCKS BRANCH	
Assessed	741,185.00
Increase to:—	
Land	765,396.00
Structures	167,786.00
Total	933,182.00
COMMUNIPAW BRANCH	
Assessed	78,895.00
Increase to:—	
Land	84,269.00
Structures	11,247.00
Total	95,516.00

NATIONAL STORAGE BRANCH

Assessed	2,556,616.00
Increase to:—	
Land	3,181,140.00
Structures	712,095.00
Total	3,893,235.00

LEHIGH VALLEY HARBOR TERMINAL RAILWAY

Assessed	4,546,626.00
Increase to:—	
Land	4,799,744.00
Structures	1,752,984.00
Total	6,552,728.00

SCHEDULE A.

ERIE RAILROAD SYSTEM

DOCKS CONNECTING RAILWAY

Assessed	1,044,916.00
Increase to:—	
Land	1,080,884.00
Structures	97,579.00
Total	1,178,463.00

LONG DOCK COMPANY

Assessed	13,789,557.00
Increase to:—	
Land	13,619,177.00
Structures	6,315,206.00
Total	19,934,383.00

LESSEE—PATERSON & HUDSON RIVER RAILWAY

Assessed	59,211.00
Increase to:—	
Land	31,745.00
Structures	42,469.00
Total	74,214.00

PENNHORN CREEK (Main Line)	
Assessed	10,560.00
Increase to:—	
Land	1,128.00
Structures	16,200.00
Total	17,328.00
PENNHORN CREEK (Branch A)	
Assessed	233,613.00
Increase to:—	
Land	250,143.00
Structures	28,375.00
Total	278,518.00

SCHEDULE A.

NEW YORK CENTRAL RAILROAD SYSTEM

NEW YORK JUNCTION RAILROAD	
Assessed	396,786.00
Increase to:	
Land	394,993.00
Structures	97,131.00
Total	492,124.00

SCHEDULE A.

PENNSYLVANIA RAILROAD SYSTEM

NEW YORK BAY RAILROAD (Main Line)	
Assessed	9,560,433.00
Increase to:	
Land	11,417,957.00
Structures	3,207,008.00
Total	14,624,955.00

UNITED NEW JERSEY RAILROAD AND CANAL CO. (Main Line)	
Assessed	7,397,964.00
Increase to:	
Land	7,324,609.00
Structures	2,369,337.00
Total	9,693,946.00
UNITED NEW JERSEY RAILROAD AND CANAL CO. (Harsimus Branch)	
Assessed	12,137,072.00
Increase to:	
Land	13,964,768.00
Structures	3,751,851.00
Total	17,716,619.00

SCHEDULE A.

HUDSON & MANHATTAN RAILROAD SYSTEM	
HUDSON AND MANHATTAN RAILROAD (Main Line)	
Assessed	1,017,871.00
Increase to:	
Land	308,009.00
Structures	988,745.00
Total	1,296,754.00
HUDSON AND MANHATTAN RAILROAD (Newark Branch)	
Assessed	456,872.00
Increase to:	
Land	336,003.00
Structures	229,452.00
Total	565,455.00

STATEMENT.

Petition filed by the City of Jersey City for the increase of assessments against the Lehigh Valley Railroad System, the Erie Railroad System and the New York Central Railroad System, the Pennsylvania Railroad System and the Hudson and Manhattan Railroad System for the year 1941 are in substantially the same form as the foregoing petitions of the City of Jersey City for the increase of the assessment of the Delaware, Lackawanna & Western Railroad System, and the docket entries and judgments are the same.

The assessed valuation of property of each of the above named companies, as stated by the petitions of the City of Jersey City, and the increase prayed for in the said petitions are as follows:

SCHEDULE A.

LEHIGH VALLEY RAILROAD SYSTEM

MAIN LINE	
Assessed	5,186,363.00
Increased to	6,000,000.00
EDGEWATER BRANCH	
Assessed	19,835.00
Increased to	24,830.00
NATIONAL DOCKS BRANCH	
Assessed	741,070.00
Increased to	933,000.00
COMMUNIPAW BRANCH	
Assessed	78,895.00
Increased to	95,516.00

National Storage Branch	
Assessed	2,557,419.00
Increased to	3,893,235.00
Lehigh Valley Harbor Terminal Railway	
Assessed	4,523,795.00
Increased to	6,552,728.00

SCHEDULE A.

ERIE RAILROAD SYSTEM

Docks Connecting Railway	
Assessed	1,047,124.00
Increase to	1,300,000.00
Long Dock Company	
Assessed	13,810,136.00
Increase to	20,000,000.00
Lessee—Paterson & Hudson River Railway	
Assessed	58,888.00
Increase to	75,000.00
Pennhorn Creek (Main Line)	
Assessed	10,560.00
Increase to	17,328.00
Pennhorn Creek (Branch A)	
Assessed	233,613.00
Increase to	278,518.00

SCHEDULE A.

NEW YORK CENTRAL RAILROAD SYSTEM

NEW YORK JUNCTION RAILROAD

Assessed	396,522.00
Increase to	492,124.00

SCHEDULE A.

PENNSYLVANIA RAILROAD SYSTEM

NEW YORK BAY RAILROAD (Main Line)

Assessed	9,587,146.00
Increase to	15,000,000.00

UNITED NEW JERSEY RAILROAD AND CANAL CO. (Main Line)

Assessed	7,349,888.00
Increase to	9,693,946.00

UNITED NEW JERSEY RAILROAD AND CANAL CO. (Harsimus Branch)

Assessed	12,129,245.00
Increase to	17,716,619.00

SCHEDULE A.

HUDSON & MANHATTAN
RAILROAD SYSTEM

HUDSON AND MANHATTAN RAILROAD
(Main Line)

Assessed	1,017,871.00
Increase to	1,296,754.00

HUDSON AND MANHATTAN RAILROAD
(Newark Branch)

Assessed	456,872.00
Increase to	565,455.00

Rule Adding Parties Respondent.

(Filed April 16, 1943.)

NEW JERSEY SUPREME COURT.

CITY OF JERSEY CITY, a municipal corporation, *Prosecutor,*
vs.
STATE BOARD OF TAX APPEALS, DELAWARE, LACKAWANNA & WESTERN RAILROAD SYSTEM, et al, *Respondents,*

CITY OF JERSEY CITY, a municipal corporation, *Prosecutor,*
vs.
STATE BOARD OF TAX APPEALS, ERIE RAILROAD SYSTEM, et al, *Respondents.*

CITY OF JERSEY CITY, a municipal corporation, *Prosecutor,*
vs.
STATE BOARD OF TAX APPEALS, HUDSON AND MANHATTAN RAILROAD SYSTEM, et al, *Respondents.*

CITY OF JERSEY CITY, a municipal corporation, *Prosecutor,*
vs.
STATE BOARD OF TAX APPEALS, NEW YORK CENTRAL RAILROAD SYSTEM, et al, *Respondents.*

CITY OF JERSEY CITY, a municipal corporation, *Prosecutor,*
vs.
STATE BOARD OF TAX APPEALS, PENNSYLVANIA RAILROAD SYSTEM, et al, *Respondents.*

CITY OF JERSEY CITY, a municipal corporation, *Prosecutor,*
vs.
STATE BOARD OF TAX APPEALS, LEHIGH VALLEY RAILROAD SYSTEM, et al, *Respondents.*

On Certiorari.

(Review of Assessments of 1941, Made Under Revised Statutes.)

Rule Adding Parties Respondent.

This matter being opened to the court by Charles A. Rooney, attorney for prosecutor, and by Charles Hershenstein, of counsel with prosecutor, and good cause appearing;

It is, on this 10th day of April, 1943, ORDERED, that the companies comprising the DELAWARE, LACKAWANNA & WESTERN RAILROAD SYSTEM, to wit:

The Chester Railroad Company
The Lackawanna Railroad Company of New Jersey
The Morris and Essex Railroad Company

The Morris and Essex Extension Railroad Company
The Newark and Bloomfield Railroad Company
The Passaic and Delaware Railroad Company
The Passaic and Delaware Extension Railroad Company
The Sussex Railroad Company
The Warren Railroad Company
The Delaware, Lackawanna and Western Railroad Company;

the companies comprising the ERIE RAILROAD SYSTEM, to wit:

Northern Railroad Company of New Jersey
The New Jersey and New York Railroad Company
The Arlington Railroad Company
The Bergen County Railroad Company
Bergen and Dundee Railroad Company
The Caldwell Railway Company
The Docks Connecting Railway Company
The Long Dock Company
Newark and Hudson Railroad Company
The New York and Greenwood Lake Railway Company
New York, Lake Erie and Western Docks and Improvement Company
The Paterson and Hudson River Railroad Company
The Paterson, Newark and New York Railroad Company
The Paterson and Ramapo Railroad Company
Penhorn Creek Railroad Company
The Roseland Railway Company
Erie Railroad Company;

the companies comprising the LEHIGH VALLEY RAILROAD SYSTEM, to wit:

Raritan Terminal & Transportation Company
Bay Shore Connecting Railroad Company (50%)
Lehigh Valley Railroad Company of New Jersey
Lehigh Valley Harbor Terminal Railway Company
Lehigh Valley Railroad Company, Lessee;

the companies comprising the NEW YORK CENTRAL RAILROAD SYSTEM, to wit:

New York Central Railroad Company
New Jersey Junction Railroad Company
New York and Fort Lee Railroad Company
West Shore Railroad Company;

the companies comprising the PENNSYLVANIA RAILROAD SYSTEM, to wit:

Pennsylvania and Atlantic Railroad Company
The Union Transportation Company
The Belvidere Delaware Railroad Company
Camden and Burlington County Railway Company
Delaware River Railroad and Bridge Company
The Freehold & Jamesburg Agricultural Railroad Company
Harrison and East Newark Connecting Railroad Company
The New York Bay Railroad Company
Pennsylvania Tunnel and Terminal Railroad Company
Perth Amboy and Woodbridge Railroad Company
The Rocky Hill Railroad and Transportation Company

Rule Adding Parties Respondent.

The United New Jersey Railroad and Canal Company
Pennsylvania Railroad Company
The New York and Long Branch Railroad Company (50%);

be and they hereby are made parties respondent in the above entitled matter; and

It is FURTHER ORDERED, that a copy of this rule be served upon the attorneys for said companies in the proceedings before the State Board of Tax Appeals.

NEWTON H. PORTER,
Justice.

Rule for Limitation of Issues.

(Filed April 16, 1943.)

NEW JERSEY SUPREME COURT.

CITY OF JERSEY CITY, a municipal corporation, *Prosecutor,*
vs.
STATE BOARD OF TAX APPEALS, DELAWARE, LACKAWANNA & WESTERN RAILROAD SYSTEM, et al, *Respondents,*

CITY OF JERSEY CITY, a municipal corporation, *Prosecutor,*
vs.
STATE BOARD OF TAX APPEALS, ERIE RAILROAD SYSTEM, et al, *Respondents.*

CITY OF JERSEY CITY, a municipal corporation, *Prosecutor,*
vs.
STATE BOARD OF TAX APPEALS, HUDSON AND MANHATTAN RAILROAD SYSTEM, et al, *Respondents.*

CITY OF JERSEY CITY, a municipal corporation, *Prosecutor,*
vs.
STATE BOARD OF TAX APPEALS, LEHIGH VALLEY RAILROAD SYSTEM, et al, *Respondents.*

CITY OF JERSEY CITY, a municipal corporation, *Prosecutor,*
vs.
STATE BOARD OF TAX APPEALS, NEW YORK CENTRAL RAILROAD SYSTEM, et al, *Respondents.*

CITY OF JERSEY CITY, a municipal corporation, *Prosecutor,*
vs.
STATE BOARD OF TAX APPEALS, PENNSYLVANIA RAILROAD SYSTEM, et al, *Respondents.*

On Certiorari.

(Review of Assessments of 1941, Made Under Revised Statutes.)

Rule for Limitation of Issues.

All parties who have appeared in these proceedings concurring in the making of an application for this order, and good cause thereof appearing;

It is, on this 10th day of April, 1943, ORDERED, that the argument of the above entitled matters be and the same hereby is set down for hearing at the October, 1943, Term of Court, without any further notice of argument to any of the parties to these proceedings; and

It is FURTHER ORDERED, that argument before the court be first had upon those reasons filed and

hereafter to be filed, which relate to the question of the expiration of the jurisdiction of the State Board of Tax Appeals to hear and determine the appeals after the passage of the dates appearing in R. S. 54:26-10; and

It is FURTHER ORDERED, that after the court determines the question stated in the paragraph next preceding, all of the remaining issues raised in the said reasons may thereupon be submitted to this court for determination by any party, provided that such party shall file with the clerk of the court, within twenty days after the filing of the opinion of the court on the issues first to be submitted, a declaration of intention to submit to the court such remaining issues, in default of which declaration final judgment may be entered on said opinion; and

It is FURTHER ORDERED, that depositions with reference to any of the issues reserved as aforesaid, need not be taken until after the filing of the opinion as aforesaid. All questions of jurisdiction involved herein are preserved.

NEWTON H. PORTER,
Justice.

Rule for Limitation of Issues.

We consent to the entry of the foregoing rule.

CHARLES A. ROONEY,
Attorney for Prosecutor,
City of Jersey City.

DAVID T. WILENTZ,
Attorney General of New Jersey,
Attorney for William D. Kelly,
State Tax Commissioner of New Jersey.

MAXIMILIAN M. STALLMAN,
Attorney for Respondents,
Delaware, Lackawanna & Western Railroad System, Erie Railroad System, Lehigh Valley Railroad System, New York Central Railroad System.

JOHN A. HARTPENCE,
Attorney for Respondents,
Pennsylvania Railroad System.

CARPENTER, GILMOUR & DWYER,
Attorneys for Respondent,
Hudson and Manhattan Railroad System.

Reasons.

(Filed 6/23/43.)

NEW JERSEY SUPREME COURT.

CITY OF JERSEY CITY, a municipal corporation, *Prosecutor,* *vs.* STATE BOARD OF TAX APPEALS, DELAWARE, LACKAWANNA & WESTERN RAILROAD SYSTEM, et al, *Respondents,*	
CITY OF JERSEY CITY, a municipal corporation, *Prosecutor,* *vs.* STATE BOARD OF TAX APPEALS, ERIE RAILROAD SYSTEM, et al, *Respondents.*	
CITY OF JERSEY CITY, a municipal corporation, *Prosecutor,* *vs.* STATE BOARD OF TAX APPEALS, HUDSON AND MANHATTAN RAILROAD SYSTEM, et al, *Respondents.*	On Certiorari. (Review of Assessments of 1941, Made Under Revised Statutes.)
CITY OF JERSEY CITY, a municipal corporation, *Prosecutor,* *vs.* STATE BOARD OF TAX APPEALS, LEHIGH VALLEY RAILROAD SYSTEM, et al, *Respondents.*	Reasons.
CITY OF JERSEY CITY, a municipal corporation, *Prosecutor,* *vs.* STATE BOARD OF TAX APPEALS, NEW YORK CENTRAL RAILROAD SYSTEM, et al, *Respondents.*	
CITY OF JERSEY CITY, a municipal corporation, *Prosecutor,* *vs.* STATE BOARD OF TAX APPEALS, PENNSYLVANIA RAILROAD SYSTEM, et al, *Respondents.*	

The prosecutor in the within proceedings, by its attorney, comes and prays that the judgment of the State Board of Tax Appeals dated January 19, 1943, dismissing the appeals of the prosecutor from the assessments of property made by the State Tax Commissioner for the year 1941 against the respondent railroad systems and constituent companies, and affirming said assessments, and the said assessments may be set aside and for nothing holden, for the following reasons:

Reasons.

1. The State Board of Tax Appeals erred in its conclusion that it was without jurisdiction to proceed to hear and determine the said several appeals filed by the City of Jersey City for the year 1941. The time limitation for the hearing of railroad tax appeals, as contained in the Revised Statutes, applicable to the tax year 1941, was directory and not mandatory, and the Board erred in its decision that the said statute was mandatory and not directory.

2. The State Board of Tax Appeals erred in failing to retain jurisdiction, hear the said appeals, and grant the relief prayed by the City of Jersey City for the reasons that: (a) the assessments for the year 1941 of Class II railroad properties of the respondent railroad systems and their constituent railroad companies located in the prosecutor municipality were at less than the true value of said properties; (b) said assessments of railroad property were erroneous in that structures and improvements located wholly on Class II land within the prosecutor municipality were assessed as Class I property, whereas they should have been assessed as Class II property; (c) said assessments of railroad property were erroneous in that Class II lands within the prosecutor municipality were assessed as Class I property, whereas they should have been assessed as Class II property.

3. The State Board of Tax Appeal erred in declining to permit prosecutor to present proofs in support of its appeals, whether prior or subsequent to October 15, 1941.

4. The State Board of Tax Appeals erred in failing to increase the assessments of Class II

railroad property in the prosecutor municipality in accordance with the prayers of the several complaints and appeals of the prosecutor.

5. The State Board of Tax Appeals erred in failing to adjudicate that property assessed as Class I property was in fact Class II property, and to correct the assessments thereof accordingly.

6. The said judgments of the State Board of Tax Appeals are in divers other respects illegal, unjust, oppressive, and should be set aside and for nothing holden.

CHARLES A. ROONEY,
Attorney for Prosecutor,
City of Jersey City.

Order of Continuance.

(Filed Sept. 16, 1943)

NEW JERSEY SUPREME COURT.

CITY OF JERSEY CITY, a municipal corporation, et al., *Prosecutors*,
v.
STATE BOARD OF TAX APPEALS, DELAWARE, LACKAWANNA & WESTERN RAILROAD SYSTEM, et al., *Respondents*.

CITY OF JERSEY CITY, a municipal corporation, et al., *Prosecutors*,
v.
STATE BOARD OF TAX APPEALS, ERIE RAILROAD SYSTEM, et al., *Respondents*.

CITY OF JERSEY CITY, a municipal corporation, et al., *Prosecutors*,
v.
STATE BOARD OF TAX APPEALS, NEW YORK CENTRAL RAILROAD SYSTEM, *Respondents*.

CITY OF JERSEY CITY, a municipal corporation, et al., *Prosecutors*,
v.
STATE BOARD OF TAX APPEALS, LEHIGH VALLEY RAILROAD SYSTEM, et al., *Respondents*.

CITY OF JERSEY CITY, a municipal corporation, et al., *Prosecutors*,
v.
STATE BOARD OF TAX APPEALS, PENNSYLVANIA RAILROAD SYSTEM, et al., *Respondents*.

CITY OF JERSEY CITY, a municipal corporation, et al., *Prosecutors*,
v.
STATE BOARD OF TAX APPEALS, HUDSON & MANHATTAN RAILROAD SYSTEM, et al., *Respondents*.

On Certiorari.

(Review of Assessments of 1941, Made Under Revised Statutes.)

(Review of Assessments of 1941, Made Under Chapter 291 of the Laws of 1941.)

(Review of Assessments of 1941, Made Under Chapter 291 of the Laws of 1941, As Amended by Chapter 169 of the Laws of 1942.)

Order of Continuance.

This matter being opened to the Court by Maximilian M. Stallman, and Edward A. Markley, Attorneys for respondents, Delaware, Lackawanna & Western Railroad System, Lehigh Valley Railroad Company, Erie Railroad Company, and New York Central Railroad Company, and it appearing that Counsel for the Prosecutors and Counsel for the other respondents herein consent thereto, it is therefore, on this 16th day of September, 1943,

Order of Continuance.

ORDERED that the within consolidated writs of certiorari be and they are hereby continued for argument to the opening day of January, 1944 Term of Court without further notice of argument.

CHARLES W. PARKER,
J.S.C.

We hereby consent to the making and entry of the foregoing Order.

MAXIMILIAN M. STALLMAN,
Attorney for Respondents.

EDWARD A. MARKLEY,
Attorney for Respondents.

CHARLES A. ROONEY,
Attorney for City of Jersey City.

DAVID T. WILENTZ,
Attorney for State of New Jersey.

WALL, HAIGHT, CAREY & HARTPENCE,

CARPENTER, GILMOUR & DWYER,
Attorneys for Hudson & Manhattan Railroad System.

Reference to Opinion of Supreme Court.

The opinion of the Supreme Court is printed in the state of case in Case No. 1, submitted for argument jointly with this case. It is, therefore, not printed here. It is reported in 133 N. J. L. 202; 43 Atl. (2d) 799.

Rule for Judgment.

(Filed Oct. 16, 1945.)

[Caption Omitted]

These consolidated writs having come on for hearing, and the court having heard and considered argument and briefs submitted on behalf of prosecutor and of respondents, and being of the opinion that the State Board of Tax Appeals (now Division of Tax Appeals in the Department of Taxation and Finance) was in error in dismissing the appeals filed by prosecutor from assessments of railroad property for the year 1941, made under the Revised Statutes of 1937, which dismissals were based on the ground that the said State Board of Tax Appeals had lost jurisdiction of said appeals by reason of the lapse of time;

It is, therefore, on this 16th day of October, 1945, ordered and adjudged that the judgments of the said State Board of Tax Appeals dismissing appeals filed by the City of Jersey City complaining of the assessments by the State Tax Commissioner for the year 1941 of property situated in said city, of the Delaware, Lackawanna & Western Railroad System, the Erie Railroad System, the

Hudson and Manhattan Railroad System, the Lehigh Valley Railroad System, the New York Central Railroad System, and the Pennsylvania Railroad System, which said assessments were made pursuant to the Revised Statutes of 1937, be and the same hereby are set aside and for nothing holden; and

It is FURTHER ORDERED and ADJUDGED that the said appeals be and the same hereby are reinstated before the State Board of Tax Appeals (now the Division of Tax Appeals in the Department of Taxation and Finance), there to be proceeded with as provided by law, but without prejudice to any right of the taxpayers to challenge the sufficiency of the said appeals.

For the court:
CHARLES W. PARKER,
J. S. C.

On motion of
CHARLES A. ROONEY,
CHARLES HERSHENSTEIN,
Attorneys for Prosecutor,
City of Jersey City.

Explanatory Note as to Cases No. 3 and No. 4.

Cases No. 2, 3 and 4 below were companion cases. They were prosecuted in the alternative. They were designed to afford a basis in the record to assure a hearing of the appeals by the City of Jersey City for increases in assessments on railroad property in Jersey City for the tax year 1941. The city had filed three groups of appeals for the tax year 1941 with the State Board of Tax Appeals, one from assessments made pursuant to the Revised Statutes, another from the assessments made pursuant to Chapter 291 of the Laws of 1941, and finally, from the assessments made pursuant to Chapter 291 of the Laws of 1941 as amended by Chapter 169 of the Laws of 1942. This was done because of the uncertainty at that time as to which of the three assessments thus made for the tax year 1941 would ultimately be held to be the legal assessment for that year. The State Board of Tax Appeals dismissed the appeals in all of the cases because of the passing of the statutory date for the hearing and determination of appeals for the year 1941.

The city applied for and obtained three groups of writs of certiorari to review all of the judgments. The writs to review the State Board judgments dismissing the appeals filed from the assessments made under the Revised Statutes for the year 1941 were grouped together for argument as Case No. 2 below. Those originating in the assessments for 1941, made pursuant to Chapter 291 of the Laws of 1941, were grouped as Case No. 3. Those originating in the assessments for 1941, made pursuant to Chapter 291 of the Laws of 1941 as amended by Chapter 169 of the Laws of 1942, were grouped as Case No. 4.

Explanatory Note as to Cases No. 3 and No. 4.

In view of the determination of the Supreme Court below in Case No. 1, that the assessments made for the year 1941 under Chapter 291, as amended by Chapter 169, were illegal (necessarily involving a determination that the assessments made under Chapter 291, alone, for the year 1941 were also illegal), it became appropriate for the prosecutor-appellee, City of Jersey City, to incorporate the determination of the Supreme Court that the statutory time limitations for hearing of railroad tax cases by the State Board of Tax Appeals were directory, and not mandatory, in a rule for judgment only in Case No. 2, and not in Cases No. 3 and No. 4.

Rules for judgment have, therefore, not been entered in Cases No. 3 and No. 4. If, however, this Court should determine in the pending appeals of Case No. 1 that the assessments made for the tax year 1941, pursuant to Chapter 291 of the Laws of 1941, or pursuant to Chapter 291 as amended by Chapter 169 of the Laws of 1942, are the valid and subsisting assessments for that year, thereby reversing the judgment in Case No. 1, but should also determine in the appeals in Cases No. 2 and No. 5 that the Supreme Court's determination as to the statutory time limitations for the hearing of appeals was correct, it may become appropriate for prosecutor-appellee, City of Jersey City, to apply for entry of rules for judgment in Cases No. 3 and No. 4.

This statement is not to be taken as any concession by any of the parties as to the legal position urged by any of the other parties, as to any matter argued, or to be argued, in Cases No. 1, 2, 3, 4, or 5.

Notice of Appeal of D. L. & W. R. R. System.

(Filed Oct. 26, 1945.)

NEW JERSEY SUPREME COURT.

CITY OF JERSEY CITY, a municipal corporation,
Prosecutor,

vs.

STATE BOARD OF TAX APPEALS, DELAWARE, LACKAWANNA & WESTERN RAILROAD SYSTEM, et al,
Respondents.

CITY OF JERSEY CITY, a municipal corporation,
Prosecutor,

vs.

STATE BOARD OF TAX APPEALS, ERIE RAILROAD SYSTEM, et al,
Respondents.

CITY OF JERSEY CITY, a municipal corporation,
Prosecutor,

vs.

STATE BOARD OF TAX APPEALS, HUDSON AND MANHATTAN RAILROAD SYSTEM, et al,
Respondents.

CITY OF JERSEY CITY, a municipal corporation,
Prosecutor,

vs.

STATE BOARD OF TAX APPEALS, LEHIGH VALLEY RAILROAD SYSTEM, et al,
Respondents.

CITY OF JERSEY CITY, a municipal corporation,
Prosecutor,

vs.

STATE BOARD OF TAX APPEALS, NEW YORK CENTRAL RAILROAD SYSTEM, et al,
Respondents.

CITY OF JERSEY CITY, a municipal corporation,
Prosecutor,

vs.

STATE BOARD OF TAX APPEALS, PENNSYLVANIA RAILROAD SYSTEM, et al,
Respondents.

On Certiorari.

(Review of Assessments of 1941 Made Under Revised Statutes.)

Notice of Appeal.

To: Charles A. Rooney, Esq.,
Attorney for Prosecutor.

Charles Hershenstein, Esq.,
Of Counsel with Prosecutor.

Notice of Appeal of D. L. & W. R. R. System.

WALTER D. VAN RIPER, ESQ.,
Attorney General of the State of New Jersey for the State Board of Tax Appeals, The State Tax Commissioner and the State Comptroller.

and

TO WHOM IT MAY CONCERN:

SIRS:

TAKE NOTICE that the respondent, The Delaware, Lackawanna and Western Railroad Company, a corporation, appeals to the New Jersey Court of Errors and Appeals from the whole of the judgment entered in this cause in the New Jersey Supreme Court.

Dated: October 22, 1945.

MAXIMILIAN M. STALLMAN,
Attorney of Respondent, The Delaware, Lackawanna and Western Railroad Company, a corporation.

Notice of Appeal of Erie Railroad Company.

(Filed Oct. 26, 1945.)

[Caption Omitted]

To: Charles A. Rooney, Esq.,
Attorney for Prosecutor.

Charles Hershenstein, Esq.,
Of Counsel with Prosecutor.

Walter D. Van Riper, Esq.,
Attorney General of the State of New Jersey for the State Board of Tax Appeals, The State Tax Commissioner and the State Comptroller.

and

TO WHOM IT MAY CONCERN:

Sirs:

Take notice that the respondent, Erie Railroad Company, a corporation, appeals to the New Jersey Court of Errors and Appeals from the whole of the judgment entered in this cause in the New Jersey Supreme Court.

Dated: October 22, 1945.

Collins & Corbin,
Attorneys of Respondent, Erie Railroad Company, a corporation.

Notice of Appeal of Hudson & Manhattan Railroad System.

(Filed Oct. 26, 1945.)

[Caption Omitted]

To: Charles A. Rooney, Esq.,
Attorney for Prosecutor.

Charles Hershenstein, Esq.,
Of Counsel with Prosecutor.

Walter D. Van Riper, Esq.,
Attorney General of the State of New Jersey for the State Board of Tax Appeals, the State Tax Commissioner and the State Comptroller,

and

TO WHOM IT MAY CONCERN:

Sirs:

Take notice that the respondent, Hudson & Manhattan Railroad System, et al, appeals to the New Jersey Court of Errors and Appeals from the whole of the judgment entered in this cause in the New Jersey Supreme Court.

Dated, October 23, 1945.

Carpenter, Gilmour & Dwyer,
Attorneys for Respondent, Hudson & Manhattan Railroad System, et al.

Notice of Appeal of Lehigh Valley Railroad System.

(Filed Oct. 26, 1945.)

[Caption Omitted]

To: Charles A. Rooney, Esq.,
Attorney for Prosecutor.

Charles Hershenstein, Esq.,
Of Counsel with Prosecutor.

Walter D. Van Riper, Esq.,
Attorney General of the State of New Jersey for the State Board of Tax Appeals, the State Tax Commissioner and the State Comptroller.

and

TO WHOM IT MAY CONCERN:

Sirs:

Take notice that the respondent, Lehigh Valley Railroad Company, a corporation, appeals to the New Jersey Court of Errors and Appeals from the whole of the judgment entered in this cause in the New Jersey Supreme Court.

Dated: October 22, 1945.

Collins & Corbin,
Attorneys of Respondents, Lehigh Valley Railroad Company, a corp.

Notice of Appeal of New York Central Railroad System.

(Filed Oct. 26, 1945.)

[Caption Omitted]

To: Charles A. Rooney, Esq.,
Attorney for Prosecutor.

Charles Hershenstein, Esq.,
Of Counsel with Prosecutor.

Walter D. Van Riper, Esq.,
Attorney General of the State of New Jersey for the State Board of Tax Appeals, the State Tax Commissioner and the State Comptroller.

and

TO WHOM IT MAY CONCERN:

Sirs:

Take notice that the respondent, New York Central Railroad Company, a corporation, appeals to the New Jersey Court of Errors and Appeals from the whole of the judgment entered in this cause in the New Jersey Supreme Court.

Dated: October 22, 1945.

Maximilian M. Stallman,
Attorney of Respondent, New York Central Railroad Company, a corp.

Notice of Appeal of Pennsylvania Railroad System.

(Filed Oct. 26, 1945.)

[Caption Omitted]

To: Charles A. Rooney, Esq.,
Attorney for Prosecutor.

Charles Hershenstein, Esq.,
Of Counsel with Prosecutor.

Walter D. Van Riper, Esq.,
Attorney General of the State of New Jersey, for the State Board of Tax Appeals, The State Tax Commissioner and the State Comptroller,

and

TO WHOM IT MAY CONCERN:

Sirs:

Take notice, that the respondents The Pennsylvania Railroad Company, and the Companies comprising the Pennsylvania Railroad System, appeal to the New Jersey Court of Errors and Appeals from the whole of the judgment entered in this cause.

Wall, Haight, Carey & Hartpence,
Attorneys of said Respondents-Appellants.

Grounds of Appeal of Erie Railroad System, Lehigh Valley Railroad System, D. L. & W. Railroad System and New York Central Railroad System.

(Filed Nov. 8, 1945.)

[Caption Omitted]

The respondents-appellants, Erie Railroad Company, a corporation, Lehigh Valley Railroad Company, a corporation, New York Central Railroad Company, a corporation, and The Delaware, Lackawanna & Western Railroad Company, a corporation, state the following grounds of appeal:

The Supreme Court erred in adjudicating that:

1. The State Board of Tax Appeals (now Division of Tax Appeals in the Department of Taxation and Finance) hereinafter referred to as "State Board" was in error in dismissing the appeals filed by prosecutor from assessments of railroad property for the year 1941 made under the Revised Statutes of 1937.

2. The judgments of the State Board dismissing appeals filed by the City of Jersey City complaining of the assessments by the State Tax Commissioner for the year 1941 of property situated in said City of The Delaware, Lackawanna & Western Railroad System, Erie Railroad System, Lehigh Valley Railroad System and the New York Central Railroad System (which said assessments were made pursuant to the Revised Statutes of 1937) should be set aside and for nothing holden.

3. Said appeals aforesaid of Jersey City be reinstated before the State Board and there proceeded with as provided by law.

Grounds of Appeal of Erie Railroad System, Lehigh Valley Railroad System, D. L. & W. Railroad System and New York Central Railroad System.

The Supreme Court erred in not adjudicating that:

4. The said State Board did not err in dismissing the said appeals filed by the prosecutor from assessments of railroad property for the year 1941 made under the Revised Statutes of 1937.

5. The said State Board properly dismissed said appeals, and in not adjudicating that said judgments of dismissal should be affirmed.

6. Said appeals should not be reinstated before the said State Board.

7. The judgments of said State Board should in all things be affirmed and sustained.

The Supreme Court erred in adjudicating that:

8. Chapter 291 of the Laws of 1941 as amended by Chapter 169 of the Laws of 1942 (hereinafter referred to as "Chapter 291, as amended") was and is unconstitutional as applied to the taxes due from the railroads to the State for the year 1941.

9. Chapter 291 as amended was and is unconstitutional as applied to the taxes due from the railroads to the State for the year 1941 because it contravenes the provisions of Article I, paragraph 20 of the Constitution of New Jersey which provides:

> "No donation of land or appropriation of money shall be made by the state or any municipal corporation to or for the use of any society, association or corporation whatever."

Grounds of Appeal of Erie Railroad System, Lehigh Valley Railroad System, D. L. & W. Railroad System and New York Central Railroad System.

10. The State of New Jersey had a vested right to the taxes computed according to Revised Statute 54:19-1 et seq., for the year 1941.

11. The State of New Jersey for the year 1941 abated and cancelled the difference between the amount based on the computation pursuant to Revised Statute 54:19-1 et seq. and the amount based on the computations pursuant to Chapter 291 as amended.

12. The assessments of railroad property and franchise excise taxes made by the State Tax Commissioner for the year 1941 under Chapter 291 as amended are null and void and that the same should be set aside and for nothing holden.

13. The assessments of railroad property under and pursuant to the Revised Statutes of 1937 were and are valid, lawful and subsisting obligations of the taxpayers assessed.

14. The provisions of R. S. 54:26-10 and P. L. 1941, Chapter 291, Sec. 34, requiring that the State Board of Tax Appeals shall conclude its hearings on or before October 15th following the filing of the complaint (cf. R. S. 54:29A-34) were merely directory and not mandatory.

15. The prosecutors were qualified to prosecute the writs of certiorari herein.

The Supreme Court erred in not adjudicating that:

Grounds of Appeal of Erie Railroad System, Lehigh Valley Railroad System, D. L. & W. Railroad System and New York Central Railroad System.

16. Chapter 291 of the Laws of 1941 as amended was and is constitutional as applied to the taxes due from the railroads to the State for the year 1941.

17. Chapter 291 as amended was and is constitutional as applied to the taxes due from the railroads to the State for the year 1941 because it does not contravene the provisions of Article I, paragraph 20 of the Constitution of New Jersey, which provides:

> "No donation of land or appropriation of money shall be made by the state or any municipal corporation to or for the use of any society, association or corporation whatever."

18. The State of New Jersey did not have a vested right to the taxes computed according to R. S. 54:90-1, et seq., for the year 1941.

19. The State of New Jersey for the year 1941 did not abate and cancel the difference between the amount based on the computation pursuant to R. S. 54:19-1 et seq., and the amount based on the computations pursuant to Chapter 291 as amended.

20. The assessments of railroad property and franchise excise taxes made by the State Tax Commissioner for the year 1941 under Chapter 291 were valid, lawful and subsisting obligations of the taxpayers assessed.

Grounds of Appeal of Erie Railroad System, Lehigh Valley Railroad System, D. L. & W. Railroad System and New York Central Railroad System.

21. The assessments of railroad property under and pursuant to the Revised Statutes of 1937 were null and void and that the same should be set aside and for nothing holden.

22. The provisions of R. S. 54:26-10 and P. L. 1941, Chapter 291, Section 34, requiring that the State Board of Tax Appeals shall conclude its hearings on or before October 15th following the filing of the complaint, were mandatory and not directory.

23. The prosecutors were not qualified to prosecute the writs of certiorari herein.

24. The said judgment of the Supreme Court is in divers other respects discriminatory, illegal and unjust, and should be reversed.

25. Each of the appellants hereinafter named urges and filed each of the foregoing grounds of appeal with respect to the judgments, assessments and rulings affecting its railroad system.

Dated: October 31, 1945.

COLLINS & CORBIN,
Attorneys for Erie Railroad Company and the companies comprising the Erie Railroad System, and Lehigh Valley Railroad Company and the companies comprising the Lehigh Valley Railroad System.

MAXIMILIAN M. STALLMAN,
Attorney for The Delaware, Lackawanna & Western Railroad Company and the companies comprising the Lackawanna System, and New York Central Railroad Company and the companies comprising the New York Central Railroad System.

Grounds of Appeal of Hudson & Manhattan Railroad System.

(Filed Nov. 8, 1945.)

[Caption Omitted]

The respondent-appellant, Hudson & Manhattan Railroad System, a corporation states the following grounds of appeal:

The Supreme Court erred in adjudicating that:

1. The State Board of Tax Appeals (now Division of Tax Appeals in the Department of Taxation and Finance) hereinafter referred to as "State Board" was in error in dismissing the appeals filed by prosecutor from assessments of railroad property for the year 1941 made under the Revised Statutes of 1937.

2. The judgments of the State Board dismissing appeals filed by the City of Jersey City complaining of the assessments by the State Tax Commissioner for the year 1941 of property situated in said City of Hudson and Manhattan Railroad System, (which said assessments were made pursuant to the Revised Statutes of 1937) should be set aside and for nothing holden.

3. Said appeals aforesaid of Jersey City be reinstated before the State Board and there proceeded with as provided by law.

4. Chapter 291 of the Laws of 1941 as amended by Chapter 169 of the Laws of 1942 (hereinafter referred to as "Chapter 291, as amended") was and is unconstitutional as applied to the taxes due from the railroads to the State for the year 1941.

Grounds of Appeal of Hudson & Manhattan Railroad System.

5. Chapter 291 as amended was and is unconstitutional as applied to the taxes due from the railroads to the State for the year 1941 because it contravenes the provisions of Article I, paragraph 20 of the Constitution of New Jersey which provides:

> "No donation of land or appropriation of money shall be made by the state to any municipal corporation to or for the use of any society, association or corporation whatever."

6. The State of New Jersey had a vested right to the taxes computed according to Revised Statute 54:19-1 et seq., for the year 1941.

7. The State of New Jersey for the year 1941 abated and cancelled the difference between the amount based on the computation pursuant to Revised Statute 54:19-1 et seq., and the amount based on the computations pursuant to Chapter 291 as amended.

8. The assessments of railroad property and franchise excise taxes made by the State Tax Commissioner for the year 1941 under Chapter 291 as amended are null and void and that the same should be set aside and for nothing holden.

9. The assessments of railroad property under and pursuant to the Revised Statutes of 1937 were and are valid, lawful and subsisting obligations of the taxpayers assessed.

The Supreme Court erred in not adjudicating that:

Grounds of Appeal of Hudson & Manhattan Railroad System.

10. The said State Board did not err in dismissing the said appeals filed by the prosecutor from assessments of railroad property for the year 1941 made under the Revised Statutes of 1937.

11. The said State Board properly dismissed said appeals, and in not adjudicating that said judgments of dismissal should be affirmed.

12. Said appeals should not be reinstated before the said State Board.

13. The judgments of said State Board should in all things be affirmed and sustained.

14. Chapter 291 of the Laws of 1941 as amended was and is constitutional as applied to the taxes due from the railroads to the State for the year 1941.

15. Chapter 291 as amended was and is constitutional as applied to the taxes due from the railroads to the State for the year 1941 because it does not contravene the provisions of Article I, Paragraph 20 of the Constitution of New Jersey, which provides:

> "No donation of land or appropriation of money shall be made by the state or any municipal corporation to or for the use of any society, association or corporation whatever."

16. The State of New Jersey did not have a vested right to the taxes computed according to R. S. 54:90-1, et seq., for the year 1941.

Grounds of Appeal of Hudson & Manhattan Railroad System.

17. The State of New Jersey for the year 1941 did not abate and cancel the difference between the amount based on the computation pursuant to R. S. 54:19-1 et seq., and the amount based on the computations pursuant to Chapter 291 as amended.

18. The assessments of railroad property and franchise taxes made by the State Tax Commissioner for the year 1941 under Chapter 291 were valid, lawful and subsisting obligations of the taxpayers assessed.

19. The assessments of railroad property under and pursuant to the Revised Statutes of 1937 were null and void and that the same should be set aside and for nothing holden.

20. The said judgment of the Supreme Court is in divers other respects discriminatory, illegal and unjust, and should be reversed.

Dated Nov. 16, 1945.

CARPENTER, GILMOUR & DWYER,
Attorneys for Hudson & Manhattan Railroad System.

Grounds of Appeal of Pennsylvania Railroad System.

(Filed Nov. 8, 1945.)

[Caption Omitted]

The respondents-appellants The Pennsylvania Railroad Company, and the Companies comprising the Pennsylvania Railroad System, state the following Grounds of Appeal from the judgment of the New Jersey Supreme Court appealed from:

The Supreme Court erred in adjudicating that:

1. The State Board of Tax Appeals (now Division of Tax Appeals in the Department of Taxation and Finance) hereinafter referred to as "State Board" was in error in dismissing the appeals filed by prosecutor from assessments of railroad property for the year 1941 made under the Revised Statutes of 1937.

2. The judgments of the State Board dismissing appeals filed by the City of Jersey City complaining of the assessments by the State Tax Commissioner for the year 1941 of property situated in said City of The Delaware, Lackawanna & Western Railroad System, Erie Railroad System, Lehigh Valley Railroad System and the New York Central Railroad System (which said assessments were made pursuant to the Revised Statutes of 1937) should be set aside and for nothing holden.

3. Said appeals aforesaid of Jersey City be reinstated before the State Board and there proceeded with as provided by law.

Grounds of Appeal of Pennsylvania Railroad System.

The Supreme Court erred in not adjudicating that:

4. The said State Board did not err in dismissing the said appeals filed by the prosecutor from assessments of railroad property for the year 1941 made under the Revised Statutes of 1937.

5. The said State Board properly dismissed said appeals, and in not adjudicating that said judgments of dismissal should be affirmed.

6. Said appeals should not be reinstated before the said State Board.

7. The judgments of said State Board should in all things be affirmed and sustained.

The Supreme Court erred in adjudicating that:

8. Chapter 291 of the Laws of 1941 as amended by Chapter 169 of the Laws of 1942 (hereinafter referred to as "Chapter 291, as amended") was and is unconstitutional as applied to the taxes due from the railroads to the State for the year 1941.

9. Chapter 291 as amended was and is unconstitutional as applied to the taxes due from the railroads to the State for the year 1941 because it contravenes the provisions of Article I, paragraph 20 of the Constitution of New Jersey which provides:

> "No donation of land or appropriation of money shall be made by the state or any municipal corporation to or for the use of any society, association or corporation whatever."

10. The State of New Jersey had a vested right to the taxes computed according to Revised Statute 54:19-1 et seq., for the year 1941.

Grounds of Appeal of Pennsylvania Railroad System.

11. The State of New Jersey for the year 1941 abated and cancelled the difference between the amount based on the computation pursuant to Revised Statute 54:19-1 et seq. and the amount based on the computations pursuant to Chapter 291 as amended.

12. The assessments of railroad property and franchise excise taxes made by the State Tax Commissioner for the year 1941 under Chapter 291 as amended are null and void and that the same should be set aside and for nothing holden.

13. The assessments of railroad property under and pursuant to the Revised Statutes of 1937 were and are valid, lawful and subsisting obligations of the taxpayers assessed.

14. The provisions of R. S. 54:26-10 and P. L. 1941, Chapter 291, Sec. 34, requiring that the State Board of Tax Appeals shall conclude its hearings on or before October 15th following the filing of the complaint (cf. R. S. 54:29A-34) were merely directory and not mandatory.

15. The prosecutors were qualified to prosecute the writs of certiorari herein.

The Supreme Court erred in not adjudicating that:

16. Chapter 291 of the Laws of 1941 as amended was and is constiutional as applied to the taxes due from the railroads to the State for the year 1941.

17. Chapter 291 as amended was and is constitutional as applied to the taxes due from the railroads to the State for the year 1941 because it does

not contravene the provisions of Article I, paragraph 20 of the Constitution of New Jersey, which provides:

> "No donation of land or appropriation of money shall be made by the state or any municipal corporation to or for the use of any society, association or corporation whatever."

18. The State of New Jersey did not have a vested right to the taxes computed according to R. S. 54:90-1, et seq., for the year 1941.

19. The State of New Jersey for the year 1941 did not abate and cancel the difference between the amount based on the computation pursuant to R. S. 54:19-1 et seq., and the amount based on the computations pursuant to Chapter 291 as amended.

20. The assessments of railroad property and franchise excise taxes made by the State Tax Commissioner for the year 1941 under Chapter 291 were valid, lawful and subsisting obligations of the taxpayers assessed.

21. The assessments of railroad property under and pursuant to the Revised Statutes of 1937 were null and void and that the same should be set aside and for nothing holden.

22. The provisions of R. S. 54:26-10 and P. L. 1941, Chapter 291, Section 34, requiring that the State Board of Tax Appeals shall conclude its hearings on or before October 15th following the filing of the complaint, were mandatory and not directory.

23. The prosecutors were not qualified to prosecute the writs of certiorari herein.

24. The said judgment of the Supreme Court is is divers other respects discriminatory, illegal and unjust, and should be reversed.

Dated: November 20, 1945.

WALL, HAIGHT, CAREY & HARTPENCE,
Attorneys for Respondents-Appellants The Pennsylvania Railroad Company, and the Companies comprising the Pennsylvania Railroad System.

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Writ of Certiorari.

(Filed Feb. 2, 1943)

NEW JERSEY, ss:

THE STATE OF NEW JERSEY to THE STATE BOARD OF TAX APPEALS:

GREETING: We being willing for certain reasons to be certified of a certain judgment given or made by you on November 4, 1942, in a certain appeal brought by the City of Jersey City against William D. Kelly, State Tax Commissioner, and the several companies constituting the Delaware, Lackawanna & Western Railroad System, on appeal from the assessment by the State Tax Commissioner of the Property and the Franchises of said companies for the year 1942, in and by which said judgment you, the State Board of Tax Appeals, dismissed said petition of appeal, do hereby command that you send under your seal to our Justices of our Supreme Court of Judicature at Trenton, on the 28th day of February, 1943, the said judgment, and all proceedings, testimony, orders, and all other things touching and concerning the same as fully and entirely as they remain in your court before you, by whatsoever names the parties may be called therein, together with this writ, that we may further cause to be done thereupon what of right we shall see fit to be done.

(L.S.)

WITNESS, HON. THOMAS J. BROGAN, Chief Justice of our Supreme Court, at Trenton, this 29th day of January, 1943.

FRED L. BLOODGOOD,
Clerk.

CHARLES A. ROONEY,
Attorney for Prosecutor.

CHAS. HERSHENSTEIN,
Of Counsel.

(Endorsed on Back)

NEW JERSEY SUPREME COURT.

City of Jersey City, a Municipal Corporation,

Prosecutor,

vs.

State Board of Tax Appeals, Delaware, Lackawanna & Western Railroad System, et al.,

Respondents.

WRIT OF CERTIORARI.

Charles A. Rooney,
Attorney for Prosecutor,
City Hall,
Jersey City, N. J.

This Writ is allowed. Let it be sealed. Depositions may be taken on four (4) days' notice.

Dated: January 23rd, 1943.

Newton H. Porter,
J. S. C.

Writ of Certiorari.

(Filed Feb. 2, 1943)

NEW JERSEY, ss:

THE STATE OF NEW JERSEY to THE STATE BOARD OF TAX APPEALS:

GREETING: We being willing for certain reasons to be certified of a certain (L.S.) judgment given or made by you on November 4, 1942, in a certain appeal brought by the City of Jersey City against William D. Kelly, State Tax Commissioner, and the several companies constituting the Erie Railroad System, on appeal from the assessment by the State Tax Commissioner of the Property and the Franchises of said companies for the year 1942, in and by which said judgment you, the State Board of Tax Appeals, dismissed said petition of appeal, do hereby command that you send under your seal to our Justices of our Supreme Court of Judicature at Trenton, on the 28th day of February, 1943, the said judgment, and all proceedings, testimony, orders, and all other things touching and concerning the same as fully and entirely as they remain in your court before you, by whatsoever names the parties may be called therein, together with this writ, that we may further cause to be done thereupon what of right we shall see fit to be done.

WITNESS, HON. THOMAS J. BROGAN, Chief Justice of our Supreme Court, at Trenton, this 29th day of January, 1943.

FRED L. BLOODGOOD,
Clerk.

CHARLES A. ROONEY,
Attorney for Prosecutor.

CHARLES HERSHENSTEIN,
Of Counsel.

Writ of Certiorari.

(Endorsed on Back)

NEW JERSEY SUPREME COURT.

City of Jersey City, a Municipal Corporation,

Prosecutor,

vs.

State Board of Tax Appeals, Erie Railroad System, et al.,

Respondents.

WRIT OF CERTIORARI.

Charles A. Rooney,
Attorney for Prosecutor,
City Hall,
Jersey City, N. J.

This Writ is allowed. Let it be sealed. Depositions may be taken on four (4) days' notice.

Dated: January 23rd, 1943.

Newton H. Porter,
J. S. C.

Writ of Certiorari.

(Filed Feb. 2, 1943)

NEW JERSEY, ss:

THE STATE OF NEW JERSEY to THE STATE BOARD OF TAX APPEALS:

GREETING: We being willing for certain reasons to be certified of a certain (L.S.) judgment given or made by you on November 4, 1942, in a certain appeal brought by the City of Jersey City against William D. Kelly, State Tax Commissioner, and the several companies constituting the Hudson and Manhattan Railroad System, on appeal from the assessment by the State Tax Commissioner of the Property and the Franchises of said companies for the year 1942, in and by which said judgment you, the State Board of Tax Appeals, dismissed said petition of appeal, do hereby command that you send under your seal to our Justices of our Supreme Court of Judicature at Trenton, on the 28th day of February, 1943, the said judgment, and all proceedings, testimony, orders, and all other things touching and concerning the same as fully and entirely as they remain in your court before you, by whatsoever names the parties may be called therein, together with this writ, that we may further cause to be done thereupon what of right we shall see fit to be done.

WITNESS, HON. THOMAS J. BROGAN, Chief Justice of our Supreme Court, at Trenton, this 29th day of January, 1943.

FRED L. BLOODGOOD,
Clerk.

CHARLES A. ROONEY,
Attorney for Prosecutor.

CHARLES HERSHENSTEIN,
Of Counsel.

Writ of Certiorari.

(Endorsed on Back)

NEW JERSEY SUPREME COURT.

City of Jersey City, a Municipal Corporation,

Prosecutor,

vs.

State Board of Tax Appeals, Hudson and Manhattan Railroad System, et al.,

Respondents.

WRIT OF CERTIORARI.

Charles A. Rooney,
Attorney for Prosecutor,
City Hall,
Jersey City, N. J.

This Writ is allowed. Let it be sealed. Depositions may be taken on four (4) days' notice.

Dated: January 23rd, 1943.

Newton H. Porter,
J. S. C.

Writ of Certiorari.

(Filed Feb. 2, 1943)

NEW JERSEY, ss:

THE STATE OF NEW JERSEY to THE STATE BOARD OF TAX APPEALS:

GREETING: We being willing for certain reasons to be certified of a certain (L.S.) judgment given or made by you on November 4, 1942, in a certain appeal brought by the City of Jersey City against William D. Kelly, State Tax Commissioner, and the several companies constituting the Pennsylvania Railroad System, on appeal from the assessment by the State Tax Commissioner of the Property and the Franchises of said companies for the year 1942, in and by which said judgment you, the State Board of Tax Appeals, dismissed said petition of appeal, do hereby command that you send under your seal to our Justices of our Supreme Court of Judicature at Trenton, on the 28th day of February, 1943, the said judgment, and all proceedings, testimony, orders, and all other things touching and concerning the same as fully and entirely as they remain in your court before you, by whatsoever names the parties may be called therein, together with this writ, that we may further cause to be done thereupon what of right we shall see fit to be done.

WITNESS, HON. THOMAS J. BROGAN, Chief Justice of our Supreme Court, at Trenton, this 29th day of January, 1943.

FRED L. BLOODGOOD,
Clerk.

CHARLES A. ROONEY,
Attorney for Prosecutor.

CHARLES HERSHENSTEIN,
Of Counsel.

Writ of Certiorari.

(Endorsed on Back)

NEW JERSEY SUPREME COURT.

City of Jersey City, a Municipal Corporation,

Prosecutor,

vs.

State Board of Tax Appeals, Pennsylvania Railroad System, et al.,

Respondents.

WRIT OF CERTIORARI.

Charles A. Rooney,
Attorney for Prosecutor,
City Hall,
Jersey City, N. J.

This Writ is allowed. Let it be sealed. Depositions may be taken on four (4) days' notice.

Dated: January 23rd, 1943.

Newton H. Porter,
J. S. C.

Writ of Certiorari.

(Filed Feb. 2, 1943)

NEW JERSEY, ss:

THE STATE OF NEW JERSEY to THE STATE BOARD OF TAX APPEALS:

GREETING: We being willing for certain reasons to be certified of a certain (L.S.) judgment given or made by you on November 4, 1942, in a certain appeal brought by the City of Jersey City against William D. Kelly, State Tax Commissioner, and the several companies constituting the New York Central Railroad System, on appeal from the assessment by the State Tax Commissioner of the Property and the Franchises of said companies for the year 1942, in and by which said judgment you, the State Board of Tax Appeals, dismissed said petition of appeal, do hereby command that you send under your seal to our Justices of our Supreme Court of Judicature at Trenton, on the 28th day of February, 1943, the said judgment, and all proceedings, testimony, orders, and all other things touching and concerning the same as fully and entirely as they remain in your court before you, by whatsoever names the parties may be called therein, together with this writ, that we may further cause to be done thereupon what of right we shall see fit to be done.

WITNESS, HON. THOMAS J. BROGAN, Chief Justice of our Supreme Court, at Trenton, this 29th day of January, 1943.

FRED L. BLOODGOOD,
Clerk.

CHARLES A. ROONEY,
Attorney for Prosecutor.

CHARLES HERSHENSTEIN,
Of Counsel.

(Endorsed on Back)

NEW JERSEY SUPREME COURT.

City of Jersey City, a Municipal Corporation,

Prosecutor,

vs.

State Board of Tax Appeals, New York Central Railroad System, et al.,

Respondents.

WRIT OF CERTIORARI.

Charles A. Rooney,
Attorney for Prosecutor,
City Hall,
Jersey City, N. J.

This Writ is allowed. Let it be sealed. Depositions may be taken on four (4) days' notice.

Dated: January 23rd, 1943.

Newton H. Porter,
J. S. C.

Writ of Certiorari.

(Filed Feb. 2, 1943)

NEW JERSEY, ss:

THE STATE OF NEW JERSEY to THE STATE BOARD OF TAX APPEALS:

GREETING: We being willing for certain reasons to be certified of a certain (L.S.) judgment given or made by you on November 4, 1942, in a certain appeal brought by the City of Jersey City against William D. Kelly, State Tax Commissioner, and the several companies constituting the Lehigh Valley Railroad System, on appeal from the assessment by the State Tax Commissioner of the Property and the Franchises of said companies for the year 1942, in and by which said judgment you, the State Board of Tax Appeals, dismissed said petition of appeal, do hereby command that you send under your seal to our Justices of our Supreme Court of Judicature at Trenton, on the 28th day of February, 1943, the said judgment, and all proceedings, testimony, orders, and all other things touching and concerning the same as fully and entirely as they remain in your court before you, by whatsoever names the parties may be called therein, together with this writ, that we may further cause to be done thereupon what of right we shall see fit to be done.

WITNESS, HON. THOMAS J. BROGAN, Chief Justice of our Supreme Court, at Trenton, this 29th day of January, 1943.

FRED L. BLOODGOOD,
Clerk.

CHARLES A. ROONEY,
Attorney for Prosecutor.

CHARLES HERSHENSTEIN,
Of Counsel.

(Endorsed on Back)

NEW JERSEY SUPREME COURT.

City of Jersey City, a Municipal Corporation,

Prosecutor,

vs.

State Board of Tax Appeals, Lehigh Valley Railroad System, et al.,

Respondents.

WRIT OF CERTIORARI.

Charles A. Rooney,
Attorney for Prosecutor,
City Hall,
Jersey City, N. J.

This Writ is allowed. Let it be sealed. Depositions may be taken on four (4) days' notice.

Dated: January 23rd, 1943.

Newton H. Porter,
J. S. C.

Rule Consolidating Cases.

(Filed Feb. 2, 1943)

NEW JERSEY SUPREME COURT.

CITY OF JERSEY CITY, a Municipal Corporation, *Prosecutor,*
vs.
STATE BOARD OF TAX APPEALS, LEHIGH VALLEY RAILROAD SYSTEM, et al., *Respondents.*

CITY OF JERSEY CITY, a Municipal Corporation, *Prosecutor,*
vs.
STATE BOARD OF TAX APPEALS, ERIE RAILROAD SYSTEM, et al., *Respondents.*

CITY OF JERSEY CITY, a Municipal Corporation, *Prosecutor,*
vs.
STATE BOARD OF TAX APPEALS, DELAWARE, LACKAWANNA & WESTERN RAILROAD SYSTEM, et al., *Respondents.*

CITY OF JERSEY CITY, a Municipal Corporation, *Prosecutor,*
vs.
STATE BOARD OF TAX APPEALS, HUDSON AND MANHATTAN RAILROAD SYSTEM, et al., *Respondents.*

CITY OF JERSEY CITY, a Municipal Corporation, *Prosecutor,*
vs.
STATE BOARD OF TAX APPEALS, PENNSYLVANIA RAILROAD SYSTEM, et al., *Respondents.*

CITY OF JERSEY CITY, a Municipal Corporation, *Prosecutor,*
vs.
STATE BOARD OF TAX APPEALS, NEW YORK CENTRAL RAILROAD SYSTEM, et al., *Respondents.*

On Certiorari. Rule.

This matter being opened to the court by Charles A. Rooney, attorney for the City of Jersy City, by Charles Hershenstein and Frank P. McCarthy, of counsel, in the presence of attorneys for the respondents named hereinabove, and it appearing to the court that good cause exists for the entry of this rule;

Rule Consolidating Cases.

It is, on this 23rd day of January, 1943, ORDERED, that the above entitled proceedings be and they hereby are consolidated; and

It is FURTHER ORDERED, that a single return be made to the writs of certiorari issued in the above entitled cause by the respondent, State Board of Tax Appeals; and

It is FURTHER ORDERED, that depositions may be taken by any party on four days' notice to the others; and

It is FURTHER ORDERED, that the argument on the consolidated writs of certiorari be had on the opening day of the May, 1943, Term of court, without any further notice of argument to any of the parties to these proceedings.

NEWTON H. PORTER,
J. S. C.

Return to Writs of Certiorari.

(Filed Feb. 17, 1943)

NEW JERSEY SUPREME COURT.

CITY OF JERSEY CITY, a Municipal Corporation, *Prosecutor*,
vs.
STATE BOARD OF TAX APPEALS, DELAWARE, LACKAWANNA & WESTERN RAILROAD SYSTEM, et al., *Respondents.*

CITY OF JERSEY CITY, a Municipal Corporation, *Prosecutor*,
vs.
STATE BOARD OF TAX APPEALS, LEHIGH VALLEY RAILROAD SYSTEM, et al., *Respondents.*

CITY OF JERSEY CITY, a Municipal Corporation, *Prosecutor*,
vs.
STATE BOARD OF TAX APPEALS, NEW YORK CENTRAL RAILROAD SYSTEM, et al., *Respondents.*

CITY OF JERSEY CITY, a Municipal Corporation, *Prosecutor*,
vs.
STATE BOARD OF TAX APPEALS, ERIE RAILROAD SYSTEM, et al., *Respondents.*

CITY OF JERSEY CITY, a Municipal Corporation, *Prosecutor*,
vs.
STATE BOARD OF TAX APPEALS, NEW YORK, SUSQUEHANNA & WESTERN RAILROAD SYSTEM, et al., *Respondents.*

CITY OF JERSEY CITY, a Municipal Corporation, *Prosecutor*,
vs.
STATE BOARD OF TAX APPEALS, PENNSYLVANIA RAILROAD SYSTEM, et al., *Respondents.*

CITY OF JERSEY CITY, a Municipal Corporation, *Prosecutor*,
vs.
STATE BOARD OF TAX APPEALS, HUDSON AND MANHATTAN RAILROAD SYSTEM, et al., *Respondents.*

CITY OF HOBOKEN, a Municipal Corporation, *Prosecutor*,
vs.
WILLIAM D. KELLY, STATE TAX COMMISSIONER, and NEW YORK CENTRAL RAILROAD SYSTEM, DELAWARE, LACKAWANNA & WESTERN RAILROAD SYSTEM, ERIE RAILROAD SYSTEM, PENNSYLVANIA RAILROAD SYSTEM, HOBOKEN RAILROAD, WAREHOUSE & STEAMSHIP CONNECTING COMPANY, HOBOKEN MANUFACTURERS RAILROAD, and HUDSON & MANHATTAN RAILROAD, *Respondents.*

TOWN OF SECAUCUS, a Municipal Corporation, *Prosecutor*,
vs.
WILLIAM D. KELLY, STATE TAX COMMISSIONER, and DELAWARE, LACKAWANNA & WESTERN RAILROAD SYSTEM, ERIE RAILROAD SYSTEM and PENNSYLVANIA RAILROAD SYSTEM, *Respondents.*

TOWN OF HARRISON, a Municipal Corporation, *Prosecutor*,
vs.
WILLIAM D. KELLY, STATE TAX COMMISSIONER, and DELAWARE, LACKAWANNA & WESTERN RAILROAD SYSTEM, ERIE RAILROAD SYSTEM, and PENNSYLVANIA RAILROAD SYSTEM, *Respondent.*

On Certiorari.

The State Board of Tax Appeals doth herewith send to the Supreme Court of the State of New

Jersey, the petition, judgment and proceedings in the matter of the appeal of City of Jersey City vs. William D. Kelly, State Tax Commissioner, and Delaware, Lackawanna & Western Railroad System, for the year 1942, as within it is commanded, as by the transcript under the seal of said Board hereto annexed more fully appears.

STATE BOARD OF TAX APPEALS
By CHAS. E. COOK,
Secretary.

STATE BOARD OF TAX APPEALS
OF NEW JERSEY

In the matter of the assessment and taxation of the property of, and the assessment of franchise taxes against, the several companies constituting the DELAWARE, LACKAWANNA & WESTERN RAILROAD SYSTEM used for railroad purposes in the State of New Jersey, for the year 1942.	Complaint and Appeal.

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TO THE STATE BOARD OF TAX APPEALS
OF NEW JERSEY:

The City of Jersey City, a municipal corporation of the State of New Jersey, complains against the assessment of Second Class properties of each and all of the said companies, used for

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railroad purposes in the State of New Jersey, owned, leased or held by the above named railroad system as determined by the State Tax Commissioner of New Jersey for the year 1942, purportedly under Chapter 291 of the Laws of 1941, as amended by Chapter 169 of the Laws of 1942, as shown by the annexed schedule to this complaint designated as Schedule "A", which is annexed hereto and made part hereof, and complains against the assessment of franchise taxes against said companies made by the State Tax Commissioner for the year 1941, purportedly under Chapter 291 of the Laws of 1941 as amended by Chapter 169 of the Laws of 1942. The City of Jersey City complains against the assessments on the following grounds:

1. Chapter 291 of the Laws of 1941 (hereinafter referred to as "Chapter 291") as amended by Chapter 169 of the Laws of 1942 (hereinafter referred to as "Chapter 169") and the assessments thereunder by the State Tax Commissioner of property used for railroad purposes contravene Artice IV, Section 7, Paragraph 12 of the Constitution of the State of New Jersey, which provides that:

> "Property shall be assessed for taxes under general laws, and by uniform rules, according to its true value,"

for the reason that said Chapter 291 as amended by Chapter 169 provides for the assessment of railroad property at a fixed rate of 3% of the true value thereof, whereas the average rate of taxation in the State of New Jersey for the year 1942 is approximately 5.00% of true value, and

whereas the great bulk of railroad property is situated in municipalities having local tax rates substantially in excess of 3% of true value; by reason of all of which, Chapter 291 as amended by Chapter 169 is a special rather than a general law, and results in the taxation of railroad and other property under rules which are not uniform, imposing a burden of taxation upon railroad property substantially less than that imposed upon all other property.

2. Chapter 291 as amended by Chapter 169 and the assessments thereunder by the State Tax Commissioner of property used for railroad purposes contravene said Article IV, Section 7, Paragraph 12, of the Constitution of the State of New Jersey, in that the provision therein for the rate of 3% for the taxation of railroad property was made with the deliberate intent and purpose of discriminating in favor of railroad company taxpayers and against all other taxpayers, and with the intent and necessary effect of levying an hostile and oppressive burden on such other taxpayers.

3. Chapter 291 as amended by Chapter 169 is a special law granting to railroad corporations an exclusive privilege and immunity in violation of Article IV, Section 7, Paragraph 11 of the Constitution of the State of New Jersey, providing that:

> "The legislature shall not pass private, local or special laws in any of the following enumerated cases, that is to say:
>
> "* * * Granting to any corporation, association or individual, any exclusive privilege, immunity or franchise whatever.

"* * * the legislature shall pass general laws providing for the cases enumerated in this paragraph and for all other cases, which, in its judgment, may be provided for by general laws,"

in that it grants to such corporations the exclusive privilege and immunity of payment of taxes upon property for railroad purposes at the fixed rate of 3% of true value, whereas the great bulk of property in the State of New Jersey is taxable at local rates of taxation substantially in excess thereof, and in that it grants to such corporations the exclusive privilege and immunity of a fixed tax rate, regardless of the needs of the government, whereas all other taxpayers are subject to variable local rates of taxation.

4. Chapter 291 as amended by Chapter 169 is a special law granting a fixed tax rate of 3% of true value to railroad corporations, palpably in violation of the provisions of said Article IV, Section 7, Paragraph 11 of the Constitution, providing that the legislature shall pass general laws in all cases, which, in its judgment, may be provided for by general laws.

5. Sections 13, 14 and 15 of Chapter 291 purport to levy an excise tax based upon the net railway operating income of the railroads attributable to their operations in the State of New Jersey. The "franchise base" upon which the tax is assessed, set up in Section 14, is computed by allocating to the State of New Jersey such part of net railway operating income of the railroad or system as the number of miles of all track

over which the railroad or system operates in this state bears to the total number of miles of all track over which it operates, and by capitalizing the amount so allocated at three per centum. Certain railroad companies assessed under this chapter have all of their track within this State. Other railroad companies and systems have substantially all of their track within this State, and still other companies and systems have a large proportion of their track outside of the State. There are situated in the State of New Jersey, and principally in the prosecutor municipality, and other municipalities in Hudson County, extensive, costly, and very valuable railroad terminal and waterfront facilities, which form the principal railroad terminus in the eastern part of the United States. Because of this fact, a far greater net railway operating income per track mile is attributable to the railroad tracks located in New Jersey than to the tracks located outside of this State. As a result thereof, the formula set up in said Section 14 for the allocation of net railway operating income to New Jersey results in a franchise tax against the interstate railroads which is disproportionately lower, arbitrarily and unreasonably, than the franchise tax assessed against the intrastate railroads, and further, as among interstate railroads, results arbitrarily and unreasonably in a disproportionately lower franchise tax upon those roads which have a greater proportion of track outside of this State, Chapter 169 purports to amend the provisions of Chapter 291 so as to provide for further arbitrary, unreasonable and discriminatory methods of determining the franchise tax. Chapter 169 provides for the arbitrary deduction of

$200,000 from net railway operating income from each railroad system and each railroad not a part of a system, regardless of the size of railroad or the extent of operations. Chapter 169 provides for an arbitrary, unreasonable and discriminatory rate of taxation for certain railroads operated by electricity. Chapter 169 provides for an arbitrary, unreasonable and discriminatory minimum franchise tax as to those railroad systems and railroads whose maximum franchise tax is less than the minimum franchise tax. The said formula as thus amended results in an arbitrary, unreasonable and discriminatory classification of railroads, from the standpoint of the objective of the said franchise tax as a tax based upon net railway operating income attributable to the use of the franchise granted by this State. The said provisions as thus amended are in said respects violative of the said Article IV, Section 7, Paragraph 11, of the Constitution, in that the said law is a special law granting exclusive privileges, immunities and franchises to corporations.

The said provisions relating to a franchise tax are inseparable from the property tax provisions of Chapter 291, as amended by Chapter 169 and, therefore, by reason of the unconstitutionality herein charged in the franchise tax provisions, Chapter 291, as amended by Chapter 169 in its entirety, is unconstitutional and void.

6. The said franchise tax provisions of Chapter 291 as amended by Chapter 169 further contravene Article IV, Section 7, Paragraph 11, of the Constitution, in that, by virtue of the facts recited in paragraph numbered 12 hereof, they constitute said Chapter 291 as amended by Chapter 169 a

special law and not a general law, palpably in violation of the provisions of said Article IV, Section 7, Paragraph 11, providing that the legislature shall pass general laws, in all cases which, in its judgment, may be provided for by general laws.

The said provisions relating to a franchise tax are inseparable from the property tax provisions of Chapter 291, as amended by Chapter 169 and, therefore, by reason of the unconstitutionality herein charged in the franchise tax provisions, Chapter 291, as amended by Chapter 169 in its entirety, is unconstitutional and void.

7. The said franchise tax provided for by Chapter 291 as amended by Chapter 169 is imposed upon the net railway operating income of each system and railroad not part of a system. Section 2 of Chapter 291 as amended by Chapter 169 defines "system" as "any independently operating railroad which operates its facilities and those of one or more other railroads as a single utility for furnishing transportation service. A system shall include all companies the property of which is so operated either by virtue of control through direct or indirect ownership of a majority or more of capital stock, or under lease, trackage rights or under any other form of contract, and for which separate operating accounts are not maintained." A railroad is thereby permitted to offset against its actual earnings attributable to operations in New Jersey, which, standing alone, would result in a franchise tax against it, the losses sustained by affiliated or controlled companies. Further, such losses so offset may be losses of an affiliated or controlled company whose lines are wholly outside of this State. In

either of said cases, accordingly such offset will result in a decrease or elimination of the franchise tax otherwise payable. Independently operating railroads, on the other hand, are not accorded said privilege and immunity.

The said provisions further place it within the power of any such system itself to determine from time to time what roads to operate as a single utility with joint operating accounts and thereby to control the amount of tax payable, on a basis other than that of the net railway operating income of each company, attributable to operations in New Jersey.

By reason thereof, the said provisions create an arbitrary, unreasonable and discriminatory classification of railroads as between those which are or may be part of a system and those which are independently operated, and also as between systems depending upon the manipulation of the membership of said systems. These provisions are in said respects violative of the said Article IV, Section 7, Paragraph 11, of the Constitution of the State of New Jersey in that the said law is a special law granting exclusive privileges, immunities and franchises to corporations.

The said provisions relating to a franchise tax are inseparable from the property tax provisions of Chapter 291, as amended by Chapter 169 and therefore, by reason of the unconstitutionality herein charged in the franchise tax provisions, Chapter 291 as amended by Chapter 169 in its entirety is unconstitutional and void.

8. The said franchise tax provisions of Chapter 291 as amended by Chapter 169 further contravene Article IV, Section 7, Paragraph 11, in that, by virtue of the facts recited in paragraph numbered

14 hereof, they constitute said Chapter 291 as amended by Chapter 169 a special law and not a general law, palpably in violation of the provisions of said Article IV, Section 7, Paragraph 11, providing that the legislature shall pass general laws in all cases, which, in its judgment, may be provided for by general laws.

The said provisions relating to a franchise tax are inseparable from the property tax provisions of Chapter 291 as amended by Chapter 169, and, therefore, by reason of the unconstitutionality herein charged in the franchise tax provisions, Chapter 291 as amended by Chapter 169, in its entirety, is unconstitutional and void.

9. The said franchise tax provided for by Chapter 291 as amended by Chapter 169 permits the deduction from total railway operating revenues, in the determination of the net railway operating income upon which the tax is computed, of rentals paid to lessors of lines. Thus, the net railway operating income of a lessee railroad is reduced by a factor absent in the case of a railroad company operating its own lines, with the result that in the case of a lessee railroad the franchise tax is not levied upon the income attributable to the use of the franchise to the same extent as in the case of the railroad company operating its own lines.

By reason thereof, the said provisions create an arbitrary, unreasonable and discriminatory classification of railroads, as between those companies which operate as lessees, and those companies which operate their own lines. These provisions are in said respect violative of the said Article IV, Section 7, Paragraph 11, of the

Constitution of the State of New Jersey, in that the said law is a special law granting exclusive privileges, immunities and franchises to corporations.

The said provisions relating to a franchise tax are inseparable from the property tax provisions of Chapter 291, as amended by Chapter 169 and therefore by reason of the unconstitutionality herein charged in the franchise tax provisions, Chapter 291 as amended by Chapter 169 in its entirety is unconstitutional and void.

10. The said franchise tax provisions of Chapter 291 as amened by Chapter 169 further contravene Article IV, Section 7, Paragraph numbered 11, in that, by virtue of the facts recited in paragraph 16 hereof, they constitute said Chapter 291 as amended by Chapter 169 a special law and not a general law, palpably in violation of the provisions of said Article IV, Section 7, Paragraph 11, providing that the legislature shall pass general laws in all cases which, in its judgment, may be provided for by general laws.

The said provisions relating to a franchise tax are inseparable from the property tax provisions of Chapter 291, as amended by Chapter 169 and, therefore, by reason of the unconstitutionality herein charged in the franchise tax provisions, Chapter 291, as amended by Chapter 169 in its entirety, is unconstitutional and void.

11. The provisions of Section 14 of Chapter 291 as amended by Chapter 169, which provide that the State Tax Commissioner shall have the power of regulation with respect to reasonableness of amount and appropriateness of accounting distribution, of deductions from operating revenues for

depreciation, additions and betterments, and of compensation for personal services, in the determination of net railway operating income, for purposes of computation of the franchise tax assessed under said Chapter 291 as amended by Chapter 169, are violative of the provisions of Article III, Paragraph 1, of the Constitution of the State of New Jersey, which provides that:

> "The powers of the government shall be divided into three distinct departments—the legislative, executive and judicial; and no person or persons belonging to, or constituting one of these departments, shall exercise any of the powers properly belonging to either of the others, except as herein expressly provided,"

and of Article IV, Section 1, of the Constitution of the State of New Jersey, which provides that:

> "The legislative power shall be vested in a senate and general assembly,"

in that such provisions of Section 14 constitute a delegation of legislative power to the State Tax Commissioner, contrary to said provisions of the Constitution.

The said provisions relating to a franchise tax are inseparable from the property tax provisions of Chapter 291 as amended by Chapter 169, and therefore, by reason of the unconstitutionality herein charged in the franchise tax provisions, Chapter 291 as amended by Chapter 169, in its entirety, is unconstitutional and void.

12. By virtue of the facts set forth in paragraphs numbered 14 and 16 hereof, Chapter 291

as amended by Chapter 169 contravenes said provisions of Article III, Paragraph 1, and the provisions of Article IV, Section 1, of the Constitution, in that the franchise tax provisions of said Chapter 291 as amended by Chapter 169 place it within the power of a railroad system, to control the amount of its tax payable by determining, from time to time, what roads to operate as a single utility with joint operating accounts, and further place it within the power of each railroad company owning a line in this State, to lease it to an affiliated or subsidiary company, thereby creating a rental offset against the operating income of the line; by reason of which there results a delegation of legislative power to said railroad systems and to each railroad, contrary to the said provisions of the Constitution.

The said provisions relating to a franchise tax are inseparable from the property tax provisions of Chapter 291 as amended by Chapter 169, and, therefore, by reason of the unconstitutionality herein charged in the franchise tax provisions, Chapter 291 as amended by Chapter 169 in its entirety is unconstitutional and void.

13. Chapter 291 as amended by Chapter 169 contravenes the provisions of the Fourteenth Amendment to the Constitution of the United States, which provides that:

> "* * * nor shall any State deprive any person of life, liberty or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

in that the provisions thereof which limit the rate of taxation of the property of railroad companies

used for railroad purposes to three per centum upon the true value thereof were adopted by the legislature with the deliberate intent and purpose of discriminating in favor of railroad company taxpayers, and against all other taxpayers, and with the intent and effect of levying an hostile and oppressive burden on such other taxpayers, and such law results in depriving the prosecutor-taxpayers and all taxpayers in the State of New Jersey other than the railroad companies assessed under said Chapter 291 as amended by Chapter 169, of property without due process of law, in that the rate of taxation fixed under the laws of the State of New Jersey upon the great bulk of the property of all taxpayers in the State of New Jersey other than railroad companies now is, and for many years heretofore has been, at a rate substantially in excess of the rate so fixed by Chapter 291 as amended by Chapter 169 for the taxation of railroad property, and results in the denial to said non-railroad taxpayers the equal protection of the laws.

14. By virtue of the facts set out in paragraphs numbered 12, 13, 14, 15, 16 and 17, hereof, the franchise tax provisions of Chapter 291 as amended by Chapter 169 deny to certain of the railroad company taxpayers indicated in said paragraphs, the equal protection of the laws, and deprive such taxpayers of property without due process of law, all in violation of the Fourteenth Amendment of the Constitution of the United States.

The said provisions relating to a franchise tax are inseparable from the property tax provisions of Chapter 291 as amended by Chapter 169, and,

therefore, by reason of the unconstitutionality herein charged in the franchise tax provisions, Chapter 291 as amended by Chapter 169 is in its entirety unconstitutional and void.

15. By virtue of the facts alleged in paragraphs numbered 1 and 2 hereof, the property of taxpayers other than railroad companies is taken for public use without just compensation, contrary to the provisions of Article 1, Paragraph 16, of the Constitution of the State of New Jersey.

16. By reason of the facts set out in paragraphs numbered 5, 6, 7, 8, 9 and 10 hereof, the property of certain railroad company taxpayers is taken for public use without just compensation, contrary to the said provisions of Article I, Paragraph 16, of the Constitution.

The said provisions relating to the franchise tax are inseparable from the property tax provisions of Chapter 291 as amended by Chapter 169, and, therefore, by reason of the unconstitutionality herein charged in the franchise tax provisions, Chapter 291 as amended by Chapter 169 in its entirety is unconstitutional and void.

17. The assessments for the year 1942 of Class II railroad properties located in the petitioning municipality are at less than the true value of said properties.

18. Said assessments of railroad property are erroneous, in that structures and improvements located wholly on Class II land within the petitioning municipality, are assessed as Class I property, whereas they should be assessed as Class II property.

19. In determining the franchise tax for the year 1942, the State Tax Commissioner allowed as deductions for railway tax accruals, sums in excess of the proper and lawful railway tax accruals for the year 1941.

20. The State Tax Commissioner failed to adopt any regulations as to the reasonableness of amount of deductions for depreciation, additions and betterments, and compensation for personal services, and as to the appropriateness of accounting distribution.

21. The State Tax Commissioner, in determining the franchise tax, used figures submitted by the railroad companies for deductions from operating revenues for depreciation, additions and betterments, and compensation for personal services, without investigating or verifying the said figures, and without in fact making any regulation or determination as to the reasonableness of the amount of such deductions, and of the appropriateness of accounting distribution.

22. The State Tax Commissioner, in determining the said franchise tax, allowed excessive and unreasonable deductions for the items specified in paragraph numbered 20 hereof.

The City of Jersey City respectfully requests your Honorable Board to hear the matter and correct the assessment and taxes by increasing the assessment as made by the State Tax Commissioner to its true value and that the Board order the proper classification of railroad properties as between main stem and second class.

Dated: June 9th, 1942.

CITY OF JERSEY CITY,
By ARTHUR POTTERTON,
Director of Revenue and Finance.

State of New Jersey, }
County of Hudson, } ss.:

ARTHUR POTTERTON, being duly sworn according to law, upon his oath deposes and says:

That he is the Director of Revenue and Finance of the City of Jersey City, a municipal corporation of the State of New Jersey and in charge of all municipal finances and taxes of the City of Jersey City and that he has read the foregoing complaint and appeal and knows the contents thereof, and that the matters stated therein are true to the best of his knowledge and belief.

ARTHUR POTTERTON.

Sworn and subscribed to before me,
this 9th day of June, 1942.
LAWRENCE H. BRANNAGAN,
Notary Public of New Jersey.
(SEAL)

SCHEDULE "A"

DELAWARE, LACKAWANNA & WESTERN RAILROAD SYSTEM

MORRIS & ESSEX RAILROAD (MAIN LINE)

Assessed	19,451,116.00
Increase to	29,451,116.00

MORRIS & ESSEX RAILROAD (BOONTON BRANCH)

Assessed	112,838
Increase to	168,838.00

(ENDORSED)

R R — 323

STATE BOARD OF TAX APPEALS
OF NEW JERSEY.

In the matter of the assessment and taxation of the property of, and the assessment of franchise taxes against, the several companies constituting the
DELAWARE, LACKAWANNA & WESTERN
RAILROAD SYSTEM
used for railroad purposes in the State of New Jersey, for the year 1942.

COMPLAINT AND APPEAL.

CHARLES A. ROONEY,
Corporation Counsel,
City Hall,
Jersey City, N. J.

FRANK P. MCCARTHY,
Of Counsel.

Filed June 15, 1942

STATE BOARD OF TAX APPEALS

City of Jersey City
Petitioner,

vs.

State Tax Commissioner, Delaware, Lackawanna Railroad System, et al.,
Respondent.

Transcript of testimony of the above-entitled cause taken before the State Board of Tax Appeals, President Waesche presiding, at the State House, Trenton, New Jersey, on Thursday, October 15, 1942.

Appearances

Frank P. McCarthy, Esq., for the City of Jersey City, City of Hoboken, Town of Secaucus and Town of Harrison.

M. M. Stallman, Esq., for the New York Central, Lehigh Valley, Delaware, Lackawanna and Erie Railroads.

John A. Hartpence, Esq., for the Pennsylvania Railroad Company.

Carl S. Kuebler, Esq., for the Hudson and Manhattan Railroad.

Robert J. Bain, Esq., for the Hoboken Manufacturers and Hoboken R. R. Warehouse & Steamship Connecting Co.

Harry Walsh, Esq., for the State Tax Commissioner.

Return to Writs of Certiorari.

President Waesche: Now, we will call the calendar on the other appeals.

Miss Flynn: City of Jersey City vs. Central Railroad System.

City of Jersey City vs. Lehigh Valley Railroad System.

City of Jersey City vs. Delaware, Lackawanna and Western Railroad System.

City of Jersey City vs. Erie Railroad System.

City of Jersey City vs. New York, Susquehanna and Western Railroad System.

City of Jersey City vs. Pennsylvania Railroad System.

City of Jersey City vs. Hudson and Manhattan Railroad.

Mr. McCarthy: We are ready on all cases.

Mr. Stallman: Are those cases moved, Mr. McCarthy?

Mr. McCarthy: Yes, sir.

Mr. Stallman: I have a motion to make, Mr. President.

President Waesche: We will call the list of cases on the calendar first, Mr. Stallman.

Miss Flynn: City of Hoboken vs. New York Central Railroad System.

City of Hoboken vs. Delaware, Lackawanna & Western Railroad System.

City of Hoboken vs. Erie Railroad System.

City of Hoboken vs. Pennsylvania Railroad System.

City of Hoboken vs. Hoboken Railroad, Warehouse and Steamship Connecting Company.

City of Hoboken vs. Hoboken Manufacturers Railroad Company.

City of Hoboken vs. Hudson and Manhattan Railroad Company.

Mr. McCarthy: They are ready.

Miss Flynn: Secaucus vs. Delaware, Lackawanna and Western Railroad Company.

Secaucus vs. Erie Railroad System.

Secaucus vs. Pennsylvania Railroad System.

Mr. McCarthy: They are ready.

Miss Flynn: Harrison vs. Delaware, Lackawanna and Western Railroad System.

Harrison vs. Erie Railroad System.

Harrison vs. Pennsylvania Railroad System.

Mr. McCarthy: Ready.

Mr. Stallman: In these cases, if your Honor please,——

Mr. McCarthy: Does Mr. Stallman appear representing all of these roads in the case of all the municipalities that have just been answered?

Mr. Stallman: I appear, Mr. McCarthy——

Mr. McCarthy: I think you do, Mr. Stallman, but it is only for the record.

Mr. Stallman: No, I am representing the New York Central, the Lehigh Valley, the Lackawanna and the Erie.

Mr. McCarthy: Does anyone appear in behalf of the other respondents, if they may be called respondents?

Mr. Hartpence: I represent the Pennsylvania Railroad System.

President Waesche: We have the New York, Susquehanna and Western Railroad System and the Hudson and Manhattan Railroad.

Mr. Hartpence: Mr. Kuebler is here for the Hudson and Manhattan.

Mr. Kuebler: I represent the Hudson and Manhattan.

President Waesche: Who represents the New York, Susquehanna and Western?

Mr. Bain: I represent the Hoboken Manufacturers Railroad Company and the Hoboken Railroad, Warehouse and Steamship Connecting Company.

President Waesche: The Hoboken Railroad, Warehouse and Steamship Connecting Company and the Hoboken Manufacturers Railroad Company?

Mr. Bain: Yes, I represent those two companies.

President Waesche: Apparently all companies are represented.

Mr. Walsh: I represent the State Tax Commissioner.

President Waesche: The New York, Susquehanna and Western Railroad System apparently is not represented.

Mr. Stallman: They are represented by Mr. Ralph E. Lum, but apparently he isn't here today.

President Waesche: Is that road in the hands of Trustees?

Mr. Stallman: Mr. Bain just asked me whether I wasn't asked to represent them.

I had a talk with Mr. Fairlie, of Mr. Lum's firm, some time ago and I think I did tell him if he wasn't here I would look after their interest.

Mr. McCarthy: I would like to know whether or not they are supposed to be here, or whether they aren't supposed to be here.

I don't want to get back in the situation that we are with the Central Railroad Company of New Jersey, after they were through with their 1939 case, they disclaimed their presence.

I want to know whether they are here by virtue of an order of the Federal District Court that appointed the Trustees, or whether they are here on their own.

Mr. Stallman: I don't know of any instructions having been given by the Federal District Court.

Mr. McCarthy: Then I will object to their appearance.

Mr. Stallman: You can't do that.

Mr. McCarthy: I can do it, I certainly don't think any person has a right to appear and contest any litigation in any court of law in this State and hear a case down to its conclusion and then find out that the decision don't suit them and repudiate it because they didn't go to the Federal District Court for permission to defend the action, and that is the position they are going to be in with the Susquehanna, and that is the position the Cenral Ralroad is taking in the Federal District Court now with reference to the 1939 case.

President Waesche: All right, they are not here.

Mr. Stallman: I have a motion, your Honor, in behalf of the companies I represent, to dismiss the appeals, alleged appeals, in these cases and I hand your Honor a copy, a typical copy of the complaint, and I move to dismiss these appeals on the ground there is no appeal pending under the statutes and rules of this Board.

President Waesche: Have we the names now of the railroads that you represent?

Mr. Stallman: The Delaware, Lackawanna, and Western Railroad System, the Lehigh Valley Railroad System, the Erie Railroad System and the New York Central Railroad System.

The memorandum I have submitted to your Honor refers to the type of complaint which is alike for all of the railroad companies which I have named, and I think for all of the railroads on your Honor's calendar.

You will observe by looking at this alleged complaint that it consists of about 22 numbered parcels.

The first 16 paragraphs of this alleged complaint are principally addressed to questions of the constitutionality of the Act, of Chapter 291 of the laws of 1941 and the revision of that Act, which is Chapter 169 of the laws of 1942.

Now, if your Honor will look at section 17 of this complaint, there is a statement reading as follows: "The assessments for the year 1942 of class 2 railroad properties located in the petitioning municipality are at less than the true value of said properties."

Then there is a following section which relates to the classification of structures, which I will pass for the moment.

The sections of the complaint numbered 19 to 22, inclusive, relate entirely to alleged derelictions of the State Tax Commissioner in computing the franchise tax under Chapter 291 of the laws of 1941, and its amendment the following year.

Now, the act of 1942 provides in section R. S. 54:29-A as follows: "Any taxpayer, the Attorney General on behalf of the State or the authorities of a taxing district desiring to contest the validity or amount of any assessment or re-assessment made by the Commissioner under this Act, may, on or before the third Monday of June following the assessment thereof, file a written complaint with the State Board of Tax Appeals, specifying the grounds of complaint and the relief sought, which should be in such form and contain such information as may be from time to time prescribed by the rules of the State Board of Tax Appeals

for the better understanding and determination of the complaint."

The Act creating this Board that is, R. S. 54:2-16 provides that the "hearing before the Board shall be open to the public and the proceedings shall be conducted in accordance with such rules, evidence and procedure as the Board from time to time may prescribe."

Rule 4 of this Board provides that "Appeals in all cases shall be by petition in writing summarizing the nature of the application for appeal, the relief sought, the character and location of the property involved, and the petition shall set forth the full name of the petitioner and recite a clear and concise statement of the matter in controversy, the action, determination or judgment appealed from, and of the facts upon which the appellant depends for relief. Said statement shall include a description of the property or commodity taxed, stating the value made by the taxing authority, and in the case of property so assessed, a designation of the block and lot number and street number thereof if same can be ascertained."

Now, your Honor, of course, has been here long enough, I think, to understand how railroad property is assessed and valued.

As a matter of fact, this Board within the last two months handed down an opinion in the 1939 case in which it said, referring to the opinion, the opinion refers to R. S. 54:22-1 and 54:23-1: "from these provisions, as well as from the entire statutory scheme for the assessment and distribution of taxes upon railroad property, it is clear that a separate and independent annual evaluation is to be made of each parcel of land and each structure assessed as second class railroad property. It is

thus and by this corollary that a horizontal percentage reduction in all railroad structures of whatever condition, age, degree of usefulness or location and without any inspection to determine the existence of variables in these respects is in violation of the statute."

Now, we have here no complaint which specifies any piece of land, any structure. There is no allegation of value of any piece of land. There is no allegation of the value of any structure. There is no allegation of what any piece of land should have been assessed at. There is no allegation of what any structure should have been assessed at.

Now, I call your Honor's attention to the fact, which I am prepared to establish in another form, if necessary, that on the Erie structures, the number of individual parcels of land of that system in the City of Jersey City are 52 separate parcels.

Mr. McCarthy: Assessed how?

Mr. Stallman: As second class railroad property.

President Waesche: Wait a minute, don't interrupt, Mr. McCarthy.

Mr. McCarthy: I mean, there are many which are locally assessed.

Mr. Stallman: There are 52 individually assessed parcels of second class railroad property upon which there are 210 separate structures.

In the case of the D. L. & W. there are 20 different parcels of land in Jersey City assessed as second class railroad property on which there are 147 separate structural items.

In the case of the Lehigh Valley, there are 23 separate parcels of land assessed as second class property in the City of Jersey City upon which there are 184 separately valued structural items.

In the case of the New York Central, there are 13 parcels of land with 9 structures thereon.

When I say structures, your Honor, I probably should explain that a second class improvement may be designated as track, and I call it a structure just for the purpose of distinguishing it from land, but that track may be 1,000 or 10,000 feet. That is the way it is listed.

Now, for the companies that I represent, therefore, there are 108 separate pieces of second class property and 509 individually assessed structural items on those parcels.

Now, in the Duke Power Company case against Essex County Board of Taxation——

President Waesche: Mr. Stallman, may I interrupt, please.

You have lumped the total number all together. I wonder if you could briefly list separately the parcels of land for each railroad?

Mr. Stallman: I have done that. On page 5 of the memorandum you will find them, and I have read off the numbers.

President Waesche: They are separated, all right.

Now, in view of the statute which I have already cited, and the rule of this Board, I call your Honor's attention to the opinion of the Supreme Court in Duke Power Company against the Essex County Board of Taxation in 122 Law, 589, which was affirmed by the Court of Errors in 124 Law, 41.

Now, that act provided that in case any person thought property was omitted from assessment by the assessor, he should file a complaint, a written complaint, with the assessing authorities specifying the property omitted.

Now, the Court in that case said: "The word 'specified' has a clearly defined meaning."

"When the claim is that property has been omitted by the assessor, the taxpayer is entitled to know that precise or specific property is meant. The mere assertion that prosecutor was the owner of personal property of the value of $15,000,000 specifies nothing. It is a mere conclusion, at most, without any specific assertion of fact in its support."

That case was followed by the opinion of the Supreme Court in Newark against the Essex County Board of Taxation, 127 Law, 527. There, the Court says with reference to the act: "The statute requires that the tax collector specify the property allegedly omitted from assessment rolls. The purpose is of course to apprise the taxpayer of the claims made, in order that he may have an opportunity to prepare his defense, if any he may have, to the proceeding.

"Without discussing in detail each item of property stated in 'Schedule A' annexed to prosecutor's complaint, we desire to point out that in our opinion none of these items, except of course the items of cash, is property specified. In no instance, save as to the item of cash, is respondent able to put its finger on any particular item confident that it is as to that item that prosecutor directs its complaint. The descriptions given are mostly general, not specific. Such descriptions fail to satisfy the statutory requirement that omitted property be specifically stated." There are other cases to the same effect.

Now, I invite your Honor's attention to the paper headed "Schedule" annexed to this complaint, and there you will see that there is a very

vague statement, the name of a railroad company, assessed at a figure which we do not know whether it is dollars or something else, and an alleged increase to some other number. I can only assume, and the Board can only assume, that those figures, if they are intended to be dollars, must relate to a large number of parcels or a large mass of property because there is no piece of property that I know of, or anybody else does, that has any such figures as these attached to it.

Now, as I have already said, your Honor, there are, adding lands and structurals together, some 658 different pieces of property. Every one of which has an individual value, and that relates only to the four companies that I am referring to, and I have no idea at all which of the many properties are here under attack.

I have no idea and I have not been informed what value is attributed to anyone of those structures, and I think your Honor will probably take judicial notice of the fact that those structures, all ages, conditions, locations, with the lands involved here in different places, different areas, may have different elements of value. I don't know. But the statute requires that we be appraised of those facts, and this Board, I take it, has no jurisdiction of complaint which does not answer the requirements of the law or the Board's rules.

President Waesche: Do you make a similar motion?

Mr. Bain: Yes, for the companies that I represent.

Mr. McCarthy: On the same grounds?

Mr. Bain: On the same grounds.

Mr. McCarthy: If Mr. Bain has anything to add to what Mr. Stallman has said, I will be glad to hear that.

President Waesche: Then you are moving with regard to——

Mr. Bain: With regard to the Hoboken Manufacturers Railroad Company and the Hoboken Warehouse and Steamship Connecting Company, the motion being to dismiss the appeals before the Board.

President Waesche: For the same reason?

Mr. Bain: For the same reasons as stated by Mr. Stallman.

President Waesche: Are there any other motions?

Mr. Hartpence: Yes, on behalf of the Pennsylvania Railroad System, I make the same motion.

Mr. Kuebler: I make the same motion for the Hudson and Manhattan Railroad Company.

President Waesche: All right.

Mr. Walsh: I join in that motion for the State Tax Commissioner.

President Waesche: Is your motion addressed also to the appeal of the New York, Susquehanna and Western Railroad?

Mr. Walsh: I make my motion with respect to all the roads.

President Waesche: All right.

Mr. McCarthy: I presume that we are now in a position where they have all arrayed themselves on one side.

I can't possibly by any stretch of the imagination conceive of attorneys in this litigation appearing here and making this motion. Many of them have been in this litigation for many years before I ever knew there were railroads in New Jersey, I think.

What amazes me particularly is that they are asking and directng their motions to the fact that

the appeals of the municipalities do not specifically mean the structures and lands that are affected by the assessments.

Without having to change the course of their trend between here and the railroad station, they can go to the State Tax Commissioner right now, and they could have gone to him during any other year in the past, and they will find, if they don't know, that the State Tax Commissioner does not assess second class railroad property individually by the structures or by parcels of land.

The City of Jersey City, the City of Hoboken, as well as Secaucus and Harrison or any taxing district in the State of New Jersey, annually receives from the State Tax Commissioner a memorandum on which it says: "the second class railroad in the taxing district in Jersey City, for instance, for the taxing year of (blank) is eight million or whatever the figure may be.

There is no specific designation to any structure or to any parcel of land, and it has not at any time supplied that to a taxing district in the State of New Jersey.

I know that through the graciousness of the Tax Commissioner in the State of New Jersey the railroads of the State of New Jersey have annually received a copy of the Tax Commissioner's bill book, in which the property is desribed and in which the structures are described and in which the structures and land are individually assessed by him at a specific figure.

I defy Mr. Stallman or any man here representing a railroad to show me a taxing district in the State of New Jersey that has ever received from the State Tax Commissioner of the State of New Jersey an assessment on second class property

where it has identified, specified, and individually assessed as to structure and land.

In view of that situation, I ask, what can any municipality do when they take an appeal excepting to come before this Board and say as we have said in our appeals: "We are a taxing district in the State of New Jersey and we, under 54:29-A-31, have a perfect right to appeal to this Board any time that we are aggrieved by any action taken by the State Tax Commissioner in making an assessment on second class properties, particularly."

Therefore, when we feel we are aggrieved, when we come before this Board and we say to them, "we are aggrieved by the assessment at so many million of dollars, and we feel it should be at so many million of dollars," we have put in a justifiable complaint; we are aggrieved and we are entitled to be heard.

Now, there is no question about it that the act provides that you specify the grounds in the complaint, and you state the relief that is to be sought; also, that you shall give such information in that complaint as you desire.

We have never deprived a railroad company in the State of New Jersey, or the State Board of Tax Appeals, one iota of information that they have wanted at any time, and there is no question that they know specifically and particularly what structures and properties we feel we are aggrieved upon.

We cannot give you in our complaint a detailed and specified description, because we do not have one. The State Tax Commissioner does not give us one. The State of New Jersey does not give us one. We are not treated in the same manner by the taxing department of the State of New Jersey

as the railroads are. The railroads have in their possession a complete copy of the bill book of the tax commissioner for every year that he has levied an assessment, and there is no taxing district in the State of New Jersey that ever had one.

When Mr. Stallman refers to the Duke Power Case, that is far afield from this matter as anything can be. The Duke Power Company case was a case of omitted property assessments. I think your Honor is fully confident of the fact that the act in 54:29, 54:3-20, does not cover railroad property at all. That deals with omitted property assessments, and has nothing to do with railroad taxes. Nothing whatsoever. It is with reference to omitted property assessments.

Of course, you have to be very specific in stating what you want to assess where you have failed to put it in at the proper time of assessment and then desire to enter it on the rolls at a subsequent time. That is a different situation. That is an absolutely different situation. I say to you there is nothing in the complaint of any of the municipalities, for which I appear that does not state completely what our grounds of grievance actually are before this Board.

As a matter of fact, it goes, I think—If I might say it—beyond even the power of the Board to review some of the grounds that are raised. We question the constitutionality of the railroad acts. We question the constitutionality of the franchise act. I don't think that is within the power of the Board to pass on, but, nevertheless, it is there. Anywhere in the future it may not be said that we did not raise the question at the first opportunity that we had to do so.

Now, Mr. Fryer and Mr. Focht, they are the men that make this assessment. Mr. Stallman or anybody else notwithstanding, the Tax Commissioner does not levy on second class property in individual, specific land assessments and structure assessments, in second class railroad property, and apprise the taxing district of it.

You will be surprised, but when it comes time to make the assessment on second class property, we get a slip of paper which says that the assessment is so many millions of dollars. How that is made up, we never find out. They do, because they get a copy of it. How can we, therefore, provide for it? We are willing now, if there is any question in their mind as to what structures we are concerned with and what lands we are concerned with, to give them that.

This Board is not any different than any other Court. For instance, if this were a negligence action, they could have a bill of particulars, or they could have a bill of specifications, if they wanted it. They have not done that. They have appeared in and have answered these cases since June of last year, and have never questioned it and have never asked for it. They are not taken by surprise. We cannot be expected to file our complaint under the statutory rules and regulations of the State of New Jersey within time, and be expected at the same time to go out and ferret out the structures and the lands, since that information is not provided to us by the State of New Jersey.

Mr. Stallman: I would like to say to your Honor that I think your Honor must have observed, if Mr. McCarthy is correctly expressing himself, if the City of Jersey City does not know what amount any of these 52 tracts of land of Erie Railroad are

New Jersey State Library

assessed, or any of the 200 structures thereon, or the 20 tracks of the D. L. & W. and so forth, then on what possible basis could there be an assertion that this property is under assessed?

I am unable to follow the argument of Counsel, because I can call your attention to the judgment of this Board in the 1939 case, in which Counsel for Jersey City insisted before this Board, with vehemence and, I think, with sincerity, that the State Tax Commisisoner could not make a reduction on this property en masse.

Certainly if Mr. Focht came in and filed an assessment which merely said "second class railroad property, twenty million dollars," that would not be any assessment under the statute.

Now, if the Tax Commisisoner cannot make any such assessment, if by the judgment of this Board the entire statutory scheme for the assessment of taxes on railroad property involves a separate and independent annual evaluation of each parcel of land and of each structure assessed as second class railroad property, then how can anyone who may be interested in these valuations or these taxes face a complaint on the thing as a whole, when the commissioner, by the judgment of this Board, could not make a blanket reduction, and in view of the requirement of the statute which governs this Board and these appellants, that they shall specify to what property their complaint is addressed?

Now, Counsel says that he does not know and his witnesses do not know. What is this? If their evidence is prepared to be directed to a specific structure, claiming that a piece of land was assessed at $100,000 and that its true value is a $150,000, we are entitled to know that before we can be called to court.

The statute is very clear on what is required, and if there is no complaint before this Board under the statute, this Board, I very respectfully but urgently insist, cannot proceed with the case. There is nothing before it to which its jurisdiction attaches.

Mr. McCarthy: I think Mr. Stallman has overlooked a very salient fact, and that is that we are limited, just as this Board is, by a statutory date for making our appeals. Do not let Mr. Stallman give you the impression that he thinks for one minute that we don't know what the structures are and what the lands are and the values that we have. He knows them too. He has heard of them in the 1939 case. So he is not a stranger to them. But we have to comply with the statutory date. I am not exaggerating this. This is the truth. When we wanted to prepare our railroad cases, whether it was Jersey City or any other taxing municipality that I have had the pleasure to represent, it was necessary for me to take two or three clerks out of the City Hall in Jersey City and send them down here with yellow pads and pencils to sit in the Railroad Tax Commissioner's office for as long as three or four weeks at a time, to write out in longhand the description of the second class properties and structures and the assessments that he made and the assessments after review.

By the time that would be accomplished, the statutory date would be passed and every municipality would be out.

It is not a physical possibility. But, on the contrary, just after and immediately following the assessment made by the Tax Commissioner, Mr. Railroad has the complete bill book in its entirety,

with all its descriptions. I don't care about that, but here we are supposed to fit this whole thing in within a couple of weeks and do all this detail work and everything else, and then they want to come in and say, "we are surprised. We don't know what property you are talking about."

They know. They know definitely. They not only know, but they have a complete description of the property, and they have pictures and everything else.

President Waesche: Will you prepare a brief, Mr. McCarthy?

Mr. McCarthy: I will.

President Waesche: Of course, that is not the only defect in this law. I am supposed to hear all these cases and decide them all by November fifth. So just because the law does not take care nicely of all these problems, nevertheless, we have to try to fit ourselves into this law as drawn.

Now, I believe it is a fact that Counsel can agree that a bill was introduced in the Assembly a few weeks ago to extend the time of the Board for hearing these appeals.

Mr. McCarthy: No, not that I know of, sir. It was tried to be introduced.

President Waesche: I understood that it was actually introduced in the Assembly. Is that so, Mr. Walsh?

Mr. Walsh: I don't think it was actually introduced, no. We tried to get it in.

President Waesche: Is Mr. Hanlon here?

Mr. Walsh: Senator Eastwood had it, but whether it was——

President Waesche: Well, it was offered to the Assembly.

Mr. McCarthy: That is correct, we offered it. It was two weeks ago last Monday.

President Waesche: Can it be agreed by Counsel today, for whatever it might be worth, that a bill was introduced into the Legislature or was offered in the Legislature?

Mr. McCarthy: Yes, we gave it to a Senator.

President Waesche: To extend the time of the Board for hearing these appeals, and the Legislature did nothing with it. Can we all agree to that? Can all Counsel agree to that?

Mr. McCarthy: It can be as far as I am concerned.

President Waesche: Well, am I to take it that all Counsel agree?

Mr. Stallman: That is our understanding of it.

President Waesche: I don't know whether that has any effect, but it seems to me that it might have on the time limit of hearing these appeals. We now have a motion to dismiss these appeals at a time when the time for hearing the appeals is up. I don't think that that affects the motion or the rights of the respondent railroad companies represented here. It might finally have some bearing on the attitude of the Board toward these cases.

I would like also to have it noted on the record that on September 15th, the Board announced to all parties represented here now that it would comply with the law and that no hearings would be held after the fifteenth of October. I say that because in the meantime, if the Legislature had any intention of extending the time for the Board to hear these appeals, it had an opportunity to so act.

I think that is all, unless Counsel has something else to offer for the record.

Mr. McCarthy: Only that I would like to have appear on the record the motion that I made before as to the Board's discontinuance of the hearing at this time, as I believe that the City of Jersey City with reference to the railroads in Jersey City and the City of Hoboken and Secaucus and Harrison are being absolutely shut off from what we feel is fair, just and equitable to us.

So that while I know your Honor's ruling in the matter, I would like it to appear as a matter of record that I have made a protest.

President Waesche: Yes. Now, do you desire to file a brief in answer to Mr. Stallman's contention?

Mr. McCarthy: Yes, sir. I will submit a brief to you. I would like you to give me to the end of next week.

President Waesche: Certainly. Does any other Counsel desire to say anything else, or do you rest on Mr. Stallman's brief? Do you rest on Mr. Stallman's brief?

Mr. Hartpence: Yes, sir.

Mr. Kuebler: Yes, sir.

Mr. Bain: Yes, sir.

President Waesche: Do you desire to file a brief, Mr. Walsh?

Mr. Walsh: No, I will rest on Mr. Stallman's brief.

President Waesche: All right, gentlemen, we had four weeks of delightful companionship here. I am sorry that you weren't down here with us.

(The hearing then adjourned.)

Return to Writs of Certiorari.

I, JOHN F. TRAINOR, the stenographer designated by the State Board of Tax Appeals to report stenographically the evidence given before said Board in the matter of the appeal of City of Jersey City v. William D. Kelly, State Tax Commissioner and Delaware, Lackawanna & Western Railroad System, for the year 1942, do hereby certify that the foregoing is a true and correct transcript of the record before said Board on Thursday, October 15, 1942.

In witness whereof I have hereunto set my hand and seal this seventeenth day of February, 1943.

JOHN F. TRAINOR.

(SEAL)

I, CHAS. E. COOK, Secretary of the State Board of Tax Appeals, do hereby certify and send to the Justices of the Supreme Court the foregoing transcript as a true and correct transcript of the record before said Board in the matter of the appeal of the City of Jersey City v. William D. Kelly, State Tax Commissioner, and Delaware, Lackawanna & Western Railroad System, for the year 1942, said record having been submitted at the hearing of Thursday, October fifteenth, 1942.

In witness whereof I have hereunto set my hand and affixed the official seal of the Board, at Trenton, this seventeenth day of February, 1943.

CHAS. E. COOK.
Secretary.

(SEAL)

STATE BOARD OF TAX APPEALS

DOCKET

R R 323 JERSEY CITY, CITY OF *Petitioner,*

vs.

STATE TAX COMR. and DELAWAGE, LACKAWANNA & WESTERN RAILROAD,

1942 *Respondent.*

Pet's Atty., Frank P. McCarthy.

Respdt's Atty., Harry A. Walsh for State Tax Comr. M. M. Stallman for Company.

Property:

Judgment: Appeal Dismissed.

Appeal from assessment by State Tax Commissioner for 1942 (2d class property)

1942

June 15 Appeal filed. Hearing date fixed for Sept. 15th at Trenton.

Sept 15 Calendar of railroad tax cases called, and continued to Sept. 21st, with understanding that appeal of Central Railroad of New Jersey (Case 342) be heard first, and that remaining cases on calendar be taken up in turn, all hearings to be concluded not later than October 15th, statutory date for completion of hearing.

Oct 15 Case called. Motion by M. M. Stallman for dismissal of appeal; Frank P. McCarthy heard in opposition to motion. Decision reserved.

Nov 4 Appeal dismissed. Opinion filed.

STATE OF NEW JERSEY

STATE BOARD OF TAX APPEALS.

(Filed November 4, 1942.)

CITY OF JERSEY CITY, *Petitioner,*
v.
WILLIAM D. KELLY, STATE TAX COMMISSIONER, AND NEW YORK CENTRAL RAILROAD SYSTEM, LEHIGH VALLEY RAILROAD SYSTEM, DELAWARE, LACKAWANNA & WESTERN RAILROAD SYSTEM, ERIE RAILROAD SYSTEM, NEW YORK, SUSQUEHANNA AND WESTERN RAILROAD SYSTEM, PENNSYLVANIA RAILROAD SYSTEM, and HUDSON & MANHATTAN RAILROAD COMPANY, *Respondents.*

CITY OF HOBOKEN, *Peitioner,*
v.
WILLIAM D. KELLY, STATE TAX COMMISSIONER, AND NEW YORK CENTRAL RAILROAD SYSTEM, DELAWARE, LACKAWANNA & WESTERN RAILROAD SYSTEM, ERIE RAILROAD SYSTEM, PENNSYLVANIA RAILROAD SYSTEM, HOBOKEN RAILROAD WAREHOUSE AND STEAMSHIP CONNECTING COMPANY, HOBOKEN MANUFACTURERS RAILROAD, and HUDSON & MANHATTAN RAILROAD, *Respondents.*

TOWN OF SECAUCUS, *Petitioner,*
v.
WILLIAM D. KELLY, STATE TAX COMMISSIONER, and DELAWARE, LACKAWANNA & WESTERN RAILROAD SYSTEM, ERIE RAILROAD SYSTEM, and PENNSYLVANIA RAILROAD SYSTEM, *Respondents.*

TOWN OF HARRISON, *Petitioner,*
v.
WILLIAM D. KELLY, STATE TAX COMMISSIONER, and DELAWARE, LACKAWANNA & WESTERN RAILROAD SYSTEM, ERIE RAILROAD SYSTEM, and PENNSYLVANIA RAILROAD SYSTEM, *Respondents.*

Opinion.

APPEARANCES:

For the petitioners: FRANK P. MCCARTHY, Esq.

For the State Tax Commissioner: HARRY A. WALSH, Esq.

For the New York Central Railroad, the Lehigh Valley Railroad, the Delaware, Lackawanna & Western Railroad, and the Erie Railroad: M. M. STALLMAN, Esq.

For the Pennsylvania Railroad: JOHN A. HARTPENCE, Esq.

For the Hudson & Manhattan Railroad: CARL S. KUEBLER, Esq.

For the Hoboken Manufacturers Railroad and the Hoboken Railroad, Warehouse and Steamship Connecting Company: ROBERT J. BAIN, Esq.

WAESCHE, President:

On September 15, 1942, at the time of the calling of the calendar of appeals from the assessments of railroad property and excise taxes by the State Tax Commissioner for the year 1942, the President of this Board directed the attention of all counsel to that section of the statute which provides that the State Board of Tax Appeals shall conclude its hearings on or before the 15th day of October following the filing of the complaint, and stated that the Board was ready to proceed with the hearings at once and to continue from day to day in order to comply with the statutory provision. During the hearings of the appeals, it became evident that it would be impossible for the Board to conclude its hearings before the 15th day of October, and the interested parties in such appeals had a bill drafted and submitted to the legislature to extend the time beyond the 15th of October, but the legislature took no action thereon.

On October 15th, 1942, the calendar of appeals

not yet heard was called. All of such appeals were answered ready, and counsel for four of the respondent railroad companies then moved that the appeals be dismissed on the ground that there is no appeal pending because the appeal complaints contained no specification of the parcels of land and the improvements, as required by statute and the rules of this Board. Counsel for all of the other respondent railroad companies and the Attorney General, on behalf of the State Tax Commissioner, joined in such motion. Argument was had and the parties requested the privilege of submitting briefs. No testimony, however, was offered on any of such appeals.

While the objection made to the form of these complaints, in so far as they deal with the valuation of second class property, seems to be substantial, it appears unnecessary to determine this motion in view of the fact that in the opinion of the Board, no hearings on these appeals could legally be held after October 15, 1942.

The Railroad Tax Law, Chapter 291 of the Laws of 1941, under Article 6, sets out in detail the procedure to be pursued on appeal and review, and in Section 31 fixes the third Monday of June following the assessment as the day on or before which an appeal in the form of a written complaint may be filed with the State Board of Tax Appeals. Section 33 then provides that the State Board of Tax Appeals shall meet on the third Monday of June in each year for the purpose of fixing a time and place for the hearings of any such complaints so filed; Section 34 then provides, "The State Board of Tax Appeals shall conclude its hearing on or before the 15th day of October following the

filing of the complaint, and between November 1st and November 5th following shall certify to the State Tax Commissioner its final determination."

It is the opinion of the Board that in so far as the Railroad Tax Law of 1941 is concerned, all of such dates are mandatory and that this Board must conclude its hearings on or before the 15th day of October following the filing of the complaint.

These appeals are accordingly dismissed, and the tax assessments levied by the State Tax Commissioner for the year 1942 against the above named companies are affirmed without prejudice.

CITY OF JERSEY CITY, *Petitioner,*
v.
WILLIAM D. KELLY, STATE TAX COMMISSIONER, AND NEW YORK CENTRAL RAILROAD SYSTEM, LEHIGH VALLEY RAILROAD SYSTEM, DELAWARE, LACKAWANNA & WESTERN RAILROAD SYSTEM, ERIE RAILROAD SYSTEM, NEW YORK, SUSQUEHANNA & WESTERN RAILROAD SYSTEM, PENNSYLVANIA RAILROAD SYSTEM and HUDSON & MANHATTAN RAILROAD COMPANY, *Respondents.*

CITY OF HOBOKEN, *Petitioner,*
v.
WILLIAM D. KELLY, STATE TAX COMMISSIONER, AND NEW YORK CENTRAL RAILROAD SYSTEM, DELAWARE, LACKAWANNA & WESTERN RAILROAD SYSTEM, ERIE RAILROAD SYSTEM, PENNSYLVANIA RAILROAD SYSTEM, HOBOKEN RAILROAD, WAREHOUSE & STEAMSHIP CONNECTING COMPANY, HOBOKEN MANUFACTURERS RAILROAD and HUDSON & MANHATTAN RAILROAD, *Respondents.*

TOWN OF SECAUCUS, *Petitioner,*
v.
WILLIAM D. KELLY, STATE TAX COMMISSIONER, and DELAWARE, LACKAWANNA & WESTERN RAILROAD SYSTEM, ERIE RAILROAD SYSTEM and PENNSYLVANIA RAILROAD SYSTEM, *Respondents.*

TOWN OF HARRISON, *Petitioner,*
v.
WILLIAM D. KELLY, STATE TAX COMMISSIONER, and DELAWARE, LACKAWANNA & WESTERN RAILROAD SYSTEM, ERIE RAILROAD SYSTEM, and PENNSYLVANIA RAILROAD SYSTEM, *Respondents.*

JUDGMENT.

Appeals in writing having been filed by the City of Jersey City, complaining of the assessment by the State Tax Commissioner, for the year 1942, of property situated in said taxing district, of the New York Central Railroad System, Lehigh Valley Railroad System, Delaware, Lackawanna & Western Railroad System, Erie Railroad Sys-

tem, New York, Susquehanna & Western Railroad System, Pennsylvania Railroad System, and Hudson & Manhattan Railroad Company; and

Appeals in writing having been filed by the City of Hoboken, complaining of the assessment by the State Tax Commissioner, for the year 1942, of property situated in said taxing district, of the New York Central Railroad System, Delaware, Lackawanna & Western Railroad System, Erie Railroad System, Pennsylvania Railroad System, Hoboken Railroad Warehouse & Steamship Connecting Company, Hoboken Manufacturers Railroad, and Hudson & Manhattan Railroad; and

Appeals in writing having been filed by the Town of Secaucus, complaining of the assessment by the State Tax Commissioner, for the year 1942, of property situated in said taxing district, of the Delaware, Lackawanna & Western Railroad System, Erie Railroad System, and Pennsylvania Railroad System; and

Appeals in writing having been filed by the Town of Harrison, complaining of the assessment by the State Tax Commissioner, for the year 1942, of property situated in said taxing district, of the Delaware, Lackawanna & Western Railroad System, Erie Railroad System and Pennsylvania Railroad System;

And the Board having been unable to hear evidence or argument with respect to said appeals, on or prior to October 15, 1942, because of the pendency before the Board and the hearing by the Board of appeals from other assessments of railroad property made by the State Tax Commissioner, for the year 1942;

And the Board being without power under the statute, in such case made and provided, to hear

appeals from assessments on railroad property for the year 1942, subsequent to October 15, 1942;

It is, on this fourth day of November, 1942, at a session of the State Board of Tax Appeals, ORDERED, ADJUDGED and DECREED, that the appeals of the said petitioners be and the same are hereby dismissed, and that the assessments levied by the State Tax Commissioner for the year 1942, complained of in said appeals, be and the same are hereby affirmed.

DONALD M. WAESCHE, President,
THELMA PARKINSON SHARP,
DAVID R. SMITH,
J. WM. HUEGEL,
A. H. KREAMER,
RICHARD J. HARRIGAN,
JOSEPH S. HOFF,
State Board of Tax Appeals.

Attest:
CHAS. E. COOK,
Secretary.

(Endorsed on Back.)

STATE OF NEW JERSEY
STATE BOARD OF TAX APPEALS

In RE:

City of Jersey City

v.

State Tax Commissioner, and
New York Central Railroad System, et al.

City of Hoboken

v.

State Tax Commissioner and
New York Central Railroad System, et al.

Town of Secaucus

v.

State Tax Commissioner and
Delaware, Lackawanna & Western Railroad System, et al.

Town of Harrison

v.

State Tax Commissioner and
Delaware, Lackawanna & Western Railroad System, et al.

JUDGMENT

Decided and Filed
November 4, 1942.
CHAS. E. COOK
Secretary

Return to Writs of Certiorari.

STATE OF NEW JERSEY

State Board of Tax Appeals

I, Chas. E. Cook, Secretary of the State Board of Tax Appeals, do hereby certify, that the foregoing are true copies of the petition, judgment and proceedings in the matter of the appeal of City of Jersey City v. William D. Kelly, State Tax Commissioner, and Delaware, Lackawanna & Western Railroad System for the year 1942 as the same are taken from and compared with the originals, filed in the office of the State Board of Tax Appeals, on the fifteenth day of June, and other dates, A. D. 1942, and now remaining on file and of record therein.

In Testimony Whereof, I have hereunto set my hand and affixed the official seal of the Board, at Trenton this seventeenth day of February, A. D. 1943.

(seal)

Chas. E. Cook,
Secretary.

STATEMENT.

Petitions filed by the City of Jersey City for the increase of assessments against the Lehigh Valley Railroad System, the Erie Railroad System, the New York, Susquehanna and Western Railroad System, the New York Central Railroad System, the Pennsylvania Railroad System and the Hudson and Manhattan Railroad System for the year 1942 are in substantially the same form

as the foregoing petition of the City of Jersey City for the increase of the assessment of the Delaware, Lackawanna & Western Railroad System, and the docket entries and judgments are the same.

The assessed valuation of property of each of the above named companies, as stated by the petition of the City of Jersey City, and the increase prayed for in the said petitions are as follows:

SCHEDULE "A".

LEHIGH VALLEY RAILROAD SYSTEM

Main Line	
Assessed	5,149,743.00
Increase to	7,649,743.00
Edgewater Branch	
Assessed	20,519.00
Increase to	30,519.00
National Docks Branch	
Assessed	777,984.00
Increase to	1,165,984.00
Communipaw Branch	
Assessed	78,059.00
Increase to	94,059.00
National Storage Branch	
Assessed	2,519,986.00
Increase to	3,719,986.00
Jersey City Branch No. 1	
Assessed	27,290.00
Increase to	41,290.00
Lehigh Valley Harbor Terminal Railway	
Assessed	4,453,142.00
Increase to	6,653,142.00

SCHEDULE "A".

ERIE RAILROAD SYSTEM

DOCKS CONNECTING RAILWAY	
Assessed	1,051,497.00
Increase to	1,551,497.00
LONG DOCK COMPANY	
Assessed	14,397,356.00
Increase to	21,397,356.00
NEW YORK & GREENWOOD LAKE RAILWAY	
Assessed	1,766.00
Increase to	2,566.00
NORTHERN R.R. CO. OF NEW JERSEY	
Assessed	30.00
Increase to	45.00
PATERSON & HUDSON RIVER RAILROAD	
Assessed	65,980.00
Increase to	97,980.00
PENHORN CREEK RAILROAD (Main Line)	
Assessed	11,340.00
Increase to	17,340.00
PENHORN CREEK RAILROAD (Branch "A")	
Assessed	228,816.00
Increase to	342,816.00

SCHEDULE "A".

NEW YORK, SUSQUEHANNA & WESTERN RAILROAD SYSTEM

MAIN LINE	
Assessed	78,051.00
Increase to	113,051.00

SCHEDULE "A".

NEW YORK CENTRAL RAILROAD SYSTEM

New York Junction Railroad
(Main Line)

Assessed	399,299.00
Increase to	599,299.00

SCHEDULE "A".

PENNSYLVANIA RAILROAD SYSTEM

New York Bay (Main Line)

Assessed	$9,832,001.00
Increase to	13,832,001.00

United New Jersey Railroad and Canal Co. (Main Line)

Assessed	7,498,130.00
Increase to	10,998,130.00

United New Jersey Railroad and Canal Co. (Harsimus Branch)

Assessed	12,385,108.00
Increase to	18,385,108.00

SCHEDULE "A".

HUDSON & MANHATTAN RAILROAD SYSTEM

Main Line

Assessed	1,079,590.00
Increase to	1,579,590.00

Newark Branch

Assessed	471,213.00
Increase to	721,213.00

Rule Adding Respondents.

(Filed Feb. 2, 1943)

NEW JERSEY SUPREME COURT.

CITY OF JERSEY CITY, a Municipal Corporation, *Prosecutor,*
vs.
STATE BOARD OF TAX APPEALS, LEHIGH VALLEY RAILROAD SYSTEM, et al, *Respondents.*

CITY OF JERSEY CITY, a Municipal Corporation, *Prosecutor,*
vs.
STATE BOARD OF TAX APPEALS, ERIE RAILROAD SYSTEM, et al, *Respondents.*

CITY OF JERSEY CITY, a Municipal Corporation, *Prosecutor,*
vs.
STATE BOARD OF TAX APPEALS, DELAWARE, LACKAWANNA & WESTERN RAILROAD SYSTEM, et al, *Respondents.*

CITY OF JERSEY CITY, a Municipal Corporation, *Prosecutor,*
vs.
STATE BOARD OF TAX APPEALS, HUDSON AND MANHATTAN RAILROAD SYSTEM, et al, *Respondents.*

CITY OF JERSEY CITY, a Municipal Corporation, *Prosecutor,*
vs.
STATE BOARD OF TAX APPEALS, NEW YORK, SUSQUEHANNA AND WESTERN RAILROAD SYSTEM, et al, *Respondents.*

CITY OF JERSEY CITY, a Municipal Corporation, *Prosecutor,*
vs.
STATE BOARD OF TAX APPEALS, PENNSYLVANIA RAILROAD SYSTEM, et al, *Respondents.*

CITY OF JERSEY CITY, a Municipal Corporation, *Prosecutor,*
vs.
STATE BOARD OF TAX APPEALS, NEW YORK CENTRAL RAILROAD SYSTEM, et al, *Respondents.*

On Certiorari.
(Assessments of 1942.)
Rule.

This matter being opened to the court by Charles A. Rooney, attorney for prosecutor, and by Charles Hershenstein, of counsel with prosecutor, and good cause appearing;

It is, on this 10th day of April, 1943, ORDERED, that the companies comprising the LEHIGH VALLEY RAILROAD SYSTEM, to wit:

Raritan Terminal & Transportation Company
Bay Shore Connecting Railroad Company (50%)
Lehigh Valley Railroad Company of New Jersey
Lehigh Valley Harbor Terminal Railway Company
Lehigh Valley Railroad Company, Lessee;

the companies comprising the ERIE RAILROAD SYSTEM, to wit:

Northern Railroad Company of New Jersey
The New Jersey and New York Railroad Company
The Arlington Railroad Company
The Bergen County Railroad Company
Bergen and Dundee Railroad Company
The Caldwell Railway Company
The Docks Connecting Railway Company
The Long Dock Company
Newark and Hudson Railroad Company
The New York and Greenwood Lake Railway Company
New York, Lake Erie and Western Docks and Improvement Company
The Paterson and Hudson River Railroad Company
The Paterson, Newark and New York Railroad Company
The Paterson and Ramapo Railroad Company
Penhorn Creek Railroad Company
The Roseland Railway Company
Erie Railroad Company;

the companies comprising the DELAWARE, LACKAWANNA & WESTERN RAILROAD SYSTEM, to wit:

The Chester Railroad Company

Rule Adding Respondents.

The Lackawanna Railroad Company of New Jersey
The Morris and Essex Railroad Company
The Morris and Essex Extension Railroad Company
The Newark and Bloomfield Railroad Company
The Passaic and Delaware Railroad Company
The Passaic and Delaware Extension Railroad Company
The Sussex Railroad Company
The Warren Railroad Company
The Delaware, Lackawanna and Western Railroad Company;

the companies comprising the PENNSYLVANIA RAILROAD SYSTEM, to wit:

Pennsylvania and Atlantic Railroad Company
The Union Transportation Company
The Belvidere Delaware Railroad Company
Camden and Burlington County Railway Company
Delaware River Railroad and Bridge Company
The Freehold & Jamesburg Agricultural Railroad Company
Harrison and East Newark Connecting Railroad Company
The New York Bay Railroad Company
Pennsylvania Tunnel and Terminal Railroad Company
Perth Amboy and Woodbridge Railroad Company
The Rocky Hill Railroad and Transportation Company
The United New Jersey Railroad and Canal Company
Pennsylvania Railroad Company
The New York and Long Branch Railroad Company (50%);

the companies comprising the NEW YORK CENTRAL RAILROAD SYSTEM, to wit:

New York Central Railroad Company
New Jersey Junction Railroad Company
New York and Fort Lee Railroad Company
West Shore Railroad Company;

be and they hereby are made parties respondent in the above entitled matter; and

It is FURTHER ORDERED, that a copy of this rule be served upon the attorneys for said companies in the proceedings before the State Board of Tax Appeals.

April 10, 1943.

NEWTON H. PORTER,
Justice.

Rule of Continuance.

(Filed April 13, 1943)

NEW JERSEY SUPREME COURT.

CITY OF JERSEY CITY, a Municipal Corporation, *Prosecutor*, *vs.* STATE BOARD OF TAX APPEALS, LEHIGH VALLEY RAILROAD SYSTEM, et al, *Respondents.*	On Certiorari. (Assessments of 1942.) Rule.
CITY OF JERSEY CITY, a Municipal Corporation, *Prosecutor*, *vs.* STATE BOARD OF TAX APPEALS, ERIE RAILROAD SYSTEM, et al, *Respondents.*	
CITY OF JERSEY CITY, a Municipal Corporation, *Prosecutor*, *vs.* STATE BOARD OF TAX APPEALS, DELAWARE, LACKAWANNA & WESTERN RAILROAD SYSTEM, et al, *Respondents.*	
CITY OF JERSEY CITY, a Municipal Corporation, *Prosecutor*, *vs.* STATE BOARD OF TAX APPEALS, HUDSON AND MANHATTAN RAILROAD SYSTEM, et al, *Respondents.*	
CITY OF JERSEY CITY, a Municipal Corporation, *Prosecutor*, *vs.* STATE BOARD OF TAX APPEALS, NEW YORK, SUSQUEHANNA AND WESTERN RAILROAD SYSTEM, et al, *Respondents.*	
CITY OF JERSEY CITY, a Municipal Corporation, *Prosecutor*, *vs.* STATE BOARD OF TAX APPEALS, PENNSYLVANIA RAILROAD SYSTEM, et al, *Respondents.*	
CITY OF JERSEY CITY, a Municipal Corporation, *Prosecutor*, *vs.* STATE BOARD OF TAX APPEALS, NEW YORK CENTRAL RAILROAD SYSTEM, et al, *Respondents.*	

All parties who have appeared in these proceedings concurring in the making of an application for this order, and good cause therefor appearing;

It is, on this 10 day of April, 1943, ORDERED, that the argument of the above-entitled matters be and the same hereby is continued until the Oc-

tober, 1943, Term of court, without any further notice of argument to any of the parties to these proceedings; and

It is FURTHER ORDERED, that argument before the court be first had upon those reasons filed and hereafter to be filed, (1) which relate to questions concerning the constitutionality of Chapter 291 of the Laws of 1941, and said Chapter 291, as amended by Chapter 169 of the Laws of 1942, excepting, however, any constitutional issue based upon the contention that assessments of property for the year 1942 purporting to be made under said laws, or either of them, are not at true value; and (2) which relate to the question of the expiration of the jurisdiction of the State Board of Tax Appeals to hear and determine the appeals after the passage of the dates appearing in R. S. 54:26-10; and

It is FURTHER ORDERED, that if the court determines the said statutes, or either of them, are constitutional, then after the determination by this court of the issues first to be presented as provided in the paragraph immediately hereinabove, all of the remaining issues raised in the said reasons may thereupon be submitted to this court for determination by any party, provided that such party shall file with the clerk of the court, within twenty days after the filing of the opinion of the court on the issues first to be submitted, a declaration of intention to submit to the court such remaining issues, in default of which declaration final judgment may be entered on said opinion; and

It is FURTHER ORDERED, that depositions with reference to any of the issues reserved as afore-

said, need not be taken until after the filing of the opinion as aforesaid.

All questions of jurisdiction involved herein are preserved.

NEWTON H. PORTER,
Justice.

We consent to the entry of the foregoing rule.

CHARLES A. ROONEY,
Attorney for Prosecutor, City of Jersey City.

DAVID T. WILENTZ,
Attorney General of New Jersey, Attorney for William D. Kelly, State Tax Commissioner of New Jersey.

MAXIMILIAN M. STALLMAN,
Attorney for Respondents, Lehigh Valley Railroad System, Delaware, Lackawanna & Western Railroad System, New York Central Railroad System.

COLLINS & CORBIN,
Attorneys for Respondents, Lehigh Valley Railroad System, Erie Railroad System.

WALL, HAIGHT, CAREY & HARTPENCE,
Attorneys for Respondent, Pennsylvania Railroad System.

CARPENTER, GILMOUR & DWYER,
Attorneys for Respondent, Hudson & Manhattan Railroad System.

Reasons.

(Filed Feb. 20, 1943)

NEW JERSEY SUPREME COURT.

CITY OF JERSEY CITY, a Municipal Corporation, *Prosecutor*, *vs.* STATE BOARD OF TAX APPEALS, LEHIGH VALLEY RAILROAD SYSTEM, et al, *Respondents.*	On Certiorari
CITY OF JERSEY CITY, a Municipal Corporation, *Prosecutor*, *vs.* STATE BOARD OF TAX APPEALS, ERIE RAILROAD SYSTEM, et al, *Respondents.*	
CITY OF JERSEY CITY, a Municipal Corporation, *Prosecutor*, *vs.* STATE BOARD OF TAX APPEALS, DELAWARE, LACKAWANNA & WESTERN RAILROAD SYSTEM, et al, *Respondents.*	
CITY OF JERSEY CITY, a Municipal Corporation, *Prosecutor*, *vs.* STATE BOARD OF TAX APPEALS, HUDSON AND MANHATTAN RAILROAD SYSTEM, et al, *Respondents.*	
CITY OF JERSEY CITY, a Municipal Corporation, *Prosecutor*, *vs.* STATE BOARD OF TAX APPEALS, NEW YORK, SUSQUEHANNA AND WESTERN RAILROAD SYSTEM, et al, *Respondents.*	
CITY OF JERSEY CITY, a Municipal Corporation, *Prosecutor*, *vs.* STATE BOARD OF TAX APPEALS, PENNSYLVANIA RAILROAD SYSTEM, et al, *Respondents.*	
CITY OF JERSEY CITY, a Municipal Corporation, *Prosecutor*, *vs.* STATE BOARD OF TAX APPEALS, NEW YORK CENTRAL RAILROAD SYSTEM, et al, *Respondents.*	Reasons.

The prosecutor in the within proceedings, by its attorney comes and prays that the judgment of the State Board of Tax Appeals dated November 4, 1942, dismissing the appeals of the prosecutor from the assessments of property and of franchise taxes made by the State Tax Commissioner for the year 1942 against the respondent systems and constituent companies, and affirming said assess-

ments, and the said assessments may be set aside and for nothing holden, for the following reasons:

1. Chapter 291 of the Laws of 1941 (hereinafter referred to as "Chapter 291") as amended by Chapter 169 of the Laws of 1942 (hereinafter referred to as "Chapter 169") and the assessments thereunder by the State Tax Commissioner of property used for railroad purposes contravene Article IV, Section 7, Paragraph 12 of the Constitution of the State of New Jersey, which provides that:

> "Property shall be assessed for taxes under general laws, and by uniform rules, according to its true value,"

for the reason that said Chapter 291 as amended by Chapter 169 provides for the assessment of railroad property at a fixed rate of 3% of the true value thereof, whereas the average rate of taxation in the State of New Jersey for the year 1942 is approximately 5.00% of true value, and whereas the great bulk of railroad property is situated in municipalities having local tax rates substantially in excess of 3% of true value; by reason of all of which, Chapter 291 as amended by Chapter 169 is a special rather than a general law, and results in the taxation of railroad and other property under rules which are not uniform, imposing a burden of taxation upon railroad property substantially less than that imposed upon all other property.

2. Chapter 291 as amended by Chapter 169 and the assessments thereunder by the State Tax Commissioner of property used for railroad purposes contravene said Article IV, Section 7, Paragraph

Reasons.

12, of the Constitution of the State of New Jersey, in that the provision therein for the rate of 3% for the taxation of railroad property was made with the deliberate intent and purpose of discriminating in favor of railroad company taxpayers and against all other taxpayers, and with the intent and necessary effect of levying an hostile and oppressive burden on such other taxpayers.

3. Chapter 291 as amended by Chapter 169 is a special law granting to railroad corporations an exclusive privilege and immunity in violation of Article IV, Section 7, Paragraph 11, of the Constitution of the State of New Jersey, providing that:

> "The legislature shall not pass private, local or special laws in any of the following enumerated cases, that is to say:
>
> "* * * Granting to any corporation, association or individual, any exclusive privilege, immunity or franchise whatever.
>
> "* * * the legislature shall pass general laws providing for the cases enumerated in this paragraph and for all other cases, which, in its judgment, may be provided for by general laws,"

in that it grants to such corporations the exclusive privilege and immunity of payment of taxes upon property for railroad purposes at the fixed rate of 3% of true value, whereas the great bulk of property in the State of New Jersey is taxable at local rates of taxation substantially in excess thereof, and in that it grants to such corporations the exclusive privilege and immunity of a fixed tax rate, regardless of the needs of government,

whereas all other taxpayers are subject to variable local rates of taxation.

4. Chapter 291 as amended by Chapter 169 is a special law granting a fixed tax rate of 3% of true value to railroad corporations, palpably in violation of the provisions of said Article IV, Section 7, Paragraph 11, of the Constitution, providing that the legislature shall pass general laws in all cases, which, in its judgment, may be provided for by general laws.

5. Sections 13, 14 and 15 of Chapter 291 purport to levy an excise tax based upon the net railway operating income of the railroads attributable to their operations in the State of New Jersey. The "franchise base" upon which the tax is assessed, set up in Section 14, is computed by allocating to the State of New Jersey such part of net railway operating income of the raliroad or system as the number of miles of all track over which the railroad or system operates in this state bears to the total number of miles of all track over which it operates, and by capitalizing the amount so allocated at three per centum. Certain railroad companies assessed under this chapter have all of their track within this State. Other railroad companies and systems have substantially all of their track within this State, and still other companies and systems have a large proportion of their track outside of the State. There are situated in the State of New Jersey, and principally in the prosecutor municipality, and other municipalities in Hudson County, extensive, costly, and very valuable railroad terminal and waterfront facilities, which form the principal railroad terminus in the eastern part of the United States. Because of this

fact, a far greater net railway operating income per track mile is attributable to the railroad tracks located in New Jersey than to the tracks located outside of this State. As a result thereof, the formula set up in said Section 14 for the allocation of net railway operating income to New Jersey results in a franchise tax against the interstate railroads which is disproportionately lower, arbitrarily and unreasonably, than the franchise tax assessed against the intrastate railroads, and further, as among interstate railroads, results arbitrarily and unreasonably in a disproportionately lower franchise tax upon those roads which have a greater proportion of track outside of this State, Chapter 169 purports to amend the provisions of Chapter 291 so as to provide for further arbitrary, unreasonable and discriminatory methods of determining the franchise tax. Chapter 169 provides for the arbitrary deduction of $200,000. from net railway operating income from each railroad system and each railroad not a part of a system, regardless of the size of railroad or the extent of operations. Chapter 169 provides for an arbitrary, unreasonable and discriminatory method of taxation for certain railroads operated by electricity. Chapter 169 provides for an arbitrary, unreasonable and discriminatory minimum franchise tax as to those railroad systems and railroads whose maximum franchise tax is less than the minimum franchise tax. The said formula as thus amended results in an arbitrary, unreasonable and discriminatory classification of railroads, from the standpoint of the objective of the said franchise tax as a tax based upon net railway operating income attributable to the use of the franchises granted by the State. The said provisions as thus

Reasons.

amended are in said respects violative of the said Article IV, Section 7, Paragraph 11, of the Constitution, in that the said law is a special law granting exclusive privileges, immunities and franchises to corporations.

The said provisions relating to a franchise tax are inseparable from the property tax provisions of Chapter 291, as amended by Chapter 169, and, therefore, by reason of the unconstitutionality herein charged in the franchise tax provisions, Chapter 291, as amended by Chapter 169 in its entirety, is unconstitutional and void.

6. The said franchise tax provisions of Chapter 291 as amended by Chapter 169 further contravene Article IV, Section 7, Paragraph 11, of the Constitution, in that, by virtue of the facts recited in Reason numbered 5 hereof, they constitute said Chapter 291 as amended by Chapter 169 a special law and not a general law, palpably in violation of the provisions of said Article IV, Section 7, Paragraph 11, providing that the legislature shall pass general laws, in all cases which, in its judgment, may be provided for by general laws.

The said provisions relating to franchise tax are inseparable from the property tax provisions of Chapter 291, as amended by Chapter 169 and, therefore, by reason of the unconstitutionality herein charged in the franchise tax provisions, Chapter 291, as amended by Chapter 169 in its entirety, is unconstitutional and void.

7. The said franchise tax provided for by Chapter 291 as amended by Chapter 169 is imposed upon the net railway operating income of each system and railroad not part of a system. Section 2 of Chapter 291 as amended by Chapter 169 defines

Reasons.

"system" as "any independently operating railroad which operates its facilities and those of one or more other railroads as a single utility for furnishing transportation service. A system shall include all companies the property of which is so operated either by virtue of control through direct or indirect ownership of a majority or more of capital stock, or under lease, trackage rights or under any other form of contract, and for which separate operating accounts are not maintained." A railroad is thereby permitted to offset against its actual earnings attributable to operations in New Jersey, which, standing alone, would result in a franchise tax against it, the losses sustained by affiliated or controlled companies. Further, such losses so offset may be losses of an affiliated or controlled company whose lines are wholly outside of this State. In either of said cases, accordingly such offset will result in a decrease or elimination of the franchise tax otherwise payable. Independently operating railroads, on the other hand, are not accorded said privilege and immunity.

The said provisions further place it within the power of any such system itself to determine from time to time what roads to operate as a single utility with joint operating accounts and thereby to control the amount of tax payable, on a basis other than that of the net railway operating income of each company, attributable to operations in New Jersey.

By reason thereof, the said provisions create an arbitrary, unreasonable and discriminatory classification of railroads as between those which are or may be part of a system and those which are independently operated, and also as between systems depending upon the manipulation of the member-

ship of said systems. These provisions are in said respects violative of the said Article IV, Section 7, Paragraph 11, of the Constitution of the State of New Jersey in that the said law is a special law granting exclusive privileges, immunities and franchises to corporations.

The said provisions relating to a franchise tax are inseparable from the property tax provisions of Chapter 291, as amended by Chapter 169 and therefore, by reason of the unconstitutionality herein charged in the franchise tax provisions, Chapter 291 as amended by Chapter 169 in its entirety is unconstitutional and void.

8. The said franchise tax provisions of Chapter 291 as amended by Chapter 169 further contravene Article IV, Section 7, Paragraph 11, in that, by virtue of the facts recited in Reason numbered 7 hereof, they constitute said Chapter 291 as amended by Chapter 169 a special law and not a general law, palpably in violation of the provisions of said Article IV, Section 7, Paragraph 11, providing that the legislature shall pass general laws in all cases, which, in its judgment, may be provided for by general laws.

The said provisions relating to a franchise tax are inseparable from the property tax provisions of Chapter 291 as amended by Chapter 169, and, therefore, by reason of the unconstitutionality herein charged in the franchise tax provisions, Chapter 291 as amended by Chapter 169, in its entirety, is unconstitutional and void.

9. Said Section 14 of Chapter 291, as amended, permits the deduction from total railway operating revenues, in the determination of the net railway operating income upon which the tax is

computed, of rentals, both debits and credits, for equipment leased for less than one year or interchanged, and joint facility rents, both debits and credits. Thus, the net railway operating income of a railroad which is a lessee of such equipment or facilities is reduced by a factor absent in the case of a railroad company operating its own equipment and facilities, with the result that in the case of a lessee railroad the franchise tax is not levied upon the income attributable to the use of the franchise to the same extent as in the case of the railroad company operating its own equipment and facilities.

By reason thereof, the said provisions create an arbitrary, unreasonable and discriminatory classification of railroads, as between those companies which operate as lessees of such equipment and facilities, and those companines which operate their own equipment and facilities, and as between lessors of such equipment and facilities which are permitted to deduct such revenue attributable to the use of their franchises, and railroads which are not such lessors. These provisions are in said respect violative of the said Article IV, Section 7, Paragraph 11, of the Constitution of the State of New Jersey, in that the said law is a special law granting exclusive privileges, immunities and franchises to corporations.

The said provisions relating to a franchise tax are inseparable from the property tax provisions of Chapter 291, as amended, and therefore by reason of the unconstitutionality herein charged in the franchise tax provisions, Chapter 291, as amended, in its entirety is unconstitutional and void.

Reasons.

10. The said franchise tax provisions of Chapter 291, as amended, further contravene Article IV, Section 7, Paragraph 11, in that, by virtue of the facts recited in Reason numbered 9, they constitute said Chapter 291, as amended, a special law and not a general law, palpably in violation of the provisions of said Article IV, Section 7, Paragraph 11, providing that the legislature shall pass general laws in all cases which in its judgment, may be provided for by general laws.

The said provisions relating to a franchise tax are inseparable from the property tax provisions of Chapter 291, as amended, and, therefore, by reason of the unconstitutionality herein charged in the franchise tax provisions, Chapter 291, as amended, in its entirety is unconstitutional and void.

11. The provisions of Section 14 of Chapter 291, as amended by Chapter 169, which provide that the State Tax Commissioner shall have the power of regulation with respect to reasonableness of amount and appropriateness of accounting distribution, of deductions from operating revenues for depreciation, additions and betterments, and of compensation for personal services, in the determination of net railway operating income, for purposes of computation of the franchise tax assessed under said Chapter 291 as amended by Chapter 169, are violative of the provisions of Article III, Paragraph 1, of the Constitution of the State of New Jersey, which provides that:

> "The powers of the government shall be divided into three distinct departments—the legislative, executive and judicial; and no person or persons belonging to, or constitut-

ing one of these departments, shall exercise any of the powers properly belonging to either of the others, except as herein expressly provided."

and of Article IV, Section 1, of the Constitution of the State of New Jersey, which provides that:

"The legislative power shall be vested in a senate and general assembly,"

in that such provisions of Section 14 constitute a delegation of legislative power to the State Tax Commissioner, contrary to said provisions of the Constitution.

The said provisions relating to a franchise tax are inseparable from the property tax provisions of Chapter 291 as amended by Chapter 169, and, therefore, by reason of the unconstitutionality herein charged in the franchise tax provisions, Chapter 291 as amended by Chapter 169 in its entirety is unconstitutional and void.

12. By virtue of the facts set forth in Reasons numbered 7 and 9 hereof, Chapter 291 as amended by Chapter 169 contravenes said provisions of Article III, Paragraph 1, and the provisions of Article IV, Section 1, of the Constitution, in that the franchise tax provisions of said Chapter 291 as amended by Chapter 169 place it within the power of a railroad system, to control the amount of its tax payable by determining, from time to time, what roads to operate as a single utility with joint operating accounts, and further place it within the power of each railroad company owning a line in this State, to lease it to an affiliated or subsidiary company, thereby creating a rental offset against the operating income of the line; by rea-

son of which there results a delegation of legislative power to said railroad systems and to each railroad, contrary to the said provisions of the Constitution.

The said provisions relating to a franchise tax are inseparable from the property tax provisions of Chapter 291 as amended by Chapter 169, and therefore, by reason of the unconstitutionality herein charged in the franchise tax provisions, Chapter 291 as amended by Chapter 169, in its entirety, is unconstitutional and void.

13. Chapter 291 as amended by Chapter 169 contravenes the provisions of the Fourteenth Amendment to the Constitution of the United States, which provides that:

> "* * * nor shall any State deprive any person of life, liberty or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws,"

in that the provisions thereof which limit the rate of taxation of the property of railroad companies used for railroad purposes to three per centum upon true value thereof were adopted by the legislature with the deliberate intent and purpose of discriminating in favor of railroad company taxpayers, and against all other taxpayers, and with the intent and effect of levying an hostile and oppressive burden on such other taxpayers, and such law results in depriving taxpayers in the State of New Jersey, other than the railroad companies assessed under said Chapter 291 as amended by Chapter 169, of property without due process of law, in that the rate of taxation fixed under the laws of the State of New Jersey

upon the great bulk of the property of all taxpayers in the State of New Jersey other than railroad companies now is, and for many years heretofore has been, at a rate substantially in excess of the rate so fixed by Chapter 291 as amended by Chapter 169 for the taxation of railroad property, and results in the denial to said non-railway taxpayers of the equal protection of the laws.

14. By virtue of the facts set out in Reasons numbered 6 to 12, inclusive, hereof, the franchise tax provisions of Chapter 291, as amended by Chapter 169, deny to certain of the railroad company taxpayers indicated in said Reasons, the equal protection of the laws, and deprive such taxpayers of property without due process of law, all in violation of the Fourteenth Amendment to the Constitution of the United States.

The said provisions relating to a franchise tax are inseparable from the property tax provisions of Chapter 291 as amended by Chapter 169, and, therefore, by reason of the unconstitutionality herein charged in the franchise tax provisions, Chapter 291 as amended by Chapter 169 is in its entirety unconstitutional and void.

15. By virtue of the facts alleged in Reasons numbered 1 and 2 hereof, the property of taxpayers other than railroad companies is taken for public use without just compensation, contrary to the provisions of Article I, Paragraph 16, of the Constitution of the State of New Jersey.

16. By reason of the facts set out in Reasons numbered 5, 6, 7, 8, 9, and 10 hereof, the property of certain railroad company taxpayers is taken for public use without just compensation, con-

trary to the said provisons of Article I, Paragraph 16, of the Constitution.

The said provisions relating to the franchise tax are inseparable from the property tax provisions of Chapter 291 as amended by Chapter 169, and, therefore, by reason of the unconstitutionality herein charged in the franchise tax provisions, Chapter 291 as amended by Chapter 169 in its entirety is unconstitutional and void.

17. The assessments for the year 1942 of Class II railroad properties located in the prosecutor municipality are at less than the true value of said properties.

18. Said assessments of railroad property are erroneous, in that structures and improvements located wholly on Class II land within the prosecutor municipality, are assessed as Class I property, whereas they should be assessed as Class II property.

19. Said assessments of railroad property are erroneous, in that Class II lands within the prosecutor municipality are assessed as Class I property, whereas they should be assessed as Class II property.

20. In determining the franchie tax for the year 1942, the State Tax Commissioner allowed as deductions for railway tax accruals, sums in excess of the proper and lawful railway tax accruals for the year 1941.

21. The State Tax Commissioner failed to adopt any regulations as to the reasonableness of amount of deductions for depreciation, additions and betterments, and compensation for personal serv-

ices, and as to the appropriateness of accounting distribution.

22. The State Tax Commissioner, in determining the franchise tax, used figures submitted by the railroad companies for deductions from operating revenues for depreciation, additions and betterments, and compensation for personal services, without investigating or verifying the said figures, and without in fact making any regulation or determination as to the reasonableness of the amount of such deductions, and of the appropriateness of accounting distribution.

23. The State Tax Commissioner, in determining the said franchise tax, allowed excessive and unreasonable deductions for the items specified in Reason numbered 21 hereof.

24. The action of the State Tax Commissioner in making assessments under Chapter 291 as amended by Chapter 169, is erroneous in that the said assessments for the year 1942 should have been made under the provisions of Title 54, Chapters 19 to 29, inclusive, of the Revised Statutes.

25. Chapter 291, as amended, in providing that the assessments for the year 1942 be made under its provisions, rather than under Chapters 19 to 29, inclusive, of Title 54 of the Revised Statutes, contravenes Article I, Paragraph 20, of the Constitution of the State of New Jersey, providing that:

> "No donation of land or appropriation of money shall be made by the State or any municipal corporation to or for the use of any society, association or corporation whatever,"

Reasons.

in that it thereby provides for the abatement and cancellation of the liability which had already accrued and become vested on January 1, 1941, for the payment of taxes for the year 1942 under the said provisions of the Revised Statutes, and thus donates and appropriates to the railroad corporations, taxpayers' money owing to the state to which the right of the state had become vested prior to the adoption of Chapter 291. Said donation and appropriation consists of the full amount of such tax liability or, in the alternative, of such full liability, less the property taxes assessed by the State Tax Commissioner upon the railroad property for the year 1942, under Chapter 291, as amended.

26. Chapter 291, as amended, contravenes said Article I, Paragraph 20, of the Constitution, in that it compels such donation and appropriation of money by all the taxing districts in the state, including prosecutor, in which Class II railroad property is located, with respect to the money due to the said taxing districts to which the right of said taxing districts had vested prior to the adoption of Chapter 291, said donation and appropriation consisting of the amount of such taxes to be paid over to the taxing districts for the year 1942 under the said provisions of the Revised Statutes for the taxation of railroad property or, in the alternative, consisting of the difference between the amount of such taxes to be paid over to the taxing districts for the year 1942 under the said provisions of the Revised Statutes, and the amount of taxes upon Class II railroad property payable to the said taxing districts for said year under Chapter 291, as amended, or further in the

alternative, said gift consisting of the difference between the amount of such taxes to be paid over to the taxing districts for the year 1942 under the Revised Statutes, and the amount of taxes payable over to said taxing districts for said year under Chapter 291, as amended.

27. Chapter 291, as amended, in providing that the assessments for the year 1942 be made under its provisions, rather than under Chapters 19 to 29, inclusive, of Title 54 of the Revised Statutes, contravenes Article I, Paragraph 19, of the Constitution of the State of New Jersey, providing that:

> "No county, city, borough, town, township or village shall hereafter give any money or property, * * * to or in aid of any individual, association or corporation, * * * "

in that it thereby provides for the abatement and cancellation of the liability which had already accrued and become vested on January 1, 1941, for the payment of taxes for the year 1942 under the said provisions of the Revised Statutes, and thus compels the prosecutor and all other taxing districts in which Class II property was situated, to forego their right to, and, therefore, give to the railroad corporations, the taxes payable by them under the Revised Statutes, apportioned to and provided to be paid over to said taxing districts under said law, and to which the right of said taxing districts had become vested prior to the adoption of Chapter 291, or, in the alternative, said gift consisting of the difference between the amount of such taxes to be paid over to the taxing districts for the year 1942, under the Revised Statutes, and the amount of taxes upon Class II railroad prop-

erty payable over to the said taxing districts for said year under Chapter 291, as amended, or further in the alternative, said gift consisting of the difference between the amount of such taxes to be paid over to the taxing districts for the year 1942 under the Revised Statutes, and the amount of taxes payable over to said taxing districts for said year under Chapter 291, as amended.

28. Chapter 291, as amended, contravenes Article IV, Section 7, Paragraph 11, of the Constitution, in that it is a special law granting to railroad corporations the exclusive privilege and immunity of an abatement and cancellation of liability for taxes for the year 1942 under the said Revised Statutes.

29. The judgment of the State Board of Tax Appeal is erroneous in that the Board refused to permit prosecutor to present proofs in support of its appeal.

30. The State Board of Tax Appeals erred in ruling that the time fixed by R. S. 54:26-10 for the conclusion of the hearing of testimony on appeals was mandatory, whereas said time limitation is directory, and the Board should have received proof after the expiration of said time.

31. The State Board of Tax Appeals erred in not increasing the assessments in accordance with the prayer of the complaint and appeal of prosecutor.

32. The State Board of Tax Appeals erred in failing to adjudicate that property assessed as

Reasons.

Class I property was in fact Class II property, and to correct the assessment thereof accordingly.

33. The said judgments of the State Board of Tax Appeals are in divers other respects illegal, unjust, oppressive, and should be set aside and for nothing holden.

CHARLES A. ROONEY,
Attorney for Prosecutor,
City of Jersey City.

Order of Continuance.

(Filed Sept. 16, 1943)

NEW JERSEY SUPREME COURT.

CITY OF JERSEY CITY, a municipal corporation, et al., *Prosecutors*,
v.
STATE BOARD OF TAX APPEALS, DELAWARE, LACKAANNA & WESTERN RAILROAD SYSTEM, et al., *Respondents.*

CITY OF JERSEY CITY, a municipal corporation, et al., *Prosecutors*,
v.
STATE BOARD OF TAX APPEALS, ERIE RAILROAD SYSTEM, et al., *Respondents.*

CITY OF JERSEY CITY, a municipal corporation, et al., *Prosecutors*,
v.
STATE BOARD OF TAX APPEALS, NEW YORK CENTRAL RAILROAD SYSTEM, et al., *Respondents.*

CITY OF JERSEY CITY, a municipal corporation, et al., *Prosecutors*,
v.
STATE BOARD OF TAX APPEALS, LEHIGH VALLEY RAILROAD SYSTEM, et al., *Respondents.*

CITY OF JERSEY CITY, a municipal corporation, et al., *Prosecutors*,
v.
STATE BOARD OF TAX APPEALS, PENNSYLVANIA RAILROAD SYSTEM, et al., *Respondents.*

CITY OF JERSEY CITY, a municipal corporation, et al., *Prosecutors*,
v.
STATE BOARD OF TAX APPEALS, HUDSON & MANHATTAN RAILROAD SYSTEM, et al., *Respondents.*

On Certiorari.

(Review of Assessments of 1942.)

Order of Continuance.

This matter being opened to the Court by Maximilian M. Stallman, and Edward A. Markley, Attorneys for Respondents, Delaware, Lackawanna & Western Railroad System, Lehigh Valley Railroad Company, Erie Railroad Company and New York Central Railroad Company, and it appearing that Counsel for the Prosecutors and Counsel for the other respondents herein consent thereto, it is therefore, on this 16th day of September, 1943,

ORDERED that the within consolidated writs of certiorari be and they are hereby continued for

argument to the opening day of January, 1944 Term of Court without further notice of argument.

CHARLES W. PARKER,
J.S.C.

We hereby consent to the making and entry of the within Order.

CHARLES A. ROONEY,
Attorney for Prosecutor,
City of Jersey City.

DAVID T. WILENTZ,
Attorney for State of New Jersey.

MAXIMILIAN M. STALLMAN,
Attorney for Respondents.

EDWARD A. MARKLEY,
Attorney for Respondents.

WALL, HAIGHT, CAREY & HARTPENCE,
Attorneys for Pennsylvania Railroad and Others.

CARPENTER, GILMOUR & DWYER,
Attorneys for Respondent,
Hudson & Manhattan Railroad System.

Stipulation.

NEW JERSEY SUPREME COURT.

CITY OF JERSEY CITY, a municipal corporation, *Prosecutor*, *vs.* STATE BOARD OF TAX APPEALS, LEHIGH VALLEY RAILROAD SYSTEM, et al., *Respondents.*	On Certiorari. Assessments of 1942. Stipulation.
CITY OF JERSEY CITY, a municipal corporation, *Prosecutor*, *vs.* STATE BOARD OF TAX APPEALS, ERIE RAILROAD SYSTEM, et al., *Respondents.*	
CITY OF JERSEY CITY, a municipal corporation, *Prosecutor*, *vs.* STATE BOARD OF TAX APPEALS, DELAWARE, LACKAWANNA & WESTERN RAILROAD SYSTEM, et al., *Respondents.*	
CITY OF JERSEY CITY, a municipal corporation, *Prosecutor*, *vs.* STATE BOARD OF TAX APPEALS, HUDSON & MANHATTAN RAILROAD SYSTEM, et al., *Respondents.*	
CITY OF JERSEY CITY, a municipal corporation, *Prosecutor*, *vs.* STATE BOARD OF TAX APPEALS, PENNSYLVANIA RAILROAD SYSTEM, *Respondents.*	
CITY OF JERSEY CITY, a municipal corporation, *Prosecutor*, *vs.* STATE BOARD OF TAX APPEALS, NEW YORK CENTRAL RAILROAD SYSTEM, et al., *Respondents.*	

It is herewith agreed by and between counsel for the Prosecutor and the several counsel for respondents in the within cause that the depositions taken by rule of Court on the allowance of writs of certiorari for the review of assessments on railroad property made by the State Tax Commissioner for the tax year 1941, and which proceedings are entitled "City of Jersey City, a municipal corporation, et al., Prosecutors v. William B. Kelly, State Tax Commissioner of New Jersey, et al., Respondents" and "James T. Owens, Prosecutor v. William D. Kelly, State Tax Commissioner of New Jersey, et al., Respondents" shall be and the same are herewith incorporated by reference as part of the record in support of any

Stipulation.

Reasons for reversal urged by the Prosecutor, City of Jersey City.

CHARLES A. ROONEY,
CHARLES HERSHENSTEIN,
Attorneys for Prosecutor.

MAXIMILIAN M. STALLMAN,
Attorney for Respondent.

COLLINS & CORBIN,
Attorneys for Respondent.

WALL, HAIGHT, CAREY & HARTPENCE,
Attorneys for Respondent.

CARPENTER, GILMOUR & DWYER,
Attorneys for Respondent.

DAVID T. WILENTZ,
Attorney General,
State of New Jersey.

Reference to Opinion of Supreme Court.

The opinion of the Supreme Court is printed in the state of case in Case No. 1, submitted for argument jointly with this case. It is, therefore, not printed here. It is reported in 133 N. J. L. 202; 43 Atl. (2d) 799.

Rule for Judgment.

(Filed Oct. 16, 1945.)

[Caption Omitted]

These consolidated writs having come on for hearing, and the court having heard and considered argument and briefs submitted on behalf of prosecutor and of respondents, and being of the opinion that the Railroad Tax Law of 1941 (Chapter 291, as amended by P. L. 1942, Chapter 169) is valid and constitutional with respect to assessments made for tax years subsequent to 1941, and being further of the opinion that the State Board of Tax Appeals (now Division of Tax Appeals in the Department of Taxation and Finance) was in error in dismissing the appeals filed by prosecutor from assessments of railroad property for the year 1942 under said Railroad Tax Law of 1941, which dismissals were based on the ground that the said State Board of Tax Appeals had lost jurisdiction of said appeals by reason of the lapse of time;

Rule for Judgment.

1. It is, therefore, on this 16th day of October, 1945, ORDERED and ADJUDGED that the assessments made by the State Tax Commissioner on railroad property for the tax year 1942 were not in violation of the Constitution of the State of New Jersey (without prejudice to the issue as to whether such assessments were based upon property valuations in accordance with the true value of said property, and without prejudice to any right of the taxpayers to challenge the sufficiency of the said appeals); and

2. It is FURTHER ORDERED and ADJUDGED that the judgments of the State Board of Tax Appeals dismissing the appeals filed by the City of Jersey City complaining of the assessments by the State Tax Commissioner for the year 1942 of property situated in said city, of the Lehigh Valley Railroad System, the Erie Railroad System, the Delaware, Lackawanna & Western Railroad System, the Hudson & Manhattan Railroad System, the New York, Susquehanna & Western Railroad System, the Pennsylvania Railroad System, and the New York Central Railroad System, be and the same hereby are set aside and for nothing holden; and

3. It is FURTHER ORDERED and ADJUDGED that the said appeals be and the same hereby are reinstated before the State Board of Tax Appeals (now the Division of Tax Appeals in the Depart-

ment of Taxation and Finance), there to be proceeded with as provided by law.

For the court:
CHARLES W. PARKER,
J.S.C.

On motion of

WALTER D. VAN RIPER,
Attorney General of the
State of New Jersey, as
to paragraph 1, only;

CHARLES A. ROONEY,
CHARLES HERSHENSTEIN,
Attorneys for Prosecutor,
City of Jersey City, as
to paragraphs 2 and 3, only.

Notice of Appeal of City of Jersey City.

(Filed Oct. 26, 1945.)

NEW JERSEY SUPREME COURT.

CITY OF JERSEY CITY, a municipal corporation, *Prosecutor*,

vs.

STATE BOARD OF TAX APPEALS, LEHIGH VALLEY RAILROAD SYSTEM, et al, *Respondents.*

CITY OF JERSEY CITY, a municipal corporation, *Prosecutor*,

vs.

STATE BOARD OF TAX APPEALS, ERIE RAILROAD SYSTEM, et al, *Respondents.*

CITY OF JERSEY CITY, a municipal corporation, *Prosecutor*,

vs.

STATE BOARD OF TAX APPEALS, DELAWARE, LACKAWANNA & WESTERN RAILROAD SYSTEM, et al, *Respondents.*

CITY OF JERSEY CITY, a municipal corporation, *Prosecutor*,

vs.

STATE BOARD OF TAX APPEALS, HUDSON & MANHATTAN RAILROAD SYSTEM, et al, *Respondents.*

CITY OF JERSEY CITY, a municipal corporation, *Prosecutor*,

vs.

STATE BOARD OF TAX APPEALS, NEW YORK, SUSQUEHANNA & WESTERN RAILROAD SYSTEM, et al, *Respondents.*

CITY OF JERSEY CITY, a municipal corporation, *Prosecutor*,

vs.

STATE BOARD OF TAX APPEALS, PENNSYLVANIA RAILROAD SYSTEM, et al, *Respondents.*

CITY OF JERSEY CITY, a municipal corporation, *Prosecutor*,

vs.

STATE BOARD OF TAX APPEALS, NEW YORK CENTRAL RAILROAD SYSTEM, et al, *Respondents.*

On Certiorari.

(Assessments of 1942.)

Notice of Appeal.

To: Walter D. Van Riper, Esq.,
Attorney General of New Jersey.

Maximilian M. Stallman, Esq.,
Attorney for Respondents, Lehigh Valley Railroad System, Erie Railroad System,

Notice of Appeal of City of Jersey City.

Delaware, Lackawanna & Western Railroad System, New York Central Railroad System.

COLLINS & CORBIN, ESQS.,
Attorneys for Respondents, Lehigh Valley Railroad System, Erie Railroad System.

WALL, HAIGHT, CAREY & HARTPENCE, ESQS.,
Attorneys for Respondent,
Pennsylvania Railroad System.

CARPENTER, GILMOUR & DWYER, ESQS.,
Attorneys for Respondent,
Hudson & Manhattan Railroad System.

SIRS:

PLEASE TAKE NOTICE that City of Jersey City, a municipal corporation of New Jersey, prosecutor, appeals to the Court of Errors and Appeals of New Jersey from paragraph 1 of the rule for judgment herein, entered on October 16, 1945, which reads as follows:

"1. It is, therefore, on this 16th day of October, 1945, ORDERED and ADJUDGED that the assessments made by the State Tax Commissioner on railroad property for the tax year 1942 were not in violation of the Constitution of the State of New Jersey (without prejudice to the issue as to whether such assessments were based upon property valuations in accordance with the true value of said property, and without prejudice to any right of the taxpayers to challenge the sufficiency of the said appeals);".

Dated: October 24, 1945.

Respectfully,

CHARLES A. ROONEY,
Attorney for Prosecutor,
City of Jersey City

Notice of Appeal of D. L. & W. R. R. System.

(Filed Oct. 26, 1945.)

[Caption Omitted]

To: Charles A. Rooney, Esq.,
Attorney for Prosecutor.

Charles Hershenstein, Esq.,
Of Counsel with Prosecutor.

Walter D. Van Riper, Esq.,
Attorney General of the State of New Jersey for the State Board of Tax Appeals, The State Tax Commissioner and the State Comptroller.

and

TO WHOM IT MAY CONCERN:

Sirs:

Take notice that the respondent, The Delaware, Lackawanna and Western Railroad Company, a corporation, appeals to the New Jersey Court of Errors and Appeals from the whole of the judgment entered in this cause in the New Jersey Supreme Court, except that part which holds the 1941 tax act as amended by the 1942 tax act constitutional.

Dated: October 22, 1945.

Maximilian M. Stallman,
Attorney of Respondents, The Delaware, Lackawanna and Western Railroad Company, a corporation.

Notice of Appeal of Erie R. R. System.

(Filed Oct. 26, 1945.)

[Caption Omitted]

To: Charles A. Rooney, Esq.,
Attorney for Prosecutor.

Charles Hershenstein, Esq.,
Of Counsel with Prosecutor.

Walter D. Van Riper, Esq.,
Attorney General of the State of New Jersey for the State Board of Tax Appeals, The State Tax Commissioner and the State Comptroller.

and

TO WHOM IT MAY CONCERN:

Sirs:

Take notice that the respondent, Erie Railroad Company, a corporation, appeals to the New Jersey Court of Errors and Appeals from the whole of the judgment entered in this cause in the New Jersey Supreme Court, except that part which holds the 1941 tax act as amended by the 1942 tax act constitutional.

Dated: October 22, 1945.

Collins & Corbin,
Attorneys of Respondent,
Erie Railroad Company, a corporation.

Notice of Appeal of Hudson & Manhattan Railroad System.

(Filed Oct. 26, 1945.)

[Caption Omitted]

To: Charles A. Rooney, Esq.,
Attorney for Prosecutor.

Charles Hershenstein, Esq.,
Of Counsel with Prosecutor.

Walter D. Van Riper, Esq.,
Attorney General of the State of New Jersey for the State Board of Tax Appeals, The State Tax Commissioner and the State Comptroller.

and

TO WHOM IT MAY CONCERN:

Sirs:

Take notice that the respondent, Hudson and Manhattan Railroad System, et al., appeals to the New Jersey Court of Errors and Appeals from the whole of the judgment entered in this cause in the New Jersey Supreme Court, except that part which holds the 1941 Tax Act, as amended by the 1942 Tax Act, constitutional in the 1942 case.

Dated: October 25, 1945.

Carpenter, Gilmour & Dwyer,
Attorneys for Respondent Hudson and Manhattan Railroad System, et al.

Notice of Appeal of Lehigh Valley Railroad System.

(Filed Oct. 26, 1945.)

[Caption Omitted]

To: Charles A. Rooney, Esq.,
Attorney for Prosecutor.

Charles Hershenstein, Esq.,
Of Counsel with Prosecutor.

Walter D. Van Riper, Esq.,
Attorney General of the State of New Jersey for the State Board of Tax Appeals, The State Tax Commissioner and the State Comptroller.

and

TO WHOM IT MAY CONCERN:

Sirs:

Take notice that the respondent, Lehigh Valley Railroad Company, a corporation, appeals to the New Jersey Court of Errors and Appeals from the whole of the judgment entered in this cause in the New Jersey Supreme Court, except that part which holds the 1941 tax act as amended by the 1942 tax act constitutional.

Dated: October 22, 1945.

Collins & Corbin,
Attorneys of Respondent, Lehigh Valley Railroad Company, a corp.

Notice of Appeal of New York Central Railroad System.

(Filed Oct. 26, 1945.)

[Caption Omitted]

To: Charles A. Rooney, Esq.,
Attorney for Prosecutor.

Charles Hershenstein, Esq.,
Of Counsel with Prosecutor.

Walter D. Van Riper, Esq.,
Attorney General of the State of New Jersey for the State Board of Tax Appeals, The State Tax Commissioner and the State Comptroller.

and

TO WHOM IT MAY CONCERN:

Sirs:

Take notice that the respondent, New York Central Railroad Company, a corporation, appeals to the New Jersey Court of Errors and Appeals from the whole of the judgment entered in this cause in the New Jersey Supreme Court, except that part which holds the 1941 tax act as amended by the 1942 tax act constitutional.

Dated: October 22, 1945.

Maximilian M. Stallman,
Attorney of Respondent, New York Central Railroad Company, a corp.

Notice of Appeal of Pennsylvania Railroad System.

(Filed Oct. 26, 1945.)

[Caption Omitted]

To: Charles A. Rooney, Esq.,
Attorney for Prosecutor.

Charles Hershenstein, Esq.,
Of Counsel with Prosecutor.

Walter D. Van Riper, Esq.,
Attorney General of the State of New Jersey for the State Board of Tax Appeals, The State Tax Commissioner and the State Comptroller.

and

TO WHOM IT MAY CONCERN:

Sirs:

Take notice, that the respondent, The Pennsylvania Railroad Company, and the Companies comprising the Pennsylvania Railroad System, appeal to the New Jersey Court of Errors and Appeals from the whole of the judgment entered in this cause, except so much thereof as sustains the constitutionality of the Act of 1941 (Chapter 291, as amended by P. L. 1942, Chapter 169), and the assessment made thereunder by the State Tax Commissioner for the tax year 1942.

Wall, Haight, Carey & Hartpence,
Attorneys of said Respondents-Appellants.

Grounds of Appeal of City of Jersey City.

(Filed Oct. 26, 1945.)

[Caption Omitted]

To: Walter D. Van Riper, Esq.,
Attorney General of New Jersey.

Maximilian M. Stallman, Esq.,
Attorney for Respondents, Lehigh Valley Railroad System, Erie Railroad System, Delaware, Lackawanna & Western Railroad System, New York Central Railroad System.

Collins & Corbin, Esq.,
Attorneys for Respondents, Lehigh Valley Railroad System, Erie Railroad System.

Wall, Haight, Carey & Hartpence, Esqs.,
Attorneys for Respondent, Pennsylvania Railroad System.

Carpenter, Gilmour & Dwyer, Esqs.,
Attorneys for Respondents, Hudson & Manhattan Railroad System.

Sirs:

The prosecutor-appellant, City of Jersey City, assigns the following grounds of appeal from paragraph 1 of the rule for judgment of the Supreme Court entered in the above entitled cause:

1. The Supreme Court erred in adjudicating that the assessments made by the State Tax Commissioner on railroad property for the tax year 1942 were not in violation of the Constitution of the State of New Jersey. Chapter 291 of the Laws of 1941, as amended by Chapter 169 of the Laws

of 1941 (hereinafter referred to as "Chapter 291, as amended") and the assessment thereunder by the State Tax Commissioner of property used for railroad purposes contravene Article IV, Section 7, Paragraph 12 of the Constitution of the State of New Jersey, which provides that:

> "Property shall be assessed for taxes under general laws, and by uniform rules, according to its true value,"

for the reason that said Chapter 291, as amended, provides for the assessment of railroad property at a fixed rate of 3 per cent of the true value thereof, whereas the average rate of taxation in the State of New Jersey for the year 1942 was approximately 5 per cent of true value, and whereas the great bulk of railroad property is situated in municipalities having local tax rates substantially in excess of 3 per cent of true value; by reason of all of which, Chapter 291, as amended, is a special rather than a general law, and results in the taxation of railroad and other property under rules which are not uniform, imposing a burden of taxation upon railroad property substantially less than that imposed upon all other property.

2. The Supreme Court erred in adjudicating that the assessments made by the State Tax Commissioner on railroad property for the tax year 1942 were not in violation of the Constitution of the State of New Jersey. Chapter 291, as amended, and the assessments thereunder by the State Tax Commissioner of property used for railroad purposes contravene said Article IV, Section 7, Paragraph 12, of the Constitution of the State of New Jersey, in that the provision therein

for the rate of 3 per cent for the taxation of railroad property was made with the deliberate intent and purpose of discriminating in favor of railroad company taxpayers and against all other taxpayers, and with the intent and necessary effect of levying an hostile and oppressive burden on such other taxpayers.

3. The Supreme Court erred in adjudicating that the assessments made by the State Tax Commissioner on railroad property for the tax year 1942 were not in violation of the Constitution of the State of New Jersey. Chapter 291, as amended, and the assessment thereunder by the State Tax Commissioner of property used for railroad purposes, creates a partial exemption of railroad property in violation of Article IV, Section 7, Paragraph 12, of the Constitution.

4. The Supreme Court erred in adjudicating that the assessments made by the State Tax Commissioner on railroad property for the tax year 1942 were not in violation of the Constitution of the State of New Jersey. Chapter 291, as amended, is a special law granting to railroad corporations an exclusive privilege and immunity, in violation of Article IV, Section 7, Paragraph 11 of the Constitution of the State of New Jersey, providing that:

> "The legislature shall not pass private, local or special laws in any of the following enumerated cases, that is to say:
>
> " * * * Granting to any corporation, association or individual, any exclusive privilege, immunity or franchise whatever.
>
> " * * * the legislature shall pass general

laws providing for the cases enumerated in this paragraph and for all other cases, which, in its judgment, may be provided for by general laws,''

in that it grants to such corporations the exclusive privilege and immunity of payment of taxes upon property for railroad purposes at the fixed rate of 3 per cent of true value, whereas the great bulk of property in the State of New Jersey is taxable at local rates of taxation substantially in excess thereof, and in that it grants to such corporations the exclusive privilege and immunity of a fixed tax rate, regardless of the needs of government, whereas all other taxpayers are subject to variable local rates of taxation.

5. The Supreme Court erred in adjudicating that the assessments made by the State Tax Commissioner on railroad property for the tax year 1942 were not in violation of the Constitution of the State of New Jersey. Chapter 291, as amended, is a special law granting a fixed tax rate of 3 per cent of true value to railroad corporations, palpably in violation of the provisions of said Article IV, Section 7, Paragraph 11 of the Constitution, providing that the legislature shall pass general laws in all cases, which, in its judgment, may be provided for by general laws.

6. The Supreme Court erred in adjudicating that the assessments made by the State Tax Commissioner on railroad property for the tax year 1942 were not in violation of the Constitution of the State of New Jersey. By virtue of the facts alleged in grounds numbered 1 and 2, the property

of taxpayers, other than railroad companies, is taken for public use without just compensation, contrary to the provisions of Article I, Paragraph 16, of the Constitution of the State of New Jersey.

7. The Supreme Court erred in adjudicating that the assessments made by the State Tax Commissioner on railroad property for the tax year 1942 were not in violation of the Constitution of the State of New Jersey. By reason of the facts stated in grounds numbered 1 and 2, the assessment of property used for railroad purposes under Chapter 291 of the Laws of 1941, as amended, violates inherent limitations upon the power of taxation.

CHARLES A. ROONEY,
Attorney for Prosecutor-Appellant,
City of Jersey City.

Grounds of Appeal of Erie R. R. System, Lehigh Valley R. R. System, D. L. & W. R. R. System, and New York Central R. R. System.

(Filed Nov. 8, 1945.)

[Caption Omitted]

The respondents-appellants, Erie Railroad Company, a corporation, Lehigh Valley Railroad Company, a corporation, New York Central Railroad Company, a corporation, and The Delaware, Lackawanna & Western Railroad Company, a corporation, state the following grounds of appeal:

The Supreme Court erred in adjudicating that:

1. The State Board of Tax Appeals (now Division of Tax Appeals in the Department of Taxation and Finance) hereinafter referred to as "State Board" was in error in dismissing the appeals filed by prosecutor from the assessments of railroad property for the year 1942 under said Railroad Tax Law of 1941.

2. The said judgments of the State Board dismissing the said appeals filed by the City of Jersey City complaining of the assessments by the State Tax Commissioner for the year 1942 of the property situated in said City of The Delaware, Lackawanna & Western Railroad System, Erie Railroad System, Lehigh Valley Railroad System and New York Central Railroad System should be set aside and for nothing holden.

3. The said appeals of Jersey City be reinstated before the State Board.

Grounds of Appeal of Erie R. R. System, Lehigh Valley R. R. System, D. L. & W. R. R. System, and New York Central R. R. System.

The Supreme Court erred in not adjudicating:

4. That the said judgments of the State Board should be affirmed in all things.

5. The State Board properly dismissed the said appeals of Jersey City.

6. The judgments of dismissal of the State Board should be affirmed.

7. The said appeals of Jersey City to the said State Board should not be reinstated.

8. Each of the appellants hereinafter named urges and files each of the foregoing grounds of appeal with respect to the judgments, assessments and rulings of the Supreme Court affecting its railroad system.

9. Said judgment of the Supreme Court is in divers other respects discriminatory, illegal and unjust, and should be reversed.

Dated: October 31, 1945.

COLLINS & CORBIN,
Attorneys for Erie Railroad Company and the companies comprising the Erie Railroad System, and Lehigh Valley Railroad Company and the companies comprising the Lehigh Valley Railroad System.

MAXIMILIAN M. STALLMAN,
Attorney for The Delaware, Lackawanna & Western Railroad Company and the companies comprising the Lackawanna System, and New York Central Railroad Company and the companies comprising the New York Central Railroad System.

Grounds of Appeal of Hudson & Manhattan Railroad System.

(Filed Nov. 8, 1945.)

[Caption Omitted]

The respondent-appellant, Hudson & Manhattan Railroad System, a corporation, states the following grounds of appeal:

The Supreme Court erred in adjudicating that:

1. The State Board of Tax Appeals (now Division of Tax Appeals in the Department of Taxation and Finance) hereinafter referred to as "State Board" was in error in dismissing the appeals filed by prosecutor from the assessments of railroad property for the year 1942 under said Railroad Tax Law of 1941.

2. The said judgment of the State Board dismissing the said appeal filed by the City of Jersey City complaining of the assessment by the State Tax Commissioner for the year 1942 of the property situated in said City of the Hudson & Manhattan Railroad System should be set aside and for nothing holden.

3. The said appeal of Jersey City be reinstated before the State Board.

The Supreme Court erred in not adjudicating that:

4. The judgments of dismissal of the State Board should be affirmed.

5. The said appeals of Jersey City to the said State Board should not be reinstated.

Grounds of Appeal of Hudson & Manhattan Railroad System.

6. The appellant urges and files each of the foregoing grounds of appeal with respect to the judgments, assessments and rulings of the Supreme Court affecting its railroad system.

7. Said judgment of the Supreme Court is in divers other respects discriminatory, and unjust, and should be reversed.

Dated: Nov. 16, 1945.

CARPENTER, GILMOUR & DWYER,
Attorneys for Hudson & Manhattan
Railroad System.

Grounds of Appeal of Pennsylvania Railroad System.

(Filed Nov. 8, 1945.)

[Caption Omitted]

The respondents-appellants, The Pennsylvania Railroad Company, and the Companies comprising the Pennsylvania Railroad System, state the following Grounds of Appeal from the judgment and part thereof appealed from of the New Jersey Supreme Court:

The Supreme Court erred in adjudicating that:

1. The State Board of Tax Appeals (now Division of Tax Appeals in the Department of Taxation and Finance) hereinafter referred to as "State Board" was in error in dismissing the appeals filed by prosecutor from the assessments of railroad property for the year 1942 under said Railroad Tax Law of 1941.

2. The said judgments of the State Board dismissing the said appeals filed by the City of Jersey City complaining of the assessments by the State Tax Commissioner for the year 1942 of the property situated in said City of The Delaware, Lackawanna & Western Railroad System, Erie Railroad System, Lehigh Valley Railroad System and New York Central Railroad System should be set aside and for nothing holden.

3. The said appeals of Jersey City be reinstated before the State Board.

The Supreme Court erred in not adjudicating:

4. That the said judgments of the State Board should be affirmed in all things.

Grounds of Appeal of Pennsylvania Railroad System.

5. The State Board properly dismissed the said appeals of Jersey City.

6. The judgments of dismissal of the State Board should be affirmed.

7. The said appeals of Jersey City to the said State Board should not be reinstated.

8. Said judgment of the Supreme Court is in divers other respects discriminatory, illegal and unjust, and should be reversed.

Dated: November 20, 1945.

WALL, HAIGHT, CAREY & HARTPENCE,
Attorneys for Respondents-Appellants The Pennsylvania Railroad Company, and the Companies comprising the Pennsylvania Railroad System.