

MAINE STATE LEGISLATURE

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SEVENTY-SECOND LEGISLATURE

SENATE.

No. 3

STATE OF MAINE.

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

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

*Be it enacted by the Senate and House of Representatives in
Legislature assembled, 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 of
4 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 pur-
10 poses, as owner, lessee, or otherwise, shall be deemed a rail-
11 road company within the meaning of this act.

(2) The term "property of a railroad company" as used in
13 this act, shall include all franchises, right of way, roadbed,
14 tracks, stations, terminals, rolling stock, equipment, and all

15 other real and personal property of such company, used or
16 employed in the operation of the railroad, or in conducting
17 its business, and shall include all title and interest in such
18 property as owner, lessee or otherwise. Real estate not
19 adjoining its tracks, stations or terminals, and real estate not
20 necessarily used in operating the railroad, is excepted and
21 shall be subject to taxation like the property of individuals.

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

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

(5) Street railways are included in this act.

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

Said board shall have the power by a summons signed by a
12 member of said board, and served in like manner as a sub-

13 poena issued from courts of record, to compel witnesses to
14 attend, give evidence, and to produce books and papers.

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

The attendance of any witness may be compelled by attach-
18 ment issued by any court having a seal, upon a proper show-
19 ing that such witness has been duly served with the sum-
20 mons, and has refused to appear before said board. In case
21 of the refusal of a witness to produce books, papers, docu-
22 ments or accounts, or to give evidence on matters material to
23 the hearing, such refusal shall be reported to the attorney
24 general, who shall thereupon institute proceedings in the
25 supreme court to compel such witness to testify or produce
26 books and papers, and to punish him for the refusal.

The person serving such summons shall receive the same
28 compensation as now allowed to sheriffs or other officers, for
29 serving subpoenas.

The person appearing before said board in obedience to the
31 summons shall in the discretion of the board, receive the
32 same compensation as a witness in the supreme court, to be
33 audited by the secretary of State on the certificate of a mem-
34 ber of said board.

The records, books, accounts and papers of any person,
36 association or corporation, owning or operating railroad
37 property to be assessed shall be subject to the visitation,
38 inspection, and examination of said board, or such person as
39 it may designate.

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

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

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

(1) The name of the company.

(2) The nature of the company, whether a person, association, company or corporation, and under the laws of what state or county organized, the date of original organization, date of re-organization, consolidation or merger, 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 accounts are kept.

(5) The name and postoffice address of the president, secretary, treasurer, auditor, superintendent, general manager, counsel, directors, and all other general officers.

(6) The name and postoffice address of the chief officer or managing agent of the railroad company in Maine, and 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 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 the whole system, on the dates, and for the periods, the 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 funded
40 debt at par value, with date of issue, maturity, rate of inter-
41 est 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 designated
44 by said board, and if the whole or a part of such funded debt
45 has no market value, then the actual value thereof for such
46 dates and periods as said board may specify.

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

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

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

(16) The whole length of the lines of the railroad system
62 operated by the company, and the length of the lines in
63 Maine, whether operated as owner, lessee, or otherwise. The
64 length of the line owned, and the length of the line operated
65 for the whole system, and in Maine, shall be separately
66 reported.

(17) The entire gross earnings of the railroad company
68 from operation, income from operation, and the income from
69 other sources, for the whole system, and in Maine, and the
70 disposition of such income.

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

(19) The annual reports of the board of directors or other
75 officers to the stockholders of the company, duplicates of the
76 annual reports commerce commission, to the railroad com-
77 missioners of this State, and to the railroad commissioners
78 or State officers or boards of the other states in or through
79 which their lines are operated.

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

Blanks for making the above reports shall be furnished to
83 such companies by said board except for the copies of reports
84 required under the provisions of sub-division 19 of this sec-
85 tion.

In case any corporation refuses or neglects to make the
87 reports required by this act, or refuses or neglects to furnish
88 any information requested, the board shall inform itself the
89 best it may on the matters necessary to be known in order to
90 discharge its duties with respect to the valuation and assess-
91 ment 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, or
4 by said board; or shall refuse or neglect to permit an inspec-
5 tion and examination of its records, books, accounts or
6 papers, when requested by said board; or shall refuse or
7 neglect to appear before the board in obedience to a sum-
8 mons, such company shall be estopped to question or impeach
9 the action or determination of the board, upon any grounds
10 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 the
4 first day of November in each year, according to their best
5 knowledge and judgment shall ascertain and determine the
6 true cash value of the property to each railroad company
7 within the State.

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

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

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

The value of the property of railroads for assessment shall
20 be made as of the same time, and in like manner, as the value
21 of the general property of the State is ascertained and deter-
22 mined by the board.

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

For the purpose of determining the true cash value of the
33 property of each company appearing on the assessment roll,
34 the board may, if deemed necessary, view and inspect the
35 property of such company, and shall consider the reports filed

36 in compliance with this act, and the reports and returns of the
37 company filed in the office of any officer of this State, and
38 such other evidence or information as may have been taken or
39 obtained bearing upon the true cash value of the property of
40 the railroad company assessed.

In case of railroad companies which own or operate rail-
42 roads lying partly within and partly without the State, the
43 said board shall only value and assess the property within this
44 State.

In determining the value of the portion within the State the
46 board may take into consideration the value of the entire sys-
47 tem, the mileage of the whole system and of the part within
48 this State, together with such other information, facts and cir-
49 cumstances as will enable the board to make a substantially
50 just and correct determination.

When the true cash value of the property of a railroad com-
52 pany within this State shall have been ascertained and deter-
53 mined, the amount thereof shall be entered upon the assess-
54 ment roll opposite the name of the company, and shall be, and
55 constitute, the assessment of the entire property of such rail-
56 road company within the State for the levy of taxes thereon,
57 subject to review and correction, as hereinafter provided.

The board shall thereupon give notice by mail to each rail-
59 road company assessed, of the amount of its assessment as
60 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 assessment
4 of said property subject to taxation pursuant to this act, or
5 any amendments thereof, and not later than the first day of
6 October in each year, the secretary of said State board of
7 assessors shall lay before said board the different classes and
8 value of said property set down in the list opposite the name
9 of each county, as fixed and determined by the State board of

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

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

The board not later than the first day of November in each
3 year, from the information laid before the board by the sec-
4 retary of State, or the secretary of the State board of assess-
5 ment, statistics of the sales of real estate as returned to the
6 secretary of State by the register of deeds, and the assessed
7 value of said real estate, the returns of officers of the assessed
8 value of said real estate, the returns of officers of the assessed
8 value of all real and personal property on the tax rolls in the
9 State, and upon all the evidence, proofs, statistics, and infor-
10 mation obtainable from all available sources, shall, according
11 to their best knowledge and judgment, ascertain and deter-
12 mine the true cash value of all the general property of the
13 State, assessed and to be taxed in the then present year, and
14 shall enter upon its records the aggregate true cash value of
15 such property.

Sect. 9. Review of valuation of railroad property.

The board shall meet at the capitol at Augusta, on the sec-
3 ond Tuesday of November in each year, and continue in
4 session from day to day, unless adjourned for a longer time,
5 for such period as may be necessary, not later than the
6 fifteenth day of December following, for the purpose of
7 reviewing the valuation and assessment of railroad property
8 on the assessment roll, and the value of the general property
9 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; and
14 the board may on such application or of its own motion, cor-
15 rect the valuation or assessment of such company in such
16 manner as will in its judgment make the valuation thereof
17 just and relatively equal with the valuation of the general
18 property of the State, and may correct the valuation of the
19 general property of the State.

The assessed value of the property of a railroad company as
21 it appears on the roll shall not be increased without notice to
22 the company by registered letter that such increase is con-
23 templated, and fixing the time for a hearing in relation there-
24 to. The attorney general shall attend at such hearings and
25 represent the interests of the State.

Sect. 10. Aggregate of State and local taxes to be basis of
2 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 returns
5 from the secretary of State, shall ascertain and determine
6 the aggregate tax in the whole state for state, county, and
7 local purposes, levied on the general property of the State,
8 including special assessments on property for local improve-
9 ments, and when the aggregate of all taxes, state, county,
10 and local, consolidated, is thus ascertained and determined,
11 the amount thereof shall be entered on the records of the
12 board.

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

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

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

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

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

After the completion of said tax roll, and prior to the first
11 day of February in each year, the board shall attach thereto
12 a certificate signed by the members of said board, or a
13 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 in
16 this state; that the valuation of the property of each railroad
17 company as set down in said tax roll is the true cash value
18 thereof according to our best knowledge and judgment, and
19 that we have assessed and levied the taxes thereon, charged
20 in said tax roll, at the average rate of taxation in this state
21 as required by law.

The said tax roll shall thereupon forthwith be delivered to
23 the state treasurer, who shall immediately notify by regis-

24 tered mail the several railroad companies taxed therein to
25 pay the taxes extended thereon, to the state treasurer as fol-
26 lows: One-half of the amount of such tax on or before the
27 fifteenth day of February, and one-half on or before the tenth
28 day of August in each year.

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

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

If any tax levied under the provisions of this act shall be
3 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 prop-
7 erty of the state or of the average rate of taxation required
8 to be ascertained and determined by the board or for the
9 reason that such average rate has not been ascertained and
10 determined according to law, it shall be the duty of said
11 board, whether any part of the taxes assessed and levied
12 have been paid or not, to forthwith re-ascertain and re-deter-
13 mine the value of the property of railroad companies, or the
14 value of the general property of the state, or the average
15 rate of taxation throughout the state as may be required;
16 and when such re-ascertainment and re-determination has
17 been made, to make a duplicate of the original assessment
18 roll and to extend the taxes thereon according to such re-as-
19 sessment, and when such duplicate roll has been made and
20 the taxes extended thereon in the manner provided in this
21 section, it shall be of the same force and effect as an original
22 assessment made in accordance with law.

All proceedings for such re-assessment, and for the extension and collection of taxes upon such duplicate assessment roll shall be conducted in the method originally provided for, as near as may be.

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

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

Sect. 14. Irregularities not to invalidate tax.

No tax assessed upon any of the general property of the state and no average rate determined by said board as herein required, shall be held invalid on account of any assessment, or tax roll, not having been made, or proceeding had, within the time required by law, or on account of the property having been assessed without the name of the owner, or in the name of any corporation or person other than the owner, or on account of any other irregularity, informality or omission, if the method and manner of ascertaining and determining the average rate of taxation on property in this state is in accordance with the constitution and Statutes of this State.

Sect. 15. Proceedings to be deemed regular ; time immaterial.

The proceedings of the board shall be presumed to be regular, and the determination of the board shall not be impaired, vitiated, or set aside, upon any grounds not affecting the substantial justice of the tax.

The provisions in this act prescribing a date or period at or
7 within which an act shall be performed, or determination
8 shall be made, by the board, shall be deemed directory only :
9 and no failure to perform any such act, or make such deter-
10 mination, at or within the time prescribed therefor, shall
11 effect the validity of such act or of any determination made
12 by the board, unless it shall appear that substantial injustice
13 has resulted therefrom.

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

In any action, suit or proceeding, brought by such company,
4 or any creditor, stockholder or bondholder thereof, to set
5 aside, restrain or postpone, the payment or collection of any
6 tax levied upon the property of the railroad company, no
7 injunction, order or writ to enjoin or restrain the pay-
8 ment or collection of the tax, shall issue, or be continued in
9 force, unless said company shall pay to the state treasurer
10 for the use of the state the amount of taxes which the court
11 shall determine primarily to be justly and equitable due
12 from such company. Such primary determination shall be
13 made by the court in which the action, suit or proceeding, is
14 pending, upon motion, summarily and without delay.

In case the amount of tax justly and equitably due from
16 such company shall be finally determined to be less than the
17 amount so paid, the excess shall be refunded to such com-
18 pany by direction of the court, and for that purpose the sec-
19 retary of state upon the filing in his office of a certified copy
20 of such final determination, shall draw a warrant upon the
21 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 levy
4 of a tax upon its property, and alleging facts showing sub-
5 stantial 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 in
8 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 by
11 delivering a copy to the attorney general, or leaving it at
12 his office in the capitol with one of his assistants. The
13 attorney general shall appear and defend the action in behalf
14 of the state.

Sect. 18. If any such railroad company operating any such
2 railroad in this State, shall neglect to pay the tax assessed
3 and levied upon its property or any part thereof as herein
4 provided, such company shall absolutely forfeit to the state
5 a sum equal to ten per centum of the taxes so neglected to be
6 paid, to be recovered in an action brought in the name of the
7 state; and such neglect shall also be a cause of forfeiture of
8 all the rights, privileges and franchises, whether granted by
9 special charter or obtained under general laws, by and under
10 which any such railroad company is operated. And the
11 attorney general, upon such neglect, shall collect by action
12 the pecuniary forfeiture herein imposed, and shall also pro-
13 ceed to have forfeiture of such rights, privileges and fran-
14 chises, 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 in
19 which the action to declare such forfeiture is pending upon
20 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 effective
24 until sixty days after entry of final judgment.

Sect. 19. The first assessment of the property of railroad
2 companies under this act shall be commenced in the year 1905,

3 and be completed in the year 1906, and shall be known as the
4 assessment of 1905; and the second assessment of the prop-
5 erty of railroad companies under this act shall be commenced
6 in the year 1906 and completed in the year 1907, and shall be
7 known as the assessment of 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 of the State.

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

This act to take effect when approved.

STATE OF MAINE.

IN SENATE, January 11, 1905.

Presented by Mr. STAPLES of Knox, and on motion by same Senator
laid on table to be printed, pending reference.

KENDALL M. DUNBAR, *Secretary.*