

MAINE STATE LEGISLATURE

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SEVENTY-FIFTH LEGISLATURE

SENATE

NO. 53

In Senate, Feb. 1, 1911.

*Laid on table for printing on motion by Mr. Staples of Knox
pending reference to a committee.*

W. C. HANSON, Secretary.

STATE OF MAINE

IN THE YEAR OF OUR LORD ONE THOUSAND NINE
HUNDRED AND ELEVEN.

AN ACT for the taxation of Steam Railroads according to
their actual value.

Be it enacted by the People of the State of Maine, as follows:

Section 1. The State board of assessors shall assess all
2 railroad property for the purpose of taxation according to
3 their value, and as such shall make an annual assessment
4 of the property of all railroad companies within this State
5 for the purposes of levying and collecting taxes thereon as
6 hereinafter provided.

(1) Any person, association, company or corporation
8 owning and operating a railroad, or owning and operating
9 any station, depot, track, terminal or bridge for railroad
10 purposes, as owner, lessee, or otherwise, shall be deemed
11 a railroad company within the meaning of this act.

(2) The term "property of a railroad company" as used
13 in this act, shall include all franchises, right of way, road-
14 bed, tracks, stations, terminals, rolling stock, equipment,
15 and all other real and personal property of such company,
16 used or employed in the operation of the railroad, or in con-
17 ducting its business, and shall include all title and interest
18 in such property as owner, lessee or otherwise. Real es-
19 tate not adjoining its tracks, stations or terminals, and real
20 estate not necessarily used in operating the railroad, is ex-
21 cepted and shall be subject to taxation like the property
22 of individuals.

(3) The railway companies operating a railroad in this
24 State shall be the representative of every title and inter-
25 est in the property of the railroad company as owner, lessee
26 or otherwise, and notice to the operating company shall be
27 notice to all interests in the railroad property for the pur-
28 poses of taxation. The assessment and taxation of the
29 property of a railroad company in the name of the owner,
30 lessee or operating company shall be deemed and held an
31 assessment and taxation of all the title and interest in such
32 property of every kind or nature.

(4) The term "general property of the State," shall be
34 deemed to include all the real and personal property ap-
35 pearing upon the assessment rolls and tax rolls throughout
36 the entire State, upon which the State, county and local
37 taxes are levied and collected.

Sect. 2. Powers of board; examination of records, books,
2 etc., may summon witnesses; compensation of witnesses :

The board shall have access to all books, papers, documents, statements or accounts on file, or of record in any of the departments of the State. It shall have like access to all books, papers, documents, statements, and accounts on file or of record in counties, towns, cities, villages and assessment districts; and the officers thereof shall in form prescribed by said board, make returns to it of all information which may be called for.

Said board shall have the power by a summons signed by a member of said board, and served in like manner as a subpoena issued from courts of record, to compel witnesses to attend, give evidence, and to produce books and papers.

Any member of the board, or the secretary thereof, is authorized to administer the oath to witness.

The attendance of any witness may be compelled by attachment issue by any court having seal, upon a proper showing that such witness has been duly served with the summons, and has refused to appear before said board. In case of the refusal of a witness to produce books, papers, documents or accounts, or to give evidence on matters material to the hearing, such refusal shall be reported to the attorney general, who shall thereupon institute proceedings in the supreme court to compel such witness to testify or produce books and papers, and to punish him for the refusal.

The person appearing before said board in obedience to the summons shall in the discretion of the board, receive

30 the same compensation as a witness in the supreme court,
31 to be audited by the secretary of State on the certificate of
32 a member of said board.

The records, books, accounts and papers of any person,
34 association, corporation, owning or operating railroad prop-
35 erty to be assessed shall be subject to the visitation, inspec-
36 tion, and examination of said board, or such person as it
37 may designate.

Sect. 3. The board in any matter material to the valua-
2 tion assessment or taxation, of the property of railroad
3 companies, may cause the deposition of witnesses residing
4 without the State, or absent therefrom, to be taken, upon
5 notice to the railroad company interested, in like manner
6 as the depositions of witnesses are taken in civil actions
7 pending in the supreme judicial court.

Sect. 4. Reports to be made by railroad companies:

Every railroad company operating a railroad in this State
3 shall annually between the first day of July and the first
4 day of September, in each year, under the oath of the
5 President or other chief officer, and the secretary, treas-
6 urer, auditor, or superintendent of such company, make
7 and file with the board in such form as said board may
8 prescribe, reports, containing the following facts:

(1) The name of the company.

(2) The nature of the company, whether a person, as-
11 sociation, company or corporation, and under the laws of
12 what state or county organized, the date of original organ-
13 ization, date of re-organization, consolidation, or merger,

14 with specific reference to laws authorizing the same.

(3) The location of its principal office.

(4) The name of the place where its books, papers and
17 accounts are kept.

(5) The name and postoffice address of the president,
19 secretary, treasurer, auditor, superintendent, general man-
20 ager, counsel, directors, and all other general officers.

(6) The name and postoffice address of the chief officer
22 or managing agent of the railroad company in Maine, and
23 of all other general officers residing in the State.

(7) The total number of shares of capital stock.

(8) The par value of the shares of the capital stock for
26 the whole system showing separately:

(I) Amount authorized.

(II) Amount issued.

(III) Amount outstanding.

(IV) Also the dividends paid thereon.

(9) The market value of the shares of capital stock for
32 the whole system, on the dates, and for the periods, the
33 board may request or specify.

(10) If such capital stock has no market value then the
35 actual value thereof, on the dates and for the periods desig-
36 nated by said board.

(11) The funded debt of the railroad company for the
38 whole system, and a detailed statement of all series of bonds,
39 debentures of other securities, forming a part of the fund-
40 ed debt at par value, with date of issue, maturity, rate
41 of interest and interest paid.

(12) The market value of each series of funded debt for
43 the whole system on the dates and for the periods desig-
44 nated by said board, and if the whole or a part of such
45 funded debt has no market value, then the actual value,
46 thereof for such dates and periods as said board may spe-
47 cify.

(13) Such general description of the real estate of the
49 railroad company owned or operated in Maine as would be
50 sufficient in a conveyance thereof, under a judicial decree
51 directing a sale for taxes to vest in the grantee all title and
52 interest in and to the said property.

(14) A like description of the personal property, includ-
54 ing moneys and credits held by the company as a whole
55 system and the part thereof apportioned to the line in
56 Maine.

(15) A statement in detail of all capital stock, bonds
58 or other securities of such railroad company owned by,
59 or held in trust, for the company, and the capital stock,
60 bonds or other securities of other persons companies or
61 corporations owned by, or held in trust for it, together
62 with the par value, and the market or actual value of the
63 same.

(16) The whole length of the lines of the railroad sys-
65 tem operated by the company, and the length of the lines
66 in Maine, whether operated as owner, lessee, or otherwise.
67 The length of the line owned, and the length of the line
68 operated for the whole system, and in Maine, shall be
69 separately reported.

(17) The entire gross earnings of the railroad company
71 from operating income from operation, and the income
72 from other sources, for the whole system, and in Maine, and
73 the disposition of such income.

(18) The entire gross earnings of such railroad company
75 in Maine for each and every month for each calendar year
76 ending on the thirty-first day of December.

(19) The annual reports of the board of directors or
78 other officers to the stockholders of the company, dupli-
79 cates of the annual reports commerce commission, to the
80 railroad commissioners of this State, and to the railroad
81 commissioners or State officers or boards of the other states
82 in or through which their lines are operated.

(20) Such other facts and information as said board may
84 require in the form of returns prescribed by it.

Blanks for making the above reports shall be furnished to
86 such companies by said board except for the copies of re-
87 ports required under the provisions of sub-division 19 of this
88 section.

In case any corporation refuses or neglects to make the
90 reports required by this act, or refuses or neglects to fur-
91 nish any information requested, the board shall inform itself
92 the best it may on the matters necessary to be known in or-
93 der to discharge its duties with respect to the valuation and
94 assessment of the property of such company.

Sect. 5. Liability for refusal to report.

If any railroad company, or its officers or agents, shall
3 refuse or neglect to make any reports required by this act,
4 or by said board; or shall refuse or neglect to permit an
5 inspection and examination of its records, books, accounts
6 or papers, when requested by said board, or shall refuse
7 or neglect to appear before the board in obedience to a
8 summons, such company shall be estopped to question or
9 impeach the action or determination of the board, upon
10 any grounds not affecting the substantial justice of the tax.

Sect. 6. Assessment, how and when made. Preliminary
2 hearing.

The board on or between the first day of September and
4 the first day of November in each year, according to their
5 best knowledge and judgment shall ascertain and determine
6 the true cash value of the property to each railroad company
7 within the State.

Every such company shall be entitled on its own motion
9 to a preliminary hearing, and to present evidence before
10 such board at any time on or between the first and fifteenth
11 days of September, relating to the value of the property of
12 such company, or to the value of the general property of
13 the State.

On request in writing for such hearing or presentation,
15 the board shall appoint a time and place therefor within
16 the period aforesaid; the same to be conducted in such
17 manner as the board shall direct.

Such preliminary hearing shall not impair or effect the
19 right to the further hearing provided for in section 10.

The value of the property of railroads for assessment
21 shall be made as of the same time, and in like manner,
22 as the value of the general property of the State is ascer-
23 tained and determined by the board.

The board shall prepare an assessment roll, and place
25 thereon after the name of each railroad company assessed,
26 the following general description of the property of such
27 railroad company, to wit: "Real estate, right of way,
28 tracks, stations, terminals, appurtenances, rolling stock,
29 equipment, franchises, and all other real estate and per-
30 sonal property of said company," which shall be deemed
31 and held to include the entire property and franchises of
32 such railroad company within the State, and all title and
33 interest therein.

For the purpose of determining the true cash value of
35 the property of each company appearing on the assessment
36 roll, the board may, if deemed necessary, view and inspect
37 the property of such company and shall consider the re-
38 ports filed in compliance with this act, and the reports and
39 returns of the company, filed in the office of any officer of
40 this State, and such other evidence or information as may
41 have been taken or obtained bearing upon the true cash
42 value of the property of the railroad company assessed.

In case of railroad companies which own or operate rail-
44 roads lying partly within and partly without the State, the

45 said board shall only value and assess the property within
46 this State.

In determining the value of the portion within the State
48 the board may take into consideration the value of the en-
49 tire system, the mileage of the whole system and of the
50 part within this State, together with such other informa-
51 tion, facts, and circumstances as will enable the board to
52 make a substantially just and correct determination.

When the true cash value of the property of a railroad
54 company within this State shall have been ascertained and
55 determined, the amount thereof shall be entered upon the
56 assessment roll opposite the name of the company, and shall
57 be, and constitute, the assessment of the entire property of
58 such railroad company within the State for the levy of
59 taxes thereon, subject to review and correction, as herein-
60 after provided.

The board shall thereupon give notice by mail to each
62 railroad company assessed, of the amount of its assess-
63 ment as entered upon such roll.

Sect. 7. State assessment. Duties of secretary.

When the State board of assessors shall have valued the
3 general property of the State, and completed the assess-
4 ment of said property subject to taxation pursuant to this
5 act, or any amendments thereof, and not later than the first
6 day of October in each year, the secretary of said State
7 board of assessors shall lay before said board the differ-
8 ent classes and value of said property set down in the list

9 opposite the name of each county, as fixed and determined
10 by the State board of assessors together with the assessed
11 valuation of all taxable property in each county, in the
12 form as returned by the county clerks to the secretary of
13 State, and all other statistics, returns, records, papers and
14 statements, which the State board of assessment considered
15 in determining the valuation of the general property of the
16 State, or which were used in compiling statistics, or tables.
17 for consideration of the State board of assessment.

Sect. 8. General property, how and when valued.

The board not later than the first day of November in
3 each year, from the information laid before the board by
4 the secretary of State, or the secretary of the State Board of
5 Assessment, statistics of the sales of real estate as returned
6 to the secretary of State by the Register of Deeds, and
7 the assessed value of said real estate, the returns of of-
8 ficers of the assessed value of all real and personal prop-
9 erty on the tax rolls in the State, and upon all the evidence,
10 proofs, statistics, and information obtainable from all avail-
11 able sources, shall, according to their best knowledge and
12 judgment, ascertain and determine the true cash value of
13 all the general property of the State, assessed and to be
14 taxed in the then present year, and shall enter upon its
15 records the aggregate true cash value of such property.

Sect. 9. Review of valuation of railroad property.

The board shall meet at the capitol at Augusta, on the
3 second Tuesday of November in each year, and continue

4 in session from day to day, unless adjourned for a longer
5 time, for such period as may be necessary, not later than
6 the fifteenth day of December following, for the purpose
7 of reviewing the valuation and assessment of railroad prop-
8 erty on the assessment roll, and the value of the general
9 property of the State.

Any railroad company interested shall have the right to
11 appear and be heard as to the value and assessment of the
12 property of such company and the tax to be levied thereon,
13 and as to the value of the general property of the State;
14 and the board may on such application or of its own mo-
15 tion, correct the valuation or assessment of such company
16 in such manner as will in its judgment make the valu-
17 ation thereof just and relatively equal with the valuation
18 of the general property of the State, and may correct the
19 valuation of the general property of the State.

The assessed value of the property of a railroad company
21 as it appears on the roll shall not be increased without no-
22 tice to the company by registered letter that such increase
23 is contemplated, and fixing the time for a hearing in rela-
24 tion thereto. The attorney general shall attend at such
25 hearings and represent the interests of the State.

Sect. 10. Aggregate of State and local taxes to be basis
2 of tax rate of railroad property.

The board on or between the first Monday in December
4 and the fifteenth day of January in each year, upon re-
5 turns from the secretary of State shall ascertain and de-

6 termine the aggregate tax in the whole state for state,
7 county, and local purposes, levied on the general property
8 of the State, including special assessments on property for
9 local improvements, and when the aggregate of all taxes,
10 state, county, and local, consolidated, is thus ascertained
11 and determined, the amount thereof shall be entered on
12 the records of the board.

The clerk of courts of each county in the State of Maine
14 shall transmit to the secretary of State on blanks fur-
15 nished him, the amount of taxable property in his county,
16 and the average rate of taxation in his county, on the first
17 day of May in each year.

Sect. 11. Average rate of taxation to be rate of taxa-
2 tion of railroad property; how determined.

From the aggregate true cash value of the general prop-
4 erty of the State, and the aggregate of taxes so determined
5 an entered on the records, the board shall compute and de-
6 termine the average rate of taxation, State, county and
7 local consolidate, by dividing the aggregate taxes by the
8 aggregate true cash value of the general property of the
9 state upon which said taxes were levied, which said rate
10 so arrived at and determined, shall be entered upon the
11 records of the board, and shall constitute the rate of tax-
12 ation on the true cash value of the property of the railroad
13 companies liable to taxation under this act.

Sect. 12. Assessment and tax roll; extension of tax
2 against railroad companies; duties of state treasurer; taxes,
3 when due.

The board shall compute and levy a tax upon the prop-
5 erty of each railroad company as assessed at the average
6 rate of taxation determined as aforesaid, and the amount
7 of tax to be paid by each railroad company shall be ex-
8 tended upon the assessment roll opposite the description
9 of the property of the respective companies.

After the completion of said tax roll, and prior to the
11 first day of February in each year, the board shall attach
12 thereto a certificate signed by the members of said board,
13 or a majority thereof, which shall be as follows:

We do hereby certify that the foregoing tax roll includes
15 the properties of all railroad companies liable to taxation
16 in this state; that the valuation of the property of each
17 railroad company as set down in said tax roll is the true
18 cash value thereof according to our best knowledge and
19 judgment, and that we have assessed and levied the taxes
20 thereon, charged in said tax roll, at the average rate of
21 taxation in this state as required by law.

The said tax roll shall thereupon forthwith be delivered
23 to the state treasurer, who shall immediately notify by reg-
24 istered mail the several railroad companies taxed therein
25 to pay the taxes extended thereon, to the state treasurer as
26 follows: One-half of the amount of such tax on or be-

27 fore the fifteenth day of February, and one-half on or be-
28 fore the tenth day of August, in each year.

The taxes extended against any railroad company after
30 the same becomé due, shall be a lien upon all the property
31 of such company prior to all other liens, claims, and de-
32 mands whatsoever, which lien may be enforced in any ac-
33 tion in the name of the state in any court of competent
34 jurisdiction against the property of such railroad company
35 within the state as an entirety.

Sect. 13. Taxes adjudged illegal; re-assessment.

In any tax levied under the provisions of this act shall
3 be adjudged illegal and non-enforcible, or shall be set aside
4 by any court of competent jurisdiction, on account of any
5 irregularity or informality in the determination of the value
6 of the property of railroads or the value of the general
7 property of the state or of the average rate of taxation
8 required to be ascertained and determined by the board
9 or for the reason that such average rate has not been ascer-
10 tained and determined according to law, it shall be the
11 duty of said board, whether any part of the taxes assessed
12 and levied have been paid or not, to forthwith re-ascertain
13 and re-determine the value of the property of railroad
14 companies, or the value of the general property of the state,
15 or the average rate of taxation throughout the state as
16 may be required; and when such re-ascertainment and
17 re-determination has been made, to make a duplicate of
18 the original assessment roll and to extend the taxes there-

19 on according to such re-assessment, and when such du-
20 plicate roll has been made and the taxes extended thereon
21 in the manner provided in this section, it shall be of the
22 same force and effect as an original assessment made in
23 accordance with law.

All proceedings for such re-assessment, and for the ex-
25 tension and collection of taxes upon such duplicate assess-
26 ment roll shall be conducted in the method originally pro-
27 vided for, as near as may be.

The power to re-assess the property of railroad companies
29 and the general property of the state, and to re-determine
30 the average rate of taxation, may be exercised as afore-
31 said, and as often as may be necessary until the amount
32 of taxes legally due from any such railroad company for
33 any year under the provisions of this act, has been finally
34 and definitely determined.

Whenever any sum or part thereof, levied upon any prop-
36 erty subject to taxation under this act so set aside has been
37 paid and not refunded, the payment so made shall be ap-
38 plied upon the re-assessment upon said property, and the
39 re-assessment of taxes to that extent shall be deemed to
40 be satisfied.

Sect. 14. Irregularities not to invalidate tax.

No tax assessed upon any of the general property of the
3 state and no average rate determined by said board as here-
4 in required, shall be held invalid on account of any assess-
5 ment, or tax roll, not having been made, or proceeding

6 had, within the time required by law, or on account of the
7 property having been assessed without the name of the
8 owner, or in the name of any corporation or person other
9 than the owner, or on account of any other irregularity, in-
10 formality or omission, if the method and manner of ascer-
11 taining and determining the average rate of taxation on
12 property in this state is in accordance with the constitution
13 and statutes of this State.

Sect. 15. Proceedings to be deemed regular; time im-
2 material.

The proceedings of the board shall be presumed to be
4 regular, and the determination of the board shall not be
5 impaired, vitiated, or set aside, upon any grounds not af-
6 fecting the substantial justice of the tax.

The provisions in this act prescribing a date or period at
8 or within which an act shall be performed, or determina-
9 tion shall be made, by the board, shall be deemed directory
10 only; and no failure to perform any such act, or make
11 such determination, at or within the time prescribed there-
12 for, shall effect the validity of such act or of any determina-
13 tion made by the board, unless it shall appear that sub-
14 stantial injustice has resulted therefrom.

Sect. 16. Action to set aside or restrain collection of
2 tax; condition of granting injunction.

In any action, suit or proceeding, brought by such com-
4 pany, or any creditor, stockholder or bondholder thereof,
5 to set aside, restrain or postpone, the payment or collection

6 of any tax levied upon the property of the railroad com-
7 pany, no injunction, order or writ to enjoin or restrain
8 the payment or collection of the tax, shall issue, or be
9 continued in force, unless said company shall pay to the
10 state treasurer for the use of the state the amount of taxes
11 which the court shall determine primarily to be justly and
12 equitable due from such company. Such primary deter-
13 mination shall be made by the court in which the action,
14 suit or proceeding, is pending, upon motion, summarily
15 and without delay.

In case the amount of tax justly and equitable due from
17 such company shall be finally determined to be less than
18 the amount so paid, the excess shall be refunded to such
19 company by direction of the court, and for that purpose the
20 secretary of state upon the filing in his office of a certified
21 copy of such final determination, shall draw a warrant up-
22 on the state treasurer for the amount to be so refunded.

Sect. 17. Action to recover illegal tax; limitation of;
2 attorney general to appear for state.

Any railroad company claiming to be aggrieved by the
4 levy of a tax upon its property, and alleging facts showing
5 substantial injustice in the determination of the board, may,
6 within six months from the payment of the tax, and not
7 thereafter, bring and maintain an action against the state
8 in the circuit court to recover such part of the tax as shall
9 exceed the amount the company should have paid.

The state may be served with a summons in such action
11 by delivering a copy to the attorney general, or leaving it
12 at his office in the capitol with one of his assistants. The
13 attorney general shall appear and defend the action in be-
14 half of the state.

Sect. 18. If any such railroad company operating any
2 such railroad in this State shall neglect to pay the tax as-
3 sessed and levied upon its property or any part thereof as
4 herein provided, such company shall absolutely forfeit to
5 the state a sum equal to ten per centum of the taxes so neg-
6 lected to be paid, to be recovered in an action brought in
7 the name of the state; and such neglect shall also be a
8 cause of forfeiture of all the rights, privileges and fran-
9 chises, whether granted by special charter or obtained un-
10 der general laws, by and under which any such railroad
11 company is operated. And the attorney general, upon such
12 neglect, shall collect by action the pecuniary forfeiture here-
13 in imposed, and shall also proceed to have forfeiture of such
14 rights, privileges and franchises, duly declared.

Any such company at any time before the final judgment
16 of forfeiture of such rights, privileges and franchises, is
17 rendered, may be permitted to make payment of the taxes
18 herein provided for upon special application to the court
19 in which the action to declare such forfeiture is pending
20 upon such terms as the court shall direct.

If any action is commenced by any railroad company to
22 set aside the tax and enjoin the collection thereof, the for-

23 feitures herein provided shall not occur and become effec-
24 tive until sixty days after entry of final judgment.

Sect. 19. The first assessment of the property of rail-
2 road companies under this act shall be commenced in the
3 year 1905, and be completed in the year 1906, and shall
4 be known as the assessment of 1905; and the second as-
5 sessment of the property of railroad companies under this
6 act shall be commenced in the year 1906 and completed in
7 the year 1907, and shall be known as the assessment of
8 1906.

Sect. 20. The board of State assessors shall be entitled
2 to a clerk, whose salary shall be fifteen hundred dollars a
3 year, and he shall be appointed by the governor or the
4 state.

Sect. 21. All acts and laws formerly enacted inconsistent
2 with this act are hereby repealed.

This act to take effect when approved.