

PUBLIC HEARING

before

SENATE COMMITTEE ON REVISION AND
AMENDMENT OF LAWS

ON

Senate Bills Nos, 1, 2, 3, 4, 9, 11, 29, Senate
Concurrent Resolutions Nos. 8 and 10, Assembly
Bills Nos. 125, 198 and 350.

(TAX ASSESSMENT LEGISLATION)

Held:

February 17, 1960
Assembly Chamber
State House, Trenton,
New Jersey

MEMBERS OF COMMITTEE PRESENT:

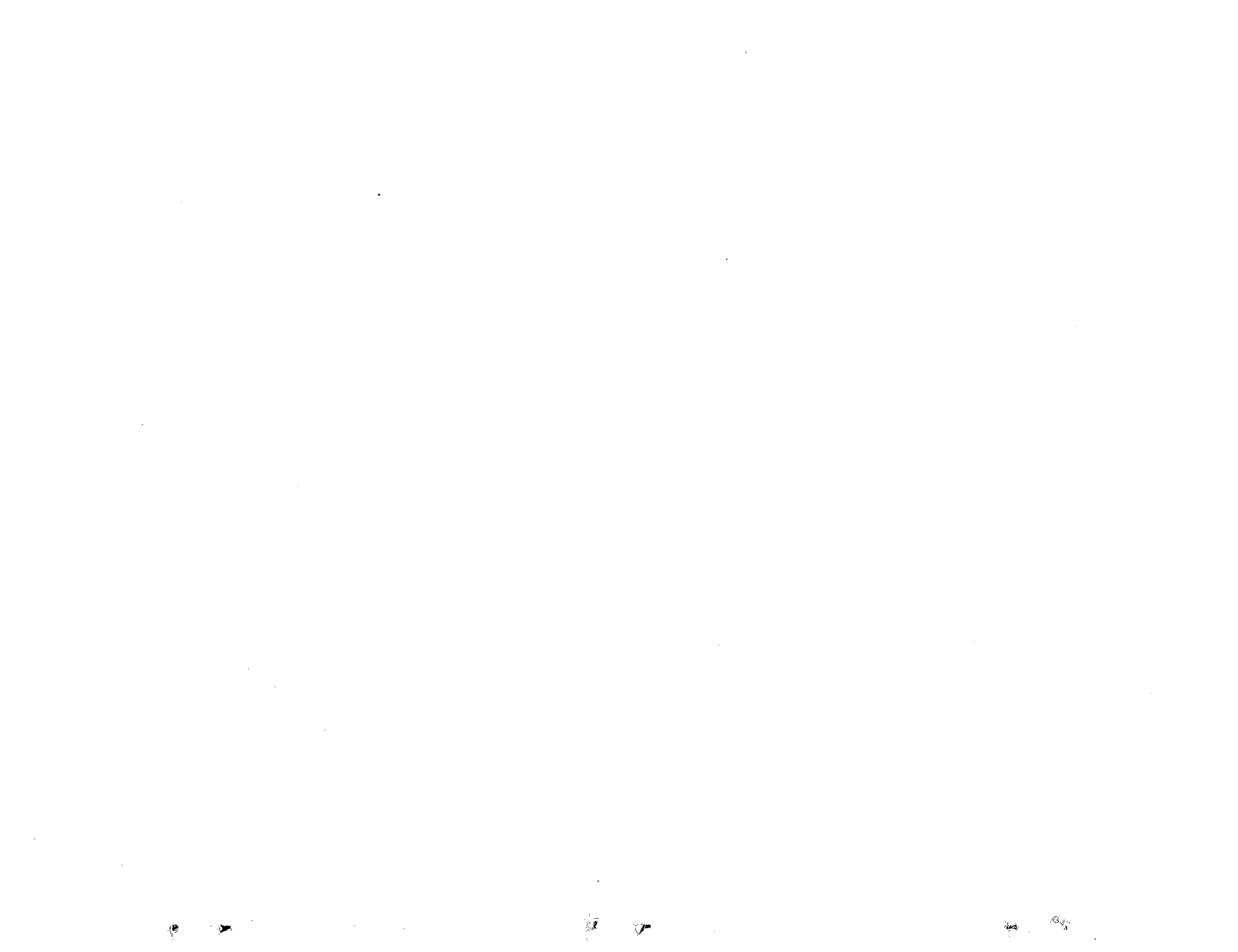
Senator Wayne Dumont, Jr. (Chairman)
Senator Charles W. Sandman, Jr.
Senator Donal C. Fox

Also present:

Senator Richard R. Stout
Senator Joseph Wm. Cowgill
Senator Henry S. Haines
Assemblyman Elmer M. Matthews
Assemblyman William V. Musto
Assemblyman Charles E. Farrington

* * * * *

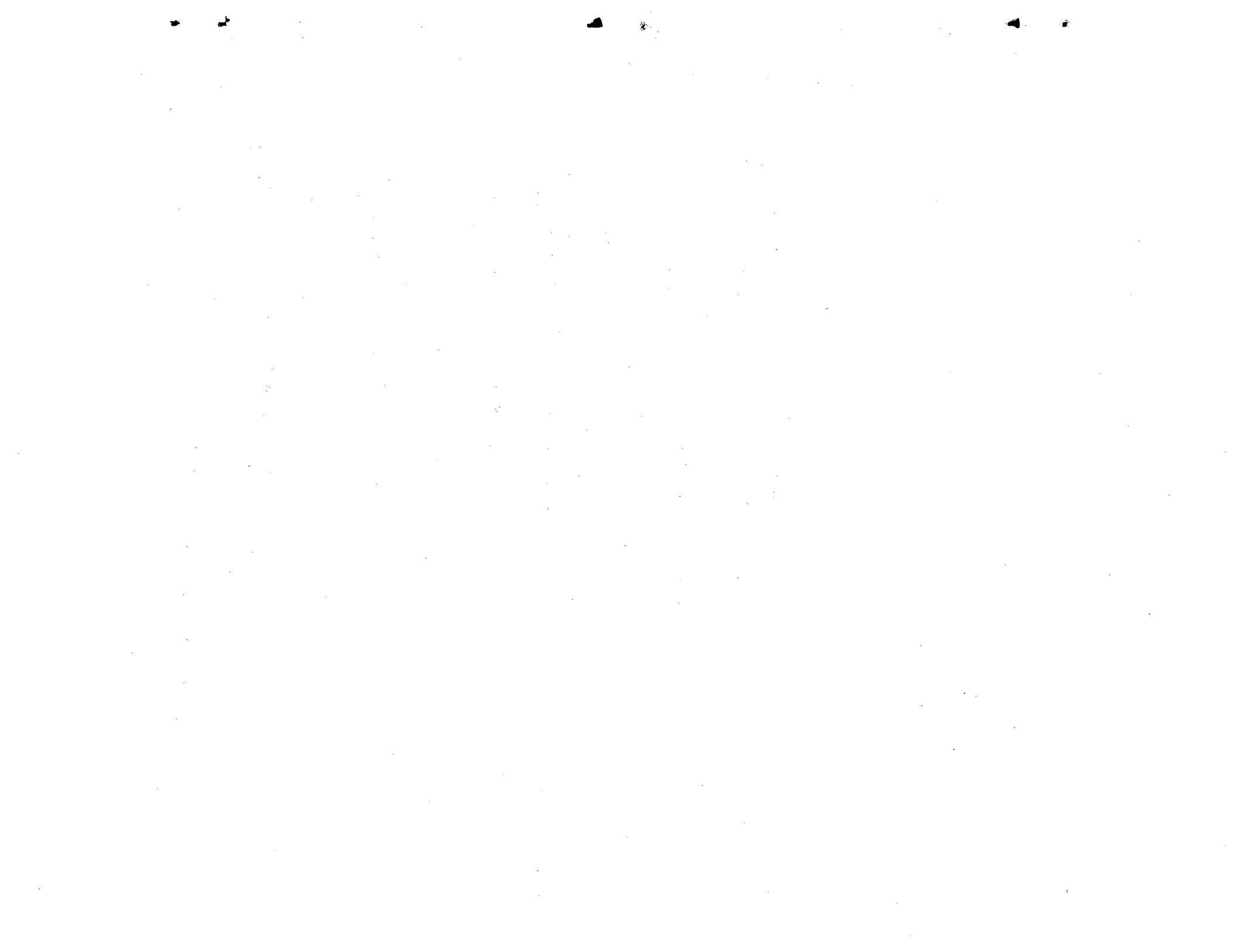
New Jersey State Library



I N D E X

	Page No.
Frank X. McDermott Executive Secretary of New Jersey Organization for a Better State (popularly known as NEW JOBS).	2
John J. Magovern, Jr. New Jersey State Chamber of Commerce	5 & 28
Joel R. Jacobson State CIO Council	19
August Church Tax Assessor, North Plainfield	2 A
Monroe A. Lewis Tobacco Distributors Association of New Jersey	3 A
Harold Thompson Assessor, Bernards Township	10 A
William B. Levet New Jersey Taxpayers Association Member of its Committee on Municipalities	22 A
Elmer F. Holtz City Council, East Orange	31 A
Alfred J. Greene Association of Municipal Assessors of New Jersey Tax Study Committee	38 A
Richard J. Hughes Legislative Counsel Associated Railroads of New Jersey	69 A

* * * *



SENATOR WAYNE DUMONT, JR. (CHAIRMAN): This public hearing is actually the eighth in a series of hearings on the problem of real and personal property assessment which started back, I believe, on June 30th of 1958. The hearing today involves the following bills - and I am not at all sure I have them all: Senate 1, Senate 2, Senate 3, Senate 4, Senate 9, Senate 11, Senate 29, Senate Concurrent Resolution No. 8, Senate Concurrent Resolution No. 10, Assembly 198 and Assembly 350, and on Monday we added Assembly 125, which is the same, I think, as Senate 3.

All of these bills are presently in the Senate Committee on Revision and Amendment of Laws and therefore this committee would be empowered to hold a hearing on these bills that are before the committee.

I would like to introduce to you Senator Henry Haines on my right from Burlington County and Assemblyman William Musto on my left from Hudson County. As other legislators come in, we will also see that they are properly recognized.

These bills in general involve at least three different approaches to the same problem. I would say at least three because there are probably more than that involved. But one would be an approach of assessment at the municipal level, another would be an approach at the county level at countywide ratios, and the third would be statewide ratios. Then, of course, we always have available something that doesn't have to be changed, namely, the present law as an approach to the problem. There are some variations of the county- and statewide ratios involved in these different bills, but we will get into them as we go through the hearing.

Assemblyman Charles Farrington is hear from Mercer. Do you want to join us?

(Assemblyman Farrington joins the committee.)

We will try as nearly as possible to follow the schedule of witnesses, but we do have some situations here of people who want to get out as quickly as they can. They have assured me they will be brief. So at this time I will call Frank X. McDermott of New Jobs. Mr. McDermott.

One ground rule here, people in the audience may ask questions of the witness in addition to members of the committee submitting questions to the witness. We would like, however, to get the committee questions out of the way first and then I will ask you if you have any questions you want to have asked or want to ask directly of the witness. All right, Mr. McDermott.

FRANK X. MC DERMOTT: Mr. Chairman, Senator Haines, Assemblymen Musto and Farrington: I am Frank X. McDermott of Westfield, New Jersey, Executive Secretary of New Jersey Organization for a Better State, popularly known as NEW JOBS. We are a non-partisan political organization dedicated to promoting a business climate in New Jersey conducive to the development of more job opportunities for our growing population. It is not the purpose of our organization to take a position on specific legislation. However, the uncertainty of the present tax assessment situation has such an adverse effect on job opportunities in New Jersey that we feel compelled to appear here today to express ourselves.

NEW JOBS urges the New Jersey legislators, before adopting any of the many methods suggested for resolving the current property tax assessment problem, to give consideration to the pressing needs

of all segments of New Jersey society. The problem can only be properly resolved when the well-being of the farmer, the homeowner, and the businessman are dealt with equitably. As legislators you are subject to approach by many special interests urging consideration of their own specific problems which would be created if this proposal or that one were adopted. NEW JOBS does not intend to add another approach to the many which have been made to date, but we do suggest that in considering these various proposals, you keep before you one of the most important aspects of a healthy economy - the constant development of more job opportunities.

New Jersey's population is growing at the rate of 100,000 per year, and at a recent public address, the Governor of our State stated that New Jersey must develop an additional 40,000 new jobs each year to meet the needs of our growing population. However, instead of gaining in this respect, we are falling behind. I invite your attention to the fact that from 1950 to 1959, according to the Federal Bureau of the Census, New Jersey's population increased more than 20%. During that same period, New Jersey lost 10,500 jobs in manufacturing. The United States, as a whole, while gaining only 15% in population, experienced a 10% increase in manufacturing employment during the same period.

Businessmen always consider taxes as an important factor in determining where to expand or locate their operations. A representative of one of New Jersey's industrial development agencies told me that in his contacts with out-of-state businessmen interested in locating in New Jersey, he is asked some very pointed questions on this subject: "What about the tax assessment muddle in your State? How

will it be resolved? Specifically how will it affect my operations?"

Additionally, New Jersey's competitors in the race to attract new industries collect newspaper headlines deploring the present assessment problems and distribute same to prospective businesses shopping around for a location site. Illustrative of these headlines in chronological order is one from the Morristown, New Jersey "Record" dated June 30, 1958. The headline is "Thorny Tax Problem to be aired." The same date, Perth Amboy, New Jersey "News" - "Probe starts into Jersey's Tax dilemma." Same date, Long Branch, New Jersey "Record" - "Hearings will begin on State Tax Riddle." July 1, 1958, the following day, after the hearing - "No Answer to Billion-Dollar Query - Jersey Taxes." February 11th of 1959, Newark, New Jersey "News" - "New Tax Load Fear is Voiced." February 12th, New Brunswick, New Jersey "News" - "Changes in Tax Reform Bills Clearly Needed Says Dumont." New Brunswick "Home News" February 11th - "Business, Municipal Groups Object to New Jersey Tax Reforms." February 11th, Plainfield "Courier News" - "Property Tax Bills Scored at Hearing." Finally, the real crusher, February 11th, Trenton, New Jersey "Times" - "Reassessment Program Seen as Threat to State's Future for Industrial Development."

New Jersey's industrial development representatives are at an unfair disadvantage in selling our State because of this.

While there is uncertainty as to New Jersey's tax program, widespread apprehension will continue to prevail concerning the nature and extent of changes to be made. Therefore, NEW JOBS appeals to the New Jersey Legislature to act promptly in clearing up such uncertainty which has a detrimental effect on job opportunities.

CHAIRMAN DUMONT: Do you have any specific recommendations to make, Mr. McDermott, that is, on behalf of your organization?

MR. MC DERMOTT: No, I haven't, Senator.

CHAIRMAN DUMONT: Any questions of Mr. McDermott? Does anyone in the audience have any questions? Thank you.

MR. MC DERMOTT: Thank you, Senator and Assemblymen.

CHAIRMAN DUMONT: Mr. John J. Magovern, New Jersey State Chamber of Commerce.

JOHN J. MAGOVERN, JR.: With the permission of the Committee I would like to have an easel because I have some charts. Thank you very much. That is, if the Sergeant-of-Arms doesn't feel I am obstructing the exit.

CHAIRMAN DUMONT: You don't feel he is, do you George?

MR. HARKINS: No.

MR. MAGOVERN: I am John J. Magovern, Jr., Executive Vice President of the Mutual Benefit Life Insurance Company. I am appearing here as Chairman of the Cost of Government Committee of the New Jersey State Chamber of Commerce.

I wish to thank the Chairman, Senator Dumont, and the other members of the Committee on Revision and Amendment of Laws for this opportunity to present the views of the State Chamber with respect to the property assessment proposals which have been made the subject of this hearing. I am also very appreciative of the interest of the other members of the Legislature present at the hearing this morning.

At the outset, I would like to make a technical request, if I may, that the full text of this statement, including the charts and exhibits, be incorporated in the record of the hearing.

CHAIRMAN DUMONT: That will be done.

MR. MAGOVERN: With respect to questions, I have no objection to questions but because this is presented by way of sequence and some of the questions might be answered as we get along - I have no objection to the committee, but I would like, with your permission for the public to postpone questions.

CHAIRMAN DUMONT: I think we can hold all questions until you are finished.

MR. MAGOVERN: Thank you, Senator.

Now, to the business at hand, the property assessment bills and resolutions now before the State Senate and the position of the State Chamber on them.

With your permission, I am dealing with Senate Bill No. 1, Senate Bill No. 9, and Assembly Bill No. 198 as a unit because they have a fundamental concept that seems to me lends itself to such a presentation.

The first two pages of my presentation are in the nature of a summary of the material and provisions of the bills. Since the important features of the bills that I intend to cover here today will be mentioned in the course of my presentation, I would think it might be well unless you request, to pass over the first two pages and perhaps get down to the views of the State Chamber.

Also since Senate 9 and Assembly 198 are identical, this statement and my references will be to Assembly 198 rather than a combination of references.

In principle, the New Jersey State Chamber of Commerce agrees with the intent of S 1 and Assembly 198 to require the use of real and personal property assessment ratios which will result in the

aggregate statewide tax impact of the property tax on business property and residential property remaining proportionately the same as it is at present.

This intent is evident from the incorporation in these bills of the 4-4-1 relationship among the ratios for assessing real property, business machinery, and business inventories, respectively, which the Ninth Report of the Commission on State Tax Policy indicated would produce that result. According to the data presented in the Ninth Report, retention of the same relative property tax impact on business and residential property would be achieved in the statewide aggregate through offsetting changes in the assessment of business real estate and in the assessment of business personalty.

So much for the principle, and here we come into the question of practice versus principle.

Both Senate 1 and Assembly 198 require that their provisions become effective immediately.

Among these provisions is a requirement that each person owning personal property used in business file, under severe penalties for non-compliance, information returns declaring the fair value of his machinery, equipment and inventories.

Now, upon receipt of that information, returns for his taxing district, the assessor would review and audit the returns and determine the taxable valuations of the business personal property of each taxpayer by applying the percentage levels of the fair value of machinery and equipment and inventories, respectively, called for in the legislation.

Under S-1 this would mean assessing machinery and equipment in each taxing district at 50 per cent of fair value and inventories

at 12 1/2 per cent of fair value; under A 198 it would mean assessing machinery and equipment in each taxing district at the same ratio the taxing district employs for real property and assessing inventories at a ratio equal to one-fourth of the real property ratio.

The business personalty side of the property tax bill, being self-executing and self-equalizing, because of the self-assessment procedure of information returned by the taxpayer, would actually become effective immediately.

The provisions in the bills regarding real property, however, could not become effective immediately in many, if any, of the taxing districts in the State.

So far as real property is concerned, the assessor would be required, under both bills (as under the present law), to "determine the full and fair value of each parcel of real property" at the price "it would sell for at a fair and bona fide sale" as of October 1. Thereupon, according to the bills, the assessor would determine the taxable value of the real property in his district at 50 per cent of full and fair value under S 1; and under A 198, at the ratio established for the county or - this is important - under certain temporary circumstances, at the ratio established by the taxing district.

In the absence of a revaluation program, the assessor would be unable to carry out the real property provisions of Senate 1 or Assembly 198.

This rather clearly points up the need for a transition provision because the fact that under these bills the business personalty side of property assessments is self-executing and self-equalizing while intra-municipal equalization of real property

assessments must await revaluations, prevents attainment of the principle underlying these bills and makes for gross inequity. The solution of the problem requires effective transition provisions.

While Assembly 198 has a section 37 which is designed to cope with some of the problems of the transition period, it falls far short of the requirements for truly effective transition provisions. Section 37 would be helpful so far as the mechanical difficulties of transition are concerned and could make a contribution toward the attainment of equity in individual cases. However, it would not operate to prevent the sudden drastic shifts up and down in the percentage of the total property tax paid by the respective categories of taxpayers, which under S 1 and A 198 would characterize the years of transition from one basis of property taxation to another.

Now, if this works out right, we will have a chart and if it doesn't, he will pull up the wrong chart.

Chart 1 illustrates what might be termed the roller-coaster effect of both Senate 1 and Assembly 198. May I ask: Is that in a convenient spot for the Committee, Senator?

SENATOR HAINES: Yes.

MR. MAGOVERN: We do have attached to the statement duplicates of this chart and if those in the back can't see ---

CHAIRMAN DUMONT: Would anybody in the audience like to have a copy of the statement with the attached charts?

MR. MAGOVERN: They will get them. We have copies, Senator. I was afraid if I took it too far back the Committee wouldn't be able to see it. (Copies of statement distributed to members of the audience.)

CHAIRMAN DUMONT: Mr. Magovern, Senator Haines suggests

maybe that could be moved back because we have the same attached charts here. That is far enough I guess. Go ahead.

MR. MAGOVERN: Now the lefthand graph represents the percentage of the property tax paid by business in the community. Under both S 1 and A 198 the percentage of the total property tax which is levied on business would experience a sudden drastic jump between 1960 and 1961. That is the up-curve of the blue. Then it would coast along, as you can see, more or less at a plateau until a revaluation is effected and then it would drop back to some extent to more or less where it had started from. Now the righthand chart tells the inverse story for the percentage of the property tax paid by residential property owners. And you can see, taking the over-all tax amounts, they dropped down rather sharply in '61, go along until the revaluation and then up they go.

Now, these shifts arise from the fact that under these bills business personal property would suddenly be subjected to extremely high assessment ratios compared to the present levels with no offset in the assessment of business realty until later years after revaluations have been effected.

Section 37, which is a transitional section, effects this. As you know, Assembly 198 would require each county board of taxation to select a ratio in multiples of ten which would be applied to real property and business machinery and equipment. The ratio applied to inventories would be 1/4 of that applied to the real property, the machinery and equipment. Each municipality in a county would be required to use the ratios established by its county.

Under Section 37 of A 198, however, the assessor has access to a moratorium on use of his county's real property assessment ratio.

If, after the county has established its basic ratio, the assessor finds it impracticable to shift his tax roll to the new basis for real and personal property, under Section 37 he may use any other ratio he chooses for that first year. He would presumably choose his present average ratio. One of the factors that might cause the assessor to consider it impracticable to make the shift is the fact that his addressograph plates carrying the assessments would have to be changed if the county ratio was not precisely the same as the actual ratio used by him in that taxing district.

Now, to illustrate the breadth of this, we will turn to Chart 2. Chart illustrates the situation with which municipal assessors would be faced under both S 1 and A 198. The first column of figures represents for each county the "average ratio" of assessed to true value of real property in the county, that is, the percentage that aggregate assessed valuations of all real property in the county is of the aggregate true valuations of all real property in the county.

If each county board of taxation were to select as its real property assessment ratio the multiple of ten nearest its average ratio, alignment to it would require considerable adjustment by its constituent taxing districts, as the range set forth in the last column indicates. You will observe there the taxing districts - how they go up from what they are actually charging various municipalities to the county ratio.

The data in this chart also highlights the magnitude of the adjustments to which real property assessments in the several taxing districts of the State would be subject under S 1, which calls for an immediate statewide 50 per cent ratio in the face of a current statewide ratio of 29.35 per cent and a range of 7.62 per cent to

110.75 per cent.

The evidence in Chart 2 does not militate against the desirability of a statewide average assessment ratio for real property nor against, as a second choice, the desirability of 21 countywide ratios. But it demonstrates the need for a transition period during which districts, which encounter mechanical difficulties in changing their ratios and/or difficulties in the realm of equity and economic practicability, could effect the changeover without building inequity and economic suicide into their property tax assessments.

As a practical matter, we believe that under Section 37 of A 198, most, if not all, of the assessors would find it impracticable to use their county real property ratios in the first year and would retain their district's existing average ratio on real property as their declared ratio. Once the assessor has chosen his real property assessment ratio - under A 198 the machinery and equipment ratio would automatically be fixed at the same level and the inventories ratio would be fixed at $1/4$ of that level and under S 1 the machinery and equipment ratio would automatically go to 50 per cent and the inventories ratio to $12\ 1/2$ per cent.

For subsequent years, Section 37 of A 198 would permit the assessor to continue using a ratio different from that set forth by the county provided he got permission from the Director of the Division of Taxation. Granting of the permission would reflect findings by the Director that a revaluation program would be needed before the assessor could conform to the county-established basic ratio. When granting permission, the Director presumably could establish reasonable conditions under which he would grant that permission and conceivably could make as one of those conditions the carrying out of a revaluation program in accordance with the Director's schedule

of priorities provided for in another section of the bill and subject to standards which may be also prescribed by him.

A 198 would require any assessor who uses a basic assessment ratio different from that of his county level to state in his affidavit the ratios he is using: the basic ratio which would apply to both real property and machinery and equipment and the ratio $1/4$ as big which would apply to inventories.

During the first year, then, and until a revaluation program is put into effect most, if not all, of the taxing districts would continue to assess realty at their respective present levels of assessment and with their present degrees of intra-municipal variation. Assessing at the present levels of assessment would be permissible under Section 37 of A 198 and would be the probable practice under S 1 since most assessors could not do anything else. Thus, although the status quo for real property assessment would be preserved, business personalty would be subject to assessment at ratios very much higher than those in current use and business property would be subject to much higher taxes.

Let's think for a moment about this impact of bills on assessment of business personalty. Even if, under these bills, the assessors wish to make their real property assessment ratios conform to the legislated ratios or the county ratios under A 198 and 50 per cent under S 1, all that could be done in the absence of revaluations is to lower each real property assessment by the same percentage or raise each real property assessment by the same percentage, as the case may be, so as to come up with the new average ratio. Now this would produce mechanical compliance with the

ratios prescribed under S 1 or A 198, but it would fail to effect the much more important compliance with the principle of intra-municipal equalization. In the first year of operation of a new law regulating the assessment of property, it would be difficult even to effectuate a mechanical changeover in these assessments. Because of this and because A 198 would permit, and S 1 could not prevent, retention of existing real property assessment ratios in a transition period, Chart 3 assumes their use by the municipalities of the State.

Now this chart illustrates the unfortunate impact of S 1 and A 198, as they are now written, on assessment ratios applicable to business personalty. The right-hand set of bars shows for each of the twenty municipalities, for which the Ninth Report of the Commission on State Tax Policy published business personalty assessment ratios, the ratios on business machinery and equipment which we assume would obtain currently under A 198. Under S 1 the corresponding ratios would be 50 per cent. Under A 198 the ratio applicable to inventories subject to tax would be, of course, 1/4 of the machinery and equipment ratios; under S 1 the inventories ratio would be 12 1/2 per cent.

The left-hand set of bars represents our estimate of the ratios currently applied to business machinery and equipment. The magnitude of the increases in the right-hand bars over the left-hand bars gives a good picture of what is in store for business personalty if S 1 or A 198 should be enacted in their present form. As indicated by the data on the chart, in seven of the twenty taxing districts the ratio applicable to machinery and equipment under

A 198 would be three times as great as the ratio estimated to be in use at the present time. In these taxing districts, and they are listed here, the ratio applicable to inventories would also be three times as great as the ratio estimated to be in use at the present time. In the remaining thirteen municipalities the increases in the business personalty ratios range from 33 per cent to 175 per cent. Experience similar to that of these twenty municipalities characterizes the situation in the other 546 municipalities in the State.

It should be noted that the impact of S 1 on the assessment and taxation of business personalty would be similar to that of A 198.

A study made by the Research Department of the State Chamber indicates that the impact of A 198 on the business personalty ratios in the several taxing districts of the State may be translated into an estimated increase in tax on business property of \$35 million or more, almost a 50 per cent increase in 1959's \$79.6 million tax on business personalty.

The tax increase on business involved here is greater than the new burden on business imposed by the recent enactment in New Jersey of a corporate income tax.

The imposition of that tax in 1958 impaired New Jersey's competitive position as compared to our neighboring states of Delaware, New York and Pennsylvania. Although these states also have corporate net income taxes, they do not have ---

Can I give a hand?

CHAIRMAN DUMONT: We just have to rearrange the setup a moment.

While we are pausing here, I want to note the presence of Senator Donal Fox from Essex County, Senator Richard R. Stout from Monmouth County, and Assemblyman Elmer Matthews from Essex County.

Go ahead, Mr. Magovern.

MR. MAGOVERN: Now I was speaking of the competitive problem of taxation which faces New Jersey business and I spoke of the problems in the area of our neighboring states of Delaware, New York, and Pennsylvania. Now these states do have a corporate net income tax, but they do not have other taxes on business which New Jersey has. None of our neighboring states has a tangible personal property tax on business inventories and on machinery and equipment. In 1959 this tax on New Jersey business, as I said, amounted to \$79.6 million. New Jersey also has a net worth franchise tax. Of our three neighboring states, only two have both a franchise tax and a net income tax; but one of the states, that is Pennsylvania, exempts manufacturing from its franchise tax and the other state, Delaware, has set a \$50,000 maximum on its franchise tax. If to New Jersey's 1 3/4 per cent corporate net income tax is added the income tax equivalents represented by the tangible personal property tax and the franchise tax, we find that New Jersey business would have the equivalent of a corporate net income tax of well over 7 per cent as compared to Pennsylvania's high of 6 per cent. In addition we have higher real property taxes than any of our neighboring states. We do not feel that New Jersey can afford to increase by over \$35 million its business personalty tax which our neighboring states do not levy at all.

Now I would like to speak a minute about the municipalities

and their involvement in this legislation. In effect, S 1 and A 198 would force New Jersey's municipalities to impose this additional tax burden on business whether they wished to or not. Because of the self-executing informational returns supplied by business under both the laws, there is nothing the local assessor can do to alter the over-all impact of the new law on the taxation of business personalty within the taxing district. Since it seems reasonable to assume that the present level of business personalty taxation in the various municipalities of the State reflects the level at which the local governing body wishes to assess such personalty, one might assume that the municipal governing bodies would not want the shifts S 1 and A 198 would entail. Since 100 per cent assessment of personal property is the legal limit, it should be apparent that the present levels represent levels beyond which the respective municipalities do not wish to go. It would seem that the level selected in each municipality reflects on the one hand the minimum that it wishes business personalty to bear from the point of view of sharing the burden with residential property and, on the other hand, the maximum that it wishes business personalty to bear from the point of view of not scaring off existing and additional industry and commerce. If this reasoning is correct, then the passage of S 1 or A 198 in their present form would bring about great dislocations in the distribution of the property tax burden and would force municipalities to a course of action which apparently they do not wish to follow.

Also, the expansion of personal property assessments, which S 1 or A 198 would entail, would have serious repercussions under the present law governing the allocation of county costs and the

distribution of school aid.

I am sure that the Legislature does not wish to create an automated Frankenstein which, because of this inequitable transitional period, will seriously change and damage New Jersey business and will probably come up to plague its creators.

Now we of the State Chamber of Commerce have ---

CHAIRMAN DUMONT: Mr. Magovern, may I interrupt just a moment?

MR. MAGOVERN: Yes.

CHAIRMAN DUMONT: How much of this statement do you plan to read here? I would like to know so that I can do some scheduling of other witnesses. Undoubtedly we are going to ask you questions about this.

MR. MAGOVERN: Senator, when I get into the suggested amendment, I would like to be more in detail. With respect to our position, the presentation of the proposed amendment would indicate, I think, our position if that would be satisfactory.

CHAIRMAN DUMONT: Well, do you plan to read the rest of the statement - I mean, the entire statement?

MR. MAGOVERN: Oh, no, no. I am sorry. I would like to cover these bills and S 2. With respect to the other bills that I have detailed there in summary fashion and also stated the position of the State Chamber, we have from time to time appeared and I think made our views known. They were summarized here for the purposes of the record.

CHAIRMAN DUMONT: Now you are at the top of page 8. Do you plan to go through to the top of page 14; is that it?

MR. MAGOVERN: Yes.

CHAIRMAN DUMONT: At some point during this, I will have to interrupt you to put Mr. Jacobson on because he has to leave by Noontime and I know we can't finish your presentation and questioning by that time.

MR. MAGOVERN: I am just about ready to start on the proposal and I would have no objection to being interrupted by Mr. Jacobson at this time.

CHAIRMAN DUMONT: Well, I want to be fair to both labor and management here.

MR. MAGOVERN: I appreciate that and I have no objection at all, Senator. I am very appreciative of your courtesy.

CHAIRMAN DUMONT: Is it all right to interrupt you here?

MR. MAGOVERN: Certainly. Go right ahead.

CHAIRMAN DUMONT: This won't interrupt your chain of thought?

MR. MAGOVERN: No, I have most of it down here and I can always jump to the written part.

CHAIRMAN DUMONT: Mr. Jacobson of the State CIO Council.

JOEL R. JACOBSON: Senator Dumont, Honorable Senators and Assemblymen: I appreciate very much this opportunity to present our views and I am particularly apologetic to Mr. Magovern for bursting in on him. I would like to point out that it isn't very often that the State CIO will follow the Chamber of Commerce. I assure you in doing so today, we do so more in a physical sense than a spiritual sense. But I will be brief and I apologize for the interruption.

SENATOR FOX: The spirit of cooperation here this morning is marvelous.

MR. JACOBSON: We shall now proceed and hasten to the disagreements.

I would like to state that following this presentation by the Chamber of Commerce with a great number of charts, there is no question that the problem of assessments is a very complex problem and I hasten to add that I by no means consider myself an expert on assessment problems. I would, however, like to deal with a few fundamentals concerning the problems of assessment and these even I can understand and I would like to address myself to them.

First, it appears to me that a theory of taxation which is most befitting a system of government known as democracy is the theory of taxation based on the ability to pay. It is very simple. The more you earn, the more you pay. And for this reason the labor movement has traditionally supported the theory of taxation as incorporated in our Federal income tax and we have just as vigorously opposed the theory of taxation devised by sales or excise taxes.

Now we have the very same problem here in the levying of tax assessments on property. The property tax in and of itself - its inherent nature is regressive. You will find that a low value home can be taxed at the very same rate and is taxed at the same rate as a property from which a huge corporation derives a huge profit. Similarly, comparing residential sites, a man who owns a \$10,000 wooden palace finds himself paying the very same rate as a man who owns a banonial estate of golden structure with a value of \$75,000. Obviously, this is a regressive system of taxation.

So even when the ratio of taxation is constant, the inequities which are inherent in this particular system of taxation flourish,

and I must say at this point it is no surprise to me at all when I find that the Chamber of Commerce seeks to retain this present system. But even where there is no variation in assessment, inequity flourishes and the inequities are compounded when because of economic, but more often political reasons, the assessment ratios are changed.

Now I would like to refer you to the Sixth Report of the State Tax Policy Commission which I don't have here, but I have excerpts from it. I have two charts that I would assume are authoritative to point out the particular point I am making.

In the Sixth Report it compares the average assessment ratio by percentage for six of the state's largest counties and compares within these counties the average assessment ratio for properties in the largest city within that county. As an example, in Camden County the average assessment ratio is 34 per cent. In Camden City it is 42 per cent. This, by the way, is on residential homes. In Essex County, 43 per cent; in Newark 47 per cent. In Hudson County, 52 per cent; Jersey City, 63 per cent. Mercer County, 34; Trenton, 40. In Passaic County, 37; Paterson, 49. In Union County, 35; Elizabeth, 44. Thus, it becomes very obvious that the one site, owner-occupied residency in the urban center assumes under the present system an unfair and disproportionate burden of the taxation. Now, these inequities are compounded even further as evidenced by the second chart of the Sixth Report of the State Tax Policy Commission, in which they compare properties within the large urban area on the basis of their respective values. As an example, in Newark 18 properties valued at between \$2,000 to \$4,000 were assessed at 69 per cent. In the very same city properties assessed at over \$20,000

were assessed at not 69 per cent, but 41 per cent. In Jersey City, the low-value property 78 per cent; the high value property, 35 per cent. Elizabeth, the low-value property, 67 per cent; the high-value property, 35 per cent. Camden, 54 per cent for the low-value property; 32 per cent for the high-value property. So again you see that the low-value residential property has traditionally been assessed higher than the high-value property and I must point out by virtue of these facts, that the fall guy in each instance is the little fellow who lives in his own low- or middle-value home in a big city. He needs relief after 100 years of such inequities.

We would suggest that if the Legislature wants to prevent a property-tax structure where the owner-resident of a one-family home with no income-producing value will be rapped with the confiscatory and prohibitive tax burden while absentee owners of high income-producing properties will evade their fair share of taxation, obviously something must be done.

We would like to present for your consideration two specific recommendations. One is a long-range recommendation; the other is a short-range one and can be done immediately.

The long-range proposal we would make is that the Constitution be amended to authorize classification of property where non-income-producing property could be assessed at a lower level than the high income-producing property. Among the bills considered today is SCR 10 which would provide the same basic structure of classifications of property. However, SCR 10 is deficient in the respect that it would set the ratio as computed by the average of the existing ratios for the past ten years. Of course, what this would do would be merely

to freeze the existing inequities. What we propose as a rule of thumb is that perhaps something like this could be incorporated into the amendment: that owner-inhabited residential areas be assessed at 40 per cent of true value, that real estate and commercial properties be assessed at 50 per cent of true value, that industrial and commercial business properties be assessed at 75 per cent of true value, and railroads at 90 per cent.

Our second recommendation is of a short-range nature. Because a constitutional amendment obviously will take some time, we would like to recommend that in the interim the Legislature extend an option to municipalities to grant homestead exemptions as high as \$5,000 a year to the owner-occupied, one-family resident. This would provide the municipality with the means to ease and eliminate the wholesale inequities now existing because of the regressive nature of the property tax.

Once again I want to apologize to Mr. Magovern for the intrusion and to thank the Committee for its attention and courtesy.

CHAIRMAN DUMONT: Any questions of Mr. Jacobson?

Do I understand you want to set railroads at 90 per cent under this classification?

MR. JACOBSON: That's right.

CHAIRMAN DUMONT: Don't you think that might interfere with the possibility of continuing passenger-train service, which is getting to be -- well, which isn't getting to be, but which is a vital necessity to many thousands of commuters in New Jersey?

MR. JACOBSON: I know, Senator, that the railroads are prone to compute their profit and loss statements on the basis of passenger

service and then freight service. I don't know why they do this. As a matter of fact, I do know why they do this, and it seems to me that it would be much fairer to present their profit and loss statement as an example of their total operation. It is perfectly obvious that the railroads are making their normal returns on their freight service, but they continue to talk about their deficits in passenger service. I don't know why these two couldn't and shouldn't be computed together.

CHAIRMAN DUMONT: Suppose, however, through applications for curtailment or elimination of trains, we were forced into a position in New Jersey where we had to have twice as many highways to handle mass transportation as we otherwise would if the trains were kept running. Would that be an economical move, do you think?

MR. JACOBSON: Of course, the transportation problem is not directly related, but indirectly related to a problem that I understand. I don't know that the levying of the 90 per cent tax on railroads would cause the economic distress that would make it necessary for us to do what you just quoted.

CHAIRMAN DUMONT: Now your second recommendation in regard to homestead exemption, that is approximately the same value or amount as Florida has in effect for homestead exemption; is that correct?

MR. JACOBSON: That's right.

CHAIRMAN DUMONT: Any other questions? Does anybody in the audience have a question? Will you identify yourself, please.

AUGUST CHURCH: My name is August Church. I am the Tax Assessor in North Plainfield, New Jersey. You made a statement that you know of a small house of low grade and a large house of a good grade, a mansion-type home, that is being assessed the same. That

town definitely has not had a re-evaluation program because I doubt very much that such inequities could continue to exist in the event that they have had an equalization program. Our basic problem is equalization before any assessment is placed. But I think you are talking about some place that has let their tax assessment procedures fall pretty low because most of us assessors are trying to maintain fairness and trying to distribute the tax burden as fairly as possible. I know we have to have a re-evaluation program before we can do that.

SENATOR FOX: I think you missed Mr. Jacobson's objection if I am not mistaken. His objection is that the same tax rate applies to both of these homes even though they are distinct and different in character. That is the point that he was making.

MR. CHURCH: Well, if you have a basic monetary value per square foot and per type of home, you certainly would have a differential in the value placed before you apply any ratio. So regardless, a man in a small home is going to pay a lot less than a man in a big house.

MR. JACOBSON: I do think you missed my point. I was making two points, I thought. One is that if the level of assessment is the same for a man with a small home as it is for a man with a large home, this is basically unfair. And the second point was that even if this is unfair, what is existing practice is even worse because of the variations in assessments because of economic, but more often political reasons.

MR. CHURCH: Well, I don't know where the political angle comes in.

MR. JACOBSON: Very simple, you know the assessor, in some

cases, you get a lower assessment.

MR. CHURCH: Well, I don't know how it is in your town, but you wouldn't get away with that in mine.

MR. JACOBSON: I would certainly hope so, and I would certainly hope that the equalization you talk about could be put in practice throughout the entire state. I would just like to emphasize that these were not my statistics; I merely reported to you what was in the Sixth Report of the State Tax Policy Commission.

CHAIRMAN DUMONT: Any other questions of Mr. Jacobson?

Just one thing, suppose you had this \$5,000 homestead exemption. You understand, of course, there would be a substantial shift from dwelling houses to something else if the same amount of tax revenue were still to be maintained by municipalities.

MR. JACOBSON: Right.

CHAIRMAN DUMONT: Where do you think that shift would take place? We know where it would go from, but where do you think it would go to?

MR. JACOBSON: Well, I would hope, Senator -- of course, we are stepping out beyond the specific area of assessments; we have to go to other questions of where we get our additional revenue. This is a wide subject. But I would be very happy to give you a quick answer as quickly as I can.

I am always amused, but it is not funny, when people say that we don't have a sales tax in New Jersey when something like 60 or perhaps 70 per cent of our total revenues are derived from sales or excise taxes on gasoline, cigarettes, etc. We all know this. It appears to me that in 1958 for the first time in almost

2,000 years, a tax was established on New Jersey corporations and that they did pretty well for 1,958 years, remaining unscathed from this particular source of taxation. We would like to see the tax on the corporations increased, of course. If at that point there is still insufficient revenue for meeting the needs of the state - and I am inclined to think there would be - we would consider the levying of a state income tax with a certain level of exemption.

I would have to further dispute - and unfortunately I don't have the report with me, but I could refer you to it - the statement made by too many businessmen that because of our competitive position, industry would leave New Jersey or would not be attracted to it. There have been any number of surveys and studies made by universities and even by the Department of Commerce of the United States Government, indicating that while taxation, of course, is an important factor, it is rated very low in the scheme of things of items to be considered in locating a plant. I believe it was 11th or 12th, that it was a factor to be considered.

CHAIRMAN DUMONT: Well now, you are talking about increasing existing state taxes or even the imposition of a new state tax. This loss to municipalities would have to be made up by the municipalities apparently, at least under the present tax structure. How would they make that up - from other property taxes that are now imposed?

MR. JACOBSON: Well, if I understand the problems in most municipalities, it is the problem of aid for education, the school problem. If there were sufficient revenues to be derived from the new taxes in the state, this burden could be lifted from the municipality by the state.

CHAIRMAN DUMONT: Any further questions? Mr. Farrington.

ASSEMBLYMAN FARRINGTON: Mr. Jacobson, even assuming additional state aid to municipalities, the shift itself will still exist. Do you have any idea--and I am thinking particularly in rural and residential areas, where this shift might very well be right back to where it came from.

MR. JACOBSON: Well, I don't know if that would be the case. But it appears to me that a shift should take place, as indicated by the figures I have cited, and the shift should be shifted to the shoulders of the right fellow.

CHAIRMAN DUMONT: Thank you very much.

MR. JACOBSON: Thank you very much, and again my apologies to Mr. Magovern.

CHAIRMAN DUMONT: All right, Mr. Magovern, you may resume. Do you suppose that while the two sides here are in a conciliatory mood we could resolve the unemployment compensation problem?

MR. JACOBSON: We would be very happy to try.

JOHN J. MAGOVERN, JR.: I think I should perhaps at this juncture just point out that representatives of the State Chamber have on a number of occasions brought to the attention of the members of the Legislature the serious shifting of property tax impact which would result from legislation which lacks provision for bringing together in time the real property assessment and the personal property assessment shifts. For example, you will recall the Chamber's bulletins to members of the Legislature in which we opposed the homestead exemption. This problem was pointed out again and again. At the hearing in April of 1959 we presented the

case, through a representative, against the double filing of personal property tax returns. We cited the hazards incident in the timing problem and pointed out the consequences if it were not solved.

Now while I have outlined the hazards, the dangers, the problems, I would like to suggest here an amendment which we hope will lend itself to a solution and perhaps your serious consideration. So far as Assembly 198 is concerned, the amendment takes the form of a revision of Section 37 of that bill. Senator Fox, you asked if we had such a revision and it is attached to this statement as Exhibit A. Also attached to this statement as Exhibit B is a proposed new section for Senate No. 1, which contains a draft of the language proposed if Senate 1 should be amended to encompass a transitional period.

Of course, it is intended that the adoption of these amendments will be accompanied by adoption of such other changes in the bills as may be necessary to make the remaining sections of the bills consistent with these amendments. For example, I have in mind the technical changes of the filing dates to "January 1, 1960" and to "on or before June 30, 1960," and changes such as that.

Now, the provisions of the proposed amendment by the State Chamber of Commerce: The amendment proposed by the State Chamber would impose certain requirements on any assessor who, in preparing his assessments of property for 1961, finds it impracticable to use his county's ratios, or whose taxing district has not had a revaluation in five years. Under either or both of those circumstances, the assessor would prepare his real property assessments in terms of another ratio, and it would probably be the same ratio he has used in his 1960 assessments. The assessor would then be required to assess

business machinery and equipment at a ratio unrelated to his real property ratio, but designed to fit the specific situation in his taxing district, which ratio he would find through the use of a formula or by consulting a table called the "Business Personalty Ratio Table." The formula and the table which reflects the formula were developed by the Research Department of the State Chamber of Commerce. The assessor would assess business inventories subject to tax at one-fourth of the assessment ratio he used on machinery and equipment. He would also be required to include in the affidavit submitted to the county board along with his assessment list a statement of the three assessment ratios - that is, real property, machinery and equipment, and inventories - as used by him.

The "Business Personalty Ratio Table" is so designed that by applying to the fair value of machinery and equipment and to the fair value of inventories, respectively, the ratios in the Table which are applicable to his taxing district, the assessor would derive the same amount of business personalty assessed valuations for 1961 as he has for the year 1960. The 1961 distribution of the business personalty assessments, as between inventories on the one hand and machinery and equipment on the other, might differ from the 1960 distribution because of the impact of the 4 to 1 relationship between the machinery and equipment ratio and the inventories ratio; but the total business personalty assessments in 1961 would be the same as in 1960, apart, of course, from the tax exempt inventories.

Under the State Chamber amendment, in succeeding years, under stated circumstances, the same ratios would be applied to machinery and equipment and to inventories, respectively, as were derived from the Table. In these future years the personal property ratios would

continue to be used in districts where the Director of the Division of Taxation permitted, as under Section 37 of A 198, a real property ratio different from that of the county under A 198 and different from the state ratio under Senate 1. The ratios would also be used in all districts which had not completed a revaluation in a six-year period prior to the year in question.

The proposed amendment would also require that in any district, in which the personalty ratios which would flow from the real property ratio adopted by the district would be lower than those derived from the Table, the lower of the two sets of ratios would apply. In other words, if a district should use a ratio for real property of 16 per cent ratio on machinery and equipment and a 4 per cent ratio on inventories and the Table should indicate ratios of 15 per cent on machinery and equipment and 3.75 per cent on inventories, the actual ratios to be used would be 15 per cent and the 3.75 per cent, respectively.

Now, how does this differ from the present Section 37 of A 198? Section 37 of A 198 permits an assessor to use a real property ratio different from that established by the county if he finds it impracticable to use the county ratio. But under Section 37 the assessor would be required to assess business machinery and equipment at the ratio used for real property and business inventories at a ratio one-fourth the real property ratio. The effect of this arrangement has already been observed in Chart 3 where the assessment ratios applied to business machinery and equipment under A 198 would tend on the average to be $2 \frac{1}{4}$ times the present ratios. In the absence of any reciprocal action on assessments of business realty,

there would be a shift of property taxes to business.

Under the State Chamber proposed amendment, this sudden drastic increase in business personalty assessments would be averted. By means of the formula or the Table any assessor could in a few moments find the ratios he should apply to the fair value of business personalty to come up with the same total of assessed valuations of business personalty for 1961 as he had for 1960. Like the ratio on machinery and equipment and the ratio on inventories, which would be used by the assessor under either S 1 or A 198, the ratio on machinery and equipment and the ratio on inventories derived from the Table are related to each other as 4 to 1. The difference is that the Table ratios called for in the State Chamber amendment are not tied to the real property assessment ratio. In effect, what the amendment says is this: So long as real property in a taxing district continues to be assessed at its present ratio or without the intra-municipal equalization derivable from a competent revaluation program, for so long should business personalty be assessed at the same ratios currently in use for that category of property.

The left-hand bars in Chart 3 give our estimates of the present ratios being applied to business machinery and equipment. Our estimates of the ratios being applied to inventories are one-fourth the ratios estimated for machinery and equipment. These ratios, of course, are derived from the Table and should be interpreted as answering the following question: If business personalty assessments for 1960 had been derived by applying a ratio to inventories $1/4$ as big as the ratio applied to machinery and equipment, what would those ratios have been? And those are the answers.

The machinery and equipment ratios shown on the left side of

Chart 3, in addition to representing our estimates of the ratios in present use on a 4 to 1 basis, are also the ratios which we estimate would be used in effectuation of the amendment. It should be noted that the amendment holds constant only the assessment ratios applicable to business personalty. It does not hold the assessed valuations constant. Thus, if the transition years preceding the completion of a revaluation program in a taxing district should witness marked growth of business personalty, under the amendment the assessed valuations would reflect this growth while the assessment ratios would remain constant during the transition period.

I should like to point out that while the data represented by the bars on the left in this chart are estimates, the ratios derived by assessors from the Table would represent the ratios they would actually apply to get the same total of assessed valuations for 1961 assessments that they have for 1960 assessments.

Now, how does this Table work? We have Chart 4 and we have tried to do it here by steps. This is how the operation of the Business Personalty Ratio Table would work.

As indicated on the chart, the first thing the assessor does is to add up the fair values of the business personal property in his taxing district as found on the returns and as estimated by him in those instances in which the taxpayer fails to file a return. This gives him, as shown in the topmost bar on Chart 4, the fair value of all business personalty as of January 1, 1960. In this illustration it is assumed that the total fair value of all business personalty amounts to \$10 million. That is at the top of that bar.

Secondly, the assessor compares the \$10 million total fair value of all business personalty as of January 1, 1960, with total

assessed valuation of business personalty in his taxing district as of October 1, 1959. As the middle bar on Chart 4 indicates, we are assuming that in this taxing district the total assessed valuation of business personalty on October 1, 1959 was \$1.5 million. Comparing that figure with the \$10 million of fair value of all business personalty as of June 1, 1960, the assessor finds that the assessments equal 15 per cent of the fair value total.

Thirdly, the assessor adds up the inventory fair values as found in the returns and as estimated by him and finds that they total \$5 million, as indicated in the upper half of the third bar on Chart 4. Likewise he adds up the machinery and equipment fair values, as found on the information returns, and as estimated by him in cases where no return was filed. He finds that these, in this particular example, also total \$5 million. Thus, the percentage that inventory fair values are of all business personalty fair values is 50 per cent.

The assessor then looks for 15 per cent in the Business Personalty Ratio Table. Now, this sounds complicated, but actually if you follow it step by step you read like a tax return, I hope, from one to the next.

Now then the assessor goes and looks for 15 per cent in the first column of the Business Personalty Ratio Table. This is the column which is headed as follows: "If the average assessment ratio on business personalty on October 1, 1959 equalled." The percentages are there. In other words, this column represents the percentage that total assessed valuations of business personal property as of October 1, 1959 are of the total fair value of business personal property as of January 1, 1960. I am really speaking of this fourth area down here.

He then looks for the 50 per cent column in the top row of the Table. The Table consists -- perhaps I should explain the Table a little bit here -- the Table consists of three sheets, the first of which covers the percentages that business inventories -- The Committee doesn't have to be disturbed about the smaller figures. This has been designed to meet the example that I have been giving.

ASSEMBLYMAN MATTHEWS: We have it here.

MR. MAGOVERN: Yes, that's right.

The Table consists of three sheets, the first of which covers the percentages that business inventories constitute of all business personalty ranging from 1 per cent to 35 per cent, inclusive; the second of which covers inventory percentages ranging from 36 per cent through 70 per cent; and the third, from 71 on up through 100. Since, in this instance, the percentage that inventories constitute of the total fair value of all business personalty is 50 per cent, the assessor would turn to page 2 of the Table and proceed along the top row until he comes to 50%. Where the 15% row on page 2 meets the 50% column, the assessor finds the assessment ratio to be 24%. This is the ratio that he would apply to the fair values of machinery and equipment subject to tax. He would then apply $\frac{1}{4}$ of this percentage, or 6 per cent, to the fair values of inventories subject to tax in making up his list of taxable values of business personalty.

This is Chart 5 and it shows the 50% column and the 15% row on page 2 of the Table and shows how that 24% in the earlier chart is arrived at. If you will replace that chart just a second, it can be seen those little dots are intended to reflect the larger chart there so that it fits in with the explanation.

Now, attached to this statement is a complete version of

the 3-page Business Personalty Ratio Table without the highlighting shown on the chart or on page 2 of the Table in the example.

Now, turning back to Chart 4 for a moment, let us examine how the use of the Business Personalty Ratio Table enables the assessor to come up with his 1961 assessments totaling the same as 1960 assessments. And I would like to just run through an example if I may again here. Let us assume, for the purpose of this example, that no inventories which were subject to tax as of October 1, 1959 are exempt from tax as of January 1, 1960. Under the formula embodied in the Business Personalty Ratio Table the assessor, as we have just seen, would apply the 24 per cent ratio to the fair value of machinery and equipment on January 1, 1960. This we have found to total \$5 million. 24 per cent of \$5 million is \$1,200,000. Applying the 6 per cent ratio to the fair value of inventories on January 1, 1960, produces a total assessed valuation of inventories of \$300,000. The sum of the \$1,200,000 of assessed valuation of machinery and equipment, plus the \$300,000 of assessed valuation of business inventories, equals total assessed valuation of business personalty as of January 1, 1960 of \$1.5 million. This is the same as the total of October 1, 1959, which is the basis for the 1960 assessments.

What are the advantages of this amendment? I have tried to list them here.

1. It provides for an effective transition period to bridge the gap between the present basis and a new basis for property assessment in New Jersey, thereby softening the impact of the inevitable changes in property tax impact.

2. It goes a long way toward solving the timing problem by bringing about a coincidence of changes in the assessment of business

personalty with changes in the assessment of business realty.

3. It would prevent the sudden, sharp increases in the ratios applicable to business machinery and equipment and inventories for purposes of the 1961 assessments.

4. It provides an opportunity for studying the effect of the 4-4-1 relationship among the ratios applicable to real property, machinery and equipment, and inventories, respectively, without doing serious damage to the State's economy.

5. It will provide an opportunity for testing whether the 4-4-1 relationship among the assessment ratios will actually achieve the intent of the Legislature which underlies S 1, A 198, and other predecessor bills, namely, that the relative aggregate impact of the property tax on business and residential taxpayers will be preserved.

6. It would prevent severe, sudden and drastic changes in the municipalities with respect to their policy as regards the taxation of business personal property.

7. While preventing these drastic changes, it retains the advantage in the bills of establishing a ceiling on the assessment of real property, of business machinery and equipment, and of inventories.

8. It removes the element of operating in the dark which would be involved in legislating ratios whose practical impact can only be estimated, but the estimates of which indicate extremely undesirable consequences.

9. It would save the businesses in the State - that's the corner gas station, retail stores, the manufacturing plant - all business - from an entirely unwarranted and unnecessary \$35 million increase in its property tax burden.

10. It would eliminate the blanket increase in assessments

which would otherwise fall on business personalty. The shifts in the business personalty tax among business taxpayers due to equalization and the new 4 to 1 relationship between the machinery and equipment ratio and the inventories ratio under the tax bills will be serious enough without this additional blanket increase in assessments.

11. It would prevent the sudden shifts in the allocation of county costs and the distribution of school aid which would occur in the absence of the amendment.

12. The amendment because of the formula which is included and because of the Business Personalty Ratio Table is extremely simple to administer. It may not have sounded so in the long explanation here, but when you take a pad and a pencil, you can do it quickly.

13. It would relieve the members of the Legislature of the very serious responsibility which would ensue from the passage of legislation which, without the amendment, would entail such shifts in property tax burden as the legislated personal property ratios would be sure to involve.

Now, in connection with this, we also have a further amendment that we would like to recommend. We recommend that subsection (d) of section 13 of S 1 and that sections 5 and 9 of A 198 be amended so as to provide that such costing and depreciation methods as are acceptable for Federal income tax purposes shall be accepted by the Director of the Division of Taxation. We also recommend that subsection (e) of section 13 of Senate 1 and section 6 of A 198 be amended to provide that the fair value of inventories should be determined according to the average fair value of such property on the basis of cost or market, whichever is the lower.

The purpose of the amendment requiring the Director of the

Division of Taxation to accept such costing and depreciation methods as are acceptable for Federal income tax purposes is to eliminate the very serious problems and costs of compliance which would otherwise obtain. Without this amendment a very costly and irksome chore could be imposed on New Jersey business, that is, the necessity of setting up costing and depreciation methods for the special purpose of complying with the new system of property assessment and taxation.

The reason for the suggested amendment with respect to the fair value of inventories is to insure that the apparent meaning of the language in subsection (e) of section 13 of S 1 and in section 6 of A 198 is also the actual meaning of that language.

The State Chamber does not reject in any sense its earlier support of fixed, statewide assessment ratios for real property, for business machinery and equipment, and for inventories, respectively, as provided for in Senate 1.

However, at this time the State Chamber favors the passage of Assembly Bill No. 198, but only if it be amended by incorporation in section 37 of the amendment which is attached to this statement and which calls for the use of formulas or a Business Personlty Ratio Table to enable assessors to determine the assessment ratio to apply to business machinery and equipment and business inventories, respectively.

Unless Assembly Bill No. 198 is amended as here proposed, the State Chamber of Commerce is opposed to the passage of that bill.

I would like to deal with Senate Bill No. 2, if I may, at this time, because it has sort of a relationship to this situation.

Senate Bill 2 provides for the appeal before the Division of Tax Appeals, county tax boards, and the Superior Court, with respect to the "common level" in the taxing district. I am sure that the committee and the members of the audience are familiar with that.

The bill provides that it would be presumed, subject to rebuttal by the taxing district, that the common level, that is the common level of assessment, is within a range determined by the unweighted average ratio of assessed to true value of real property plus and minus 15 per cent of the average as determined by the Division of Tax Appeals.

The bill also provides that it would be presumed, subject to rebuttal by the taxing district, that discrimination has been established whenever the division, board, or court is satisfied by the proofs that the ratio of assessed to true value of the property exceeds the upper limit of the range, in which event the taxable value may be reduced or increased so as to be within the range.

A useful workable definition of "common level" would indeed be welcomed by the complaining taxpayer who has been told that a discriminatory assessment may be remedied by reduction to the "common level" but who has also been told that the average assessment ratio is not the "common level," and that in most cases a "common level" is extremely difficult, if not impossible, to find.

However, much of the benefit derived by the taxpayer from a definition of "common level" is vitiated by S 2 by limiting its use to cases in which the ratio of assessed value to true value exceeds the upper limit of the range and by providing that the taxable value of the property may be reduced so that it will fall within the range.

Chart 6 illustrates the effect of the provision in S 2 that discrimination is not presumed to be established unless the appellant's property assessment exceeds the average ratio of assessment by 15 per cent.

In this illustration it is assumed that the overall average ratio of assessment of real property in the taxing district is 48 per cent. That is the center mark. It is further assumed that the average assessment ratio for real property in Category A is 54 per cent, while that for Category B is 38 per cent. Under S 2 the "common level" in this case would fall within the range 40.8 per cent to 55.2 per cent. Thus, in order to take advantage of the presumption made available by S 2, the aggrieved taxpayer's property assessment ratio would have to exceed 55.2 per cent. Out of the 100 properties - and these dots represent properties - in Category A with assessment ratios averaging 54 per cent, only 28 are assessed at a ratio above the 55.2 per cent. Therefore, only 28 of the properties could avail themselves of the presumption provided in S 2, although all of them are being subjected to serious discrimination as compared to the 60 properties in Category B, whose assessment ratios average out at 38 per cent.

As shown by the text in the center of the chart, the basic range of discrimination not covered by S 2 amounts to 35.3 per cent. This means that S 2 would permit of permanent discrimination to the extent of 35.3 per cent or more against a taxpayer or category of taxpayers, without availing the aggrieved taxpayer of the presumption provided in the bill. In any particular instance, as in the example set forth in Chart 6, the range of discrimination not covered by S 2 could be higher like the 57.1 per cent in the present example, in the

sense that this is the difference between the assessment ratio of the property with the lowest ratio and the assessment ratio of the property at the upper limit of the range within which the "common level" is presumed to lie.

The New Jersey State Chamber of Commerce, therefore, recommends that S 2 be amended to define the "common level" as being within a range determined by the unweighted average ratio of assessed to true value of real property in the taxing district plus and minus 5 per cent of such average, and to establish a presumption that discrimination has been established upon proof that the ratio of assessed to true value of the property exceeds the upper limit of the range.

Now we are aware of the arguments which are put forward in favor of a 15 per cent margin on either side of the average ratio; but we do not think that they have relevance here. For example, there is the argument that the best result one could expect from a professional revaluation is a coefficient of dispersion of 10 to 15 per cent. The fact is that the size of the coefficient of dispersion in studies of the results of such revaluations is as much the product of the shortcomings of the measuring rod and the inadequacies of the sample used by those who evaluate the revaluations as it is the product of variation in the revaluations themselves.

Furthermore, since it is because of the vagaries of appraisals, assessment and revaluations that a legal definition of the "common level" concept is necessary, the fact that such vagaries exist is hardly a reason for excluding a large number of taxpayers from the benefits of the definition.

The inadequacy of the remedy is pointed up by Chart 7. Chart 7, which is the one on the easel, illustrates the possible

effect of the provision in S 2 that successful appellants would have the taxable value of their property reduced so as to fall within the range of the average ratio plus and minus 15 per cent. Chart 7 is the same as Chart 6 in every respect, except that it shows what might happen under S 2 to the 28 properties which had been subjected to an assessment ratio over the 55.2 per cent upper limit of the "common level" range. It relocates these 28 properties just within the 55.2 per cent upper limit of the range. As indicated by their position in Chart 7, these properties, although they have been handled in accordance with the provisions of S 2, are still being subjected to a serious degree of discrimination. They are merely just brought down sufficient to come within the large range provided by the bill.

The New Jersey State Chamber of Commerce recommends, therefore, that S 2 be amended to provide that the taxable value of the property of the successful appellant be reduced so that its assessment ratio will coincide with the average ratio of assessed to true value of real property in the taxing district.

Even though, as has been claimed, the "common level" of assessments in any taxing district is a range rather than a specific ratio figure, it does not follow that in correcting discrimination the assessed valuation of the appellant's property should not reflect an attempt at assessment at the average ratio. Before the correction for discrimination takes place, the complaining taxpayer has already proved his own assessment ratio. Therefore, this ratio, which he has shown to apply to his property has already been subjected to the vagaries of appraisal. Thus, if his "proven" ratio were adjusted to the average ratio, instead of being assessed at that average ratio, the property in question might actually be assessed at a ratio quite distant from

the average ratio. If this is so, the variation of this individual assessment ratio from the average is likely to be compounded by a buckshot approach such as is involved in a reduction designed, as under S 2, merely to bring the properties just within the range.

Upon incorporation of two amendments as set forth here, the State Chamber of Commerce would urge immediate enactment of Senate 2.

Senator Dumont, I have in furtherance of this statement a complete resume and the position of the State Chamber on all the bills that are before this Committee. We have made our position clear from time to time and if there is any specific bill or resolution upon which you would like me to comment, I will do so. Otherwise, I would ask your indulgence by filing our comments for the record. (The State Chamber's position on the bills not covered in Mr. Magovern's statement and the charts and exhibits can be found at the back of the transcript of this hearing.)

CHAIRMAN DUMONT: All right, questions of Mr. Magovern. Assemblyman Matthews.

ASSEMBLYMAN MATTHEWS: First of all, Mr. Magovern, I would like to express my appreciation as a sponsor of A 198 for the thorough and all-consuming catharsis that you have done on the bill. I think it represents a real sane and sensible approach to the problem of property assessment legislation and I think you have done a real service to me and to the Committee in your statement this morning.

I might be inclined to disagree with a few statements you make and that is why I would like to question you a little bit further on what you did develop this morning.

First of all I am going to concern myself with paragraph 37

of A 198, which is the paragraph to which you devoted quite a bit of time. Before I go into that, I would like to know - what is the basis of the business personal property information that you use in arriving at the statistics on your chart? I am more concerned with the \$35,000,000 figure you referred to as the amount that is going to be shifted to business personal property.

MR. MAGOVERN: It is fundamentally based upon the report of the State Tax Policy Commission, their Ninth Report.

ASSEMBLYMAN MATTHEWS: Is that the Ninth Report?

MR. MAGOVERN: Yes, sir.

ASSEMBLYMAN MATTHEWS: Then actually the information is speculative in nature?

MR. MAGOVERN: It is about as authoritative as can be gotten.

ASSEMBLYMAN MATTHEWS: Well, that is true at the present time, but it is speculative.

MR. MAGOVERN: That's all there is.

ASSEMBLYMAN MATTHEWS: Yes. Now on page 7 of your statement, you devoted a paragraph to the question: "Do municipalities and the Legislature want this Result?" That is, the result that is going to be set up if we adopt either S 1 or A 198. And in that paragraph you say: "It would seem that the level selected in each municipality reflects on the one hand the minimum that it wishes business personalty to bear from the point of view of sharing the burden with residential property..." How does a statement like that fit in with the so-called theory of uniformity of taxation throughout the State or throughout a county unit?

MR. MAGOVERN: The purpose of that statement was to point out that municipalities, by and large and in their process of assessing,

have established by virtue of their assessments a ratio. In other words, they have been permitted by law to assess at 100 per cent. If they have assessed below 100 per cent, they have taken into consideration what is the proper ratio - what harm will it do business. They have not gone down to 5 per cent, 2 per cent; they have kept it up wherever it is. I think I cited an example in there. That is what is meant by that statement.

ASSEMBLYMAN MATTHEWS: Actually what it is then, Mr. Magovern, is an espousal, if I might say, whereby a specific municipality can attract industry to the detriment of another.

MR. MAGOVERN: No, no, no. This is designed only as a transitional period because under the bill without this amendment, you would take business personalty and you would project that immediately upward and real property would never attain that for some years until a revaluation program went through. It is not intended at all to continue this problem. This is merely an interim and timing approach.

ASSEMBLYMAN MATTHEWS: Do you believe that an individual municipality or an individual county should have the right to set ratios that do not bear a uniform relation to other ratios outside the county and throughout the state?

MR. MAGOVERN: No, no, and I didn't say that. The purpose of this is merely an interim provision designed to meet and be coincidental with the entire assessment picture. What the bill does without this is to pick personal property and shove it into a new area, leaving real property to drag along as might be the case. This is designed to bring them both along together. It is not to maintain ---

ASSEMBLYMAN MATTHEWS: Well, the statement I read was simply:

"It would seem that the level selected in each municipality reflects on the one hand the minimum that it wishes business personalty to bear from the point of view of sharing the burden with residential property and, on the other hand, the maximum that it wishes business personalty to bear from the point of view of not scaring off existing and additional industry and commerce. If this reasoning is correct, then the passage of S 1 or A 198 in their present forms would bring about great dislocations in the distribution of the property tax burden and would force municipalities to a course of action which apparently they do not wish to follow."

MR. MAGOVERN: That is correct, and the reason is that you must look upon this picture that we are trying to paint here as a unit. It is the combined burden on residential homeowners and business that we are speaking of here. What we are saying in effect is: With this variation in assessment ratios applicable to personal property and to real property, this reflects the combination that the assessor has sought. That is all we are saying there. We are not perpetuating this. It is the combination.

ASSEMBLYMAN MATTHEWS: Then you do believe, to pin it down finally, that there should be uniformity of treatment of inventories and business personalty throughout the State?

MR. MAGOVERN: Assemblyman Matthews, if I left any other impression let me say that I would like to correct that and I appreciate it. I certainly do.

ASSEMBLYMAN MATTHEWS: I have another question. You talk in your discussion of paragraph 37 of the problem of shifting a ---

MR. MAGOVERN: I was going to look for it. What page is it?

ASSEMBLYMAN MATTHEWS: I think it is just generally. It is a note I made.

MR. MAGOVERN: All right. I will probably remember it.

ASSEMBLYMAN MATTHEWS: You talk about the raising of business personalty under this bill would shift a figure in the amount of \$35,000,000 on to business and the taxation of personal property. Don't you think actually that over the past 100 years of inequity, if I might use a popular phrase, business has been getting away with murder on the taxation of personalty inventory?

MR. MAGOVERN: Oh, no, I wouldn't concede that, despite the fact that Mr. Jacobson feels that way. I don't think that business has been getting away with murder at all, unquote.

ASSEMBLYMAN MATTHEWS: Then you think that the present method of taxation of business personal property and business inventory, which is really included in business personal property, is fair and just in all municipalities?

MR. MAGOVERN: No, no. I think that we should have equalization of business personalty of all property, Assemblyman. I haven't said that it is correct. I don't think we have equalization, but that isn't business. The inequality in the distribution can be found just as much in the residential areas as in business. I am seeking equalization and I agree with you on that. But I refuse to say that business personalty has been getting away with murder. I don't think the record reflects that.

ASSEMBLYMAN MATTHEWS: In the shift from our present system to equalization, there is a shift of taxation on to business personal property. Would you as a representative of the State Chamber accept

such a shift as inevitable?

MR. MAGOVERN: As long as there is the same tax burden proportionately the same as between that borne by business, residential and personal property, the ups or downs of one particular is not the question of equalization. If you mean, am I prepared to say that I would have liked to see business take on a share of the tax burden now borne by residential properties, I say I don't think that is a fair shift and I don't think that there has been one, single bill introduced in this Legislature nor has anyone ever said that he feels that either residential people should be - I don't want to use the word "murdered" - but "punished" perhaps by taking on a burden that someone else has. The Legislature shows that this is an endeavor to preserve a 4-4-1 ratio. Now if you are asking me, do I feel that there should be a shift so that the property holder, the home-owner should bear a part of the business ratio or that business should take up his burden, I don't feel that way.

ASSEMBLYMAN MATTHEWS: Paragraph 37 of A 198, to which a considerable lot of study was given, Mr. Magovern, provides for an adjustment of the ratios to follow the so-called average ratio of real estate in a taxing district. Now am I correct in assuming that the amendment that the State Chamber proposes would freeze the present tax on business personal property at its present level as a ceiling?

MR. MAGOVERN: Oh, no, it wouldn't. It would not freeze the tax at all. This involves the question of ratio.

ASSEMBLYMAN MATTHEWS: Wouldn't it freeze the tax on business personalty at its present level as a ceiling --

MR. MAGOVERN: It would not freeze the tax at all.

ASSEMBLYMAN MATTHEWS: -- within any given municipality?

MR. MAGOVERN: No, sir, not at all.

ASSEMBLYMAN MATTHEWS: It would not.

MR. MAGOVERN: No. Incidentally, Assemblyman, without the basis of paragraph 37, as proposed by you, we would be off somewhere in left field. We have used your basis, believe me.

ASSEMBLYMAN MATTHEWS: I appreciate ---

MR. MAGOVERN: I didn't want you to think that we are casting any reflections on it at all.

ASSEMBLYMAN MATTHEWS: -- that 37 has some basis. But what I am getting at, Mr. Magovern, is simply this: I followed the chart and your description of the chart, and it is my understanding that the total business personalty tax --- I will take that back --- the total business personalty assessment would remain the same in a municipality. Is that right?

MR. MAGOVERN: The total business personal assessment would remain the same for one year, yes, sir. That is correct.

ASSEMBLYMAN MATTHEWS: -- for one year and for such other years as a municipality --

MR. MAGOVERN: No, because then you bring into play some other factors of setting your ratio as among ratables. They change; they may change. It is only for the one year.

ASSEMBLYMAN MATTHEWS: But under your proposed amendment - now I want to get this straight; I must misunderstand your amendment - is it not true that business as such will not pay more on business personalty in 1960 than they paid in 1959 or 1961 as they paid in 1960?

MR. MAGOVERN: I don't know what the tax rate will be. You have to talk about assessments, if you don't mind.

ASSEMBLYMAN MATTHEWS: Well, let's forget about the tax rate. Let's say the tax rate remains constant.

MR. MAGOVERN: O.K. That's correct. If the tax rate remains constant, they will pay the same.

ASSEMBLYMAN MATTHEWS: They will pay the same.

MR. MAGOVERN: That's right. In the aggregate, of course.

ASSEMBLYMAN MATTHEWS: That is what I referred to as a ceiling when I say a "ceiling."

Isn't it also true if this sliding ratio that you have provides for a lower assessment of business personalty, that industry will pay a lesser share?

MR. MAGOVERN: No, not for that year, sir. It would work out the same. May I just read this again?

ASSEMBLYMAN MATTHEWS: Please do.

MR. MAGOVERN: Where is Chart 3, please?

ASSEMBLYMAN MATTHEWS: What page are you reading from?

MR. MAGOVERN: That is page 9, the 5th paragraph, the 4th complete paragraph. It is the middle of that paragraph. "It should be noted that the amendment holds constant only the assessment ratios applicable to business personalty. It does not hold the assessed valuations constant." And those words are underlined. "Thus if the transition years preceding the completion of a revaluation program in a taxing district should witness marked growth of business personalty, under the amendment the assessed valuations would reflect this growth while the assessment ratios would remain constant during the transition period." - the assessment ratios.

ASSEMBLYMAN MATTHEWS: I think we might be arguing semantics

here.

MR. MAGOVERN: I hope not.

ASSEMBLYMAN MATTHEWS: I think it is my fault, not yours. I say that with all due candor. What we intended to do by paragraph 37, you know, was to let business personalty ratios and business inventory ratios follow the ratios set for real property with the 4-4-1 approach remaining. I am not convinced that the amendment proposed by the State Chamber of Commerce will do justice to all taxpayers, will not prevent the shift in any direction, but will just prevent a shift in one direction, and that is in the direction of business personalty and business inventory.

MR. MAGOVERN: It prevents for the transition period shifts in all directions. When you get to a revaluation program, the Lord knows what will happen on shifts there because that is a different problem. That will depend on each taxing district as to what the assessor has done. But this is designed to prevent shifts in all directions until that occurs.

ASSEMBLYMAN MATTHEWS: Well, I respectfully reserve the right to disagree, Mr. Magovern.

SENATOR FOX: May I ask a question, Senator Dumont?

CHAIRMAN DUMONT: Certainly.

SENATOR FOX: Mr. Magovern, I would like to ask you a very blunt question and then I would like to get a very blunt answer. In connection with this proposed amendment that you have made here, do I understand that this is the sole amendment that you have in mind as far as this bill is concerned? I ask you that because last year when we held the last meeting on 50-50-12 1/2 of this committee, it was indicated quite clearly to us that if we made one amendment with

reference to a filing date, the State Chamber would be in accord with that bill. And it was only within a few weeks afterward that they were kicking our brains out. Now I would like an answer to it.

MR. MAGOVERN: The answer is very clearly set forth. The position of the State Chamber is that it favors the --- You took the paper right out from under me. Mr. Simmons took the page that I was going to read you, Senator.

SENATOR FOX: I am aware of the statement, but I just want to confirm it; I want to boil it down right into the record here.

MR. MAGOVERN: Mr. Simmons is worried about what happened last year. I was not here. Well, you may be worried about it. Senator, you would like to know what our position is on this bill and will it hold.

SENATOR FOX: That's right.

MR. MAGOVERN: The position of the State Chamber is that it favors this bill provided this amendment is incorporated in the bill. If the amendment is not incorporated in the bill, we are against the bill.

SENATOR FOX: Totally?

MR. MAGOVERN: Sir?

SENATOR FOX: Totally?

MR. MAGOVERN: Yes, sir, totally, no reservations.

ASSEMBLYMAN MATTHEWS: Can I ask another question?

CHAIRMAN DUMONT: Go ahead.

ASSEMBLYMAN MATTHEWS: There is one thing I passed over. I see in your main remarks you raise the same issue as to Assembly 198 as to methods of depreciation on business personal property. You suggested to us -- What page is that on?

MR. MAGOVERN: On page 11.

ASSEMBLYMAN MATTHEWS: You recommend that we amend A 198 to provide that "costing and depreciation methods as are acceptable for Federal income tax purposes shall be accepted by the Director of the Division of Taxation." Do you realize, Mr. Magovern, that this recommendation was made to this committee last year with respect to Bill S 81?

MR. MAGOVERN: Yes, that's correct, sir.

ASSEMBLYMAN MATTHEWS: And it was turned down by the Committee at that time and the basis for our turndown was what we felt was a basic difference between ad valorem and income taxation. Does this request for amendment, Amendment No. 2, go to the heart of your opposition to A 198?

SENATOR FOX: And if we don't adopt that, are you still against the bill in toto?

MR. MAGOVERN: No, no. I don't like to say -- Assemblyman, you are putting me in a difficult spot. We feel that that is important; to the extent that it may go to the heart of it - it doesn't change my answer to Senator Fox. But I believe very easily - it may be my heart - but I still stand on my statement to Senator Fox that this amendment - we are in absolute opposition to the bill unless it is adopted with respect to 37. We think that this is needed, this new and affixed method of costing and depreciation; otherwise, a business may have a variety of ways, and it is expensive to carry these things and it is a problem. In addition to that, we don't know ---

ASSEMBLYMAN MATTHEWS: The minutes of last year's meeting are replete with the discussion back and forth and I think we are just laboring the argument.

MR. MAGOVERN: Well, I think since that time, the Federal Government has done a great many studies on this problem of costing and depreciation. This is not said with any reflection on the Legislature of New Jersey, but I think that the Internal Revenue Service has done a great deal more in the area of development of new understandings than prior depreciation arrangements. We all know the changes in machinery now. It goes out awfully fast.

ASSEMBLYMAN MATTHEWS: Just to get the last shot in, Mr. Magovern, they are concerned with income taxation and we are concerned with ad valorem taxation.

MR. MAGOVERN: I am well aware of that distinction, sir. But we are both concerned here - wait a moment - but they both in this instance are concerned with the valuation of the asset. Correct?

MR. MATTHEWS: Basically.

MR. MAGOVERN: Yes, sir. That's right.

CHAIRMAN DUMONT: Senator Haines.

SENATOR HAINES: No question.

CHAIRMAN DUMONT: Assemblyman Farrington.

ASSEMBLYMAN FARRINGTON: Mr. Magovern, for the purpose of brevity I would like to incorporate by reference the opening remarks of Assemblyman Matthews, with whom I co-sponsored A 198. Mr. Magovern, doesn't your prediction of a \$35,000,000 inequitable shift assume that every municipality in the State of New Jersey will take advantage of section 37?

MR. MAGOVERN: Oh, no, no. The \$35,000,000 in shift is going to be because business must make its information return and file its book values under very severe penalties and there they are exposed. It isn't a question of every municipality taking

advantage of 37.

ASSEMBLYMAN FARRINGTON: Well, let's assume that every municipality was in a position immediately that they don't find it impracticable to set forth assessments at taxable values expressed in terms of the percentage levels. Then isn't your argument academic?

MR. MAGOVERN: I would say that if every municipality in the State of New Jersey had a revaluation program, were prepared on a countywide basis to go forward with 37, that it would work. But that isn't the fact.

ASSEMBLYMAN FARRINGTON: But it would have an effect. Let's say 20 per cent are ready. It would reduce that \$35,000,000, wouldn't it?

MR. MAGOVERN: Oh, no.

ASSEMBLYMAN FARRINGTON: It wouldn't?

MR. MAGOVERN: No, because the ratio that would be chosen would be determinative of what would affect that tax.

ASSEMBLYMAN FARRINGTON: Well, as a matter of --- I notice you described the transitional period as inequitable and you imply, although you haven't stated, that it is inevitable. Isn't it conceivable that this legislation can become effective without any kind of a disastrous transitional period?

MR. MAGOVERN: It is impossible.

ASSEMBLYMAN FARRINGTON: You think it is impossible?

MR. MAGOVERN: Oh, yes. It is impossible.

ASSEMBLYMAN FARRINGTON: What makes it impossible?

MR. MAGOVERN: One, you would have to adopt for this year

a fixed procedure for the towns in changing their old method of sending out bills, their method of getting a ratio, because the towns' ratios differ so much. They all would have to adopt a county-wide ratio. That is not easily done in a municipality, to say you change all your billing and change all this. That is the practical side of the thing. In addition to that, you are assuming that every taxing district in the State of New Jersey will right this year have a revaluation program put through, accepted and completed, and I don't think it is possible.

ASSEMBLYMAN FARRINGTON: As a practical matter, don't you think the present assessors determine the full and fair value even today more or less inaccurately and that after that they determine what the assessment will be? Isn't it also a fact that revaluation has no purpose really other than to remove inequities within a particular taxing district?

MR. MAGOVERN: Oh, sure. That's right. That is what we are here for though. That is the nub of this problem, to remove inequities.

ASSEMBLYMAN FARRINGTON: At least theoretically, every municipality will be ready to comply with this ---

MR. MAGOVERN: No, not at all. Not theoretically at all.

ASSEMBLYMAN FARRINGTON: Not theoretically?

MR. MAGOVERN: We wouldn't have this problem if we had equal distributions of assessment and equality. If we had a revaluation program throughout the State of New Jersey and everyone said "We are on the same assessment ratio as my next door neighbor and this is it," we wouldn't be here.

ASSEMBLYMAN FARRINGTON: That may be your understanding of

the purpose of it.

MR. MAGOVERN: That's correct, sir.

ASSEMBLYMAN FARRINGTON: Would you suggest legislation requiring that every municipality re-evaluate?

MR. MAGOVERN: I have here the variations in your own county.

ASSEMBLYMAN FARRINGTON: I understand about them. Would you recommend legislation that every municipality be required to revalue?

MR. MAGOVERN: That's all right, but I don't think - if we did not have this section, then I think the only other alternative is just that. But it is impossible and I am not going to be in the position of recommending that I think is impossible. I prefer this transitional period. I think it is the sensible, reasonable, logical approach. I would not want to favor -- I think if every municipality had a revaluation program and it was done properly and the ratios established, we would be on our way. But I don't think that I should at this time be asked should I recommend legislation to force municipalities right now this year to have a revaluation program.

ASSEMBLYMAN FARRINGTON: But your statement ---

MR. MAGOVERN: It would be desirable, but I wouldn't recommend it.

ASSEMBLYMAN FARRINGTON: Your statement at least implies that revaluation is going to be necessary in every municipality.

MR. MAGOVERN: If it doesn't imply it, I will just come right out and say it. It is going to be necessary, yes, sir.

CHAIRMAN DUMONT: Mr. Magovern --

MR. MAGOVERN: Yes, Senator.

CHAIRMAN DUMONT: Do you know how many municipalities in New Jersey have either completed or are in the process of completing revaluation?

MR. MAGOVERN: Oh, somewhere in the neighborhood of 130.

CHAIRMAN DUMONT: Mr. Arnold, what is the figure? The last figure I had was that just one more than half -- in other words, 286, is it? 284 was the last figure I had, that had either completed it or were in the process of doing it. Is that right? That is one more than half.

MR. SIDNEY GLASER: I believe it runs about 350 who have revalued or are in the process of revaluing.

CHAIRMAN DUMONT: Three hundred and how many?

MR. GLASER: 350.

CHAIRMAN DUMONT: 350 out of 567.

Now this amendment of yours - I want to be sure I understand this - are you talking about making this applicable to communities that have revalued within the last five years?

MR. MAGOVERN: No. But it is applicable to any taxing district that finds it impracticable. Now if they have had a revaluation program, it is impracticable only because of the mechanical aspects of changing over which I think may be considerable, but never having been an assessor I don't know whether it can be done or not.

CHAIRMAN DUMONT: But you are not limiting it to municipalities that have conducted a revaluation within a certain period of years? You are making it applicable to every municipality; is that correct?

MR. MAGOVERN: Five years. I think that after five years - a revaluation program that has been more than five years old is subject to question at this time.

CHAIRMAN DUMONT: Do I take it then ---

MR. MAGOVERN: I have not laid down standards of revaluation.

CHAIRMAN DUMONT: Do I take it then that this would not apply to a municipality like Englewood which revalued in 1950?

MR. MAGOVERN: It might well apply, Senator, for the first year. The wording of Section 37 is not that they have had a revaluation program, but the wording is "impracticability." That is the test. And the Director of the Division of Taxation is the one who will say what those factors are. I, in my thinking about the thing, thought of this problem of addressograph plates because I know that is a big problem in a community. It may sound simple, but I think it is quite a chore. I think that revaluation is certainly an important thing, but I have not laid down all those factors to say what should or should not apply.

CHAIRMAN DUMONT: Now this figure you quote of \$79.6 million, do you have any breakdown as between business machinery and equipment and business inventories in regard to that income of the municipalities in '59?

MR. MAGOVERN: Have you got a moment, Senator, please?

CHAIRMAN DUMONT: Yes.

MR. MAGOVERN: The state total shows machinery and equipment of \$47,985,347.00 and inventories of \$31,597,985.

CHAIRMAN DUMONT: Thank you. The amendment you advance here seems to exclude farm machinery and farm livestock, is that correct?

MR. MAGOVERN: Yes, that is correct.

CHAIRMAN DUMONT: Are you suggesting by that ---

MR. MAGOVERN: I think there is a special provision in A 198 for that.

CHAIRMAN DUMONT: In regard to a presumption?

MR. MAGOVERN: No, with respect to the assessment ratios. I don't have a copy of the bill. They probably are well aware of it. Each county chooses its own.

CHAIRMAN DUMONT: Yes. Well, that is true under A 198. That is true.

MR. MAGOVERN: That's right. I was now referring to Senate 1.

CHAIRMAN DUMONT: But in here you have "All other personal property other than inventories, farm machinery and livestock." What does that language have in regard to implication with respect to farm machinery and farm livestock, anything in particular?

MR. MAGOVERN: I don't think it has any implication other than the fact they are excluded there.

SENATOR FOX: It's exclusionary, isn't it?

MR. MAGOVERN: Yes. That's right.

CHAIRMAN DUMONT: Then you would leave it up to each county to decide?

MR. MAGOVERN: Leave it up to the other section of the law, yes, sir.

CHAIRMAN DUMONT: Now here where you make your statement in regard to Senate 1 and Assembly 198, do I gather from that that you still favor statewide ratios?

MR. MAGOVERN: Yes, sir.

CHAIRMAN DUMONT: And that you are accepting countywide ratios, what, as a second choice?

MR. MAGOVERN: It's in the nature of a second choice. I don't think that -- well, it's not like the bride you might choose as second choice. We prefer - let me say this - we have not rejected ---

ASSEMBLYMAN MATTHEWS: That's the best simile I have heard in a long time.

CHAIRMAN DUMONT: Let me try to clarify it then in a practical way. Is it that you favor countywide ratios because you think this is the only approach that can pass the Legislature?

MR. MAGOVERN: Yes. That is practically, yes, sir.

CHAIRMAN DUMONT: But actually you prefer statewide ratios if you could get them past the Legislature?

MR. MAGOVERN: Yes, sir, and we have been on record.

CHAIRMAN DUMONT: Do you think that the countywide ratio plan is likely to arouse competition between counties for industries locating in various counties, particularly with regard to personal property tax?

MR. MAGOVERN: No, sir, I don't see how it could.

CHAIRMAN DUMONT: How do you substantiate that?

MR. MAGOVERN: Because, first off, you start off with your assessment ratio, but the real basis of what is going to be the tax is not going to be the assessment ratio. This is the tax dollar now. It is going to be your budget and your rate.

CHAIRMAN DUMONT: All right. May I ask you this question: If A 198 did not contain the amendment that you recommend here, do you think then it might stimulate competition between counties for industries?

MR. MAGOVERN: I think it would stimulate industry going somewhere else than in New Jersey.

CHAIRMAN DUMONT: You mean it wouldn't come to any county without your amendment.

MR. MAGOVERN: That's right.

SENATOR FOX: You mean if we don't incorporate this amendment, in your opinion it would result in industry moving out of New Jersey; I mean, industrial groups?

MR. MAGOVERN: No. Let me put it this way: I think it places upon industry a very heavy burden. It makes New Jersey unattractive to industry, certainly for that interim period of how many years I don't know. To get to the question of competition within the State, I think it would be without this amendment more likely to stimulate competition. You can get competition then because you are right smack up against pretty much what you are now. But I don't know as competition ---

CHAIRMAN DUMONT: We have some of it now.

MR. MAGOVERN: Yes.

CHAIRMAN DUMONT: Assuming your amendment were not adopted and A 198 passed and you had 21 different county ratios in New Jersey, you mean to tell me that there wouldn't be any competition between counties in regard to the inventory tax particularly?

MR. MAGOVERN: No, sir. I agree with you and that is what I finished up by saying to Senator Fox. My first concern was with the statewide effect on business. And then I said, after that, if you got into A 198 and had different ratios in the county without a transitional period, without the leveling factor of over-all ---

CHAIRMAN DUMONT: -- as provided in your amendment.

MR. MAGOVERN: That's right. -- that I think you would very well develop competition.

CHAIRMAN DUMONT: Don't you think you would have more competition than you have today between counties if A 198 were adopted as is?

MR. MAGOVERN: You might. Without our amendment, I think there is more certainty.

CHAIRMAN DUMONT: I am not talking now about the real property field. I am talking about personal property.

MR. MAGOVERN: I think the answer to that is "yes." You are correct.

CHAIRMAN DUMONT: Now on page 9 here, going back to some of the questions that Mr. Matthews asked you earlier, particularly this last sentence in the fifth paragraph, it would seem to me that your tax on existing business, if the assessment ratios were constant and the rates of taxation were constant, will also remain constant.

MR. MAGOVERN: That's correct.

CHAIRMAN DUMONT: In other words, you are only saying that you are going to get more income from a municipality because you are expecting that more ratables will settle there.

MR. MAGOVERN: That's right. This is for one year.

CHAIRMAN DUMONT: I understand that. But my recollection was that when you gave your answer to Mr. Matthews, you said that the tax would not be the same. Now the tax certainly on existing business, if your ratios and your rates remained the same, would have to be the same.

MR. MAGOVERN: That is correct. I thought we reached the fact that the amount of tax would probably vary. Now I assumed that because of the rate. But we eventually came - and I think the record will show that when Mr. Matthews made his assumptions that the rate was the same, the assessment would be the same, the tax would be the same. There couldn't be any dispute of that. I thought we reached

that conclusion.

CHAIRMAN DUMONT: And the only way you get more revenue is by the growth of ratables if your ratios and rates remain the same?

MR. MAGOVERN: That is true under all the bills if you have equalization. That is correct.

CHAIRMAN DUMONT: Now then, in the definition that we used last year in the Senate and Assembly bills introduced at that time, and reintroduced again this year, where we talk about book value, which is cost less depreciation, you would amend that as a standard of value for machinery and equipment and inventories by this State Chamber amendment #2, is that correct?

MR. MAGOVERN: No. This is the question of the rules and regulations of the Director. All we would do would be put in a requirement with respect to the costing and depreciation provision and adopt the Federal income tax formula.

CHAIRMAN DUMONT: And otherwise, you would leave the standard of value, which was book value, cost less depreciation, the same standard?

MR. MAGOVERN: Yes, sir.

CHAIRMAN DUMONT. All right. Mr. Matthews has some more questions, I think, for you.

ASSEMBLYMAN MATTHEWS: I am interested in this county competition shibboleth that has been bandied about. I think it all started about three or four weeks ago in an editorial in the Newark Evening News where they made the statement that where you set county ratios, you are going to have, no matter what kind of legislation you have, - you are going to have inter-county raiding. Now you agree that there is no substance to such a position, don't you?

MR. MAGOVERN: Oh, no. Without this amendment?

ASSEMBLYMAN MATTHEWS: No, I am not talking about the amendment; I am just talking assessment theory pure and simple, with or without amendment. Let's suppose that we have 562 revaluations in the State and we are going to put A 198 into effect right now, would there be county raiding between counties?

MR. MAGOVERN: I believe so.

ASSEMBLYMAN MATTHEWS: You believe so, sir?

MR. MAGOVERN: Yes.

ASSEMBLYMAN MATTHEWS: Why?

SENATOR FOX: You believe there would be?

MR. MAGOVERN: Without the amendment.

ASSEMBLYMAN MATTHEWS: Your amendment wouldn't apply, sir, if a revaluation has taken place in a municipality.

MR. MAGOVERN: That's right.

ASSEMBLYMAN MATTHEWS: I am talking tax theory now. I am presupposing that 562 municipalities have revalued.

MR. MAGOVERN: If you are assuming that A 198 is in effect, that all the municipalities have revalued, that we can forget Section 37, correct? We forget Section 37.

ASSEMBLYMAN FARRINGTON: Except for the addressograph plates.

MR. MAGOVERN: No, we have forgotten that. We have gotten through those. -- then I agree with you, Senator.

ASSEMBLYMAN MATTHEWS: There could be no county raiding in the popular sense.

MR. MAGOVERN: I think that is correct. Let me think. Yes, there could not be in that case.

ASSEMBLYMAN MATTHEWS: Now you say in the first year after

the adoption of A 198, presupposing everybody hasn't revalued, without your amendment to Section 37 that there can be county raiding because a municipality in "A" county could make a deal to an industry in a municipality in "B" county.

MR. MAGOVERN: I think it couldn't only be for the first year, but I think you could have that for a number of years.

ASSEMBLYMAN MATTHEWS: Are you familiar with the requirement in Paragraph 37 that requires a determination by the Director of the Division of Taxation as to the revaluation of that municipality?

MR. MAGOVERN: Yes, sir.

ASSEMBLYMAN MATTHEWS: Don't you agree that if a county-raiding situation occurred that the Director of the Division of Taxation could move firmly and quickly to require a revaluation of that municipality?

MR. MAGOVERN: You are asking me "Could he?" or "Would he?"

ASSEMBLYMAN MATTHEWS: Could he?

MR. MAGOVERN: He could move quickly, but how quickly is a relative term because, for example, if it were right now, he couldn't move ---

ASSEMBLYMAN MATTHEWS: I am talking about the second year the bill is in operation.

MR. MAGOVERN: Yes. But I mean if this raiding occurred and was brought to his attention, it would depend what "quickly" means because you have your problem within the year as to how fast he can get his revaluation in effect and the like, if he could.

ASSEMBLYMAN MATTHEWS: Well, don't you think that firm action by the Director of the Division of Taxation, which is permitted under this bill, would do away with any county raiding by that municipality

for a long time?

MR. MAGOVERN: No, I don't.

ASSEMBLYMAN MATTHEWS: Will you tell me why?

MR. MAGOVERN: Because I don't think that the Director has such direction in this bill that he must take firm action on the happening of this event, that event or any particular event. There are many factors that would go into the judgment, the opinion, of the Director in reaching a decision and saying to a municipality, "You revalue this year." I just think that there are so many factors that the fact that some business or some county came down and complained that some other county was raiding.-I think it would enter into his judgment, but there isn't the demand, the requirement in that bill, that says to the Director of Taxation, "If that happens, if any business or any county or municipality comes down, you demand a reaction." I think he has to use judgment, and I am not asking for such a thing.

ASSEMBLYMAN MATTHEWS: What I am trying to get at, Mr. Magovern, is the fact that if Assembly 198 is adopted with its present paragraph, I don't think that we will ever, you and I, in our lifetime, see a situation where any single municipality in any county would be able to consistently raid industry in any other municipality in any other county for any extended period of time. I don't think you believe that either, do you?

MR. MAGOVERN: Oh, yes, I do. I think, Assemblyman, you and I may be reading that provision in the paragraph with respect to the power of the Director of Taxation differently. I didn't see in that paragraph that he has any power at all to say "You shall revalue." His power involves the question of the continuation ---

ASSEMBLYMAN MATTHEWS: It doesn't involve the ratio, the setting of ratio by a municipality?

MR. MAGOVERN: The continuation of the right.

ASSEMBLYMAN MATTHEWS: All he has to do is to refuse to allow him to keep setting this State Chamber Formula or to allow him to keep on using a separate ratio and compel him to set a ratio that is equal with his real property and there will be no favoritism.

MR. MAGOVERN: The bill is silent as to what happens if he says "I won't accept this." I don't think that the bill gives him that club that you may feel it does, Assemblyman. I am sorry.

ASSEMBLYMAN MATTHEWS: I think the basis of our disagreement, Mr. Magovern, is the fact that we both are proceeding from different ideas or major premises. I am a firm believer, as much as this might hurt the State Chamber to hear it, in the fact that business in the State of New Jersey over the past 100 years, on its personal property, has not borne its fair share of taxation.

MR. MAGOVERN: I don't think that when you look at the problem of taxation of business or of individuals, you can pick one item and say "I do not think that this householder - I do not think that this business - I do not think that this has borne its fair share of that tax." You can't do that, Assemblyman. You have to look at the entire picture.

ASSEMBLYMAN MATTHEWS: Well, I will tell you something, Mr. Magovern ---

MR. MAGOVERN: If you want to take your comparisons, you have to take the entire tax picture borne by business in New Jersey and not just say they haven't borne a personal property tax correctly.

ASSEMBLYMAN MATTHEWS: If the decision of the Supreme Court in the Ridgefield Park Case is properly implemented by the Superior Court and goes into effect throughout the state, one of us is going to be proven wrong, and if you have read the Ridgefield Park Case, I don't think it is going to be me.

MR. MAGOVERN: I have, but I don't think that that Ridgefield Park Case, one way or the other, is quite germane to this question of the burden borne by business of personal property taxation. I am not saying that maybe that will require a shift in taxes. I didn't say that. Your premise is that business has not borne its proper share of personal property taxes and I say ---

ASSEMBLYMAN MATTHEWS: -- under existing law.

MR. MAGOVERN: Under existing law. And I am saying obviously if you haven't had assessment at one hundred per cent, no one has borne their share of taxes. But when you talk of fair share of taxes, you are talking of the entire tax burden on business. For example, you can very well say, perhaps, that business in Pennsylvania hasn't borne its fair share of real property taxes. They haven't borne any share of personal property taxes. You have to look at the over-all picture. You just can't pick out one tax and say "You haven't been paying on a sales tax, therefore ---"

ASSEMBLYMAN MATTHEWS: I am referring to existing law, Mr. Magovern.

MR. MAGOVERN: It's the same thing.

ASSEMBLYMAN MATTHEWS: Do you think that under existing law business personalty is bearing the same burden of taxation as far as ratio of assessment is concerned as real property is, either business

or residential?

MR. MAGOVERN: As far as its personal property is concerned, all you have to do is to look there.

ASSEMBLYMAN MATTHEWS: I am looking there.

MR. MAGOVERN: And you will see I can't answer the question and nobody else can.

CHAIRMAN DUMONT: You are not going to convince one another.

ASSEMBLYMAN MATTHEWS: I think that is very obvious.

Thank you very much, Mr. Magovern.

ASSEMBLYMAN FARRINGTON: Mr. Magovern, I would like, first, to ask you to assume that it would be possible to eliminate the necessity for Section 37, and then ask you: Would the elimination of Section 37 eliminate your problem?

MR. MAGOVERN: It wouldn't eliminate the problem because I think you are posing an impossible set of facts.

ASSEMBLYMAN FARRINGTON: I asked you to assume it was possible to eliminate the necessity for Section 37.

MR. MAGOVERN: By that elimination you would assume that we would have this year complete revaluation, we would have complete accordance with county ratios and we would be on home free?

ASSEMBLYMAN FARRINGTON: Yes.

MR. MAGOVERN: Certainly, sure. That's fine.

ASSEMBLYMAN FARRINGTON: My second question is ---

MR. MAGOVERN: But I say it is impossible. I have to add that for the record.

ASSEMBLYMAN FARRINGTON: Well, why don't you wait for my second question.

MR. MAGOVERN: Yes, sir.

ASSEMBLYMAN FARRINGTON: -- if you don't mind, Mr. Magovern.

MR. MAGOVERN: I apologize.

ASSEMBLYMAN FARRINGTON: If this legislation, A 198, were enacted today, but made effective one year later than it will be made effective, would that make it possible to eliminate Section 37?

MR. MAGOVERN: If there was a guarantee that we would one year from today be in a position to apply A 198 in its entirety to all classes of taxpayers, the answer would be "yes." But let me ---

ASSEMBLYMAN FARRINGTON: But doesn't Section 37 presuppose that.

MR. MAGOVERN: No, I do not think it does.

ASSEMBLYMAN FARRINGTON: It applies for only one year, doesn't it?

MR. MAGOVERN: No, no. It carries on. It is up to the Director of Taxation.

May I say that the one-year, meeting the requirements of A 198, without any transitional period at all, I think is also will-o'-the-wisp because of the difficulties we have had in even towns getting around to doing anything about the tax problem. They have been faced with the Supreme Court decision for years now.

SENATOR FOX: Mr. Magovern, isn't it reasonable to assume that the Director of Taxation is going to utilize all of the means at his disposal to compel compliance with A 198 as soon as possible?

MR. MAGOVERN: I think he will use all the means at his disposal, yes, Senator, but I don't think the means at his disposal can compel.

CHAIRMAN DUMONT: Mr. Musto.

ASSEMBLYMAN MUSTO: Mr. Magovern, do you feel that over the

years New Jersey has had a good business climate?

MR. MAGOVERN: I think the answer to that is "yes." And I am speaking now for myself.

ASSEMBLYMAN MUSTO: How long would you say that has existed in New Jersey?

MR. MAGOVERN: Well, if I could go back to my law school days and remember the time of the first shay, we had a wonderful - we were a great corporate state until Woodrow Wilson - but I don't want to get into history like that.

ASSEMBLYMAN MUSTO: Just when, Mr. Magovern, do you think that New Jersey developed a bad business climate?

MR. MAGOVERN: It is very difficult to pinpoint. I think it has been a gradual development of this problem of taxation. Now, by bad business climate - I haven't said it is a bad business climate.

ASSEMBLYMAN MUSTO: You didn't say that. I want to see if you are going to admit that.

MR. MAGOVERN: No, I wouldn't want to say it's a bad ---

ASSEMBLYMAN MUSTO: In other words, would you say that we have a good business climate today?

MR. MAGOVERN: No. I think we have what we are faced with here today ---

ASSEMBLYMAN MUSTO: I would like to ask you instead of Mr. Simmons.

MR. MAGOVERN: He didn't have to answer. I am speaking for myself and I will stand away from him. I think what we have had is doubts on the part of business and when you have an uncertainty of business as to where it is going taxwise, what its burdens are going to be, that is not good. Now I don't like to use the adjective "bad,"

that's all. It's not good.

ASSEMBLYMAN MUSTO: Well, I am just wondering if I am reading the same books that you read or other people read. The information I have indicates that New Jersey has a good business climate and that business is coming to New Jersey and that New Jersey stands very high in these United States of ours as far as a business climate is concerned. Am I incorrect or correct in saying that?

MR. MAGOVERN: I don't think you can make that statement unqualifiedly. When you measure up the advantages, the facilities and all the good factors in New Jersey, you weigh them and you may in the aggregate convince much business to come to New Jersey. I think you do and I think you will and I hope you will continue to.

ASSEMBLYMAN MUSTO: In other words, if we continued even as we are for the next 100 years as we did for the past 150 years, New Jersey would still be a pretty good state to live in and do business in?

MR. MAGOVERN: Oh, I would agree it is always a good state to live in. I like it. I was born here. But I don't know from the standpoint of attracting business that we should not strive to remove the doubts and uncertainties that are affecting, adversely affecting, business now.

ASSEMBLYMAN MUSTO: The only doubts that I know of that have been raised, have been raised by the legal minds and being a lawyer myself sometimes it confuses me too. We complicate a situation and we get into all these hearings as we have today and we all come up with these various plans to solve a problem that was given to us by a court decision. I agree we must comply with the law, but by the same token, I am more interested in the moral law than the legal law.

I would like to do what is best for the State of New Jersey and that is why I asked you those other questions. Of course, it would be my opinion if the Chamber of Commerce - and they should know - says that New Jersey is a state that ranks very high businesswise throughout these United States of ours that I would hesitate to change any practices that we have in that regard.

MR. MAGOVERN: I think we should endeavor to improve and the great area of taxation is the one of doubt and that is the thing that plagues business, doubt. It is almost worse than having anything go along. If you know where you are, you can ---

ASSEMBLYMAN MUSTO: Do you think that these bills remove all that doubt?

MR. MAGOVERN: I think in time they will.

ASSEMBLYMAN MUSTO: How do you remove it by saying you favor state uniformity, but you will take a second-best, which would be county uniformity? Why not take uniformity among the cities? Take 567 ratios. Why 21? What is the difference?

MR. MAGOVERN: Because there you run into all kinds of problems of state aid. You run into variations. I think you need at least county ratios.

ASSEMBLYMAN MUSTO: You say "all kinds of problems." I didn't hear any yet. State aid - that is no problem. We can take care of that without any difficulty.

MR. MAGOVERN: Very well.

ASSEMBLYMAN MUSTO: Now what are the problems that are created?

MR. MAGOVERN: The problem is one of equalization as between cities, intra-municipal cities.

ASSEMBLYMAN MUSTO: The same thing with counties. Statewide, I

can't argue with you. I'll have to respect your opinion. But countywide, I see no difference.

MR. MAGOVERN: Countywide - if you have a countywide ratio --

ASSEMBLYMAN MUSTO: You have 21 devils instead of 567, if that is what ---

MR. MAGOVERN: No, no. If you have an actual revaluation and you have your formula, your ratio, a ratio that is designed to meet on a countywide basis - and it is applied in all the counties, you come very close in effect to having a statewide ratio. So that I say I will accept it.

ASSEMBLYMAN MUSTO: In all this mathematical figuring and so forth that we have where we set these ratios, who takes care of the tax-exempt problem in these communities, who takes care of the educational problems in these communities where one community has all the industry and the other communities have all the churches and schools? All we get here are figures. We all say "Let's do it the right way." We will make it 100 per cent, period." And we forget about a community that might not have all industry or all that type of income which is free and clear. You might take some communities such as we have today that have over the years educated many communities in that area. They have high schools. They are cultural. They have many churches. Take the city I come from, Union City - wonderful community - wonderful community. It's right up there. You have it on the bottom. You should have it on the top.

MR. MAGOVERN: It's only alphabetical, not by virtue of honor.

ASSEMBLYMAN MUSTO: We have a marvelous educational system. We have wonderful churches and we have a large Federal Post Office there. We have a problem as we live there. But to have anyone come

in and say "Here is how you raise the money in Union City" - I don't see how they can possibly do it and I don't see how the business men in that community, who I hope are part and parcel of your State Chamber, could go along with that because they don't. There isn't a businessman in Union City or a resident in Union City that seems to go along with all these fancy proposals that I see because these proposals merely sound good on paper. When you put them into effect, you still have to support a community. Now, if you want statewide uniformity, I am for that. I think that is wonderful. But then you should have another proposal making New Jersey one big city. Let's share the wealth. If you want county uniformity, fine, but let's say 21 big cities in the State of New Jersey then. I think you just hit one portion of a problem here. In other words, you write a good answer to a legal problem. Well, personally I think it is wrong to worry just about a Supreme Court decision. I think we have to worry about the effect of that decision if it goes into effect or if we put it into effect. I think that that is something that the Chamber should consider very seriously.

We all want uniformity, but I think we should consider what is going to happen to the 567 municipalities individually as a result of that uniformity and I think our assessors are the first people that I know of to tell us about that problem.

CHAIRMAN DUMONT: Mr. Magovern, when you and Mr. Matthews were talking about competition and what I was asking about before, I got the impression that you were speaking primarily about the raiding by one county or one municipality of another on existing industry. Now let's take a brand new industry coming into New Jersey, or even another plant of an existing industry: Isn't it true that all things being equal, that is, all other things like transportation, land, water supply, etc., that that industry is going to look very carefully at the tax question as it exists in one county or another in New Jersey?

MR. MAGOVERN: Yes, sir.

CHAIRMAN DUMONT: And isn't that going to be the governing answer really as to where that industry settles its plant?

MR. MAGOVERN: All other things being equal, right.

CHAIRMAN DUMONT: Now, do you feel that your amendment would eliminate that kind of competition between counties which you say would exist without your amendment in A-198?

MR. MAGOVERN: I think that you remove much of the competitive position because of the differing impact from one taxing district to another of the personalty tax on business equipment and machinery. Now, I think the amendment is not designed to change or alter the basic philosophy of A-198. That is important. We applaud the philosophy of both A-198 and S-1. All that this proposed amendment does is to permit time for a changeover to the ultimate objective that I think the sponsors of that legislation had.

CHAIRMAN DUMONT: Well, then, actually, you feel that the principles established in S-1 and A-198 are basically the same except that you have a different level of government where the administration would reside.

MR. MAGOVERN: I think that the basic principle of equalizing the taxes is fundamentally the same, yes, sir.

CHAIRMAN DUMONT: Now, you also would agree - or would you? - that there will be the same shift or shifts from one class or use of real property, maybe even personal property as well, to another or to others under the county system as under the statewide ratios; is that correct?

MR. MAGOVERN: Yes, that's correct, except that you do get varying percentages in the counties, but it's the same thing.

CHAIRMAN DUMONT: All right, but you would have the same shifts within municipalities within the same county under countywide ratios as you would have under statewide ratios?

MR. MAGOVERN: Yes, sir.

CHAIRMAN DUMONT: All right. Mr. Matthews has another question.

ASSEMBLYMAN MATTHEWS: I have just one question, Mr. Magovern, and then I'll let you off the line here. I noticed in your main remarks that your criticisms of this transition period were directed mainly toward A-198, because of the amendment that you discussed. Is there a provision for a transition period in S-1 as it presently stands?

MR. MAGOVERN: No, sir.

ASSEMBLYMAN MATTHEWS: Does the force of your final remark about A-198, that is, unless Assembly Bill 198 is

amended as here proposed, the State Chamber is opposed to Assembly Bill 198 - does that go as far as Senate Bill No. 1 is concerned, too, after that amendment?

MR. MAGOVERN: Yes, that would be the same. We think that Senate Bill No. 1 should be likewise. The same reasoning applies.

ASSEMBLYMAN MATTHEWS: I mean, the same vigor and strength applies against S-1?

MR. MAGOVERN: That is correct.

ASSEMBLYMAN MATTHEWS: You raised this objection last year against S-81, which is almost identical to S-1.

MR. MAGOVERN: Did we raise it? Oh, wait a minute. I've got to get that. Let me say this, that last year, when we got into this, we had not come up with a table that we have been able to work out - I can tell you that. That's something new. If you will look on page 8, my reference is there, to Senate 81. We pointed out the problem of transition. The first paragraph on page 8. That refers to our appearances on Senate 81.

CHAIRMAN DUMONT: But those appearances did not raise the same objection as I recall it that you are raising today.

MR. MAGOVERN: They raised the same problem, the same basic objection, but very frankly, until this A-198 really indicated a method--

ASSEMBLYMAN MATTHEWS: Do you mean to say, Mr. Magovern, that I started all this myself?

MR. MAGOVERN: And you started it well, too, Assemblyman. I'm not here to be praising anyone, and I don't want to get myself in wrong with the other members of the Committee, but in regard to that transition period, we don't

agree with the transition arrangement that you have in your bill, but at least, from it, we have developed something that we think will work.

SENATOR FOX: Well, Mr. Magovern, let me ask you this: You say that unless this amendment is included, you are definitely opposed to A-198 as well as to S-1. Is that correct?

MR. MAGOVERN: Yes, sir.

SENATOR FOX: Now, isn't it a fact, and again I refer to the last meeting of this Committee, that the State Chamber indicated, and there was no discussion whatsoever at that time of any such amendment as you are referring to today, that if we would amend it with respect to the recording date, you could buy and live with this bill?

MR. MAGOVERN: I don't think that that is quite correct. I did not appear that time, I don't think. Would you like to have Mr. Simmons tell us what he said at that time?

SENATOR FOX: I certainly would, because I don't recall any such statement or even any conversation about such an amendment.

MR. MAGOVERN: About a question of an interim?

SENATOR FOX: No, sir.

MR. MAGOVERN: May I ask Mr. Simmons? He appeared on that occasion.

SENATOR FOX: Yes, and that's Senator Dumont's opinion, too.

MR. SIMMONS: Trusting my memory, as I recall, at that hearing were Senator Fox, Senator Dumont, Assemblyman Matthews, and Senator Stout. While the purpose of our statement then --

SENATOR DUMONT: Just one second, Excuse me for interrupting, but are you talking now about a public hearing or a meeting downstairs, because we had twenty or twenty-five of those. We had seven public hearings in all.

MR. SIMMONS: I am referring to the hearing on April 10, 1959.

SENATOR DUMONT: That was not a public hearing, because the public hearings in 1959 were completed in February or March.

MR. SIMMONS: Well, whichever it was escapes me at this time.

SENATOR DUMONT: It was a Commission meeting downstairs.

MR. SIMMONS: Well, at the Commission meeting, at which we made a case against the double filing of returns, during the questioning and discussion, I made this problem a point and pointed out that it was bad enough to have the double filing, but this lack of conformity in date between the assessment of real property and the assessment of personalty - to use my words, as I recall, would wreak havoc on the New Jersey business economy. I turned to a representative of the Tax Policy Commission and indicated that they assumed in their program, and so did these bills, that all these changes would take place at once. I recognized that the report of the Tax Policy Commission really couldn't do anything else, but, as a matter of fact, it created a very real practical problem, and this is it.

Now, it wasn't until now, unfortunately, that we were able -- there is no opposing something if you don't have an answer or a constructive approach. We now do have a constructive amendment to offer and, under those circumstances, we

are in a position to oppose. We wouldn't be in a position to oppose something for which we couldn't offer a cure. That's the position the Chamber of Commerce usually takes.

SENATOR DUMONT: All right. Any questions?

Mr. Didovich?

BART DIDOVICH: I would like to direct a question to Mr. Magovern. I think that he is one of the most logical men to answer it. I did want to ask him about where the farmers stood so far as your amendment is concerned, but Senator Dumont asked you that question and it's been clarified. But I would like to ask you a question because, as a representative of the State Chamber of Commerce, you undoubtedly sometimes know the pulse of business throughout the State, or your organization. Would you say that, because of this muddled tax situation--you have already said that we've had a good climate as far as business is concerned here in New Jersey over the years. Is that right, Mr. Magovern?

MR. MAGOVERN: I said, in response to that, that for many years past we have had a good climate. I would not want to say at the present time it is good.

MR. DIDOVICH: That's what I wanted to ask you. I wanted to ask you this: Because of the muddled tax situation in this assessment problem today, is it preventing some businesses from coming into New Jersey and making them more cautious? Is it possible that we could get more businesses if this situation was cleared?

MR. MAGOVERN: In my opinion, the answer is yes. Now, if you quickly follow that and say, "Now what businesses stayed out?" I would have to answer that I can't at this time furnish you with the names.

MR. DIDOVICH: No, I'm asking you if it's possible that the business picture in New Jersey would have been far better if this situation was clear.

MR. MAGOVERN: In my opinion, yes.

MR. DIDOVICH: That's what I wanted to know. Thank you.

SENATOR DUMONT: All right. Any other questions of Mr. Magovern?

I would like to note the presence, before we recess for lunch, of the Senate Minority Leader, Senator Joseph Cowgill of Camden County, and Senator Charles Sandman of Cape May County.

Mr. Magovern, we thank you for a very comprehensive presentation.

MR. GREENE: I would like to ask a question. Pertaining to the recommendation, so far as original cost, together with the rates of depreciation allowed by the Federal Government on machinery and equipment, won't this actually legalize inequities among classes of those properties? This makes an assumption, to our way of thinking, that all properties, regardless of year of acquisition, start out on the same basis of value, and you do have varying rates of depreciation for similar type properties, depending on the nature that that industry is in. We can't understand how the end result could be equitable between properties in that same class.

MR. MAGOVERN: I am not sure that I understand. You don't mean that there should be one percentage factor or one factor for depreciation for all classes of property, all types of property?

MR. GREENE: No. I am not suggesting that. We would have suggestions, but on this basis you are assuming that the original book value, regardless of date of acquisition, would go into effect with the varying rates of depreciation allowed by the government.

MR. MAGOVERN: Yes.

MR. GREENE: And they would all be different, depending on the nature of the operation the industry might be in.

MR. MAGOVERN: Yes.

MR. GREENE: So that the end result for a similar type industry, let's presuppose, you will have the same type operation with different resulting values because of the different treatment of, let's just say, depreciation itself.

MR. MAGOVERN: Well, I think what we are trying to get at ^{is} here/value. Now, if you have a use for a property or machinery, you have a different use and you have one method of depreciation; you are still trying to get at value, and I think this is one method. Now, I am not sure that I fully understand your question. You seem to be suggesting that we have some single factor that would be applicable to this type of property, one type of property, regardless of use. I'm sorry. I know I am not answering your question but it's primarily because I am not quite sure that I understand it.

MR. GREENE: Let's just take the depreciation part alone and presuppose that two industrial plants having the same type operation, start their business with the same age machinery as of a certain date and their original costs are the same, - one might have a government contract and get the benefit of

accelerated use of that machinery, and the other plant will not have that benefit. Then if you take the ratio on that basis --

MR. MAGOVERN: I think I understand you. Let me restate it just for the purpose of seeing whether I understand what you are saying.

The government itself, in its depreciation schedule, does not have a specific factor for all types of one given class of property, hence, you would arrive at a different value. Right?

MR. GREENE: Yes.

MR. MAGOVERN: And I think that is still logical because the reason for these varieties is because of use and that is what goes to the question of value.

MR. GREENE: Well, under our study - I am precluding what we are going to discuss later on regarding plant machinery and equipment - right now wouldn't it be more equitable to take original cost of acquisition and firm it up to whatever your base year for value might be and then set up your tables for the varying type operations uniformly depreciated back for age and use? This is done in many other states, particularly California.

MR. MAGOVERN: That's going to require a building in to the statute of a very complicated arrangement. I don't see any real serious effect on arriving at a value based upon a percentage depreciation applicable to a given use, as between the same type property. I can see that you could get an unusual circumstance here and there where you would have someone using a straight-line depreciation, someone using a different depreciation, but we have to assume that there is certainly a reason for that and it goes

to the problem of value. It is certainly not without reason and I think that all those reasons go to a theory of reaching a value of that asset.

MR. GREENE: A value as far as income tax might be concerned but we are not quite --

MR. MAGOVERN: But if it's the value of your assets for income tax, why isn't it the value for this?

MR. GREENE: It is not necessarily the same as for actual value or value in use.

MR. MAGOVERN: Indeed that might even present the juggling of depreciation schedules for this.

MR. GREENE: That's correct. I have one other question which deals with a part of Assembly 198 which you are in agreement with. In industrial cities don't you believe there would have to be a shift in some of the burden of taxation from industry to real property in mercantile establishments by approving the one-quarter level of inventory and excluding raw products and products in the process of manufacture from the inventory category?

MR. MAGOVERN: No, I don't think there would be such a shift. As a matter of fact, I don't think the studies of the State Tax Policy Commission would bear out that statement. There might be a shift after revaluation by virtue of the failure to value property over the years but that isn't the question, I don't think.

MR. GREENE: Well, I briefly made a study in my own community and this would hold true because this part of the personal property, inventory, is a major item in industry. When the product is finished it's out of the plant.

MR. MAGOVERN: Oh, are you talking about the exemption available for goods in process?

MR. GREENE: Yes, sir, and raw products.

MR. MAGOVERN: I think that perhaps the question there is, that's set off. You have on the one hand that exemption and on the other hand you have the so-called household goods exemption.

MR. GREENE: You mean the household exemption?

MR. MAGOVERN: Household goods, that's right.

MR. GREENE: I don't think it will have that effect at all, Mr. Magovern, not at the ratio of household or even the value between household and inventory is concerned.

MR. MAGOVERN: We are talking about \$19 million household.

MR. GREENE: But you are also referring to \$35 million --

MR. MAGOVERN: No, no. That's inventories.

MR. GREENE: You are talking about \$19 million under household.

MR. MAGOVERN: Correct.

MR. GREENE: Now what are you referring to? What amount of this category is made up of raw products in process of manufacture as far as inventory is concerned?

MR. MAGOVERN: I have no figures for raw products in process.

MR. GREENE: I know in my own community this part of inventory so far as industry is concerned from an industrial city, they are going to lose a tremendous amount of ratables by excluding this part of inventory. And if this is true there would have to be a shift in this burden of taxation.

MR. MAGOVERN: I don't want to take too much time here but I wonder what your assessment ratio is for that stuff that you are so worried about?

MR. GREENE: On personal property?

MR. MAGOVERN: No, this goods in process that you were talking about.

MR. GREENE: Twenty percent.

MR. MAGOVERN: Twenty percent on that?

MR. GREENE: Yes, sir.

MR. MAGOVERN: That's high.

CHAIRMAN DUMONT: I don't like to terminate your discussion here, gentlemen, but we are about 45 minutes overdue recessing.

Are there any more questions of Mr. Magovern? This is going to have to be the last one because we have gone over our time now and anybody who wants to testify may do so this afternoon.

MR. ARNOLD: I would like to ask one question that's been going through the minds of several people here - the opposition to both Assembly 198 and S-1; provided this amendment that you have been describing is not accepted would this mean that you would prefer no legislation at all?

MR. MAGOVERN: We don't like to say that we would just give up the ship. We would hope that we --

MR. ARNOLD: I mean if you had a choice between conditions as they are now and as they may become with no legislation or this legislation without the amendment, which choice would you make?

MR. MAGOVERN: With all due respect to the Chairman of this Committee, if I may apologize to you, we did have a President by the name of Roosevelt who did say upon occasion that that question was so "iffy" that he didn't know how to answer it, and I think this is that type of "iffy" question.

SENATOR FOX: Do you think it is your obligation, should we bring about both of these measures, that you would assume the onus instead of the Legislature?

MR. MAGOVERN: No, I --

CHAIRMAN DUMONT: We will recess until two forty-five. We have 13 witnesses to hear this afternoon and we may have to have another day's hearing.

(Recess for lunch)

AFTERNOON SESSION

CHAIRMAN DUMONT: There are two or three things here to be entered in the record before we start hearing the witnesses.

Mr. James J. Harrigan, President of the Municipal Council of South Amboy in Middlesex County, was here earlier but had to leave, and he wanted it noted in the record that their Council, and I guess their entire administration, are for either Assembly Bill 125 or Senate 3, which is the bill that takes the public utilities' gross receipts rate at a straight 7-1/2 per hundred rather than a sliding scale of \$5.00 to \$7.50 per hundred as it is today. He said that the passage of one of those bills, or the hope rather that one of those bills will pass, is now delaying their entire program of, I guess, revaluation in South Amboy. So they hope that one of those two bills will pass.

In addition to that, some figures were given to me just before lunchtime, which are up to date, from the Division of Taxation, showing the situation in regard to municipalities that have revalued. Those that have completed revaluation, that is, that are all the way through, prior to the beginning of 1960, total 172. It is expected that 94 more will complete revaluation during 1960; and there are 51 in addition to that under contract. So, if you add the 94 for 1960 to 172, you get 266 that will have completed revaluation by the end of 1960, and 51 more under contract would make a total of 317 that either at the present time have completed or are under contract to complete in the near future.

Now, the next witness this afternoon is Mr. H. Russell Brown of the New Jersey Manufacturers Association.

HAROLD J. SHAMBERGER (New Jersey Manufacturers Association):

Mr. Chairman, Russ is coming back later this afternoon, and I wonder if we might step out of order, and I will notify you when he gets back.

CHAIRMAN DUMONT: Yes, and I'm sure some of the others will be very happy to comply with your request.

Mr. August Church, Tax Assessor of North Plainfield.

AUGUST CHURCH: My name is August Church and I am Tax Assessor of North Plainfield.

Mr. Chairman and Members of the Committee, not one of the bills passed by the Assembly and considered by the Senate eliminate a single inequity that exists in any taxing district in our State. Not one of the bills touch on fundamentals which are required before any taxing district can improve its distribution of the tax burden more equally. If improper assessments exist, they will merely be amplified if a new ratio is used. Before any proper assessment can be made, a district must have a tax map to properly assess land. Then the taxing district must have a re-evaluation program and maintain it by proper assessing procedures every year. Without these two fundamentals, no legislation at state level will correct anything.

Real and personal taxes are collected and spent at the local level. The county apportionment of taxes is arrived at by sales ratio data prepared by the Local Property Tax Bureau from bona fide sales within each taxing district. For the State or county to force us to comply with their formula is an encroachment on the private business of each taxing district.

Tax assessment laws should be simplified, not made more complicated. To go beyond the local taxing districts causes a meshwork of bureaus, commissions, directors, and supervisors.

They all cost a lot of money and they don't put one red cent into the local taxing district or any place else.

Constant encouragement by the Local Property Tax Bureau to have assessors take courses in assessing and checking on us regularly has forced many taxing districts to bring their tax assessments and procedures up to date. More are doing it each year. All benefits from these improvements come to the districts that comply. As the different districts realize the value of a reassessment, they are gradually having it done. But this is a local problem to be solved only by that taxing district and not by some bureau in Trenton or the county seat which in most cases is far removed from the problem. It's a lot better to have your father guide you at home than it is to have some uncle do it from a distance.

Tax assessment procedure in our State has been in violation of the law for many years. The fault has not been found in the procedure, but in its legality. Until a tax convention is called and the whole tax problem is studied, I believe that our present procedure should be legalized. Assembly Bill 350, by Musto and Hauser, does just that. It saves all of our municipalities great expense. It leaves the assessing problem where it belongs, and it leaves you legislators at state level free to solve the many problem you already have.

CHAIRMAN DUMONT: Are there any questions of Mr. Church? Are there any questions by anyone in the audience of Mr. Church? (No response).

Thank you very much, sir. The next witness is Mr. Monroe Lewis, Tobacco Distributors Association of New Jersey.

MONROE LEWIS: My name is Monroe A. Lewis, and I represent the Tobacco Distributors Association of New Jersey.

Mr. Dumont and gentlemen of the Committee, my problem is a very simple one. I am here, as I was last year, to oppose this theory of uniform assessments on business inventory. It might be all right to assess real property and machinery and equipment on a uniform basis, but inventory is a different story and a horse of a different color. The theory of taxing inventory is that all inventory brings the same return and, therefore, should be taxed in the same manner. And that is completely untrue.

I represent tobacco distributors. We are in the same position as wholesale distributors of a varied line of other products who handle a tremendous amount of inventory at a very, very minimal mark-up. According to Dun and Bradstreet and according to surveys made in this State by our own industry, our net mark-up on net sales is four-tenths of one per cent, so an average tobacco distributor who handles two million dollars worth of merchandise per year - two million dollars worth of inventory per year - makes a net profit of approximately \$8,000 per year.

Now, according to the theory set forth in these various bills - Senate 1 and all of the others, and Senate 81 of last year - our tax rates on the inventory would be 12-1/2 per cent of the value of the inventory or approximately a tax base of more than 22 per cent, or 23 per cent, of our net profit.

Surveys made show that a tobacco distributor carries an inventory of \$60,000 approximately on one million dollars worth of gross business per year. So this little fellow, who makes \$8,000 a year net profit, carries an inventory of approximately \$120,000 at all times. Now, the tax base of that would be 12-1/2 per cent of \$120,000, or about \$15,000, and, if we take an average tax rate in a municipality of 10 per cent,

that means his tax on the inventory would amount to \$1500 per year, upon which he only realizes a net profit of \$8,000. If we add to that the fact that this little fellow has about \$5,000 worth of equipment and machinery in his place, upon which he will be taxed on the basis of 50 per cent, we add another \$250 to his tax burden, so that the man who makes a net profit of \$8,000 per year will pay, in the form of a personal property tax to his municipality, \$1750, or somewhere around 22 or 23 per cent of his net profit.

Now, the picture is even blacker when we come to consider cigarettes, because, under state law, we people who sell cigarettes on a wholesale level, are permitted a gross mark-up of four per cent. So if we sell two million dollars worth of cigarettes a year, our yearly inventory would be two million dollars less four per cent, which would show an average of \$80,000 constant inventory and a tax which would amount to more than 25 per cent of our net profit.

Now, we have advocated, and we still advocate, that there must be some differential in the assessment of business inventory. It is manifestly unfair to tax a man solely upon the book value of inventory without any consideration at all of the net profit realized out of the turnover on the inventory. This theory has been recognized in every jurisdiction throughout the country where gross receipts tax or special business taxes are imposed. There is very little difference in our industry between a gross receipts tax and a business inventory tax, because our inventory is practically the same as our gross receipts. In the City of New York and in the City of Philadelphia, and in other States throughout the Union where

gross receipts taxes have been imposed, invariably they exempt these products that are sold at such a small mark-up. In the City of New York, cigarettes under the gross receipts tax bill are assessed at the same rate as transactions over the stock market. In the City of Philadelphia, they are exempted completely. In the State of Pennsylvania some years ago, a special revenue act was passed which would provide revenue for school districts and it imposed a tax on persons engaged in industry and in business, and a specific exemption is made in the bill, "shall exclude a person who is a wholesale dealer in tobacco and tobacco products," because, in the State of Pennsylvania, the Legislature recognized that somebody who worked on a mark-up of four tenths of one per cent should not have a business tax imposed.

Now, in all of the bills that are before this Committee, no exemptions at all are made; no differential at all is made of any type for business inventories, but all business inventories are taxed in the same manner. We proposed last year, and I propose again, that the inventory of a wholesale distributor which is received for the purpose of forthwith distribution to other business people in the State of New Jersey be exempt from the provisions of the inventory tax.

What we mean by that is this: We receive cigarettes in great volume and every day in the week some truck is dumping 25 or 30 thousand dollars worth of cigarettes in our stores. Sometimes these cigarettes don't stay in our place of business for an hour. We have approximately 61 wholesale distributors in the State of New Jersey of cigarettes; we have about 300 what we call "sub-jobbers" and also known as wholesalers. We sell these cigarettes to the sub-jobber and that

represents about 40 per cent of our total business. We sell these cigarettes to the sub-jobber at a mark-up of 1/2 of 1 per cent gross. Still in all, your tax bills would subject us to a tax based on 12-1/2 per cent of the actual value of these cigarettes on which a 10 per cent or an 8 per cent or a 9 per cent municipal tax is imposed. The tax would be more than the gross mark-up on the cigarettes. Cigarettes are already taxed in this State at the rate of 5¢ a package, and I think the theory of any tax law that imposes a tax upon business is that this tax become part of the overhead and that this tax be eventually moved along to the ultimate consumer. But the ultimate consumer is already paying 5¢ a pack for cigarettes and, besides the 5¢ a pack, these cigarettes will then again, under any of these bills, be taxed three times: First, we, the distributor, will pay an inventory tax, and the wholesaler who picks it up the same day we receive it will pay the same inventory taxes we do plus the 1/2 of 1 per cent, and then the retailer who will receive them tomorrow will again pay an inventory tax. And none of us, neither the distributor, the wholesaler, or the retailer can pass this tax along to the consumer, because we operate under a state law which provides a mark-up which we cannot extend over. So we are faced with a situation where 22, 23, or 25 per cent of our net profit will be absorbed by these business people in the form of this inventory tax.

Now, the question of taxing a product which is already taxed by the State has also been discussed before this Committee last year, and I think that it is very fair and very equitable that since this product is in this peculiar position, where the State collects 5¢ or \$40,000,000 per year - and there is a lot of conversation today about raising it to 6¢ or maybe forty-eight

or forty-nine million dollars per year - that the people of this State are paying sufficient to smoke cigarettes, and that an additional inventory tax, which represents 25 per cent of our net profits, be not tacked on to this product.

We therefore recommend again, and I say that this situation - while I speak only for cigarette distributors - would also hold true for a great many people in the wholesale business. In looking at the table compiled by Dun and Bradstreet, I see in the table of wholesalers that cigars, cigarettes, and tobacco have a net profit of $\frac{4}{10}$ of 1 per cent - this is wholesalers; dry goods $\frac{9}{10}$ of 1 per cent; groceries $\frac{7}{10}$ of 1 per cent; hardware $\frac{9}{10}$ of 1 per cent; and lumber $\frac{1}{10}$ of 1 per cent; etc. No, lumber - I'm sorry, is 1 per cent. These are the wholesale distributors who receive products for one reason. We don't own this inventory; we only receive it as a warehouse receives inventory; we only receive this inventory, break it up into components, move it along to sub-jobbers, move it along to retail stores, and those people sell it. We are in no different position than a warehouse who receives millions of dollars worth of merchandise a year, moves it along to its proper owners, and is totally exempt under the warehouse law from any inventory tax.

So we ask again, as we did last year, that any bill that passes this House - and we are not interested at all whether these assessments are made on a county level, a municipal level, or state level; we ask that any bill that passes this Legislature should contain in it a provision that will deal equitably with the wholesale distributor, who has an inventory which does not represent wealth, does not represent anything that we own, but only represents a bill which we receive from the manufacturer and

represents merchandise which we hardly even see. Some of this merchandise, as a matter of fact, is drop shipped; we don't even see it; all we do is get a bill for it, and it is moved along eventually to the ultimate consumer.

We recommended last year that that part of our inventory which is received for this purpose of immediate transmission to other merchants in the State of New Jersey be exempt from this tax.

I would like to spend a minute on that, because we also handle inventory which should be taxed. We handle cigars, we handle razor blades, pipes, playing cards, toys, box candy. That inventory we move along and sell at a decent mark-up and maybe we make ten per cent gross, and we should pay an inventory tax the same as anybody else. We also have cigarettes that we dispense in vending machines, and I don't know what the net profit is on vending machines; it's probably five or six times what the net profit is in the distribution of cigarettes to stores. That property also should properly be taxed at the same rate as other property. But this property which we receive solely for the purpose of immediately transmitting, or immediate transmission, to other wholesalers or retailers in the State of New Jersey is deserving of some consideration from this Committee, because otherwise we are faced with a confiscatory tax, an inequitable tax, and a tax that is unfair to my industry, and I hope that you gentlemen this year will give me a little consideration.

CHAIRMAN DUMONT: Are there any questions of Mr. Lewis?

Mr. Lewis, in that bill I think you were quoting from Pennsylvania, did you say they exempted specifically tobacco and tobacco products?

MR. LEWIS: They specifically exempt those products of wholesale distributors where the mark-up is very low without using that as a yardstick, but they exempt wholesale meats, wholesale groceries, wholesale dealers in dressed poultry, wholesale dealers in rough and planed lumber, and wholesale dealers in grain, and wholesale dealers in cigarettes. I think they use the argument and we use here that there are certain industries where this inventory or mark-up is very small, and at the public hearings held in Harrisburg they determined that these are the industries that would be most damaged by this type of tax and they were specifically exempt from the business tax in the State of Pennsylvania.

CHAIRMAN DUMONT: But you are pleading the case only of cigarettes?

MR. LEWIS: No, Senator, I am pleading the case of all wholesale distributors who are in the same predicament as the dealer in cigarettes. It is the wholesale distributor who is receiving goods for the purpose of immediately transmitting it to other people in the State. This tax will be collected; it will be collected at the retail level, but under the present bills this tax will be collected three times before it reaches the consumer.

CHAIRMAN DUMONT: Any questions of Mr. Lewis? (No response). Thank you very much.

The next witness is Mr. Thompson, Assessor, Bernards Township.

HAROLD THOMPSON: My name is Harold Thompson and I am the Assessor of the Township of Bernards, Somerset County.

Senator Dumont and Assemblymen, I come to you as Exhibit A, as just a humble tax assessor in a rural community that has

problems. I think there must be in the 567 municipalities in the State of New Jersey at least 566 assessors who could probably do a better job here than I. And my only reason for coming to this public hearing on these various bills that you have before you is to plead, if I may, that you attempt to look at the general subject of property taxation in the State of New Jersey through a humble assessor's eye, if you will. Remember that a great many of us are part-time people interested in trying to do a job on a very complicated problem.

Historically, perhaps, assessing was a very easy job in New Jersey when none of us lived in more than a log cabin on an ordinary piece of ground. But with this thing called progress, our problem gets to be quite complicated. When you make up your bills and your laws, I plead with you again that you try to simplify them so that someone as humble as I can understand what you have in mind.

We have heard all sorts of semantics this morning; we have heard lip service given to ratios ad infinitum. Quite frankly, don't forget that in my humble judgment in the last five years, if you will, there have been tremendous strides made in the State of New Jersey to try to get a little better equity of taxation in this great State of ours. I think the Department of Local Government, with what it has been doing with its SR-1 forms and its review of all sales of real property, has done a tremendous job. In this facet of our tax work, we think we have made wonderful strides. There are very many other industries - railroads, if you will - that have not been treated as fully as has real estate. But please bear with us. We think the present status quo - or I think, at least - can be improved upon without getting into the verbiage of some of these Senate bills, whose language, quite

frankly, loses me before I even get started.

If you will look at the problem as an assessor has to look at it, our one and only point of existence or our reason to exist is to try to spread the tax load in our individual municipalities equitably to all. Now don't give us - I shouldn't use the word "garbage" - but don't give us a bill that is going to have different ratios, different percentages, applying to this, that, or the other. I happen by profession and vocation to be a realtor and an insurer. I am a little bit fed up with book manual applications to what is basically a judgment thing anyway. I have heard this morning about industry being abused, that the area in New Jersey is not particularly good at the moment to bring in new industry. I happen to be one of those municipalities that has been revalued of late. It's a strange thing, and I make this as a public confession - that most of my industry and my business have in fact got a reduction in tax dollars when we had them revalued. This goes back historically, I think, to the way our old predecessors used to assess things. If a man had a lot of property, it was presumed by the assessor that he probably could pay more taxes. The man with the big corner store usually was the big shot, if you will, in his community and he paid more. As we were revalued in the last two years, this was changed. My larger industrial installations that go through my community - and I only have one real industry in my community; I do have several privately-owned utilities in my community - each one of them, by the revaluation program that we followed, were actually reduced in taxes. In fact, one of our privately-owned water companies, for example, was actually reduced in its tax contribution in my municipality from \$59,000 to \$36,000 in one fell swoop. This is quite a reduction. Most of my businessmen

actually got a reduction.

I ask you please to simplify our problem; use one constant uniform ratio to true value. We talk about ratios, we talk about percentages. I ask you - percentages of what? It's the "What" we are really after here. I'm looking, as an assessor, at the valuation of a house. I'm looking at the valuation of a factory, of my stone crusher, of my water works, of my gas line -- its true value, its alleged market value at October 1st, at the pre-tax year. Against this, I have applied a 20 per cent ratio and everybody is happy; even my little people in the humble \$10,000 house like the idea that they are being treated with the same percentage of valuation as I treat the big baronial estate.

Thank you very much.

CHAIRMAN DUMONT: Any questions of Mr. Thompson?

SENATOR SANDMAN: I have a question: Mr. Thompson, I gather from what you say that you would be in favor of a uniform rule which is statewide. Is that correct?

MR. THOMPSON: To what rule do you have reference, sir?

SENATOR SANDMAN: That all property would be assessed at the same ratio of assessment in all the counties.

MR. THOMPSON: Ratio to me means nothing. It doesn't mean a thing, sir. Academically, if a house in Essex County is valued at \$10,000 and a house in Somerset County is valued at \$10,000, and you have a ratio of 50 per cent and I have a ratio of 20 per cent, it will not make any difference in the tax dollar that that individual house-owner pays. So I don't care one jot whether the ratio changes or not. What I am interested in is that the \$10,000 house in Essex, compared to the \$10,000 house in Somerset, will have the same treatment.

SENATOR SANDMAN: Well, you say one thing in here that has me a little bit confused. You do not want the Legislature to impose different ratios on different kinds of property, which spells out that you are against any kind of classification. Is that correct?

MR. THOMPSON: On different kinds of property, I see no reason that there should be different ratios.

SENATOR SANDMAN: All right. Now let me ask you this: Classification, of course, is assessment according to use. Correct?

MR. THOMPSON: Yes.

SENATOR SANDMAN: All right. Now, if you follow the tax assessor's manual and you assess a farm as a farm, are you not then engaged in classification?

MR. THOMPSON: Well, as a farm, sir -- I happen to be in the real estate business. As a farm, it's probably worth less than if it were a 400 house subdivision.

SENATOR SANDMAN: All right. Now, in your opinion, should the land be assessed according to its true value or according to its value as a farm?

MR. THOMPSON: According to its value as it is presently being used.

SENATOR SANDMAN: That is classification, and that's the thing you say you are opposed to.

MR. THOMPSON: That's not classification, sir.

SENATOR SANDMAN: It's assessment according to use.

MR. THOMPSON: A corner in my municipality on which a house may exist might be worth \$5,000 to the house man; that is, the land itself. But that same corner lot - Heaven forbid, I'm not dealing with Esso - but to an oil company, it might be worth

\$25,000. That doesn't necessarily mean to the householder it's worth \$25,000.

SENATOR SANDMAN: My problem is this: Let's assume we have two tracts of land, the same size, the same shape; one right next to the other, absolutely a square. One is a hundred acre farm; the piece right next to it is a hundred acres of development property but vacant. The hundred acres which is used for development, let's say, is worth a hundred thousand dollars - the true value of that land. The farm right next to it as a farm is only worth, let's say, \$25,000. Now, the true value of the land, the real true value of the land, whether it be a farm or what it is, is a hundred thousand, is it not?

MR. THOMPSON: No, sir. It's where you lose it.

SENATOR SANDMAN: Well, that's where you lose me.

MR. THOMPSON: Well, a hundred acres of land that has a potential, shall we say, of being a 100 house site - it has that potential but it still hasn't created that \$100,000 value until it is broken up into its 100 house sites. I go to the concept of use for value, but this again is in the appraiser's judgment.

SENATOR SANDMAN: All right. Now let's assume you are sitting on the County Tax Board and you are listening to an appeal of this case. You have two pieces of land, identical, both barren, nothing on them, and one piece is sold to a real estate developer for \$100,000. At true value, he goes on the books at \$100,000. The deed reflects that he paid \$100,000 for it. Let's assume that that is the fair market value. The piece right next to it wasn't sold; it's still retained and there is corn growing in the field. What is the true value of that - the same land, same area?

MR. THOMPSON: Well, one isolated sale, sir - I'm not trying to run away from the question, but one isolated sale

is not going to necessarily establish that each 100 acre tract in that municipality has the same value.

SENATOR SANDMAN: Let's assume it's not an isolated sale. Let's assume that the going price of vacant land is \$1,000 an acre; one man sells his for \$1,000 an acre, the other man keeps his and grows corn on it. Right?

MR. THOMPSON: Right.

SENATOR SANDMAN: Because he grows corn on it, let's assume as a farm it's only worth \$25,000. The man who is paying \$100,000 files an appeal with the County Tax Board and he proves his case; the contiguous land is assessed at 25 per cent of what his land is being assessed. As a member of the County Tax Board, how would you judge such a case? Would you grant relief to the person who is filing such an appeal?

MR. THOMPSON: Well, since, of course, I would use his own purchase price against him, I don't think he would get very far with me, sir.

SENATOR SANDMAN: He can certainly prove that it's contiguous land, the same value, yet his neighbor is paying only one-quarter as much as he is paying.

MR. THOMPSON: Well, his neighbor's land might well in my mind start to rise in its value - one farm left in the middle of a whole subdivision, I think its land is going to have to come up until actually it would almost put the farmer out of business.. He couldn't possibly afford to farm on \$1,000 an acre land.

SENATOR SANDMAN: Now that is precisely my point. I believe in classification, as dirty a word as it may be. But we cannot assess a farm as a farm unless we believe in

classification. Don't you agree with that?

MR. THOMPSON: Well, you are using this language of classification in these lands. I have used the generality of classification over everything - business, land, personal, real estate, and what not. Your views would seem to intimate to me that you want varying ratios against the true value of the various categories that we have in our assessment picture.

SENATOR SANDMAN: The bill which I favor, which, of course, is my own bill, only has three categories of classification for very necessary reasons. If you assess according to true value under uniform rules, no farmer can exist in the State of New Jersey. For that reason we must have classification on that one item. Correct?

MR. THOMPSON: Right.

SENATOR SANDMAN: So, therefore, we cannot be so strongly opposed to this dirty word "classification."

MR. THOMPSON: All right. I will agree with you on that.

SENATOR SANDMAN: Thank you.

CHAIRMAN DUMONT: Any other questions of Mr. Thompson?
(No response).

Mr. Thompson, there are a couple of things that I'm not clear about here. I gather that what you are talking about is that you want the standard of value the same all over the State, much as the State Constitution now prescribes; that is, that all real property, regardless of the use to which it is put, be assessed at the same standard of value. I take it you don't like the idea of different ratios. Is that correct?

MR. THOMPSON: Yes, sir.

CHAIRMAN DUMONT: Well, then, aren't you in essence saying that you like the present law?

MR. THOMPSON: It isn't too bad, sir.

CHAIRMAN DUMONT: All right. That's all I want to find out, what you prefer --

MR. THOMPSON: There are a number of facets of--

CHAIRMAN DUMONT: -- because we have before us today, aside from the three approaches - municipal, county, and state - we also have the other approach of just leaving the law the way it is, or as it is being interpreted by the Supreme Court, which is not exactly the way the assessors have interpreted it over the years.

Now, you are in favor, then, of the same standard of value remaining, but you don't want any ratios.

MR. THOMPSON: That's correct.

CHAIRMAN DUMONT: You want to fix your own ratio, actually?

MR. THOMPSON: Yes.

CHAIRMAN DUMONT: So that really what you are in favor of is the present law, but you would like to get rid of what? - full and fair value assessing that is in the present statutory law which requires the interpretation of a hundred per cent assessing?

MR. THOMPSON: Well, Senator, in fact, in the specific realm of real estate with which the Local Property Tax Bureau treats, are we not, when they adjust my ratios to 100 per cent of true value by the sale sampling that they take - aren't we back on a 100 per cent thing now?

CHAIRMAN DUMONT: We have been for a long time if the present law had been followed, Mr. Thompson - 100 per cent assessing with regard to both real and personal property but it

wasn't until the court decisions came that assessors started to - and everybody else besides, not just assessors - because I know how difficult your job is - but everybody began to realize that we would have to start observing the Constitution and the legislative mandate, the implementing legislation of 1948, which has the full and fair value clause in it.

I take it then that you prefer what we have in the law today; is that correct?

MR. THOMPSON: If all facets of what is in my tax aggregate are treated as well as has real estate in the past five years, I think our problems will disappear, sir.

CHAIRMAN DUMONT: Well, then, you think that if the courts of New Jersey ordered assessors, as they in essence are doing by degrees here in the Ridgefield Park case - if they would order all the assessors in a county to assess real and personal property at 100 per cent of value, you think that would be the answer then? Is that what I gather from your remarks?

MR. THOMPSON: Yes, and in fact that is what has happened in my municipality. So in spite of the fact that I am at a 20 per cent ratio, the State Local Property Tax has promulgated a percentage multiplying my assessment ratios up to the full 100 per cent. So it will make no change for me except to change my municipal tax rate, if you will, from \$10 down to approximately \$2.00. That's what it will actually do.

CHAIRMAN DUMONT: Well, all we are interested in is the opinion of you folks in the field who have to work with these laws. We want to know which of all these different approaches you favor. That's why we are holding these hearings.

MR. THOMPSON: I think if the various classifications -

and I use that word in the broad sense now --

CHAIRMAN DUMONT: You are talking about categories such as machinery and inventory, household goods, etc.

MR. THOMPSON: Yes, if they are all treated the way the Local Property Tax Division has done with realty alone, I think our problems would disappear.

CHAIRMAN DUMONT: But you don't want different ratios assigned to different categories, is that correct?

MR. THOMPSON: I do not. I would rather have a uniform ratio.

CHAIRMAN DUMONT: Now, why do you say that simply because there is a building subdivision or an industrial site next to a farm that that would have an influence on raising the value of that farm in your mind as an assessor when actually it is in active use agriculturally?

MR. THOMPSON: Because it demonstrates, sir, that the farm does have that potential of attracting another industrialist to it. That's about the only indication you have.

CHAIRMAN DUMONT: But isn't that feeling on the part of an assessor likely to drive farming, as a business, out of New Jersey?

MR. THOMPSON: Quite frankly, sir, my community - to answer you specifically and rather academically - when my community was revalued, I sat down with our revaluation group and I said, "Look, gentlemen, let's be realistic about this. These farm barns in my community have actually lost all of their value because no one can possibly use them as such," and, as a result, when we revaluated these farms, the farm buildings themselves would decrease, functionally, if you will, to almost ridiculous extremes. We are driving farmers out of my rural community today. They can't stand

the gamut of the real estate promoter who comes in and pays a thousand dollars an acre, because if anyone farms - and I am sure you have, sir - no one can farm a thousand dollars an acre land in the State of New Jersey.

SENATOR SANDMAN: From that, you really spell out the real need for classification.

MR. THOMPSON: Perhaps, I do, sir.

SENATOR SANDMAN: Because agriculture is an important part of New Jersey's --

MR. THOMPSON: The Senator has straightened me out. It probably should have been on categories.

CHAIRMAN DUMONT: Of course, we get different reactions from that. I don't think that justifies classification. I think it really means that the assessor has got to realize that this is farm land in active agricultural use, and the mere fact that you have an industrial plant or a building subdivision near it is no reason they should raise the value of that farm land in active agricultural use.

MR. THOMPSON: As a matter of fact, Senator, I have an appointment with the Local Property Tax Division next week, the 23rd to be specific, when I am going to plead the case that it is not until the land is in use by an industry or in use by a subdivider that the value be changed.

CHAIRMAN DUMONT: Are there any other questions?

Thank you very much, Mr. Thompson.

I have a couple of problems here about trying to get people off on time, etc. Mr. Levet, member of the Committee on Municipalities of the New Jersey Taxpayers Association, Are you ready, Mr. Levet? Is yours a long presentation?

WILLIAM B. LEVET: No, not particularly.

My name is William B. Levett. I represent the New Jersey Taxpayers Association, of which I am a member of its Committee on Municipalities.

For the past two decades the Association has studied closely developments in the field of property assessment administration. This study has resulted in recognition of certain broad principles essential to a sound and equitable system of property assessment. These have been stated in testimony before legislative hearings in earlier years. They likewise form the basis of Association testimony at this hearing. Review of present circumstances reveals no sound reason for departure from these principles.

Statewide Standards of Value

At the root of New Jersey's assessment dilemma is the question of whether property in New Jersey shall henceforth be assessed under statewide uniform practices, regardless of municipality or county, or whether local variations will be sanctioned by law.

While there may be great difference of opinion as to which course to pursue, these two possible courses of action are mutually exclusive. They cannot be reconciled. The law must either specify uniform statewide uniformity or permit local option.

Between these choices the New Jersey Taxpayers Association reiterates its stand for taxation of property under a system of uniform standards for assessment purposes, applicable uniformly throughout the State. It believes that all real property in the State should be valued for tax purposes in accordance with one

statewide standard of value and that assessment should be carried out everywhere at a uniform proportion of that standard.

The Association believes that the economic development of the State will be thereby enhanced. No opportunity should be lost to promote rather than discourage the balanced economic growth of a state so relatively small and interdependent as New Jersey. Varying proportions of a statewide standard, would foster competitive assessment practices and unnecessarily complicate property taxation.

Stability in assessment policies -- an important factor in industrial location and expansion -- will not be attained if municipalities continue to under-assess industry in order to attract it, and later overassess it to meet mounting costs of local government. Uniformity in assessment policies would improve the industrial climate of the State by removing the hazards and vagaries of assessment from the levying process. As a result municipal tax rates would truly reflect the comparative costs of local government, and inter-municipal competition would then be based more clearly on relative efficiency of operation and extent of services.

Statewide uniformity is essential to the integrity and understandability of assessment administration. If equity in property assessment is to be achieved, rules and general procedure must not only be standardized in law and practice but also made understandable to the taxpayer.

In like manner, statewide uniformity in assessment policies is needed if there is to be any uniformity in (1) the effectiveness of school, municipal and county debt limits, which now are based on a variety of assessment levels, and (2) in the actual value of veterans' exemptions, the worth of which now varies with the local level of assessment.

Measured by the foregoing principles, it is evident that Senate Bill 1 is the only bill that provides the desirable features of statewide uniformity in application of the standard of value.

Also to be noted is the questionable constitutionality of a bill, such as Assembly Bill 198, which would permit each county to establish its own assessment levels. This subject needs no further comment here except to note the practical certainty of litigation to test its constitutionality, should such a bill be enacted.

Proportion of Value for Real Property

Association policy has consistently favored the uniform assessment of real property at a proportion of not more than 50% of true value. Such fractional assessment is provided in Senate Bill 1.

Personal Property Ratio

The Association has long taken the position that tangible personal property should not be treated in the same manner as real property with respect to the applicable standard of value and proportion thereof. The ultimate danger in present personal property taxation is that the full letter of the true value law could be enforced with devastating effect on all New Jersey business and on all taxpayers who possess household goods.

The impact which changed personal property taxation could have on business is related not only to the percentage of true value at which it would be assessed, but also ^{to} the relationship which this percentage in turn would bear to the percentage at which business real property is assessed. While unfortunately knowledge is still lacking as to the potential effect of any proposed personal property assessment ratios, it is clear that any ratios which are selected would have widely varying effect throughout the State, and might seriously hamper the healthy development of New Jersey's statewide economy.

This is far from being a problem of concern only to business. At issue are job opportunities for everyone -- in industries, stores, service establishments and professions, all of whose welfare rises and falls with the entire economy of the State.

Neither Senate Bill 1 nor Assembly Bill 198 provide for taxation of machinery and equipment at a lower ratio than for real property. However, both specify net book value as the standard and both specify a differential in the case of inventories in providing a one to four ratio between the assessment of inventories on the one hand and real property and machinery and equipment on the other. Assembly Bill 198 provides further that raw materials, supplies, work in process, and small tools would be removed from taxation.

Both major bills specify the assessment proportion for machinery and equipment at parity with that for real property. There is great uncertainty as to the potentially harmful effect this might have upon commercial and industrial taxpayers. The lower ratios and exemptions upon inventories provided in Assembly Bill 198 would tend to offset this effect, and for this reason would be a desirable addition to Senate Bill 1.

Both Assembly Bill 198 and Senate Bill 1 provide for assessment of household personalty at a 50 per cent ratio, although Assembly Bill 198 permits exemption upon local option. This latter provision could lead to inter-municipal competition. Should the tax be retained, however, the practicability of equitable assessment is highly questionable, particularly at 50% as provided in the bills.

In the light of the various proposed changes, the Association reiterates its earlier recommendation that the Legislature provide an intensive study during the initial year of enforcement so as to be in position to move quickly to overcome any effects which may be serious enough to hamper the healthy development of the State's economy.

Workable Appeals Procedure

For a number of years, many New Jersey taxpayers have been stymied in their efforts to obtain tax relief in discrimination appeals because of the absence of statutes providing for (1) a relatively simple and practical appeals procedure, and (2) recognition of the common level of assessment in the municipality as a base from which to measure discrimination. Senate Bill 2 is designed to accomplish these purposes and is therefore a desirable bill. Enactment of such legislation is long overdue and should accompany any general bill providing for a new system of standards of value and assessment. It is suggested however, that consideration be given to the practicability of narrowing the proposed percentage spread of permissible variations from the common level in Senate Bill 2 to a lower figure than the proposed 30% range.

Assessment Period

Because of long-term trends in the property market, and the need to provide a periodic and systematic review, all property should be subject to reassessment at three to five-year intervals. Assembly Bill 198 provides for three-year reassessment, but only in connection with revaluation programs. A uniform three to five-year period for comprehensive reassessment should be a feature of any major assessment revision legislation.

CHAIRMAN DUMONT: Are there any questions of Mr. Levet?
Mr. Matthews?

ASSEMBLYMAN MATTHEWS: Mr. Levet, two expressions in your statement interested me. The first one, of course, is your disagreement with the idea of countywide ratios. I note that your criticism of countywide ratios is based on a few reasons you recite, one of them being that varying proportions of a statewide standard

would foster competitive assessment practices. Could you explain that a little bit more fully for me?

MR. LEVET: We believe that, as a practical matter, a higher degree of equitable assessment would be obtained by the statewide standard.

ASSEMBLYMAN MATTHEWS: Presupposing that all counties used the same standard of value, which basically is your test of assessment, and all municipalities within a county used the same ratio of true value, where could there be competition between counties or municipalities?

MR. LEVET: If the theoretical relationship, mathematical relationship, between the assessment and the taxability, or the tax rate, could be maintained, theoretically it should make no difference. It is our belief, however, that as a practical matter those ratios and the relationship are not adequately understood and are sometimes not clearly expressed and that there is misunderstanding with respect to those standards.

ASSEMBLYMAN MATTHEWS: Well, as a practical matter, that could happen with a statewide ratio too, couldn't it?

MR. LEVET: It's theoretically possible.

ASSEMBLYMAN MATTHEWS: I think, Mr. Levet, and this is my personal opinion, that much of this sentiment toward statewide uniformity vis-a-vis county uniformity is based upon the idea that a statewide ratio is more easily understandable by people; that is, an industry could be in Bergen County and could think about moving to Senator Sandman's Cape May County; knowing that everybody assessed at one hundred per cent, all they would have to do is look at the tax rate down there in the back of the Legislative Manual and find out what their tax rate is going to be. I think basically that's the real reasoning behind statewide

uniformity as against county uniformity. Do you agree with that?

MR. LEVET: Not only the understandability but the practical establishment of those ratios, or of those valuations; we feel there would be a higher degree of uniformity and a higher degree of equitability.

ASSEMBLYMAN MATTHEWS: If every assessor does his job under countywide uniformity, you don't think there will be municipal or county raiding then, do you?

MR. LEVET: We think there is a greater probability by this statewide standard. We feel very seriously that that is a very important factor.

ASSEMBLYMAN MATTHEWS: I'm not going to get my answer whether the assessor does his job or not though, am I, Mr. Levet?

Now the only other item I would like to question you on is the recital that also to be noted is the questionable constitutionality of Assembly 198 which would permit each county to establish its own assessment levels. Have you or your organization done any investigation on that?

MR. LEVET: We have not had an opportunity to make as thorough an investigation as we would like. If there are specific questions--

ASSEMBLYMAN MATTHEWS: I have a little quote here that I would like to read for the people who raise that point, a very short one: "The direction for the assessment of property under general laws and by uniform rules according to its true value; the standard laid down in the 1875 amendment to the 1844 Constitution requires and is fulfilled by such regulations as should impose the same percentage of its actual value upon all the taxable property in the township for township purposes, in the county for county purposes, and in the state for state purposes."

Now, as you know, the language in the 1844 Constitution is more stringent than the language in the 1947 Constitution. This quotation which I read comes originally from the case of Stratton vs. Collins, decided by our Supreme Court in 1881. It was affirmed many times subsequent to that, but interestingly enough the last time that decision was recited, to my knowledge, was that it was reaffirmed in Justice Heher's decision in the famous case of Switz vs. Middletown. So I think if you will read paragraph 5 of Roman numeral I of Justice Heher's opinion in Switz vs. Middletown, the cobwebs of unconstitutionality pertaining to Assembly Bill 198 will be brushed away.

MR. LEVET: Well, it is our view that it's likely to lead to litigation.

CHAIRMAN DUMONT: Any further questions? Assemblyman Musto?

ASSEMBLYMAN MUSTO: I have only one question: I notice you say that the law must specify either uniform statewide uniformity or permit local option. I am interested in that "permit local option." What do you mean by that?

MR. LEVET: With respect to the alternative of the counties.

ASSEMBLYMAN MUSTO: You would rather it be on a tax district basis ; in other words, by municipalities.

MR. LEVET: No. It's the contrast between the statewide standard and the county or a lesser size municipality.

ASSEMBLYMAN MUSTO: State uniformity or local uniformity?

MR. LEVET: Well, it's the State--

ASSEMBLYMAN MUSTO: State or municipal?

MR. LEVET: State or municipal, including county as municipal.

ASSEMBLYMAN MUSTO: You include county as municipal?

MR. LEVET: In a broad sense, yes.

CHAIRMAN DUMONT: Mr. Levet, I gather from your presentation that your organization is definitely for statewide uniformity and that you are not advocating the passage of anything else.

MR. LEVET: It's the principle that we want to emphasize with the supplemental references made to--

CHAIRMAN DUMONT: The principle of statewide uniformity you are for, and you are not for any other principle of countywide uniformity or municipal uniformity, or anything else. Right?

MR. LEVET: That's right.

CHAIRMAN DUMONT: It is suggested that I ask you the question -- All right, Mr. Matthews will ask you a very practical question here.

ASSEMBLYMAN MATTHEWS: Mr. Levet, if it becomes obvious that the Legislature, for reasons of its own, cannot successfully pass a bill calling for statewide uniformity, would you rather see a bill calling for countywide uniformity rather than a continuation of present practices?

MR. LEVET: It is probable that that would be some progress, although some objectional features of the present law might be thereby continued. But it would be some progress.

CHAIRMAN DUMONT: But you don't feel that it would be as much progress as if there were statewide uniformity?

MR. LEVET: That's right.

ASSEMBLYMAN MUSTO: You wouldn't want to be as happy as we were before the Supreme Court decision, would you?

MR. LEVET: I don't think that I can add anything to that.

SENATOR SANDMAN: As I understand the position of the

New Jersey Taxpayers Association, you are in full accord with the Switz decision and you don't desire any change in the present law, as I understand it.

MR. LEVET: No, there are objectionable features in the present law that are not practically put into effect. If you mean that there may be basic provisions which, if enforced, are fully complied with under the present law, in accordance with the Switz and other recent decisions - it may be that there are ample remedies by administration in that sense.

CHAIRMAN DUMONT: Any other questions? (No response)

Thank you very much, Mr. Levet. The next speaker is Mr. Holtz, member of City Council of the City of East Orange.

ELMER F. HOLTZ: Senator Dumont, Senator Fox, and Assemblyman Matthews: The purpose of my presence this afternoon is to express to your Committee the sentiment of the East Orange City Council that the provisions of Assembly Bill 198 be amended to include authorization to the tax assessors of the several municipalities of this State to obtain from the owners of real property income and expense statements and provision for failure to comply therewith, and further to include subpoena powers in the tax assessors, with violations thereof punishable by the courts for contempt, the powers being for the purpose of compelling disclosure of information essential to proper assessment practices on both real property and personal property.

The problem at the basis of this proposal is one which particularly affects the assessment procedures in the City of East Orange, and we believe that it also affects a great number of municipalities throughout the State. We have particular reference to Section 30 of the present bill; it is on page 15 of the draft, in which the proposed amendment to R.S. 4:34 deletes

the reference to R.S. 54:4-9 which applies to the owners of personal property being examined on oath, and Section 16 of the Personal Property Statute which has been construed by the court to affect personal property assessments only and not to be applicable to real estate. The suggestion, therefore, is that Section 30 of this act or any other bill that is passed in connection with the assessing procedure be amended or incorporate in it a supplement to present section 34 of Assembly 198 to embody in that section language comparable to R.S. 54:4-16 and make it applicable to real estate. The factual basis for this suggestion can be shown by the results of a sampling check, for example, of 16 properties which tested on the assessments in the City of East Orange. On those, 10 owners filed no statements; 6 statements were filed. This, of course, is less than 50 per cent on that small sampling, and a doubling of that sampling, a list of 29 properties - 13 owners filed no statements, 9 were filed late in the year, in December, and some in 1960.

Now, it is impossible for the assessors to perform their duty of appraisal with that type of cooperation from the owners or that type of disclosure of essential information. The seriousness of the problem of the assessors is also evident from a comparison that in about five million dollars of ratables involved in these sampling tests, reductions of \$481,000 granted in 1958 on a revaluation program, apparently without any factual basis on which the assessors can reasonably estimate the valuation; \$481,000 escaped taxation, in large measure partly because of the inability of the assessors to obtain the proper data.

It is our proposal that these statements which require the inspection and study be put on a basis where it can be more effectively enforced. It is our judgment that the highest

valuation provided in the present statute, or the new term of taxable valuation applying in Assembly 198, is not a real solution to this problem. It is essentially only a gamble or a game of chance in the matter of the assessment practice. It also invites expensive appeals and trial hearings. The procedure itself on the hearing under the present practices is a difficult one because most of those hearings are conducted under pressure and it is not unusual to see as many as 32 appeals in one day handled by one Commissioner in the County Board of Taxation. The owner then testifies vaguely or very generally, submits some statements or lists with little or no time for verification. If the County Board concludes on the hearing that the amount is proper, a reduction is granted, and had that information been submitted to the assessors a trial could have been avoided. If the estimate of highest value proves to be lower than a reasonable assessment on the property, of course the owner merely sits tight, and a fair revenue is irrevocably lost to the municipality.

We are seeking in this proposal only a fairness in the assessment procedure. We believe that those owners who file statements should not be penalized by the disclosure of the information and that the gamble that the owner who does not file should not be weighted in his favor. In all of this process, of course, there is a basic unfairness to the small property owner who must pick up the additional tax in the ratables lost through the defect in the present process.

We believe that the proposal will give to the assessors an effective tool to complete their jobs. We, therefore, propose that this amendment of Section 30 be couched in language that would be similar to the present statute R.S. 54:4-16 with reference

to personalty, supplemented by provisions taken from R.S.40:48-26 with reference to municipal investigations, and the provision of the amendment would in essence be that the assessor shall have the power by subpoena to compel the attendance of any person or officer of a corporation to submit to such examination under oath with regard to the taxable real property and personal property of himself, the corporation, or others, or the truth of the matters contained in his or its return of such taxable personal property and such account of his or its real property, including income and expense statements thereof, and for the production of books, papers and documents pertinent to the disclosure of information essential to proper assessment practices on both real property and personal property.

In a review of the bill and in the committee report therefor, the City Council of East Orange respectfully urges favorable consideration of an amendment to overcome a condition which we believe to be a serious defect in the present provisions for the assessment practices under these bills, and that you place in the hands of the assessors an effective tool by which they can make reasonable, proper, and fair assessments. Thank you, sir.

CHAIRMAN DUMONT: Any questions of Mr. Holtz.

ASSEMBLYMAN MATTHEWS: What was that section, Mr. Holtz?

MR. HOLTZ: R.S. 40:48-26. I have a copy of the proposed language.

ASSEMBLYMAN MATTHEWS: We treat Title 54, section 4-34 in both Senate 1 and Assembly 198. These sections of the statute are touched upon by certain amendments. Now, the way we have it in the bill now, it reads: "Every owner of real property of the taxing district shall, on application of the assessor, render a

full and true account of his name and real property and produce his title papers, and he may be examined on oath by the assessor." That language, you think isn't strong enough in its present posture, and you want something similar to 54:4-16, is that it?

MR. HOLTZ: Yes. The present draft of the language provides that they may be examined under oath but gives no procedure under which that can be effectively carried out, and that appears to be the difficulty that our city administration has encountered in working out a disclosure of essential information.

ASSEMBLYMAN MATTHEWS: I see. So what you would like set out is something similar to that in 54:4-16, setting up a procedure by which subpoenas would be served and hearings would be held.

MR. HOLTZ: That is correct, supplemented by the portion taken from 40:48-26 which is a more direct provision for the Superior Court to effectuate the subpoena by contempt proceedings directly in the court. At the present time, it is necessary to make two applications - one for the issuance of an order, and then a further application in the event of disobedience or failure to testify.

ASSEMBLYMAN MATTHEWS: Are you familiar with 54:4-16? Do you have that there?

MR. HOLTZ: I don't have it right here.

ASSEMBLYMAN MATTHEWS: "The assessor shall have power to examine under oath any person or officer of a corporation with regard to the taxable property of himself, the corporation, or others, or the truth of the matters contained in a claim for exemption of any person or corporation and may compel the attendance of such persons and other witnesses and the production of books and papers by his order therefor, designating the time and place for such attendance and production. The order shall

be served on the person, witness or corporation at least two days before the time named, either personally or by leaving it at the residence of the person or witness or at the office of the corporation. In case of failure to comply with the order, the assessor may apply ex parte to the superior court or county court to compel the person or witness so to do."

MR. HOLTZ: I am familiar with that, and I understand the objection of the city administration to that, and the purpose of suggesting the language in section 26 is that it is necessary to make two applications under that section, one to make the application to the court, and there is then a further process issued by the court for the purpose of compelling the witness to appear, and only then, apparently under the present practice, is there any resort to the punishment under the section.

ASSEMBLYMAN MATTHEWS: Thank you very much.

CHAIRMAN DUMONT: Mr. Holtz, as a municipal official, do you have any preference as to the approach that would be used to try to resolve this problem; that is, whether it would be county-wide, statewide, municipal, or leave the law as it is?

MR. HOLTZ: For general purposes of the bill?

CHAIRMAN DUMONT: Well, with any of the approaches that are in these bills that we are now conducting the hearings about; in other words, whether it be a statewide ratio, county-wide ratio, municipal ratio, or leave the law much as it is today. Do you have any preference among those?

MR. HOLTZ: There is no stated preference officially by the Council, so I could not state for them. We, ourselves, use a 50 per cent ratio in the city.

CHAIRMAN DUMONT: On all property, or just real property, land and building, or do you apply that --

MR. HOLTZ: Supposedly on all real property.

CHAIRMAN DUMONT: What do you do with regard to personal property, machinery and equipment, inventories?

MR. HOLTZ: That is at a lesser percentage - either twenty or twenty-five per cent. My memory doesn't serve me on that.

CHAIRMAN DUMONT: Is it the same on inventories as on machinery and equipment, or do you make a distinction between those two categories?

MR. HOLT: I am not in a position to answer that.

CHAIRMAN DUMONT: I see. Thank you very much.

Are there any further questions of Mr. Holtz?

(No response.)

The next speaker is Mr. Alfred Greene, Association of Municipal Assessors of New Jersey and a member of its Tax Study Committee.

ALFRED J. GREENE, JR.: Mr. Chairman, Senators and Assemblymen, my name is Alfred Greene, Tax Assessor of the City of Clifton and President of the Association of Municipal Assessors of New Jersey and member of the Tax Study Committee of said association.

I am appearing here today on behalf of the Tax Study Committee of the State Association. This group is composed of assessors representing a cross-section of the State of New Jersey, such as the Committee that we had last year, and comprises the following individuals and their respective taxing districts:

The Chairman of the Committee is Mr. John J. Connolly, Assessor of South Orange; Mr. Edward P. Markowich, Assessor of Cranford; Merle St. Amour, Assessor of Fairlawn and State Representative of the International Association of Assessing Officers; Marriott G. Haines, Assessor of Vineland; Anthony Berenato, Assessor of Atlantic City and immediate Past-President of the State Association; Walter S. Van Schoick, Assessor of Howell Township; Fred McCoy, Secretary of the Morris County Board of Taxation; and Leslie Freeland, Assessor of West Milford.

The following recommendations are the result of this Tax Study Committee on proposed bill number A-198 and its corresponding bill, S-9. We expressed our views on your bill last year, Senator, S-81, which is S-1 this year, and these pertain to Assemblyman Matthews' bill.

On that bill, paragraph 1, we would like to see it read as follows: All real property subject to assessment

and taxation for local use shall be assessed according to the same standard of value, which shall be the market value of such real property, as of the base year of 1960, with a ten year periodical revision by the legislature of the base year for values, and the assessment shall be expressed in terms of the taxable value of such property, which taxable value shall be that percentage of market value as shall be established by each county board of taxation as the level of taxable value to be applied uniformly throughout the county.

For purposes of this act market value shall be the end result of the correlation of the accepted approaches to value, namely Cost Approach, Income Approach, and Market Data Approach, or any or such parts which may be applicable to the subject property from data obtainable from within the respective taxing districts.

Our comments on these revisions are that Market Value be inserted in place of "true value" because the courts have continuously interpreted "true value" to be synonymous and the same as Market Value, and up to the present there has never been any definition of the term "true value" as such.

We believe the base year is necessary for values because it is the only uniform and equitable method to be undertaken to maintain the constitutional requirement of "same standard of value." The present bill assumes that each district has the capability of revising assessments annually. This is an impossible and insurmountable task which in turn would solve none of the tax assessment problems presently encountered in New Jersey, particularly as far as real property is concerned.

The cardinal principle in the assessment administration is uniform and equitable treatment of taxation. We believe these proposals to be the only means of attaining that result. Under this method all new construction during the interim period would be valued as of the base year of 1960 and would then receive the same uniformity requirements.

In paragraph 2 we recommend no change.

Paragraph 3 -- Each county board of taxation shall establish the percentage of taxable value, between September 1 and September 15, as of the base year for values, and the level so established shall be applied uniformly in such county for the purpose of assessing the taxable values to be used in levying taxes for the calendar year next succeeding the year in which such level was established. The level so established shall remain in force for this 10 year period. In the event that the county board of taxation for any county shall fail to initially establish the percentage level for such county, then until the same shall be done the level of assessment shall be 50% of the market value as of said base year.

Now when taxing districts have completed revaluation, such as many have in the past ten years, until these revalued figures are revised upward all new construction and all changes that have taken place within that taxing district are taken back by that community to the same base year for values. This is the same thing we are advocating here.

We also suggest, as part of an additional paragraph, 3-A, that Senate Bill No. 2 be incorporated as an amendment to this bill, dealing with the so-called buffer as far as a common level

would be concerned. And our feeling is that 15% is practical because under the true value concept or in our thinking of market value, in using wherever applicable three approaches to value you have many things to consider. If you can get it within this range, we think this is as much as can properly be effected by the assessor of the respective taxing districts.

Paragraph 4 - we recommend no change.

Paragraph 5 - The fair value of tangible personal property used in business, other than business inventories, for the purposes of this act shall be a system of incorporating original cost, price adjustment factors up to the base year for values, and uniform depreciation schedules applicable to the personal property affected and such depreciation tables shall not exceed a minimum residual of 25% for assets still in use. So we hope that at a possible future meeting we might come in with illustrations of just how this would take effect in the recommendation that would be made by the Tax Study Committee on this particular phase.

The use of net book value implies possible depreciation options inimical to sound assessment practices because they violate uniform assessment requirements. The use of net book values actually approves different assessments for two assets that may be identical in cost and age but owned by two different companies. The reason is simply the influence of varying depreciation tables. The presumption that all book values have the same uniform cost data in their original form is in direct conflict with sound assessment practices because values constantly change and costs constantly follow these changes.

Net book value completely defeats uniformity in assessment procedures.

Paragraphs 6 and 7 - we recommend no change.

In paragraph 8, line 17, item 1, on all machinery, implements, and equipment and all other personal property other than inventories, farm machinery and farm livestock, the level shall be 50% of the level as is established for the taxable value of real property.

Line 21, item 2, paragraph 8 - On inventories the level shall be 50% of the level established for the taxable value of real property. Inventories shall consist of stocks in trade, and materials used in manufacture in this State, which shall include raw materials, fuel, goods in process of manufacture and completed products.

Line 24, paragraph 8, item (b) - The taxable value of farm machinery, farm livestock, crop and produce shall be established the same as for business inventories.

Now our comments as far as paragraph 8 and our recommended revision is concerned - the formula developed as a ratio of 50% of the level of taxable real property has considered the use of a base year for real property for a 10 year period and it is our belief that this ratio will insure equity and uniformity between real property and personal property.

We are also of the opinion that raw products and goods in process of manufacture should be retained as part of personal property because otherwise there would be a shift in the tax

burden from industry to real property and mercantile establishments.

The ratio should be the same for inventory as for machinery and equipment because otherwise business operating with machinery and equipment would be penalized as compared to a business dealing with inventory at a proposed one-fourth of the level established for taxable real property under the proposed bill.

Now we are also in agreement, gentlemen, that the problems and cures involved in personal property are many times the problems that are incurred and met in real property. We are very cognizant of this fact.

Paragraph 9 - If a base year is established and these recommendations are followed, we find no need for the inclusion of paragraph 9 in there, or else the members of the Committee did not understand its import in this bill.

Paragraph 10 - We recommend no change.

Paragraph 11, line 12 - this has to do with the penalty clause. We would recommend that it read: Any taxpayer who fails or neglects to file a return within the time required by this Chapter shall be excluded from any appeal proceedings for the ensuing tax year.

The recommendation last year as far as the penalty clause was concerned was that the prior year's assessment be automatically increased 50% with no appeal remedy by the taxpayer.

Our comments on this and the reason for our recommendation, as such is that the penalty clause as presently included in the

proposed bill gives the assessor certain optional powers of a police nature. They would require the performance of work that is incompatible with the proper function of assessors and take time from their duties as said assessors.

Paragraphs 12 and 13 - The Committee is in favor of the abolition of household personal property as has been continuously recommended by prior reports of the Commission on State Tax Policy.

There was much discussion on this and the reason we advocated this rather than the simple option to the local community is that our prime requisite in being assessors is to assess properties equitably and fairly and insure the same treatment of taxation. We know of no way that this could be achieved in the burden of household personal property. And we are also of the opinion that it is another form of real property tax. The only impact that it might have would be in the community that would have a good part of their ratables in apartment properties, and this would then be another form in respect to a tenant tax.

Paragraph 14, line 1 - After all taxing districts have completed revaluation programs as of the base year for values according to standards and procedures prescribed by rule or regulation of the Division of Taxation and shall cause all real property within the district to be assessed at the taxable value thereof in accordance with such revaluation program, the taxable valuations so made shall remain in effect for a period of 10 years -- we are revising that from the three year period and it is our thinking and we advocated biennial

or triennial assessment to be considered by this Legislative Tax Study Committee. We think this might be in accord with that thinking. We do not think it is practical nor economically feasible to require taxing districts to revalue or revise total assessments within such a short period as every three years, nor five years. I think it requires at least a five year study to find out what even the economic change in a taxing district is. And the recommendation of 10 year revision by the legislature of the base year for values is in the same thinking as has been followed by many other states that have been compelling revaluation programs for many, many years.

We also recommend that all dates not consistent with the proposed recommendations be revised according to the tax year of 1963. All true value concepts retained in this bill be amended to read market value.

Parageaph 41 - This act shall take effect as of October 1, 1962 for the tax year of 1963. And these dates could only be met if there is the administrative machinery available within the respective counties. There is going to be a tremendous change-over and administrative problems to be encountered. Regardless of what bills are going to be passed by the Legislature this year it can not be an automatic assumption that this machinery is going to be put in effect in a short period of time.

Now these are the same recommendations as will be submitted to the Executive Committee of the Association of Municipal Assessors of New Jersey for approval. We would then desire a future meeting, if possible, with this Committee

to further clarify our thinking on the aforementioned subjects in an informal review where we can bring in, in illustrative form by charts or graphs, just what this thinking is and to complete our studies.

We would also suggest that in the interim period between now and the possible adoption, or putting in effect as of 1963, of these recommendations that the personal property forms, as recommended by A-198, be required to be filed with the districts. These then, in turn, could be forwarded to the Director of the Division of Taxation so that a true and comprehensive study of the impact, particularly so far as personal property or ratios could be studied, may be undertaken when these base years for value go into effect as of 1963.

Now the Ninth Report and even the thoughts reported today and even from our own Committee, I have yet to find anybody who has concrete and comprehensive facts on which to base any ratios or the actual impact that any shift might have on this burden of taxation in the State.

We are in accord with the recommendations by the State Chamber as far as the need for this interim period before anything could possibly be put into effect. And we are making this statement for personal property as well as for real property.

Those are the comments and recommendations by the Tax Study Committee, gentlemen, and we want to thank you once again for giving us the opportunity to appear before you.

CHAIRMAN DUMONT: Any questions?

ASSEMBLYMAN MATTHEWS: I have a few.

CHAIRMAN DUMONT: Go ahead.

ASSEMBLYMAN MATTHEWS: I'll hit the last one first - the endorsement of the transition period as set up by the State Chamber. Do you mean that you think there should be a transition period as such before the legislation goes into effect or are you endorsing the language of the transition change proposed in an amendment to paragraph 37 of this bill?

MR. GREENE: No. What we are advocating, Mr. Assemblyman, is that if we put our thinking across so far as the necessity of a base year for values, this would be based on values as of 1960 to be put into effect, if possible, for the tax year of 1963. We believe at that time that the personal property concept or the revision should also be put into effect at that time and not be done until this whole problem is completed as of that period of time.

ASSEMBLYMAN MATTHEWS: This base year approach that you are using, which you would have subsist for ten years, I am not too sure that I see what you are driving at in the use of a base year. Let me create a situation and see if you can answer it and maybe that might solve my problem.

We are going to use 1960 as the base year, that is we are going to value all property, according to your recommendation, as to its market value in 1960.

MR. GREENE: Yes.

ASSEMBLYMAN MATTHEWS: Suppose that a new building is constructed in 1966. You are going to use the year of 1960 as the base year. Does that mean that you are going to use construction costs, etc. etc., as of 1960 as a base?

MR. GREENE: Yes, sir. That is currently what is being done in every municipality in the State that has conducted a revaluation program. They have to take all new construction, and revisions of values where neighborhoods might change, on a comparative basis back to whatever the base costs and values were for the year that they revalued their properties. Any other treatment would create inequities within that taxing district. And we are advocating that the same principle be followed on a county and state level.

ASSEMBLYMAN MATTHEWS: I can see this being accomplished in the theoretical revaluation situation, where you are revaluing a whole municipality, - and this question might put you on the spot - Do you think, I won't say the average assessor, but that all assessors in the State of New Jersey are qualified to use the base year approach to valuations?

MR. GREENE: I think today they are probably more competent than they ever have been in the past.

ASSEMBLYMAN MATTHEWS: Well, I agree with you there.

MR. GREENE: I only make that statement, Mr. Assemblyman, because of the educational programs that have been continuously conducted, year after year, for assessors, and there has been a big assist from the Local Property Tax Bureau so far as their issuing instructional material for assessors to gain this additional knowledge. I believe that, so far as administratively being able to be done by an assessor, simple indoctrination would make it a fairly simple process to follow. This has proven itself in many other states that have followed this thinking. I am thinking particularly of a state like Ohio.

They had the same problem and they have been doing this since 1923. Michigan, I think, uses the base year. Connecticut does. California does. And many of the other progressive tax states. And I think with everything that you gentlemen in the State have undertaken we are becoming also a progressive tax state in trying to resolve these problems of inequities that are in existence.

The use of a base year then would also almost necessarily call for a revaluation every ten years. Is that right?

MR. GREENE: It would. Yes, it would actually require property to be revalued periodically when the legislature would under this plan cause the level of value of the base year for values to be revised. Now this might not necessarily entail outside revaluation although most other states advocate it. It depends again on the amount of help that is given the assessor and if current studies are able to be kept up or whether its a simple method of factoring this up or whether the assessor will be able to have enough information through the sales ratio studies and cost revisions to be able to actually go out in the field and review those properties.

ASSEMBLYMAN MATTHEWS: How did you arrive at the figure of 10 years? Is there any reason for that beyond that you wanted to use the subsequent decades as base years?

MR. GREENE: We believe and it is our Committee's thinking, and we are trying to take advantage of other states' practices in this where it has been proven -- it is our contention in the appraisal process that we should study the economy of changes for five year periods. We have studied it in communities that had revaluation programs for say 8 years and you do not

find that much of a change once it is set up that the assessor is not going to be able to keep those properties up to value, or that you get these drastic changes. We don't think it would be economically sound, so far as cost or otherwise to the community, any more than at a minimum of 8 years. But the decade thought that you came out with was the afterthought because it was a matter of whether we were talking of an 8 year period or a 10 year period.

ASSEMBLYMAN MATTHEWS: I immediately think of a situation where real estate values can change tremendously, as you say, within a ten year period, even within a five year period possibly, and I wonder if we might not be compounding inequities in a situation like that.

MR. GREENE: Oh, no. I don't know whether I put this across. I am assuming that you are talking about a neighborhood change or a change in a neighborhood because of infiltration of inharmonious groups, or intrusion on property because of changes in zonings or items such as that. That would be the duty of the assessor to make those revisions. This doesn't freeze these assessments.

ASSEMBLYMAN MATTHEWS: It doesn't freeze these assessments.

MR. GREENE: Oh, no, not at all.

ASSEMBLYMAN MATTHEWS: Then there would have to be other changes in the bill to cover a situation like that, I would think.

MR. GREENE: No. I think there is a little misunderstanding on this concept of a base year of value. This doesn't preclude any of the other requirements of the assessor making sure that

equity still exists between similar type properties within a taxing district for these interim periods. Naturally if there are changes, neighborhood or otherwise, or even on individual properties, they have to be reflected.

ASSEMBLYMAN MATTHEWS: Your actual assessment would be made every year and a taxpayer would have the right to appeal that assessment every year? Is that the point?

MR. GREENE: Yes. That's our thinking right now, Mr. Assemblyman. We did undertake a study that was not concluded, so far as our recommendations last year, on the basis of a biennial or a triennial basis of assessment. Now under that thinking that is where the book would be filed only once - the list in its entirety once every two or three years with the revisions in the form of added assessments or changed values under that form. But we encountered many problems under that thinking so we let that stand by itself at this moment.

ASSEMBLYMAN MATTHEWS: To go on a little bit, you suggest that Senate 2 be incorporated as an amendment to 198. Just as a matter of information, that's in the process of being adapted to use with 198. The sponsors of A-198 hope to introduce that in the Assembly when we come back.

MR. GREENE: Well, we are completely in accord with that.

ASSEMBLYMAN MATTHEWS: I notice also that you want to raise the floor on minimum depreciation of property from 20 to 25%. Could you give me your reason?

MR. GREENE: May I have just a moment on that?

ASSEMBLYMAN MATTHEWS: Sure.

MR. GREENE: I do not have all the facts that the Committee resolved on this basis. I do know that it had been raised from the 20 to the 25% level.

CHAIRMAN DUMONT: While you are checking on that, Mr. Greene, I want to go off the record for a minute to figure out our schedule here.

(Discussion off the record)

CHAIRMAN DUMONT: The Committee has agreed to continue this hearing on Wednesday, March 2, at 10:30 A. M. here in the Assembly Chamber.

MR. GREENE: Getting back to your question, Mr. Assemblyman, the 25% bottom level was only at the recommendation of the committees from communities in the states that have used the concept of original cost trended, and have used that as the lower level. And through the study of the practices on the national level this is accepted. But so far as we are generally concerned, there is no great objection whether it is 20 or 25%.

ASSEMBLYMAN MATTHEWS: I raise the point because I understand some of the industrial associations have indicated that the floor of 20 might be too high. That is why I wondered whether you had a definite reason for raising it to 25.

MR. GREENE: Only that it has been accepted in other states where it has been on a national basis. But as far as whether it is 20% or 25, we have no particular preference. But this is on the basis, this bottom, of our thinking of using original cost trended upwards and depreciated backwards, in order to assure equity of treatment.

ASSEMBLYMAN MATTHEWS: I notice also that on personal property you recommend that the level shall be 50% of the level of real property.

MR. GREENE: Yes, sir.

ASSEMBLYMAN MATTHEWS: Did you arrive at this on the basis of a statistical study or just from --

MR. GREENE: No. Our thinking is based on the base year concept for a ten year period, and knowing that personal property has to be done every year. So we tried to project it out into the middle or mid-point, 50% over this span of years, this ten year period, back down to where it does not exceed this 20% level. This is a constant over this ten year period so that it would not in itself be discriminated against because of a rise or fall in the real estate economy. Let's take a basis of 50% as of the base year for values of real property as of 1960. In 1965 that percentage might be 55%. And this is the reason why we have selected this 50% ratio rather than taking it on the same level as the basis of tax for real property.

ASSEMBLYMAN MATTHEWS: I notice that these recommendations were made through your Tax Study Committee.

MR. GREENE: Yes, sir.

ASSEMBLYMAN MATTHEWS: I was just looking at the municipalities listed in the Tax Study Committee and I am wondering whether you consulted with or had any conversations with assessors, shall we say, in more industrial municipalities than those listed. I notice my assessor from South Orange, Jack Connolly, is there. I would be the last one in the world to call ourselves industrial.

MR. GREENE: I agree with you there, Mr. Assemblyman. I believe my community is an industrial community. Fairlawn could be classified under that light. We would have had Mr. Hunt, whom we have had in the past, serve on this Committee but, as you are aware, he has been ill for a while and then he took a vacation so he was not able to serve on this Committee. He just returned this weekend. Otherwise Mr. Hunt would also have served and he represents the largest community in this State. Our previous members from last year were also consulted, and this would include Mr. Breen, Tax Commissioner of Paterson, which is certainly an industrial community. Also the Executive Committee of the State Association, where this will be forwarded, is made up of men such as you refer to.

ASSEMBLYMAN MATTHEWS: Well then, this did come under the purview of those whose problems sometimes in assessing may be peculiarly industrial. Would you characterize their views on it without pinning any individual down? Were they in sympathy? Were they a minority in your Committee? Did they have misgivings or --

MR. GREENE: As a matter of fact, Mr. Assemblyman, as far as the personal property thinking was concerned, they were of the opinion that it should be 75% of the ratio of the level for taxable real property. It was only after considerable study that it came down to the 50% level.

CHAIRMAN DUMONT: What is he talking about? all personal or just machinery and equipment?

ASSEMBLYMAN MATTHEWS: Machinery and equipment.

MR. GREENE: That would be both, Senator.

ASSEMBLYMAN MATTHEWS: Inventory too?

MR. GREENE: Yes, sir.

CHAIRMAN DUMONT: You don't make any distinction between machinery, equipment and inventory?

MR. GREENE: No, sir.

SENATOR FOX: It should be 75?

MR. GREENE: The thinking originally was that it should be a 75% level of the ratio for real property, as of the base year.

CHAIRMAN DUMONT: But now you recommend 50% for both machinery and inventory.

MR. GREENE: Yes, sir.

ASSEMBLYMAN MATTHEWS: Fifty percent of the level of real property.

MR. GREENE: That's correct. As of the base year.

ASSEMBLYMAN MATTHEWS: You referred also to paragraph 9 and you asked that that be eliminated. That's the paragraph that says: "The director shall make, promulgate and enforce uniform rules and regulations for determining whether various kinds of personal property are subject to assessment and if so, at what percentages of fair value provided by law, and for ascertaining the fair value of such property."

Now, that was aimed at covering the situation where there might be some problem as to whether property is personal or real; whether it is personal property, business personalty or inventory; whether it is taxable at all as inventory or not taxable. These are general powers we are giving to the Director of the Division of Taxation to make regulations in that area where a problem might be created.

MR. GREENE: Well our possible confusion in the thinking was because under the inventory concept it excluded raw products in process of manufacture as compared to the finished product, and we thought maybe this was the reason for the inclusion of this. So we are not recommending the exclusion of those items of inventory. But if the other is the reason then we certainly are in accord with that.

ASSEMBLYMAN MATTHEWS: There are two other items I would like to touch upon. I think I am taking all of your time but I am interested in your treatment of paragraph 11 where you would slice out altogether the penalties and just prohibit a taxpayer from taking an appeal from the Assessor's decision.

MR. GREENE: Well that was also discussed at length, Mr. Assemblyman. As a matter of fact, I was still of the opinion that it should be the way we recommended it last year, that there be a penalty clause but not such as this, but rather an automatic increase in the assessment if the taxpayer fails to comply with the statutory requirements then he loses his right of appeal.

ASSEMBLYMAN MATTHEWS: This way we have a penalty for each day a return isn't filed and if it isn't filed - I am trying to remember it -- well, at any rate, we do set up a system of penalties and you are against the proposition of getting assessors in the area to inflict penalties on taxpayers. Is that right?

MR. GREENE: Penalties such as these that are more or less of a police nature, we are. But we are generally in accord with a penalty provision. But we think if you are going

to recommend that, that it be a percentage added on to an existing assessment --

ASSEMBLYMAN MATTHEWS: Rather than the tax.

MR. GREENE: -- rather than something that involves a continuous study of these percentages and the policing of these and more or less following -- the thing you are doing, it would more or less fall into the duties of a collector.

ASSEMBLYMAN MATTHEWS: I think what we would do if we followed your recommendations, I think we would be putting a terrific amount of power in the hands of the local assessors that could be very easily abused.

MR. GREENE: That's why we also were in agreement with that; that's why we recommended last year that a certain part of that penalty clause be removed because it gave the assessor too much optional power. We think this does too. But that's why the final concensus of opinion was that that part be removed, that the taxpayer lose his right of appeal. Under the present statutory requirements if he does not file the required statements as is presently in law, if the assessor has the right to assess it at the level he presumes to exist -- now this answer assumes that - and I think there should be some revision even to this thinking because I am not getting it across properly here -- that it should be based on comparative studies, that he should at least have a basis of establishing this, whether he's doing it on a square foot comparative method or using national standards to arrive at a basis of estimating values. We don't think he should discriminate --

ASSEMBLYMAN MATTHEWS: But the taxpayer has no recompense at all. He's shut out.

MR. GREENE: That's right. Under the present statute, and actually the taxpayer is too shocked at the assessment, he refuses to file in the first instance and if the assessment is not low enough he still has the right of appeal before a county board. This is the reason why we do not have enough information to work with now.

ASSEMBLYMAN MATTHEWS: I can see the background behind it but I wonder whether the cure is worse than the disease.

MR. GREENE: Well I would certainly undertake that thinking, Mr. Assemblyman.

ASSEMBLYMAN MATTHEWS: The last one is, you favor the abolition of household personal property but you don't agree with this local option. Of course, you realize the political problem here on the abolition of the household personal property tax. It was dropped out of the program last year because of the fact that it was going to drag down assessment legislation from passing both houses. The reason for this approach is to put it on an optional basis. And the reason behind the valuation approach is that we know, as well as you do, that nobody in the State is qualified or capable to assess household personal property. So the "X dollars per room" bit was aimed, I think, at justifying a procedure which you fellows have been following for quite a number of years.

MR. GREENE: Yes. That's one of two acceptable procedures of at least administering this. I mean either on a per room basis or a percentage of building value. But

the Committee was of the opinion , such as the previous Tax Policy Commission reports, that this is in effect another form of real property tax except where a tenant is concerned and then he indirectly gets it anyhow. But if it were followed through on an option basis, where it does not enter into the abstract of ratables on a county level or any share of the county tax and this tax is put in revenue such as license taxes in the respective communities, then I don't see why you don't give those respective communities all of the powers of the rules and the enforcing of it and everything else. It doesn't enter into anything beyond that community.

ASSEMBLYMAN MATTHEWS: Well you recognize why it has to be taken out of the county?

MR. GREENE: Yes. Oh, yes, sir. There is no question about that. Yes, we are in agreement with that.

ASSEMBLYMAN MATTHEWS: Well, I think I have taken up enough of your time and I appreciate your answers to my questions.

MR. GREENE: Thank you, Mr. Matthews.

CHAIRMAN DUMONT: Mr. Greene, let me ask you in the abstract now - You are the people in the field who are very much interested in getting laws that are workable from your viewpoint. Which of the various approaches do you prefer? Municipal assessing? Countywide ratios? Statewide ratios? Or leaving the law the way it is?

MR. GREENE: Now this is the Committee's view that I am expressing. We are in agreement that it should at least be on a county level. The problem as we see it, last year under Senate 81, beyond -- now this is with our thinking of a base

year for values and uniformity, and a base year for values throughout the State, the respective county ratios we don't believe would matter materially whether they differed from county to county because the problems themselves vary from Atlantic County to Hudson County, Essex County, and many other counties. There is no tax on a state level involved here. The only reason we think it should at least be on a county level, we thought this had the better possibility of passage.

CHAIRMAN DUMONT: Now, suppose it didn't - aside from the possibility of passage, do you feel that the administration would be better on the state level or on the county level? Which of the two administrative areas would you prefer, regardless of the practical problem of passage in the legislature?

MR. GREENE: Well we are equally divided in our thinking on that. We can't see where there would be any difference at all, Senator. These are the views of the Committee.

CHAIRMAN DUMONT: You recognize that you will have the same kinds of shifts, if you have any shifts at all, within municipalities, under a countywide ratio as under a statewide ratio?

MR. GREENE: I am not certain that I follow you.

CHAIRMAN DUMONT: Well, the point is this, whether you have the ratios established by the County Board of Freeholders or by the State Division of Taxation, you are going to have shifts, if you have any at all you are going to have them from use or class of property to others under countywide ratios the same as you would under statewide ratios.

MR. GREENE: I am not certain --

CHAIRMAN DUMONT: Let's take a specific example. In Hudson County the concern is a shift from railroads to perhaps residential properties. Now, whether the County of Hudson establishes ratios that are uniform in that county or whether the State Division of Taxation establishes ratios uniform throughout New Jersey, you are still going to have that same shift, are you not in Hudson County?

MR. GREENE: If there is at present an inequity between classes of property, we are in agreement with you.

CHAIRMAN DUMONT: Right. Well, that's what we are trying to get rid of, the inequities.

MR. GREENE: Yes, sir.

CHAIRMAN DUMONT: So in getting rid of them if you are going to have shifts, which you probably are, you are still going to have them on a countywide ratio the same as on a statewide ratio. Right?

MR. GREENE: Oh, yes, sir. Yes, sir.

CHAIRMAN DUMONT: How do you feel about the question of whether or not there would be competition, perhaps moreso between counties on a countywide ratio than under a statewide ratio, in the personal property field?

MR. GREENE: If the basis of value would be established as we have discussed in our recommendations, we don't see where the effect of any competition would come in. If, let's say, northern New Jersey is at 50% and, let's say, the personal property is at 50% of that level or 25%, it would be those figures times whatever the local rate would be as decided by the budgets.

And compared to, let's say, Atlantic County, if they pick a ratio of 25% of the market value as of the base year for values and they are using the same 50% or down to 12½% on personal property, I can't see where --

CHAIRMAN DUMONT: Well now, suppose you had 21 different county ratios on real property and in turn you had 21 different ratios on personal property, and certainly that's possible under the countywide ratio system, do you mean then that you don't see where there is going to be any competition between counties?

MR. GREENE: No, sir.

CHAIRMAN DUMONT: Are you talking only about the amendment you are proposing or about the whole?

MR. GREENE: Under our amendment. Everything that I have commented on or said here today --

CHAIRMAN DUMONT: Suppose a bill were to pass as it is now, with the 4-4-1 idea, so to speak, do you mean then there wouldn't be increased competition between counties for business sites?

MR. GREENE: There could be that possibility. Yes, sir. Without the amendment we are recommending, yes, sir.

CHAIRMAN DUMONT: Now one more thing, you mention here at the end that you are going to present these recommendations to the Executive Committee and you mentioned something about conferring with us again at a later date. When would that be?

MR. GREENE: Well, we would hope that you gentlemen might apprise us of that.

CHAIRMAN DUMONT: Well, when are you going to present these to your Executive Committee?

MR. GREENE: At our next meeting, and that could be called any time prior to the meeting which you gentlemen -- if we know when yours is to be set up so that we have all of this information available to present to you as well as to the Executive Committee.

CHAIRMAN DUMONT: Could you submit, as Senator Fox suggests, these recommendations to your Executive Committee before we have the next hearing, two weeks from today, and then come back in and tell us about it?

MR. GREENE: Yes, sir.

CHAIRMAN DUMONT: Would you mind doing that, please?

MR. GREENE: We would be glad to, Senator.

CHAIRMAN DUMONT: Fine. Any other questions of Mr. Greene? Anybody in the audience?

DONALD MORRISSEY: My name is Donald Morrissey, Assessor, City of Trenton.

Mr. Greene, you advocate the standard of value from true value to market value.

MR. GREENE: Yes, sir.

MR. MORRISSEY: Would you define market value?

MR. GREENE: Market value is the highest price estimated in terms of money which a property will bring if it goes on the market by a willing seller and willing buyer, both informed as to all the facts and the uses to which the property is adapted and being fully aware of all the facts.

MR. MORRISSEY: If a buyer who is fully informed of all the facts buys a piece of property, say for an example, for \$6,000 in the eastern section of Trenton and it is assessed for, we will

say, \$2,000; the property is worth less money - obviously it is worth \$3,000, but the buyer pays \$6,000 or \$7,000 because of his need and his inability to purchase property in the better areas; applying a 40% ratio to the purchase price of \$6,000, would you increase the assessment on that piece of property?

MR. GREENE: Not on the basis - you are talking where the purchaser is acting under duress. This does not meet the attribute of a willing buyer and willing seller, nor that he is aware of all the facts as to what the market actually is. If they do not meet these requirements, then I don't think it is indicative of the fair market value of the property.

MR. MORRISSEY: He's fully informed, he's aware of the condition the property is in. He has no other alternative. He must pay the \$6,000 or sleep down here in Stacy Park or over in the Police Station. He would have to pay a 40% ratio on a \$6,000 sale. Yet I can take you to the other parts of our city and show you a property that is worth \$8,500 market value and worth every nickel of it, with an assessment of ratio of 43%. If I place 43% on the \$6,000 property which obviously is only worth only \$3,000, wouldn't there be a shift of the cost of government upon the purchaser of the \$6,000 property?

MR. GREENE: You are talking now about an individual sale in a particular part of a taxing district. One sale by itself is only an indication of value. It is not value itself, it has to be a correlation of other studies to say whether this meets the attributes of whether it is market value or not. One sale isn't going to do that.

MR. MORRISSEY: But, Mr. Greene, we have a general condition of that in the City, and I might add that that general

condition applies to every city in the State of New Jersey.

MR. GREENE: I would say that this could apply to almost all of the older cities in the State of New Jersey.

MR. MORRISSEY: Because of a shift of population. Now we have people going out and paying big prices for property. and obviously it isn't worth the price they are paying for it but due to situations they are compelled to do it.

MR. GREENE: Well, there is only one thing I can say with respect to what you are saying - out of a book or out of a manual or anything else, we cannot get market value; the only one to establish that is the purchasing public, they determine value, all we can do is interpret their actions. If they are doing this in error, establishing that this is the value, that's what it is if that is what they are paying and selling for.

MR. MORRISSEY: That would cause a shift of burden of government upon the poor properties of our community.

MR. GREENE: I don't know where that is but I would say many taxing districts - the City of Passaic probably meets many of these problems you are talking about, but under our present requirements the true value, which the courts have interpreted to be market value -- I think you are in that same position. All we are doing is substituting what the courts have interpreted for true value and calling it market value.

CHAIRMAN DUMONT: I don't want to break up your discussion but I think that is a problem we are going to have to resolve after we finish. We have to get on with a few more witnesses yet.

ASSEMBLYMAN MATTHEWS: I would like to ask Mr. Greene one more question. I stepped outside for the first time today and I understand that you asked the question whether there would be rivalry between counties under the county assessment ratio - competition, rather, between counties under the county assessment bill as opposed to the statewide assessment bill where you indicated that there would not be competition.

MR. GREENE: I said there might be or there could be.

MR. KINGSLEY: A1, the basis of your statement as I understood it was that there would not be competition under a 2-1-1 ratio, which you advocate, - that is, personal property including inventories at 50%, in relation to real property, - that there would not be competition at a uniform, whether statewide or countywide, and we have to recognize that that relationship between those classes of property would be uniform throughout the state even though the assessment ratio itself might vary between the counties. Now, as I understood you, you said that there would not be the possibility of inter-county competition if the relationship were 2-1-1 but there would be a possibility of inter-county competition if the relationship were 4-4-1. Now, that I don't understand.

MR. GREENE: I won't take it up with the Committee, they are all nodding their heads. Offhand, Mr. Kingsley, I can't either. I was interpreting some of the nodding of heads. Regardless of what the varying levels might be, if they are the same levels on a county basis as they are on a state basis they'll have the same effect.

MR. KINGSLEY: That's right.

MR. GREENE: The only change I can see will be in respect to taxing, the tax rates themselves.

CHAIRMAN DUMONT: Let me get something straight. You take 21 different county ratios to real property under the county system, so you have 21 different personal property ratios.

MR. GREENE: Yes, sir.

CHAIRMAN DUMONT: Forget that machinery, equipment and inventories are going to be assessed at the same ratio as you want them, but they are different ratios, - now that doesn't imply that all 21 counties are going to have the same rates of taxation, that's going to be fixed by the municipalities.

MR. GREENE: Yes, sir.

CHAIRMAN DUMONT: So, assuming you have different tax rates, if you have 21 different ratios in regard to personal property, how can you help but have a difference that industries are going to seek out when they come in to the State as a place to locate?

MR. GREENE: I think under either plan, Senator, unless I am missing something here, - I think anything so far as ratios, whether on a county or a state level, or whether they are varying ratios, so long as they are the same proportion of ratio to real property, and I assume we are talking that, that the rest of it would have to take care of itself in the tax rate. So we are only getting part of the problem when we talk difference in ratios or varying assessments because that's only half of the tax problem.

CHAIRMAN DUMONT: But the thing that any industry coming in is going to look at is the number of tax dollars that they pay. Now where you have different rates of taxation, which you are certainly going to have if you have 21 different ratios, - we can have them under one different ratio, we understand that, but you are much more likely to have them under 21 different ratios. Now certainly if there is going to be a difference in the tax dollars that industry pays, it's going to look around before it settles.

MR. GREENE: I don't quite understand, Senator, how the --

ASSEMBLYMAN MATTHEWS: I think what Wayne is confused on is, I think, the different tax rate that's going to be applied. You are going to have that under S-1 too.

MR. GREENE: That's right.

ASSEMBLYMAN MATTHEWS: So there is no difference between A-198 and S-1 from that standpoint. You are going to have a varying tax rate no matter what legislation we pass.

MR. GREENE: As far as X number of dollars that are paid.--

ASSEMBLYMAN MATTHEWS: Right.

MR. GREENE: -- in a community in X county or any other location, whether it is on a county ratio or state ratio.

CHAIRMAN DUMONT: Well I am not going to labor the point. I know there are a lot of us who think that under a countywide system you are going to have far more competition that you are going to have under the statewide ratio, all

other things being equal, transportation, water supply, land, and so forth. And that was brought out this morning, as a matter of fact.

ASSEMBLYMAN MATTHEWS: You are going to have that problem under any system because X township in Cape May County is going to raise less money, through its budget, than A township in Bergen County which is a more complex metropolitan area. Your variables are going to be the amount of money to be raised by taxation; your total assessed valuation of property, no matter what ratio you use, and that's going to result in a tax rate which is a variable.

CHAIRMAN DUMONT: Well we have that today.

ASSEMBLYMAN MATTHEWS: And you will have it tomorrow under S-1 and A-198. There will be no change at all.

CHAIRMAN DUMONT: Elmer, I know we are going to have it, it's just a matter of to how much you are going to have it, that's all, under the different methods.

All right. Any other questions of Mr. Greene?

Thank you very much, Mr. Greene. We will hear from you again in two weeks when you have had a chance to present this to your Committee.

We will next hear from Mr. Richard J. Hughes, Legislative Counsel, Associated Railroads of New Jersey.

RICHARD J. HUGHES: Mr. Chairman, Senator Fox and Assemblyman Matthews: The basic problem confronting the Legislature is to devise a law which will distribute the tax burden equitably among the taxpayers of the State. This equality of treatment is the basis of the Supreme Court's

opinions in the Switz case, the Lackawanna case and the more-recent Ridgefield Park case. Likewise equality of treatment was the guiding principle for the Legislative Conference Group on Full Value Assessment Problems of the last Legislature. That Conference Group drafted several bills for the last Legislature designed to achieve equality. The key Bill was known as S-81. The counterpart of S-81 is S-1, which is one of the Bills being considered by you today. This Bill is a modification of "Alternative 1" as proposed in the Ninth Report of the Commission on State Tax Policy. If enacted into law this Bill would establish a uniform statewide assessment ratio for all property, an end strongly urged by the Tax Policy Commission. The proposed standard in S-1 for assessing real property (Sec. 16 of the Bill) is "full and fair value" and for tangible personal property (Sec. 12 of the Bill) is "fair value". The "taxable value" for both, except inventories, would be 50% of such values. S-4 would amend the Railroad Tax Law to make the provisions of S-1 expressly applicable to railroad real property.

Enactment of these two Bills, S-1 and S-4, would achieve the express purpose of the majority of last year's Legislative Conference Group by treating everybody the same way in the assessment of property for the purposes of taxation. By enacting these Bills the Legislature would recognize the basic recommendations of the Tax Policy Commission, comply with the mandates of the Supreme Court and achieve equal protection under the laws for all property owners. The ideal of equality of treatment, although unfortunately not always attained, is a basic concept in our constitutional forms of government in this country. We strongly urge the enactment of these two Bills, S-1 and S-4.

We believe S-2 represent sound legislative thinking. Legalistic procedures can become so cumbersome as to be completely unworkable. When procedures can become so cumbersome as to completely bog down the machinery for administering justice, then there can be no justice. This is exactly what has

happened in our Division of Tax Appeals. Under today's rules the evidence required to prove discrimination is so massive and the taking of testimony is so tedious and protracted as to make it impossible for the Division to hear and decide the present backlog of pending railroad tax appeals within the next 20 years. Further under the Division's interpretation of the Courts' decisions it is a practical impossibility to prove discrimination today. S-2 would prevent any recurrence of today's conditions by establishing a simple procedure for expeditious disposition of tax appeals. Under this Bill the taxpayer would be required to prove only the true value of his property. Once this value is established the Division of Tax Appeals would reduce the assessed value to the unweighted average ratio of assessed value to true value of real property in the taxing district, plus and minus 15% of such average, upon the basis of the so-called "School Aid Equalization Tables" (Chapter 86 of the Laws of 1954) compiled by the Department of the Treasury, unless the taxing district can show that the common level of assessments therein differs from such average. The procedure would afford the taxpayer an expeditious remedy, but at the same time would afford an ample opportunity for the taxing district to show either that the true value of the property was other than that claimed by the taxpayer or that the common level of assessments in such district was other than the average ratio determined from the School Aid Equalization Tables. We believe the 15% for variance is somewhat high and would suggest a downward modification to 5%. This would permit variations of 10% from the norm and should leave adequate practical leeway. With this modification we advocate enactment of this Bill.

All of the other Bills now under consideration for changing assessment procedures would permit continuation of the present unjust discrimination against the railroads and thus would circumvent the principle of equality which has guided the Supreme Court in arriving at its decisions on the subject of assessment practices.

A-350 establishes no objective standards. The standards of this Bill are vague and subjective and leave any taxpayer at the mercy of his local assessor, who may decide that the property has "unique characteristics" and thus arrive at any value which suits his fancy. It can properly be said that equality of assessments under this Bill would rest wholly upon the conscience of the assessor. The experience of the railroads leads us to believe that the conscience of the assessor does not invariably dispense uniform justice. This Bill is really nothing more than an attempt to legalize the discriminatory practices which the Legislature is presently endeavoring to eliminate. It is doubtless unconstitutional and should not be enacted.

A-198 and S-9 are identical and are designed to achieve equalization upon a countywide basis. Instead of facing up to the existing problem on a statewide basis these Bills simply pass the buck to the counties. If such legislation is constitutional perhaps it's all right to let the counties determine their own ratios but we must not forget that the real problem is equalization of assessments -- not simply determination of ratios. And there is nothing in these Bills to compel equalization of assessments.

Let's see what might happen in Hudson County under these Bills. If it should adopt a 50% assessment ratio the Director of Division of Taxation would be forced to reduce his assessments on Class II railroad property to the same level. Such action would substantially decrease Hudson County's revenues from railroad taxation, so the logical action for Hudson County would be to adopt a 100% ratio. This would maintain the status quo for railroad taxation, but would the individual assessments of all other taxpayers be raised to this new level? We think not. The Director's sales ratio studies show that the

present 100% statutory requirement is not being met and there is no reason to believe any change will be made in present assessment practices merely because the County Board of Taxation adopts the standard now required by State law. The only source of relief against continued excessive and discriminatory taxation of railroads in Hudson County, based on these well-grounded assumptions, would be the long and expensive avenue of another Switz case with all of the delays inherent therein. Passage of these two Bills would mean a further delay of perhaps 10 years before taxpayers in Hudson County could hope to achieve any treatment even approximating real equality.

It may be said that under these Bills the Director has authority to reassess any property which is undervalued, but that same provision is in the existing law and the Director has repeatedly taken the position that he is unable to make reassessments because of lack of funds. If such reassessment by the Director were made mandatory and if the provisions of S-2 were incorporated in the Bills to expedite interim relief pending the completion of such reassessment, substantial justice might be achieved. In this connection, I would like to refer to Senator Cowgill's Bill, S-29, which provides for equalization on a countywide basis but puts a top limit of 50% of full and fair value upon the ratio which may be adopted by any county. Theoretically a ceiling on ratios should make no difference but, as a practical matter, such a ceiling would be quite salient in obtaining some approximation of equalization. In a county where the average ratio of assessments is now near 50% it would take extraordinary political courage to reduce existing assessment by an additional 50% -- particularly when you realize this would have the effect of doubling the tax rate.

All three of these Bills, A-198, S-9 and S-29, in deference to the views of the Assemblyman, which I respect very much, seem to us to raise constitutional questions. They invite further litigation, at least, and further delay ultimate completion of the task the Legislature is now engaged in so seriously. We believe that enactment of these Bills would not achieve equality of taxation and so we are opposed to them.

S-11, SCR-8 and SCR-10 all provide classification of railroad property so as to permit assessment of other properties upon a ratio differing from the true and full value basis which would continue applicable to railroad property under the Railroad Tax Law. These Bills might achieve equality for all other taxpayers but they would certainly leave the railroads sitting ducks, so to speak, for continued discriminatory taxation. I have not tried here to emphasize the inability of the railroads to continue paying the taxes now imposed upon them as I believe this question is so well known and has been so widely publicized, particularly well known to this Committee, that you must be fully familiar with it. I have also avoided emphasizing the tax discriminations against railroads as compared with competing forms of transportation, although this is a subject which should be given very serious study and consideration. The railroads are not here seeking relief from taxation; they are merely asserting that as a matter of equity and fair play the yardstick used to measure their obligation to support local government should be no longer than the yardstick used to measure that same obligation of other property owners.

Finally, I would like to reiterate that the only Bills now being considered by the Committee and by the Legislature which in our view have any reasonable hope of bringing about the equality

of treatment made mandatory by the decisions of the Supreme Court are S-1 and S-4, as supplemented by S-2, the tax appeal bill.

CHAIRMAN DUMONT: Any questions of Mr. Hughes?

ASSEMBLYMAN MATTHEWS: I am interested first, Judge, in your statement, "Instead of facing up to the existing problem on a statewide basis these bills simply pass the buck to the counties." How do these bills pass any "buck" to the counties where an exact ratio isn't set but a limitation is set within which the county must set the ratio? You have heard about the 4-4-1 formula, --

MR. HUGHES: Yes.

ASSEMBLYMAN MATTHEWS: -- the fact that it must be a multiple of ten. How is that passing the buck to the counties?

MR. HUGHES: In our view it calls upon each county tax board within the limitations that you mention to fix the ratio in that county. Now, assuming that this would avoid alternative ratios in the various communities or municipalities in the county, it would nevertheless break down what we believe to be -- as some of the earlier speakers here today stated -- the uniformity of having a statewide ratio of assessment of property, with any variance to be determined among the various municipalities, etc. to depend upon the tax rate rather than upon a ratio of assessment of property. In other words, as was pointed out here by the most recent speaker, and I think by you, Assemblyman Matthews, the amount needed budgetwise for a municipality in Cape May County would be far different from the amount needed budgetwise by a municipality, perhaps of the same size but with much more urban police, school and other responsibilities, in Bergen County.

Uniformity on a statewide basis of the assessment ratio as to real property would not in any way hamper the differentiation or the rivalry, if you want to call it that, among those municipalities - the selection of a new industry and so forth and so on of the municipality with the lower tax rate. That's where the variable would come in, rather than 21 different ratios of assessment.

ASSEMBLYMAN MATTHEWS: Well that variable would come in under S-1 .

MR. HUGHES: Yes, of course, it would, but it would come in under the form of a tax rate. In other words, we think it would avoid --

ASSEMBLYMAN MATTHEWS: Wait a minute, Dick. You say that it would come in under the what?

CHAIRMAN DUMONT: The tax rate.

ASSEMBLYMAN MATTHEWS: Well that's the way it would come in under this too, isn't it?

MR. HUGHES: Well, yes, except for this -- no, there would be two variables, as we see it, under 198. One variable would be a tax rate and one variable would be a ratio of tax assessment.

ASSEMBLYMAN MATTHEWS: But the variable would fast become a constant.

MR. HUGHES: The ratio, you mean would --

ASSEMBLYMAN MATTHEWS: The ratio would become a constant set by the County Board of Taxation.

MR. HUGHES: Yes, it would become a constant there but it would not be constant throughout the State. The only advantage

that we can see, so far as the S-1 formula, the statewide formula, is concerned, is on the basis of uniformity of assessment treatments as among all properties in the State on a statewide basis.

Now the practical difficulty that I mentioned, Assemblyman, on the question of Hudson County --

ASSEMBLYMAN MATTHEWS: I would like to go into that but I still don't understand how you say A-198 is passing the buck to the county when you have the same number of constants and the one variable in both situations. You are talking about inter-county rating and inter-municipality rating, but you are going to have variant tax rates under S-1; you're going to have variant tax rates under 198; you are going to have two constants under S-1 and 198. The only difference is, until a county adopts a ratio according to the formula set out in our bill, that constant will not be an actual constant.

MR. HUGHES: Well, it is our view that regulation of that assessment ratio in the individual counties is a departure from the uniformity that ought to be kept in the law. Now, it may quite well be that it will become a constant and not a variable, that it will have permanency, that there will be no difficulties in its actual mechanical working out, but we think it is not necessary and it is for that reason that we prefer S-1 and the corollary bill S-4.

ASSEMBLYMAN MATTHEWS: Isn't it a fact, really, that your main concern about A-198 is that what you say will happen

in this statement of yours, might happen, that is, Hudson County might set its assessment ratio at 100%. Isn't that your real criticism of 198?

MR. HUGHES: No, no it is not, Assemblyman, because we don't think we can be much worse off under any kind of legislation in Hudson County.

ASSEMBLYMAN MATTHEWS: What would you think of A-198 with a common level bill, much like S-2, adapted to coincide with --

MR. HUGHES: Yes, if it could be protected by the expeditious procedure defined by S-2, which would afford real tax discrimination relief.

ASSEMBLYMAN MATTHEWS: Well, isn't that your real criticism of S-2?

MR. HUGHES: Not of S-2, of 198.

ASSEMBLYMAN MATTHEWS -- of A-198, the fact that it doesn't have something like S-2 along with it?

MR. HUGHES: It's our prime criticism of it, yes.

ASSEMBLYMAN MATTHEWS: Because of the fact that in this Hudson County situation if they do assess at 100% your only relief would be through a time-consuming Switz case.

MR. HUGHES: Yes, and it could happen in 20 other instances, too. We only pick out Hudson County as an example.

ASSEMBLYMAN MATTHEWS: See, there has been much talk about the fact that A-198 will encourage county raiding, rivalry between municipalities; but I don't think that anybody has practically substantiated that beyond stating the fact that there will be variant tax rates, and there will be variant tax rates

under A-198, under S-1, under A-350, under whatever we have, under nothing, under Ridgefield Park and Switz.

MR. HUGHES: I agree. And we make no point of that fact that the additional variable would encourage rivalry among the counties - if rivalry is a bad thing.

ASSEMBLYMAN MATTHEWS: I don't know whether you want to talk about the constitutionality of 198 --

MR. HUGHES: No.

ASSEMBLYMAN MATTHEWS: -- but I was happy to hear you say that you respected my opinion and I want you to know that I respect yours, and I am wondering whether you have any concrete reasons why you think A-198 is unconstitutional, in violation of the Real Property Article of the Constitution.

MR. HUGHES: The reasons why are because it seems to me, despite the language that you quoted - and I certainly have every respect for its author, the author of that language, - to be a departure from the uniformity of treatment which is required by the Constitution. But aside from whether the legislation is constitutional or not, I think it is peculiarly sensitive to attack by litigation, and it will be tied up promptly, I would imagine, by litigation. I am just talking in the abstract, of course, not that it will be challenged by anyone represented by me particularly but because I feel that it would certainly induce litigation.

ASSEMBLYMAN MATTHEWS: Well I think that the standard of value is the only thing that we really have to concern ourselves with. The Constitution says nothing at all about ratios.

CHAIRMAN DUMONT: It talks about uniform rules.

ASSEMBLYMAN MATTHEWS: And so far as litigation is concerned, I strongly suspect that anything that the Senate comes up with, that the Assembly comes up with, that any joint committee comes up with, that any individual comes up with, is going to be tested in the court. Don't you agree with that?

MR. HUGHES: Yes. But I think there is more likelihood that transfer of the uniformity concept to the counties would probably be more conducive to litigation, and bitter sustained litigation because you are going to have 21 counties moving around pretty quickly, and so forth, under this bill. However --

ASSEMBLYMAN MATTHEWS: The point that irks me - and I use that not in the personal sense - is that so much has been said about the unconstitutionality of A-198 and yet nobody, nobody, has given me any concrete reason why it is unconstitutional beyond general statements in the area that uniformity doesn't encompass county ratios. The only thing I can rely on is the decision in Switz which dealt this mess - if I might use that phrase.

MR. HUGHES: Well, let me amend my statement then, Assemblyman, in deference to your feeling about the constitutionality, to suggest that this kind of a bill is susceptible to litigation; it certainly will precipitate a very prompt challenge in the courts. And you may be right that any other legislation might.

SENATOR FOX: I have just one question for my own information. May I infer your view to be, with respect to the constant mentioned by Assemblyman Matthews in 198, that you feel that is not a true constant as contrasted with what you would have under S-1?

MR. HUGHES: Yes, in so far as I understand what we mean by the term. As I take it, under 198 we would have varying ratios of assessment of property among the 21 counties within the limitations contained in the bill. We would also have varying tax rates in all of the municipalities in all of those counties. So there would be plenty of variables. If we have a statewide uniform ratio of assessment, as under S-1, then each municipality's variable will depend upon its particular tax rate. We think that with the security of a bill, such as S-2, we would not^{be} as seriously opposed to 198 as we are now.

SENATOR FOX: So that if S-2 could be incorporated within the framework of A-198 your view would be what?

MR. HUGHES: Our view would certainly be moderated, Senator Fox. We still would prefer a statewide uniform ratio formula.

ASSEMBLYMAN MATTHEWS: I'll ask Jim Arnold's question of this morning - would you prefer existing law? If S-1 could not pass would you prefer nothing?

MR. HUGHES: Well, if S-2 could get by, I think the question would be on an altogether different --

SENATOR FOX: Yes, but Assemblyman Matthews' question was if S-1 --

MR. HUGHES: Yes.

ASSEMBLYMAN MATTHEWS: If S-1 cannot pass, and in all due candor I think on the basis of last year's attempt to pass S-1 - and nobody knows better than I, I think, on that - I think the chances of passing S-1 right now are pretty slim, what do you think of 198 in that posture? Would you rather have 198 or existing law?

MR. HUGHES: Not by way of asking a question back but if it is seriously suggested that 198 should be guarded by a bill of the nature of S-2, as a component, I would like to have an opportunity to make a further very brief, two-minute statement to the Committee at its hearing on March 2 on that subject.

CHAIRMAN DUMONT: Well, Judge, on that point, we have been hoping for some time that S-2 or a modification of it, at least, could pass, and likewise S-3 which deals with the fixing of a standard rate instead of a sliding scale on the question of public utilities gross receipt tax. Let me go one step further. Suppose that neither A-198 nor S-1 passed, would you then prefer the present law along with S-2? In other words, what's laid down in the Constitution implementing legislation in New Jersey today along with the common level bill.

MR. HUGHES: Yes. Yes, sir, we would. We would prefer existing law with S-2.

CHAIRMAN DUMONT: Without either S-1 or A-198.

MR. HUGHES: To put it another way, if the railroads were able to get their rights and to accomplish fair treatment under the existing tax laws, we would be satisfied, well satisfied.

CHAIRMAN DUMONT: All right. Now, I think your statement on passing the buck to the counties is clear to me in this respect at least. I think what you are driving at is that last year, for example, we passed a bill that permitted the raising of Freeholders' salaries within certain ranges but it had to be done by the Board of Freeholders. Isn't that about what you mean, applying the same principle in this situation, you allow certain ranges to the counties but they have to pick the exact ratio instead of having our doing it for them.

MR. HUGHES: That's right.

ASSEMBLYMAN MATTHEWS: May I just break in. I think they have been calling for that. That was S-81.

CHAIRMAN DUMONT: Not all of them. No, not all of them.

Now while you are here, Judge, I would like to ask you a question about just one other phase of this which I think is part of the tax problem at least, - is it realistic to say that the basic trouble today that the railroads are facing in New Jersey, their basic problem in so far as continuing the passenger trains whether for commuter runs or for longer hauls is basically a tax problem in the State. Is that correct?

MR. HUGHES: I think it is not entirely a tax problem.--

CHAIRMAN DUMONT: No, I didn't say entirely.

MR. HUGHES: That \$18 million tax bill is a very substantial part of it.

SENATOR FOX: That's one facet of it, is that what you mean?

MR. HUGHES: A very substantial part of it.

CHAIRMAN DUMONT: Now, it has been suggested here by different members - the question of the State contracting for services from the railroads. Let me ask you this: Suppose that were done and you would provide services in return for the State paying for those under a contract, would that in any way relieve the tax problem that you face with the railroads or does it simply mean that you are getting money in return for services rendered without any effort being made to attack the tax problem that you face?

MR. HUGHES: Yes, I agree that that's so. We wouldn't reject any kind of help we could get from any source or through any medium or expedient, but the railroads certainly would have to pursue, it seems to me, unless the help was conditional and it was very substantial it would have to keep on trying to get their remedy on the tax basis.

CHAIRMAN DUMONT: So what you really need in New Jersey is tax relief even if it involved subsidization, is that correct?

MR. HUGHES: That's right.

CHAIRMAN DUMONT: Regardless of contracts for services rendered.

MR. HUGHES: In my judgment.

CHAIRMAN DUMONT: Now your question here in regard to the constitutionality of this bill, I think this has been pretty well covered but I just want to go at it again with one question here, is that under the constitutional provision the rules must be uniform in the assessment of real property. You are intending by your interpretation, as I understand it, that that uniformity means statewide uniformity and since it doesn't say anything about breaking it down in uniform rules by counties this could be questioned constitutionally.

MR. HUGHES: That's our general thought. We don't take a firm position. In other words, I wouldn't be prepared to now brief it or to argue it legally to the Committee but we certainly feel there is a serious question there.

SENATOR FOX: Judge, do I understand you correctly in answer to Senator Dumont's question, if I get his thought correctly, that irrespective of any formula that might come up - I mean with respect to contracts for services rendered or help of that nature provided by the railroads - that tax relief is an absolute necessity under any circumstance whatsoever?

MR. HUGHES: Senator, I would like to defer an answer to that question. If the sense of it is, and I think it is, that some relief is an absolute necessity to the survival of the railroads, my answer is yes. But whether it comes in the form of tax concessions, which would be a form of subsidization and which might present complications to the tax picture, the legal tax picture of the State, or whether it comes in the form of

contracts for services, I would certainly like to have time to give a more deliberate answer to the Committee.

SENATOR FOX: All right.

CHAIRMAN DUMONT: I didn't mean to imply complete tax relief. I am talking in terms of what Senate 4 or what last year's Senate 123 might accomplish in reducing your tax burden to a common level. Now, is it true that even if you had a contract for services, if you don't get that kind of tax relief or get some tax relief, is it true that you are not going to be able to maintain passenger service at all?

MR. HUGHES: I can't make a statement on that, Senator, at this time. I have no authority to do it and I don't really know enough about it to feel that I ought to make a statement on it.

CHAIRMAN DUMONT: But you do need some tax relief.

MR. HUGHES: Yes, sir. And I would like to have the opportunity of making such a statement, if I might, and very briefly, not to sponge on the Committee's time and patience --

CHAIRMAN DUMONT: Two weeks from now?

MR. HUGHES: -- two weeks hence.

CHAIRMAN DUMONT: We'll see you then.

MR. HUGHES: Thank you very much.

CHAIRMAN DUMONT: Any other questions of Judge Hughes?

Thank you very much for coming today, folks, and we will see those of you who are interested in coming back or testifying two weeks from today. That's all. The hearing is adjourned.

(Hearing adjourned)

Mr. John J. Magovern, Jr., on behalf of the N. J. State Chamber of Commerce, requested that the following portions of his statement, which he did not read, charts and exhibits be incorporated in the transcript of this hearing:

Senate Bill No. 1, Senate Bill No. 9, and
Assembly Bill No. 198

Summary of S-1

S-1, identical with the third official copy reprint of S-81 of 1959, would legislate new assessment ratios for the taxation of real property, business personalty, and non-business personalty.

Real Property

S-1 would retain the present provision that the assessor determine the full and fair value of each parcel of real property situated in his taxing district at the price at which he judges it would sell for at a fair bona fide sale by private contract on October 1, but would require that, for purposes of assessment, the assessor compute and determine 50 percent of such value which would then be the taxable value of the real property.

Business Personalty

The bill provides that the taxable value of tangible personal property used in business would be determined at the following percentages of fair value:

50 percent -- on all machinery, tools, implements and equipment, and all other personal property other than inventories and farm livestock.

12-1/2 percent -- on inventories of raw materials, work in process, semi-finished goods, finished goods, and supplies and farm livestock, crops and produce.

Fair value of tangible personal property used in business would be presumed to be net book value but so long as any depreciable property remained in use its fair value would be deemed to be not less than 20 percent of its cost. Taxable value of inventories would be determined according to the average fair value of such property in the possession of the taxpayer during the year.

The bill provides that the Director of the Division of Taxation may promulgate rules and regulations for the determination of cost, depreciation and net book value of business personal property, and may permit or require such adjustment in book value as he may find necessary to provide for "fair and equal assessment for all taxpayers similarly situated." Also the Director would be required to make and enforce uniform rules and regulations for the definition of personal property for use in ascertaining whether property is real or personal.

The bill would require each owner of personal property used in business to prepare and file with the assessor by October 1 a return of such personal property for each taxing district listing the property according to its value as of the preceding June 30. The assessor would be required to review, audit, and determine the taxable valuations of personal property.

The bill would assess a penalty of \$2.00 for each day of delinquency in filing, and failure to file before January 1 would subject the taxpayer to a penalty equal to 25 percent of the tax determined to be due plus interest at the rate of 1 percent per month from the due date until the date the tax is paid.

Personalty Not Used in Business

The bill provides that the taxable value of tangible taxable personal property not used in business, such as household goods, would be determined at 50 percent of fair value.

Summary of S-9 and A-198

The major provisions of these identical bills are as follows:

1. Each County Board of Taxation would establish the percentage of true value for the assessment of real property within the county from 10 percent to 100 percent, using only multiples of ten percent.

2. The County Board of Taxation could establish a new percentage in any year and until it establishes its initial percentage the assessment level would be 50 percent of true value.

3. Tangible personal property used in business would be assessed at a percentage of book value; on business machinery, implements and equipment the percentage would be the same as the county percentage for real property; on taxable inventories the percentage would be 1/4 of the percentage established for real property.

4. Inventories of raw materials, supplies, work in process and small tools would be exempt from tax.

5. Each County Board of Taxation would set its own assessment ratio for farm machinery, farm livestock, crops and produce.

6. Owners of personal property used in business would be required to file a separate return with the assessor in each taxing district; and would be subject to the same penalties as under S-1 for failure to file and for filing fraudulent returns.

7. The governing body of each municipality would decide by ordinance whether to exempt household goods from the property tax; if subject to tax, household goods would be assessed at the same ratio as real property within the county in which the municipality is located.

8. If any assessor finds it impracticable in the first year to show his assessments at the county percentage levels he may state the ratios actually used by him and file his assessments on that basis. To do this in subsequent years he must receive approval of the Director of the Division of Taxation.

The other provisions of S-9 and A-198 are similar to S-1 of this year and/or A-671 of last year.

Since S-9 and A-198 are identical, this statement will refer to only A-198 in comments on these bills.

Senate Bill No. 3 and Assembly Bill No. 125

Summary of S-3 and A-125

S-3 and A-125, identical bills, would freeze at 7-1/2 percent the gross receipts tax levied on street railway, gas and electric, and sewerage corporations using or occupying public streets, highways, roads or other public places in New Jersey.

Under present law the rate of this tax is the average rate of property taxation in the State, but not less than 5 percent and not more than 7-1/2 percent. At the present time the maximum 7-1/2 percent rate is applicable.

Position of the State Chamber

We take no position with respect to these bills.

Senate Bill No. 4

Summary of S-4

S-4 would amend the Railroad Tax Law of 1948 to provide that the Director of the Division of Taxation shall annually determine the fair value of all property used for railroad purposes in the State and shall "compute and determine 50% of such value which shall be the taxable value of such property".

Position of the State Chamber

On February 11, 1959, the State Chamber of Commerce spokesman, at a hearing on assessment bills held by the Legislative Conference Group on Full Value Assessment Problems, remarked on the failure on the part of the bills then before the Conference Group "to indicate the necessary amendments to the Railroad Tax Law of 1948 to bring it into conformity with the proposed amendments to the other statutes governing the taxation of property".

Prior to this, on June 30, 1958, on the occasion of my appearance before this Committee to present the State Chamber's position with respect to the assessment bills then before you, I stated that "The Chamber recommends that Class II railroad real property be taxed on the same basis as that of real property generally".

Therefore, we agree in principle with S-4. Whether the present form of this bill is the final form it should take will depend on the final form of the legislation adopted with respect to the assessment and taxation of property generally.

Senate Bill No. 11

Summary of S-11

S-11 would create the office of county supervisor for the equalization of taxes. The supervisor's duty would be to secure equalization of the assessments for

the taxation of property in each district of the county so as to achieve uniformity in taxation throughout the taxing district but without reference to any other taxing district. The county supervisor would provide equalization throughout the county in respect to tax revenue of the county for county purposes but the equalization table employed would not be applicable for municipal purposes. Nor would the county equalization tables have application to any county other than the one wherein the county equalization table is prepared. The State equalization table likewise would be applicable only to State tax revenue or the apportionment or distribution of State aid.

The provisions of the bill would have no application to the taxation of railroads or for the apportionment of gross receipts or franchise taxes.

Position of the State Chamber

S-11 makes no distinction between personal and real property. Apparently the uniformity of assessment called for in the bill would apply to both real and personal property.

Since Section 3 of the bill indicates that it has no application to the taxation of railroads, it would appear that the rule of uniformity would not apply to the taxation of railroads. Thus, the supervisor would not have the duty of securing uniformity of railroad taxation with that of other property.

Apparently the authority of the county supervisor would supersede that of the county boards and the Director of Taxation to supervise the assessment practices of municipalities. The supervisor in each county would supervise the assessment practices in each municipality and require uniformity within the municipality irrespective of the percentage of full value at which the assessments were being effected.

Although S-11 does not explicitly legislate the use of different assessment ratios for the several taxing districts in the counties of the State, there is a strong implication that such practice may be assumed.

The bill is extremely vague and general with respect to the specific powers and duties of the supervisor and with respect to the extent and manner in which these powers and duties would supersede those of the county boards and the Director.

Because it would require the county supervisor to equalize assessments for the taxation of both real and personal property; because it fails to treat Class II railroad property uniformly with other real property; because it would permit of non-uniformity of assessments from district to district; and because of the general and vague manner in which the powers and duties of the supervisor are indicated - the New Jersey State Chamber of Commerce is opposed to S-11.

Senate Bill No. 29

Summary of S-29

S-29 would require that property be assessed at a uniform assessment ratio for each county which ratio would be fixed by the board of freeholders of the county on recommendation of the county board of taxation and would range from 10% to 50% of full and fair value. In selecting the county ratio, the board of freeholders would take into account the prior experience of the county and its municipalities, the fiscal requirements of the county, and the recommendation of the county board of taxation.

Position of the State Chamber

S-29 makes no distinction between real property and personal property. Therefore, under this bill the same assessment ratio would apply to real property and personal property, an economically intolerable situation. All the things said in this statement regarding the shortcomings of S-1 and A-198 with respect to the assessment of business personalty apply here but to an even greater degree.

For this reason we are opposed to S-29.

Senate Concurrent Resolution No. 1

Summary of SCR-1

SCR-1 proposes a constitutional amendment to increase the veterans' exemption from taxation on real and personal property from an aggregate assessed valuation of \$500 to an aggregate assessed valuation of \$800.

Position of the State Chamber

If the effective transition period is provided for in any major assessment legislation, which we believe should be provided for (see discussion of S-1 and A-198 in this statement), there would be no need for an adjustment in the veterans' exemption at this time. The particular type of transition we recommend in connection with our position with reference to A-198 will make available in the first year all the data needed for a final determination of how best to handle the veterans' exemption item. Meanwhile, the changed impact of the property tax, because of legislated changes in assessment ratios, will be minimized by the transition provisions.

We join, therefore, in the recommendation of the Tax Policy Commission "that any application of a parity value of veterans' exemptions be deferred and that adjustments requiring a constitutional amendment await some experience with the many variables of a new form of property tax administration".

Senate Concurrent Resolution No. 4 Senate Concurrent Resolution No. 12, and Senate Concurrent Resolution No. 13

Summary of SCR-4, SCR-12, and SCR-13

These resolutions propose an amendatory new paragraph to Article VIII, Section I, of the State Constitution which would grant, or enable the Legislature to grant, a tax exemption of \$800, or of up to \$800, in the assessed valuation of real property of any citizen and resident of New Jersey aged 65 or over residing in a dwelling house owned by him which is a constituent part of such real property.

SCR-4 would enable the Legislature to grant an exemption of up to \$800 and to establish a low income level (but not below \$3,000 per year) as a condition for granting the exemption. Under SCR-4 the exemption would be in addition to any other exemption to which the recipient may be entitled.

SCR-12 would enable the Legislature to grant an exemption of up to \$800 but would restrict the exemption to homeowners having an income not in excess of \$5,000 per year. Under SCR-12 the exemption would not be in addition to any other exemption to which the recipient may be entitled.

SCR-13 would grant an exemption of \$800, subject to such rules and regulations as may from time to time be prescribed by law. The amount of the exemption would be offset by any veterans' exemption to which the recipient may be entitled.

Position of the State Chamber

We are opposed to these resolutions for the following reasons:

1. They would constitute an increase in our already high property tax for all property owners not benefiting by the exemption.

2. This impairment of the property tax base would make more difficult the financing of essential municipal, school, and county expenditures.

3. For the reasons already stated, property tax exemptions should not be used in an attempt to cope with social and welfare problems such as those associated with aging; nor are property tax exemptions at all appropriate for this purpose. All the needy over 65 are not home owners. Therefore, homestead exemptions are not a good device for providing assistance to the needy aged.

4. A homestead exemption for home owners over 65 would discriminate against those over 65 who live in rented homes and apartments because, in addition to not getting the benefit of a homestead exemption, these elderly tenants would probably have their rents increased by their landlords who would be paying the higher tax rates brought about by the exemption.

5. Part of the property tax burden lifted from the shoulders of home owners over 65 would rest on the shoulders of young home owners who at the start of their work careers may not have good incomes, but who do have heavy claims on those incomes because of the presence of children and the establishing of new homes, very often with large mortgages.

Senate Concurrent Resolution No. 8

Summary of SCR-8

SCR-8 would amend Article VIII, Section I, paragraph 1 of the State Constitution by calling for uniform assessment of real and personal property within the State for State purposes, within a municipality for municipal purposes, and within a county for county purposes with the prescribed uniformity being provided by the Legislature from time to time. Railroad property (real and personal) would be assessed as a separate class of property but uniformly assessed within its class. Real property, other than railroad, would be assessed according to the same standard of value applicable locally.

Position of the State Chamber

This proposed Constitutional amendment is akin to, but not identical with, the one which failed of adoption on November 6, 1956, and which would have authorized the Legislature to permit the governing body in any municipality to set the fraction of true value at which real property would be assessed.

The State Chamber opposed the 1956 proposal because it represented a step backward from the progress being made toward statewide uniformity of real property assessments and consequent ease in securing property tax equity and property tax awareness on the part of the average taxpayer and because the advantages claimed for the proposal would not have been realized.

We oppose SCR-8 because it too would permit of non-uniformity of real property assessment as among municipalities.

We also oppose the provision in SCR-8 that real and personal property be assessed uniformly for county purposes and for municipal purposes in the several counties and municipalities. New Jersey cannot afford to penalize industry by assessing business personalty at the same ratio as real property.

At the present time railroad personal property is distinguished from railroad real property for tax purposes and railroad real property is divided into two classes for tax purposes. We are opposed to the lumping together of these very different types of railroad property as called for in SCR-8 just as we are opposed to the lumping together of real and personal property generally for tax purposes.

Thus SCR-8 violates three principles which have been adopted by the State Chamber of Commerce: that business personalty, especially inventories, should be assessed at a lower ratio than that applicable to realty; that Class II railroad property should be taxed on the same basis as that of real property generally; and that there should be at least countywide uniformity with respect to the assessment ratio applicable to real property in the several municipalities of the State.

Senate Concurrent Resolution No. 10

Summary of SCR-10

SCR-10 would amend Article VIII, Section I, paragraph 1 of the State Constitution to provide for assessment of real property according to countywide uniform standards of value and ratios thereof. Under the amendment real property would be classified as residential, industrial and commercial, farm and other lands, railroad property and public utility property; and personal property could be classified by law. The countywide ratios would be the average ratio used in the past ten years in each county for each category of real property. The Legislature would be required to enact all laws necessary to make the constitutional amendment fully effective.

Position of the State Chamber

The State Chamber of Commerce is opposed to the classification of real property for purposes of the property tax.

Of statewide classification of real property, the Commission on State Tax Policy, after a study of the experience of the few states that have tried, concluded in its Ninth Report: "There is thus nothing in the experience of other states which have tried property classification for tax purposes, few as there are, which would commend it to consideration by this State. Moreover, it is quite apparent that the adoption of classification brings with it a constant pressure upon the part of the various taxpaying groups to seek and obtain preferred classifications.

"The Commission concludes that classification of real estate, as distinguished from personal property, has had little acceptance in other States and has produced nothing to commend it to this State by the few that have tried it."

As for countywide ratios for each of the several categories of real property - the following quotation from the Ninth Report would be no less true, if modified by substituting "county" for "district":

"The Commission concludes -

That any purpose of avoiding substantial shifts in the tax burden which may be expected under uniform treatment, cannot be accomplished by allowing each district to select its own average assessment ratio nor by allowing it to select both its own average ratio and its own assessment ratio for each class of property. The Commission would add that any such compound classification would be classification run wild."

Assembly Bill No. 350

Summary of A-350

A-350 would eliminate the statutory requirement that real property be assessed at "full and fair" value at the price "it would sell at a fair and bona fide sale by private contract". It would require assessors to determine the value of real property by "taking into consideration the selling value, the rental value, any unusual features as to size, location, or unique characteristics, applicable planning and zoning regulations, if any, and, in the case of improved property, the cost thereof, the replacement cost less depreciation and obsolescence, and any special features such as the physical condition of the improvements, their utility and any unique characteristics, and, thereupon, make such determination according to his judgment . . ."

In addition, the bill would remove the clause in the present law which permits the Director of the Division of Taxation to require assessors to list property in categories as specified by the Director and to submit total valuations for each category with the annual tax list.

Position of the State Chamber

A-350 would substitute a list of factors, including several subjective ones, for market price in the determination of value of real property by the assessor. It substitutes means of measurement for the goal of the measurement. It would serve only to make orderly and uniform assessments more difficult of attainment. It would encourage "tax lightning" in the taxation of real property, including residential property, since assessments would be subject to wide variation depending on the assessor's estimation of a number of imponderable factors.

Also, A-350 would eliminate the provision of the present law under which the assessor is required to show the valuation of real property by categories. Elimination of this provision would render most difficult the equalization procedures so essential in distribution of State school aid and county costs.

Furthermore, a question may be raised with respect to the conformity of this bill with the Constitutional requirements that property be assessed under general laws and by uniform rules and that real property be assessed according to the same standard of value.

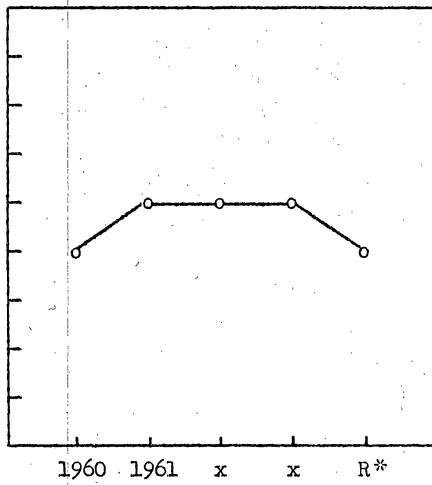
In addition to the shortcomings of A-350 as regards principle, it is also technically defective. While this bill would amend two sections of the Revised Statutes to eliminate the concepts of true value and full and fair value it neglects to amend several other sections containing the same concepts.

Because of its repudiation of the progress already made toward uniform assessments, its impairment of the equalization process, its questionable constitutionality, and its technical deficiencies, the New Jersey State Chamber of Commerce is opposed to A-350.

Chart 1
 ILLUSTRATION
 of the
 SUDDEN SHARP SHIFTS
 in
 RELATIVE PROPERTY TAX IMPACT
 on
 DIFFERENT CATEGORIES OF PROPERTY TAXPAYERS
 UNDER S-1 AND A-198

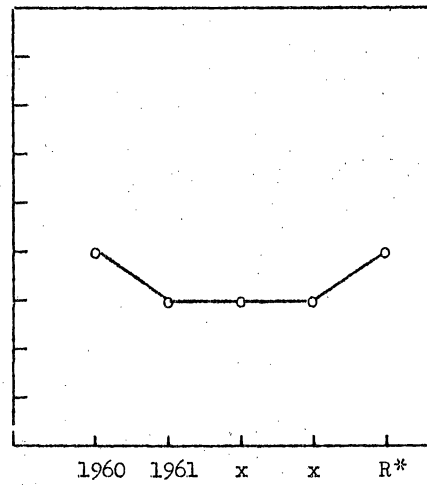
CATEGORY A

Percentage
 of
 District's
 Property
 Tax



CATEGORY B

Percentage
 of
 District's
 Property
 Tax



*R = year in which revaluation program becomes effective

Answer to this problem:

Amend S-1 and A-198 to make personal property assessment shifts take place at the same time as real property assessment shifts.

Chart 2

COUNTY AVERAGE RATIO OF ASSESSED TO TRUE VALUE OF REAL PROPERTY
1959
(percent)

<u>County</u>	<u>Average Ratio of Assessed to True Value of Real Property</u>	<u>Simple Average of District Weighted Ratios</u>	<u>Range of District Weighted Ratios</u>
Atlantic	22.46	16.52	7.62 - 47.48
Bergen	24.01	24.17	14.97 - 97.29
Burlington	18.41	17.69	9.43 - 53.70
Camden	31.80	25.85	12.09 - 90.67
Cape May	39.54	49.60	11.47 - 107.87
Cumberland	31.56	22.43	14.79 - 45.58
Essex	41.01	36.68	26.32 - 48.56
Gloucester	18.26	18.68	11.25 - 24.96
Hudson	49.40	48.08	22.33 - 67.17
Hunterdon	15.82	17.17	12.26 - 31.69
Mercer	37.37	31.33	18.44 - 88.23
Middlesex	21.33	21.81	12.58 - 46.00
Monmouth	29.18	21.87	10.20 - 104.75
Morris	20.05	21.69	10.33 - 75.00
Ocean	21.27	17.83	8.43 - 110.75
Passaic	33.88	28.32	17.91 - 44.48
Salem	21.96	20.88	15.25 - 27.52
Somerset	16.81	16.82	10.99 - 22.57
Sussex	15.76	15.39	8.97 - 22.02
Union	28.00	27.86	14.82 - 44.50
Warren	22.04	18.74	11.23 - 30.11
State	29.35	23.24	7.62 - 110.75

Research Department
New Jersey State Chamber of Commerce
January 1960

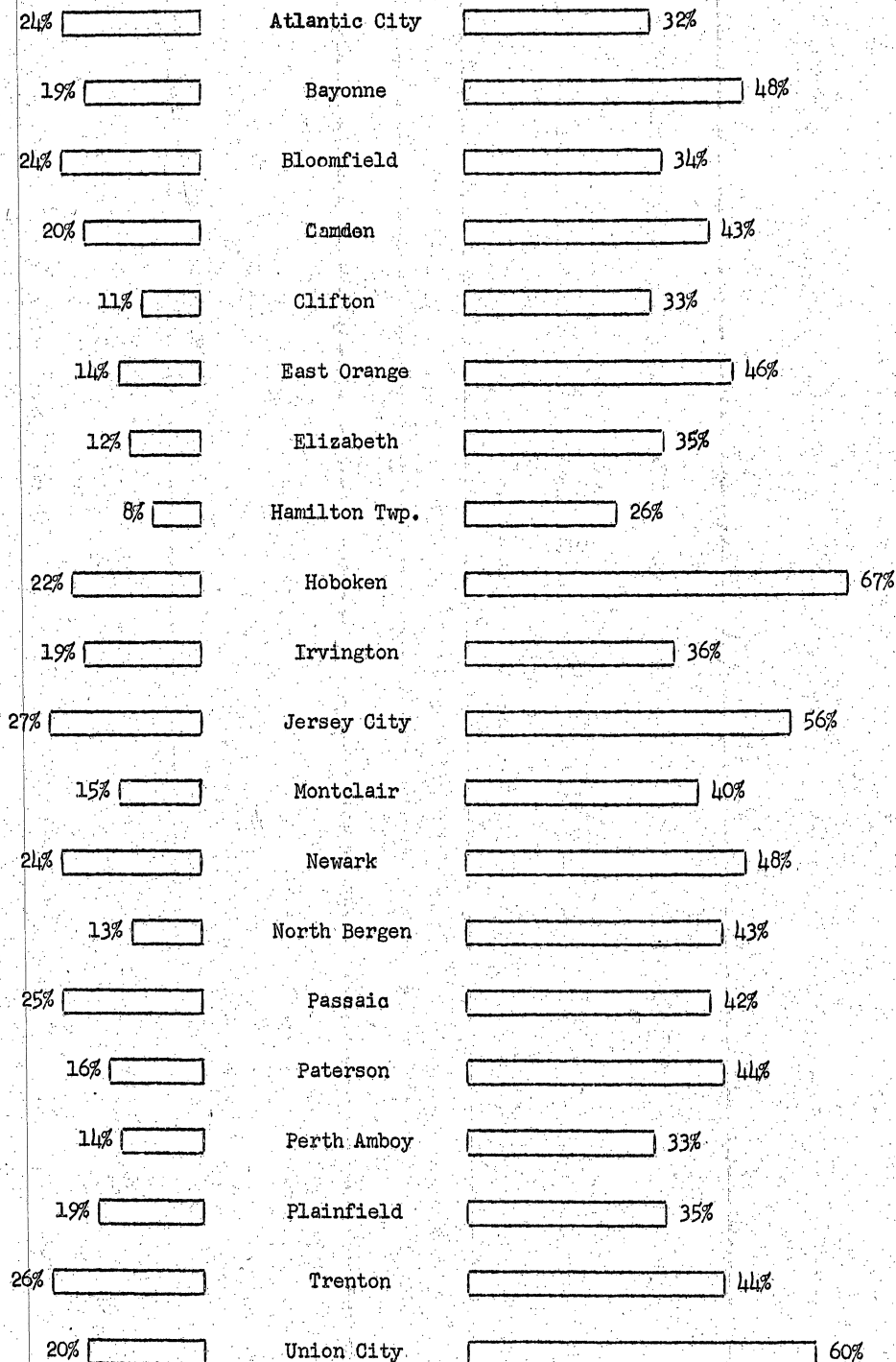
Chart 3

ASSESSMENT RATIOS ON BUSINESS PERSONALTY
UNDER S-1 AND A-198

Ratios Shown Are For Business Machinery and Equipment ^a

At Present and
Under S-1 and A-198 Amended ^b

Under A-198 ^c Unamended



^a Ratios applicable to inventories subject to tax would be 1/4 of machinery and equipment ratios.

^b Amendment referred to is that presented by the New Jersey State Chamber of Commerce at the February 17, 1960, Senate hearing on assessment bills.

^c Under S-1, without amendment, the ratio for each municipality would be 50%.

37. In the preparation of assessments of property for the year 1961, if the assessor of any taxing district shall find it impracticable to set forth his assessments at taxable values expressed in terms of the percentage levels for the county established pursuant to law, or if the taxing district shall not have completed and put into operation a revaluation program in the period January 1, 1954, to January 1, 1960, he [may] shall prepare his assessment list and assessor's duplicate [according to] expressed in terms of the percentage level of the true value of real property and the percentage levels of the fair value of taxable tangible personal property actually used by him in setting forth his assessed valuations, but in such case he shall (1) value business inventories at the applicable percentage level of fair value, derived from equation A (provided in this section), and set forth in a table to be known as the Business Personalty Ratio Table, which table shall be on file in the office of the Division of Taxation with a copy thereof being sent to each assessor by the Director of the Division of Taxation on or before June 30, 1960, or at 1/4 of the percentage level of true value of real property actually used by him in setting forth his assessed valuations for the year 1961, whichever is lower; (2) value all machinery, implements and equipment and all other personal property other than inventories, farm machinery and farm livestock, at the applicable percentage level of fair value, derived from equation B (provided in this section), and set forth in the aforesaid Business Personalty Ratio Table or at the percentage level of true value of real property actually used by him in setting forth his assessed valuations for the year 1961, whichever is lower; and (3) include in the affidavit prescribed by section 54:4-36 of the Revised Statutes a statement of the percentage levels which he has used. [Upon application to] In the preparation of assessments of property for any subsequent year, if the assessor shall apply to the director of the division of taxation [setting] and set forth facts showing that it still remains impracticable to [prepare the assessments of property] set forth his assessments for [any] such subsequent year at [such] taxable values [so established] expressed in terms of the percentage levels for the county established pursuant to law, [and] upon findings by said director that the assessments cannot be so prepared until the completion of a revaluation program meeting the standards [set forth in] prescribed under section 54:1-30 of the Revised Statutes and that the levels proposed to be set forth in the statement to be included in the assessor's affidavit fairly state[s] the levels actually used by him in setting forth his assessed valuations, the director may permit the assessment list and assessor's duplicate for any such subsequent year to be prepared and filed, together with the said affidavit, in the manner provided in this sectic [for any subsequent year.]

; but if the taxing district shall not have completed a revaluation program and put it into operation in the six year period prior to such subsequent year, the director shall require the assessment list and assessor's duplicate for any such subsequent year to be prepared and filed together with the said affidavit, in the manner provided in this section.

Equation A

$$\text{Assessment Ratio for Inventories} = \frac{P}{\frac{1}{4} M + I}$$

Equation B

$$\text{Assessment Ratio for Machinery and Equipment} = \frac{P}{M + \frac{1}{4} I}$$

In these equations P is the percentage that total assessed valuations of business personal property as of October 1, 1959, is of the total fair value of business personal property as of January 1, 1960; I is the percentage that the fair value of all business inventories as of January 1, 1960, is of the fair value of all business personal property as of January 1, 1960; and M is the percentage that the fair value of all machinery, implements and equipment and all other business personal property (other than inventories, farm machinery and farm livestock) as of January 1, 1960, is of the fair value of total business personal property as of January 1, 1960.

Research Department
New Jersey State Chamber of Commerce
January 1960

NEW SECTION
PROPOSED FOR SENATE NO. 1

EXHIBIT B

In the preparation of assessments of property for the year 1961, if the assessor of any taxing district shall find it impracticable to set forth his assessments at taxable values expressed in terms of the percentage levels established pursuant to law, or if the taxing district shall not have completed and put into operation a revaluation program in the period January 1, 1954, to January 1, 1960, he shall prepare his assessment list and assessor's duplicate expressed in terms of the percentage level of the true value of real property and the percentage levels of the fair value of taxable tangible personal property actually used by him in setting forth his assessed valuations, but in such case he shall (1) value business inventories at the applicable percentage level of fair value, derived from equation A (provided in this section), and set forth in a table to be known as the Business Personalty Ratio Table, which table shall be on file in the office of the Division of Taxation with a copy thereof being sent to each assessor by the Director of the Division of Taxation on or before June 30, 1960, or at 1/4 of the percentage level of true value of real property actually used by him in setting forth his assessed valuations for the year 1961, whichever is lower; (2) value all machinery, implements and equipment and all other personal property other than inventories, farm machinery and farm livestock, at the applicable percentage level of fair value, derived from equation B (provided in this section), and set forth in the aforesaid Business Personalty Ratio Table or at the percentage level of true value of real property actually used by him in setting forth his assessed valuations for the year 1961, whichever is lower; and (3) include in the affidavit prescribed by section 54:4-36 of the Revised Statutes a statement of the percentage levels which he has used.

In the preparation of assessments of property for any subsequent year, if the assessor shall apply to the director of the division of taxation and set forth facts showing that it still remains impracticable to set forth his assessments for such subsequent year at taxable values expressed in terms of the percentage levels established pursuant to law, upon findings by said director that the assessments cannot be so prepared until the completion of a revaluation program meeting the standards prescribed under section 54:1-30 of the Revised Statutes and that the levels proposed to be set forth in the statement to be included in the assessor's affidavit fairly state the levels actually used by him in setting forth his valuations, the director may permit the assessment list and assessor's duplicate for any such subsequent year to be prepared and filed, together with the said affidavit, in the manner provided in this section; but if the taxing district shall not have

completed a revaluation program and put it into operation in the six year period prior to such subsequent year, the director shall require the assessment list and assessor's duplicate for any such subsequent year to be prepared and filed together with the said affidavit, in the manner provided in this section.

Equation A

$$\text{Assessment Ratio for Inventories} = \frac{P}{\frac{1}{4} M + I}$$

Equation B

$$\text{Assessment Ratio for Machinery and Equipment} = \frac{P}{M + \frac{1}{4} I}$$

In these equations P is the percentage that total assessed valuations of business personal property as of October 1, 1959, is of the total fair value of business personal property as of January 1, 1960; I is the percentage that the fair value of all business inventories as of January 1, 1960, is of the fair value of all business personal property as of January 1, 1960; and M is the percentage that the fair value of all machinery, implements and equipment and all other business personal property (other than inventories, farm machinery and farm livestock) as of January 1, 1960, is of the fair value of total business personal property as of January 1, 1960.

Research Department
New Jersey State Chamber of Commerce
January 1960

