

districts, is a reasonable and lawful method of implementing the educational policy of this State.

Very truly yours,

GROVER C. RICHMAN, JR.
Attorney General

By: THOMAS P. COOK
Deputy Attorney General

TPC:tb.

APRIL 17, 1957

HON. AARON K. NEELD
State Treasurer
State House
Trenton, New Jersey

MEMORANDUM OPINION—P-8

DEAR MR. NEELD:

You have submitted to us for advice a form of release which a railroad company doing business in this state has requested that employees of the Railroad Tax Bureau, Division of Taxation, Department of the Treasury, execute prior to entry upon railroad lands in the course of their duties of assessing such property as required by the Railroad Tax Law of 1948, N.J.S.A. 54:29A-1 et seq.

More particularly, you wish to know whether (1) you should accede to the request of the railroad at all, and (2) if so, whether the suggested form of release is satisfactory.

The Railroad Tax Law of 1948 provides a comprehensive scheme for the taxation of real and tangible personal property of common carrier railroads engaged in owning or constructing facilities for the transportation of persons or property in or through this state (N.J.S.A. 54:29A-2, N.J.S.A. 54:29A-7 et seq.).

In order to administer the provisions of this act, N.J.S.A. 54:29A-63 states that:

"For the purpose of administering this act, the commissioner, whenever he deems it expedient, may make or cause to be made by an employee of the State Tax Department, engaged in the administration of this act, an audit, examination, or investigation of the books, records, papers, vouchers, accounts and documents of any taxpayer, and also field surveys, inspections and examinations of all lands and physical property. It shall be the duty of every taxpayer and of every director, officer, agent or employee of every taxpayer to exhibit to the commissioner or to any such employee of the State Tax Department all such books, records, papers, vouchers, accounts and documents of the taxpayer and to facilitate any such audit, examination, field examination or investigation so far as it may be in its or their power so to do. It shall be lawful for the commissioner, or any employee in the State Tax Department by him thereunto designated to take the oath of any person signing any application, deposition, statement, or report required by the commissioner in the administration of this act. If any returns are not made, the commissioner

shall ascertain the necessary facts from the best information he can obtain and in such manner as he may find convenient, using his personal knowledge and judgment."

This section clearly gives a right to Railroad Tax Bureau employees to enter property owned by a railroad in order to conduct examinations of the lands and physical property of a railroad, as well as its books, records, papers and other matter in its possession and control. At the same time, the statute imposes a responsibility and duty on a railroad to allow entry upon its property of bureau employees for the purpose of making such studies. When such a duty has been imposed by the Legislature, the railroad taxpayer may not impede the work of the Bureau in any manner, nor may it absolve itself of any wrongdoing on its part by requiring such release to be signed. To impede investigations would contravene the spirit and letter of this section. (Cf. *Grogan v. DiSapio*, 11 N.J. 308 (1953)).

Without considering any further legal questions, the answers to which would also prevent the execution of such a release, we advise you to inform the railroad that you cannot accede to their request.

Since question number one is answered in the negative, the second question has been mooted and need not be answered.

Very truly yours,

GROVER C. RICHMAN, JR.
Attorney General

By: DAVID M. SATZ, JR.
Deputy Attorney General

DMS:ew

APRIL 17, 1957

HONORABLE ROBERT B. MEYNER
Governor of New Jersey
State House
Trenton, New Jersey

MEMORANDUM OPINION—P-9

*Re: Power to appoint the Board of Managers of the New Jersey
Agricultural Experiment Station*

DEAR GOVERNOR MEYNER:

You have inquired whether Chapter 61 of the Laws of 1956, which effects a reorganization of Rutgers University, will make any changes in the method of designation of the Board of Managers of the New Jersey Agricultural Experiment Station set forth in Chapter 49 of the Laws of 1945 (N.J.S.A. 18:22-15.5).

Chapter 61 of the Laws of 1956 does not expressly repeal Chapter 49 of the Laws of 1945. Accordingly, only in those portions of the 1945 law which are in conflict with the provisions of the superseding 1956 act may a repealer possibly be construed.

Under the provisions of the 1945 statute (N.J.S.A. 18:22-15.5),