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REPORT OF THE SPECIAL JOINT
COMMITTEE ON TAXATION OF

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REPORT

OF THE

SPECIAL JOINT COMMITTEE

ON

TAXATION OF THE PROPERTY OF RAILROAD

AND

Other Corporations.

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TO THE HONORABLE, THE SENATE AND HOUSE OF ASSEMBLY :

The joint committee appointed in pursuance of a concurrent resolution of the Senate and General Assembly, to take into consideration the subject of taxation of the property of railroad and other corporations, respectfully submit the following report :

RAILROAD TAXATION.

The first subject to occupy the attention of the committee was taxation of the property of railroad companies. Various causes have combined to render this a subject of pre-eminent importance to the people of the State. Attention has been called to it by special mention in the two last annual messages of the Governor to the Legislature. The Legislature, at its last session, devoted some time to a consideration of the subject; continual agitation of the matter in some special localities, and the recognition of its importance in the platforms of both the leading parties in the last State election, have rendered it necessary to devote our first and chief attention to a consideration of the evils complained of, and to the means of remedying them.

The importance of railroad property in the tax system of the State is apparent at the first glance at the figures. The total amount of the capital stock and funded debt of the railroads of New Jersey is \$227,384,534. Opinion differs as to whether that sum represents more or less than their actual value. It is evident that railroad property forms a large percentage of the wealth of the State; the total assessed valuation of all other property in the State, as shown by the Comptroller's report for 1883, was \$534,917,876.

The tax paid to the State by railroad companies in 1883 was \$677,557. The income of the State from all other sources, other than direct taxes, was only \$186,245. In addition to this, the railroads paid in local taxes a sum estimated to equal about \$210,000 (report of Commissioner of Railroad Taxation, 1883, p. 4), so that the total contribution of the railroads to the public burdens for the year 1883 was about \$887,000. These figures are given at present merely to indicate the importance of the subject of taxation when applied to these corporations. The very magnitude of the subject adds also to the responsibility that attaches to the effort to make laws that shall apply to this vast accumulation of property, and should make us cautious and deliberate in our attempts to equalize the burdens of public expenses between it and the remainder of the wealth of the State.

In construing a statute, courts consider the old law, the mischief and the remedy. That commends itself as a convenient order in which to consider this subject so as to get a good understanding of it.

First, then, *What is the present law under which railroad property is taxed?* There are two kinds of taxation to which, to a greater or less extent, railroads are subject. One is State taxation, which is for the benefit of the State, the revenue from which is used for defraying the ordinary expenses of the State government. The other is local taxation, which is for the benefit of the municipalities where railroad property may be located.

STATE TAX.

The railroad tax to the State is not all paid under one law, but, as to some companies, is governed by special laws, either contained in their charter or in exceptions to the general statute. The *general* railroad tax law of the State is that of April 13, 1876. This provides for a State tax only. Generally expressed, it provides that all railroad companies shall pay a tax at the rate of one-half of one per cent. upon the true value of their road-bed, equipment and appendages. This valuation is fixed, in the first instance, by the president,

secretary or other chief officer of the company, who is to return to the Comptroller of the State, on or before the first day of February in each year, a sworn statement of the true value of the road, its equipment and appendages used by or belonging to the company in this State. This returned valuation stands as the basis of taxation, unless the Comptroller shall believe it untrue or insufficient in which case the Comptroller, Treasurer and Commissioner of Railroad Taxation, composing a board of railroad commissioners, shall proceed to revise and correct the valuation. From the valuation fixed by the board, the company may appeal to a justice of the Supreme Court, who may in turn revise and alter the valuation. His decision as to the valuation is final.

There are fifty-one companies in the State that pay taxes under this act. They are specified in a schedule annexed to this report. Their total assessed valuation is \$52,715,110, and the total tax received or receivable by the State from them for the year 1883 is \$263,575.

The companies that do not pay taxes under this law are the Morris and Essex Railroad Company, and the Pennsylvania Company. Whether the New Jersey Central Company does or ought to pay under this act, is undetermined—the State authorities claiming that it is liable, and the company claiming a right under a provision in its charter to be taxed on its cost only.

The Morris and Essex Company pay under an act approved March 23, 1865, the provision of which on the subject of taxation is as follows: "That the tax of one-half of one per cent. provided by their original act of incorporation, to be paid by the said company to the State whenever the net earnings of the said company amount to seven per cent. upon the cost of the road, shall be paid at the expiration of one year from the time when the road shall be open and in use to Phillipsburg, and annually thereafter, which tax shall be in lieu of all other taxation or imposition whatsoever, by or under the authority of this State or any law thereof.

This provision has been held by the Supreme Court of the United States, to be a contract between the State and that company which the State cannot violate against the com-

pany's consent (5 Otto, page 104.) It is under this law, therefore, that that company is taxed upon its main line, including the Boonton Branch. The other roads controlled by the Delaware, Lackawanna and Western Company, lessee of the Morris and Essex, namely, the Warren Railroad, the Sussex Railroad, the Passaic and Delaware Railroad, the Newark and Bloomfield road, and the Chester Railroad are taxed under the law of 1876. The amount that the Morris and Essex Company returns as the cost of its main line, upon which it pays tax at the half per cent. rate, is \$23,900,473.

The Pennsylvania Railroad Company, as lessee of the United New Jersey Railroad and Canal Company, and its leased lines, pays taxes under a still different plan. The arrangement with the State under which this company pays taxes was effected by two acts of legislation; and is the combined result of the two acts. The first act was that of 1869, abolishing transit duties (laws of 1869, page 226). The provisions of that act, which related only to the United Companies, were as follows: "That all companies heretofore paying transit duties to the State, shall hereafter pay each year, * * a tax of one-half of one per centum upon the costs of their respective works, including all their property of every description not otherwise taxed, until the legislature shall by general law impose a uniform State tax, equally applicable to all railroad and canal corporations of this State, and said companies shall then pay such uniform tax; and until such general law be passed, no company heretofore paying transit duties as aforesaid shall, in any year hereafter, pay a less sum as tax to the State than that paid by it for taxes and duties of all kinds for the year 1868, * * * and no other tax or impost shall be levied or assessed upon said companies."

The other acts referred to are the railroad tax law of 1876, and the explanatory supplement thereto of April 21, 1876, which declare that the sum of \$298,128.96, paid annually by the United Companies under the act of 1869 relating to transit duties, shall be full payment of all taxes assessed

upon and payable by every railroad company then (1876) owned, leased or controlled by the United Companies, or which was then owned, leased or controlled by any company which was itself owned, &c., by the United Companies, as well as payment in full of all taxes assessed against the United Companies under the act of 1869 aforesaid—so long as the amount paid by the United Companies under the act of 1869 should exceed the aggregate amount of taxes assessed upon said leased companies, and of the tax upon the United Companies at the rate of one-half of one per cent. upon the cost of their works, as provided in said act of 1869. Under these two acts the United Companies have continued to pay annually the sum of \$298,128.96 as the full tax upon the United Companies and lines controlled by them as aforesaid in 1876. Upon roads leased or otherwise brought under their control since 1876 they pay tax under the general law of 1876. The roads covered by the proviso of 1876 and included in the \$298,128.96 tax are sixteen in number—their several names and their cost are contained in the schedule annexed to this report.

So that, to summarize, of the sum of \$677,557 State tax paid by railroad companies for the year 1883, only \$174,536 was paid by virtue of the general law of 1876, and the remainder, \$, was paid under claims of a right to special and different methods of assessment. As before explained, in the case of the New Jersey Central Company the State does not admit that that company does not come under the operation of the act of 1876.

LOCAL TAX.

The sole provision of the law as to local taxation for railroad property is contained in the act of , 1873, entitled, "An Act to Establish Just Rules for the Taxation of Railroad Corporations, and to induce their acceptance and adoption." This provides that railroad companies shall pay a county and municipal tax at the rate of one per cent. upon a valuation of all real property by them used, occupied 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, and excepting, also, a tract of ten acres at the termini, with the buildings and improvements thereon.

This valuation is to be made only once in three years.

The Commissioner of Railroad Taxation estimates that under this law the municipalities received in the last year about \$210,000.

The companies taxed under special laws, as heretofore explained, claim exemption from all local taxation upon their property used for railroad purposes, although we find that in some localities they pay at rates specially agreed on with the local authorities; but those are exceptional instances.

The objections to the law as it now stands have been many and varied. Some of these objections have been unreasonable, but the greater portion of them are manifestly just; if not in whole, at least to some extent.

1. The most apparent criticism upon the law, as we have seen it, is that it is not uniform between the companies themselves. A system that permits one company to pay tax on its cost, while another pays on its true value; that subjects one company to local taxation, and exempts its neighbor wholly from local tax; that includes the equipment in one estimate, and excludes it from another, is about as uneven on principle, however it may be in practice, as can well be conceived.

2. It is also objected that the general law of 1876 is defective, in allowing the company to fix its own valuation upon its property. While it does not appear that much practical injury has come from that feature by the law, yet we regard it as objectionable on principle. The companies should be compelled to make the fullest possible reports of their property, but their valuation should not even constitute a *prima facie* basis for the State assessors.

3. It is objected that the duty of valuing and assessing railroad property should be reposed in a separate Board, with fuller powers of investigation, and less burden of other official duties, than the present Board now have.

4. Another objection to the law of 1876 is that it enables equipments owned and run by foreign companies on our roads to escape taxation.

5. A fifth objection to the proviso of the act of 1876, as explained by the supplement of April 21, 1876, relating to the tax of the United New Jersey Railroad and Canal Companies and their leased lines. When the act abolishing transit duties was passed in 1869, the United Companies agreed, in accepting that act, to pay annually to the State as taxes \$298,128.96, until such time as a tax of one-half of one per cent. on the cost of their works should equal that sum. At that time the United Companies controlled in this State other lines of road by lease or otherwise, sixteen in number, upon which they continued to pay a separate and additional tax, until the passage of the act of 1876, when, by this proviso, all their leased or controlled roads were brought under the \$298,128 payment, and since that time the United Companies have therefore paid less annual taxes to the State than they did from 1869 to 1876. The total cost of the United Companies' lines at this time is reported by the companies at \$37,158,222. The cost of the lines controlled by them and included in the proviso of 1876 is \$11,683,113. This is a total of \$48,841,335. With the proviso of 1876 standing, the cost of these companies and the value of the leased lines can be increased to \$59,625,600 before the United Companies need pay an increased tax: in other words, the United Companies can add to their *cost*, and their leased lines can increase *in value*, until the sum of the increase is \$10,784,265, before the State revenue will be increased under this proviso.

6. Another objection to the law of 1876 is that it does not include all the elements that go to make up the worth and value of an enterprise as a basis on which the "true value" is to be determined, and for that cause, the value of the franchise and other elements of worth are left out by a technical construction on the part of the courts.

7. Some of the municipalities of the State complain that sufficient local taxes are not paid on railroad property. Jersey City is the locality most seriously affected by this defect. The anomalous situation of this city with reference to the railroads makes the case peculiarly difficult to deal with. It is the natural, almost necessary, terminus of three of our great

railway systems, and is crossed and traversed by other less important lines, whose termini are in adjacent cities. The quantity of land required by these lines for terminal purposes, and for dock and wharf uses, in order to transact the immense traffic that centralizes here from every part of the continent, is, relatively speaking, enormous, and of great value. The quantity is constantly becoming larger and the value greater. The Pennsylvania Railroad Company denies its liability to pay local taxes upon its terminal property, at least so long as the acts of 1869 and 1876 are in force—although this company has recently paid \$30,000 annually to Jersey City as a voluntary contribution on account of local property. The New Jersey Central pays a tax at the rate of one per cent. to Jersey City on a valuation of \$4,665,786. The Committee understand from officers of the road who were heard before them that this is done by voluntary arrangement and not because they admit that they are bound by the law of 1873. This company also pays full taxes upon some valuable terminal lands that have not yet been brought into railroad use. The New York, Lake Erie and Western Railroad Company pays specifically under the act of 1873, having surrendered the special privileges formerly possessed by its component lines. The objections to this condition of affairs are substantially three, viz: 1. That some of the companies pay no local tax, or at least if they do pay, they pay as a matter of favor and not by compulsion: 2. That the rate of one per cent. is not large enough; and 3. That the ten-acre terminal exemption is unjust, because it withdraws such a large quantity of most valuable property from any share of local burdens.

8. It is also urged as a defect, and we think with justice, that the valuations for local taxation under the act of 1873 are only made once in three years, whereas they should be made annually.

These are all the objections worth considering that have been brought to the attention of your committee from any source.

The most serious obstacle to the enactment of a law that shall meet all these objections and result in an exact equal-

ization of taxation, even as between the companies themselves, is the special contracts possessed by some of the companies, which are beyond the power of the legislature to abrogate. The contract of the Morris and Essex Company has, as before stated, been affirmed by the Supreme Court of the United States. The contract of the United New Jersey Railroad and Canal Companies has been held by our State Courts to protect them from the operation of the law of 1873 as to local taxation. See 8 Broom, page 247.

It is only folly to persist in not recognizing obstacles that the highest courts of the land have declared to exist. But the fact that there are obstacles to complete equalization is no reason why the State should not have the benefit of such remedies as are practicable. We believe that most of the objections stated can be overcome, and much practical relief afforded, if the subject be undertaken in an earnest desire to accomplish what is feasible, rather than in wild and desultory efforts to attain the impossible.

We are of the opinion that taxation of railroad property should be regulated by a special law, relating to that subject, and that that is not a proper system that places it under the same officers and rules of assessment and valuation as other property. The reason is apparent, the special character of railroad property requires special provisions as to the ascertainment of value, the payment of the tax, and the enforcement of remedies. There is much to be said on the view sometimes advanced that railroad property is not in fact local, but is a complete system, united and inseparable, each part existing for and supporting every other part. At any rate, we find that the practice, almost universal now in our sister States, is to devote a special law to the taxation of railroads. The State of New York until recently taxed them under their general tax law, and we find such experts as Charles Francis Adams, Jr., W. B. Williams, and J. N. Oberly, declaring that the New York system is open to every conceivable objection.

We also advise that a State Board of Assessors, to consist of three members, be created to make all valuations of railroad property, and that they be given the fullest

possible power of investigation and examination. This will do away with the objection to the present system of valuation. We think the system that subjects railroads to the valuation of local assessors should never be adopted or permitted. The objections to it have been so often stated that we need not repeat them here.

We think the law should be changed so as to make it possible to get a full valuation of all the tangible property of a company, as well as the value of its franchise, which may be compared in some features, as an element of value, to the good-will of a business. The equipment and rolling-stock of the roads should also be valued, whether they be owned by the operating company or by other persons or companies. Rolling-stock owned by other companies used on the roads of companies that have special contracts should also be taxed.

We also think that the proviso of the act of 1876 relating to the leased lines of the United Companies should be repealed. Not, however, so as to leave the United Companies liable to pay the tax of \$298,000 on their main lines, and also additional taxes on their \$12,000,000 of leased roads; but we think the act should be drawn so as to permit those companies to accept the State rate upon their whole valuation of main as well as leased lines. It will be noted that the transit act of 1869 provides that whenever the Legislature shall pass a law providing for a general State tax, equally applicable to all railroad and canal companies, then the United Companies shall pay such State tax. It is stated in the last message of Governor Ludlow that the tax now paid by the United Companies is not in excess of what would be produced by a tax of one-half of one per cent. upon the value of their works. We have, therefore, framed the act that we recommend for adoption so as to apply to both railroad and canal companies, thereby to bring it within the condition of the law of 1869 referred to. If the Pennsylvania Company be put on this basis, it will tend to the better uniformity of the rate between all the companies, and is in the line of the obvious intention of the Legislature when the act of 1869 was passed.

Every railroad company should be required to report to the State Board of Assessors annually, in detail, the amount of their real estate, length of line, number of cars, earnings, expenses, and everything that can be of assistance to the Board in making their valuation. The accompanying bill so provides. It also contains full and ample provisions for review of valuations, both by the companies and the State, and efficient machinery for collection. The State rate of one-half of one per cent. we have not increased. It is represented to us that a more full and complete valuation, such as can be made under the bill presented, with the equipments and rolling-stock heretofore exempted, will produce a sum sufficiently large, with the revenue that can properly be derived from a State tax on some other corporations as hereinafter recommended, to answer all proper demands upon the State funds. If upon trial it should turn out that the rate is not high enough, it can be raised hereafter. We do not think it should be done at present.

Touching municipal taxation, the committee recommend that the ten-acre terminal exemption should be done away with. We see no satisfactory reason for exempting more than the road-bed, not to exceed one hundred feet in width, from local taxation. We think that the valuation of railroad property for local taxation should also be made by the State Board, and not by local assessors. The local assessors should be required to report to the State Board a description of the railroad property in their taxing districts, for the guidance and assistance of the State Board.

The most difficult question to determine practically is what rate railroad property should pay to the localities. Of course property owned by a railroad company, but not used for railroad purposes, should be assessed and taxed in the usual manner and at the ordinary local rate. The law has not required this heretofore.

The theory of the State heretofore seems to have been that a railroad was of a quasi-public nature, exercising public functions, and that the State was entitled to the first fruits of its taxation as a State revenue. The

right of local taxation was not legally recognized until the adoption of the act of 1873. The recent large accumulations of railroad property at centres like Jersey City, coupled with the high and burdensome rate of taxation upon private property, has rendered the local aspect of the problem of pre-eminent importance. The States of Michigan and Wisconsin, in which the subject of railroad control has been much agitated, impose only a State tax. Other States, notably Illinois, Missouri, and Ohio, impose no special State tax, but allow railroad property to be taxed by a State Board, for the benefit of the localities. In New Jersey peculiar circumstances seem to determine that neither of the above systems can be adopted in their entirety. The large revenue derived by the State from this source, and the popular and commendable desire to have no future direct State tax imposed on individual property, forbid the adoption of the exclusively local method of taxation of railroads. The peculiar state of affairs in such localities as Jersey City forbids the exemption of railroad property from a share of the local burdens. A blending, therefore, of the two systems seems the only course that will meet fairly the demands both of the State and of the localities. Such has been the plan of the State for the past eleven years. We believe that by removing the objectionable features of that plan as heretofore carried out, better results will be achieved than by a sudden departure to an untried scheme.

We therefore believe that, maintaining the State tax of one-half of one per cent., there should be an additional tax on real estate, outside of the road-bed, for the benefit of the localities, not at the full local rate under all circumstances, but at a rate, taking into account the State rate to be also paid, that will place railroad property in its contribution to the public burdens, about on an average with the other property throughout the State. If this can be done we believe it will satisfy the conservative, reasonable citizens of the whole State. The unreasonable ones it would be a wrong to satisfy, for to satisfy such would require us to do unreasonable things.

As to what local rate will, with the State rate, make up this average, may be difficult exactly to specify, but it can be pretty closely approximated. The average rate of taxation in the townships is at least one per cent.; in the cities it is at least two per cent. Considering that the cities contain by far the largest share of the ratables, it is evident that the average rate cannot be far from one and three quarters per cent. Starting with a rate of one-half of one per cent. on their whole valuation, the question is how large a rate shall be added to the portion of railroad property, locally valued to make an average of one and three-quarters per cent. Your committee, from the best estimates they have been able to form, consider that a rate of one and one-half per cent. on the property locally assessed, when added to the one-half per cent. on the whole valuation, will about make the required total rate. They therefore have inserted in the bill that they have prepared that rate, which is one-half a cent higher than the present local rate.

Such a rate, with the ten-acre terminal exemption repealed, would give to Jersey City, if applied to all the companies owning lands there, an additional annual income of at least two hundred thousand dollars; that is, if the estimate of exempt terminal property in that city made by the present Governor for the Board of Finance of Jersey City in 1882, is correct—as we take it to be. According to the estimates of some persons the amount would be much greater.

We are convinced that these views, which are embodied in the bill herewith presented, ought to satisfy both the companies and the people concerned. The fact that the Pennsylvania Company makes a voluntary contribution every year to Jersey City proves that that company recognizes the justice of the claim for more local tax. We believe the other companies will, if met in a fair spirit, evince the same disposition. Is it not better to deal conservatively with these great interests, which are so valuable to the State, than to enter upon a system of legislative warfare? We do not advise the State or any locality to yield a single legal

right. No claim of exemption by charter contract should be conceded until every legal means of contesting it has been tried unsuccessfully.

Should the bill recommended by us pass, we would advise that a levy be made under it upon the Morris and Essex Company, for the purpose of a re-argument of the question as to whether that company has an irrevocable contract. Such a course would be perfectly fair and proper, and, if the Attorney-General should think it advisable, no possible harm could come from the effort. We have also prepared a bill, which we herewith report, by which the State shall surrender its right to hereafter take certain roads at an appraisal, provided such roads will surrender their contracts on the subject of taxation.

It is proper to add that the plan of valuation contained in the bill herewith reported has received high approval from the Supreme Court of the United States, and is taken from the Illinois railroad tax law.

OTHER CORPORATIONS.

Your committee has made as much of an examination as time would permit into the affairs of other business corporations, for the purpose of seeing what change, if any, should be made in the laws for their taxation. So far as we have ascertained, there is no complaint from any place that the law of local taxation upon miscellaneous corporations is inadequate. In some instances, notably telephone and telegraph companies, property escapes local taxation because of the culpable omission of the local assessor. The New York and New Jersey Telephone Company, with a large investment in some of the largest cities in the State, and an annual income of \$100,000, only paid \$527 in taxes for 1883. The reason was that its property was assessed in only a few localities.

We do not think the plan of local assessments on corporations of this class should be modified until such time as the whole tax law of the State is revised, which should be done at an early day. We do think, however, that there

should be imposed a State tax upon all telegraph, telephone, express, gas, fire and life insurance, electric light, and kindred companies, whether organized under the laws of this State or not. This tax, we think, in most instances, should be in the nature of a franchise tax, based upon gross earnings on business transacted in this State. Such a tax, even at a low rate, would yield the State a large revenue. The annual gross income of the gas companies of the State will not fall below \$1,200,000. The fire and life insurance premiums earned annually in this State will amount to not less than \$4,000,000. The income of telegraph, telephone, and express companies, must also be very large. Gentlemen connected with these various businesses have assured your committee of their appreciation of the propriety of the State's claim for such a tax, and their readiness to meet it. A tax on any other basis than earnings would be inadequate to reach properly many of these corporations, such as express and telegraph companies, whose business is carried on without the use of much tangible property.

A bill to provide for the assessment of a franchise tax, for the benefit of the State, is being prepared, and will be presented at an early day.

Your committee have found the subject committed to their consideration one of great difficulty and infinite detail, but also one of profound interest. No subject at present more nearly touches the interests of the whole people. Every dollar of property in the State is concerned in seeing that every other dollar pays a fair share of the public expense. Every dollar of property is also concerned in seeing that it is not unfairly discriminated against. No tax law has ever yet been devised that operated with perfect equality. The best that can be hoped for is to secure an honest effort at equalization. Such an effort can only be made when all mere sentiment and unworthy appeals to passion and prejudice are put aside, and the matter is treated on a basis of just dealing, as between man and man. For, after

all, whether we speak of corporate property, or of individual property, the ultimate owners of it all are merely private individuals—our fellow citizens.

JOHN W. GRIGGS,
ABM. V. SCHENCK,
WM. BRINKERHOFF,
Committee on part of the Senate.

EDWARD S. SAVAGE,
JAS. H. NEIGHBOUR,
E. A. ARMSTRONG,
Committee on part of the House.

APPENDIX.

COST OF THE VARIOUS RAILROADS AND AMOUNT
OF TAX PAID THEREON.

Cost, as returned to the Comptroller in the year 1883, of the United Railroad and Canal Companies' works taxable under the act of March 4, 1869, and cost as returned of the branch roads claimed to be within the exemption proviso of the act of April 13, 1876:—

	Cost.	Tax.
United Railroad and Canal Co.,	\$37,158,222	44
Belvidere, Delaware Railroad,	4,247,283	42
Camden & Burlington County Railroad,	731,925	00
Columbus, Kinkora & Spring- field Railroad,	214,500	00
Flemington Railroad,	290,653	87
Freehold & Jamesburg Railroad,	767,530	59
Jersey City & Bergen Railroad,	562,738	97
Millstone & New Brunswick Railroad,	113,404	42
Mt. Holly, Lumberton & Medford Railroad,	170,650	00
Pemberton & Hightstown Rail- road,	538,691	85
Perth Amboy & Woodbridge Railroad,	214,581	57
Rocky Hill Railroad and Trans- portation Company,	45,600	00
Salem Railroad,	278,320	43
Swedesboro Railroad,	293,350	00
Vincentown Branch Railroad,	43,256	61
West Jersey Railroad,	3,170,625	99
Total,	\$48,841,335	\$298,128 96

The main line of the Morris and Essex Railroad is taxed, under the provisions of the charter of the company, at the rate of one-half of one per centum on the cost of the road. The other roads operated by that company are taxed under the provisions of the act of April 13, 1876, upon the true value of their roads, equipment and appendages. The cost of the main line and the valuations of the other roads for 1883 were as follows:

		Tax.
Main Line, cost,	\$23,900,473 73	\$119,502 36
Chester Railroad, valuation,	224,515 98	1,122 58
Newark & Bloomfield Railroad, valuation,	166,490 25	832 45
Passaic & Delaware Railroad, valuation,	112,152 36	560 76
Sussex Railroad, valuation,	400,360 00	2,001 80
Warren Railroad "	3,163,172 00	15,815 86
	<u>\$27,967,164 32</u>	<u>\$139,835 81</u>

The Central Railroad Company of New Jersey claims to be liable for taxation for State purposes on its main line under its charter, which provides for a tax of one-half of one per centum upon the cost of the road. It is claimed by the State that this property is taxable, under the act of 1876, at the rate of one-half of one per centum upon the true value of the road, equipment, and appendages.

The company paid tax in 1883 upon the amount returned by them as the cost of the road, viz., \$17,077,951.59; and the question of the valuation of their property under the act of 1876 is now under consideration by the Board of Railroad Commissioners.

The roads leased, controlled or operated by them are taxed under the act of 1876, and their valuation for taxes in 1883

is given below, together with the "cost," as returned, of the main line:

	Cost.	Tax.
Central, Main Line,	\$17,077,951 59	\$85,389 76
	Valuation.	
Constable's Hook,	81,419 35	407 10
Dover and Rockaway,	150,000 00	750 00
High Bridge Railroad,	536,042 22	2,680 22
Lake Hopatcong Railroad,	177,335 37	886 68
Longwood Valley Railroad,	219,430 66	1,097 31
Manufacturers' Railroad,	79,682 20	398 46
Ogden Mine Railroad,	189,808 76	949 04
South Branch Railroad,	412,048 82	2,060 25
Long Branch & Sea Shore Rail- road,	300,925 00	1,504 63
New Jersey Southern Railroad,	784,135 00	3,920 67
Toms River & Waretown Rail- road,	65,000 00	325 00
Vineland Railroad,	350,000 00	1,750 0
	<u>\$20,423,819 47</u>	<u>\$102,119 12</u>

This company, or its lessees, also controls the Philadelphia and Atlantic City Railway Company, the question of the valuation of which is under consideration by the Board of Railroad Commissioners. The cost of this road is returned at \$729,823.57.

The following companies are taxed, under the act of 1876, at the rate of one-half of one per centum upon the true value of roads, equipment, and appendages, and the valuation and tax of 1883, are given:—

	Valuations.	Tax.
Camden & Atlantic,	\$1,825,623 72	\$9,128 12
Camden, Gloucester & Mt. Eph- raim,	44,900 00	224 50
Cape May & Sewell's Point,	18,022 00	90 11
Charlotteburg & Greenlake Rail- road,	40,000 00	200 00

Cumberland & Maurice River,	\$53,500 00	\$267 50
Delaware & Bound Brook Rail- road,	2,509,033 04	12,545 17
Delaware Bay & Cape May.	48,564 27	242 82
Easton & Amboy,	7,131,890 94	35,659 45
Ferro Monte,	50,309 21	251 54
Freehold & New York,	214,000 00	1,070 00
Hibernia Underground Railroad,	100,000 00	500 00
Hibernia Mine Railroad,	198,431 18	992 16
Lehigh & Hudson River,	620,922 37	3,104 61
Mount Hope Mineral,	160,000 00	800 00
New Jersey & New York Railroad,	285,000 00	1,425 00
New York & Greenwood Lake,	595,000 00	2,975 00
New York & Long Branch Rail- road,	2,435,667 37	12,178 33
New York, Susquehanna & West- ern Railroad,	2,197,336 00	10,986 68
Appendages of New York, Lake Erie & Western Railroad,	3,644,013 93	18,220 07
Long Dock Equipment,	49,642 22	248 21
Bergen County Railroad,	791,911 41	3,959 55
Newark & Hudson Railroad,	360,556 09	1,802 78
Paterson & Hudson River Rail- road,	630,000 00	3,150 00
Paterson, Newark & New York Railroad,	594,011 59	2,970 06
Paterson & Ramapo Railroad,	957,416 77	4,787 08
Northern Railroad of New Jersey,	545,728 17	2,728 64
Pemberton & Sea Shore Railroad,	150,000 00	750 00
Philadelphia & Long Branch Railroad,	318,500 00	1,592 50
Philadelphia, Marlton & Medford Railroad,	145,403 94	727 02
Pleasantville & Ocean City Rail- road,	63,131 27	315 66
Tuckerton Railroad,	72,250 00	361 25
West Jersey & Atlantic Railroad,	614,946 29	3,074 73
Williamstown Railroad,	29,065 00	145 33
	<u>\$27,494,776 78</u>	<u>\$137,473 87</u>

SUMMARIZED STATEMENT.

	Cost or Valuation.	Tax.
Railroad Corporations taxed under act of March 4, 1869, cost,	\$48,841,335 16	\$298,128 96
Railroad Corporations taxed under provisions of their charters deemed irrepealable, cost,	23,900,473 73	119,502 36
Railroad Corporations taxed under act of April 13, 1876,	52,715,110 41	263,575 55
	<u>\$125,456,919 30</u>	<u>\$681,206 87</u>

NOTE.—The last item is subject to such changes as may be occasioned by the pending action of the Board of Railroad Commissioners concerning the Central Railroad and the Philadelphia & Atlantic City Railroad, above referred to.

SCHEDULE SHOWING THE REAL ESTATE,
ASSESSED TO THE RAILROAD COM-
PANIES, AT ONE PER CENT.
FOR LOCAL TAX.

Blairstown Railroad Company,	\$150 00
Belvidere-Delaware Railroad Company,	70,918 00
Burlington & Mount Holly Railroad Company,	2,100 00
Camden & Atlantic Railroad Company,	12,110 00
Camden & Burlington County Railroad Company,	12,625 00

Cape May & Millville Railroad Company,	\$1,000 00
Central Railroad Company of New Jersey,	5,976,304 00
Columbus, Kinkora & Springfield Railroad Company,	400 00
Delaware Bay & Cape May Railroad Company,	100 00
Delaware & Bound Brook Railroad Company,	10,155 00
Freehold & New York Railway Company,	100 00
High Bridge Branch Railroad Company,	12,650 00
Lehigh & Hudson River Railway Company,	2,000 00
Lehigh Valley Railroad Company,	290,009 00
Mount Holly, Lumberton & Medford Railroad Company,	500 00
New Jersey Midland Railroad Company,	3,290 00
New Jersey & New York Railroad Company,	1,220 00
New Jersey Southern Railroad Company,	13,000 00
New Jersey West Line Railroad Company,	300,000 00
New York & Greenwood Lake Railroad Company,	23,700 00
New York & Long Branch Railroad Company,	64,300 00
New York, Lake Erie & Western Railroad Company,	5,037,559 00
New York, Ontario & Western Railway Company,	300 00
Northern Railroad Company of New Jersey,	2,800 00
New York, Susquehanna & Western Railroad Company,	92,686 00
New York, West Shore & Buffalo Railroad Company,	38,550 00
North River Railroad Company,	3,650 00
Open Cut and General Storehouse Company (Leased by the West Shore and Ontario Terminal Company),	1,963,000 00
Passaic & Delaware Railroad Company,	900 00
Perth Amboy & Woodbridge Railroad Company,	250 00
Paterson Extension Railroad Company (N. Y., S. & W.),	1,500 00
Pemberton & Hightstown Railroad Company,	850 00

Philadelphia & Atlantic City Railroad Company,	\$3,593 00
Pennsylvania Railroad Company,	6,021,456 00
Philadelphia, Marlton & Medford Railroad Company,	233 00
Salem Railroad Company,	1,673 00
South Branch Railroad Company,	100 00
Sussex Railway Company,	11,875 00
Warren Railroad Company,	22,750 00
West Jersey Railroad Company,	41,575 00
West Jersey & Atlantic Railroad Company,	2,200 00
Woodstown & Swedesboro Railroad Company,	300 00
<hr/>	
Total,	\$19,872,524 00

BILLS

RECOMMENDED AND INTRODUCED

BY

SPECIAL JOINT COMMITTEE

ON

TAXATION

OF

RAILROAD AND OTHER CORPORATIONS.

ASSEMBLY No. 313.

STATE OF NEW JERSEY.

AN ACT for the taxation of Railroads and Canals.

1. BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*, That all the property of any railroad or canal company not used for railroad or canal purposes shall be assessed and taxed by the same assessors, and in the same manner and at the same rate, as the taxable property of other owners in the same municipal division or taxing district. All other property of any railroad or canal company shall be assessed and taxed as hereinafter directed. The tax imposed by this act shall be in lieu of all other taxation upon the property subject to taxation under the provisions of this act, and all acts or parts of acts inconsistent with the provisions of this act are hereby repealed. In all cases where the real estate, tangible personal property, and capital stock and franchise of any company are assessed and taxed under this act, the shares of stock and the bonds and certificates of indebtedness of such company shall not be taxed in the hands of the shareholders, bondholders, or creditors.

2. *And be it enacted*, That all property of any railroad, and of any canal company used for railroad or canal purposes, shall be assessed by a State Board of Assessors, which shall consist of three members, and shall be appointed by the Governor by and with the advice and consent of the Senate. They shall not all be members of the same political party. Their term of office shall commence on the first Monday of

May. The assessors first appointed shall be appointed to hold office respectively for one, two, and three years, and until the appointment of a successor; all subsequent appointments shall be for a term of three years and until the appointment of a successor. Vacancies shall be filled by the Governor, subject to the approval of the Senate. The said assessors shall be citizens of this State, and shall not, during their term of office, be interested in any railroad or canal company. Each assessor shall, before entering on his duties, file with the Secretary of State an oath taken before a justice of the Supreme Court, that he will faithfully discharge the duties of his office, and that he is not interested in any railroad or canal company. They shall each receive an annual salary of two thousand dollars. Two members shall constitute a quorum, and any official act shall be valid which has the sanction of two members. They may employ a secretary, who shall receive such yearly compensation as the Board of Assessors may determine, not to exceed one thousand dollars. They shall keep a record of their proceedings.

3. *And be it enacted*, That it shall be the duty of the Board of Assessors to meet at Trenton, on the first Tuesday of May in the present and each succeeding year, and as often during each year and at such places as their duties may require. They shall proceed to ascertain the extent and value of the real estate used for railroad and canal purposes in this State, of each railroad and canal company, including road-bed, water-ways, reservoirs, tracks, buildings, water-tanks, water-works, riparian rights, docks, wharves and piers, and all other real estate, except lands which are not used for railroad or canal purposes, and which are assessed by local assessors, as provided in the first section of this act.

4. *And be it enacted*, That the said board shall proceed to ascertain and to fix the valuation of all the tangible personal property of each railroad and canal company, which shall be held to include the rolling-stock, cars, locomotives, ferry-boats, and tools of such railroad company, and the floating and movable property of such canal company, and also

locomotives and cars not belonging to such railroad company but built for its use, or run under its control on its road by a sleeping car company or other company; but as to such rolling-stock not belonging to it but under its control, the railroad company may return the same separate from its own property, and if so returned, the board shall fix the valuation of such property separately, but include the amount in the aggregate valuation of such company.

5. *And be it enacted*, That the board shall proceed to ascertain the fair cash value of the capital stock of each railroad and canal company, including the franchise, over and above the assessed value of the real estate and tangible property of such company. The fair cash value of the capital stock, including the franchise, shall be ascertained by the application of the following rules where practicable:

I.—The market or fair cash value of the shares of the capital stock, and the market or fair cash value of the debt (excluding from such debt the indebtedness of current expenses), shall be combined or added together; and the aggregate amount so ascertained shall be taken and held to be the fair cash value of the capital stock, including the franchise respectively of such companies.

II.—From the aggregate amount ascertained as aforesaid there shall be deducted the aggregate amount of the assessed valuation of all the real estate and tangible personal property respectively of such companies, including the assessed valuation of the property which is not used for railroad and canal purposes, and which is assessed by the local assessors, and the amount remaining in each case, if any, shall be taken and held to be the amount and fair cash value of the capital stock, including the franchise, which said board is required to assess respectively against railroad and canal companies for taxation.

6. *And be it enacted*, That it shall be the duty of the assessors in all taxing districts where property of any railroad or canal company, not used for railroad or canal purposes shall be assessed, to certify and send to the State Board of Assessors, on or before the second Monday of June in each year, a statement giving the description of such property and showing the assessed valuation thereof. The local assessors shall also, at the same time, certify and send to the State Board of Assessors a short description of all the real property in their respective taxing districts used or owned for railroad or canal purposes, excepting the main stem or road-bed and track, not exceeding one hundred feet in width, of each railroad, and the water-way, towing-path, and berme bank, not exceeding one hundred feet in width, of each canal.

7. *And be it enacted*, That the board of assessors shall ascertain and determine separately the value of all the real property used or owned for railroad or canal purposes of each railroad or canal company in each taxing district, excepting from such separate valuation the value of the main stem or road-bed and track, not exceeding one hundred feet in width, of each railroad, and the water-way, towing-path, and berme bank, not exceeding one hundred feet in width, of each canal. This exception shall not include any docks, wharves, piers or shore rights, but such property shall be included in said separate valuation. Whenever in any taxing district there shall be several branch lines of railroad belonging to or controlled by one company, or operated under one management, the assessors shall designate one of said lines as the main stem, and the value of the others shall be included in such separate valuation. The term taxing districts used in this act shall include townships, cities, incorporated villages, towns and boroughs, but not school districts.

8. *And be it enacted*, That on the first Monday of July, the board shall meet at the State House in Trenton, and shall give a hearing to all companies interested, touching

the valuation and assessment of their property. The board may adjourn from day to day, and may if they see fit require all arguments and communications to be presented in writing. When the first Monday of July shall fall on the fourth or fifth day of that month, the day of meeting shall be on the first Tuesday of July. All parties interested shall take notice of this hearing.

9. *And be it enacted*, That when any railroad or canal company has part of its property in this State, and part thereof in another State or States, the said board shall estimate the entire value of the property of the said company pursuant to the provisions of the first rule above prescribed in the fifth section, and divide it in the proportion that the length of such road in this State bears to the whole length of such road, and determine the sum for the value of such road in this State accordingly. They shall also estimate the value of the entire rolling-stock, and divide it in the same proportion, and determine the value of the rolling-stock in this State accordingly. They shall also estimate the value of the real estate of said company in this State, and shall estimate the capital stock and franchise for taxation in this State in the manner directed in section five of this act, that is to say, by deducting the amount assessed for real estate and rolling-stock and tangible personal property from the value of the road in this State.

10. *And be it enacted*, That when any line of railroad or any canal is in possession of a lessee, the value of the rolling-stock and the capital stock and franchise of such lessee shall be ascertained in the same manner as if such property belonged to the lessor or owner of the railroad or canal, if such method of valuation shall be found practicable, but if in any case in the judgment of the assessors such methods shall be found impracticable, then in such case the assessors shall make a fair valuation of the railroad and canal property, capital stock and franchise of such lessee in this State, in such manner as to them shall seem just.

11. *And be it enacted*, That the State Board of Assessors shall upon the completion of their valuation and assessment proceed to compute the tax upon the total assessed valuation of the property of each railroad or canal company used for railroad or canal purposes, as ascertained by them as directed in sections three and four of this act, including the valuation of the capital stock and franchise as ascertained according to section five of this act, upon such total valuation each company shall pay to the State for State purposes a tax at the rate of one-half of one per cent. upon each dollar of valuation annually, and the State Board of Assessors shall compute the same. Each company shall also pay in addition to the said tax of one-half of one per cent., a tax at the rate of one per cent. upon each dollar of valuation of its property in the several taxing districts separately valued and assessed under the provisions of section seven of this act, which tax shall also be computed by the State Board of Assessors. The sum of the estimates or computations for each company shall constitute the tax to be paid by each company, and shall be a lien paramount to all other liens upon all the lands and tangible property and franchise of such company in this State; such lien shall take effect on the first Monday of December. Said tax shall be a debt due from such company to the State on that date for which an action at law or in equity may be maintained, and which shall be a preferred debt in case of insolvency. These remedies are in addition to the special proceedings provided for in this act.

12. *And be it enacted*, That the said Board shall certify and report to the Treasurer of the State, and in duplicate to the comptroller of the State, on or before the first Monday of December 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 with respect to its property separately valued in each taxing district, and the aggregate assessed valuation, and the total tax levied upon each company. Such statement shall be made separately for each company, and, as to said property separ-

ately valued, shall be arranged by taxing districts in such manner as to be of easy reference, and shall be recorded in books in the office of the State Comptroller, to be provided by him for that purpose, and shall be public records, subject to public inspection. It shall be the duty of the State Treasurer to receive payment of the said taxes from said companies. If the taxes of any company remain unpaid on the first day of January following the levying thereof, such company shall be considered in default, and such taxes shall thenceforth bear interest at the rate of one per cent. for each month until paid.

13. *And be it enacted*, That the Treasurer of the State shall apply the money collected by him under this act for the one-half of one per cent. tax to the uses of the State, according to law. The amount received by him for tax upon property separately assessed in the different taxing districts at one per cent., shall be allotted to the various taxing districts, giving to each district the amount that was derived from the property of each railroad or canal company therein; the treasurer shall transmit to the treasurer of each county a certificate showing the amount allotted to the taxing district therein, and shall also transmit the amount thus allotted; and the county collector or treasurer shall forthwith pay to the collector or other proper officer of each taxing district the amount allotted thereto, deducting, however, the amount due for county taxes from such taxing district; the amount thus paid to the county and taxing district shall be at the disposal of the proper authorities thereof for public purposes.

14. *And be it enacted*, That the said State Board of Assessors shall meet on the second Monday of December, at the State House, in Trenton, for the purpose of reviewing their assessment, and may adjourn from day to day till they shall have finished the hearing. Upon the written complaint of any company considering itself aggrieved, and specifying the grievance, or of the Attorney-General, or of any member of the board, on behalf of the State, that the property of any

company is assessed too low, either in the whole or in any taxing district, or that property has been omitted, they shall review the said assessment, and correct the same as shall appear just. The Attorney-General shall attend such meetings of said board in person or by deputy. No complaint that any company is assessed too low, or that any of its property has been omitted, shall be acted upon until the company so assessed shall be notified of such complaint in such manner as the board may direct. The board shall have the power to examine witnesses and call for the production of books and papers, but they shall be entitled to use their personal knowledge and judgment as to the value of property, and a refusal to hear any or all evidence shall not impair the validity of their conclusions. They shall certify to the Treasurer and Comptroller of the State all corrections which they shall make in any assessment.

The proceedings provided for by this section shall be completed before the first day of January following the making of said assessment, and all complaints must be presented on or before the second Monday of December, or shall be deemed to have been waived.

15. *And be it enacted*, That if any company, or if the Attorney-General on behalf of the State, shall desire to contest the validity or amount of any tax levied upon its property under the provisions of this act, such contest shall be made by certiorari, which may be granted on notice to the Attorney-General or to the company interested, on a proper case made on such terms as the justice or Court granting the writ may impose; *provided*, that no writ of certiorari shall be granted unless the applicant shall have first applied unsuccessfully to said Board of Assessors for relief, nor shall any writ of certiorari be granted after the expiration of two months from the first Monday of December, when such tax shall be certified and reported to the Treasurer; if such writ shall be allowed and if it shall be made to appear that any assessment is unlawful, the Court shall correct the same and reduce or increase it as may be just, or refer it back to

the Board of Assessors, who shall correct or reassess the same in accordance with the instructions of the Court. In any suit or proceeding, except on such certiorari, the certificate and report of the State Board of Assessors shall be conclusive, and shall have the force and effect of a judgment of a Court of record, having competent jurisdiction, and the proceedings whereon such certificate and report are founded shall not be inquired into. No assessment or tax shall be set aside for misnomer of the owner of the property assessed; but the name may be corrected at any time by the Board of Assessors or Court.

16. *And be it enacted*, That if any tax under the provisions of this act shall remain unpaid in whole or at the expiration of two months from the date when the same shall become a lien, it shall be the duty of the Attorney-General to apply forthwith to a Justice of a Supreme Court for an order that said tax and the interest due thereon, and a reasonable sum to be certified by said Justice to be paid for the expense of said proceeding and for the services rendered by the Attorney-General, shall be made a record of the Supreme Court, and judgment shall be entered therefor in the name of the State of New Jersey as plaintiff against said company as defendant, which order shall be made upon production of a certified copy from the comptroller of the certificate and report of the State Board of Assessors on file in his office, and of the certificate of the Treasurer that said tax has not been paid. The Attorney-General shall also apply for an order that execution forthwith issue on said judgment, directed to a Master of the Court of Chancery to be named by said Justice in said order. The said order shall be applied for on five days' notice to the company concerned, which notice shall be served in the same manner as a summons is directed by law to be served upon a corporation, and in all cases the proceedings shall be summary.

In case a certiorari shall have been granted, on application of the Attorney-General, the orders above provided for shall be made and enforced without prejudice to the right of

the State to enforce the payment of any additional amount of tax which may be imposed, and to apply for a second judgment therefor.

In case a certiorari shall have been granted on application of any company taxed, the Attorney-General shall make the applications provided for by this section upon the determination of said proceedings in certiorari, by dismissal of the writ or by adjustment of the amount due.

17. *And be it enacted*, That the Master in Chancery to whom the execution shall be directed shall sell all the franchise, real estate, and rolling-stock and property of said company, or so much thereof as may be necessary to make the amount due on said tax judgment and the usual execution fees. The execution shall describe the property whereon the tax was assessed, and shall direct the sale thereof, and generally the sale of all other property of said company. Such sale shall pass the absolute title to the franchise and property sold whereon the said tax was assessed and become a lien, free and clear of all liens and incumbrances of every nature except taxes subsequently levied; as to any other property of said company the judgment and execution shall constitute or become liens in the same manner and to the same extent as other judgments and executions of the Supreme Court. The sale, advertisement, and proceedings under such execution shall be the same as under other executions of the Supreme Court.

18. *And be it enacted*, That it shall be the duty of the Justice or Court granting to any company a writ of certiorari to review an assessment of taxes under this act, to require, before granting the writ, the payment of such portion of the tax as said Justice or Court shall deem just, and it shall be lawful for the Court out of which such writ shall issue, at any time pending the proceedings thereunder, to direct such further payment on account of such tax as the Court shall deem just, and to dismiss the writ if the order is not obeyed.

The amount so paid shall be credited on the State tax as it shall be finally determined and fixed under this act, and no interest shall be charged upon the amount thus paid and credited after the time of payment. Should the amount thus paid be in excess of the amount ascertained to be due, the excess shall be repaid out of any moneys of the State not otherwise appropriated, or in default of such repayment, shall be credited, with interest, on the tax against said company in the year following the determination by the Court of the amount due.

19. *And be it enacted*, That in order to ascertain the facts necessary for the discharge of their duties under this act, the said board shall use such lawful means as they may deem necessary; they may employ surveyors if they shall be dissatisfied with information otherwise attainable; they shall have the power of compelling the attendance of witnesses, and to call for the production of books and papers; and they may delegate such power to any member of their board authorized by them to investigate and report; they shall also use the returns hereinafter provided for, but such returns shall not be conclusive, and if any of said returns shall not be made, the board shall ascertain the necessary facts from the best information they can obtain, in such mode as they may find convenient, using their personal knowledge and judgment.

The said assessors, or any one of them, shall have power to administer oaths and affirmations to any person to ascertain any facts proper for them to know in order to enable them properly to perform the duties of their office, and they may reduce the statements of the person sworn to writing and require him to swear and subscribe thereto, and may *ex parte* apply for and obtain from any Justice of the Supreme Court an order to compel any person to submit to examination in reference to such matters, and such Justice may punish any party as for a contempt who shall disobey any order made by said Justice in the premises.

20. *And be it enacted*, That on or before the first Tuesday of May next, and on or before the first Tuesday of May in each year thereafter, any person or company running, operating, or constructing any railroad or canal in this State, shall return to the State Board of Assessors statements or schedules, subscribed and sworn to by the President, or other chief officer, before some officer of the State authorized to administer oaths, of the property of such railroad or canal as it existed on the first day of January preceding, which, for each railroad, shall be as follows :

I. Of the real estate, specifying its extent and dimensions, which may be shown by a map or maps, setting out in detail the total length of the road including branch and leased lines, the entire length in this State, and the length of double or side-tracks; and the number, character, and value of all buildings and structures in each county and in each taxing district through or in which it is located in this State, designating the main stem or road-bed and the width wherever it exceeds one hundred feet, and designating particularly any portion in each taxing district which is not used for railroad purposes, and which is locally assessed and taxed, and the value thereof.

II. Of the rolling-stock and tangible personal property, giving the number of freight engines, passenger engines, passenger and freight cars, ferry-boats and other movable property of every description, owned, used or hired, and the value thereof.

III. A statement or schedule showing :

- (1) The amount of capital stock authorized and the number of shares into which such capital stock is divided.
- (2) The amount of capital stock paid up.
- (3) The market value, and if no market value, then the actual value of the shares of stock.
- (4) The total amount and the details and particulars of all indebtedness.

Such statements and schedules for canals shall be as follows :—

I. Of all the real estate of said company, giving the depth of water and dimensions of such canal, the length of the canal and of its feeders in the State, and the number, character and value of all locks, and of all buildings and other structures in each county and taxing districts, designating particularly the width where it exceeds one hundred feet, and designating any portion in each taxing district which is not used for canal purposes, and which is locally assessed and taxed.

II. The floating and movable property.

III. A statement or schedule containing all the particulars above enumerated and to be returned by railroad companies in the third statement or schedule.

Such statements or schedules shall be made in conformity with such instructions and forms as may be prescribed by the said board, and such further statements shall be furnished as said board shall require. The said board shall prescribe the form of the oath to the statements and schedules required by this section, and any person who shall make such oath falsely shall be guilty of perjury.

21. *And be it enacted*, That any railroad or canal company claiming exemption from taxation under this act, by reason of any contract with the State, shall together with and in addition to the return required by the last section, make a further return specifying the act or acts of the Legislature by which such contract is claimed to have been created, and also specifying what portion of the property of said railroad or canal company is claimed to be exempt from taxation under this act, and the particulars as to character, location, and value of property, if any admitted to be liable under this act; such return shall be in no manner conclusive as to any of the facts therein stated, but said board shall investigate and determine whether any, and, if any, what portion of the prop-

erty of such company is by contract beyond the power of the State to tax under this act; the residue of said property shall be assessed, apportioned, valued and taxed pursuant to the provisions of this act.

22. And whereas the further increase in this State of property exempt from taxation is prejudicial to the welfare of the State and to the interest of the people therein; therefore, be it enacted, that it shall not be lawful for any railroad or canal company having any contract with the State whereby any of their property is exempted from the taxation imposed by this act, to acquire, and hold directly or indirectly, any property in this State, except such property as such company may be entitled to acquire and hold pursuant to their said contract with this State, unless such company shall surrender such contract by release executed under their common seal, approved by the Attorney-General, and filed by the Secretary of State, in which case the property of such company shall be subject to taxation under the provisions of this act or any amendments thereto, or any further act of the Legislature.

23. *And be it enacted,* That if any person or corporation running, operating or constructing any railroad or canal shall neglect to make returns as required by this act, such person or corporation shall forfeit as a penalty not less than one thousand dollars, nor more than ten thousand dollars, to be assessed by the jury for each offense, to be recovered in any proper form of action in the Supreme Court, in the name of the State, and paid into the State treasury. It shall be the duty of said board to certify any such default to the Attorney-General of the State, and it shall be the duty of the Attorney-General to prosecute for such penalty. Any person who shall make falsely any oath required to be made under this act, and any person who shall testify falsely when called to testify under this act, shall be guilty of perjury, and on conviction thereof, shall be liable to all the penalties prescribed by law therefor.

24. *And be it enacted,* That all railroad companies in this State, which shall hereafter pay any taxes imposed by this act on any cars, hired, leased, run or used on the roads of such companies in this State, shall have a right of action against the company or persons owning such cars for the taxes so paid, with interest thereon from date of payment, and may sue for and recover the same in any court of competent jurisdiction; but nothing in this section shall be so construed as to avoid the obligation of any contract relating to the payment of taxes heretofore entered into or made between any such company, its agents or persons owning such cars, and any such railroad company.

25. *And be it enacted,* That if any company shall be in default under this act in payment of the State tax aforesaid, any person having a mortgage or other lien on its franchises or property, may pay the State Treasurer the amount of such State tax and the interest due thereon, and receive from said treasurer a certificate of such payment, and such person shall thereupon be entitled to be repaid the amount of said tax and interest thereon, at the rate of twelve per cent. per annum, out of the first proceeds of any sale of the franchises or property of said company, and such tax and interest thereon shall continue a lien on the franchises and property of the company for the benefit of the holder of such mortgage or lien until paid by said company, or from the sale of its franchises or property. If any proceedings have been taken by the Attorney-General, to enforce the payment of said tax and interest thereon, then such holder of a mortgage or lien paying such tax and interest shall pay such additional amount as a Justice of the Supreme Court shall certify to be proper and reasonable for the expenses and services of the proceedings as far as they have progressed for the collection of said tax and interest thereon.

26. *And be it enacted,* That if any railroad or canal shall be owned or operated under a franchise by any individual or association not incorporated, the term company used in this act shall apply to such owners or operators, and such

property shall be assessed and taxed under the provisions of this act in the same manner as if operated by a company, and the persons operating or owning such railroad or canal, shall make the returns required by this act to be made by companies.

27. *And be it enacted*, That the Attorney General shall, with the approval of the Governor and Comptroller, have power to employ such assistant attorneys or counsel as may be necessary to protect and properly defend the interests of the State, in any suits or proceedings arising under this act; and such assistants shall be paid such compensation by the State as may be approved by the Attorney-General and the Comptroller; the State Board of Assessors shall have power, during the first year of the operation of this act, to employ such assistants in making their valuations as may be necessary to complete the same in due time, and such assistants shall be paid such reasonable compensation for their services as the said board and the Governor shall approve.

28. *And be it enacted*, That this act shall take effect immediately.

ASSEMBLY, No. 314.

STATE OF NEW JERSEY.

AN ACT tendering to any railroad or canal company having contract exemptions and privileges with respect to taxation and subject to the option of the State reserved in the charter of such company to take its property at a valuation not exceeding cost, a release of said option on surrender of said exemptions and privileges.

WHEREAS, Certain railroad companies and certain canal companies owning or occupying railroad or canal property in this State, claim exemptions and privileges in the matter of taxation by virtue of certain contracts alleged to exist between such companies respectively and the State; and,

WHEREAS, By the charters of said companies respectively there has been reserved to the State the right and option to take their property after certain periods at a valuation not exceeding the cost thereof, and the State is now willing to surrender its said right and option in exchange for a surrender by said companies respectively of their privileges and exemptions in the matter of taxation; now, therefore,

1. BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*, That any railroad or canal company having any contract with the State of New Jersey relating to taxation, may, on or before the first day of September, A.

D., one thousand eight hundred and eighty-four, surrender such contract and all exemptions and privileges with respect to taxation by release executed under its common seal, approved by the Attorney-General and filed with the Secretary of State.

2. *And be it enacted*, That any such company filing such surrender on or before the first day of September, A. D., one thousand eight hundred and eighty-four, shall be released from the obligation to pay the special rate of taxation fixed by its said contract, and in lieu thereof shall be taxable under the general laws of the State or under such laws as may be enacted from time to time, and shall be released from all rights reserved in the charter or supplements thereto, to the State to take the property of such company at a valuation not exceeding cost; and such property shall thenceforth be held by such company as if no such privilege had been reserved to the State in the charter or the supplements to the charter of such company.

3. *And be it enacted*, That this act shall take effect immediately.

ASSEMBLY, No. 315.

STATE OF NEW JERSEY.

AN ACT to repeal an act entitled "An act providing for State taxes on railroads and the more efficient collection thereof," and the supplements thereto.

1. BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*, That the act entitled "An act providing for state taxes on railroads and the more efficient collection thereof," approved April thirteenth, one thousand eight hundred and seventy-six, and the supplement thereto approved April twenty-first, one thousand eight hundred and seventy-six, be, and the same hereby are repealed; *provided*, that this repealer shall not affect any pending judicial proceedings and shall not impair or prejudice any existing rights, liens or remedies for the collection of taxes imposed prior to the passage of this act.

2. *And be it enacted*, That this act shall take effect immediately.

