

PUBLIC HEARING

before

SENATE SPECIAL COMMITTEE ON TAX APPEALS PROCEDURE
(created pursuant to Senate Resolution No. 30)

Held:
March 30, 1977
Assembly Chamber
State House
Trenton, New Jersey

MEMBER OF COMMITTEE PRESENT:

Senator Thomas G. Dunn (Chairman)

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Glenn E. Moore, Secretary

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SENATOR THOMAS G. DUNN (Chairman): As Chairman of the Senate Special Committee on Tax Appeals Procedure, I am going to call this meeting to order now at 10:30 A.M. In doing so, I would like to invite anyone in the Chamber who might wish to make a statement or give testimony today and who is not on a prepared list of witnesses, to come forward now, or during the session, to sign your name and some identification on one of these yellow pads here. Hopefully, we will be able to get through all of the scheduled witnesses as soon as possible and then perhaps we can get to you. However, if you would like to have a prepared statement read into the record, we invite you to sign up for it.

The members of the Special Committee consist of myself, as Chairman - Thomas G. Dunn - Senator Joseph Maressa, Senator John Skevin, Senator Frank Davenport, Senator Garrett Hagedorn, and Senator Peter J. McDonough. I doubt if the other Senators will join with me today but one or two might drop in from the Joint Appropriations Committee meeting and other committee meetings that are being held throughout the city today.

I will continue on and all the testimony that will be taken today will not only be given to the Senators that make up this Committee but to members of the Senate itself and members of the Assembly, as well as the Governor and others.

We have scheduled Judge Evers to be a witness at 11:00, plus Walter Salmon, Don Leodori, Louis Joyce, Francis Kenny, Kenneth Walker, Samuel Katz, and Frank Haines. I would like to know whether Judge Evers is in the Chamber.

JUDGE EVERS: Yes, I am.

SENATOR DUNN: Would you be prepared now to come up and give us your testimony a little early, Judge?

JUDGE EVERS: Yes.

SENATOR DUNN: It is very nice having you with us.

J U D G E J O H N F. E V E R S: I can't guarantee it will be a little testimony but--

SENATOR DUNN: Well, we will see what happens.

JUDGE EVERS: Okay.

(witness sworn)

My name is John F. Evers.

SENATOR DUNN: Excuse me, in your statement are you going to identify the position that you hold?

JUDGE EVERS: I am a judge of the Division of Tax Appeals, having been appointed in July, 1973 for a term of 5 years.

SENATOR DUNN: Thank you.

JUDGE EVERS: At the outset, Senator, I would like to say that I did have a prepared statement to give to you and the other members of the Committee - that is, until yesterday afternoon when I testified before the Appropriations Committee and discovered that you had submitted a statement to them and it sounded like Evers talking. You just completely destroyed 12 pages of prepared testimony that I had. So, rather than go over anything that is old hat and anything that you yourself are certainly aware of, I do not have any prepared statement for you but I will refer to my notes from time to time. I do want to thank you and the Committee for permitting me this opportunity to speak, particularly in view of the fact that I know you have already heard from Barbara McConnell, the Secretary of the Division, and also Judge Carmine Savino.

I am generally aware of the matters to which they testified, so it is

not my intention to go over what they have already given to you, but perhaps to fill in some loose ends of their testimony and to speak not necessarily as to where the Division has been or even where it is today but where we think we would like to see it go and how best to get there.

I am also generally aware of the testimony of several other people who have been down here, the sum total of which, in my opinion - if you are not already aware, and I know you are - has demonstrated that this entire tax appeal process has severe problems. Now, I know that perhaps the original purpose of this Committee was to investigate certain specific problems but, based upon the testimony that has already been given, it seems to me that perhaps the Committee has broadened its purposes - and that is good. The problems we are addressing ourselves to are not new, as a matter of fact they have been around for a long time. It is only you, Senator, and the members of your Committee and the other members of the Legislature -- You are the only ones who can do anything about it.

Briefly, I think I am qualified to speak in this area, not only because I am a Judge of the Division of Tax Appeals but because I do have some 17 or 18 years experience in the Municipal field as an attorney, and because I did serve in this Legislature for some 3 terms. I did serve approximately two years with a prior administration. As a matter of fact, some 10 years ago, in this very Chamber, after seeing some 67 tax appeals disposed of in sight of two hours by a County Tax Board, I became so incensed I rushed down here and put a bill in the hopper that would have completely put the Division of Tax Appeals out of business and supplanted it with a full-time tax court. That bill didn't go anywhere but I remind you, Senator, that that was 10 years ago. The problems existed then, at least in my mind.

The bill went nowhere, although it did pass this House. And mine wasn't the only bill. It seems to me that Assemblyman Perskie introduced bills last year that would have accomplished the same thing. The late Assemblyman Dick DeKorte, back in 1971, I believe, introduced several bills that were aimed in the same direction. They were based upon a special study government commission report under the Cahill Administration that also would have done away with the Division.

I am pointing this out to you, Senator, to illustrate that although efforts have been made - many of them - in the past - there have been special study commissions, there have been reports, there have been bills in the hopper - none have really gone anywhere. I think that the main reason for that - at least looking back on it now and based upon my own personal experience as well, in the Legislature - was due to the fact that no one really took the time to look into the entire process. You look at the statute and it says something like, up to 7 judges, no more than 4 from the same political party, who shall serve, in effect, part-time and be paid \$17 thousand. You know, when you are in this Legislature and you are working pretty hard down here, you say that is a pretty cushy thing they have over there. That bunch of guys have something good going for them and at this stage in the game I am not inclined to give them any help. When I look around this state and I see so many other areas that need help, no; they don't take top priority. I hope that attitude, which certainly existed then - in my judgment - certainly doesn't exist anymore today.

I will admit, Senator, that I myself, as I said before, did subscribe to that proposition. But, I can honestly say to you now that after having worked

with the Division as a judge for the last four years - and I say this on my own behalf, but I am sure I am speaking for the other six judges also - that I have never worked harder or longer on behalf of an awful lot of people, yet with so little effect in the overall picture. I say this to you not in defense of the Division nor in praise of any of the judges, but only in an attempt to right a very wrong impression that too many of our Legislators - without any real foundation - have had over the years. And I say it because I am probably the only one in this Chamber who has viewed the situation while serving in all three branches of government and as one who is certainly on the other side of the fence and who, 10 years ago, tried to accomplish what I hope Senator Dunn and his Committee is trying to accomplish today. And, I think I can say that objectively.

Senator, I said that I think it would be right to speak of the future and where we hope to go and how best to get there - of course, that would be through legislation. You know that in addition to your bill in the Senate, there are several bills over in this House that are presently pending. There is one bill - I believe Assemblyman McDermott is the sponsor - A-1620, which would mandate that all appeals filed with the State Division must be disposed of within a relatively brief period of time -- I can't recall whether it is 90 days or 180 days, or whatever. Certainly, the purpose of that bill is noble. But, it defies accomplishment. It just cannot be done, at least under the present system.

I think that Mrs. McConnell testified here to the effect that if every judge works 40 hours per week - and I am not saying that we don't, I know that I do, and more - 52 weeks a year and devoted just one-half hour to the hearing and written decision in each case - and you and I know that is impossible - it would still take one year to dispose of the backlog of cases that we have. So, the McDermott bill, although noble in its purpose, just can go anywhere under the present circumstances. I would like to think that in the very, very near future there wouldn't even be a need for the introduction of legislation of this type.

There is another Assembly Bill, Senator, Assembly Bill No. 2440, the sponsor of which is Assemblyman Burstein. That bill would help. True, it would keep the court on a part-time basis. It would increase the salaries of the judges. It would allow the appointment of up to 4 more judges. It would create a small claims bureau, which, in my judgment, would accommodate most of the residential appeals and which would allow for the flexibility and the informality required in handling such matters, particularly pro se matters, where people appear on their own behalf without benefit of an attorney. Furthermore, it would allow for direct appeals to the State in cases involving assessed valuations of over \$100 thousand of assessment. It would thereby eliminate the time and effort and expense of appearing before the county boards.

Senator Dunn, I think this makes an awful lot of sense because although I can't document this statement this morning, I think it can be fairly well established that either of the parties in cases involving \$100 thousand or more, I would estimate in at least 50% of the cases, will take an appeal from the county boards of the State, regardless of the outcome at the county level.

This bill also would take an awful lot of the pressure off the county boards who, in accordance with statute, must hear and decide all the appeals filed with them within a 90-day period, from August 15th until November 15th.

The other major pending legislation, Senator, of course, is your own bill, S-1351 - I believe it is - which would establish a full-time tax court

within the Superior Court itself. Without question, that bill would help.

As between the Burstein bill and your bill, there is no doubt about it, yours would certainly be the more effective. But, as between the two, it is my own opinion that at this stage of the game, I would feel that your bill would have less chance of passage. Hopefully, there will come a day - and very, very soon - when that thinking may change and the Senator Dunn Bill will become law. But, I am afraid that that day will come far too late to lend any relief to a situation that cries out for immediate relief, today.

I will tell you why I feel that way, Senator, where your bill is concerned. Previous witnesses, I think, have testified that the State Division is now operating with only 2 permanent court rooms throughout the entire State. Quite frankly, both of these are a disgrace. Both of them, I think, are an embarrassment to the judges and a hardship on the taxpayers. One is here in Trenton and the other is in Newark. It is true that from time to time, judges do sit in other court rooms. I, myself, have been fortunate in that I have, strictly through the cooperation of Morris County officials, been able to establish a more or less permanent court room in Morristown itself. However, as I say, that is strictly through the goodness of Morris County and in no way can or should the State of New Jersey look upon the Morris County situation as being a third permanent court room. From time to time, judges have sat in places far removed from court rooms. I have sat in township clerk's offices that were no larger than a closet. I have sat in conference rooms, small offices, or anything that we could find to try and dispose of the cases and do something about the backlog.

My point is this - and without going into the details concerning court room arrangements, Senator - the facilities are not there now to accommodate 6, 8, 10, or however many new Superior Court Judges would be appointed.

I know that Mrs. McConnell, a few weeks ago, gave you a breakdown of the task with which we are presently faced. There are 28,000 pending appeals right now. Approximately 14,000 are filed each year and I would estimate many, many more to come with the advent of the income tax and the homestead rebate tax appeals. Now, not only - as you know, and as you said in your own statement - has the number of appeals virtually quadrupled in recent years, but the trial of these cases has become far more sophisticated. More and more appeals are coming to the Division from the county. Many more appeals are taken from the Division to the Appellate Division and thence, in some cases, to the Supreme Court. As a result, Senator, the body of law pertaining to these matters is ever increasing and becoming more involved.

As the hearings become more sophisticated and involved, they also, naturally, become more time consuming. For example, I can refer to two cases on which I am now sitting. One of these cases Robert Gladstone, who is the attorney for East Windsor - as you may recall - and who testified before your Committee a few weeks ago, referred to. Each one of those cases will consume the better part of 10 days to 2 weeks, just to hear. So, to appoint full-time Superior Court Judges and to do the job right, you have to be talking about more than just two full-time court rooms, as Mrs. McConnell and Judge Savino previously pointed out - and based upon my own experience. Each judge is assigned a new calendar of cases approximately every four to six weeks. Each calendar will consist of anywhere from 100, 150 to 200 cases. They can involve anywhere from one to thirty or thirty five municipalities. They often involve more than one county. They will include residential appeals and farmland assessment

appeals and exemption cases and vacant land, golf courses, lakes, industrial complexes, apartments - high-rise and garden - personal property appeals, plus all those other non-real estate appeals which we handle, such as the sales tax, corporate tax and gross receipts, and the like. And, as I said before, it will soon involve income tax appeals.

With the issuance of a new calendar, Senator, the judge can expect to have his telephone practically fall off the hook. I would estimate that when I call a new calendar, within the week before and I would say the week immediately succeeding the calendar call, I will get 150 or 200 telephone calls from people looking for adjournments, and they want to make motions, seek all kinds of information, and what have you.

It has been my practice, Senator, that before I even call a calendar - which seems like a most simple matter, to sit up there somewhere and say, all right, so-and-so versus so-and-so, your case will be heard on such-and-such a date; it is not that easy - I sit down and analyze each petition to find out the nature of the case. I just can't see hearing a garden apartment case and a farmland assessment case and a tax exemption case on the same day if I can group all these similar types of appeals together, or if I can group the appeals from one municipality together thereby eliminating the time and expense of requiring the same attorneys, the same assessors, the same witnesses to come back day, after day, after day. I check these petitions out to try and get an idea in my own mind as to how long the hearing of the case will take. There is no sense in scheduling 10 cases on one day if you know that one case is going to consume the entire day.

It has been my practice and it has been appreciated by parties on both sides of the issue to call them in advance and tell them if their case is not going to be reached. There is no sense in them showing up. Or, if it is not going to be reached until the afternoon, I don't want them there at nine o'clock in the morning.

My point is this, again, Senator, and I am not saying this in any self-defense or praise, but to point out that without even getting into the hearing of the cases, without getting into the rendering or the writing of opinions of the cases, there is so much administrative work to be done and that is done by the individual judges. The individual judges, back in their own offices, do this, because there is no help that Trenton can give to us when a phone rings in our office and it demands immediate action. It is not my intention to get into the actual time and effort devoted to the hearing and the disposition of the cases. I think that would take all day. I think Judge Savino did address himself to that, however. For my part, suffice it to say that it is considerable.

My big point at this stage of the game is that the non-judicial work involved is just as time consuming as is the actual judicial work. In fact, I believe it is the case with every Superior Court Judge, if not with everyone - or with most of them - to, in addition to having a full-time law clerk, very often have a calendar clerk who just keeps track of where he has been, where he is now, and where he has to go. Without, Senator, each judge maintaining his own, I think, sophisticated filing system as well as a cross-indexing system of all the opinions that have been rendered and the follow-up that is required, it could turn into a clerical nightmare.

The point of all this is simply to emphasize - getting back to your bill - that if the job is to be done right and if it is to be done in a

Superior Court judicial fashion, more than a simple appointment of 6, or 8, or 10 full-time Superior Court Judges is required. More than an increase in pay is required. Clerical staff, on a full-time basis, is also needed and, along with that, equipment, offices, clerk, library, typewriters, photocopy equipment, and all those things are necessary.

In her testimony, Mrs. McConnell mentioned the fact that each judge is given an allowance, which I assume - and that is on a monthly basis - is intended to reimburse him for the expense incurred in devoting his own office and his own office personnel and equipment, furniture, and what have you, to this tax appeal business. I don't know if she mentioned to you, however, that that allowance is \$57.70 per week. That is \$250 per month and it comes out to that sum I just mentioned.

If Senator Skevin were here today, or Senator Maressa, I think they could get a chuckle out of that because as attorneys I think they would immediately recognize that \$57.70 doesn't anywhere nearly cover any of the expenses that I have mentioned, even on a weekly basis, let alone the salary of a legal secretary.

Getting into the entire picture, Senator, I know some of the things I have mentioned actually belong before the Appropriations Committee. I want you to know that Judge Savino and I did testify before that Committee yesterday and although, certainly, I can't speak for the Committee, my impression is that they listened hard to what we had to say. I would like to think that you and I did a good job in convincing them that the budget of the Division of Tax Appeals needs help.

Also, even though in your statement you point out that your defense of the Division, insofar as the Appropriations Committee is concerned, is not necessarily that of a friend of the Division, I think your statement was so effective that, friend or not, I congratulate you and thank you for going at the Appropriations Committee and calling the problem to their attention.

Senator, I don't know what the amount of the fiscal note that might be attached to your bill would be but I would estimate that to establish one full-time Superior Court Judge with the court room and the staff and everything that I have mentioned, could approximate a couple of hundred thousand dollars at the outset. And you would also know this better than I, but from a political point of view - and I am using that term with a capital "P" - I am not sure that the appointment of these new full-time Superior Court Judges, at the cost that I have just estimated, is feasible in today's climate. And, if your bill doesn't go and if nothing happens, we will be expected to continue with the same 13 employees that we have had over the last 10 or 11 years and the same 7 judges that we have had over the same period of time, traveling to all 21 counties, carrying half the office in the back seat of the car, doing the telephone work from a public telephone booth, if one is available, during court recess.

Senator, the purpose of my appearance here today is not to throw any roadblocks at the passage of your bill because I hasten to point out again, in my judgment that is the long-range answer. But, my fears for the success of that bill are founded, as I said, on the suspicion that you will not find a very sympathetic Legislature or Governor when it comes to spending that kind of money. Perhaps you and any co-sponsors might have in mind that that bill would carry its own appropriation - perhaps another increase in fees to offset the cost and expense. If that were the case, it wouldn't be the first time it has been done.

But, I think this, by way of example - and I am not attempting to downgrade the good Legislature of the State of New Jersey - in as brief a period of time that your Committee has been in existence, you and your five fellow Senators, I think, have learned more about this tax appeal system and its problems than all the sponsors of all the bills and all the members of the study commissions and all the reports and everything else that has been put together over the series of years. I think that with all that has been attempted in the past, that you are actually the first people who have directly approached members of the Division of Tax Appeals and said, "Let's hear your side of the story."

In your case, Senator, I think in reading in between the lines of the statement that you made on the Senate floor promoting the passage of S.R.-30, which led to the creation of this committee, I got the impression that you, yourself, probably had the impression that the Division consists of these 7 part-time guys who were called judges and who have a pretty good thing going for them. I hope that impression no longer exists. I believe it doesn't.

My other fear, Senator, for the passage of your bill is based on the fact that so little time is left in this legislative session. I don't know how many meetings are left in this session. But, with the time-consuming committee processes and the time consumed in the passage in both Houses and signature by the Governor, I think it would be very, very tight, at the least. For those reasons, I am hopeful that you and your fellow Senators will also take a long look at the Burstein Bill, which, as I said, is not as far-reaching and it is not as complete. But, on the other hand, it is not as costly. And, I think for that reason alone, it probably stands a better chance of passage at this time. Yet, even though you may frown upon the part-time situation, it nevertheless does lead into the direction of a full-time court.

I think that without considering both measures together, without a backup in the event you do not obtain passage of your bill, nothing will be done and things will simply go from very bad to worse.

I, Senator, and the other judges, are just as concerned as you are that something be done. Certainly, we have selfish reasons. We have families to support. But, that concern is just as great for the improvement of a system that right now can't be characterized as anything but an embarrassment and a disgrace to the State of New Jersey.

I could say much more, Senator. I think I have been talking for some 20 minutes now. Time permitting, I would suggest-- And I would like to find this out myself, not that there is anything wrong with it. But I would like to find out the amount of money that is spent in the public defender system, or the amount of money that is appropriated for the defense of people charged with crimes and yet how difficult it is to find more money to improve the only system that the taxpayer, who is paying those bills, has to get his day in court - and an early day in court. I am not only talking about the taxpayer who is dissatisfied with his taxes and who makes an appeal, but I am talking about all the other taxpayers who don't file their appeals but who have to get up the money - some three or four or five years later - in the event a reduction is given to a large taxpayer. I think Mr. Gladstone gave you a very, very vivid example of a case of that nature, in which East Windsor was involved.

I could get into, Senator, some ideas perhaps concerning the possible revision of the system at the county level, where - as I said before - those poor fellows, by statute, only have 90 days to dispose of thousands of appeals.

And they do dispose of them because by statute they must dispose of them. Yet, I think common sense will plainly indicate that that type of operation certainly can't do justice and in far too many cases the taking of an appeal to the county level is nothing more than a mere formality to be observed on the road to an appeal to the State Division.

I suggest perhaps the Senate and Assembly look into that another day. But, to really do the job right, in my opinion, one must begin at the beginning and, therefore, one must begin at the county level. If the ratio of appeals from the county tax board to the State Division also existed between the Trial and the Appellate Courts in our Superior Court system, I think you would probably have to triple the number of Appellate Judges that we now have.

Time permitting, I would also like to go into detail concerning the question of staff and that wouldn't take any more than 10 seconds because there is no staff at all. I could equate that situation with the problems which the legislators themselves have been faced with over the years. Back in 1966, or '67, when I came down here, I know that our staff allowance was -- I believe it was \$1,000 or \$1,500. I can remember chairing Banking Committee meetings - and this is the truth - in the anti-room of the men's room, down in the Assembly Lounge. We had no physical facilities. We had no committee staff. The legislators themselves had no staff back home. Of course, we did get the railroad pass. I don't think I have been on a railroad in 20 years.

My point is this: The Legislature has seen fit to improve that situation, and rightfully so. I think it has made you much more effective, so you can now effectively deal on more of a one-to-one basis with your constituents back home. You are better equipped to go over the thousands of bills that are introduced each year and I congratulate you on making that move. But, I think that the same situation and the same approach should be taken with respect to the problems of the Division of Tax Appeals.

I would like now just to briefly touch on one last thing, Senator, and I am referring to your statement - and I think you know the one that I am referring to - wherein you say that the evidence presented here shows the bare outlines of the picture of a State Division which is funded primarily by owners of large commercial properties, used primarily by owners of large commercial properties, and which operates primarily to the benefit of owners of large commercial properties. I may object to your observation and, yet, I don't find it objectionable. I don't think that is the case but if it is, it is certainly not intentional on the part of the judges. I don't think that it does exist but if, in fact, it does, and no matter to what degree it may exist, I suggest to you that it has come about simply as a natural result of the failings of the system. Everyone is money conscious. Everybody today is tax-conscious. They are all fighting harder, longer, and more tenaciously, and it makes no difference whether they are big, small, rich, or poor taxpayers; the same situation exists for all.

Senator, from what I have seen, it is particularly tough on the municipalities. I don't know, out of the 567 municipalities that we have in our State, how many of them have full-time legal departments, or how many of them have full-time assessors. I don't know how many people are actually equipped to do the job in this rather delicate, tough field of taxation. As a matter of fact, Senator, if you look at my record - which is attached to your statement - it would appear that I am low man on the totem pole as far as the hearing and disposition of cases is concerned. That might indicate to you that I am goofing

off or I am lazy. That is not the case. The real truth of the matter is that it has taken me some three years to really know what the heck I'm doing in this business of taxation.

So, Senator, in summary, it is a most frustrating situation. It is frustrating to us, the judges of the Division, because I don't know what else we can do but hope and pray that the same people who are criticizing us - and who have a right to criticize us - also recognize that they have an obligation to do something about it and that they will do something about it. Because you are the ones who can really help.

So, once again, Senator, I want to thank you for giving me this opportunity to speak to you. Lots more could be said. I want you to know that I would be pleased to come back down here, or anywhere, anytime. And, if you have any questions now concerning my testimony, or the testimony of Mrs. McConnell or Judge Savino, I would be happy to try and answer them.

SENATOR DUNN: Well, Judge, I thank you and I do have literally hundreds of questions, but whether or not I will fire them all at you remains to be seen.

I was very glad to hear you say that the present system is an embarrassment and a disgrace to the State of New Jersey. I was very happy to hear you say that because it has been my opinion for some time now. I would like to add that it borders on the criminal to allow such a system to prevail.

You mentioned that for 10 or 15 years now some legislators have made note of the fact that there is something very bad and wrong with the system as we know it today and, yet, nothing concrete has been done, to date, to reform the system. Perhaps you are under the wrong impression of the purpose of this Special Committee. It is not to discuss any particular bill, whether it be the Dunn Bill or the Burstein Bill. It came about because down through the years there have been so many bills introduced, or proposed, that never saw the light of day; they never got out of Committee - as in the case of my own Bill and I guess the Burstein Bill too. So, in complete frustration, I had a resolution introduced in the Senate that was adopted, I believe unanimously, calling for the appointment of this Committee, hoping that out of our work, we might focus the attention of the press, if you will, and in some way all the people of the State of New Jersey on the embarrassment, the disgrace, and the near criminality - as far as I am concerned - of allowing a system like this to continue so many years.

One very sad thing about the whole situation is the almost impossibility of getting information that would help us to pursue this so that we could focus attention on this and attract public interest to this very sad situation. We don't have the staff to compile information that should have been compiled down through the years on your Department. But, I accept your explanation that seven full-time judges with a staff of but twelve people to cover the entire State of New Jersey is an impossible task.

However, just very, very quickly computing some of the figures, in the State of New Jersey today there is more than \$5 billion worth of real estate ratables under appeal before your court. As a matter of fact, in some towns from 50% to 75% of the gross ratable wealth of that particular community is under appeal. And, based on the track record of the system to date, a great deal of compromising, a great deal of concession, and a great deal of finding on the part of the judges will give relief to the appellant, causing a great deal of hardship to the community that is involved.

There is no question in my mind, at least, that the entire system - if you will excuse the expression - "stinks to the high heavens." That, in no way, should be a reflection on the judges who serve, or the minimal staff that is provided for you. I just hope that the press and other media will make inquiries about the information that we have compiled to date - and it is minimal - just to highlight the fact that it is a stinking mess for the State of New Jersey to allow such a situation to continue. The entire base of the financial wealth of our state is - up until the income tax, at least - the taxes received from real estate assessments. And, to allow that system to deteriorate - as it has already deteriorated - to the point where the municipality will be losing ratables that they have been anticipating year in and year out and to no longer be able to anticipate it means that the slack will have to be picked up by the residential homeowners, because it is obvious to me that the residential homeowner just does not get as fair a shake as owners of industrial property, commercial property and other kinds of property.

The few scant figures that we have show that there is a specialization - and I am being very charitable when I say that - by a group of law firms in the State of New Jersey that cater to the owners of large industrial properties, and commercial properties - including apartment houses, of course. For example, Fort Lee, New Jersey - it is my understanding that almost 75% of the gross ratable wealth of that community is now under appeal. Even if only a 10% reduction is allowed the owners of those properties, it will cause a tremendous hardship on the rest of the taxpaying public in that town. We hope to have the mayor of Fort Lee testify sometime today.

But, the point that I think I want to make is, you have already admitted to us that you have known about this disgraceful situation which has existed for 10 years. Some legislators have also known about it. I would expect that the Governors for the past 10 or 15 years should have been made aware of it. But, I can't understand why nothing more concrete or more definite has not been done by the judges, by the Bar Association, by the tax assessing societies and groups, nor why this terrible thing has been allowed to continue on year in and year out without attention being focused on the inequities of it, the disgrace of it and the embarrassment to the State. I don't think there is one in one thousand people in the State of New Jersey who realizes how gross this situation is today. Why hasn't somebody endeavored to do something more about it than has been done? Why, for example, Judge, have the judges not complained more vigorously than they have? Or, have you been doing it? I would like to know to whom have you been doing it?

JUDGE EVERS: We certainly have been doing it, Senator. First let me say this: I and all the other judges are convinced of much of what you say. I am not talking about the merits of any particular case or anything of that nature; I couldn't.

Your job is not to convince us, because we are convinced, nor is it to convince the taxpayers or anybody who is involved in taking a tax appeal, but it is to convince the majority of your 119 fellow legislators down here. That is the big problem.

The judges, certainly, have all gone - and I myself have gone - to many legislators over the years. I have known many, many of them very personally. But, at no point in time, until the creation of your Committee, has there ever been one committee down here - at least in recent years - that we could really

focus attention on. You know that I was pretty insistent that I wanted to come here and testify today. You know that I have corresponded with you in the past. I saw this, regardless of what the purpose was for the formation of your Committee, as an avenue by which we could at least air this entire situation - and for that I am grateful.

But, as I said before, the judges themselves can't change any legislation that would improve the situation, and that is what is required. We, ourselves, have seen fine judges with experience of many, many years be held over without appointment in some cases for two or three years. They never knew where they were going. Am I going to get reappointed? Should I make plans and call a calendar two or three months down the road? They didn't know.

So, there is no one person to blame and even if there were, I don't know what it would accomplish, Senator. As I pointed out, I don't think it would serve any useful purpose to talk about where we have been - it is where we have to go.

SENATOR DUNN: Well, I agree that maybe we are going to do something about it now; I hope so. But, I have my doubts about it. I can't understand why, if there is a complete agreement that this whole system is rotten to the core, the seven of you couldn't go to the Governor, no matter who the Governor is, and say, "Governor, the entire tax structure of the State of New Jersey is in jeopardy and we want to bring these facts to your attention." Do you suppose the incumbent Governor and the previous Governors were aware of the seriousness of the situation? I haven't heard it mentioned.

JUDGE EVERS: Senator, I can't speak for the present Governor, but I know that under Governor Hughes' Administration that there was an awareness at that point. But, as bad as the situation was then, it was not as critical as it later became. I think your records do indicate that probably in 1968 there were about 3,800 appeals. Last year there were about 14,000 filed.

I can say this, from my own personal knowledge - because I was a member of the Administration - that Governor Cahill, upon being elected and taking office in 1970, one of the first things he did was appoint the Special Government Management Study Commission. It was a blue ribbon type commission. They made many, many recommendations. I think it was upon the recommendation of that Commission, for instance, that the Banking and Insurance Commissions were combined - or, rather, separated into two different outfits. Many changes were made.

One of the recommendations that that Commission did make was to revise the entire system of the Division of Tax Appeals. They made very firm, specific recommendations. It is my understanding, however, that never once did they approach anybody from the Division of Tax Appeals for any input at all. It was on the basis of that recommendation that Dick DeKorte, who probably would have been Assistant Majority Leader, or Majority Leader, at that time, introduced bills which I think did pass the Assembly - I am not sure. I think they came out here at least for a floor vote. And, they got to the Senate. What happened over there, I don't know. I really don't know. I don't have all the answers except this: I can say to you that we have, with the means available to us - and I am speaking of the judges - over the years exerted whatever influence we had and we have done whatever we could to accomplish something.

You know, it is very easy to say, well, State of New Jersey, come on in and find about \$5 or \$8 million and find some new court rooms and let's go to town.

You and I know it just doesn't happen that way. You and I know that human nature being what it is, particularly legislators in the State of New Jersey - it seems they are always running behind - you can't really get a whole look at the entire problem and do something about it. Human nature being what it is, the tough things seem to sometimes get pushed over in the corner of the desk and the things that demand immediate attention - the real crisis situations, floods and things of that nature - get immediate action.

This is not an excuse, Senator, it is simply an explanation from one individual who has looked at it from all sides of the coin.

SENATOR DUNN: Well, I think we are in agreement that we both feel the same frustration. I have been around a few years now and I have never seen anything so inequitable in my entire public life as I am convinced this system is. Your testimony has already confirmed much of what I feel. I don't know how seven part-time judges, with a staff of twelve, can even do the clerical work that is necessary to open the mail and what not. The thing is so inequitable and so inefficient that it seems to me that some attention should have been focused on it by someone, either through a taxpayers suit or a Governor who knew what he was doing - and I am talking about many Governors now - or through our legislators. Someone should have been able to do something about the immediate problem of having a tax system work in the State of New Jersey and a state tax appeals procedure that is so inept due to the circumstances you have described. I just can't understand why it has been allowed to go as far as it has.

Now, in 1976 and 1977, it has reached the state whereby the possibility exists for 25% of the gross ratables of a community to be returned to a taxpayer because he was able to afford a specialist of one kind or another to convince a judge to grant that.

JUDGE EVERS: Senator, as I say, if that fact is so, that is a failing of the system. Again, I want to repeat, if you don't retain anything else I have said today, I think that the seven judges have done the very, very best they can under the circumstances.

SENATOR DUNN: Judge, rather than beat a dead horse, we are in complete accord on that. I was not aware - although I have been in public life for some time now - of the seriousness of this tax appeals procedure until about two years ago, when certain information was brought to my attention by well-meaning people, mostly those who have to deal with your court. They alerted me to the fact that there is a handful of law firms in the State of New Jersey now that are specializing in bringing tax appeals. While I don't know what is going to come out of all of the testimony that we do compile, I have had enough things whispered in my ear to indicate to me that there is some favoritism being shown to the specialists who represent so many people.

For example - I don't know the name of the law firm itself, I just have the name of one lawyer - getting back to Fort Lee again, back in 1973, that law firm had no cases in 1973. They had none in 1974. They had one, possibly two in 1975. In 1976, they had 29 tax appeals involving hundreds of millions of dollars in just that one town alone. I haven't added up what the total assessments are but there are, without a doubt, the highest assessed properties in Fort Lee. That one law firm, all of a sudden, comes from out of nowhere and winds up with 29 of the biggest cases.

As we go through the scant records - and they are scant only because we don't have the staff to compile them - there are fewer than 10 firms that have

billions of dollars of appeals that can be computed in terms of billions of dollars before your court. And, there are many people who feel that preferential treatment is being given to these firms when they appear before your court.

You mentioned earlier that when you set up your schedule, or your docket, that you based it on types of cases. I think that differs a little bit with the testimony that was given by Mrs. McConnell. I forget exactly how she said most judges set their schedule. But, it has been mentioned to me that oftentimes you schedule cases - not you personally, the judges, per se, the whole system - based on a particular name of a law firm. For example, you might want to get rid of ten cases in one day, so you will take ten from a particular law firm and hear all ten in one day and stall other people from having their cases heard.

JUDGE EVERS: Senator, I can't speak to that, but I would seriously doubt that that would be done. If I look to a law firm it is simply that I see one firm may have a case with municipality 'a' and with 'b' and with 'c'. And, without destroying the calendar and certainly not to delay anybody, if there is a way to get the same parties - although they are in different cases - in the court on the same day, I will.

SENATOR DUNN: Why is it that some of the most complicated cases can be disposed of rather quickly and some very simple cases, involving residential homes, for example, take as long as five years?

JUDGE EVERS: Senator, I think that question might be better addressed to the actual parties who are involved. I have my own opinions. I have seen people come in with very, very simple little situations, appearing pro se. Speaking for myself, it is my attitude that they are going to get their day in court and sometimes they get their full day - a whole day, all day long - in court.

On the other hand, large cases-- And you know, you can't determine whether a case is large only - now I am talking in terms of time, how long it is going to take - by the amount of money involved. The issue may be a very, very simple one. The issue involving maybe \$1 million worth of assessments might narrow down to whether or not discrimination existed. It is true, you have specialists in this field, not only as attorneys but as expert witnesses and they come in; they are prepared; they anticipate the objections; they anticipate the questions; they come in with full, written reports; and, as a result, they themselves, not the judge but they themselves - the attorneys, the witnesses, and in many cases the assessors, on the other side of the coin - are able to expedite the entire hearing.

Senator, I don't think that any attorney who specializes in a particular field needs a defense. I don't know how many open heart specialists we have in the world today. And, the same thing applies to engineers, or what have you. I don't think that needs any full defense at all. I anticipated your questions along these lines and I appreciate your concern. Before coming down here I reviewed some of my past calendars and, for the most part, I have been hearing cases in Somerset, Morris, Warren, Hunterdon, Sussex and Middlesex Counties and I don't think that any one lawyer or any one law firm has represented any more than maybe two, three, or four percent of all the cases that I have heard in the four year period.

SENATOR DUNN: I can't argue that point because we haven't compiled all of our information.

JUDGE EVERS: On that point, though, Senator--

SENATOR DUNN: But, I have reason to doubt that.

JUDGE EVERS: Well--

SENATOR DUNN: Perhaps not in your area - not in a rural area.

JUDGE EVERS: Now, here is the thing to keep in mind - and I don't know this to be the case - I know that, in response to a question, Mrs. McConnell used the term "box loads" or something like that; that attorneys come in with petitions by the box load. Now, I don't know if that applies to maybe a condominium situation where there might be 200 individual owners in the one building and where 200 separate petitions of appeal are filed. I don't know. I don't know this of my own knowledge. But, that could very well be the explanation for this box full stuff. I don't get into that administrative end of it, Senator, on the Trenton level itself. I can speak for my own operation and the way I try and handle things out of my own office in Wayne Township.

SENATOR DUNN: Judge, one of your colleagues, the last time we met, testified - and I hope I am doing justice to his testimony - and implied that one of the problems in the procedure, or in the system, is that most municipalities have tax assessors and municipal attorneys that are not quite as qualified or competent to compete with, or match wits with, the specialists that I have alluded to.

JUDGE EVERS: I alluded to that myself today, Senator.

SENATOR DUNN: You agree with that?

JUDGE EVERS: Yes. Not all, okay? Not all. But, as I pointed out, attorneys are full-time attorneys. If they specialize in tax law, or what have you, the more they do of it, probably the better they get at it. Five hundred and sixty seven municipalities, I am sure the twelve major cities, and perhaps other municipalities if they do have full-time legal departments can perhaps use the services of an attorney on a full-time basis who really knows his stuff in this field. But, that is not the case I'll bet you in 90% to 95% of the municipalities throughout the state.

As far as the assessors are concerned, I know many, many municipalities have part-time assessors. They are fully employed elsewhere and they have a tremendous task. So, again, whether this be so or not, and if it is in fact the case, it is perhaps another failing of the system itself.

I pointed out, Senator, that I myself can honestly say to you that it will be four years for me the end of this July and it takes a considerable period of time to really learn this stuff and it takes an awful lot of time and effort to stay abreast of the changes in the tax law.

SENATOR DUNN: Is it possible, Judge, that the judges are impressed with the specialists and see them so often in the court rooms that you sort of adopt their formula for making decisions in cases, based on the expertise that you feel in your mind they are providing and that the local municipalities might not be providing?

JUDGE EVERS: Senator, it is still a question of fact. You know, if you say "adopt their formula", arguments of that nature might perhaps prevail in cases of discrimination or issues which are based primarily upon the law itself. But, where you have factual questions, I don't think that anyone could really be swayed to go one way or the other, whether a fellow uses the best of Webster's dictionary or he doesn't. So, I can't subscribe to what you are suggesting here, no, sir.

SENATOR DUNN: Well, who sets the -- or, how is the formula set that

establishes the type of decision that a judge is to render in a particular case? Who sets the rules for you to be guided by in making a decision?

JUDGE EVERS: The Supreme Court of the State of New Jersey and the Superior Court, Appellate Division, or any court higher than us. We are bound by their decisions. Now, any cases that we hear that involve factual situations as opposed to strictly legal questions, we ourselves, being under a non-jury setup are both the tryers of the fact and the givers of the law, so to speak - very much as you have in your own Municipal Court in the City of Elizabeth.

SENATOR DUNN: Well, court decisions make up one part of the guideline but the point is, you must work from a set of guidelines in making a decision. I can't understand why a tax assessor, or a city attorney, does not know in advance whether or not his case is in conflict with the guidelines that you are going to use to make a decision and, if so, why he pursues the case. I can't quite fathom that in my mind.

JUDGE EVERS: Senator, the whole business of tax assessing - and I think your own assessor will tell you this - is far removed from being an exact science. An awful lot of human judgment itself has to go into it and when that is the case, people will always disagree and that is what gives rise to tax appeals, basically. If this were not on the exempt roles, what is the assessed value of this building that we are sitting in? You can go out and you can get 100 of the finest experts and tax assessors in the world and I doubt if you will find any two that will agree. And, that is the real basis of the argument before us. It is a factual argument.

SENATOR DUNN: There would not be a tendency, then, to be impressed by the fact that you keep seeing the same specialists coming in day in and day out and you, in your own mind, conjure up that this guy knows a hell of a lot more than the poor tax assessor who is making \$12,000 a year someplace?

JUDGE EVERS: Even if that were the case - and, again, human nature being what it is, I can't say that I don't know who can handle a situation better and travel through it faster - in the final analysis, that is not going to have a bearing on the decision. It might have a bearing on how many cases can be disposed of on a particular day but it doesn't have a bearing on the ultimate outcome.

SENATOR DUNN: Judge, is it one of your procedures to try to work out a compromise before giving a full-blown hearing to a case?

JUDGE EVERS: Senator, put it this way: I call a calendar of 150 cases. I speak, before I even call the cases on that calendar, for at least one-half hour. I tell the people - particularly those not having the benefit of an attorney - exactly what is expected and how and when and where and what. One of the things that I say at that point is, today, time permitting, I will keep myself available to participate in any conferences at all to simplify the issues or perhaps to even get involved in the settlement of the case. If you feel it would serve a useful purpose, let me know. I say this at that point.

From time to time, as I hear the cases on that particular calendar, again at the beginning of the day, I might make the same statement. But, Senator Dunn, I don't think that I have participated in one settlement conference in probably the last year and one-half or two years.

SENATOR DUNN: Have you ever directed two principals to go into a back room and make a deal with each other?

JUDGE EVERS: Not in all seriousness. If I am hearing a case and I see

some attorneys, assessors, and what not, waiting to be heard, during a recess I might say, look, if you fellows want to talk, go ahead and use the conference room - or something of that nature. Again, I see nothing wrong with that.

But, have I ever said, hey, look, if I were you fellows I think I would settle this thing or, you, Mrs. Jones, see what you can do? No. No, sir.

SENATOR DUNN: Well, this is one of the things that has been brought to me attention, informally, unofficially, by tax assessors. I hope some might give testimony under oath that oftentimes judges practically force compromises in order to get rid of a backlog of some of the 28,000 we are talking about now and in doing so - when forcing a compromise - you are penalizing the rest of the taxpayers in a given municipality.

JUDGE EVERS: Again, Senator I can speak only for myself. And, of course, this is self-serving, you wouldn't expect me to say anything else. But, I am under oath and I am telling you that I have never forced any compromise. I have never even strongly suggested any kind of a compromise and, again, in making that announcement to the people, I tell them that if I do participate in any type of discussion it is going to be strictly on an informal basis and if nothing comes of it, whatever I heard down there is forgotten. I get back up there and "let's go and start from scratch."

I can think of a situation, Senator, where an entire calendar was assigned to me from Union County. When you are assigned a calendar of cases, you don't know anything about these things. I can't tell whether it is a farmland case or whether it is a garden apartment case, or what have you. Before I even called the calendar, I received notice from the division offices here in Trenton that all the cases had been settled - some 136 or them, or something like that. As it turned out, it was a condominium proposition. It involved, actually, two parties - total.

If you take a look at the record, you would say, this guy Evers, he just pushed 136 settlements down somebody's throat. I never even got up to the plate on that one. That happens. But, again, if they are in fact bona fide and they do represent the wishes of the people, more power to them.

SENATOR DUNN: Judge, does your curiosity ever get peaked - if that is the right word - by having these-- Don't you ever wonder to yourself how these specialists get so many important cases all of a sudden?

JUDGE EVERS: Well, Senator--

SENATOR DUNN: Did you ever have a thought in your mind that perhaps some of these firms might be soliciting?

JUDGE EVERS: Oh, that I don't know.

SENATOR DUNN: You never thought of that?

JUDGE EVERS: Oh, look, I guess maybe I have thought of it but I haven't seen any evidence of it and I wouldn't suggest that that is so. I was involved, Senator - and in an indirect response to your question - years ago in a couple of very large homicide cases. Who did the people get? F. Lee Bailey. Okay? They dragged him out of Massachusetts and brought him down here. He is a specialist. How long it took him to get there, I don't know. But, apparently he is pretty good at it.

You get your large, major corporations here in the State of New Jersey or even foreign corporations who own property in the State of New Jersey, they will go to attorneys, or they will go to a Martindale Hubble, or somebody like that. You know, the books contain the names of the various lawyers. They find

out who the people are that specialize in tax law. If they want to purchase a large piece of property, perhaps they find out the people who specialize in real property law. If they have a problem with municipalities and counties or perhaps a planning board or boards of adjustment, they go out and they seek attorneys who specialize in that field. That is the only way I can answer your question concerning appeals to the Division.

SENATOR DUNN: Well, that seems to be the answer that the few witnesses we have called so far have been giving - that they do such a great job as specialists that everybody seems to seek their services in one given year or maybe two years. But it all comes down to the fact that there are about 10 firms that handle the billions of dollars worth of appeals.

JUDGE EVERS: Senator, if that is the case, that there are 10 firms or so, and if you were to--

SENATOR DUNN: That might be stretching the point.

JUDGE EVERS: Okay. If you were to ask me what their track record was, I couldn't tell you. I really couldn't. I assume it has to be better than worse or otherwise they wouldn't be in the business too long.

SENATOR DUNN: Well, from what I have seen so far, I would say they fare very well before the State Tax Appeals Court.

JUDGE EVERS: Of course, you know, those are the things you hear the most about. You don't really hear about the cases that have been dismissed and I am talking about even large law firms and even large taxpayers who have simply failed to produce sufficient proof to overcome the presumption of correctness that exists from the decision given below. You don't hear about them. The only ones you hear about--And, you know, you are very close to the situation in both capacities. They are the ones you hear about. Boy, when that tax bill comes in and you say, what happened here, it is because 'a', 'b', 'c', and 'd' all got reductions and everybody else is going up.

You know, there are many areas that can be looked at. It could be argued. And, I am not arguing it now because in my capacity as a judge I am looking at it impartially and trying to just get to the basic facts and ascertain the truth. But, it could be argued, Senator, that the possibility existed that maybe the true value of the property was not the 110% that it was assessed at, but something less than that - if you follow what I mean. Because your assessors - and I am not talking about yours in Elizabeth, but any one of the 567 municipalities throughout the State - peg a value at \$1,000 and a reduction is given, you know, there is a possibility that that reduction is, in fact, justified and that in some cases we have found - as I myself have found - people are entitled to a substantial reduction. But, you know, you don't walk into a courtroom with that in mind.

SENATOR DUNN: Well, at any rate, you are testifying that from your observation no partiality, no discrimination is obvious at least by the track record of the seven men who serve as our judges?

JUDGE EVERS: That's what I am saying, Senator.

SENATOR DUNN: That a homeowner will receive as equitable treatment as will one of these big apartment complex owners who is represented by one of these law firms?

JUDGE EVERS: Everyone, Senator, is entitled to equal treatment under the law and I don't know of any judge that doesn't subscribe to that and doesn't actually practice it. You know, Senator, that there are rules of evidence, there are rules and regulations that have to be adhered to in any type of proceeding.

I have had people come into court without benefit of an attorney and they will get up and simply be talking about what they read in a newspaper, or what their next door neighbor's cousin told them. Well, this is all unfounded, opinionated, hearsay testimony and in no court should it be accepted. I, myself, will let them talk because in most cases they waited three or four years and they are going to get their day in court. But, can I as a judge base my decision upon evidence and testimony like that? The answer is obvious, I can't. Yet, I can't sit up there and say, "get out of here, Mr. and Mrs. Taxpayer. Get yourself a lawyer and come back." I am not about to do that either.

SENATOR DUNN: Judge, what is the answer to getting rid of a backlog of 35,000 to 38,000 cases, taking for granted that no immediate relief nor no new system will be devised overnight that will give you the Judge of the Superior Court rank, etc.?

Let me put it another way: How can you assure fair and equal treatment when you have that many cases?

JUDGE EVERS: The only way you can assure the fair and equal treatment is to proceed along as we have been, which results in ever increasing, increasing, increasing backlog. Because there are 28,000 cases pending, I am concerned about that, Senator, but that doesn't mean that tomorrow when I am in court that I am going to try and shortcut a hearing. If it takes one case to go all day, it is going to go all day and then there will be 27,999 left. Now, that is a dumb answer, but it is the only answer.

SENATOR DUNN: Judge, you must have some thoughts in your mind as to why, all of a sudden in the last couple of years, the number of appeals to reach the state level has practically quadrupled. Why do you suppose that happened all of a sudden?

JUDGE EVERS: That can be any combination of things, Senator, and I can only make, perhaps, an educated guess at that. There are a lot of things that have happened during these last 4, 5, or 6 years. We went through a terrible economic crunch and people suddenly started looking around for ways to economize and, at the same time, every year when they get that tax bill in and it goes up, and up, and up, they intend to do something about it. That's is one of the major reasons.

You know, there is really no one place where you can lay the fault of this whole thing. If I was sitting up there, I could say, "Well, maybe it is the assessors. Maybe the pressure is on them to make sure that they squeeze every buck out of every piece of property." Well, fine, God bless them. Let them do it. People are always clamoring. You see it going on and you are involved in it right now.

In the City of Newark they haven't had a reevaluation in 20 years. Can you imagine what would happen and the number of appeals that would come out of a reevaluation in the City of Newark? There have been court decisions handed down - some rather recently - dealing with the question of discrimination that suggests, rather strongly, that reevaluation should be conducted perhaps every four or five years in municipalities throughout the State.

Senator, I don't know, but probably in your experience in Elizabeth, if you reevaluate a piece of property, they don't understand that although the assessed valuation might go up, the tax rate is just liable to come down proportionately. People don't know that and for two bucks they are going to take an appeal, aren't they? That's what happens. It is any combination of things. I don't know if I can give you any one answer to your question.

Getting back to your original question, "What do I think can be done?" - in the long range, Senator, your bill is the answer, but I pointed out to you the misgivings that I have concerning that in terms of money and time. In the short run, I would hope that a bill, such as Assemblyman Burstein's bill, would be the answer. I don't know how much more anybody could back off from what is proposed in the Burstein bill.

I think in addition to the increase in judges that he is talking about, this idea of small claims and direct appeals can help an awful lot.

SENATOR DUNN: Judge, how would you respond to these two communications, which I would like to read into the record? One is from an attorney by the name of Lennan, who lives in Tenafly - "I wish to commend and encourage your efforts to replace the Division of Tax Appeals with a Tax Court that would have full-time judges. I have recent experience with the Division of Tax Appeals, not yet concluded, and think that it is intolerable to have to endure five-year delays to have one appeal heard. I wish you success in this matter, but at present it is a dark area of New Jersey Government. John R. Lennan."

This seems to be typical of a lot of complaints that we get. Some of these tax appeals take as long as five years. There is no explanation here, or no description of what the case is, but what is the usual reason for a person who is seeking relief having to wait five years - or a municipality to get a decision that might take four or five years after they have used up a good part of the tax money that was collected?

JUDGE EVERS: Senator, I think you have answered that question yourself. As a matter of fact, you answered that in your own written statement - 28,000 appeals; 7 judges. That is the answer. We can't control the number of appeals that are taken to our Division from the county board.

SENATOR DUNN: Assuming that it is not a very complicated case - and I think this gentleman is speaking for a piece of property that he, himself, owns - why should a taxpayer have to wait? Again, I am only guessing about what kind of a piece of property he is talking about. Let's assume he is a one-family homeowner. Why should he have to wait five years before he gets a decision?

JUDGE EVERS: Are you suggesting, Senator, that the smaller the case the faster it should be assigned to a particular calendar? Remember that--

SENATOR DUNN: I am suggesting that there should be-- And I must take the word of you and the other judge that a residential homeowner is given fair and equitable treatment. Yet, the complaints that I get from people would indicate that they don't, that you show preferential treatment to the taxpayers who are represented by the specialists that I keep referring to. You didn't deny it.

JUDGE EVERS: I don't think I have to defend it. I tried to point out to you that when someone comes in without benefit of an attorney, very often it is not expected of them to even know what the word hearsay means or to even know how to respond to an objection that is raised by a municipality who has a municipal attorney there. Any judge - and I know I will do it - will attempt to help these people, but, on the other hand, I can't try their case for them. I am the guy who has to call the shots and make the decisions. It is their choice if they want to come in and they feel there is not enough money involved in order for them to go out and hire an attorney; certainly it is a problem. Maybe you ought to start appointing - and spending more money - people to come in and take care of these small taxpayers, such as we do for people who are accused of crimes.

I don't know. You know, again, it is up to you, Senator, after you have heard all the testimony, whether or not you are going to accept the word of the judges, the attorneys, or the people who write letters to you, or come in and complain. There is no answer to that. I don't know. People would complain if they came in and they got exactly what they were looking for. I don't think you would hear any complaints from taxpayers who wanted a reduction and they received every nickel of what they were looking for. You never hear from them.

SENATOR DUNN: Judge, one of the problems that we are going to have - and we are having now - is the fact that we can't get the information that we would like to have to be able to make some specific recommendations, based on fact. Your explanation, I am sure, would hold for this -- you don't have the staff for it. But, when you make a decision, when you dispose of a case, nobody else hears about it, except your own office - that is my understanding at least.

JUDGE EVERS: That is not so, sir.

SENATOR DUNN: Well, what do you do when you find in a particular case that is represented by one of these firms - or not represented by one of these firms? Is there anybody on your staff that starts compiling your track record so that you can forward it on to the Governor or to the Supreme Court, or somebody?

JUDGE EVERS: Well, of course, our opinions are reduced to writing and at each monthly meeting, each judge has previously reviewed the opinions of all the other judges. We discuss them at length at our meetings. The Division of Tax Appeals retains those - I believe the originals. Any cases of a major nature - I believe, in certain instances - have appeared in the New Jersey Law Journal. But, there is a service available, Senator - I don't know what the fee is - for anyone who wants a copy of any opinion. They can get that from this service and as the decisions are made and printed, they come right out to them.

SENATOR DUNN: Judge, you might misunderstand me. I know that an opinion is available for a fee. I know that. But, I am talking about compiling facts and statistics that might be helpful to legislators and might be helpful to assure me, more than I have been assured, that preferential treatment is not being given, or perhaps preferential is being given, based on the number of cases a particular law firm handles or how many residential homeowners were involved in the 38,000 cases that have to be heard.

It is my understanding that there is no way that any information that would be helpful to a legislative body - or to the Governor or anyone else - can be compiled to show just what your work load was; how you disposed of it; and a description of the property. You mentioned before that when you get a particular case there is no way you can immediately tell whether it is a residential piece of property, or commercial, or industrial. It seems to me at least, based on the information that our staff gives us, that you have no statistician on your staff to constantly keep compiling this material so that it would be helpful to a legislative body that wants to reform the system.

JUDGE EVERS: Senator, you know as much about that as I do because you have heard from Mrs. McConnell just as I have. Obviously, there is none. The 13 people who work for the Division, and have over the last 11 years - the number has been increased - can't even keep up with the hearing and the deciding of the cases - the clerical work and the routine work that must be done to stay abreast of things on a day-to-day basis. We don't have the people. We don't have the money. You, yourself, are aware of the action - or lack of action, perhaps - that is being taken right now with respect to the Division of Tax

Appeals budget request for fiscal '77/'78. I think you know what I am referring to there - there is a possible reduction in the Division of Tax Appeals budget. We just don't have the people, Senator and if you are talking about my own staff, yes, I have a darn good filing system. You can ask me about any case that I have handled.

SENATOR DUNN: If I were to ask you how many appeals you personally handled involving apartment house complexes in 1976, can you tell me?

JUDGE EVERS: I can't tell you now but give me one-half hour in my office in Wayne Township and my secretary would have that information for you. That is why I pointed out before, to do the job right I am spending as much time on the administrative end of it and the clerical end of it as I am on the hearing and deciding and writing opinions in cases.

SENATOR DUNN: Judge, to pursue that point a step further, do you at the end of any given year file a report with the Senate, the Assembly, or the Governor?

JUDGE EVERS: I don't.

SENATOR DUNN: Or with the sytem itself?

JUDGE EVERS: That I don't know. I know that monthly reports are sent out to the judges, keeping us abreast of the backlog of cases, how many cases have been assigned to the judges, how they have been disposed of, from which taxing districts, which counties--

SENATOR DUNN: Don't you have an annual report, as all other departments have?

JUDGE EVERS: Sir, again, I don't want to mislead you on that. I don't know the answer to that but that answer could be easily obtained, I am sure, from Mrs. McConnell.

SENATOR DUNN: Well, it would seem to me that an annual report of the workload and the accomplishments of the State Tax Appeals Division would be helpful to the legislative bodies. It would at least impress them with the need for reform, the need for more staff, etc. But, we are under the impression that you file no report at all with anybody.

JUDGE EVERS: That, again, I don't know. Now, whether an annual report is filed with the Treasurer's office - of which, actually, we are a part - that I don't know either. But, I do want to see you get that answer. I think I know the answer, but it is out of my jurisdiction, so to speak, and I would refer you to Mrs. McConnell with respect to that.

SENATOR DUNN: All right. Mr. Moore would like to ask you a couple of questions.

MR. MOORE: As an ex-legislator, would you think that a division of state government, which disposes of - based upon our estimates, and I think the data is going to prove these out - about \$4 to \$5 billion, or judges concerning \$4 to \$5 billion worth of appeals every year, do you not think that the legislature should have some sort of track record as to what types of reductions are being given, how many of those are being affirmed, what the fiscal impact of the Division is?

JUDGE EVERS: Absolutely. There is no question that the legislature should get this. They are entitled to that information. It is a two-way street, Mr. Moore. Give us the people. Give us the money and you will get more information than you want.

MR. MOORE: One of the things that bothered me, sort of, about the Burstein bill - and I think it bothered the Senator too - is that although it

does recommend certain specific things that might help facilitate processing the backlog of appeals, it does not provide for any increased staff; it does not provide for any statistician in the Division; it doesn't provide for any assessment assistance to the judges in making their decisions.

JUDGE EVERS: I would hope, Mr. Moore, that those areas which must be improved could be done without benefit of legislation. I would hope that the Division, through the cooperation and the understanding of the Appropriations Committee and the Treasurer's Office, of which the Division is a part, would be given the wherewithal to provide more staff. I don't think that the Legislature itself, when it increased its own staff - the staff back home, the committee staff, and what have you - had to pass any legislation for that. That came out by way of recommendations from the Legislative Services Committee, I am sure. So, I don't think legislation is required to provide those things. We would certainly like to have them.

You know, yesterday, in appearing before the Appropriations Committee, I got involved in your bill, Senator, and the Burstein bill and I was off base there. You and I know the Appropriations Committee can't go out and legislate and increase the number of judges or even increase their salaries. Here we are talking about a reverse situation. I am not here looking for more staff money from the Legislature. Here we are talking about legislation as a whole that would improve the entire system. So, I think they are two distinct situations that we have here, to be addressed to two distinct bodies.

SENATOR DUNN: Judge, I would like to read into the record a letter from R. B. White, who is an assessor from the City of Pleasantville. I would like to have your comment on it.

"Several division judges don't really comprehend the various techniques of capitalizing income into value. The techniques of capitalizing income are like a bag of golf clubs, one for each situation, and some of the judges have only learned how to use the putter. In testimony before the Division, a taxpayers' appraiser, even though versed in all of the capitalization techniques, always uses the putter. The judge understands him, rules accordingly, and frequently misses real value by a long shot.

"Another common difficulty is that the municipal attorney is not competent to try a valuation case. He does not recognize weaknesses in taxpayers' appraisal, nor can he develop strengths in the assessors appraisal. Typically, he confines himself to the procedural amenities of a hearing.

"Furthermore, assessors share blame for the common failure to reconcile the income approach value with a proper cost approach value, especially when appraising recent construction. Value is imprecise. To focus on value with any degree of confidence, one ought to marshal and reconcile every possible scrap of evidence methodically. There is no evidence of value quite so demonstrable as a recent cost to construct, but appraisers, Division judges, and even assessors blithely dismiss the cost approach when appraising income producing property. That is a mistake that invariably injures the municipality.

"The cost approach should be included and reconciled with the income approach. The income approach is the approach most subject to manipulation because the essential, underlying assumptions are frequently unexplained and unexamined and because the arithmetic of capitalization has the effect of magnifying seemingly small errors in the initial stages into large errors in the

final value. Like a weapon, the income approach is dangerous in the hands of the ignorant and the unscrupulous.

"You can't force the judges to qualify themselves in appraisal of real estate. Maybe you could supply them with a supporting staff of competent appraisers. I have found cases before the Division of Tax Appeals to be so demanding, so futile, and so corrosive that I have determined never to participate in one again, no matter what the issue."

Now, that is rather technical for a layman like myself to fully understand, but I thought maybe you could shed some light on that.

JUDGE EVERS: Senator, to properly respond to that letter, I think, would go beyond the bounds of time that might be allotted to us today, and I really don't know how much we could get out of it. Much of what the assessor says, of course, is his own personal opinion. I am thankful that I haven't heard any cases involving Point Pleasant. He is rather strong.

SENATOR DUNN: Pleasantville.

JUDGE EVERS: Pleasantville, even. But, what he says, of course, he finds in the New Jersey Manuel for Assessors. He has found in court cases-- I can rattle off any number of Superior and Supreme Court cases. He can find exactly what he said in some opinions that I have written, insofar as the reconciliation and the support of the three traditional approaches to value are concerned. But, from what he has said to you, he obviously has had - in his own opinion - some bad experiences and he has expressed them to you.

I don't know the facts of the situation that he refers to. If I did, I would be happy to address myself to them.

SENATOR DUNN: Well, my interpretation of this is that, as some others have implied to me, depending upon who the judge is and depending upon his attitude or feeling that day, he uses a hit-or-miss type approach in making some decisions, that there is really no fixed formula for setting a decision. There are no real guidelines that are ever strictly followed by all seven of you. That perhaps it depends upon whether or not the case is brought before you or Judge Savino or somebody else.

JUDGE EVERS: There may be a difference in style and method. Senator, one of the virtues and one of the very reasons why we do sit down and discuss each and everyone's decision with the balance of the judges is to make sure that we are all coming to the same bottom line, that we are all using the same methods and the same approaches.

SENATOR DUNN: How often do you meet, Judge?

JUDGE EVERS: By law, sir, we have to meet on the first Thursday of each month in the City of Trenton. That is built right into the statute.

SENATOR DUNN: Who usually attends those meetings?

JUDGE EVERS: The seven judges and the secretary of the Division. The purpose of it is to handle routine matters and primarily to go over the opinions that each judge has written in the previous month. If I wrote an opinion tomorrow, I would send it to the Division of Tax Appeals; it would be distributed to the other six judges. They would study this and on the first Thursday of each month, we would address ourselves to that. Evers would give a brief resume of the case; why I found what I did; my understanding of the law, based on this case, that case and the other case.

There has been more than one occasion where perhaps I misunderstood

something, or I completely missed something that I should have caught. Thank goodness, one of the other six judges picked it right up and I went back and I rewrote the opinion.

So, it isn't that we just throw these things up in the air and the ones that come up face up are attended to first. That is not the situation at all. With the limited staff and funds and, quite frankly, time, Senator, that is available to us, I can honestly say - whether a particular assessor likes it or not - that we are doing our level best. It is far from being good enough.

SENATOR DUNN: Judge, at these monthly conferences that you attend, do you ever bring in professional people to counsel you?

JUDGE EVERS: No, Senator, that is not the purpose of those meetings. We-- I know I have; I have attended various seminars. I subscribe to all the tax services I can so that I am constantly trying to stay abreast of any new developments or any new law that is developing and I think all of the judges do.

Senator, we are sitting here this morning and we are talking in terms of the seven part-time judges being able to operate like any full-time Superior Court judge should, and does. The fact of the matter is, we can't.

SENATOR DUNN: What you have been testifying to is that you are seven full-time judges, but receiving part-time pay?

JUDGE EVERS: That's it. We are receiving part-time pay.

SENATOR DUNN: With a minimal staff?

JUDGE EVERS: No staff - no staff. Whatever staff I have, I am paying them and I am getting reimbursed \$57.70 a week for it. Whatever typewriter I use, I bought. Whatever library I use, I bought and I maintain. So, there is no staff.

SENATOR DUNN: The \$57.70 a week you are talking about, is that the same money that Mrs. McConnell testified to?

JUDGE EVERS: That's right - \$250 per month, 12 months per year, comes to \$3,000. Divide that by 52 and I think it will give you \$57.70.

MR. MOORE: We have collected some preliminary data from some of the counties. We have asked the county boards of taxation to send us certain data concerning taxpayer appeals, appeals from the county board decisions to the Division in 1976 and we limited that to the appeals where the assessed valuation was over \$100 thousand. Mrs. McConnell's statistics, which she supplied us, indicate that about 50% of the appeals are over \$100 thousand. You might be interested to know that there is one tax firm - and I am sure you and I both will know who it is, and I won't mention the name of the firm-- In Morris, in 1976 - and I realize you haven't tried any 1976 cases, probably, so far - there were 87 taxpayer appeals of over \$100 thousand and 26 of these were handled by one law firm. That is 30%.

JUDGE EVERS: That is before the county level?

MR. MOORE: No, that is going from the county level.

JUDGE EVERS: I haven't even seen them yet.

MR. MOORE: And in Somerset, there were 46 taxpayer appeals of over \$100 thousand and 8 of those were handled by one law firm. That is about 17%. In Warren there were 21 taxpayer appeals of over \$100 thousand and 7 of those were handled by one law firm. That is about 33%.

Based upon 10 law firms - 10 large ones - we have, for Morris, 87 taxpayer appeals of over \$100 thousand and 45 of those were handled by 10 firms, for 51% or 52%.

In Somerset there were 46 taxpayer appeals of over \$100 thousand and 20 of those were handled by the 10 firms, for 43%.

Again, in Warren there were 21 taxpayer appeals of over \$100 thousand and 13 of those were handled by the 10 law firms, for 62%.

JUDGE EVERS: And may I ask, what is the purpose of this? Is this to contradict something that I may have said before?

MR. MOORE: No, I don't think they could contradict anything you said because you haven't heard any of these cases. You might want to be aware of this. There does seem to be one law firm which is handling an awful lot of cases in Morris, Somerset, and Warren, where you sit.

JUDGE EVERS: I will be curious to try and figure out who it is. I really don't know.

SENATOR DUNN: Well, Judge, I am sure if that if there were more Senators here today, there would be other questions. But, I greatly appreciate your giving the testimony that you have given and taking the time to come here. I certainly will do all that I can, in my small way, to try to bring some much needed relief to the system. But, to reiterate what I have said many, many times again, the system is so bad that anything will be an improvement.

Again, I think you for enlightening us to many of the things that need an overhaul in the system.

JUDGE EVERS: In thanking you, Senator, I again want to point out that the system itself is poor and needs improving but in defense of the 13 people across the street and of the judges themselves, I think that we have been and will continue to do the very, very best we can, within the limits that the Legislature allows us to operate. So, I think that might be a rather polite way of saying the Legislature has the ball.

SENATOR DUNN: Thank you, sir.

Is Mr. Salmon here? Mr. Salmon will be our next witness.

(witness sworn)

Mr. Salmon, will you please identify yourself for the record and give us the correct spelling of your name?

W A L T E R W. S A L M O N: My name is Walter W. Salmon. It sounds fishy, but it is not. I am the past President of the Association of Municipal Assessors. I am a retired assessor, after 14 years of activity in the assessing field.

SENATOR DUNN: Very good.

MR. SALMON: They told me I was too old to think, so they said to quit.

SENATOR DUNN: And go fishing?

MR. SALMON: Yes, and go fishing.

I have a statement that I will read. At the outset of this statement, it must be clearly understood that the opinions expressed are not a condemnation of the hearing officers of any of the appeals bodies, but they are opinions and suggestions offered in the interest of the taxpayers and the municipalities in which the Association members serve.

We would be remiss if we did not make a few remarks about the nearly 900 assessors in the State. First, to hold the office the assessor must be Certified by the Director's office, which Certification follows a period of study and examination. Second, to pursue intelligently the assessment function it is necessary that he undertake continuing education and study in order that he may be qualified to make proper computations and decisions in his effort toward equity in establishing fair market values of all properties in his

jurisdiction. This is as it should be, but "frustration" is the dominant feeling of the assessor at the judgments rendered, following appeals.

With the exception of some of the newly elected, or appointed, assessors just taking office, the collective integrity, capability, and dedication to their positions is above reproach. These new assessors will attain the same stature of professionalism as the more experienced assessors, in a short period of time.

The County Boards of Taxation: The members of the County Boards, regardless of qualification, are "political" appointees, with the majority of the members being required to be of the same political persuasion and party as that of the Governor of the State in office at the time of the appointment. Only recently have Board members been required to meet certain qualifications, however, a short period of study is no substitute for experience or capability in the field of real estate appraisal or assessment.

Next, the County Boards are not required to reduce their findings to writing, and the Association members feel that the parties to an appeal should have the benefit of such findings in order that they, the parties to the appeal, may make a decision whether or not further appeal is necessary or justified.

In this regard, the County Boards are required to render judgments on or before November 15th of the year of the hearing. Appeals to the State Division of Appeals must be filed on or before December 15th of the same year. The short period of intervening time does not permit either party to the appeal to digest the findings, if available, and make preparation for a possible hearing at the Division. We recognize the fact that County Board members are part-time officials, limited to cases within a particular county, but the question arises whether or not the Board members should be full-time, eminently qualified, and assigned to handle a broader territory.

In all probability, there would be a change in filing dates required, following the issuance of the first tax bill of the year, at which time the property owner would know the value and assessment placed on a given property. Such a full-time Board, with an expanded area, could demand skilled, competent, non-political persons to make decisions on this most important function.

Next, we move to the Division of Tax Appeals. Here, as with the County Boards, we have hearing officers who spend part of their working days with tax appeals, and part of their working days in other pursuits of income. We do not fault this arrangement since reappointments are of some concern to the appointees to the Division. It has been reported that a backlog of some 28,000 appeals cases are on the records. Such a backlog is cause for alarm to the parties to appeals. It is an established fact that the average time after filing for an appeal to be heard is two years.

The onus is not on the Division members but on the system. The long time between filing and hearing can be financially disastrous to either of the parties involved. Witness: The Borough of Collingswood vs. Parkview Village Association, an apartment complex, with the original appeal being filed in 1968 and finally adjudicated December 1972. The Borough, losing the case, was required to enact a bond issue in the amount of \$335,000 to refund taxes paid by Parkview. Had this case been reversed it could have forced Parkview into bankruptcy. We do not comment on the merits of the case or the judgment, but only on the time required for judgment, which was a factor.

In all probability, a full-time tax court would have

expedited this and many like cases more satisfactorily, and more quickly.

Condemnation of the hearing officers or their judgments is not the purpose of this statement, but we are of the opinion that there are many questions that should be studied, analyzed and answered.

Why, when the hearing dates for appeals are set up on the calendar are continued postponements granted for some very questionable reasons? Postponements are disruptive to the courts and to the party who is prepared to present his case. The regulations governing hearings should be thoroughly studied, revised if necessary, and then enforced.

Why should incoming producing properties be favored with depressed values because of profits or losses, and further depressed by the application of a district ratio, when non-income producing properties, such as residentials, are not so favored? The district ratio is promulgated for the express purpose of allocating school aid to municipalities, and the county ratio is promulgated to equalize taxes among the several municipalities of the county. Neither of the ratios are promulgated to establish equity among individual properties.

Why should any piece of property be reduced to the district level computed for other purposes? By way of explanation, in a community having farmland assessments which farmland values are set by the Farmland Evaluation Committee reports, there is no way that the assessor can change these values and, thus, they remain virtually constant year after year. Sales of farms or farmland are excluded from the sales ratio study due to the "roll-back" provision of the Farmland Act, therefore, a ratio for this class of property cannot be established. Without sales to work with, the sales ratio of "residential" property is applied to the farmland assessment total, thus bringing it up to 100% for equalization purposes. Thus, if the aggregate farmland assessments are \$1 million and the residential ratio is 50%, then the true value of farmland is established at \$1 million, divided by 50%, or \$2 million, which total is used in computing the true value of all property in the community. Such application reduces the overall ratio of the community without warrant and the burning question is, why should the ratio including farmland be applied to any other class of property, particularly income-producing property, thus further favoring and reducing the assessed value of such property?

Adverse decisions on the inclusion or exclusion of certain sales used in promulgating the Equalization and/or Abstract of Ratables have shifted the burden of taxes from one class of property to the remaining classes. A study of the many appeals cases will reveal some surprising and often questionable decisions. However, the question of the "equalization" process has been raised many times with the stock answer invariably being: "This method has been in effect for many years, and in the absence of another method, why change it?"

As a summary statement we offer the following for your review: Our Legislative Committee continually analyzes all legislation presented to both the Senate and the Assembly. The Committee reviews the findings of the appeals bodies and they are of the opinion that there are inconsistencies in the interpretations of the laws enacted.

We feel that the method of appeal should be studied and revised if necessary, particularly with respect to appeal forms that differ county-by-county. In order to cut down the time between appeal and judgment, a change in the court procedure should be studied.

It is our opinion that when our coefficient of deviation is within an acceptable 20 points, that there should not be a reason for appeal except in cases of mathematical error.

Further, it is the opinion of the assessors of this State that members of the Division and County Boards should be as well qualified as the assessors and should be required to give the time necessary to alleviate the pressure of numbers of appeals.

As we have stated in the first paragraph, we do not condemn nor do we condone any person or persons or their opinions or judgments, but for the sake of the taxpaying public we are thoroughly convinced that there must be a better way in which appeals and subsequent judgments can, and should, be handled, both by the Division and the county.

The Association of Municipal Assessors of New Jersey thanks you for the opportunity to present this statement and offers its expertise and experience in helping to upgrade the assessment and taxation functions. Respectfully submitted, Walter W. Salmon, Chairman.

SENATOR DUNN: Thank you, Mr. Salmon. Mr. Salmon, maybe it is because I was never too good in arithmetic anyway, but on page 5, going three-quarters of the way down - "Thus, if the aggregate farmland assessments are \$1 million and the residential ratio is 50%, then the true value of farmland is established at \$1 million, divided by 50% or \$2 million." Is that correct?

MR. SALMON: That's right.

SENATOR DUNN: If you divide \$1 million by 50%, you come up with \$2 million?

MR. SALMON: Right. Multiply the \$1 million by 2 and you will come to \$2 million, because the 50% is half of true value.

SENATOR DUNN: Well, shouldn't it be \$1 million multiplied by 2 to get the \$2 million?

MR. SALMON: All right. It is the same difference.

SENATOR DUNN: It is the same thing?

MR. SALMON: Right. In other words, what I am saying here is that the culprit in depressing the district ratios is the residential sales. If the residential sales come up to, or are established at 50%, then they apply that to the farmland and, needless to say, vacant land sales might be 85%, residential 50%, and apartments 120% and they use the residential - for what reason, I don't know. I don't think anybody else will ever find out either.

SENATOR DUNN: All right. You are then talking here about the number of appeals that make up the backlog as 28,000. Our records show 38,000.

MR. SALMON: It is 28,000.

SENATOR DUNN: 28,000?

MR. SALMON: It is 28,000, yes.

SENATOR DUNN: Okay. You are right; I'm wrong.

Mr. Salmon, you are retired. You are just a Committee Chairman of the Association of Municipal Assessors, but you are not actively engaged as an assessor now, are you?

MR. SALMON: No, I am not. I have been retired for one year. I think they picked on me because they know there is no reciprocity.

SENATOR DUNN: Retaliation, I think, is a better word.

What you are saying - and I will study this later - is that not only is the State Tax Appeals Court in need of reform, but, certainly, the county system

is also in need of this reform, or betterment, or changes.

MR. SALMON: I think that is a fair statement but I think collectively the whole tax court system should be reviewed and revised. Speaking for myself and not for the Association, I agree with your efforts. After so many years of being an assessor, I know there have been a lot of disappointing judgments that have come down and I think it is just a matter of judgment on the part of the hearing officers.

SENATOR DUNN: Well, the Resolution that this Committee is working under covers only the State level. But, I can't help but agree with you, that something has to be done on the county level too to keep so many appeals from just almost literally bypassing the county and going up to the State.

Getting back to your 14 years of experience and the fact that you are no longer on anybody's payroll, do you have any comments that you would like to voluntarily submit relative to some of the inferences that I have been making - that perhaps preferential treatment is being given by the 7 judges, or the system itself, to the high taxpaying property owners represented by the group of 10 specialists in this field?

MR. SALMON: Again, not for the Association but in my own personal opinion, I don't think that there is any intentional favoritism shown to any taxpayer. But I do think that the method by which it is done and which is explained in here - the use of the district ratio, which is computed for a specific reason, or two specific reasons - should not be used in a tax appeal because they are entirely different classes.

I was involved in a case not too long ago where the reevaluation program went into effect in 1971. The county ratio was at that time theoretically 100%. But, immediately an appeal came in and the ratio was supplied for two years prior to the year of the reevaluation, which, to me, was wrong. I am not one of the judges of the Division. I certainly would like to be one. I think I would make some changes. I think that that is wrong. I think to use a ratio that is compounded for certain reasons, doesn't prove that any particular class of property is being discriminated against.

SENATOR DUNN: Now, will that decision be the same, regardless of who the judge is, or does this bear out something that I have suspected: It depends upon who the judge is, that there is no fixed formula, or no fixed ratio, or no fixed way of deciding any particular case that would be in conformity with the thinking of all the other judges?

MR. SALMON: Well, human nature being what it is, we don't all think alike and I think there is variation of interpretation and variation of thought among the judges. Regardless of whether - as has been testified to - they sit down together or not, I think there is a large divergence of thought and procedure.

To give an example, there was a case involving a swimming pool. It went to the Division and they said - one judge said - an above-ground pool was taxable and another one said, no, it wasn't. Two evidently competent judges differed on the thinking of what was and what was not real or personal property.

SENATOR DUNN: Well, that was a determination or a judgment. But, what I am trying to find out as a layman is, isn't there some manual or some set of specifications that would eliminate the difference of opinion of two men, that it would be so clear-cut they would have to be the same?

MR. SALMON: At the Division level, I know of no such guideline. At

At the assessor level, I think 99% of the assessors try to employ the State Appraisal Manual that is put out by local property tax and utility branches. In that regard, with the exception of mathematical errors and possibly some little judgment, most assessment should be quite equitable.

Most assessors try to judge their equity of assessment by the establishment of a coefficient of deviation, or a coefficient of differences, if you want to use that term. If there is a difference of over 20% in the appraisals in a given number of arms length sales, for instance, then they start to look and see what is wrong with the assessments. But, if it is under assessments, it is generally considered by the courts and everyone else that that is not a bad difference of equity.

I might say, going back to equalization, equalization is a dirty word among assessors. We know that in some cases FHA and VA sales are included in the sales ratio study. Anyone in the real estate business, or anyone who has had any experience in appraisal work - particularly, let's say, for banks and mortgage companies - will go out to find out what are the comparable sales as opposed to a given property.

Let's use the figure of \$20,000 in a conventional mortgage. That same property, in order to go V.A. or FHA must have points and what not, so that property would now be \$25,000 - to use another figure. Now, which sale do you use? Do you use the conventional one or the FHA, V.A. sale? Now, when those sales are used in a study, then we have a hiked-up proposition for true value and this we think is wrong. We think they should be thrown out of the study.

SENATOR DUNN: I have a question that escapes me for the moment, but from your experience, have you seen many compromises literally forced on tax assessors by these judges?

MR. SALMON: I won't speak for any other assessors, although it has been inferred that such things have happened. I will recall a few years ago, one of the Commissioners who is no longer with us - a very honorable gentleman in his own right - expressed it this way, and I will use his expression: He said, "I'm going to the little boy's room and when I come back I expect that to be settled." What are we supposed to do?

Just recently we had a case of--

SENATOR DUNN: That would imply that he wanted to see a compromise.

MR. SALMON: He wanted a compromise.

SENATOR DUNN: Any compromise would work to the detriment of the municipality.

MR. SALMON: Yes, sure. Most of them do.

SENATOR DUNN: It would have to. If the tax assessor is going to reduce it, it would have to work to the detriment of the municipality.

MR. SALMON: That's true.

Within the last three years I had a farmland case where we were told to go into a room and come out with some kind of a solution. I won half and the other guy won half, but it didn't do the municipality any good. But, that is about the only-- As a matter of fact, the hearing officer said, "I have a preconceived notion of what that is going to be." So, we were left up in the air. We didn't know what to do. I felt as sorry for the appellant as the appellant did for me. So, we compromised in between and we went out, not happy but we went out.

SENATOR DUNN: How do you react-- I notice in your opening paragraph you referred to the competency of most assessors, except for some new people, and what not. How do you react, on behalf of your colleagues and yourself when you hear judges say that they feel that these lawyers who I refer to as the "specialists"-- Two judges have testified that in many, many cases the tax assessor is not competent to compete with, or match wits with, one of these "specialists".

MR. SALMON: I will answer that this way: Over the years I have done a lot of teaching. I have done a lot of speaking all over the country at the International Association of Assessing Officers conferences and what not, and I say without any qualms at all that the New Jersey Assessors are better qualified than any that I have found anywhere in the country - if that answers your question.

SENATOR DUNN: I think it does.

MR. SALMON: As a matter of fact, since being retired, I have been asked to be the expert witness for taxpayers and there is not enough money in the world to pay me to go against them.

SENATOR DUNN: Very good. Mr. Salmon, I want to thank you for a very well thought out presentation. I apologize for not having a better knowledge of arithmetic. But, it is a very fine statement and it does justice to the groups that you represent. It will be a very important part of the record and will be brought to the attention of the legislative bodies. I thank you for coming.

MR. SALMON: Your apology wasn't necessary. You know, assessors make mistakes too.

SENATOR DUNN: Thank you very much, sir.

Is Mr. Leodori here? (affirmative answer) Mr. Leodori, will you be sworn in and identify yourself, please?

(witness sworn)

SENATOR DUNN: Do you have a prepared statement?

D O N L E O D O R I: No, I don't, Senator. I apologize for that. I have notes all over the place here.

SENATOR DUNN: That's all right.

MR. LEODORI: I just want to explain why I am here and that is why I am half prepared. First of all, my name is Don Leodori. I am Secretary to the Bergen County Board of Taxation. However, I speak to you today as a former President and member of the Association of County Tax Boards, Secretaries, and Commissioners of the State of New Jersey. They suggested this last Thursday, so that is why I am not properly prepared.

Senator, first let me give you a little background here so you understand my background. I understand yours, I think. I have been Secretary now, I guess this is my 14th or 15th year, in Bergen County and 10 years prior to that I was a Senior Field Representative with the State of New Jersey, Local Property Tax Bureau, which is still in business. I served on four committees, under three different Directors. I served on six different committees under three different Governors, Governors Myner, Hughes, and Cahill, and also I have served on various committees. So, that is basically my background in that direction.

Senator, most of the talk here-- I attended a meeting here on the 15th and most of the questions and most of the statements seem to involve the appeal procedure, which is your primary goal, I assume. But, I don't think that is a true picture, Senator, and what I would like to do is to touch on that, to make

some comments and to tell you truly - to give you the facts of life, so to speak - what a county board does. I hope I can convey, in my humble way, to you the feelings of the 21 counties in New Jersey.

So, what I would like to do now is just go briefly - and you can stop me if you want any clarification - into the duties that are imposed on a county board of taxation and this is going to jump out of sequence because I start with January 1st and will then give you the complete cycle, so I can hope to impress upon you that appeals, in my opinion, in Bergen County - Fort Lee is in Bergen County and I am very familiar with that situation - are only about 10% to 12% of the total workload. So, I think the issue is being clouded and it is not coming out and this is a point I would like to convey to this Committee.

So, starting on the 1st of January what all county boards - there are statutory requirements, these are functions determined by statute, so we cannot deviate from these functions - have, first, on the calendar is, we render judgments on added assessments, which I have yet to hear this Committee ask questions about whatsoever - on added assessments.

Two, we determine adjustments for the next year on the prior year, on added assessments, and omitted assessments. We have farmland assessments. And, we just got, this year, the rebate situation, which was just thrown on the county tax boards.

Senator, on the 10th of January, each county board, by statute, must receive the tax list and duplicates from the assessors. This is due on that date, so we receive them. Also on that same date, we receive and examine SR3 cards. And, Senator, they are classification breakdowns - vacant land, residential property, farmland, regular qualified, and class 4 - which is income producing property, industrial, apartments, and what have you.

You just heard on the 10th of January we make a sales ratio survey based on these SR3 classifications. Now, during this period - from the 10th of January to the 5th of May - we have what we call an assessors appeal. This is not required by statute. Perhaps I can best clarify it this way: This is a situation where the assessor is saying to the county board, "Hey, I made a mistake; I want it changed." Or, "I didn't follow the Act." Or, "I got the judgment too late from the Division." So, this is the period, Senator, where the county boards are, in fact, assessors. They review. They revise. They correct. And, they equalize all the assessments in the county. So, during this period -- I can't speak for the other counties but in Bergen County we average from 5 to 7 thousand of these so-called assessors appeals, which are corrections. However, before any are accepted, these are reviewed by myself and by the board. They are submitted to the board for consideration. So, it is not possible to do it on a stipulation or recommendation.

To continue, by statute we have to hold hearings on the preliminary equalization tables and these hearings must be concluded by the 10th of March. Now, Senator, this is one of the most complicated tasks that any tax board must prepare, based upon the sales ratio studies. I guess in Bergen County we have approximately 20,000 sales a year that we analyze. Of course, we have the usual non-useable listing but these are confined to the useable listing which we analyze. We give every district an opportunity. Once a week - not once a year or once a month but once a week - any assessor can come in and contest or to ask any questions they want on these sales. Incidentally, these are the same sales that Mr. Salmon referred to, that the Director uses in his

computation for the promulgation of the equalization table for the apportionment and distribution of the State's school aid monies.

We hear appeals on equalization. We had 23 this past year. This Committee hasn't even touched on equalization appeals, which is very, very critical. There is more money riding on this type of appeal, in many cases, than there is on some of these smaller residential and/or commercial appeals.

Also, at this time, Senator, we assess, review, and tabulate every school budget in the county. This goes to the county tax board. These are reviewed. We have regional and consolidated districts. The formula for these is the most complicated formula in the world and to complicate that, we had Chapter 212 last year. We had to take two years, where they are going to diminish the AFDC Aid -, or the per pupil basis. Here, again, there were five or six mistakes in certifications to the Bergen County Board of Taxation. There were court orders on top of that.

Then, on top of that, there are the very appeals that your Committee is speaking of here. We must give debits and credits. If our Board, or the Division, and/or the courts make recommendations, we must reflect that change - that debit or credit - for overpayment or underpayment for school purposes as well as for county purposes.

From that, Senator, we prepare, we promulgate, we post, we serve the municipalities with a copy of the final equalization table. Now, that is the heart of our work. I am sure you are familiar with that table. It gives the entire history of any county in the State of New Jersey.

Then we continue here on the 1st of April - which has now been pushed to the 15th of April - to receive, reexamine, and tabulate municipal and county budgets. As you know, yesterday they just voted on local budgets. So, that part of the law has not been changed. That portion of the law says that we must certify a tax rate by April 10th. That is absolutely ridiculous. I guess the Legislature, or whoever is responsible for that, made no consideration for changing that date. So, we are in limbo in that situation for 1977.

To continue, Senator, under Chapter 51, which I had the privilege to serve under - we still, each county, may set their own percentage level. I believe now that all of the counties in New Jersey are at 100%. That percentage level is about the only thing that is alive in Chapter 51.

To continue on, on the 10th of April a report has to go to the local county treasurer, showing the amount of taxes to be paid by the county or the municipality and then they, in turn, bill them for two years.

SENATOR DUNN: Allow me to ask you a few things.

MR. LEODORI: Sure.

SENATOR DUNN: Are you eventually going to get into the State Tax Appeals Court?

MR. LEODORI: Yes. I want to impress this body with the fact that there are other responsibilities, by statute, conferred upon county tax boards, other than the appeal process. That is only about 10% of our work, which is very critical, but there is a lot more that I think is much more important than the appeal process itself, that is really the lifeline of county government.

I am going to try to shortcut this, Senator. I know you are in a hurry.

SENATOR DUNN: In case there might be a misunderstanding, this Special Committee is charged to conduct a thorough study of the State Tax Appeals Procedure and to make recommendations to the Senate for the professionalization,

modernization, and improvement of the said procedure. As long as you are going to work into it-- We are trying to find, specifically, ways and means of improving the appeals system after it leaves the county.

MR. LEODORI: Well, Senator, I think this is the heart of the problem. I think if you can nip this in the bud, that a lot of these problems can be resolved. What you are doing is, you are starting at the top. You don't do business that way. If you can start at the bottom here - and I do have my comments here on the appeal procedure. I would like to really spend some time on it. I think, Senator, for you to get an intelligent complete picture of what is going on, you have to start from the bottom and work up. That is what I am hoping to do for this Committee.

SENATOR DUNN: All right, continue.

MR. LEODORI: I will be very brief here. I just want to impress the duties upon you because this is going to lead to other situations and several bills that are pending over here.

We determine the municipal taxes for schools. We break that down for regional and consolidated school districts. We break down the tax rate per county and per municipal. We certify to the tax collector - "This is the breakdown; you send out a bill that way." We certify the general tax rates. We determine the apportionment of combined school districts. We send copies of the school table, as required by statute and the "whole world", including the Assembly and Senate delegation gets these.

Now, on the 1st of May, at that point we must have the completed duplicates delivered to the collectors of the various county boards. Otherwise, they can't get their bills out. So, after all this process, we now go to the collectors. It is now in their hands. At that point, they now prepare to send out bills. We also, by statute, must tell a collector, "Hey, if you want to file an appeal, this is what you put on the back of the bill: This is a tax rate; appeal forms are available at county level; and you can appeal this not later than August 15th, or the first week you get your bill."

Again, we supply - which is contrary to the rules and regulations - their own petition of appeals. The rules make it very clear that the Director-- This is supposed to be a statewide, uniform, form. But, this is not followed and I guess I can see why. There are different things, but nevertheless, contrary to law.

Also, what is not supplied but which is critically needed for appeals or anything else is a copy of the income and expense statement. There is no set procedure as to form. We, in Bergen, have developed our own form and we try to take a three-year average. Some of the questions that came up here-- Because all of the weight that I have heard from any board, is solely concentrated on income producing property. The courts have made it very clear to us that you must use the three approaches to value, regardless of classes and where it is applicable.

At this point, we accept petitions of appeal at our office and this can vary, Senator, from 10 to 15 or 20 thousand in Bergen County alone. My people -- we assist the taxpayers. All they know is they are paying too much money. But, we do assist the taxpayers in the preparation of these forms.

Of course, by statute, we have our organization meetings. So, all through June and up until August 15th it is the entire appeal procedure as far the county is concerned. We check these from soup to nuts and pass them all on

to the people responsible for them.

Of course, as I just mentioned before, an additional load has not come with the rebate, which we are just going through right now. The senior citizen has changed. That is not going to be in the tax rate. So, again, there is another change with the senior citizens; the state is going to pick up the entire nut, so to speak.

Now, into the appeal hearings - let me tell you what we do in Bergen County, Senator. I guess this is true. I have spoken with most of my colleagues, a lot of whom are present in this room today. The county board's hands are tied concerning appeals. We have 90 days in which to render a judgment. The way we set them up in Bergen, on residential property we try to set 25 in the morning and 25 in the afternoon. That is 50 residential appeals. When it comes to what we call our big calendar, or our commercial calendar, we try to put 15 per session, or 30. So, with this load-- This is a tremendous load. Senator, we have a very difficult time meeting this deadline.

In Fort Lee - which you alluded to three or four times - our board and myself have sat until 5:30 in the morning and we commenced at 9:30 in the morning. As a matter of fact, I got calls from that Fort Lee hearing from wives of attorneys, especially; they couldn't believe that their husbands were in court. That's how critical that situation became.

Now, we do preside. One commissioner does preside at a hearing. Now, his job is -- he doesn't have the authority. He makes a determination. Now, I didn't quite understand the Division of Tax Appeals, where you asked a question concerning seven judges sitting together with a secretary. But, we were told - or advised - by the Office of the Attorney General that we have a Sunshine Law and this Sunshine Law says that our meetings, when we make a determination - or any board meeting - must be open to the public. This, Senator, I understand is certainly done in Bergen County and I understand that it is followed through throughout the State of New Jersey.

Now, after all of these floods of judgments and after all this checking and corrections and statements taken and the filing fee -- it is unbelievable the number of small errors there are where they are not in full compliance. So, we have to send second and third reminders, which all takes time, Senator.

So, here, after that is all done, then we must issue a judgment. That takes time. Just typing judgments every day when they are coming in, it takes two or three girls to just keep going - in fact, they have to go overtime. Fortunately, in Bergen, they realize that and they get paid. So, that completes the cycle, so to speak, on the appeal procedure and it is a very heavy load.

Now, also, we get foreclosure reports, which I haven't even heard mentioned before this Committee. They must be accounted for. Then, we set the cycle again - which I started with. We hear added assessment appeals. They come in. The omitted assessment appeals come in and they must be heard, by statute, by October 1st and if we miss it by a couple of days then the town is penalized for another year because of these technicalities.

So, we receive the petitions on rebates. They keep coming in. The added assessments, the omitted assessments and farmland assessments come in. So, here again, we prepare an abstract and a table, again, for this entire cycle, which we do for the regular list. Here again, we send out the SR38 cards for this classification and that cycle will more or less start itself. Just a

a few more minutes on this boring part and then we will get over here.

Now, the functions, Senator, they are not described by statute, but have become a habit, or a way of life, throughout the State of New Jersey. Keep in mind that this is a statute, as I understand it, which goes back to 1906 and it was modified by the Tax Convention in 1946 or '47. But, here is what has happened since then. We supervise all of the assessors in our county. And, I understand through my colleagues that this is true throughout the State. This means, Senator, that the Commissioners must know as much as the assessors. They have to know that. But, to judge them or to guide them, they must go to school. They have to know more than that because now they have to make a determination. In this respect, Senator, we started - I guess about 5 years ago, when I happened to be President of the Association - and we pushed this very hard. Now, most of the Commissioners, if not all - and there are only two or three now pending, that are almost through - in my opinion, have become qualified. We have passed. Rutgers, our State University, has sponsored this and they laid down the format for this and I am privileged to teach that class. I did work with most of them in that capacity and they are putting in an effort and they are applying themselves.

There is also a statute on the book that says if a Commissioner does not have this qualification, then he has 12 months in which to do it - in which time we qualified. So, the point here, Senator, is that the Commissioners are going to school and they are applying themselves. And, they are doing a pretty good job.

Now, here again, we have to provide constant information, not only to assessors but to mayors, to councilmen. I have assisted them about - oh, God - five or six times a week, particularly with, "My assessors aren't doing this." I don't know whether you know it or not but we ordered 59 towns to revalue. Now, this is going to reflect, certainly, the number of appeals that we get that come down through the Division. This is going to be a hectic year. How we are going to handle it, I don't know. How the Division is going to cope with that, that is going to be something for them to decide.

But, we do guide mayors and councilmen. They come in. They want to know. We tell them everything. And, this is a continuous process, not just a monthly one - it is continuous. The same applies to every taxpayer. Our door is always open and we always explain things to the taxpayers.

Now, senior citizens -- When you get to senior citizens, I told my staff to bend over backwards. We always help them. We give everybody good help. But, we go overboard to help the poor senior citizen because that money means so much to them. So, we hear that type of appeal. And we hear veteran's and widow's appeals. And they go on. So, now we examine the deeds and, as I say, we run, Senator, from about 20 to 25 thousand a year, that come through our hands and from these deeds we do many, many things - which I will cover too.

Over and above that we receive the deeds once a week from the county clerk's office and we put them on microfilm and we, in turn, send them out to the assessors and they have to come back and go through that whole process again, which all takes time. Then they are filed by block and lot.

These are the duties that we really do and I asked my colleagues in the last couple of months - "Tell me what you do?" So, this is a result or a compilation of what I have received from my colleagues throughout the 21 counties. We are basically doing the same thing. In Bergen we might be able to do it a little

bit bigger, but we have more people. There is no problem there. But, the principle is identical throughout the 21 counties.

Senator, you are talking about the appeal procedure. I think this is getting right into your bailiwick. First of all, let me go on record to inform you and the world that the present system is definitely archaic, outmoded, and outdated. So, there is no question, Senator, but that this needs revision. So, where do we go from here?

Now, we have heard the responsibilities. We had a bill here - and I am sorry that Senator Hagedorn and Senator Skevin are not here-- They put in a bill to streamline this - what we call an administrator's bill. What this bill did in substance, Senator, was to take a little bit of the load away from the Commissioners and have the county tax board secretaries prepare these tables so they could review with the assessors, on an informal basis and say, "Hey, here are the taxes and this is what we are going to do." Now, if an assessor or a taxing district were dissatisfied with the procedures, or with the figures, or with the numbers used by the county tax board secretary, then they can go to a formal hearing, to the Commissioners. They would hear it. So, you are going to eliminate one step before it gets to the Division.

Then the Division comes in and says, "Well, during the year you can file an SR6, which corrects an SRLa, which eventually goes into the promulgation of the State's school aid table. So, what the Division has said is, "Hey, you are not a minimum State school aid district. You can't appeal to us. Go to the county." So, they sic them on to us, with which we have no problem because they don't belong there; it is the wrong court. Their problem is for the county equalization. But this Chapter 212 is going to change that. So, the Division load this year is going to be substantially greater because of Chapter 212 than it ever was before. They can't make that statement because now it is going to be the Director's true value and not the county's true value.

So, this will short-step all those procedures. Basically and historically speaking, Senator, this is what is done throughout the State. Substantially, most of the secretaries are there full-time, plus. They do this work and they go to a Commissioner and say, "Here, Commissioner" and they will be able to have hearings concerning the problem. But, I think the record speaks for itself, that every phase of government - the Commissioners, the secretaries, the towns and the State - has been satisfied with this procedure.

So, I strongly recommend to you, as a member of the Legislature, and to the Committee, that you seriously review this administrator's bill, which is going to take a lot of the kinks out of the appeal process when you take it in its entirety. This received bipartisan support from both a Republican, Senator Hagedorn, and a Democrat, Senator Skeven, who happen to be on this Committee.

Another big problem, Senator, is this: Right now after a county tax board hears an appeal and they go to the State Division - okay? - what happens, Senator, is, it is a trial de novo. In other words, once the board makes its determination, they have the right to appeal. Now, let's assume it is appealed. We will take case 'a'. In case 'a', you will spend maybe two minutes with the tax board. They will say, "Well, I want to bypass." For some reason or another your so-called specialists - attorneys - seem to minimize the efforts or the jurisdiction of a county tax board. They say, "Oh, the heck with them; let's just bypass them, affirm the judgment and go on." This is time consuming. Senator, we had 800-- I think I sent it to your fellow over there. Let's put

it this way: We have had in excess of 800 appeals which were absolutely ridiculous but because of the nature of the beast and because of our laws, it had to come through us. So, what our board did is, we devised a form and we said that this office - the County Tax Board - will make the same determination this year as we did last year providing the facts are substantially the same.

So, all of this nonsense comes through us and it funnels up. This goes on, Senator, year, after year, after year, and what are we doing? When we do this, we are extending the life of the freeze. If this started in 1973 - normally a freeze is for 2 years, plus the tax year if there is no reevaluation or no changes - what happens is, because of the backlog before the Division - and each side has a right to protect their client's interest - they file what I call a protection appeal. So, if the State - because of this backlog - is sitting on it for three years, these people are going to come in. That is another three or four years. It will be based upon the decision of six years rather than three years. So, who is getting hurt? The answer, I think, is quite obvious.

So, I am suggesting here, Senator, that to do this properly, to save time, to save money, and to not-- You are concentrating on these "specialists", or what have you. If this were done on the record, if each county tax board were provided sufficient funds so that it could be done either with stenotape or microfilm showing the facts and circumstances that we would present at Hudson or Bergen County, if we had this record or tape, we could then go to the Division and say, hey, these are the facts that we have and don't deviate from them. Because I see so many cases, Senator, that at the county level were very minimal, then when it went to the court, they threw in their heavy artillery and come up with appraisals that thick. (indicating) This destroys and prolongs and antagonizes the entire situation.

So, if you hear it the way it is now and not de novo, and go on the record, I think - and this is the general feeling of most of the Commissioners - that you are going to have an entirely different ball game and you are not going to have the number of appeals that are confronting you here.

I am just going to make a brief comment on this: I strongly recommend - and I have recommended this to the Bergen Freeholders - that the entire tax system of New Jersey should be put on EDP - electronic data processing. I can't emphasize this strong enough, Senator. If that were done, all of the questions you have asked, Senator - all of them - could be obtained by pushing a couple of buttons.

I would like to illustrate a point. Hudson County - and I hate to say this - is a little bit more efficient than Bergen County in this respect. Here is what they do, Senator. The very questions that you have asked are right here in this report. A copy of this goes to the Governor, the Director of the Division of Taxation, Senator Williams, the Assembly delegation, the Freeholders in that County and the Library of Congress - it goes to about the whole world, okay? Here is what it says in that report - and I think you should have the benefit of this, the world should have it but nothing is done about it. For six years they have been doing this and it is filed. Here are some of the questions they ask: The net valuation taxable; the amount of property under appeal; the percent evaluation of appeal; that by consent; that after adjudication, or after a hearing; and the total. These are in the form of gross reductions on what that particular county does.

Then they make it a little bit more significant and they say, the percent of reduction of reevaluation appeal; the percent of reduction of reevaluation appeal on the cases tried; and the reductions - now we are getting right to the heart of it, Senator - appealed to the State of New Jersey; the evaluations of appeals to the State of New Jersey; and the net debit and/or credit.

Then they go one step further - now they are going to show it to you in dollars. This is the net reductions in tax dollars - we all understand that language - and the effect on the tax rate of the prior year. You see, this is a bugaboo that hasn't come out and which is so beautifully pointed out here. How much did these reductions affect that tax rate? Because the tax rate when it was promulgated back in May was fictitious; it was based on a certain set of numbers. Now, the ball game is over. Everyone had their shot at the apple. They appealed to the county and to the Division and the Courts. Now we have, Senator, what I would like to call an effective tax rate because now the damage is done. This is the true tax rate.

So, what happens? They take this and they bury the agony for another year - which is wrong. We understand it. We are in the business. But, I would doubt that the Legislature, or the taxpayers themselves can understand this because, frankly, we do have our difficulties.

We then go on in here with the effect of the total tax dollars and the effect on the tax rate per thousand dollars and now, the last question - which should interest you - is the appeals filed with the Division of Tax Appeals - those filed by municipality, the taxpayer, and cross appeals.

Then they continue here with the number of appeals filed by the districts, the number of hearings held, those that were withdrawn, those dismissed for lack of prosecution, and those that were affirmed - and they break that down to a percentage - and the reductions - and they break that and the stipulations down to a percentage. That is Hudson County.

Now, this is a great report. Again, Senator, if we were on computerization, you could have this information by pushing a couple of numbers. Not only that, but as I indicated earlier, Bergen County ordered 59 towns to re-evaluate. Now, I pleaded with my Freeholders. I told them it was ridiculous because you are throwing thousands and thousands and thousands of dollars out every year. I took an average. It comes to about every five to seven years that you need reassessments.

What they should do is to streamline. We are in 1977 now; we are not back in 1906. But, we are operating under those archaic laws. So, they should put this on a tape. Now, any information that you want you could add, Senator. We went on a four-line system now. You could add anything. You want to know the attorney; put it in there. To me it means nothing. If it means something to you, fine. You want a social security number? You can put all that information on a card. But, keep in mind right now the County Tax Board's hands are tied. The statute says we have to have this. But, we are geared right now, Senator, to incorporate any information that the Legislature, in its wisdom, desires.

We are capable. Now we need money to implement this. Not only will these reports come out-- And you can see in a jiffy if any ball games are being played or whatever you want to call it. You will have it before you and you will know exactly who and why and when and how much is involved. Not only that, but if you fully computerize the assessment in the entire State, this

will save a lot of money. But, eventually it is going to come back to your conclusion, Senator, that once this is perfected, you are only going to get one or two percent of the percentage of appeals you have now because now it is on computer and the history is right here. You have the world right on tape, or on a card, by computer.

So, it will take two or three years to do that but as you do that, you are going to have all these answers. You know exactly what is going on and you are going to save the taxpayers of New Jersey -- well, it says here \$27 million alone in reevaluations. So, that is what you can save in New Jersey.

I have sent you the reports and I am not going to repeat that. That is sent to all the counties. We have answered all of the questions to the best of our ability.

The point I want to make here, Senator, is, and I don't want to mix apples with beans but there is a bill in now with increases for Commissioners. Senator, this is a shame. I'll tell you, it is disgusting; it is not even a shame. The Commissioners of New Jersey have not received a salary increase since 1962. Senator, let me sum it up this way: The true value, in 1962, in Bergen County, was approximately \$4 to \$5 billion. Today, Senator - 1977 - we are approaching \$17 billion. And not one red penny was advanced to Commissioners. And, I am not a Commissioner but I will defend them because of the time, the effort and the schooling they have gone through.

So, the system itself creates I guess what you might call inequity. This, in my opinion, is absolutely ridiculous. Why they take this job, I don't know. Maybe they have civic pride. But, it is absolutely ridiculous. So, I think that the Legislature should look into that salary bill and remunerate these people. They are not going to make money, but pay them for their time and what they are worth.

Now, in some of the legislation - from what I have been hearing here, Senator, - it seems someone, somewhere picked a magic number of \$100 thousand. I have to say that is absolutely ridiculous because in Bergen County, through Hudson County, and in a great many other parts of the State of New Jersey, who is better qualified, Senator, to handle an appeal, someone 10 miles away or someone 1 mile away? I feel that the County Tax Boards themselves should handle everything. They are much closer to home. I guess you might call that a little bit of home rule. I think they are much more qualified. Why? Because they live there. They have access to the sales ratio program and if they want to delete sales - like Mr. Salmon says - they can delete them. But, the fact is, this is accessible to them and they can do a much more thorough and efficient job than any other body - bar none. Why? Because they have that information before them and also they have the benefit of the experience of the 12 months preceeding an equalization table and the prior 12 months, which goes in it. So, they have the world, Senator, at their feet. So, they are the best people that can judge - it is not an appeal of one dollar nor where someone out of the sky says \$100 thousand - and make a determination.

The other thing here is, you asked the judge whether or not experts are made available to them and the answer was -- let the record speak for itself. Senator, experts are available at the request of County Tax Boards. Many of the Secretaries are available - and I put myself in that category. Mr. Glaser's office has an appraisal section, which will aid and assist the counties. So, we do have that. Not only is it available but we use it and many assessors also use that help. So, it is available and we will use it if we need that help.

The fact is, eliminate that \$100 thousand. Who got that? I would love to see a substantiation of that figure. Believe me, Senator, that is absolutely ridiculous. The best place is home where they understand the value. If they don't like it, fine, they can appeal it.

You keep talking about appeals - this, that, and what have you. But, what hasn't been brought out here, Senator - or, it has to a degree but not fully - is that many appeals are stipulated to. Now, I am going to confine my remarks to stipulations before a county, more specifically to the Bergen County Board of Taxation. Here is what we do in Bergen County. Just because an assessor or an attorney or a taxpayer get together and say, hey, I'm going to make a deal - to use your words - or I am going to make a settlement-- All right? That's fine. What we have in Bergen County, Senator, is a stipulation form and it reads something like this: This form is being filled out by both the taxing district and the appellant and it will be submitted to the consideration of the Board. So, we don't take that blindly. We don't take that blindly and I think this should go throughout the State. What we ask the assessor is, why are you making this reduction? Now, if the answer is one and one is three, it is obvious. We don't question that.

So, what I am suggesting to you, Senator, is, we check these. Now I understand that this same form is being used in all other counties. And if it isn't, someone should mandate that form to be used in the counties. Now, if there is a mistake, or if the freeze isn't followed, or if it is used wrong, fine, change it. But, the point I am trying to make is, the Commissioners are not being given credit for this time. Your emphasis was on time of hearing appeals but nothing has been said for the time that these men and women put in in a room, in public, to make these determinations on stipulations. And we get these very day, Senator, so we do hear that. I wouldn't even attempt to calculate that time.

This also applies to where a stipulation is in writing. An assessor's recommendation has the same force and effect, but that is done verbally - as we are doing here - and not in writing.

Now, to compound the situation, the law is very clear that no stipulation, nor assessor's recommendation, nor an appeal for dismissal can go to the State of New Jersey. That is the law of the State. But, Senator, there is no way that a County Tax Board knows whether an appeal was stipulated to nor whether the Division accepted that. They shouldn't accept if they did. And, if it goes on to the courts, we have no way, Senator, to determine whether or not it went to the courts. Now, why do I say that? Because we have to give debits and credits to the town, the municipality, or if they are a school district or a sewer district or a road district, we have to give this money back. In many of these cases, the towns are not getting the money back. Why? Because no one told the County Tax Board.

The other problem is when they file appeals to the Division of Tax Appeals. They have a nice form, which I hope to pattern mine after. But, in that form, the appellant can make any statement he wants. Now, in numerous cases - I have no count - the attorneys have made a mistake by saying that the assessment was \$1 million and the County Board reduced it to one-half million. That is not true. So, there is no way that the State Division of Tax Appeals verifies a document that is received before them.

Now, my girls pick this up and say, "This is not so." So, I say, "Well, it is none of our business; we did our job." But that is wrong. What I should do is call the Division and say, "Hey, that appeal is not true; the Board didn't do that. We did this." Or, "the original assessment was this." Now, why do I say that, Senator? This affects the apportionment of county taxes, the debits and credits and this affects any other tax that is based on that equalization. But, we have no way of knowing this. It is a very archaic method.

I was here at the meeting on the 15th, Senator. Now, I will tell you, I don't know how to answer this, but we have many adjournments. This destroys our calendar. It absolutely destroys our calendar. It is very time consuming. It is very costly. I would like to recommend to this Committee that, with two exceptions - death and sickness - a penalty be imposed. Let me illustrate my remarks this way: The attitude of the so-called "specialists" - I like that word - and of the appraisers is, they come and say, "Hey, I am Mr. So and So, you have to give me an adjournment"- all right? This destroys my calendar and we do this two and three times. They also have a tendency to minimize the importance of the County Tax Board. They say it is on the bottom of the totem pole and the district court - or whatever court - comes first. No, that is not the case. The district court can postpone theirs; they can hear it any time they want to. We have 90 days in which to hear ours.

So, my suggestion is this, Senator: To eliminate a lot of this, with the exception of death and sickness, a penalty should be leveled. Let's pick a number - I will pick \$100 - and say, okay, lets levy a penalty of \$100 for the first adjournment if you have no good reason. The second adjournment will cost \$200. Senator, you will find that that will come down to almost zero.

Now, it is getting late, Senator. I just want to recap. Again, the Commissioners in the State of New Jersey - just about all of them, Senator - have attended classes. There are seven in the process of completing. So, they are putting in an awful lot of time. They are going to school. And, a lot of these Commissioners are paying for this.

Also, we copied from the Assessors of New Jersey about five years ago. So, we have an educational conference also held in conjunction with Rutgers, our State University and we have a pretty good turnout down there. So, again, the Commissioners are going there.

Senator, another thing I made notes on is, what we direct out assessors in Bergen County to do in connection with public relations is, we tell them when they want a petition of appeal, fine, that is their privilege. But we instruct the assessor and the taxpayer - "Hey, before you file an appeal, please sit down with your tax assessor and perhaps you can resolve it." Now, many, many appeals, Senator, have been nipped in the bud because of that kind of effort, because of that kind of public relation. If there was a mistake made, the assessor will say, "Fine, I made a mistake, I will change it." They can then do that and eliminate any hard feelings with the taxpayer. It is so nice to sit down and admit to a mistake and change it. He can then convince them. This eliminates a lot of appeals. You are not going to keep them all happy but you are going to get a lot of them out of the way by using this type of public relation.

So, this, again, is something that most County Boards ask their assessors and their taxpayers to do.

Senator, we haven't yet spoken about -- Talking about money and appeals--

SENATOR DUNN: Excuse me, how long are you going to continue?

MR. LEODORI: Two minutes.

SENATOR DUNN: Because these girls have to get a break.

MR. LEODORI: As I say, Senator, this is 25 years coming out all at once.

SENATOR DUNN: I know, and you are doing a good job. Do you want to come back in one-half hour or an hour?

MR. LEODORI: Senator, if you will give me two more minutes I would appreciate it.

SENATOR DUNN: Okay.

MR. LEODORI: Senator, on the save harmless provision, I happen to be on this committee. You asked about reports. The Governor appointed me to this committee. I was outvoted. I submitted a minority report. Here is what I mean: The save harmless provision is a very complicated formula. Basically it says this -- This is when you abolish the household personal property. Now it is assessed by the State of New Jersey and it guaranteed you "x" amount of numbers for 1965, '66, and '67'. Then they said if this town grows in class 4, that you are going to get "x" number of percent. For the first time, Senator, we saw pennies of this. So, what I am saying here is, this is a form of escape for the homeowner or for the real property owner in New Jersey. This is absolutely ridiculous, this law - but, nevertheless it is a law.

Now, I did submit a minority report on this. Also, I happened to serve on the Public Utilities Commission, on which I also submitted a minority report. This, Senator, was because this law said that public utilities before this Committee - the personal properties of a telephone, AT&T and Western Union - could be assessed on their book value, on their depreciated book value - okay? Which is fine, but now they are getting different treatment from the homeowner. To add insult to injury, in my opinion, it says, "Hey, if the percentage level in that district is 100%, fine, you give them 100%, but if they have a reevaluation and go over 100%, you have to reduce them down to 100%." You can't do this with any other taxpayer.

Then, on the other hand, to put salt into the wound, they take the depreciated book value and then they take this very ratio that Walter Salmon spoke about and apply that ratio to the already low figure of the depreciated book value. As a result, Senator, suffice it to say it is a tremendous wind-fall to this type of taxpayer.

The other comment, Senator, is on exempt property in the State of New Jersey. Senator, I say that we have about \$3 billion worth of exempt property in Bergen County. When you equalize this, it comes to a lot more. I am not going to go on but, for instance, you will find that some of the Knights of Columbus are assessed and some are not. Again, here, some stern hard rules or regulations ought to be brought into this.

Finally, Senator, what I would like to recommend to you is this: Before your bill goes any further - there is a lot of good meat in it - I think if we can get people - starting with the Association of County Tax Board Commissioners and Secretaries, members of the Assessors Association, members of the Division of Tax Appeals, a member of Mr. Glaser's office, and any other layman that is interested - together at a table here, Senator, this type of committee would address maybe not all of the ills, but it would certainly go a long way in the

right direction.

Senator, I am sorry for taking up so much time. Thank you for the privilege.

SENATOR DUNN: That is perfectly all right. You covered it pretty well. For me to make comment on such a comprehensive statement would be difficult to do. I will make sure that all the Senators study your presentation.

What you are saying, in effect, is, the best solution is to eliminate the State Tax Appeals Division and have everything handled on the county level.

MR. LEODORI: I didn't say that, Senator.

SENATOR DUNN: That is the way I understood it. However, I will stand corrected after I read your statement. Thank you very much.

MR. LEODORI: Thank you.

SENATOR DUNN: We will now adjourn for lunch and return at 2:30 P.M.

(Lunch Break)

AFTER LUNCH

SENATOR DUNN: I will now call the hearing to order. The first witness for the afternoon session will be Mr. Francis Kenny.

(witness sworn)

Mr. Kenny, for the record will you identify yourself?

FRANCIS KENNY: My name is Francis Kenny. I am Executive Secretary for the Tax Collectors and Treasurers Association of New Jersey. My residence is 132 Gordon Street, Perth Amboy, New Jersey.

Senator Dunn, Mr. Chairman, I am here this afternoon to more or less give you a short resume on what happens after an appeal. We might call it the bottom line. After listening to Mr. Leodori this morning, I am sure you heard the whole story in reference to the Appeals Court. He is a man with many years of experience and I surely would not want to get involved in any of the subjects that he discussed because he is well versed in that subject.

Our Association would handle the bottom line in reference to appeals. New Jersey laws pertaining to municipalities budgeting on a cash basis often cause a great financial hardship. The system is sound but due to the length of time the Tax Appeals Court takes to make a decision, it can be disastrous.

New Jersey Statute 54:3-27 - Payment of Taxes by a Taxpayer: "Pending an appeal from an assessment against him, he may pay to the collector of the taxing district such portion of the taxes assessed against him as he would be required to pay if his appeal was sustained." This type of payment causes a deficit. The budget law requires a reserve for uncollected taxes and any deficit for a previous year must be included in the budget. Hence, a three or four year wait for the Tax Appeals Court to make a decision can be a financial disaster for a municipality.

A taxpayer who pays his taxes in full when appealing and wins a substantial court reduction after a four-year wait can also be a disaster to the finances of a municipality. In many cases this causes a municipality to finance the refund by obtaining a bank note.

Now, the effects of this on the bonding costs -- The taxpayer by taking the 54:3-27 route, paying the lesser amount also causes a reduction in the percentage of tax collections. The percentage of tax collections is one of the most

important factors in figuring the bond rating and the interest rate when bidding on a municipal bond. A low collection percentage for three or four years can cause the taxpayers of a municipality many, many thousands of dollars over the life of the bond. It would be correct to state that the present delays caused by our appeal system has cost and will continue to cost New Jersey taxpayers many millions of dollars on the increased cost of bonding.

One recent example is the Borough of Collingswood. The Borough lost an appeal by an apartment house owner. The appeal had taken three years and the Borough had to make a refund of \$326,000. The amount of Collingswood's local purpose budget to be raised by real estate taxes is \$800,000. It meant an increase of over forty percent in their local purpose budget or raise a bank note.

The Tax Collectors and Treasurers Association of New Jersey are in a position to know that the present system of delaying tax appeal decisions has cost New Jersey Taxpayers many millions of dollars.

Our Association calls upon this distinguished committee of New Jersey Senators to do everything in their power to change the antiquated appeal system now in effect. I thank you, Senator.

SENATOR DUNN: Thank you, Mr. Kenny. Mr. Kenny, I am totally familiar with the problem that you spell out in your presentation. To give you a specific example, recently the City of Elizabeth - it is, of course in a higher category in terms of budgeting than Collingswood would be - had to return some \$460 or \$470 thousand dollars on one apartment house, which we had to incorporate in the next year's budget. So, I am totally familiar with this.

MR. KENNY: Might I say, Senator, that what you stated involved an apartment house. This is one of the biggest bugaboos in the appeals system, as to the increased rents after October 1st, when they use the dates when they are appealing, and so forth. I am not an assessor but they, of course, have related these things to you I am sure.

SENATOR DUNN: Yes.

MR. KENNY: Of course, I am familiar with some of your problems. I am very friendly with your Treasurer and I know it bothers him as much as it does you.

SENATOR DUNN: It bothers me more.

Mr. Kenny, in the first paragraph of your statement - "New Jersey laws pertaining to municipalities on the cash basis often cause a great financial hardship", but you say, "The system is sound..." - you are not saying, are you, that the Tax Appeals Division is sound; you are saying that the system to operating a budget on a cash basis is sound, right?

MR. KENNY: Definitely, yes. Operating a budget on a cash basis is sound.

SENATOR DUNN: This play on words sounds as though you are saying that the system that we are making a study of is sound. I just want to clarify that. You are talking about the budgeting on a cash basis.

MR. KENNY: Budgeting on a cash basis is sound, right.

SENATOR DUNN: Mr. Kenny, I want to thank you and the Association for this very fine presentation.

MR. KENNY: Thank you for the opportunity.

SENATOR DUNN: Louis Joyce.

(witness sworn)

Mr. Joyce, will you please identify yourself for the record?

L O U I S J O Y C E: My name is Lou Joyce. I am a Tax Commissioner from Camden County. I am also a real estate broker. I am here on my own behalf. I yielded my time to Don Leodori, the Secretary, who spoke on behalf of the Association.

I would only like to take about 8 to 10 minutes to give you my opinion. I think you are to be complimented on going into such an in-depth study on the taxation and the assessment process in the State of New Jersey. It is certainly one that is detailed and it is certainly one that is needed. I am glad to be here to give you a few of my remarks.

We know the law is slow to change and probably the pressures that are now coming to light through the quantity of numbers of appeals that have come before County Tax Boards and are now before the Division of Tax Appeals, certainly warrant some investigation.

It is difficult to work with the checks and balances of the system, from the assessor up to the County Board and the County Commissioners to the Division of Tax Appeals without really examining some of the problems. The County Tax Board in my particular area - I am speaking for Camden County - ranks among one of the top 25% in heavy appeals throughout the State. It takes an awful lot of time and certainly it is probably not the original intent, as the laws were designed, for this process.

I don't think the program in total is wrong. I do think it could be modified and strengthened and increased. In our county we have as one of our functions, supervising 37 municipalities and the assessors of the municipalities in that area, with their Boards and we have had 17 municipalities replace their assessors within the past 4 years. Out of the 37 municipalities, there are only 4 full-time assessors, to my knowledge, at this time. The rest are part-time. This certainly has to fracture and maybe interfere with the due process that is needed for administering the tax program at the county level. On that basis, I would make a recommendation, as far as our County is concerned, to have regionalized, full-time assessors, supervising those qualified part-time assessors so that we could have better control on a faster communication basis.

The Tax Commissioners themselves have to weigh heavily, besides the tax appeal process, the administration functions of the County Board, the supervision of the assessors, inspections of the properties, and the hearing of the testimony. On testimony, we run between 6, to 8, to 10 an hour. We try to hear a full day. Last year I spent over 100 days working on the appeal process, plus the supervision process. I can't afford to spend any more time because it interferes with my business.

But, on the appeal process, hearing 6, to 8, to 10 an hour, you have to hear testimony from the assessor -- well, let's say four people. You have to hear from the husband and wife on a property and the assessor and the attorney for the municipality. If the appellant brings in an attorney and an appraiser, you have to hear that. So, it could go to six people. We have to process this quickly and be fair with our judgment and give them a fair amount of time. We do go from the range of a vacant lot to maybe - and we try not to have it so close - a large complex, such as the malls and you are talking about values from \$1,000 to from \$18 to \$20 million. This is taxing on the mind to weigh the evidence and figure how things are going to work and hear the testimony and be fair to all concerned.

You do know capitalization, which is entirely different from the

replacement cost - and a heavy amount of weight is given to this by the assessors, from the assessors manual - is one approach. The higher the cap rate, the lower the value and the lower the cap rate, the higher the value. Now, this takes skilled, trained people to get this information and to see how it is going to work and apply to the situations in value.

We recently had a very high interest rate problem. This changed the cap rate. We recently had a high taxation problem. If you take the percentages of the taxes and apply the ratio, this can affect the cap rate. We have also had a high vacancy problem. So, therefore, it shows that we are in a constant, fluid changing of values. It takes expert people and knowledgeable assessors, knowledgeable Commissioners, a good County Tax Board behind these Commissioners, and a good Division of Tax Appeals, with the proper staff to try to evaluate this information.

The limited time to have the tax appeals makes it difficult for the County Boards and also, something that you brought out - and rightly so - there seems to be a specialty group of people now applying and working with these appeals. So, if they are hearing in North Jersey and we are scheduling an appeal in South Jersey, it may be a dual ownership of the same apartment house or the same commercial property or the same large, vacant land tract. The experts are now, maybe, reduced to going around the 21 counties and we, ourselves, know this happens and has to happen, perhaps, because it is a specialization, and also because of the limited time. In other words, the pressure would come from August the 15th to November the 15th. We try very hard to accommodate all taxpayers and do what is fair to them.

We do find the absentee management program; we do find the rent control program; we do find the flood control program and the redevelopment - you know, going into the system - which has to be evaluated. The County Tax Boards try to do a good job, I feel, and work with their county administrative staff and their assessors. The problem, I think, has changed to the point whereby the County Tax Board administers all the assessors and then they become the assessor and then they sit as hearing Commissioners to judge the assessor.-- well, really not the assessor, but to judge the problem and try to detach themselves from this.

We order the reevaluations, according to the ratio evidence we have before us. We also order reassessments, where possible. And then, in turn, we have to divert our efforts from the hearing process to help cure this in many instances, because you have land valuations and land legends which have to be gathered and you have one municipality next door to the other. One will have a \$500 front foot for commercial and the one next door has a \$200 front foot commercial. This creates a problem and I think we need a countywide land legend committee, or a group to work with the reevaluation firms, to work with the assessors and to work on that basis.

True value is what we are looking for and it is hard to define - just what is true value? There are supposed to be three approaches to value and many people just use the one approach, claiming the other two do not apply. We try to evaluate whether or not that would be justifiable.

You had a letter from an assessor, from down in the Atlantic County area. He is a very learned assessor. He is a brilliant person, mathematically. It is very difficult to just use mechanical figures and come up and assess somebody a tax dollar on their property.

I don't know what else to add except that I think this is a process that can be expanded upon and improved. I do feel that the \$27 million - if that figure is true - that has been spent on reevaluation could have been better used on the county level, working with the State, increasing their staffs to better qualified staffs because you have it on a bidding process - which is proper. They bring in new people and they cycle themselves throughout the State, or throughout the eastern region. Maybe on a mass basis, when they are appraising properties for \$5, \$6, and \$7 a piece, when they are up against competition who receive \$100 to \$200 to \$300 for analyzing the same property it makes it very difficult. It makes it difficult for qualified people as well as unqualified people.

So, I think when you transfer the function from one body to another, you only transfer the function cost or workload and it will not solve the total problem. I think the current system could be expanded and strengthened and increased with perhaps an added emphasis for a high level of appeal on a faster basis with a staff that would help to aid them in the process of trying to determine the true value.

One area that could be improved would be communications - letting each other know what is under appeal and how long it will take to schedule it, and if it goes beyond the Division of Tax Appeals to the Superior Court. Whether the municipalities and the Tax Boards are aware of this, or are given notice of it, I don't know. To my knowledge, we haven't been notified on that level but maybe once it leaves the Division of Tax Appeals the County Boards no longer have any jurisdiction or interest in the matter as far as the mechanics of the tax program goes.

I think the appellant is entitled to the right of relief. I don't think there is a fast fixed rule that you cannot allow this expression of public opinion to come before an administrative body, such as the County Tax Boards, without high cost of extra presentation of their cases. I think to abolish that system would be in error. I think it can be strengthened, perhaps a higher level could be strengthened, with more people. We could spend more money. There is nothing wrong with that if we get the results. That's all I have to say.

SENATOR DUNN: Thank you, sir. Have you personally made many appearances before a State Tax Appeals Court?

MR. JOYCE: No, I have not. I was a former assessor in Gloucester Township and did not have the opportunity to appear. On the County level we are not called after we render our judgments. So, I have not. I have been restricted. I couldn't really represent the taxpayer and represent the county. So, I have not been before them.

SENATOR DUNN: So, you are not in a position to pass judgment on the operation of the Tax Appeals Division?

MR. JOYCE: Only from observation and from hearsay from previous experience I have had. That's right. I can only speak from the county level. I can't speak from the Division of Tax Appeal level.

SENATOR DUNN: Well, as you know, we are primarily interested at this time in getting some concrete suggestions and information and testimony that would be helpful in bettering the Tax Appeals Division on the State level.

I know that - it is obvious - some improvement is needed too on the county level if the entire system is to function more equitably than it has.

Have any matters been brought to your attention down through the years

that would indicate to you that there is partiality shown to appellants represented by specialists that I keep referring to?

MR. JOYCE: No.

SENATOR DUNN: Or do any inequities exist that--

MR. JOYCE: No, I am not aware of any partiality, Senator.

SENATOR DUNN: Thank you very much, Mr. Joyce.

Mr. Kenneth Walker will be our next witness.

(witness sworn)

K E N N E T H W A L K E R: Senator Dunn, my name is Kenneth Walker. I am an independent real estate appraiser and consultant with offices in Shrewsbury and Holmdel in Monmouth County. I reside at number 37 Buttonwood Drive in the Borough of Shrewsbury.

I appear here today as President of the New Jersey Chapter of the American Institute of Real Estate Appraisers. Our designated members hold either the MAI or RM designations of the Institute, gained through college level courses, experience, and demonstration work in the appraisal of all types of real estate. Our members appraise properties for many different purposes, namely for mortgage collateral, in condemnation, in filing of estate and/or inheritance tax returns, as well as a large amount of time in the appraisal of real property, relative to ad valorem real estate taxation and tax appeals incidental thereto.

I desire, at the outset, to compliment this Committee, Senator, for holding hearings on Tax Appeal Procedures, as it is my personal opinion that our present procedures, as set forth in Title 54, are certainly archaic and are not appropriate in this last quarter of the 20th century.

Real estate appraisers work for both appellants and municipalities and therefore are truly unbiased in our discussion of the good and bad elements in the presentation and proper adjudication of a tax appeal.

Presently, most of our County Tax Boards are besieged with appeals prior to the August 15th deadline and commence their hearings within two weeks thereafter.

The volume of appeals is such that as many as 40 to 50 tax appeals are heard in one day and it truly impossible for a County Tax Board made up of men and women with, in many cases, little or no training in law and/or real estate evaluation, to sift through the testimony and exhibits submitted and render an intelligent and proper legal decision.

I recognize that there exists many capable and conscientious county tax board members, however, it is humanly impossible for cases, many involving the most complex evaluation problems, to be given the time and consideration necessary to render proper judgment, and I truly believe that this is a contributing factor as to the large volume of County Board decisions that are then appealed to the State Division.

In other words, if the county tax boards had the time and ability to properly hear and weigh what is brought before them so that the appellant truly felt he had his day in court, he wouldn't take it further. It might also be advisable to move the tax appeal date up to July 15th to allow for four months instead of three to hear the cases and render the decisions.

I do believe that the larger tax appeals on property in excess of \$100,000 should go directly to the State Division without cluttering the County Tax Board calendar, thus allowing more time for the ones under \$100,000.

The State Division, due to the larger number of cases, should have more

than seven judges and salaries should be increased so that they can devote more hours per week to the hearing of cases and preparing of the judgments to be entered.

Also, I truly believe there should be a statutory deadline for the rendering of a decision on an appeal, as none now exists.

In my opinion, the State Division Judges should have appraisal consulting people available to them in the event they desire assistance in weighing the techniques used, or the conclusions derived by the experts for the property owner or the municipality in complex cases.

It should be desirable to include professional real estate appraisers as judges as the present law provides that at least four of the seven must be attorneys-at-law, thus three could be non-attorneys. This would give the State Division in-house capability as to consultation on complex evaluation problems.

A rule that the property owner and the municipality's expert - assessor or otherwise - must submit to each other appraisals to be used and testified from at the hearing at least 14 days prior to the hearing should be promulgated. This would aid in the settlement of many cases prior to the hearing and also cause the hearing to go quicker as the attorneys could prepare their cross-examination ahead of time, as they would be aware of what the direct testimony from the witnesses would be.

Also, presently you are notified approximately two or three weeks prior that a State Division case is scheduled for a particular date and many have to be rescheduled as busy attorneys and real estate appraisers are already committed for the date set. More advanced notice could have cases go on when first scheduled.

Due to the complexity of the tax appeal procedure, and the number of people affected, it is our suggestion that a Study Commission be authorized by the Legislature to review the procedures in-depth and make recommendations for new legislation to effect the necessary changes. The Commission should be made up of Senators, Assemblymen, lawyers, real estate appraisers, assessors, a County Tax Board member and a State Division judge.

I certainly appreciate, Senator Dunn, this opportunity on behalf of the New Jersey Chapter of the American Institute of Real Estate Appraisers to bring our thoughts to you and we stand ready to give our input in the future in helping revise this cumbersome and time-consuming method of obtaining equitable tax assessment relief. Thank you very much.

SENATOR DUNN: Thank you, Mr. Walker. I might say that your presentation could very well be in the report that this Committee might eventually wind up using as a model because it is pretty much encompasses what I, as one member of the Senate Committee, feel might be the solution to many of the problems, aside from the concern that I have expressed about the group of attorneys that have become specialists, working with all of the advantages they do possess. I am very much impressed with this presentation and I am sure the other Senators will be also.

I don't have any questions, truthfully, because it is so comprehensive and so impressive. The only thing I am concerned about is the suggestion for the study commission. The only reason I moved the resolution in the Senate that led to the formation of this Committee is because so many good pieces of legislation - proposed legislation - were bogged down in committees. Not too many people seem to get excited about the bland subject of tax assessing,

tax appeals and what not. I at least succeeded, maybe because it was late afternoon and they perhaps might not even realize what they were voting on. But they unanimously adopted the resolution calling for the formation of this Committee. I had hoped that perhaps this Committee, with a full staff of Senators and a larger staff to help us, could do what you are suggesting. Would you want to expound a little further on that study commission?

MR. WALKER: Possibly what you are indicating might be the case. I was not privileged to be here to hear earlier testimony and it may be sufficient to give the Committee adequate input so that all the present Title 54 provisions that should be changed could be changed due to this information. However, it was our opinion, after reviewing the process and trying to pick out the things that should be changed - there are so many and they are so broad - that possibly a committee could be given stature by the Legislature. I had the good fortune to serve on the Title Insurance Study Commission of two years ago which ended up in the Title Insurance legislation. We thought possibly something along those lines, getting the input from the various levels of individuals involved in tax appeal procedures would hit all bases, where possibly these hearings would not develop that.

Now, as I say, I am not aware of the speakers that have spoken before me, but possibly you have heard enough to warrant complete revision.

SENATOR DUNN: Well, I don't think that this Committee nor our staff is yet knowledgeable enough to make the in-depth changes that are necessary to bring reform about. My only doubt was in getting a commission made up of Senators, Assemblymen, lawyers, real estate appraisers, assessors, a Tax Board member, and a State Division judge. That in itself would be a Trojan task, to get that many experts to work diligently on bringing about suggested reform for the Legislature. I haven't been too successful in getting too much cooperation from the Senators who were appointed to this Committee. I think that is not only because of the time element involved but also because the subject is so bland and colorless. I hope to have more active participation at the next couple of meetings I think we are going to hold.

I can assure you that the Committee will give very serious consideration not only to the study commission that you are suggesting but to everything else that you said in this presentation. Thank you, Mr. Walker.

MR. WALKER: Thank you, Senator.

SENATOR DUNN: Mr. Frank Haines. (no response) In substitution for Mr. Haines, we have another gentlemen from Middlesex County.

(witness sworn)

Will you please identify yourself for the record?

WILLIAM SHELLEY: My name is William Shelley. I am a Commissioner on the Middlesex County Board of Taxation, serving my 7th year on that Board. I live in Monroe Township, New Jersey.

I want to point out, Senator Dunn, that I am not substituting for Frank Haines. My remarks will not be related to anything that Mr. Haines might say.

SENATOR DUNN: I am sorry, I misunderstood.

MR. SHELLEY: What I am doing is, since the opportunity has presented itself, I would like to, in the absence of Mr. Haines, present a few remarks on my own behalf.

I am sure, Senator Dunn, that you have had sufficient verbal and written testimony on the intrinsic inequities of the present tax appeals structure.

As a former tax collector and legislative representative for the New Jersey Tax Collectors Association, I am fully acquainted with the budgeting and administrative problems resulting from the three and four year delays in adjudicating tax appeals on the State level. I find no problems in my 7 years on the Middlesex County Board in adjudicating on the County level. The real problem is adjudication on the State level.

To many municipalities, as Frank Kenny pointed out, this has a devastating effect and I have had the experience of these effects when I was a tax collector. I was also involved in budgeting. As Frank Kenny pointed out, it creates a problem that many municipalities simply can't cope with and it is becoming worse as the years progress.

In reviewing the testimony by representatives of the Division of Tax Appeals, the Municipal Assessors Association, and other groups, it seems apparent to me that a solution to this problem of delays and adjudication and the resulting chaos at the municipal level will not be forthcoming in the very near future. I think the problem is so vast and so complex that it is not going to be easy. So, I foresee that it is going to be years before the problem is eventually resolved. The problem is critical and I don't think that the situation should be permitted to exist, while there appears to be no quick solution. If, for any reason, I thought there would be a quick solution - by quick I mean, in Legislative terms, two or three years - then I wouldn't make this proposal. But, I feel strongly that it is not going to be easy and that it is going to take a long time.

I would like to suggest, Senator Dunn, that your Committee consider the creation of an interim body - and call it what you will - sufficiently large enough and sufficiently expert enough to hear and adjudicate the backlog of cases now pending. The interim body could be under - this is just a suggestion - the administration of the present Division of Tax Appeals, including the scheduling, beginning with the cases of long standing. If you have cases that go back as far as four years, then start with the longest cases and schedule them for hearing by the interim body. The body should be full time and exist until all backlog cases have been adjudicated. The interim body will cease to exist at such time as a permanent solution can be resolved through legislation. Recognizing that this legislative solution, as I said, may be years away, I believe that this interim body, if created, can perform a valuable temporary service in cleaning up the cases that now await hearing, relieving the local governing bodies of a truly critical problem.

SENATOR DUNN: I think that is an excellent suggestion. It might be a little difficult to do also because of the fact that it has to go through the legislative process, to supplement what we already have. But, I do feel, very sincerely, that it is an excellent suggestion. I will discuss it with the members of this Committee and will also talk to the Governor about it. I will talk to the members of both the Assembly and the Senate about what you are suggesting.

Something of that type has to be created, and done soon because so many smaller towns, especially, literally go bankrupt while waiting for some of these cases to be adjudicated. I know of no other solution and I am very happy to have you bring that out. I think that is very worthwhile and I will see to it that it gets the attention it deserves.

MR. SHELLEY: Thank you, Senator.

SENATOR DUNN: Thank you very much. Is there anyone else in the audience who wishes to be heard or to make a statement on the subject matter? We are a little bit ahead of time, believe it or not, and we have one other witness to be heard at 4:00. (no response)

If not, we will go into recess for about one-half hour.

(recess)

AFTER RECESS

SENATOR DUNN: We will go back into session. Mr. Frank Haines.
(witness sworn)

FRANK HAINES: I want to express our appreciation for your waiting, sir. I think this is the first time in many years I have ever known of a Committee to be ahead of schedule.

I have presented to you a statement and I will just skim it quickly.

SENATOR DUNN: All right.

MR. HAINES: I am Frank Haines. I am Executive Director of the New Jersey Taxpayers Association. I will begin by pointing out that our interest in and efforts to improve administration of the local property tax cover at least three decades. I can't recall any single thing on which I have spent more of my time during my 25 years on the Association's staff.

You are undoubtedly aware of the significant improvements that have been made in various aspects of property tax administration in the past quarter-century. In many administrative and procedural phases of property tax administration, New Jersey ranks high among the states. The Taxpayers Association has actively supported most of the improvements both statutory and regulatory. There have been numerous studies of the property tax in New Jersey and its role in the overall tax structure. Most recent recommendations for administrative improvements - I am sure you are all aware of them - are in the 1972 Report of the New Jersey Tax Policy Committee. Coincidentally, most of that Committee's recommendations are nearly identical to recommendations made by the New Jersey Taxpayers Association in our report, which we did in 1971, called "Financing New Jersey State and Local Government - the Major Problem." In that report, we demonstrated the dominating role played by the property tax in this State's overall tax structure.

We recognize, as have others testifying before your Committee, that regardless of the significant changes made in the tax system by the enactment of the personal income tax, the local property tax will continue to be the single largest tax, even though its total yield in the overall system will be reduced. Efforts to improve administration of the property tax, therefore, must continue.

The appeals process which your Committee is examining is undoubtedly the weakest phase of the entire property tax administrative process. It certainly has had least attention paid to it despite the fact that the appeals backlog at the Division of Tax Appeals level has existed for several years.

The Association supports the following eight recommendations concerning tax appeals made by the 1972 Tax Policy Committee:

1. Status of the county boards of taxation should be changed from

an administrative-appeals body to an appeals body solely, with the State sharing all or part of the costs. Qualifications should be established for appointment of members to county boards of taxation.

2. The State should enact a statute establishing a simplified appeals procedure in which established assessment ratios may be used as conclusive evidence. A proven deviation of 10% or more from the county ratio should be substantial evidence of an incorrect assessment.

3. County tax board appeal petitions, rules and procedures should be standardized throughout the State.

4. Proceedings of the county tax boards should be recorded and should be available to any party to such proceedings.

5. County tax boards should be required to set forth findings of fact and conclusions to support their determinations.

6. The Division of Tax Appeals in the Department of the Treasury should be replaced by a full-time tax court, an inferior court system within the judicial branch of government, such court to continue the use of informal procedures.

7. Direct appeal to the tax court should be permitted, at the election of either party, where the value of property subject to the appeal exceeds \$100,000.

8. Decisions of the tax court - or Division of Tax Appeals, if retained - should be published to assist in the achievement of uniformity and consistency.

The Association, for many years - even before '72 - has endorsed the principal of a tax court as part of the judiciary system, with a small claims unit.

We have noticed that your Committee has evidenced concern over the large number of appeals by large property taxpayers. The second recommendation in the above list was designed to assist the average homeowner. The concept has been recommended by many national organizations who study property tax administration, such as the Advisory Commission on Intergovernmental Relations.

I must point out that a law to implement that recommendation was enacted in 1973, that was Chapter 123. I suspect that you are aware of the fact and have probably voted on the postponement of the effect of that law primarily because of concerns of local assessors, and certainly very sincere concerns that the use of sales ratios for appeals might create greater inequities in assessments than they were intended to solve. So, the latest postponement is until tax year '78 and although this law may not be the answer, we think the search should continue for some acceptable fairly simply process which the small property owner can utilize.

It appears that your Committee will be confronted with the question of whether the remedies you propose will address the immediate problems on a short-range or long-range basis. We recognize and appreciate that the choices may be difficult depending on your priorities. For example, in relation to the second level of appeals, preferred over the long period could be the Tax Court. But, the immediate solution, we recognize, could be more tax appeals judges on a part-time basis, or higher salaries to make the present judges full-time. This is a real toss-up when it comes to decision-making; we appreciate that.

Regardless of your decision, it is most important that those officials who have the responsibility for hearing appeals whether they be members of the

county tax boards, tax appeals judges, or tax court judges, be qualified for the task. Present laws relating to qualification should be reviewed to determine whether they can be strengthened. The Taxpayers Association recognizes that adequate salaries and adequate staff support are also important to an effective appeals process.

That terminates our statement, Senator. I want to thank you again for the opportunity of presenting our views to you today.

SENATOR DUNN: Well, that too is a very fine statement, Mr. Haines. I am not perhaps as familiar with the '71 report as I should be but I certainly will become acquainted with it, and also the '72 Tax Policy Committee recommendations.

You reaffirm, or emphasize, what others have seen the need for and that is to do something about the judges, as we know them today - either have full-time judges adequately compensated for the work they do, or perhaps give them a higher status than they now enjoy in the court system. The fact that they as a body do not seem to have to answer to anyone is one of the matters that we are going to take under serious consideration for recommendation to the Legislative Bodies.

As I said to the previous speaker, before you came in, there must be some interim process found to give immediate relief to the thousands of people, many of them residential homeowners who need quick decisions for their own personal purposes, and also to expedite decisions that will have an effect on the budgeting process of the municipalities, which is a glaring inequity.

All I can say about your statement is that it is excellent and I thank you for coming here to present it to us.

MR. HAINES: Thank you, sir. We will watch with great interest the developments that come from your Committee and hope that we can support the recommendations that come forth.

SENATOR DUNN: I would like to have the support of the NJTA in awakening other members of the Legislature to the need for some immediate reform. If there is anything your organization can do to help that cause, it would be appreciated.

MR. HAINES: We certainly will, sir. Thank you again, Senator.

SENATOR DUNN: Is there anyone else in the Chamber who wishes to make a statement or to give testimony of some kind? (no response)

If there is no one else who wishes to be heard, I will adjourn the hearing.

(hearing concluded)

STATEMENT TO
SENATE SPECIAL COMMITTEE ON
TAX APPEALS PROCEDURE
BY
HONORABLE RICHARD A. NEST
MAYOR, BOROUGH OF FORT LEE

SENATORS:

I appreciate your giving me an opportunity to submit to you a prepared statement, as a prior commitment prevented me from appearing personally before you on Wednesday, March 30, 1977 to testify regarding the tax appeal problems of the Borough of Fort Lee.

Fort Lee taxpayers are approximately split 35% homeowners, 55% high rise and apartment owners, and 10% commercial, etc. From 1973 to 1976 Fort Lee's local municipal tax levy (excluding school and county taxes) has increased from \$3,143,000 by 277% to \$8,713,925.

During the same period the Reserve for Uncollected Taxes has increased by 768% from \$449,000 to \$3,451,000 in 1977, an increase from 14% to 40% of the local tax levy. Why such a high reserve for uncollected taxes? Our collection rate has dropped to below 84%, worse than that of Atlantic City before passage of the Casino Gambling Referendum. This poor collection rate is essentially the result of two factors, the first being the bankruptcy of Invesco Corp., representing approximately \$94,000,000 of ratables. Our appeal to the County Tax Board to exclude these properties from our ratables list was denied. The Borough must now wage a most costly appeal to the State Division of Tax Appeals. Further, to date we have been unsuccessful in obtaining any relief or payment from the bankruptcy Trustee. As of April 1, 1977, delinquent taxes on their properties will total \$1,382,000.

A further factor, a very important one, affecting our collection rate is the holding back of taxes by major high rise owners, while filing and awaiting appeals. In most cases, they withhold more tax dollars than the statute allows: In one case Judge Lario has ordered, on our motion, payment of 75% of the taxes, only to be rebuffed by the consortium of banks, present owners of the previously bankrupt North Colony unfinished buildings (a potential 60-70 million dollar project), in defiance of the Court. I am speaking of over \$75,000 for 1975, Senators, to which we must go to costly ends to collect. An additional \$655,000 is owing for 1976. Bankruptcy related properties total in excess of \$2,000,000 of our present tax delinquencies of approximately \$3,400,000.

This low collection rate has a profound effect on the property taxes of the average homeowner and puts an unfair tax burden upon them, with their one and two family houses.

Ratables currently awaiting State Division hearings for the years 1972 through 1976 total \$633,500,000. This includes 52% of the ratables in our Borough for the 1976 tax year. I should also point out those properties are all class 4C - or apartments, the majority of which are represented by one attorney. This individual, prior to 1975, did not handle any appeal in our Borough, and only one (1) appeal in 1975. He now represents eight of the largest property owners, comprising over 46% of our total ratables. Should these appeals be successful, the reductions granted by the State Division of Tax Appeals would result in refunds of taxes in excess of \$9,750,000 not including interest. (See attached listing of attorneys handling tax appeals for Fort Lee taxpayers).

In 1973 we experienced a total of \$29,450,000 of ratables, on appeal, and still pending before the State Division. This figure has grown, like a cancer, to \$226,200,000 in 1976. Our total ratables for the year 1976 were only \$438,751,000. I do not need to tell you learned Senators of the profound effect the foregoing facts could have on the Borough's tax levels.

Of more serious concern is the basic fact that under our present law these same high rise owners can literally bankrupt our Borough by merely withholding their taxes. The present laws provide only minimal penalties, and permit the Mayor and Council to take no official action until almost a year passes. The lifeblood of the Borough of Fort Lee, its cash flow, is in their hands, and Borough government can do little. The pressures resulting therefrom are detrimental to the basic concept of an independent government on behalf of all citizens. Judges faced with decisions that could almost destroy a Borough must also feel the pressures. It is not fair.

I am certain that others may believe that this major tax problem facing Fort Lee is the result of our rent-leveling laws. It just is not true. Income to the high rise owners may not be surging ahead as in the late 1960's and early 1970's, but this is not the real reason for all the tax appeals. The real culprit is the archaic methods of tax valuation based on arbitrary earned income percentages that are applied by the Tax Courts to high rise apartments, while homeowners are assessed with fair value and replacement valuation. The apartment buildings sold are in excess of assessments, and no apartment owner to my knowledge is in the market to sell. Furthermore, it is a sad but true fact that tax appeal cases are very lucrative to attorneys, and expense for their work is borne by the Borough and residential

taxpayers. Their fees should be fixed by legislation to help prevent the desire for personal gain overshadow sound legal decisions.

If Fort Lee were judged liable for over \$10,000,000 tax refunds, the Borough would no longer exist, as our approximately 3,500 homeowners would never be able to realistically carry the burden. Reform legislation, research and new legislation is needed in this area. We appreciate your surveillance of this important problem in an effort to seek a solution.

If further data is required, I would be most pleased to obtain and submit it to you.



Richard A. Nest
Mayor, Fort Lee

April 4, 1977

Summary of Fort Lee Tax Appeals 1973 to 1976

Attorney	1976		1975		1974		1973	
	A	B	A	B	A	B	A	B
Beattie	1	1	1	1	1	1	1	1
Clapp	0	0	1	1	1	1	0	0
Cohn	1	1	0	0	0	0	0	0
Corrison	1	1	1	1	1	1	0	0
D'Agosto	0	0	4	1	5	2	0	0
Demetrakis	10	4	25	7	8	2	4	4
Ellis	0	0	1	1	0	0	0	0
Ferrara	0	0	0	0	0	0	2	1
Greenstone	4	4	4	4	1	1	0	0
Hogan	1	1	0	0	0	0	0	0
Landi	0	0	0	0	0	0	1	1
Liebowitz	0	0	0	0	0	0	1	1
Litt	1	1	0	0	0	0	0	0
Mandelbaum	4	3	4	3	1	1	0	0
Rosenblum	2	2	1	1	0	0	0	0
Schneider	3	2	0	0	1	1	0	0
Slavitt	6	1	6	1	0	0	0	0
Strull	1	1	1	1	0	0	0	0
Weisenfeld	22	8	1	1	0	0	0	0
Wolfe	3	2	2	2	0	0	0	0
Zimmerman	<u>3</u>	<u>1</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Totals	63	33	52	25	19	10	9	8

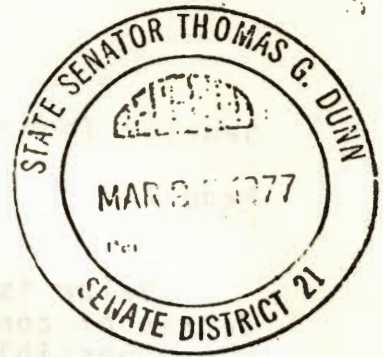
A = Number of properties attorney represents

B = Number of property owners attorney represents

Send copy to
pleasure
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Office of Assessors
City of Pleasantville



CITY HALL

(609) 641-6200

PLEASANTVILLE, N. J. 08232

March 23, 1977

Senator Thomas Dunn
City Hall
Elizabeth, N.J. 07200

Re: Division of Tax Appeals

Dear Senator Dunn:

Several division judges don't really comprehend the various techniques of capitalizing income into value.

The techniques of capitalizing income are like a bag of golf clubs - one for each situation, and some of the judges have only learned how to use the putter.

In testimony before the division the taxpayer's appraiser, even though versed in all of the capitalization techniques, always uses the putter. The judge understands him, rules accordingly, and frequently misses real value by a long shot.

Another common difficulty is that the municipal attorney is not competent to try a valuation case. He does not recognize weaknesses in taxpayer's appraisal, nor can he develop strengths in the assessor's appraisal. Typically he confines himself to the procedural amenities of a hearing.

Furthermore, assessors share blame for the common failure to reconcile the income approach value with a proper cost approach value, especially when appraising recent construction.

Senator Thomas Dunn

March 23, 1977

Page 2.

Value is imprecise. To focus on value with any degree of confidence one ought to marshal and reconcile every possible scrap of evidence methodically. There is no evidence of value quite so solid and demonstrable as a recent cost to construct, but appraisers, division judges and even assessors blithely dismiss the cost approach when appraising income-producing property. That's a mistake that invariably injures the municipality. The cost approach should be included and reconciled with the income approach.

The income approach is the approach most subject to manipulation because the essential underlying assumptions are frequently unexplained and unexamined and because the arithmetic of capitalization has the effect of magnifying seemingly small errors in the initial stages into large errors in the final value.

Like a weapon, the income approach is dangerous in the hands of the ignorant and unscrupulous.

You can't force the judges to qualify themselves in appraisal of real estate. Maybe you could supply them with a supporting staff of competent appraisers.

I have found cases before the Division of Tax Appeals to be so demanding, so futile and so corrosive that I have determined never to participate in one again, no matter what the issue.

Very truly yours,


R. B. White, CAE, SMA, CTA
Assessor

RBW:jk