

No. 249, S.]

[Published May 19, 1903.]

CHAPTER 314.

AN ACT to appropriate to Emily Denton Smith the sum of money therein named.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

Purpose of appropriation. SECTION 1. There is hereby appropriated out of any moneys in the general fund of the state treasury not otherwise appropriated, the sum of two thousand dollars to Emily Denton Smith, the widow of George Waldo Smith, who, while in the employ of the state in the month of September, 1899, met his death, without fault or negligence on his part, by falling from the balcony of the assembly chamber to the floor beneath, while decorating the dome.

SECTION 2. This act shall take effect and be in force from and after its passage and publication:

Approved May 15, 1903.

No. 600, A.]

[Published May 28, 1903.]

CHAPTER 315.

AN ACT, to provide for the taxation of railroad companies and making an appropriation therefor.

The people of the state of Wisconsin represented in senate and assembly do enact as follows:

Tax commission and assistants constituted state board of assessment; secretary. SECTION 1. That the commissioner of taxation, the first assistant commissioner of taxation and the second assistant commissioner of taxation shall be ex-officio a state board of assessment and as such shall make an annual as-

assessment of the property of all railroad companies within this state for the purpose of levying and collecting taxes thereon as hereinafter provided. The secretary of the commissioner of taxation shall be secretary of the board.

Definitions and construction. SECTION 2. For the purposes of this act the following provisions and definitions are made:

1. The term "board" in this act, without other designation, means the state board of assessment hereby created for the assessment and taxation of the property of railroad companies.

2. Any person, association, company or corporation owning and operating a railroad, or operating a railroad in this state, or owning or operating any station, depot, track, terminal or bridge for railroad purposes as owner, lessee or otherwise, shall be deemed a railroad company within the meaning of this act.

3. The term "property of a railroad company," as used in this act, shall include all franchises, right of way, roadbed, tracks, stations, terminals, rolling stock, equipment and all other real and personal property of such company used or employed in the operation of the railroad or in conducting its business, and shall include all title and interest in such property as owner, lessee or otherwise. Real estate not adjoining its tracks, stations or terminals, and real estate not necessarily used in operating the railroad, is excepted and shall be subject to taxation like the property of individuals.

4. The railway company operating a railroad in this state shall be the representative of every title and interest in the property of the railroad company as owner, lessee or otherwise, and notice to the operating company shall be notice to all interests in the railroad property for the purpose of taxation. The assessment and taxation of the property of a railroad company in the name of the owner, lessee or operating company shall be deemed and held an assessment and taxation of all the title and interest in such property of every kind or nature.

5. The term "general property of the state" shall be deemed to include all the real and personal property appearing upon the assessment rolls and tax rolls throughout the entire state upon which the state, county and local taxes are levied and collected.

6. Street railways are excluded from the operation of this act.

Powers of board; examination of records, books, etc.; may summon witnesses; compensation of witnesses. SECTION 3. 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 witnesses. The attendance of any witness may be compelled by attachment issued by any circuit court 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 proper circuit court to compel such witness to testify or produce books and papers and to punish him for the refusal. The person serving such summons shall receive the same compensation as now allowed to sheriffs or other officers for serving subpoenas. The person appearing before said board in obedience to the summons shall in the discretion of the board, receive the same compensation as a witness in the circuit court, to be audited by the secretary of state on the certificate of a member of said board. The records, books, accounts and papers of any person, association or corporation, owning or operating railroad property to be assessed shall be subject to the visitation, inspection and examination by said board or such person as it may designate.

Depositions outside state. SECTION 4. The board in any matter material to the valuation, assessment or taxation of the property of railroad companies may cause the deposition of witnesses residing without the state or absent therefrom to be taken, upon notice to the railroad company interested, in like mode as the depositions of witnesses are taken in civil actions pending in the circuit court.

Reports to be made by railroad companies. SECTION 5. 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 country 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 Wisconsin 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, the actual value on the dates and for the periods designated by said board.
11. The funded debt of the railroad company for the whole system, and a detailed statement of all series of bonds, debentures or other securities, forming a part of the funded debt at par value, with date of issue, maturity, rate of interest and interest paid.
12. The market value of each series of funded debt for the whole system on the dates and for the periods designated by said board, and if the whole or a part of such funded debt has no market value then the actual value thereof for such dates and periods as said board may specify.
13. Such general description of the real estate of the railroad company owned or operated in Wisconsin as would be sufficient in a conveyance thereof, under a judicial decree, directing a sale for taxes to vest in the grantee all title and interest in and to the said property.
14. A like description of the personal property, including

moneys and credits held by the company as a whole system and the part thereof apportioned to the line in Wisconsin.

15. A statement in detail of all capital stock, bonds or other securities of such railroad company owned by, or held in trust, for the company and the capital stock, bonds or other securities of other persons, companies or corporations owned by, or held in trust for it, and the par value and the market or actual value of the same.

16. The whole length of the lines of the railroad system operated by the company and the length of the lines in Wisconsin, whether operated as owner, lessee or otherwise. The length of the line owned and the length of the line operated for the whole system, and in Wisconsin, shall be separately reported.

17. The entire gross earnings of the railroad company from operation, income from operation and the income from other sources, for the whole system, and in Wisconsin, and the disposition made of such income.

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

19. The annual reports of the board of directors or other officers to the stockholders of the company, duplicates of the annual reports made to the interstate commerce commission, to the railroad commissioner of this state and to the railroad commissioners or state officers or boards of the other states in or through which their lines are operated.

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

Blanks for making the above reports shall be furnished to such companies by said board except for the copies of reports required under the provisions of subdivision 19 of this section.

In case any company refuses or neglects to make the reports required by this act, or refuses or neglects to furnish any information requested, the board shall inform itself the best it may on the matters necessary to be known in order to discharge its duties with respect to the valuation and assessment of the property of such company.

Liability for refusal to report. SECTION 6. If any railroad company or its officers or agents shall refuse or neglect to make any reports required by this act or said board, or shall refuse or neglect to permit an inspection and examination of its records, books, accounts or papers when requested by said board, or shall refuse or neglect to appear before the board in obedience to a

summons, such company shall be estopped to question or impeach the action or determination of the board upon any grounds not affecting the substantial justice of the tax.

Assessment, how and when made; preliminary hearing. SECTION 7. The board on or between the first day of September and the first day of November in each year, according to their best knowledge and judgment shall ascertain and determine the true cash value of the property of each railroad company within the state. Every such company shall be entitled on its own motion to a preliminary hearing and to present evidence before such board at any time on or between the first and fifteenth days of September, relating to the value of the property of such company, or to the value of the general property of the state. On request in writing for such hearing or presentation the board shall appoint a time and place therefor within the period aforesaid; the same to be conducted in such manner as the board shall direct. Such preliminary hearing shall not impair or affect the right to the further hearing provided for in section 10. The value of the property of railroads for assessment shall be made as of the same time, and in like manner, as the value of the general property of the state is ascertained and determined by the board. The board shall prepare an assessment roll and place thereon after the name of each railroad company assessed, the following general description of the property of such railroad company, to-wit: "Real estate, right of way, tracks, stations, terminals, appurtenances, rolling stock, equipment, franchises and all other real estate and personal property of said company," which shall be deemed and held to include the entire property and franchises of such railroad company within the state, and all title and interest therein. For the purpose of determining the true cash value of the property of each company, appearing on the assessment roll, the board may, if deemed necessary, view and inspect the property of such company and shall consider the reports filed in compliance with this act, and the reports and returns of the company filed in the office of any officer of this state, and such other evidence or information as may have been taken or obtained bearing upon the true cash value of the property of the railroad company assessed. In case of railroad companies which own or operate railroads lying partly within and partly without the state, the said board shall only value and assess the property within this state. In determining the value of the portion within the state the board may take into consideration the value of the entire system, the mileage of the whole system and of the

part within this state, together with such other information, facts and circumstances as will enable the board to make a substantially just and correct determination. When the true cash value of the property of a railroad company within this state shall have been ascertained and determined the amount thereof shall be entered upon the assessment roll opposite the name of the company and shall be, and constitute, the assessment of the entire property of such railroad company within this state for the levy of taxes thereon, subject to review and correction, as hereinafter provided. The board shall thereupon give notice by mail to each railroad company assessed of the amount of its assessment as entered upon such roll.

State assessment; duties of secretary. SECTION 8. When the state board of assessment shall have valued the general property of the state and completed the assessment of said property subject to taxation pursuant to chapter 237, laws of 1901, or any amendments thereof, and not later than the first day of October in each year, the secretary of said state board of assessment shall lay before said board the different classes and value of said property set down in the list opposite the name of each county, as fixed and determined by the state board of assessment, together with the assessed valuation of all taxable property in each county, in the form as returned by the county clerks to the secretary of state, and all other statistics, returns, records, papers, and statements, which the state board of assessment considered in determining the valuation of the general property of the state or which were used in compiling statistics, or tables for consideration of the state board of assessment.

General property, how and when valued. SECTION 9. The board not later than the first day of November in each year from the information laid before the board by the secretary of state or the secretary of the state board of assessment, statistics of the sales of real estate as returned to the secretary of state by the registers of deeds and the assessed value of said real estate, the returns of officers of the assessed value of said real estate, the returns of officers of the assessed value of all real and personal property on the tax rolls in the state, and upon all the evidence, proofs, statistics and information obtainable from all available sources, shall, according to their best knowledge and judgment, ascertain and determine the true cash value of all the general property of the state, assessed and to be taxed in the then present year, and shall enter upon its records the aggregate true cash value of such property.

Review of valuation of railroad property; hearing. SECTION 10. The board shall meet at the capitol at Madison on the second Tuesday of November in each year and continue in session from day to day, unless adjourned for a longer time, for such period as may be necessary, not later than the fifteenth day of December following, for the purpose of reviewing the valuation and assessment of railroad property on the assessment roll, and the value of the general property of the state. Any railroad company interested shall have the right to appear and be heard as to the value and assessment of the property of such company and the tax to be levied thereon, and as to the value of the general property of the state, and the board may on such application or of its own motion correct the valuation or assessment of such company in such manner as will in its judgment make the valuation thereof just and relatively equal with the valuation of the general property of the state, and may correct the valuation of the general property of the state. The assessed value of the property of a railroad company as it appears on the roll shall not be increased without notice to the company by registered letter that such increase is contemplated, and fixing the time for a hearing in relation thereto. The attorney general shall attend at such hearings and represent the interest of the state.

Aggregate of state and local taxes to be basis of tax rate of railroad property. SECTION 11. The board on or between the first Monday in December and the fifteenth day of January in each year upon returns from the secretary of state, or from county, town, city and village officers or both, shall ascertain and determine the aggregate tax in the whole state for state, county and local purposes levied on the general property of the state, excluding special assessments on property for local improvements, and when the aggregate of all taxes, state, county and local consolidated, is thus ascertained and determined, the amount thereof shall be entered on the records of the board.

Secretary of state to secure statistics of local assessments, taxes, etc. SECTION 12. Section 1005, statutes of 1898, is hereby amended so as to read as follows: Section 1005. The county clerk of each county shall, immediately upon the receipt from the secretary of state of the blanks and instructions necessary for carrying out the provisions of chapter 46, statutes of 1898, by town, village and city officers, distribute the same to such officers at the expense of the county, and shall annually, between the second Monday in December and the fourth Mon-

day thereof, make out and transmit to the secretary of state, on blanks furnished by him, a tabular statement of the statistics of valuation, taxes and indebtedness reported by the town, city and village clerks; and also, separately, the assessed valuation of all the taxable property in his county as last fixed by the county board, the amount of all county taxes levied thereon during the preceding year, and the purposes for which the same were levied and expended; and also a detailed statement of the bonded and other indebtedness of his county, of the accrued interest thereon, if any, remaining unpaid, and the purposes for which such indebtedness was incurred.

Defective returns; duties of local officers; penalties. SECTION 13. When the officers of any town, city or village shall have failed to return the amount of state, county and local taxes levied on property therein within the time required by law, the said board may inspect and examine, or cause an inspection and examination of the records of such officers to procure the required information and when no return is made and no information can be procured, the state, county and local taxes levied in such town, city or village in the prior year may be used in determining the aggregate taxes mentioned in section 11. Any county, town, city or village officer who shall fail to make the report or reports required by this act, shall be subject to a penalty of not less than twenty-five dollars nor more than one hundred and fifty dollars, to be recovered in a proper action in the name of the state of Wisconsin in any court of competent jurisdiction.

Average rate of taxation to be rate of taxation of railroad property; how determined. SECTION 14. From the aggregate true cash value of the general property of the state and the aggregate of taxes so determined and entered on the records, the board shall compute and determine the average rate of taxation, state, county and local consolidated, by dividing the aggregate taxes by the aggregate true cash value of the general property of the state upon which said taxes were levied, which said rate so arrived at and determined shall be entered upon the records of the board and shall constitute the rate of taxation on the true cash value of the property of the railroad companies liable to taxation under this act.

Assessment and tax roll; extension of tax against railroad companies; duties of state treasurer; taxes, when due. SECTION 15. The board shall compute and levy a tax upon the prop-

erty of each railroad company as assessed at the average rate of taxation determined as aforesaid, and the amount of tax to be paid by each railroad company shall be extended upon the assessment roll opposite the description of the property of the respective companies. After the completion of said tax roll, and prior to the first day of February in each year except for the years 1904 and 1905, the board shall attach thereto a certificate signed by the members of said board, or a majority thereof, which shall be as follows:

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

The said tax roll shall thereupon forthwith be delivered to the state treasurer, who shall immediately notify by registered mail the several railroad companies taxed therein to pay the taxes extended thereon, to the state treasurer as follows: One-half of the amount of such tax on or before the fifteenth day of February and one-half on or before the tenth day of August in each year. The taxes extended against any railroad company after the same become due, shall be a lien upon all the property of such company prior to all other liens, claims and demands whatsoever, which lien may be enforced in an action in the name of the state in any court of competent jurisdiction against the property of such railroad company within the state as an entirety.

Taxes adjudged illegal; re-assessment. SECTION 16. If any tax levied under the provisions of this act shall be adjudged illegal and non-enforceable, or shall be set aside by any court of competent jurisdiction, on account of any irregularity or informality in the determination of the value of the property of railroads or the value of the general property of the state or of the average rate of taxation required to be ascertained and determined by the board or for the reason that such average rate has not been ascertained and determined according to law, it shall be the duty of said board, whether any part of the taxes assessed and levied have been paid or not, to forthwith reascertain and re-determine the value of the property of railroad companies or the value of the general property of the state or the average rate of taxation throughout the state as may be re-

quired; and when such reascertainment and redetermination has been made, to make a duplicate of the original assessment roll and to extend the taxes thereon according to such reassessment and when such duplicate roll has been made and the taxes extended thereon in the manner provided in this section, it shall be of the same force and effect as an original assessment made in accordance with law. All proceedings for such reassessment 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 reassess the property of railroad companies and the general property of the state, and to redetermine 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 reassessment upon said property and the reassessment of taxes to that extent shall be deemed to be satisfied.

Irregularities not to invalidate tax. SECTION 17. 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.

Proceedings to be deemed regular; time immaterial. SECTION 18. 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 within which an act shall be performed or determination shall be made by the board shall be deemed directory only, and no failure to perform any such act or make such determination at or within the time prescribed therefor shall affect the valid-

ity of such act or of any determination made by the board, unless it shall appear that substantial injustice has resulted therefrom.

Action to set aside or restrain collection of tax; condition of granting injunction. SECTION 19. In any action, suit or proceeding brought by such company, or any creditor, stockholder or bondholder thereof, to set aside, restrain or postpone the payment or collection of any tax levied upon the property of the railroad company, no injunction, order or writ to enjoin or restrain the payment or collection of the tax shall issue, or be continued in force, unless said company shall pay to the state treasurer for the use of the state the amount of taxes which the court shall determine primarily to be justly and equitably due from such company. Such primary determination shall be made by the court in which the action, suit or proceeding is pending, upon motion, summarily and without delay.

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

Action to recover illegal tax; limitation of; attorney general to appear for state. SECTION 20. Any railroad company claiming to be aggrieved by the levy of a tax upon its property, and alleging facts showing substantial injustice in the determination of the board, may within six months from the payment of the tax, and not thereafter, bring and maintain an action against the state in the circuit court to recover such part of the tax as shall exceed the amount the company should have paid. The state may be served with a summons in such action by delivering a copy to the attorney general or leaving it at his office in the capitol with one of his assistants. The attorney general shall appear and defend the action in behalf of the state.

Forfeiture for failure to pay tax. SECTION 21. Section 1214 of the statutes of 1898 is hereby amended to read as follows:

Section 1214. If any such railroad company operating any such railroad in this state, shall neglect to pay the tax assessed

and levied upon its property or any part thereof as herein provided, such company shall absolutely forfeit to the state a sum equal to ten per centum of the taxes so neglected to be paid, to be recovered in an action brought in the name of the state; and such neglect shall also be a cause of forfeiture of all the rights, privileges and franchises, whether granted by special charter or obtained under general laws, by and under which any such railroad company is operated. And the attorney general, upon such neglect, shall collect by action the pecuniary forfeiture herein imposed and shall also proceed to have forfeiture of such rights, privileges and franchises duly declared. Any such company at any time before the final judgment of forfeiture of such rights, privileges and franchises is rendered, may be permitted to make payment of the taxes herein provided for upon special application to the court in which the action to declare such forfeiture is pending upon such terms as the court shall direct. If an action is commenced by any railroad company to set aside the tax and enjoin the collection thereof the forfeitures herein provided shall not occur and become effective until sixty days after entry of final judgment.

Assessments of 1904 and 1905. SECTION 22. The first assessment of the property of railroad companies under this act shall be commenced in the year 1903 and be completed in the year 1904, and shall be known as the assessment of 1904, and the second assessment of the property of railroad companies under this act shall be commenced in the year 1904 and completed in the year 1905 and shall be known as the assessment of 1905.

License fees and taxes to be paid in 1904 and 1905. SECTION 23. (1) Every railroad company operating a railroad in this state except street railways operated by horse power, or mechanical power, shall on or before the tenth day of February in each of the years 1904 and 1905 make and return to the state treasurer in such form and upon such blanks as shall be furnished by him, a true statement of the gross earnings of their respective roads for the preceding calendar year, of the number of miles of railroad operated by each such company and the gross earnings per mile per annum during such year, which statement shall be verified by the oath of the secretary and treasurer of such companies so operating such railroad.

(2) Each such railroad company so operating any railroad, shall on returning such statement, apply for a license to operate

the railroad mentioned in such statement, and shall pay the license fee therefor provided in the next subdivision of this section, and thereupon shall receive from the state treasurer a license to operate such railroad for the calendar year commencing on the first day of January preceding and terminating on the next succeeding thirty-first day of December unless sooner revoked.

(3) The annual license fees for the operation of such railroads within the state for each of the years 1903, 1904 and 1905 shall be as follows:

1. Four per centum of the gross earnings of all railroads, except those operated on pile and pontoon or pontoon bridges, whose gross earnings equal or exceed three thousand dollars per mile per annum of operated railroad.

2. Three and one-half per centum of the gross earnings of all railroads, except those operated on pile and pontoon, or pontoon bridges, whose gross earnings equal or exceed two thousand five hundred dollars and are less than three thousand dollars per mile per annum of operated railroad.

3. Three per centum of the gross earnings of all railroads, except those operated on pile and pontoon, or pontoon bridges, whose gross earnings equal or exceed two thousand dollars and are less than two thousand five hundred dollars per mile per annum of operated railroad.

4. Five dollars per mile of all operated railroads, except those operated on pile and pontoon, or pontoon bridges, whose gross earnings equal one thousand five hundred dollars per mile per annum and are less than two thousand dollars per mile per annum of operated railroad, and in addition two and one-half per centum of their gross earnings in excess of one thousand five hundred dollars per mile per annum and under two thousand dollars per mile per annum.

5. Five dollars per mile of operated railroad by all companies whose gross earnings are less than fifteen hundred dollars per mile per annum.

6. Two per centum of the gross earnings of all railroads which are operated on pile and pontoon, or pontoon bridges, which gross earnings shall be returned as to such parts thereof as are within the state.

One-half of the license fee shall be paid at the time the license is issued and one-half on or before the tenth day of August in each year.

Every railroad shall be subject to the penalties and forfeitures for any failure or neglect to obtain a license or pay a license fee as prescribed in section 1214, statutes of 1898;

provided that for the years 1904 and 1905 the property of all railroad companies shall be expressly subject and liable to such further taxes in addition to such license fee as may be ascertained, determined and levied by said board as in the next section provided.

Assessment and taxes of 1904 and 1905; tax roll; refund of excessive license fee; tax to be lien on property; notice to companies. SECTION 24. When the assessment of the property of railroad companies and the taxes levied upon such property shall have been ascertained and determined as herein prescribed for the years 1904 and 1905, the assessment and tax roll of the property of such railroad companies for said years shall not be certified or delivered to the state treasurer until after the license fees paid and to be paid for the then present year have been ascertained and deducted from such taxes.

The said board, on and between the tenth day of February and the fourteenth day of May in each of the years 1904 and 1905, from the statements made and returned by the railroad companies to the state treasurer and from all other information obtained by it, shall ascertain and determine the amount of the license fees paid and to be paid in the then present calendar year and enter the amount of such license fees in its record and in a separate column in the tax roll opposite the name of the proper company. If the amount of the license fees which any company has paid and will be required to pay for a license to operate during the then present year is less than the amount of the tax thus levied upon the property of such railroad company, the amount of such license fee shall be deducted from the amount of the tax entered on the tax roll against the property of such company and the balance entered in a separate column opposite the name of the proper company. The amount of such balance shall be the tax finally levied upon the property of such railroad company and shall be the tax certified to the state treasurer on said tax roll for collection and payment.

If the amount of the license fee which any company has paid and will be required to pay for a license to operate during the then current year is more than the amount of the tax levied upon the property of such company, the amount of such tax shall be deducted from the amount of the license fee, and the balance entered in a separate column on the tax roll, shall be the amount which shall be refunded by the state treasurer to such company.

The board, after ascertaining and determining the amount

of excess of taxes above the license fee or the excess of license fees above the taxes, as the case may be, shall correct the tax roll of the property of the railroad companies according to the facts so as to show in a separate column, the true amount of taxes each company shall pay after the deduction of the license fee and the amount any company may be entitled to have refunded for excess of license fees over taxes levied. The roll thus revised and corrected shall be certified to the state treasurer on or before the fifteenth day of May in each of the years 1904 and 1905.

After the completion and correction of said tax roll for each of the years 1904 and 1905, and on or before May fifteenth, the board shall attach thereto a certificate signed by said board or a majority thereof which shall be as follows:

We hereby certify that the foregoing tax roll includes the property of all the railroad companies liable to taxation in this state for the present year; that the valuation of the property of each railroad company as set down in said tax roll is the true cash value thereof according to our best knowledge and judgment; that we have assessed and levied taxes thereon at the average rate of taxation in the state as required by law; that we have ascertained and determined the amount of license fee paid and to be paid by each railroad company for the present year; that when the taxes levied upon the property of a railroad company exceeded the license fees the amount of license fees has been deducted from the amount of taxes and the balance entered in a column under the head, "Taxes levied and to be collected," and when the license fees exceeded the taxes levied upon the property of a railroad company, the amount of taxes has been deducted from the amount of license fees and the balance entered in a column under the head, "License fees to be refunded."

The said tax roll with such certificate shall thereupon forthwith be delivered to the state treasurer and shall be his warrant for the collection of the taxes therein specified, and levied upon the property of railroad companies.

The state treasurer shall immediately notify by registered mail any company taxed therein to pay the taxes extended thereon to the state treasurer, as follows: One-half the amount of such tax within thirty days and one-half on or before the tenth day of August following.

The taxes extended against any railroad company after the same become due shall be a lien upon all the property of such company prior to all other liens, claims or demands whatsoever, which lien may be enforced in an action in the name of

the state in any court of competent jurisdiction against the property of the railroad company within the state as an entirety. The state may become the purchaser of the property of a railroad company under a judgment for its sale for taxes.

Whenever it appears from said tax roll that any railroad company is entitled to a refund of the license fee, the board at the time of the delivery of the tax roll to the state treasurer shall make and deliver to the secretary of state a statement certified by said board showing the name of any railroad company entitled to a refund for excess of license fees and the amount thereof. The secretary of state shall forthwith draw his warrant on the state treasurer in behalf of such railroad company for one-half of the amount to be refunded, and the state treasurer shall pay such warrant within thirty days from its date. The remaining one-half of the amount to be refunded shall be deducted when any company entitled thereto shall pay the remainder of its license fee on or before the tenth day of August.

For the purposes of the assessments of the years 1904 and 1905 to be made as in this section provided the time for determining the value of the property of railroad companies as provided in section 7 shall be extended to the first day of December, the time for making the determination of the value of the general property of the state as provided in section 9 shall be extended to the 1st day of December, and the time for the meeting of the board and for reviewing the assessment as provided in section 10, shall be the second Tuesday of December and extend to the fifteenth day of January following.

Property exempt from other taxes; stock held in state exempt. SECTION 25. The taxes and license fees imposed by this act shall be in lieu of all other taxes on the property of such railroad companies necessarily used in the operation of such railroads in this state, except the same shall be subject to special assessment for local improvements in cities and villages. The taxes and license fees hereby imposed or paid by such companies shall also be in lieu of all taxes on the shares of stock of such railroads owned or held by individuals of this state and such shares of stock in the hands of individuals shall be exempt from further taxation.

Taxes and license fees collected to become part of general fund. SECTION 26. All taxes and license fees collected from railroad companies under the provisions of this act shall be

paid to the state treasurer and become a part of the general fund for the use of the state.

Board may appoint expert engineer and accountant, office force and assistants. SECTION 27. The said board is authorized and empowered to employ an expert engineer, an expert accountant and such clerks and assistants as may be necessary to properly perform the duties imposed by this act and in the work of the valuation and taxation of the property of railroad companies, and to fix their compensation. The compensation and necessary expenses of such experts, clerks and assistants and the expenses of the members of the board shall be paid out of the treasury, as the salaries and expenses of other state officers are paid, and a sum sufficient to carry out the provisions of this act is hereby appropriated. Rooms in the capitol in addition to those now occupied by the tax commission shall be provided and set apart for the use of the said state board of assessment and its engineer, accountant and assistants in the assessment of the property of railroad companies and such rooms shall be furnished under the direction of said state board.

Inconsistent acts repealed. SECTION 28. Sections 1211, 1212 and 1213, statutes of 1898, and all acts and parts of acts inconsistent with this act are hereby repealed, but such repeal and the amendment of section 1214, statutes of 1898, shall not defeat, remit or affect the license fees paid or to be paid to the state in the years 1903, 1904 and 1905 nor affect any penalty or remedy for neglect to pay license fees according to the provisions of said sections.

Enabling clause. SECTION 29. This act shall take effect and be in force from and after its passage and publication.

Approved May 18, 1903.