

PUBLIC HEARING

before

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

Held:  
March 15, 1977  
Assembly Chamber  
State House  
Trenton, New Jersey

COMMITTEE MEMBERS PRESENT:

Senator Thomas G. Dunn (Chairman)  
Senator Joseph A. Maressa  
Senator Peter J. McDonough

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Glenn E. Moore, Secretary

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**SENATE RESOLUTION No. 30**

**STATE OF NEW JERSEY**

INTRODUCED AUGUST 12, 1976

By Senator DUNN

(Without Reference)

A RESOLUTION creating the Special Senate Committee on Tax Appeals procedure, and prescribing the powers, functions and duties thereof.

1 WHEREAS, The local property tax is the single most significant  
2 source of public revenue in this State; and

3 WHEREAS, Equitable means of assessing and administering the  
4 said tax has been a primary concern of the Legislature for many  
5 years; and

6 WHEREAS, In view of the large proportion of public services  
7 financed, on the local government level, through this form of  
8 taxation, it is essential that the burden be equitably apportioned,  
9 both among the several local government units which rely upon  
10 this source of revenue to discharge the responsibilities laid upon  
11 them by the State, and among the several individual taxpayers  
12 within each taxing district; and

13 WHEREAS, In recent years significant improvements have been  
14 made, by legislative revision of the methods and basis of assess-  
15 ment, to assure that property assessments shall be made on a  
16 uniform and equitable basis, by professional methods, and kept  
17 up to date; and

18 WHEREAS, Improvement in basic assessment standards and pro-  
19 cedures have not been matched by corresponding improvements  
20 in the procedures for appeal of assessments by individual tax-  
21 payers; and

22 WHEREAS, The said appeals procedure remains lengthy, complex  
23 and expensive, and is not a practicable means of relief for small  
24 residential taxpayers, who in most cases cannot hope to attain

25 assessment reductions commensurate with the trouble and ex-  
26 pense of the procedure; and

27 WHEREAS, There have been allegations that the existing tax appeals  
28 system, with its cumbersome procedures, complex requirements  
29 and part-time judges, is heavily weighted toward the benefit of  
30 the larger property owners and the attorneys who specialize in  
31 prosecuting their appeals; and

32 WHEREAS, It is desirable that the State tax appeals procedure be  
33 professionalized, modernized and provided with sufficient staff  
34 and efficient procedures to expedite fair disposal of appeals by  
35 all taxpayers; now, therefore

1 BE IT RESOLVED *by the Senate of the State of New Jersey:*

1 1. There is hereby created the Special Senate Committee on  
2 Tax Appeals Procedure, which shall be composed of six members  
3 of the Senate, no more than three of whom shall be of the same  
4 political party, to be appointed by the President of the Senate,  
5 who shall designate the chairman thereof.

1 2. It shall be the duty of the said special committee to conduct  
2 a thorough study of the State tax appeals procedure, and to make  
3 recommendations to the Senate for the professionalization, mod-  
4 ernization and improvement of the said procedure. In the course  
5 of such study the special committee shall (without limitation on  
6 the general authorization herein) give particular attention to:

7 a. Replacing the present administrative State tax appeal system  
8 and instituting a Tax Court, to be part of the Judicial Branch of  
9 State Government, subject to the supervision and discipline of the  
10 Supreme Court, for the handling of tax appeal matters only;

11 b. Staffing the said Tax Court with judges who will be required  
12 to devote full time to the exercise of their judicial duties; and,

13 c. Designing the said Tax Court to be of sufficient size, and  
14 with adequate support personnel, to handle expectable case loads  
15 upon a year-round basis, so as to make fair decisions speedily  
16 available to taxpayers who cannot afford the delays and un-  
17 certainties of the present system.

1 3. The special committee shall be entitled to call to its assistance  
2 and avail itself of the services and assistance of such employees  
3 of any State, county or municipal department, board, bureau,  
4 commission or agency as it may require and as may be available  
5 to it for said purpose, and to employ such stenographic and clerical  
6 assistants and incur such traveling and other miscellaneous ex-  
7 penses as it may deem necessary, in order to perform its duties,

8 and as may be within the limits of funds appropriated or otherwise  
9 made available to it for said purposes.

1 4. For the purpose of carrying out the terms of this resolution  
2 the special committee shall have all the powers conferred pursuant  
3 to chapter 13 of Title 52 of the Revised Statutes.

1 5. The special committee may meet and hold hearings at such  
2 place or places as it shall designate during the sessions or recesses  
3 of the Senate and shall report its findings and recommendations to  
4 the Senate, accompanying the same with any legislative bills to  
5 which it may desire to recommend for enactment.

SENATOR THOMAS G. DUNN (Chairman): May I ask the people in the Chambers to take their seats so that we can start this meeting.

In August of 1976, the Senate of the State of New Jersey adopted a Resolution creating a Special Committee on Tax Appeals and prescribing the powers, functions and duties thereof. I will not read the full Resolution for this meeting, which is the first of a series of public meetings to handle the business spelled out in Resolution No. 30.

The President of the Senate, Matthew Feldman, appointed a bipartisan committee of six Senators, consisting of myself as Chairman, Thomas Dunn, from the 21st Legislative District; Senators Maressa, Skevin, McDonough, Davenport and Hagedorn. Senator Skevin cannot be with us today but other Senators on the Committee will be dropping in for portions of the program. Senator Skevin has a death in the family. So Senator Maressa will join with me in starting the meeting off, the purpose of which is to hear from some witnesses who have either been invited to give testimony or have volunteered to come before us to give testimony relative to the business of the Committee.

It is our hope that we will be able to get through the list of scheduled witnesses as soon as possible and then will be able to hear from others in the Chambers today who would like to be heard.

There will be a second meeting scheduled for March 30th, at which time others will be invited to give testimony and at which time others are expected to voluntarily come forth.

We have had at least one informal meeting already, at which time Barbara McConnell, Executive Director of the State Tax Appeals Court, was most helpful to this Committee in providing background material and answering many of the questions that were burning in our minds about the operation of the Tax Appeals system.

We are going to invite Mrs. McConnell to come forth at this time and to give, under oath, a statement and then submit to questions of the Committee relative to the operation of the Tax Appeals Court and her own duties, as well as those of the Judges, as she understands them. And then we expect to hear from Judge Savino and perhaps get a couple more unscheduled witnesses in the meantime before going to lunch.

Later on, around 1 o'clock, we will have Mrs. Angela Szymanski, who is Secretary of the Middlesex County Board of Taxation, appear. At 1:30, Mr. Lawrence Lasser of the firm of Lasser, Lasser, Sarokin and Hochman; about 2:15, Mr. Leo Rosenblum, representing Rosenblum and Rosenblum; at 3:00, Mr. David Mandelbaum of Mandelbaum and Mandelbaum; and about 3:45, Mr. Harraka who is Chairman of the Legislative Committee of the Municipal Assessors Association.

And, as I mentioned, we would like to hear from as many people as we can possibly schedule today. So, if you wish to appear and give testimony, I would invite you now or sometime during the morning to sign in on one of these yellow pads so that we can call you as time permits.

I would like to stress the fact that this public hearing will not cover any particular bill that is already before the Assembly or

the Senate relative to improving or changing or modifying the system as it exists today. The purpose of this Committee, in a nut shell, is to get information that will allow the Senate Committee to confer with its colleagues on many bills that are already before the Legislature calling for certain changes in the overall process. So we are not going to be speaking about any particular bill today but simply about the system, the State Tax Appeals Court, per se. And, hopefully, we will be able to elicit much information that will enable both Houses of the Legislature to pass legislation that will reform, if you will, or improve the system as we know it today.

So, without further ado, I would like to ask Mrs. Barbara McConnell to submit to being sworn in as our first witness.

(Witness sworn)

SENATOR DUNN: Mrs. McConnell, will you please identify yourself? And I understand you do have a prepared statement that you wish to read.

B A R B A R A M C C O N N E L L: I am Barbara McConnell, Secretary, Division of Tax Appeals.

Senator Dunn and members of the Special Senate Committee, I want to thank you for giving me the opportunity to appear before you and give testimony relating to the Division of Tax Appeals.

In the last few year, much has been said, recommended and implemented in the area of tax reform, but little has been done regarding our State's system of tax review. With the increased burden of taxes resting on our citizens and municipalities, we believe a look at our State's review and appeal system is long overdue.

I am aware of the criticisms that have been levied against the Division of Tax Appeals as a result of our increasing backlog of appeals and our inability to dispose of these appeals at the same rate as they are being filed. But, to make the Division of Tax Appeals the "whipping boy" for our State's system of tax review ills is unfair and misleading.

Until there is a commitment on the part of the Legislature and the State of New Jersey to study and restructure the entire assessment and appeals system, from the County Board level on up, then the Division of Tax Appeals which is overburdened, under-staffed and under-funded, cannot be expected to bear the burden for the entire system.

I am here to help set the record straight about the Division of Tax Appeals and to give testimony as to our workload, our procedures, our problems, our accomplishments, and to remind this Committee of the recommendations that we have repeatedly made for changes.

The Division of Tax Appeals is an appellate body that receives appeals of taxpayers and taxing districts from local assessments, and all other taxes levied by the State of New Jersey with the exception of transfer inheritance taxes. The Division also hears appeals from taxing districts from the School Aid Equalization Tables, and the County Equalization Tables.

The Division is composed of seven judges, appointed by the Governor, with the advise and consent of the Senate, for a term of five

years, with one of the judges being designated as Presiding Judge. No more than four judges may belong to the same political party.

At least four judges shall be attorneys at law of the State of New Jersey of at least ten years standing, and shall be chosen "because of their special qualifications, knowledge and experience in matters concerning the valuation and taxation of property, particularly of real property." At present, all of the judges are attorneys at law, have served on the Division for a number of years, and were appointed because of their special qualifications, knowledge and expertise in the area of taxation.

According to the statute, the judges are required to "devote such time as shall be required for the efficient performance of the duties of office." However, you and I know that it was the intent of the Legislature that the judges should be part-time.

The judges' salaries are fixed by statute at \$17,000, each, and \$18,000 for the presiding judge.

The Division is required to keep records of its proceedings and to make findings of fact and conclusions of law.

The Division of Tax appeals is currently faced with a workload of crisis proportions. The number of tax appeals filed with the Division has increased from over 3,000 in fiscal year 1967 to over 13,000 estimated for fiscal year 1977. The percentage of increase in number of appeals filed is 320% in 10 years. While this increase has been taking place, the Division's capacity for handling these appeals - in terms of number of employees and judges - has not increased or changed in 10 years. In 1966, there were 13 employees and 7 judges working in this Division. Today, there are 13 employees and 7 judges.

While I believe we are operating at top administrative efficiency, it is a fact that we simply do not have the capacity to handle the rate of growth that is taking place in the Division of Tax Appeals. In spite of the fact that a great deal of effort has been made to accelerate the number of appeals heard and decided each month and to streamline significantly our administrative procedures, a look at our records will show that we are unable to dispose of appeals at the same rate as they are being filed with the Division. Specifically, from July 1, 1973 to June 30, 1974, this Division disposed of over 3,000 appeals. During the year '74-75 we disposed of almost 5,000 appeals. During the year 1976, this Division disposed of 7,460 appeals - a record number.

Contrary to the part-time theory, each judge averages 30 to 40 hours a week on Division matters. Based upon the years 1975 and 1976, the average number of appeals scheduled for hearing before each judge is 2,000 cases. While a majority of these cases are adjourned at the request of the petitioner or his attorney, and a significant number are dismissed, withdrawn or settled out of court, the burden of cases per judge is enormous. If one considers that the average judge tries 167 cases per year, and that each judge is statutorily required to make findings of fact and conclusions of law and to submit a written opinion on each case tried, you will find that each judge must write an opinion

every 2.1 days during those years. This involves time not only spent in court hearing the case, but also time spent doing research, reading the transcript, and writing the opinion. It must also be pointed out that each opinion, after it is written, is discussed before the entire Division. In addition to actually hearing appeals, and writing opinions, each judge receives numerous telephone calls in his office regarding cases on his calendar, is required to hear motions under the Rules of the Court, and is required to meet with the entire Division the first Thursday of each month.

While there is no statutory deadline for hearing and deciding local property appeals, it must be noted that the statute requires that School Aid appeals, which must be filed with this office by October 31, shall be decided by January 31. On Equalization appeals, the statute requires that they be filed with this office by April 10 and judgment entered by September 10. As a result, these appeals take scheduling precedent over local property appeals during these periods of time.

While I can point with pride to some of the administrative changes we have made, such as updating and simplifying our docketing system, simplifying our appeal forms, revising our filing system to combine several years of appeals for the same block and lot, the scheduling of appeals in a fair and efficient manner, - according to the oldest pending appeals first in various counties throughout the State - and revising the Division rules to provide for a procedure modeled after the Superior Court Rules, the fact remains that we have not been able to do enough. There is at present a 28,000 backlog of appeals which date back to 1973. This is, indeed, too long for the taxpayers of New Jersey to wait.

Over 90% of all appeals filed with this Division are local property appeals.

Our budget for fiscal 1978 called for \$442,000 - an increase of \$75,000 from fiscal year 1977. This request was cut by \$69,000, making our budget \$369,354. This is \$8,000 less than the total adjusted appropriation received by the Division in fiscal year 1977.

As a result of a new fee schedule enacted by the Legislature, which took effect December 1975, this Division received in fees \$260,000 during fiscal year 1976. It is expected that we will receive in fees for fiscal year 1977 approximately \$300,000.

The fee schedule is based upon assessed valuation. Those properties under \$20,000, a filing fee of \$2.00; \$20,000 to \$50,000, \$5.00; \$50,000 to \$100,000 of assessed valuation, the filing fee is \$15.00; those properties at \$100,000 or more, the filing fee is \$50.00.

It is apparent from looking at this fee schedule that it is not discriminatory against the small taxpayer, as has been alleged.

A look at our files will show that 50% of our appeals are for assessed valuations of \$100,000 or more; 24% for assessed valuation of \$50,000 to \$100,000; 12% for assessed valuation of \$20,000 to \$50,000; and 13% for those assessed under \$20,000.

A taxpayer may file an appeal and appear before this Division

pro se.

On numerous occasions, I have appeared before the Joint Appropriations Committee, as well as other legislative committees, pointing out these facts, making recommendations for changes, and asking for the resources by which to operate more efficiently.

So today, I testify before this Special Senate Committee with the hope that out of this Committee's work some positive and constructive recommendations will be made to the Legislature about our State's system of tax review, and that the Division of Tax Appeals will be given the tools and resources by which to work and serve the people of this State more efficiently.

Senator Dunn, that's the end of my prepared statement. Judge Savino is here with me today. Both of us will be happy to answer any questions you have in detail.

SENATOR DUNN: Thank you, Mrs. McConnell.

Mrs. McConnell, at an earlier meeting of this Committee, you submitted other documents. One in particular that will be of interest to this Committee is the 1975 Appeals Calendar showing that in 1975 there were approximately 11,000 cases, of which 933 were actually tried, 2400 were settled, 725 were withdrawn, 6700 were adjourned, 173 were dismissed, 1100 were stipulated or withdrawn from the file. And then you have also on that same sheet the 1976 Appeals Calendar. On another page of it, you show the appeals pending as of February 1, 1977, and then data of the workload of the judges between 1975 and the end of 1976. Then you showed a breakdown, on another page, of the various numbers of cases on the calendar for each judge, the ratio of cases settled as against the cases tried, and a percentage of the cases on the calendar that were adjourned.

I ask you at this time now, shall we or can we submit that document as a part of your record?

MRS. McCONNELL: Yes, you may.

SENATOR DUNN: The information supplied relative to - it is headlined, Division of Budget and Information - may we add that also as part of your testimony?

MRS. McCONNELL: Yes, sir.

SENATOR DUNN: It is my understanding that our staff prepared most of that information but that you have had an opportunity to study it. Do you know of any radical change that is required to make your testimony more accurate?

MRS. McCONNELL: No, sir, I do not. All of this information was taken from our files and data that I turned over to Mr. Moore, a member of your staff.

SENATOR DUNN: All right. Thank you, Mrs. McConnell.

In your prepared statement that I have in front of me, you make note of the fact that the judges work a forty-hour week, but in reading your statement you mentioned that they work from thirty to forty hours.

MRS. McCONNELL: That was an error. I had testified before your Committee earlier, Senator Dunn, that the judges average from thirty

to forty hours per week, and that should have been included in my prepared statement. So I would like to correct it to read thirty to forty hours.

SENATOR DUNN: All right. Mrs. McConnell, how long have you been serving in your capacity?

MRS. McCONNELL: I was appointed in November, 1974.

SENATOR DUNN: Is it in the classified or the unclassified service?

MRS. McCONNELL: Unclassified.

SENATOR DUNN: The unclassified service.

As you know from our meeting of an earlier date, among the many things that this Committee and the Legislature is interested in, we are very much interested in making recommendations to the Legislature that might afford a better opportunity for the so-called individual small taxpaying citizen to present his case before the State Tax Appeals Court as against those large taxpayers who are represented by legal experts.

You did mention to this Committee, at one time, at the last meeting, that there are some legal firms who make a specialization of appearing before the State Tax Appeals Court to such an extent that many of them bring in to your office or offices so many cases in any one given time that they bring it in boxloads. Would you want to in any way change that statement that you made at that time?

MRS. McCONNELL: We did discuss this the last time that I appeared before you. And while it is true that there are attorneys in this State who do a great deal of tax work and during the appeal season, in December, when the appeals are filed, oftentimes they are brought in in large numbers. I would like to change it not to read "boxloads" but they do bring them in in large numbers to the extent that we have to put them in boxes until such time as they're processed.

SENATOR DUNN: Well, we all recognize the fact that there are some law firms that specialize in bringing tax appeals to the State level and, without holding you to a specific number, approximately, from what you have been able to garner in your experience, how many law firms make a specialty of handling this type of case?

MRS. McCONNELL: Sir, I couldn't answer that question. It is true that there are attorneys in this State who do specialize in tax matters but I think it would be inappropriate for me to name names or numbers because, you know, there are many in the State of New Jersey.

SENATOR DUNN: Would it be safe to say that there are fewer than ten law firms that handle most of the workload that is brought before the seven part-time judges?

MRS. McCONNELL: I'm not sure whether that would be an accurate statement or not, Senator Dunn.

SENATOR DUNN: Using the rough figure of 25,000 cases per year that get to the State Tax Appeals Courts, is it not true that the overwhelming number of them are represented by law firms?

MRS. McCONNELL: As I said earlier, there are law firms in the State of New Jersey who do specialize in tax matters, as there are

specialties in any other field. But as I told you before, we don't file according to attorney or petitioner, we file according to county, municipality, and once they're filed with our office, we don't concern ourselves with who the attorney is and pay that much attention to who they are or how many there are. They are filed according to county, municipality, lot and block. And when they're pulled, they are pulled in that manner.

SENATOR DUNN: If I were to mention a law firm to you, there is no way that you can tell how many cases that particular law firm handled in 1975?

MRS. McCONNELL: No, sir, I cannot.

SENATOR DUNN: No way at all.

MRS. McCONNELL: No. The only purpose that we have for knowing the attorney is for the purpose of sending out notices. But they are not filed in that manner nor do we keep a record of how many appeals are filed by a particular attorney. I am more familiar with the municipal attorneys, township attorneys than I am with attorneys who represent petitioners or individuals.

SENATOR DUNN: With a workload of approximately 25,000 cases, can you assure the Legislature of the State of New Jersey that fair and equitable treatment is afforded to say a one-family homeowner who appears before the State Tax Appeals Court as against the type of treatment that is afforded to large taxpayers represented by some of the law firms that make a specialty of representing large taxpayers?

MRS. McCONNELL: Absolutely. I could verify that without reservation that it is my belief that the judges of the Division render fair and impartial judgment on all appeals before them regardless of whether they are on one-family dwellings or they're pro se or whether they're represented by large law firms. Remember that they are required to make findings of fact and conclusions of law, and their decisions are subject to appeal to the Appellate Division.

SENATOR DUNN: Are you in a position to make that statement? Do you make periodic visits into the courts while they are in session? And is that statement of yours ascertained on experience that you have actually been part of?

MRS. McCONNELL: No, sir, it is not. I do not, because of my duties and responsibilities with the Division of Tax Appeals, I do not travel the State and appear in the courtrooms at the hearings. I have been, on a couple of occasions, in the courtrooms, but I do have access to the transcripts and the files and I occasionally read these transcripts as a result of letters received. I am present at Division meetings, held the first Thursday of each month, where the decisions are discussed and proceedings of court are discussed there. So my information is gained in that manner.

SENATOR DUNN: Are you in a position to state emphatically that at no time one particular law firm is given a full-day's attention by a presiding judge, taking care of all his cases in one day?

MRS. McCONNELL: Senator Dunn, Judge Savino is here, he is a

Judge on the Division of Tax Appeals and --

SENATOR DUNN: You are not in a position to answer that?

MRS. McCONNELL: No, sir. I believe these are questions that he should answer.

SENATOR DUNN: Mrs. McConnell, do you feel that the position that you presently hold should be filled by an Attorney?

MRS. McCONNELL: No, not necessarily. My duties are administrative. I am in charge of the clerical and secretarial employees of the Division of Tax Appeals, in charge of the overall operations of the Division of Tax Appeals, and the position does not require that it be held by an attorney.

SENATOR DUNN: How many employees report to you?

MRS. McCONNELL: Twelve.

SENATOR DUNN: You have a total of twelve. Can you, as you have already done informally, spell out some of the duties and some of the ways that you handle servicing the tax appeals process with so few employees?

MRS. McCONNELL: Well, it's very difficult. As I said, we have twelve employees, all of whom are secretarial or clerical employees. We have no professional members of the staff. The workload is tremendous and it has been very difficult over the last few years to keep up with the increased number of appeals filed. But as I pointed out in my formal statement, by streamlining certain administrative procedures in the area of docketing, consolidation of files, and the processing of the appeals as they come in— because the deadline for filing local property appeals is December 15th in any given year. Now in prior years this was a tremendous burden, when you know eight to ten to thirteen thousand appeals came in during that period of time, to process them because each appeal has to be read for verification, affidavits, proper signatures, to make sure that they have been before the county board - they can only appeal to us from judgments of the county boards, so this was taking months, four to five months to just process the appeals to make sure they were in order, put them into folders, give them a docket number, acknowledge the petition, and to write the petitioners telling them approximately when they would be scheduled for a hearing. This was taking four to five months. And through a process of streamlining these procedures, we've been able to cut that down this year; even though it was a record number of appeals filed, over 13,000, we were able to process these within six weeks. So we have been able to do those kinds of things and to keep up with the administrative workload of the Division.

SENATOR DUNN: So, including yourself, there are thirteen people who are assigned to do the stenographic services and the other administrative things that must be done, primarily office work, is that right?

MRS. McCONNELL: That's right. Yes, sir.

SENATOR DUNN: What, if any, professional employees are hired by the judges or by the State Tax Appeals Court?

MRS. McCONNELL: None. The judges, in the budget, are allowed funds for secretarial services outside of the Division. This is for typing

of their opinions, certain secretarial help. Other than that, there are no professionals, no legal assistants hired by our Division that are accessible to the judges.

SENATOR DUNN: Are there any funds in that budget that would allow a judge to hire the professional services of one to visit a particular piece of property to inspect it?

MRS. McCONNELL: No, sir.

SENATOR DUNN: Nothing at all?

MRS. McCONNELL: No, sir.

SENATOR DUNN: So we're talking about seven judges and thirteen people, working with the judges, covering the entire State of New Jersey.

MRS. McCONNELL: That is correct.

SENATOR DUNN: Do you feel that a staff of professionals familiar with the assessing of real property should be employed by the judges?

MRS. McCONNELL: This is a question I would like you to ask Judge Savino.

SENATOR DUNN: Senators?

SENATOR MARESSA: Mrs. McConnell, it seems to me that the need for a complete overhaul of the system or the implementation of a tax board is so outstanding and obvious that perhaps somebody has not made the Legislature aware of the deplorable condition, if you will, that presently exists. Now I, for example, am in my sixth year in the Senate and I never realized - and I think Senator Dunn is to be congratulated for what he is doing - that things were as bad as they are. What can you tell us about what has been done to alert the Legislature or the Governor's office of these conditions?

MRS. McCONNELL: Well, I think what has happened, in years past the Division was an insignificant part of the whole State process, or was viewed in that manner. Of course, the problems were not as great then, not as many people were filing appeals. And this has accelerated over the last ten years because of the burdens of taxes upon the people. I think it happened rapidly. However, I do know that the judges and the staff, the people who have held the job prior to when I took the job, have made recommendations to the Governor's office, to the Treasurer's office, to the Legislature, to the Joint Appropriations Committee. Each year we testify before the Joint Appropriations Committee about what our problems are, our needs. I know on a number of occasions I've appeared before the Taxation Committee of the Assembly, the Senate, the Joint Appropriations Committee, pointing out our problems, the rate of increase, and urging them to take a look at our problems and the State system of tax review, asking that a committee be appointed to study this across the State and, to date, no action has been taken. So I don't think that we've been remiss in the Division of Tax Appeals in not making known what our problems are.

SENATOR MARESSA: In other words, it's been your testimony before the Joint Appropriations Committee, each year, that was the signal to alert the Legislature?

MRS. McCONNELL: Yes, about the backlog that we have, our capacity

for handling this. And I have memorandums and statements that I have submitted on prior occasions.

SENATOR MARESSA: As a practicing attorney handling maybe one or two cases a year on a State appeal, I can tell you it's the general feeling amongst people who do as little as I do of this type of work that you just file an appeal with the State and forget it. You know, it may come up in your lifetime but you're not sure. And that's what it really amounts to. And I am really surprised. I don't know if it's a situation whereby maybe those persons concerned don't feel that it's as serious a matter as perhaps the rights of citizens in other courts. You know, nobody is going to jail, nobody is in an automobile accident, or we don't have a bankruptcy; it's just a question of maybe lowering an assessment. But I think we should become more concerned about things such as this.

MRS. McCONNELL: I agree. The Division of Tax Appeals has had very little attention. It's not the kind of court system that's emotional or that makes headlines or heroes or that type of thing. And I do believe that there is very little known about the Division of Tax Appeals, even the process of appeal in the State of New Jersey. I think perhaps a great many more people know that they can file to the county boards of taxation, but you would be amazed how few people realize that they can come to the Division of Tax Appeals from the judgments of the county boards. And I've said all along, not that you want to go out and drum up business, but I do think that there should be either an educational or informational service provided to let the people know that they do have the right to appeal and that they can receive fair and impartial judgment on judgments from the county boards or from assessments.

SENATOR MARESSA: Who takes care of the scheduling of the cases?

MRS. McCONNELL: We do in the office. Now that's one of my responsibilities. I don't personally do it, and type up the notices and that type of thing, but I make the decisions about the calendars and where they will be and how many cases will be set down.

SENATOR MARESSA: I think Senator Dunn asked you the question. When you see a particular law firm has a number of appeals, don't you try, for the convenience of that firm, even perhaps at the request of that firm, to schedule them all on a given day?

MRS. McCONNELL: No, we don't. As I pointed out before, we do not file appeals according to attorneys or names of taxpayers but rather locations, lot and blocks. This has been suggested. The question has been raised as to whether or not this would help us to expedite cases more, and it would cut down on the number of requests for adjournment if you sort of lump all of the appeals that one attorney is handling, and so forth, and get him there on a particular day; perhaps it would cut down on the number of adjournments. But my argument was that it would be administratively impossible for us to set up our calendars in this manner. What we try to do is schedule appeals in various counties throughout the State, again for the convenience of the people. Now we don't go into all 21 counties but we try to do it on a regional basis, and I try to rotate the counties. In

other words, we have seven judges and we have twenty-one counties so hopefully we can get to - or ideally we can get into each county three times. We're not able to accomplish this but this is our goal.

SENATOR MARESSA: Thank you.

SENATOR McDONOUGH: Mrs. McConnell, I am not an attorney, by the way. I don't try cases. I did build houses years ago and did get into the question of property values and taxation. And we just finished an evaluation of the City of Plainfield about two years ago and I watched people appeal locally and I watched them appeal countywide. I don't know what happened thereafter.

My question then - well this is not really a question, it is more of a statement. I, personally, after looking over the papers that you have submitted, wonder whether the compensation for these judges is anywhere near what it should be in order to get - rather if the compensation for all those in the appeal procedure is enough to get the kind of a job that we are asking for, and at these prices I certainly don't agree with it.

How long does the average appeal take, that is in hours, that appeal itself, the time it is assigned to a judge; what would be the average amount of time spent on appeal?

MRS. McCONNELL: I couldn't answer that because it would vary. You know, it depends upon the assessed valuation, the nature of the case, and I have heard the judges say that really even the assessed valuation has relatively little to do with how long the appeal process takes because oftentimes a \$20,000 assessed piece of property might take as long to hear as a \$2 million piece of property. It depends upon the points of law. And I am sure Judge Savino can elaborate more professionally on that question.

SENATOR McDONOUGH: The fact there are certain lawyers that are such specialists and since they have a number of cases, are they causing a deal of your backlog because they can't be heard, their cases aren't ready; do they cause part of your backlog, as I know they do in our criminal courts and negligence courts?

MRS. McCONNELL: The number of adjournments and requests for adjournments concern me greatly. And, of course, this does slow down the process. Now we've been criticized for the number of cases that we adjourn, but this is not our fault. You would be amazed at the number of requests for adjournment that we get, either because their experts are not ready or the attorney has another case pending in the Superior Court, which takes precedent, or that type of thing. But, as I say, we pull these cases at random and send them notice that your appeal will be heard on such and such a date at such and such a place, and we have no way of contacting say 120 petitioners or their attorneys, respondents and their attorneys, and obviously you're going to get a great percentage of adjournments as a result of this. We try to crack down on agreeing to these adjournments but, as you and I know, there are still good and legitimate reasons for requesting them. And this does slow the process.

SENATOR MARESSA: Can you explain, Mrs. McConnell, since you do the scheduling, why Judge Savino has about three times as many cases as the other judges? According to this percentage of cases on calendar, Judge

Savino has 32%. Of course, I can understand Judge Lario, being the presiding judge, may have less. But is he the workhorse of the force?

MRS. McCONNELL: He is a workhorse, there's no question. But I would like Judge Savino to answer that question.

SENATOR MARESSA: But you do the scheduling.

MRS. McCONNELL: Well, each month the judges give me a date for a new calendar. It depends upon - some calendars are held over. For instance, if I set up a new calendar, say, in January of this year, the judge tries to dispose of the cases on that calendar. But as a result of adjournments or many other reasons, sometimes that calendar cannot be disposed of, so those cases will be held over to another month and an adjourned date will be scheduled. So it depends upon the nature of the case, a lot of times the location. There are a lot of ramifications to a particular calendar, so you can't judge by any one calendar how much time it would take.

SENATOR MARESSA: What calendar are we referring to here when it says "percent of cases on calendar", is that for a year, for a month or --

MRS. McCONNELL: That's the percent of cases set down on a calendar for that given year. In other words, if we set down seven or say twelve thousand cases, that means that Judge Savino had 32% of those cases on his calendar.

SENATOR MARESSA: Is this a calendar year?

MRS. McCONNELL: Yes.

SENATOR MARESSA: January 1 to December 31?

MRS. McCONNELL: Yes.

SENATOR MARESSA: It seems that 32% of the cases on the calendar were Judge Savino's. The next highest was Convery who had 18%. And 32% was the amount that he had on the calendar that year. Is there any minimum requirement in terms of hours of work that the judges have to have, do you know?

MRS. McCONNELL: No. Under the statute there is no hour set. It says they must spend time to perform efficiently the duties and responsibilities of that office. And it varies from judge to judge. But, as I testified, each judge averages 30 to 40 hours a week on Division matters. Now this does not mean actual hours in the courtroom because there is an awful lot more involved in rendering these decisions than just sitting in the courtroom.

SENATOR MARESSA: Do any of these judges make any particular requests to specialize in any type of appeal? Say, for example, you schedule cases for Camden County, does one judge say, well, I'll take the apartment houses, and another judge say, I'll take the residential ones?

MRS. McCONNELL: No, because again we don't file them that way. As I say, they are filed by county, by municipality, by lot and block, and the points of law in each of these appeals vary, and they may get a myriad of different types of appeal on any one calendar.

SENATOR MARESSA: Now when you schedule cases, for example, in Camden, would you at that point in time, since you say you schedule them in accordance with location as opposed to attorneys or anything else, would you say, for example, if a particular firm in Camden County has ten or twelve appeals, would you give that particular law firm a whole day?

MRS. McCONNELL: No, sir.

SENATOR MARESSA: You wouldn't.

MRS. McCONNELL: No, sir. If I set up a Camden County calendar, I would go to the file, I would pull the oldest pending appeals first without regard to who the attorneys were representing these appeals. I would pull the '73 cases first, until I made up what I consider a reasonable calendar, which averages 120 cases.

SENATOR MARESSA: So that a law firm does not get any preference.

MRS. McCONNELL: Absolutely not.

SENATOR MARESSA: I keep saying law firm. Any individual attorney would not get any preference.

MRS. McCONNELL: Absolutely not. Now, occasionally this will happen. Notices will go out that certain appeals are going to be scheduled for hearing. Occasionally we'll get a call from a petitioner or attorney representing him or often times I'll get a call from a municipality saying they got the notice about this and we also have an appeal for the same lot and block of another year or a contiguous piece of property for that same year, while we're hearing this case, which involves the same points of law, would you mind setting this down. Well, of course, that works to everybody's advantage and we're happy to do that type of thing.

SENATOR MARESSA: I'm very happy to hear that because that case does not exist in the Workmen's Compensation Court. As a matter of fact, as a result of scheduling all the cases that a particular attorney may happen to have, and it's usually the respondent's attorney, other people who need a representation are disenfranchised simply for that reason. You just can't go into a Workmen's Compensation Court with one case. You wait there all day long. So if you don't do that, I think you are to be commended for that.

SENATOR MARESSA: Thank you, Senator Dunn.

SENATOR DUNN: Mrs. McConnell, just a few more questions.

First of all, let me ask you this. Is there such a person in your employ that could be properly called a statistician? Who compiles all the facts and figures?

MRS. McCONNELL: I do.

SENATOR DUNN: You do it all. And if you do the scheduling of the judges, why is it so difficult for you to tell us approximately how many cases any given law firm might handle in any one day or any one year? Certainly, if you are familiar with the appeal itself, you must have some knowledge as to who the attorney is who is representing the person making the appeal.

MRS. McCONNELL: Senator Dunn, as I pointed out, I have the responsibility for scheduling the appeals, setting up the calendars, assigning the location as to where these calendars will be held, but I don't actually go to the file and do the clerical work on that, as you can understand. I testified before you earlier that this information certainly could be gathered if you feel that it's pertinent to the work of this Committee. But at this point this is not the way our files are set up. I don't look at the calendars according to attorneys, I look at them in terms of numbers of cases and the

disposition of those cases when they come back from the first trial date. I am more concerned with that. The attorneys are meaningless to me at that point, other than making sure that they get their notice.

SENATOR DUNN: But, Mrs. McConnell, you've been on the job since 1974?

MRS. McCONNELL: '74.

SENATOR DUNN: You testified that, yes there are some attorneys who have so much business that they bring their cases in by the boxloads. With you handling the main functions of the office as well as setting up the number of cases to be heard by any one given judge, it seems difficult for me to understand why you can't tell us whether or not there might be five, ten, twenty, twenty-five law firms in the State of New Jersey that do more of this type of work than others, or how many citizens are represented or not represented, or handle their own cases. And you seem to be very fuzzy about that. If a lawyer brings in boxloads of cases, I am sure it would be obvious to you that these particular cases were brought in by a particular law firm. Now, certainly a person who owns four pieces of property would bring in four appeals. But a lawyer representing several thousand, to the extent that they would be so burdensome that he would have to bring them in in boxloads, it would seem to me almost automatic that it would make an impression on you that these boxes were brought in by a particular law firm.

MRS. McCONNELL: Sir, I don't think I'm fuzzy. I think I've made it perfectly clear that there are attorneys in this State who do a great deal of the tax work in this State. I think it would be highly inappropriate of me to start naming names. You can name one name or two names and all of a sudden that's in the newspapers, aha, so and so does all of the tax work. This information is available in our files. In a letter written to you, as Chairman of this Committee, I said our files were open. If this is the information that you would like to obtain from our files, it's there. But I think it would be inappropriate for me to name two, three, five, ten attorneys. There are many.

SENATOR DUNN: Mrs. McConnell, I did not ask you to name the law firms. I asked you before about an approximate number of law firms in the State of New Jersey that specialize in this work. And you have a caseload of approximately twenty-five to thirty thousand cases per year. It seems to me that it would make an impression on you if one particular law firm handled three or four thousand cases in one year, so that you could say, oh, there must be about five firms that make a specialty of this type of legal work, or ten, or maybe a couple of hundred that make a specialization. My suspicion is that there are fewer than ten law firms. I would like to have you confirm it or say that I'm wrong and say, oh, no, there must be a couple of hundred.

MRS. McCONNELL: Let Judge Savino answer that question. But I think --

SENATOR DUNN: Judge, I would appreciate it if you would not prompt the witness.

JUDGE SAVINO: Senator, those questions you are asking --

SENATOR DUNN: Judge, the lady is very capable of testifying.

MRS. McCONNELL: I don't think you understand what that question means from my point of view. I mean, I'm sure from your point of view you feel that I run across the names of these attorneys all the time, that we categorize appeals according to attorneys. I testified that we do not do that. When final disposition is made on the case, what comes before me is a judgment that has been entered; it's in the name of the petitioner and the respondent, not the name of the attorney. You call my information fuzzy and vague. If it is, it is simply because it is not of primary concern to me who the attorneys are; it's not something that I'm conscious of in my work because I'm more concerned with the number of appeals, which counties they come from and the disposition of the case in order to do the administrative work necessary to process these appeals. I do not deal in terms of attorneys.

SENATOR DUNN: Well what you are saying, if I understand you correctly, despite the fact that you have been working for at least three or four years in this job, you are not familiar with the fact that there are firms in the State of New Jersey that make a specialization of handling appeals before the State Tax Appeals.

MRS. McCONNELL: Oh, I didn't say that. I've testified to that effect, that I do know that there are firms and attorneys who specialize in tax work, as there are in any other field?

SENATOR DUNN: But you will not hazard a guess as to how many firms.

MRS. McCONNELL: No, I will not.

SENATOR DUNN: Do you handle most of the correspondence relating to the business of the Tax Appeals Court?

MRS. McCONNELL: Yes, sir, I do. I read all mail that comes in. I dictate most of the answers except those that are routine and perfunctory in nature.

SENATOR DUNN: Have any recommendations for improvements to the system itself been made by the State Bar Association or any County Bar Associations, to your knowledge, - and let me add to that, have they registered any complaints with the way the process has been working?

MRS. McCONNELL: Not to my knowledge. No complaints administratively, no. Recommendations may have been made in other areas.

SENATOR DUNN: If constructive suggestions for improvement were made by the New Jersey State Bar Association or a County Bar Association, it would cross your desk?

MRS. McCONNELL: Oh, absolutely.

SENATOR DUNN: And the same with complaints?

MRS. McCONNELL: Yes, especially complaints.

SENATOR DUNN: During your tenure, has the Bar Association, whether it be State or County, shown any great interest one way or another in the system as far as making betterments to it?

MRS. McCONNELL: Not to my knowledge. It seems to me that when I was first appointed to the Division of Tax Appeals that prior to that there had been some recommendations made by the Bar Association in terms of - I believe there were some recommendations made in terms of a tax court.

SENATOR DUNN: To what?

MRS. McCONNELL: A tax court as opposed to a division. I believe they

did have a point of view on that. But that was prior to the time that I came. Since I've been there, I'm not aware of any move on the part of the Bar Association of the State of New Jersey about any recommendations for changes.

SENATOR DUNN: You mentioned before that your scheduling is based on a regional basis. Would you have any knowledge or information that you might wish to give to this Committee that there are some law firms that set up their business based on a regional basis?

MRS. McCONNELL: Ask me that again? Do I have any knowledge?

SENATOR DUNN: Do you have any knowledge whatsoever that perhaps maybe these law firms that specialize in State Tax Appeals that they too might be working on a regional basis, in other words, dividing up territories?

MRS. McCONNELL: I would have no knowledge of that.

SENATOR DUNN: Do the judges belong to any sort of an organization? We have, for example, a Conference of Mayors, League of Municipalities, etc.; do the judges have any organization in the State of New Jersey?

MRS. McCONNELL: Tax Appeal judges? No. They may be members of the Assessors Association. They do receive their magazine and bulletin. And the County Boards of Taxation, they meet regularly in the Division of Taxation and our judges and myself are always invited to attend those meetings.

SENATOR DUNN: This type of meeting you're talking about, do the judges confer with each other on a regular basis?

MRS. McCONNELL: Yes, they do. They meet once a month, by law, whereby they discuss opinions and Supreme Court decisions and any happenings or new things that have taken place in the field of taxation.

SENATOR DUNN: Are those meetings restricted only to the judges and your staff?

MRS. McCONNELL: Well, by statute, it says that the Division shall meet. Nobody has ever wanted to attend one. I suppose that if they did they could be open, yes.

SENATOR DUNN: Well, what do they do at these conferences, usually?

MRS. McCONNELL: Well, at the business meeting they go over the business of the month. We have an agenda. We have minutes from the last meeting because we're required to keep minutes by law. The major part of the discussion is taken up with opinions that have been written, cases that have been heard and decided that month, and opinions that have been submitted that month are discussed by the entire Division.

SENATOR DUNN: Do you keep the minutes of these meetings?

MRS. McCONNELL: Yes, sir, I do. They're a permanent record.

SENATOR DUNN: When was the last time there was a meeting, a conference of the seven judges?

MRS. McCONNELL: They meet the first Thursday of each month, by law, in Trenton.

SENATOR DUNN: And at these meetings they invite no one other than perhaps members of your staff or their staff?

MRS. McCONNELL: It consists of the seven judges and myself. I serve as Secretary to the judges.

SENATOR DUNN: To your knowledge, no one else is ever invited to those meetings?

MRS. McCONNELL: Not usually. I couldn't say that they never are. Usually it's just the seven judges and myself. Now often times we do hear motions on this day, the first Thursday of each month. That's when all the judges are in Trenton and are sitting together, so a lot of our motions are heard on that particular day, so of course we have attorneys --

SENATOR DUNN: They are not hearing motions at a conference of the seven judges.

MRS. McCONNELL: No, I don't mean that. I'm talking about on this day while they are in Trenton and in the courtroom occasionally in the morning we will schedule motions. Then the afternoon is devoted to the Division meeting.

SENATOR DUNN: I don't suppose you can recollect whether or not on this particular day of a conference meeting when motions are heard whether or not these motions are made by some of the law firms that specialize in tax appeals work?

MRS. McCONNELL: You know, the request for motions and the attorneys who represent the parties at these motions vary, Senator Dunn. No, I couldn't say they're assigned to --

SENATOR DUNN: Do you have any recollection as to how many times motions being heard on the day of a conference were made by taxpayers who were appearing pro se? Do you know of any at all?

MRS. McCONNELL: Usually motions are made by attorneys, Senator Dunn, because, you know motions are - it's a right under the rules of the court which we honor, the rules of the Superior Court. And usually motions are a legal matter that usually only attorneys representing petitioners and respondents request.

SENATOR DUNN: If I understood your answer to a question raised by Senator Maressa, you used the figure of 120 cases that you schedule. Do I understand that to mean that you schedule 120 cases, approximately, each day that a particular judge is in session?

MRS. McCONNELL: This is for a new calendar. When I get a date for a new calendar it averages from 90 to 120 cases on a new calendar, knowing full well that all those cases won't be heard on that particular day, that there will be a certain percentage of adjournment requests, some of the cases will be settled, and that type of thing, but that's an arbitrary figure that I have arrived at that seems to be workable.

SENATOR DUNN: Well, let's reduce the number to 100 cases a day. That would be a fair figure, that you schedule 100 cases per day for any one judge. And according to you, each judge is working 40 hours a week. And I understood you to testify at the previous meeting, correct me if I'm wrong, that they meet for at least ten months out of the year. Is that right?

MRS. McCONNELL: Oh, yes, at least.

SENATOR DUNN: At least ten months out of the year.

MRS. McCONNELL: Right. Well, they meet 12 months out of the year. No, what I testified to, I said usually the month of August was a very difficult month to have hearings because a lot of the attorneys go on vacation; the County Boards of Taxation, their appeals are beginning to come in and it's very difficult for us to schedule new calendars during the month of

August. So you probably derived that impression from that comment.

SENATOR DUNN: Well, let's get back to about a hundred cases a day that a judge is scheduled to handle one way or another. You've already testified that 50% of these - I assume that based on your total workload in any one year about 50% involves properties having assessed valuations of below \$50,000. Would it be safe to assume that a judge with 100 cases before him in any one day was going to hear fifty cases involving property owners with real estate worth lower than a \$50,000 of assessed valuation?

MRS. McCONNELL: Those percentages were taken from a sampling in our file of one given year. We arrived at the figure that approximately 50% of the appeals filed with our Division was in the \$100,000 category or more. And in my testimony I gave you the percentages of the other assessed valuations. Now, I don't know if that theory or those statistics would hold up on any given calendar because we're talking about a sampling here. I think what you would have to do is take several calendars and take a sampling to see if those statistics held up. I would say no on every single calendar that is set up that those statistics would hold up like that. But again they are not scheduled according to assessed valuation, they are pulled at random, as I pointed out to you.

SENATOR DUNN: In other words, when you make the schedule up for a judge, you don't pay any attention to the attorney who might be representing that person, you don't pay any attention to the assessed valuation involved, is that right?

MRS. McCONNELL: Yes, sir. That is correct.

SENATOR DUNN: It is based entirely on a regional basis.

MRS. McCONNELL: Absolutely. Now there have been suggestions and arguments about that procedure. I mean, the question has been raised, could you expedite the appeal more rapidly if you had calendars in a particular category, or according to attorneys so that there would be fewer requests for adjournment, and that type of thing. But we've never implemented that and I think there are strong arguments against that. Then you get into all sorts of other problems, an administrative problem that we simply cannot handle if you start categorizing appeals in that manner.

SENATOR DUNN: Again, getting back to the hundred cases, would it be safe for us to assume that at least 50% of any one day's workload would involve properties with assessed valuations in excess of \$50,000?

MRS. McCONNELL: Yes, I think that would be a reasonable assumption.

SENATOR DUNN: And, assuming that the judge works from 9 o'clock in the morning until 4 in the afternoon, would that be a good day's work? Nine to four and an hour for lunch?

MRS. McCONNELL: Yes. Remember that most of the judges are traveling. I don't schedule judges from their home county, so they are traveling, you know, to and from the location.

SENATOR DUNN: Well, one of the things that puzzles the members of this Committee, and others, is the fact that assuming and giving the benefit of the doubt to the judge that he is working diligently nine to four every afternoon - according to your figures 120 cases but now I'm talking theoretically of 100 cases - that he can dispose of, in one way or another, a good majority

of those cases in any one day, despite the fact that many of the properties will have valuations in excess of \$50,000 and some running into the hundreds of thousands and into the millions of dollars. We can't help but feel that there is something lacking, not with the ability of the judges but with the entire system. As a matter of fact, I marvel that any one judge can make an intelligent judgment on even a piece of property with an assessed valuation of \$20,000 without hearing both sides of an argument that might take twenty or thirty minutes.

MRS. McCONNELL: Well, don't misunderstand me. When I set down a calendar and if we're going to use the arbitrary figure of an average of 100 cases per calendar --

SENATOR DUNN: Well, you suggested the average of 120 cases.

MRS. McCONNELL: I do. You wanted to talk about the hundred cases. Whatever, a hundred or a hundred twenty cases, it doesn't matter. All of these are not heard on one day, as I pointed out. This is a new calendar; it's more like a calendar call, really, on that first day.

SENATOR DUNN: Well, let's talk about a hundred cases. Based on your experience, because you have such an intimate knowledge of what's going on in the system, out of a hundred cases how many cases - and again I ask you to hazard a guess -- approximately how many cases a day does a judge handle?

MRS. McCONNELL: A day?

SENATOR DUNN: Yes.

MRS. McCONNELL: On a new calendar, assuming there are a hundred or a hundred twenty cases on it, the first thing they do is have a calendar call. As I say, there are a great number of adjournment requests. A lot of the parties involved, the petitioners and respondents, may want to enter into stipulation at that point. But the judge determines on that day in a new calendar who is ready to go to trial and to have their case heard that day. Now once this process is over then the judge starts with the first appeal that's listed on the calendar and starts to hear it. It may take him all day to hear that one particular case. He may not finish with that particular case. Then all the remaining cases on the calendar will be adjourned over to a new date. The judge, at that time, will give a new date so that the parties there will know when the next date is and we don't have to send out additional notices. So it goes on and on and on like that until that calendar is cleared up, and it may take months to clear up one new calendar.

SENATOR DUNN: Well that accounts for the backlog of some 28,000 cases. Correct?

MRS. McCONNELL: Yes, sir.

SENATOR DUNN: So, while you schedule 120 cases, it is difficult for you or us to ascertain in any one given day how many he actually gets around to disposing of either through a full-blown hearing or through a compromise or a stipulation or an adjournment or a postponement, whatever you call it. Is that right?

MRS. McCONNELL: Right. Yes, it would be difficult to come up with a figure. Now what we could do is go through every new calendar for any

given year and come up with an average of how many cases were disposed of at the first --

SENATOR DUNN: We're talking about a piece of property that's worth a couple of million dollars and the judge decides to spend a little more time on that than on other cases and he has no professional help to guide him and, as you testified earlier, he doesn't ever go - at least that was the impression I got that he doesn't ever visit a particular piece of property to see it; he must depend entirely on the presentation made by the tax assessor and the attorney representing the taxpayer. Is that right?

MRS. McCONNELL: I think primarily that's true. But I did not say that they never visit a piece of property because I know on occasion, and in listening to discussions between the judges I've heard them point out, I've visited that particular piece of property, or I got in the car and drove up and looked at that piece of property.

SENATOR DUNN: Then I apologize. My recollection was that you testified that they never visited.

MRS. McCONNELL: I didn't say they never, but primarily they do rely on expert testimony and facts of law.

SENATOR DUNN: But they do not have any professional assistants.

MRS. McCONNELL: That's correct.

SENATOR DUNN: All right.

SENATOR McDONOUGH: I just have two questions here. Are all cases represented by an attorney, whether it's my house or --

MRS. McCONNELL: No, sir, they are not.

SENATOR McDONOUGH: Is there anybody that has to be represented by attorneys?

MRS. McCONNELL: Corporations.

SENATOR McDONOUGH: Corporations have to have an attorney?

MRS. McCONNELL: Yes, but that's under the rules of the Superior Court, not rules of the Division of Tax Appeals, but we adopt the rules of the Superior Court.

SENATOR McDONOUGH: If a small corporation had a small piece of property they were concerned about, would they have to have an attorney?

MRS. McCONNELL: I think so. Yes. I think the same rule would apply.

SENATOR McDONOUGH: Would you think that maybe this is why certain attorneys specialize in this, the fact that large corporations - take Campbell Soup, for example, or Singer Sewing Machine, in my own county, who maybe have a lot of appeals, as a result there are specialists for that reason, moreso than representing the little guy, the public, to do larger, much more expensive, much more costly type cases. And maybe this is why your court backs up and certain attorneys have most cases.

MRS. McCONNELL: Well, I think tax specialty is like any other specialty. Obviously your large corporations where, you know, they do have a great number of appeals or money involved, they obviously are going to get a specialist in that field, as you would if you were going to have heart surgery, you would get a heart surgeon.

SENATOR DUNN: Except they don't perform heart surgery by the

thousands using the same surgeon.

I would like to have Glen Moore ask a couple of questions. But you do mention in your prepared statement that four of the seven judges presently sitting are attorneys, but it is my understanding that the statute does not require that a judge be an attorney. Is that right?

MRS. McCONNELL: The statute requires that four of the seven must be attorneys, and I testified that all seven are attorneys.

SENATOR DUNN: Okay, thank you.

Glen?

MR. MOORE: I have one question relating to the fee schedule. I understand that when the fee schedule was revised, in 1975, you did prepare a fiscal note as to the impact of revising the fee schedule which the Legislature took into account when it amended that statute. Is that correct?

MRS. McCONNELL: That is correct.

MR. MOORE: The fee schedule now reads, for an assessed valuation under \$20,000 the filing fee is \$2.00; for \$20,000 to \$50,000, the filing fee is \$5.00; for \$50,000 to \$100,000, the filing fee is \$15.00; for over \$100,000, the filing fee is \$50.00. When you take into account the fact that 50% of the property tax appeals, according to your sampling made in 1975, were for over \$100,000, was any consideration given to expanding the fee schedule, for example, to set stages above \$100,000 at which a higher fee than \$50.00 would be paid?

MRS. McCONNELL: No, not at that time, because I think the information that came forward then - because that was a big jump. Remember the highest filing fee prior to that was \$15.00 and that seemed like a pretty big step at that time. And, two, the Legislature and the judges of the Division were concerned about graduating so that it would be an equitable and fair filing fee for all people concerned. So I don't recall that a recommendation came out to increase that fee. Now there was a lot of discussion about the \$2.00 fee, but strong argument to leave that fee that low in order that it would not be discriminatory against the small property owner.

MR. MOORE: I can understand that fee. Given the fact that there is an awfully large range above \$100,000 in assessed valuations which come up - based upon the information which this Special Committee is getting now from county boards of taxation, these assessed valuations range from \$100,000 up to three and four million dollars - would you advise that this Special Committee consider expanding the fee schedule in any way?

MRS. McCONNELL: I would. You are accurate in that because that's a wide range from \$100,000 up and you and I know that there are an awful lot of properties around today assessed, I mean single dwelling homes, at \$100,000 which does not necessarily connote wealth, or that sort of thing. Yes, I think that would be something that you should consider, to perhaps another dividing line between \$100,000 and some other arbitrary figure in the millions, and perhaps impose a greater fee.

MR. MOORE: Okay. That's all the questions I have.

SENATOR DUNN: One more question from Senator Maressa.

SENATOR MARESSA: Let me ask this question: Is this Tax Appeals

Division self-liquidating in that the fees pay for the salaries and so forth?

MRS. McCONNELL: No, sir, it does not.

SENATOR MARESSA: What is the gap?

MRS. McCONNELL: Well, this year it will be about \$69,000. We anticipate taking in around \$300,000 in fees and our budget, which was approved by the Joint Appropriations Committee is \$369,000.

SENATOR MARESSA: Could the fees be graduated with an imposition on the bigger appeals, such as you have there, increasing perhaps a little more to make it self-liquidating?

MRS. McCONNELL: They could be, yes.

SENATOR MARESSA: Without imposing a hardship?

MRS. McCONNELL: I think so, because I think there are, you know, a considerable number of appeals in the high category and I think it is something that this Committee certainly should consider. You must understand that the fees that we receive go right into the State Treasury. We don't use them for operating expense. They go right into the State Treasury and then our budget is appropriated out of the general treasury, like any other division of State Government.

SENATOR MARESSA: Has there been any discussion, to your knowledge, with any of the judges not being interested in becoming full-time if these jobs became full-time, would you know?

MRS. McCONNELL: Yes, this has been discussed. There's no question about that and I think there probably are a couple or a few that would not be interested, for varying reasons, personal or what-have-you.

SENATOR MARESSA: Thank you.

SENATOR DUNN: On behalf of the Committee, Mrs. McConnell, again I want to thank you for giving testimony today and for giving so much assistance to our staff and giving us some of the background material that we need.

MRS. McCONNELL: Thank you for giving me the opportunity, Senator Dunn.

SENATOR DUNN: Thank you very much.

The next witness scheduled is Judge Carmine F. Savino, Jr. of the Division of Tax Appeals, Department of the Treasury.

(Witness sworn)

SENATOR DUNN: Judge, for the record, will you identify yourself?

C A R M I N E F. S A V I N O, JR.: My name is Carmine Savino. I reside in Lyndhurst, New Jersey. My background consists of Judge of a Traffic Court in Bergen County for about ten years; I spent 9 years in the Assembly here, 5 years on the Appropriations Committee; I was appointed to this Court about 10 years ago by then Governor Hughes who offered the job to me; I didn't ask for it. At the time, I was on the Republican slate for Senate, in fact I was the leader of the Republican group that was elected that year. And during that campaign this job was offered to me and I decided to take the job and avoid the hurly-burly business of running for office as I had been doing for a number of years.

I want to thank you, Senator Dunn, for calling these meetings for the purpose of hearing exactly what we're doing. I feel that the Division of

Tax Appeals is one of the most important courts of the State. It has always amazed me to see and feel that we're working in a vacuum. No one seemed to know what we were doing and how we did it or why we were doing it. All sorts of false stories have been used continually about our Court, saying that we weren't working and we weren't doing anything, and I am here to inform you that we do work and work hard, and we handle very important cases. And during a year's time we handle hundreds of millions of dollars worth of ratables in our cases. We handle tax problems of industrial complexes involving jobs of thousands of people. Our decisions sometimes cause the unemployment of thousands and perhaps the continuation of unemployment of the thousands. I will give you specific incidents of these cases as we go along.

I want to thank Mrs. O'Connell for her opening statement and I am very sorry to hear that she is going to leave us in a very short time. So, Senator, you go ahead and ask me the questions and I will answer them.

SENATOR DUNN: Judge, you mentioned that you were a municipal judge so I assume that you are an Attorney. Is that right?

JUDGE SAVINO: Right.

SENATOR DUNN: How long have you served on the Division of Tax Appeals as a Judge?

JUDGE SAVINO: Ten years.

SENATOR DUNN: Do you agree with Mrs. McConnell when she says that you and all the others work at least 40 hours a week?

JUDGE SAVINO: I know I do, and more.

SENATOR DUNN: So then, in your particular case, you are not a part-time judge; you're a full-time judge.

JUDGE SAVINO: I don't sit full-time, Senator. One of the things I like about the job is that we don't work every day. And we also have the power to name our own days, that is the right to name the days we want to sit. Some weeks I don't have such discretion, like yesterday I sat in Newark, today I'm down here with you, tomorrow I'm going to Atlantic City and on Friday I'm back to Newark. So I had just one day off this week. There are four days that I will be sitting this week. That isn't normal. Normal would be to have two or three days a week, for me. I happen to have a heavy load.

I will answer Senator Maressa in reference to the percentage of cases I hear. There's a reason for that this particular year. There has been a terrible backlog of City of Newark cases accumulating in our calendar for a period of years, and I have been hearing City of Newark cases and I realize that a great many of those cases were just lying there without any purpose at all and not going to be tried. So I told Judge Lario to put all the Newark cases on my calendar. He put about 2500 on my calendar. I went up there and I disposed of all of them in a couple of months.

SENATOR DUNN: How many did you say?

JUDGE SAVINO: 2500 cases. I cleared them all up in a couple of months just to get rid of that backlog in the City, and that's why there happened to be an inflated number in that particular year. I don't hear that percentage of cases every year, nor the other judges. It happens that in that particular year that happened.

Now, in reference to the calendars you were talking about --

SENATOR DUNN: Judge, let me ask you this, because you are not reading from a prepared statement, and I think we are going to have a very interesting dialogue between each other and I don't know what you're going to say and you don't know what questions I'm going to ask. But in view of the fact that you mentioned 2500 cases already, how can one judge, with all the wisdom he might possess, with all the information he might have at his disposal --

JUDGE SAVINO: I didn't say I heard 2500 cases, Senator, I said I disposed of 2500 cases.

SENATOR DUNN: Well, that's what we would like to know. How did you dispose of 2500 cases and give fair and equitable treatment to everybody?

JUDGE SAVINO: I didn't hear 2500 cases. I disposed of them, got rid of them from the calendar. The way it was done was this. As much as three to four hundred cases were listed at a time on my calendar. The City of Newark Tax Department received notices on those cases, the taxpayers involved received notices, and in a great majority of those cases they were disposed of by a settlement between the parties without me entering the picture at all. It was done before the cases even got to my attention. They're dead cases. What was going on there was a feud between the City of Newark and Essex County Board of Taxation. No matter what the County Board did in the way of reduction of an assessment, the City of Newark appealed it. If the County Board reduced the assessment by \$100, the City of Newark would appeal it. It was a policy they had there. And a thousand cases like that were on the calendar and they didn't belong there. They weren't going to be tried, and they were finally disposed of by dismissal and withdrawals. That's how this big lump got finished. Ordinarily we have a calendar between 100 to 150 cases a month, given to us by Mrs. McConnell.

SENATOR DUNN: 150 a month.

JUDGE SAVINO: Yes.

SENATOR DUNN: Not 150 a day?

JUDGE SAVINO: No, 150 a month.

SENATOR DUNN: Well, she testified 150 a day. She didn't mean that?

JUDGE SAVINO: She didn't mean that, no. We don't handle a hundred cases a day. We receive a monthly calendar from the office of Mrs. McConnell. We name the day in which we want the cases assigned to us. Like, she'll say to me, what day in January do you want to start your January calendar? and I'll say, give it to me the second Tuesday of the month. She will then send out notices to all the parties, two or three weeks in advance of that, and on that day I will respond to the calendar call in Newark or wherever I'm going to be and there will be 120 cases, 150, sometimes 200 cases on a calendar. On that particular day, before I even get to court, at least half will be adjourned by telephone calls in my office by lawyers. My biggest difficulty, and the difficulty for all of our judges is trying to get cases disposed of because lawyers continually postpone them for many reasons. I am trying to dispose of the calendar as soon as I can. I don't postpone cases myself.

When the call day comes around, I have in front of me perhaps two

or three dozen cases, and I call the calendar. Some of them want to be heard and I will hear them. I will have a trial of the cases that are ready to be heard. If I can't dispose of the cases in court in one day, I will give them another day, and I will keep postponing the balance of the cases every week or every two weeks until I dispose of the whole calendar. And by the following month I will have another calendar but I still have cases left from the first one. But I keep going and moving along disposing of these cases until I complete each calendar.

In my own particular case, I average finishing a calendar within six weeks' time after getting it.

SENATOR DUNN: With seven judges, there is no way that the backlog of cases before the State Tax Appeals Court can ever be cleared up?

JUDGE SAVINO: It's not as bad as it has been pictured. I have here in front of me the report that Mrs. McConnell made for the month of January, this year. It shows 14,000 cases on our calendar. In 1975, that's last year, there are 9500 cases listed. In 1974 there are 4235 cases. In 1973 there are 1,043 cases. In 1972 there were 25 cases hanging that for some reason have been there and it's difficult to dispose of them. I don't know what the reason is. They are there, but there are only 25.

Now, out of the 14,000 listed in the total here, actually there may be at least 5,000 of them involving the three years. I give you a taxpayer who has made an appeal of his property assessment for those three years. So his case is listed in each of those years. So when you say there are 14,000 cases listed for the month of January, actually you are talking about perhaps less than 10,000 taxpayers. When I hear cases I often consolidate two to three years in one case. A '73 appeal will come in and, if it does, we consolidate '74 and '75. I am presently hearing, in Fort Lee, 1974 and 1975 cases involving the same piece of property - not the same piece of property -- I have here in front of me the Fort Lee calendar. There happened to be a series of appeals from the high-rise luxury apartments there. The total valuation of the apartments listed on this calendar ran to \$150 million. There's about 12 or 15 buildings involved. I'm hearing them now. They are complicated, rough cases. They take two and three days each. Yesterday I was hearing one of them, part of one of them. In other words, I heard part of it one day, part yesterday, and it will be finished on Friday. That's on one case. Sometimes I will hear three or four cases in one day, if they're not complicated.

SENATOR DUNN: Well, that's the surprising thing. We gave Mrs. McConnell every opportunity to explain this. She talks in terms of each Judge handling 120 cases a day.

JUDGE SAVINO: Well, she didn't mean that.

SENATOR DUNN: All right. What you're saying is that there are some cases that come before you that take your entire day, like yesterday --

JUDGE SAVINO: That's only part of the case. Yesterday's case was the second day on that particular case. I have another day to go on that one case. That will be three days on that one case.

SENATOR DUNN: All right. There's a case that's going to take you a couple of days and you said, if I understood you correctly, there are days

when you handle three or four cases. So there's no way that you could humanly handle and do justice to the system, give fair and equitable treatment to everyone, by handling 120 cases in one day. You've never handled 120 cases.

JUDGE SAVINO: How could you handle 120 cases in one day? It's impossible. We have a call day with 120 cases, and on that day more than half are postponed by the lawyers themselves before the day appears on the calendar. They call my office. They've got my girls busy all day long responding to these requests for adjournments and so on. When I do get to the call day itself, perhaps half of the cases appear. I call the calendar. I list the cases that are ready to be tried. And then I determine from the contestants how long each case is going to take, and I can tell by a short summary of the type of case it is. If I feel I can handle five cases in that day, I will then ask the rest of the people who are ready to come back on another day. And I often pick a day. My time is free. I'm not practicing law any more, so I am available anytime they are ready to try a case and I'll hear it. And I can hear as many as five and six cases a day, if they're short and uncontested and uncomplicated.

SENATOR DUNN: Well, that's an important piece of testimony, Judge. What you're saying is there are some cases that involve your time to the extent of two or three days and then in any one day you might get rid of three or four cases after full hearings, but there are also days when with the stroke of a pen you can wipe out a couple of hundred cases because of the similarity of the cases or because of some situation that existed.

JUDGE SAVINO: No. No.

SENATOR DUNN: Well, you mentioned the City of Newark. Didn't you say --

JUDGE SAVINO: Well the City of Newark, of course, sat down with the adversaries in that case and they settled or withdrew and decided not to appear in court. Most of them are very small insignificant cases like reductions of \$100 given by the County Board and the City of Newark would appeal. The City withdrew the appeals. It was a ridiculous piece of business to start with. That happened to be that particular matter with the City of Newark which I cleaned up; I got rid of that. We had two or three thousand cases listed for the City of Newark and now we have, in 1975, 854 cases for the City of Newark; in 1974, 483. Now last year that figure was about 2500.

SENATOR DUNN: You mean the City of Newark was the property owner?

JUDGE SAVINO: No. They made the appeals from the County Board decisions. In other words, the appeal goes to the County Board first, and the County Board very often reduces the assessment; the City has the right to appeal that to our Court. So has the taxpayer from the County Court. The fact of the matter is, the only cases we hear are appeals from the County Court. We don't hear anything else. Our jurisdiction is restricted to that. No cases come directly to our court at all. So most of the appeals filed in the State of New Jersey are disposed of at the county level. It's only the appeals from the county courts that get to our court. And in our court seven judges manage to give a full and fair hearing

to every single person that appears, whether they appear individually, pro se, as you say, or with lawyers.

You're interested in knowing how we handle, for example, the small person, the little taxpayer, what we do with them, who comes without a lawyer. He comes in the court, ordinarily, not knowing exactly what he has to prove in order to get a reduction, and I'll sit there and I'll act as his attorney and advise him and tell him what he needs to prove to me that he should get a reduction, and I will go as far as to postpone the case in order to give him the opportunity to go out and get the information and I'll tell him where to get the information. Now, I go through all of this routine with the little fellow that you are concerned about. We do it. All of the judges do it.

I was saying to you a few moments ago that taxpayers are concerned about their problems and they come to court and ordinarily their chief argument is that their taxes are too high. Well, the duty of my court, as an administrative court, is to follow the law, and the law is that I am to arrive at the market value of the property and determine whether the assessment is correct. And I explain to these people that what they should do is go out and get me comparative sales, find a property similar to theirs in the area that was sold recently and what was the price of it. They come in without that information and I send them away and tell them to come back a month later, to get that information if they can. Ordinarily, Senator, they can't because generally the tax assessor is assessing a one-family house at a lower value than the house is actually worth. This is a general policy throughout the State, and I think you know it. So when an owner of a one-family house comes to my court and his assessment is \$20,000, for example, he has got to prove to me that the house isn't worth \$20,000 if it's being assessed at 100% of value. And I explain to him that you've got to show me that houses like yours are being sold at \$18,000 or \$17,000 or \$15,000. The tax assessor takes a stand and he gives me a list of comparable sales of similar properties in the area that are selling for \$25,000 or \$30,000, clearly proving that the individual's assessment is a correct one, in fact much lower than the actual value of the house. This is a common occurrence and that's why it's hard to make the layman understand why he shouldn't get a reduction. It's got to be done by a finding of fact.

Someone complained to the Governor about the short shrift that I gave them in court. He went on a little longer and then began telling how unfair the tax system was and how high taxes were and so on and so forth. In the last paragraph he said he appeared before Judge Savino and I practically threw him out of court. In so many words he said that to the Governor in this letter. So I got the transcript of the case out and here it is. It's 30 pages long. I spent 40 minutes with these people giving them a complete explanation of what we're trying to do and how they could prove their case. They owned about 60 acres of land that was once a farm. I even advised them. I said, get somebody in there to start a farm, raise five hundred dollars worth of produce and you'll get a farm assessment, you know, which really is a steep reduction. I gave them that advice. This is all in the transcript. The letter to the Governor said I was a terrible person and wouldn't listen to them and chased them out of court. Now that's the kind of reaction you get from the

small homeowner who is interested in getting his tax lowered but hasn't got the right to have a lower tax rate.

SENATOR DUNN: So what you're saying, if I understand you correctly, is that speaking for yourself, but I think you're speaking for your colleagues too, a fair shake is given to an individual with a one-family - as fair a shake is given to a one-family or four-family homeowner as compared to a lawyer representing a law firm who, in turn, is representing a big apartment house complex up in Tenafly or Teaneck.

JUDGE SAVINO: More than a fair shake, Senator. What we do with a pro se, that is a homeowner comes in without a lawyer, is actually act as a lawyer. We conduct the hearing on his behalf, from the bench. And the lawyers representing a town become very angry sometimes because I allow into the record testimony which I would never allow if it was an attorney putting it in. For example, they'll come in with a letter written by a third party indicating -- this person, for example, coming in with a letter from a real estate firm saying that this property is worth so-and-so. Now in a law court, and even under our own rules, we shouldn't allow that type of evidence into the record because the adversary hasn't a chance to cross-examine the person who wrote the letter. I will allow the letter into the record and the lawyer from the town will raise all kinds of objections. We lean overboard to help the small homeowner. We do it as a matter of policy because we feel it's an obligation on our part. I'll spend more time with a pro se than I will do with two-lawyer adversaries in a small case.

SENATOR DUNN: In a big case, assuming that the property is assessed for a million dollars and the tax assessor of the municipality feels that it's a very fair assessment, and one of the specialists representing the property owner comes in, have you ever suggested strongly to both parties that they go into a back room or a side room and compromise the situation just to save you time so that you won't have to spend much time hearing that case?

JUDGE SAVINO: Speaking for myself, Senator, I never advise anyone to go into conference for a settlement. The request always comes from the adversary. They come to me and say, could we go into the conference room and talk a while before we try this case. I don't participate in settlement conferences. Talking for myself, I never go into a settlement conference meeting at all, except when they call me in for the purpose of settling a matter of law, what is the law on this particular point. I will go in and tell them what the law is, but I will not take part in the discussion of facts in the case. Some judges do that. When I was first appointed to the court --

SENATOR DUNN: Judge, I want to make sure I understood that correctly. First of all, the example I used was of a judge telling the tax assessor and the attorney for the landlord to go into a side room and make a compromise. You just said, some judges do that. Is that a correct statement?

JUDGE SAVINO: Well, I said, some judges -- I would say this, in my conversations with other judges, some judges do suggest that they talk

about a compromise before trying a case, which is a perfectly legitimate request. In other words, sometimes knowledgeable lawyers will be able to settle a case just as easy by themselves as having a judge do it. I, personally, never did. Some judges will say, why don't you sit down and talk to each other. Sometimes I will ask, myself, from the bench, have you people discussed this case before getting here. Because they will come in with, for example, comparable sales. Now a comparable sale is a property that is similar to the subject property and it might be concerning a piece of property the adversary hasn't seen or known about. And that annoys me because, if you are going to use a comparable sale, the adversary should know what type of property it is so he can cross-examine on it. And I tell lawyers, very often, that when you are going to submit comparable sales, you should exchange the information before you get to the court so that the adversary has an opportunity to look at them and see whether or not he feels they're comparable. I also advise an exchange of the appraisal reports. It's another good idea to expedite matters before my court. Sometimes when they do that and they see what each other thinks about the value of the property they're concerned with, they have a meeting of the mind as to what the value is. And, if they are knowledgeable lawyers, they very often, and quite often, settle a case between them without trying it. That's why you see so many cases settled.

SENATOR DUNN: Judge, if a municipal tax assessor comes in with a formal appraisal, as some of them I think do, so you suggest that the appraisal be changed?

JUDGE SAVINO: No. No, I don't say that at all.

SENATOR DUNN: You just said it.

JUDGE SAVINO: I did not. Oh, I said that they exchange each others appraisals so they know what each other is going to come to court with.

SENATOR DUNN: Oh, now I know. I thought you said that you suggested that they change --

JUDGE SAVINO: Oh, no. I said what they should do - they don't do it ordinarily -- but I suggest to the adversaries, when they get to my court, that they should exchange their appraisals before getting to court so that each will know what the other is going to offer. Like a pre-trial hearing in the law courts. What are the issues here and what are you talking about, what's your argument? And most of the times they don't do that. They get to court and the adversary lawyer will see for the first time the appraisal made by the expert for the other lawyer. It holds things up because he has got to sit down and study the appraisal before he can start examination on it, and that slows the whole process down.

SENATOR DUNN: Judge, when a suggestion is made for a compromise, doesn't that imply strongly that you're saying to the tax assessor of the municipality, reduce your assessed value on the piece of property which was professionally set by a tax assessor with professional background?

JUDGE SAVINO: Absolutely not.

SENATOR DUNN: It doesn't mean that?

JUDGE SAVINO: No, of course not.

SENATOR DUNN: Well, if the word "compromise" or "stipulation" is used, I can't accept anything else other than you're saying to the tax assessor, reduce the assessments on these properties.

JUDGE SAVINO: I just told you that I never suggest a conference.

SENATOR DUNN: You said some judges do.

JUDGE SAVINO: Some judges feel that they should sit down and talk to each other before trying a case. They don't suggest that someone give in. They suggest that they exchange the information that they have with each other for the purpose of arriving at a conclusion rather than going through a trial.

SENATOR DUNN: If there's to be a compromise, there has to be a giving in.

JUDGE SAVINO: There doesn't have to be a compromise. They don't have to compromise at all, and sometimes they don't. They come out and try the case when they can't get together. When they're too far apart, they come out and they try the case. And that happens often. Sometimes they find that they are very close and they don't really have a reason to be in court to argue that. They are that close that they can compromise the small difference that's on their minds, rather than go through a full-day trial, for example, over a matter of a difference of a few thousand dollars on the assessed value.

SENATOR DUNN: Do you have any facts and figures that would show your own record as to how many cases you found in favor of the municipality as against some of these law firms that specialize in the work?

JUDGE SAVINO: No, I don't have that in statistics, but very often I sustain a municipality. One of the largest cases I had, just two or three years ago, involved the city of Passaic where there was a multi-million dollar industrial complex and one of these, so-called, expert lawyers of yours, as you referred to, they're specialists, was trying the case for the company and I sustained the City in that case. It was taken on appeal to the Appellate Court and I was sustained on it. I remember that distinctly because it happened to be a very big case, which the specialists usually win because they are knowledgeable. Let me tell you something else about the specialists. There are a number of lawyers in the State that do tax work only. They are in our courts, only in our courts. They wouldn't know how to defend a red light driver in a municipal court. They are specialists in tax cases. And I knew you were going to want this information. Yesterday I had in my court in East Orange one of these lawyers, one of the busiest in the State. Now I don't socialize with these people. I never meet them anyplace outside the courtroom. I never ask them personal questions. I never try to find out what their fees are or how many cases they have. It doesn't concern me in the least. It's irrelevant, in my mind, at all times. But, because I was coming here today, I talked to this lawyer outside the courtroom, after we finished, and I said, I'm going down to Trenton tomorrow and I am going to meet with Senator Dunn who wants to know something about the operation of this court, and I said, from the newspaper reports the Senator feels that some of you fellows are getting an awful lot of cases and he would like to know how you get them. I said, and you don't have to answer the question because I'm not requiring that you do but I would like to know

why are you so busy. I said, do you get them by reference, do other lawyers send them to you, or how do you get them. And he told me that he didn't get any cases by reference at all, that all of his cases came to his office from the taxpayer directly. He also told me that he doesn't take all the cases that come to his office. In 1975, he told me, - and this is one of the busiest tax lawyers that we have -- he told me that he handled 150 cases in our court last year, and he said that he turned down more than 150 that he refused to take. And he said to me, the reason he refused to take them is that he sits down with his client and he finds that very often they feel that all they have to do is get an expert lawyer and they're going to get a reduction in our court. And he points out to them that they can't get a reduction unless they're entitled to one, and it's got to be in the arithmetic, especially when it comes to, say, an apartment house it's all arithmetic. And he tells them that they don't have a case. He turned down more cases than he took last year. Now, the number of cases that he took - and he's one of the busiest - I'll give you his name if you want it - was 150 cases. That's one of your specialists. I'll say this, he handled these cases. Big taxpayers learn the names of the specialists and go to them, and you can't blame them for that because there's an awful lot of money involved.

If you want to look at this Fort Lee calendar, it's right here. If you are interested in it, you can take a look at it. The properties are \$7 million, \$19 million - a single piece of property, \$19 million assessment. Specialists are all handling these cases. All of these big apartment houses have gone to the specialists for their cases. And they come to my court and the town defends itself, and the specialists know what they're doing. They come with expert witnesses. The town is supposed to do likewise.

I can say this now, that I'm sorry to say that many, many towns do not come properly prepared to defend large cases against these specialists. They send their city solicitor to try the cases, many without experience in tax work. And it's a pity that that happens because it's no contest. The specialist knows so much more than they do about the background of the cases and so on.

SENATOR DUNN: May I interrupt you. I just want to make sure, because I think that's of interest to a lot of Legislators. What you're saying, based on your experience, is that in many, many cities, perhaps even most cities, the city attorneys representing those towns are no match for the law firms that are specializing in this type of work.

JUDGE SAVINO: Right. Absolutely. It's a terrible mistake a lot of towns make in sending their own attorneys in to try - I'm talking about real large cases.

SENATOR DUNN: Do you think any of these firms would ever represent municipalities?

JUDGE SAVINO: Yes. You have one here this afternoon. I see his name on your list. He represented Perth Amboy in a case that took 13 days to try.

SENATOR DUNN: Do you think he would have the same rate structure for getting paid?

JUDGE SAVINO: No. I really don't know. I have no idea how these

people are paid. I know, from just hearsay, that the lawyers representing taxpayers usually work on a percentage of the reduction they get, sort of like a contingency thing. I know that. I never discussed it with them. I never asked what the percentage was. It's none of my business and I don't care. What a specialist would charge a town, I have no idea.

Now one of the lawyers appearing here this afternoon represented Perth Amboy in a case that involved an industrial complex of \$12 million. It took 13 full days of trial. And this town was smart enough to hire a man like him rather than send their own city solicitor down who would have no chance against the adversary lawyer who was another specialist. It was a real contest.

Another one of our specialists, that you're talking about, is taking on municipal work. He represents Lawrenceville down here or up the street. They had an evaluation not long ago, hundreds of appeals going on, and they hired one of these Newark specialists to come down and defend their cases. And when I came down to Trenton to try these cases in this area, this man is appearing in defense of the Town. And I will sometimes find myself in the morning with one of these lawyers representing a taxpayer and in the afternoon the same lawyer representing a town.

Now the towns are getting smart in this because they are beginning to realize that when you're talking about large assessments, you're talking about a lot of money. Here's Fort Lee with \$150 million worth of assessments on appeal in my court and the specialists are looking for a 40% reduction of that. And they are making a very good and strong case for such a reduction. Just think of those figures and understand how important this court is and how it amazes me to see how few people know what we're doing or understand what we're doing. You're the first men I've ever heard seeking information from a judge as to what we're doing. I've been on here ten years and I've heard reports go in from all directions on the activities of the Tax Appeal Court and no one has ever spoken to one of the judges. You're the first ones. I'm telling what goes on. I am saying to you that this is one of the most important courts in the State.

SENATOR DUNN: Judge, if you were presiding over a particular appeal, wouldn't you be a little suspicious when you called the docket number and you found two of these specialists claiming to represent the same property owner?

JUDGE SAVINO: Two specialists representing the same --

SENATOR DUNN: Two law firms turn up in court and say, I represent this man, and the man didn't know he had two lawyers. Wouldn't that create a little suspicion in your mind that perhaps --

JUDGE SAVINO: It never happened. Where did you hear this?

SENATOR DUNN: We have a specific case of this that we will read into the testimony later on.

JUDGE SAVINO: I never had a situation like that. I've had cases where an attorney would transfer the case to another but never two lawyers showing up saying they represented the same client.

SENATOR DUNN: Well, what you're saying is based on the information that you elicited or got from a gentleman yesterday, you're convinced that these hundreds of people who want to have their cases appealed seek out the

law firms because of their skill or talents?

JUDGE SAVINO: Reputation. It's word-of-mouth reputation. A big apartment house owner will come to our court with a specialist and get a reduction. And other apartment house owner, they have meetings, they have clubs and organizations and they get together and they talk and they say, go to so-and-so, he's a good lawyer.

SENATOR DUNN: Judge, whether you be a judge or a layman, wouldn't you be a little suspicious too when a law firm sends one of its highest paid employees to a municipality to start jotting down the assessments on the various pieces of property in a given city?

JUDGE SAVINO: I wouldn't know about that. I never heard of such a thing.

SENATOR DUNN: It's common practice.

JUDGE SAVINO: I never heard of it.

SENATOR DUNN: Do you ever deal in the subject of ethics when you find the same lawyers coming into your court day in and day out?

JUDGE SAVINO: The same lawyers don't come into my court day in and day out. We have hundreds and hundreds of different lawyers appearing in my court. The specialists you talk about - now the one that I consider the busiest of all told me yesterday that he handled 150 cases in a whole year. That means that he's not in and out of my court every day. He will appear perhaps once a month.

SENATOR DUNN: You say he's one of the biggest and he only has 150?

JUDGE SAVINO: That's right. 150 cases was all he tried last year. And he is one of the busiest of all. And the others are about the same. They couldn't possibly handle many more than that. A large case involving several million dollars of evaluation takes perhaps a hundred hours of preparation.

SENATOR DUNN: Judge, I just want to say this, before the testimony is completed in these hearings, I think you will find one of these specialists with 150 cases would have to be considered to be one of the smaller firms.

JUDGE SAVINO: I'm repeating to you, Senator, the conversation I had with one of the lawyers who I consider one of the busiest in the field that you're talking about.

SENATOR DUNN: Oh, you said "busiest"; I thought you said "biggest".

JUDGE SAVINO: No. One of the busiest, not the biggest. He may be the biggest. I don't know about that.

SENATOR DUNN: But if he handles 150 cases, in your opinion that's a pretty big and busy law firm.

JUDGE SAVINO: That's a heavy load for a specialist because, Senator, you don't try a case in court in one day. You prepare a case. It takes hours and hours of preparation. And this man I'm talking about, for example, in a case he's trying right now it's going into its third day. I wouldn't be surprised if this man spent 50 hours of preparation on that case. That's the kind of files he has in front of him when he's trying, the documentation he's had, the research he has made on the property, on the case itself. A tremendous amount of work goes into the case. He couldn't possibly handle many more than 150 a year at any rate.

SENATOR DUNN: All right. Giving the benefit of the doubt that if he prepares a case it takes him 50 hours, a judge could dispose of that case in a matter of minutes.

JUDGE SAVINO: No. Not that kind of a case. It's going on its third day now. I have heard two full days of testimony and I'll finish it Friday.

SENATOR DUNN: Is that an unusual case or is that a normal case?

JUDGE SAVINO: That's a normal large case. As I told you, the Anaconda Copper Works up in Perth Amboy took 13 full days of testimony, 13 days. Near the end of the trial, the Company closed up and went out of business. I heard the Colorado Iron & Steel Company down in Florence. The Perth Amboy plant employed 2,000 people and they were out of work before the case was finished. I heard the case of Colorado Iron & Steel down in Florence. They had 1500 employed down there. They were being assessed at approximately ten or eleven million dollars and they were asking for a reduction down to about four or five million. I gave them a reduction of, I think, a million and a half or two million. I thought it was a substantial reduction but it turned out it wasn't anywhere near what they expected or wanted and they closed up. They went out business. Everybody out of work. The plant laid there for a while and then some fellow moved in and rented it for a while and didn't pay his taxes and he moved out. And the town has had all kinds of trouble ever since.

That's why I say this court is involved in work that involves not only hundreds of millions of dollars of ratables each year in its cases but we handle industrial complexes involving thousands of jobs. And in my position as a Judge in the Tax Court I can tell you now that the State of New Jersey has the worst tax system in the country.

SENATOR DUNN: The worst taxes?

JUDGE SAVINO: The worst tax system in the country. We have a system that was created 200 years ago when all we had were farms and the only people who paid taxes were what we call freeholders, owners of land. And, Senator, we haven't changed that policy in 200 years until just this year. All of the burden of servicing of government has been placed on the shoulders of the real estate owner.

I sat on the Assembly here ten, twelve, fifteen years ago when they passed the community school bill. And, lo and behold, on top of all this piling up of costs on taxpayers, in the bill was one-third cost going to the real estate owners. And I got up on the floor and I said, are we insane? I just can't believe you're doing this, an added load on the real estate people? And they passed it and it's there now. And real estate is paying one-third of the cost of the community colleges which, as you know, now runs to several hundred million dollars. And, believe me, I am saying to you that the tax system of our State is like a glacier smothering the State. We ought to be one of the most prosperous states in the Union, by our position in the country and by the number of skilled labor we have in the State, and we are perhaps in worse financial condition, economywise, than any other state in the Union. In Kansas, as I understand it, there is a 3% unemployment rate. Why would there

be a 14 or 15% unemployment rate in this State of New Jersey? It doesn't make sense. The reason is that we're chasing industry and chasing people out of their homes.

To give you an example of how horrible this problem has become, an old man, 70 years old, comes up before me, alone. His wife is gone and his family is gone; they moved away. He has owned a house for 50 years. This is an actual case. He has owned his house for 50 years. He's on Social Security. He's a neat man and he has kept the house neatly. And he stands up and he tells me, I can't pay my taxes, I need a reduction. I say, well, what's the story here? They had him assessed, I think, for \$20,000 and his tax bill is \$1800. He says, I'm living on Social Security of \$2,000. He says, how can I pay \$1800 in taxes and live? I called the tax assessor in and he pointed out to me that comparable sales indicated that the house was well worth \$20,000, in fact it was worth far more. Now, I couldn't give that man any relief. And what our taxing system was doing was just chasing him out of a home that he lived in for 50 years. It seems to me that the Legislature should address itself to that particular type of problem. I have an idea as to how it could be done, if you want to listen to it.

SENATOR DUNN: Well, I couldn't agree more with you, Judge, except that I am still very much concerned with a suspicion that I have, and many have, that preferential treatment is given in many cases.

JUDGE SAVINO: Absolutely not.

SENATOR DUNN: Perhaps not in your court.

JUDGE SAVINO: Not in my court. Not in any other court that I know of.

SENATOR DUNN: That preferential treatment is given to the big taxpayers represented by these specialists to the detriment of the municipality. And when you operate to the detriment of the municipality, you're burdening that gentleman you're talking about with a greater taxation than he should be paying, as against a big industrial plant or a big apartment house owner or a big shopping center complex.

I would be very much interested, as you have mentioned there are no records available or it would be very difficult to get them as to just how the municipality fares in the final decision as compared to the taxpayers represented by these same specialists. And from the information --

JUDGE SAVINO: Senator, that wouldn't prove anything at all. Our duty as an administrative court is to determine the market value of a property that is subject to appeal. And we listen to the case in controversy from the expert lawyer and the municipal lawyer and their expert witnesses. And from that information we decide what the market value of the property is. Now there are various ways of arriving at market value. I don't know whether you are familiar with them or not, but there are three ways. One way is by market data, that is comparative sales. The second way is by reproduction costs, what does it cost to reproduce the building. The third way is by income approach. I think the one property that you're concerned about, you feel are being treated with preference, are the apartment houses that are assessed or valued by an income approach. Now let me tell you something about that.

Assessing an apartment house is the easiest property of all to determine value on because all we have to do with an apartment house is to capitalize the net income and, by doing that, we arrive at the value of the buildings. It's the simplest one of all. A difficult case is to try an industrial complex where we do it by reproduction cost. You have to go through building by building, 70 buildings up there in Perth Amboy. You had to go through every single building, the size of the floor, the size of the wall, the roof - well, and so on. An apartment house, all we do is take the gross rent, deduct the expenses, arrive at net income and then we capitalize that income, and then the capitalization return. We determine what the investor is entitled to as a return on his money. Right now it's about 8½ to 9%. And after we determine that, then we know the value of the building. It's a matter of arithmetic. The only problem you have in assessing an apartment house is whether or not the arithmetic is correct on the gross rents and on the expenses. And that's where the lawyers sometimes have arguments - you didn't pay so much for painting and decorating, or you didn't pay so much for this and that. And we require proof from the taxpayer.

On the Fort Lee cases, which are going to all be decided on income approach, I called the Town Attorney two months before the cases were listed for trial and I said I was going to hear these cases and I told him that he was to send an accountant down to each one of these apartment house complexes and have them examine the books. I said, I want to see every single bill they pay out and you verify it, so that when they come to court there is not going to be any question about arithmetic involved. I don't want them to come and say that they have a gross income of \$3.5 million when actually they have a gross income of \$4 million. I want you to go in and get the proof. He wrote a letter to each one of the owners quoting me, saying that your records must be available for our perusal or Judge Savino informs me that if you don't cooperate he is going to assess your property by the reproduction method, not the income. In every single case the taxpayers furnished the proof that was needed. The town went in and examined their records and when we got to court it was practically stipulated on the amount of money involved. Arriving at value, after reaching a decision on the arithmetic, was very simple. It was just a case of determining what the return will be on the investment. And we have to take into consideration in that case the type of building, its location, its future, and so on, and the risk involved in such an investment. Our lowest return, at the present time, is 8%. We will go as high as 10% in a risky location, on a risky building.

Now, what you're talking about, - and that's where the specialists are working, in the apartment house area. Very few of them, well, maybe sometimes they also handle an industrial complex although they don't like to because they are very difficult and hard and take a long time. They are handling these apartment house cases.

Now, Senator, what has happened in the State of New Jersey, and it's a peculiar thing, is that the value of the dwelling homes in New Jersey, in the northern part of the State anyway, go up at the rate of 10% a year, believe it or not. A house that was worth \$20,000 ten years ago now has a value of \$40,000.

It has doubled in value. But commercial property did not increase in the same proportion. Industrial properties and commercial properties did not increase 10% a year. So they arrive at a point, when a revaluation takes place, where we find that, in Fort Lee, for example, the State ratio is 59%. That means that properties in that Town are being assessed at 59% of value. Now that is arrived at by the State Director who will reach his ratio by listing the sales that take place in the community for one year; averaging that against assessment, he determines what the ratio of the assessment is against the value, and it's 59%.

The lawyers representing these buildings come in and prove to me that the assessments on their property are not 59% of value but 100% of value. And they are demanding that I reduce the assessment on that property to 59% of value, as the one family houses are being assessed at.

Now that's hard for the laymen to understand. They don't think that apartment houses should be treated in the same way, but our Constitution provides that all properties should be assessed equally, tax them equally. All of our laws insist on it. Our courts insist on it. The Supreme Court, many years ago, passed a landmark case called "in re Kent". They found a small town in South Jersey, here, which was assessing homes at 20% of value and commercial properties at 120% of value. The Supreme Court said that can't go on, you're going to revalue that town and put everybody at 100% of value, and if you don't assess it at 100% of value, then you're going to reach a common level at which you're going to assess at. In some towns they assess at 50% of value. Whatever it is, the common level has to be applied generally.

So, when we get an appeal from a large apartment house, as you described, we find that we are going to, in the end, apply a ratio that's been decreasing because of the increase in the value of homes, dwellings, which caused the drop in the State's ratio. So, therefore, the apartment houses should be reduced accordingly. And we do give reductions based on what we call discrimination. And that's where your particular argument comes in. I'm trying to explain to you how that happens. It's a matter of a good lawyer gathering the facts and proving to us that discrimination exists, for the purpose of applying what is really the common level to the value of the property he's appealing. And, very often, they get substantial reductions. But this is a thing we have to do by law.

And let me say this to you, Senator, that almost all of our big cases are appealed to the Appellate Division of the Superior Court. It's like taking two bites out of the apple. In other words, they're not finished with us. Anything over two or three million dollars is ordinarily appealed. It's not a costly matter to appeal to the Superior Court and they usually are sent up. In the Appellate Division a three-man board reviews the transcript and decides whether or not we did the correct thing. Invariably they affirm our decisions. Sometimes they remand them for further information. Sometimes they reverse us on a new interpretation of the law.

SENATOR DUNN: Well, Judge, earlier you informed us that in your opinion there are many municipalities that, for one reason or another,

have attorneys who cannot cope with the expertise shown by the attorneys representing the property owner. Tax assessors today, as compared to 20 or 25 years ago, are pretty expert, based on academic background, experience, training, at least they should be.

JUDGE SAVINO: Some of them are, some are terrible. In my own home town of Lyndhurst we have \$300 million worth of ratables and the Board of Commissioners there still have a part-time assessing board, men who are working in banks in the daytime, or whatever, and they sit part time as tax assessors. It's an impossible and stupid situation because the most important man in town is a tax assessor and he should be a full-time employee and should be a skilled man because it is the most important job in town, far more important than the tax collector, or anyone else in the town hall. And yet you will find in very large towns and communities part-time assessors. Sometimes they come to court and they don't know which end is up. It's ridiculous. I get it continually. And it's because of the lack of knowledge on the part of the ordinary public official as to exactly how important a tax appeal is to his community, and he doesn't realize it until all of a sudden he gets a decision from the courts showing a large reduction in a particular property, which might not have happened if he had a skilled representative in court. We get lawyers in our court sometimes that are not skilled at all in tax work; they are competent generally but not in tax work.

SENATOR DUNN: Well, Judge, assuming that there might be a couple of lunkheads in the tax assessing business today, as I said, compared to 20 or 25 years ago, I think most of them are pretty competent because they've been forced to take courses and most of them today have some experience. But in the case of them going before a County Tax Appeals Board and the County Tax Appeals Board upholds the local tax assessor, are you implying indirectly or inadvertently that the people who serve on the County Tax Board do not recognize the incompetence of these tax assessors, as you do?

JUDGE SAVINO: No, not at all, Senator. I didn't mean that at all. There is a presumption by law that the tax assessor is correct in his assessment and it's up to the appellant to prove that he's wrong as a matter of fact. And also the presumption goes to the County Court. When the County Court makes a decision, there is a presumption that the county decision is correct. And when the appeal gets to our court, they've got to prove that the county court was in error. So the presumption runs with the tax assessor and the county court right up to our court.

I'm saying to you that in large cases, that is assessments that run into the millions, an ordinary tax assessor is not competent to testify against experts hired by the specialist lawyers in these cases. There are not only specialist lawyers but there are a great number of specialist appraisers who are not lawyers but they are real estate appraisers, and they do a great deal of the work involved. They will submit a report running 30, 40 or 50 pages long on the evaluation of a building, and in it they will carry all of the information that is needed for them to arrive at what they consider the true value of the building to be. They'll take comparable sales, they'll take reproduction costs in the New Jersey manual, for example, and they will analyze it by an income approach and why the return should be 9% or

10% or 11%, or whatever they're asking for. All of this is done by experts who do nothing else. All they do is this type of work. Now when you throw an ordinary tax assessor up against that kind of competition, you're in bad shape because I've found tax assessors who didn't know how to read their own assessment cards. And that happens when a town revalues. They call in a professional evaluation company and these people go through the town and they revalue all of the properties and they write out the assessment cards. The tax assessor, by law, has to certify those cards as the true value of those properties, but they are cards made out by the evaluation firm. And I've had cases where when the appeal comes to our court, many years after the evaluation is made and the firm is no longer under contract to defend appeals, the tax assessor will then take the stand to defend the assessment and he won't understand what the card means and how the original man who made the assessment arrived at the conclusion he did, and under cross examination he will admit that he didn't make the card out, that someone else did. And you're in an awkward position, as a judge, when that kind of testimony is being given to you by a representative of a town, and sometimes it could be a very large town. It happens quite often. And what I do, and I have done this, I postpone cases in the middle of a trial. I did it in Fort Lee, just recently, where the town was doing such a poor job on a particular part of the issue and the taxpayer's experts were doing such a good job I stopped the case. I gave a month's postponement to the town so that they could properly prepare a defense to the case being put in by the taxpayer. I did that only a few months ago in Fort Lee, and I've done it before. I've done it for taxpayers too. I at one time had a very large taxpayer come to court and, I don't know how he did it, he wound up with an untrained, unskilled lawyer and an unskilled appraiser, and they got on the stand and the fellow didn't know what he was talking about. I stopped the case and I told the lawyer, now look, you're not properly representing a client and I am going to ask you to find yourself a competent appraiser and come back next month and we will try this case properly because it's my duty to find true value here and I can't do it with the testimony you're giving me here.

Now those are the methods we use and the policy we have.

SENATOR DUNN: Judge, on this point, Senator Maressa wants to raise a question.

SENATOR MARESSA: I just want to say, Judge, it has been my experience as a municipal solicitor and working with assessors that whenever there is any kind of assessment that's necessary for a large industrial complex or an apartment house or anything that's worth hundreds of thousands of dollars, millions, or whatever, that they always enlist the aid of the State. I don't know what department it is in the State of New Jersey, but a man comes down and assists. In other words, they get the State man to come down and appraise the apartment complex, and he uses a certain manual in an effort to get some sort of uniformity throughout the State of New Jersey. I mean, are you aware that the State of New Jersey is trying to establish or assists, rather, the local assessor in assessing a particular large ratable?

JUDGE SAVINO: I know that the State does assist. I know that tax assessors call for assistance from the State but they don't appear in my

court, of course. They never do. I think what you're talking about is that the State representative shows the assessor how to evaluate the property by the reproduction, that is the use of the New Jersey Manual. I suppose you are familiar with the New Jersey Manual. On reproduction, you go back to the base year of 1954 and the manual carries the value forward by a cost conversion to the subject year. And a great many assessors don't know how to do that, so the State representative will explain that you find the class of property in the manual, you find out what the base cost was, by measuring and so on, in 1954 and then you carry it forward to the subject year by the cost conversion.

Now, very often tax assessors will come to court on an apartment house with a cost reproduction method of evaluation, and it has nothing to do, many times, with the value of the property. A building may cost \$10 million to reproduce and be worth only \$5 million in value because of the net income that it produces. When a person buys an apartment house he's an investor and he's investing his money to get a return.

SENATOR MARESSA: How often are the figures updated, Judge?

JUDGE SAVINO: Where?

SENATOR MARESSA: You know, costs, income?

JUDGE SAVINO: Every year. The New Jersey Manual issues a bulletin every year bringing the cost conversion up to date every year.

SENATOR MARESSA: In other words, although a given apartment may get a tax break because of the number of vacancies, or whatever, in year one, that doesn't go on. Every year he's examined, is he not?

JUDGE SAVINO: The taxpayer?

SENATOR MARESSA: The owner of an apartment complex.

JUDGE SAVINO: He's supposed to be, if the tax assessor is doing his job. In fact, the law requires that he assess each property on October 1 of the prior year. In other words, if he's assessing property for 1975, he's supposed to evaluate it on October 1 of 1974. By law he's supposed to do that. But you know, and I think Mayor Dunn knows and realizes, that the assessors don't do that at all. What they do is carry forward the same assessment year after year, and year after year until the time comes where the ratio drops so low and their index is so bad that the county board requires that they revalue to bring the properties up to date, up to a hundred percent value. And that's what is happening. The tax assessors do not do the job they are supposed to. And I don't think it's possible for a man to cover 8,000 line items every October 1st. He just does it the easy way and he carries the assessment forward. And it finally gets to our court where an imbalance has been created, such as I'm saying, a 10% increase in single family homes each year in North Jersey as against not only a status quo with commercial properties but sometimes a decline in the value of commercial properties during the same period of time. So you wind up with a dwelling being assessed 59% of value and a commercial property being assessed at 120% of value. Now that's not a justifiable ratio between assessments. There's an inequity there. And the only place the taxpayer has to go for relief is the Division of Tax Appeals because ordinarily the town officials are reluctant to make the change themselves because the taxpayers themselves

make such a noise about it.

Let me say this to you. Many, many times the tax assessor will appear before me in a contested case and he realizes that there has got to be a sharp reduction in the case, and they'll talk about it as they approach the bench and we will discuss certain matters, and I'll say, well, what do you want to do, do you want to try this case or not? And the tax assessor will say, well, I want you to enter a judgment on what we decide the value should be because I don't want to go back to my town officials and say I did it, I want you to take the blame. And I'll say, well, I'm not running for office, I'll take the blame if that's what you want to do, if they want to reach an equitable adjustment of the taxes. The public official is reluctant to do this because he's facing the taxpayers every year and he doesn't want to go through that kind of aggravation.

SENATOR MARESSA: How common a practice is this?

JUDGE SAVINO: How common? Quite often. The tax assessor realizes what's going on. He knows that he has problems on his hands when a tax appeal is filed in some cases and he just doesn't want to do it himself. He should do it on October 1st of the prior year and make the revaluation but he won't do it. And sometimes I can't blame him. He might have Mayor Dunn on his neck saying, what are you doing? Are you going crazy here? So they come up to my court and I do the dirty work. I evaluate the property properly by the facts given to me and I give these people equitable relief, which they deserve, as anyone does in any particular problem we have in this country of ours. If you're a criminal, you get relief from the criminal court, and so on and so forth.

SENATOR DUNN: Well, Judge, I know you were only kidding but for the record I want to know that Mayor Dunn of Elizabeth has never given any such instruction to tax assessors or even implied that.

But, Judge, you have pointed out two very important things. Based on your ten years of experience, you have implied that in many municipalities the city cannot be represented to its fullest potential because of the lack of experience or expertise of the city attorneys, and they are no match for the specialists in this field.

Then, secondly, you have strongly implied that many tax assessors just cannot match the expertise of these experts, experts representing many of the firms we're talking about today.

Is it possible though, Judge, that perhaps because you and the other judges see the same faces in court day in and day out, representing these firms, that you come to the conclusion that they're the only ones that know what they're talking about, they're the experts and this tax assessor or this city attorney doesn't know what he's talking about, so that inadvertently you find yourself leaning to the professional opinions of these firms because of the fact that you personally do not have the personnel with expertise to go out into the field, so you find yourself, without realizing it, depending on these law firms who because you see them in front of you over a long period of time, day in and day out, and you become inclined to think that they are the only ones who know what they're talking about?

JUDGE SAVINO: No, that isn't so. I am more expert than any expert

that appears in my court. I, personally, am. After ten years of experience on the court, I know more about what's going on than any of them do. I'm spending all of my time hearing all types of cases, continually, and I will take an expert apart on his report many, many times, because I know what it's all about. And I will help the town by examining the witness myself because I will find, in some reports, matters which should not be there and which the expert is trying to slip across, and it doesn't happen because I know what I'm doing and he just doesn't get away with it. So there's no one pressing me at all because I know more than they do about what's happening in my court. And it's by the nature of things that I would, that I hear cases two and three full days a week, sometimes four and five days. Talking about summertime, incidentally, last August I sat five days in one week. That wasn't a vacation for me. I sat five full days last August.

SENATOR DUNN: Judge, what is your answer to Senator Maressa's question as to why you work so hard as compared to the other judges? There seems to be a great difference between what Mrs. McConnell testified to and some things that you've said. We are of the impression that all judges work at least 40 hours a week, according to Mrs. McConnell, and 12 months a year, as a matter of fact. At first I thought it was 10 but she implied 12.

JUDGE SAVINO: No, we work all year long.

SENATOR DUNN: Why are you getting the burden of all these cases?

JUDGE SAVINO: I explained how that happened on this particular report. It doesn't appear that way in other years. That was that Newark bunch of cases. That's the way it happened.

SENATOR DUNN: Doesn't that hold over a period of a couple of years?

JUDGE SAVINO: No, that was that year that Mrs. McConnell referred to. In that particular year I happened to have that tremendous load of cases in Newark which put my average way up. I don't have that average continually. My average is more than the others and I'll tell you why. I'm retired from the practice of law. My son has become a lawyer and he pushed me out of my office. This is all I do now. And when I'm not trying cases, I'm out driving someplace out in the country with my wife and having dinner someplace. But I do ask for more calendars than the others and it is because there are a few judges on our court who are raising families and can't afford to spend all the time required on \$17,000 a year.

Now, when I left the Assembly I was Minority Leader in the Republican Party and Governor Hughes offered to put me on the bench, wanted to make me a Superior Court Judge, and I refused to go on the Superior Court and I told him that I had three children in college and couldn't afford to be a judge anymore than he could afford to be one when he resigned. But I did tell him, if you ever come across a part-time job like the PUC I would be interested. And he was going to appoint me to the PUC except the Republican member was a gentleman from around the Trenton area and he had been ill for about a year and they were waiting for him to resign but he didn't resign. This job came up so I took this job. And I am more or less spending far more time on my work than the other judges can afford to spend. Take one of our best judges, Joel Mott. He has five children. He's got another business. He has got to work like a dog in order to raise five kids.

He can't do it on \$17,000 a year. You must know that. Jack Evers, the same thing. We have people on our court who have to live and they've got to earn enough money to live. This, to me, is just spending money. I mean, I'm certainly not living on \$17,000 a year, believe me.

SENATOR DUNN: Senator McDonough, do you have a question?

SENATOR McDONOUGH: Yes. How much time does a fellow like Judge Evers put in his own private practice? I don't mean Jack, I mean the other judges, how much time do they put in their private practices?

JUDGE SAVINO: I imagine they would put in at least three days a week in their private practice. A lot of this work that we do on our court is done at night. For example, I will hear a case in the daytime and I'll go home at night and write the opinion, and it might take hours. Sometimes I'll spend all weekend writing an opinion. And during the winter time, when the weather is bad, I'll sit home all weekend and write opinions. Now those are hours put in on this work. I may sit two days that week but I'm sitting two days at home writing opinions, because we have to write them out ourselves.

Incidentally, our salary is \$17,000 a year. Our expenses are \$250. Thus we get \$250 for stenographic help, a month that is. And believe me that is a ridiculous piece of business. My girls - it's not only my son's secretary but we have a family business with three other girls in the front office and they each spend more time answering the telephone, these lawyers calling up -- if I were to pay them for handling my telephone calls, I wouldn't have any money myself out of this job. It's ridiculous. I have to buy all of my own equipment. The cabinets I keep my files in, I have to buy. The desk I use at home, I have to buy. The State didn't even give me a calculating machine which I need for arithmetic in these cases. I had to buy one myself. And what I should have is one with a ribbon, for example, because I bang the wrong numbers sometimes and make terrible mistakes, and I have to double check them and all that.

The point is that the State does nothing at all for this Department. They've pushed us around from one courtroom to another. They have us over in the Kelsey Building. Have you seen that place? It's a former auditorium, I think, and it's about the size of an auditorium, and they've made us a courtroom there. The only other courtroom the State has furnished us is up in the City of Newark in an office building, on the sixth floor, a long narrow hallway around the corner and then they broke a couple of partitions through and that's the courtroom of the Division of Tax Appeals in the City of Newark. I'm sitting there handling more important cases in one day than judges up in the Court House are handling in a month. And I'm sitting in a cubbyhole up there. And we don't have any other courtrooms and they have to scrounge about finding places to sit. Now, yesterday I sat in East Orange because Newark is being taken by another judge, and we have to ask the Essex County Board of Taxation to be allowed to use one of their hearing rooms, and they let us in for free. I suggested that we rent the room, the space for the purposes of our court, because we're so busy now that two courtrooms aren't large enough to handle the amount of hearings that we're

holding. We have one up in the north part of the State where most of the hearings are held. We should have at least three courtrooms up there someplace. I set cases down in auditoriums, I set cases down in council chambers. I went up to Fort Lee and heard half the cases up there in the council chamber in Fort Lee, and council chambers really aren't built to have a proceeding such as this.

SENATOR McDONOUGH: It would appear to me, Judge, that we're running a Toonerville Trolley operation and that you are about the only people worse off than the Legislators.

JUDGE SAVINO: Well, let me say this to you, Senator. When I was a Legislator my salary was \$5,000 a year and our expense money at that time was \$250 a year for our help. I think it has changed a little since then, hasn't it?

SENATOR DUNN: All right. Senator Maressa, do you have a question?

SENATOR MARESSA: Just one question. It's getting late.

What happens when an appeal is taken from the county court judgment to the State with regards to payment of the taxes, as adjudicated by the county board?

JUDGE SAVINO: Up until this year, the taxpayer was required to pay only 75% of his taxes while the case is under appeal. The Legislature passed a law last year that went into effect in 1977 requiring that the taxpayer pay 90% of his taxes until the appeal is determined.

Let me say to you, Senator, that it's a bad law, the 90% payment. I'll tell you why. When a taxpayer puts out the 90%, as required presently, the town gets the money and it spends it, and if the appeal is successful and a large reduction is made, the town has to pay back the money to the taxpayer, the rebate they have to pay, and a town can find itself in real trouble.

SENATOR MARESSA: Could they give him credit?

JUDGE SAVINO: Well, they don't do it that way. See, the taxpayer is entitled to it immediately. What the taxpayer will do, as a compromise, is to take a credit for over a period of three years toward the payment of that, in order to make it easy for the town because the towns spend their complete budget, ordinarily. If the money comes in, they'll spend it. And I'm saying to you that it's a dangerous thing to do in tax appeals because sometimes the reductions are very substantial and the town doesn't have the money to rebate. So the 90% law which was passed in order to help towns where -- in Fort Lee, these cases that I'm hearing right now, incidentally, all of these people refuse to pay more than 75% of their taxes for the last two or three years, so that the collection rate in Fort Lee dropped from 95% three years ago to 87% last year because of the great number of cases on appeal and these people paying only 75% of their taxes. Now when that happens, that money has to go into anticipated revenues and be budgeted the following year. So everybody has to make up the difference for the money being withheld by these taxpayers. That has caused a big commotion and the town officials put the pressure on the Legislators to change that law to make the taxpayer pay 90% of his taxes until the appeal was determined. From my experience, I feel that some towns could get into real trouble with that

present law. Suppose, for example, I was to cut the Fort Lee properties by thirty or forty million dollars and they had been paying 90% of their taxes, that would mean that the city would have to rebate to these people a tremendous amount of money which they wouldn't have, and it would all be put on the following year's budget and it would be really a very serious situation. They would have to borrow on short-term notes to pay it. So, the 75% hurts the towns in that they haven't got the money in hand but eventually they do get it, or not get it, determined on the results of the appeal. I would say that the 75% was a fairer method of operating. It's easier for the town in the end.

SENATOR MARESSA: Let me ask one more question and you can answer it in about sixty seconds, or so, Judge.

There's no question about the fact that the system is not operating properly with four- and five-year delays.

JUDGE SAVINO: It's not four- or five-year delays. I just read off to you from the report from Mrs. McConnell showing that the cases are up to '73, '74 and '75. I'm hearing '75 cases right now, 1975. In Fort Lee the cases are '74 and '75 cases. We're not five years behind.

SENATOR DUNN: Yes, but don't you have some '73 and '74 cases there?

JUDGE SAVINO: We have '73, '74 and '75, yes. A case is a year old when we get it. It's got to go through the county appeal before it comes to us. So that if you're appealing a 1972 tax, we don't get it until late in '73 and then it becomes a year old the day we get it. Then it takes around two years for us to get around to hearing the case. There is the delay. Now we need more judges.

SENATOR MARESSA: That's what I was going to ask. What is it that you as a Judge with ten years of experience, and so forth, - what is it in your opinion that should be done by the Legislature to help correct the situation?

JUDGE SAVINO: The cheapest and easiest way for the Legislature to get out of the jam we're in is to increase the number of judges on our court by at least two to four. And we are entitled to more money than we're getting. This \$17,000 is ridiculous.

SENATOR MARESSA: Part-time as opposed to full-time?

JUDGE SAVINO: I don't think it would pay the State, under the present system of tax appeal to put in a full-time court. You're going to have to revise the whole system before you put in a full-time court. That would mean a full-time courtroom, the attendants - it would cost as much to run one single courtroom as it does to run our whole department, our seven judges and the thirteen girls that work for us. Our budget runs about \$400,000. Right? It costs the State of New Jersey taxpayers approximately \$400,000 for every single law court you have, when you count the capital cost of the buildings they're sitting in. Now, if you are going to make us full-time, you're going to pay us at least \$36,000 to \$40,000 a year, which would be a nominal salary for a court of that kind; you would have to provide us with capital improvement, you would have to give us some place to sit.

SENATOR MARESSA: So you say two to four more part-time judges.

JUDGE SAVINO: Two to four more part-time judges under the present system and give them a decent salary to work on. Now some of our judges will give more time in court if they would be compensated for it. But they can't live on what they're getting here. \$17,000 is ridiculous. My wife keeps a book on everything she spends. She showed me, the other night, her household expenses. They've doubled in the last seven years, doubled, taxes, food and the whole thing. In seven years this is a 100% increase in the cost of living, and I'm working for the same money I started for ten years ago, and the work was easier then because there weren't as many appeals.

SENATOR DUNN: Judge, we're going to adjourn until two o'clock, in a few minutes, and Mr. Moore has one question, but I would like to ask one last one from me.

You kept referring to this Fort Lee situation, and you're talking about a situation involving millions of dollars in tax, not assessments but in ratables going into the town.

JUDGE SAVINO: Right. \$150 million worth of ratables on my appeal list right here.

SENATOR DUNN: All right. How many particular pieces of property are we talking about in that particular matter?

JUDGE SAVINO: There must be about 12 to 15 buildings involved. All those high-rise luxury apartments you see up there are involved in this.

SENATOR DUNN: Can you tell us how many of these property owners are being represented by the people that we have been alluding to as legal firms that specialize in tax appeal work before the State Tax Appeals Court?

JUDGE SAVINO: Almost all of them.

SENATOR DUNN: All of them.

JUDGE SAVINO: Almost all of them. There are a few that are being represented by --

SENATOR DUNN: How many properties did you say you were talking about?

JUDGE SAVINO: 12 to 15 buildings.

SENATOR DUNN: Let's use the figure of 12, just for the sake of discussion. How many law firms are involved in representing these 12?

JUDGE SAVINO: I think there are about five law firms involved. I didn't count them but just looking at the list I see there are about five different law firms involved. One of them is the gentleman I talked to yesterday. That's one of the Fort Lee cases. He's one of the busy tax lawyers. He's representing about four or five of the buildings.

SENATOR DUNN: And, Judge, you mentioned in your discussion with this gentleman yesterday you didn't go into how their fees are usually set, but based on ten years of experience you haven't yet learned just what a basic formula would be for these people?

JUDGE SAVINO: Senator, I have never asked that question of anyone appearing in my court. I've never asked a personal question of any lawyer that appeared. I don't socialize with any of these lawyers. I don't go to bar meetings or conventions with them, and I never meet them anyplace except in my courtroom.

SENATOR DUNN: But you did say you knew that the fee was based on a

percentage of the savings to the taxpayer.

JUDGE SAVINO: That's common knowledge that the fees on tax appeals are based on a percentage basis of what they save the taxpayer in taxes. What the percentage is I don't know. I imagine it varies. I think the principals come to an agreement on that.

SENATOR DUNN: You did recommend that some municipalities should consider hiring the services of these people but yet I'm sure you're aware of the fact that the fee structure that would probably be set by the municipality would be far different than that based on a percentage of the savings to an individual taxpayer.

JUDGE SAVINO: No question about it.

SENATOR DUNN: So perhaps these people - let me finish the point - perhaps these specialists wouldn't be interested in representing municipalities.

JUDGE SAVINO: I know of several that do. You have one coming in here this afternoon who represents municipalities; another one up in Newark, I'm telling you, represents Lawrenceville down here, and represents another town in another part of the State. They'll work for towns and they'll work for a set fee. I can't imagine a town working on a contingency basis. They will most likely retain them on a set fee. And a town that has a ratable of several million dollars on appeal should hire such an expert. They shouldn't let the case go to court in the hands of a general practitioner. It's like having your family doctor operate on your lungs or your heart. It's ridiculous to see that happen. It does happen quite often. That's because the town officials really don't understand the story of tax appeals and how complicated it is and how involved it is, and they think that any lawyer can go in and do it, and they can't. They just don't know what it's all about until they've had some practice at it.

SENATOR DUNN: All right, Judge. One last question by Mr. Moore.

MR. MOORE: I have a couple of questions, but they will be very short.

The statute currently requires 4 of the 7 judges to be attorneys. Would you recommend that that be changed to require all 7 to be attorneys?

JUDGE SAVINO: Not only would I change that but I would also put in a requirement that the appointment be a man of some experience in tax work matters. It requires a high degree of skill to be a judge in this court. Now I was appointed cold. I didn't know anything about this job when I first got into it. It took me a full two years to learn the job, as it does any judge appointed to any court. And to put into our court an inexperienced lawyer, for example, - and it should be a lawyer; it has to be a lawyer because our trials are the same as law court trials. The Governor should be urged to appoint men with experience in tax work who will immediately go to work and put in some profitable effort on the whole staff. A new member becomes a limping member for at least a year or two before he gets the hangup of what he's doing and learning this work.

MR. MOORE: Doesn't the statute currently state that they shall be chosen for their expertise?

JUDGE SAVINO: No, I don't think the statute says that. It says that they shall have ten years of experience as a lawyer. But that doesn't mean anything. He could have forty years of experience as a lawyer and never try a tax case.

MR. MOORE: The other question has to do with the question that was sort of left unanswered by Mrs. McConnell. Our understanding is the only professional staff to the Division is Barbara McConnell, or the Administrative Secretary, whoever that may be. Do you believe that judges require a professional staff of attorneys and assessors to help them write their opinions, to make evaluations, and so on, and would such staff be useful and how would it be used?

JUDGE SAVINO: Well, of course it would be useful. It would save us a lot of trouble and a lot of work, the same as the law courts have clerks writing their opinions. I could dictate a rough outline of my opinion to a young law clerk and he could write the opinion. That takes the hard work off of my hands. It would be simple to do that. But why talk about it when you've got us on a scrounging salary of \$17,000 a year with a \$250 a month expense account. That's the most ridiculous thing I ever heard in my life for the type of work we're doing.

SENATOR DUNN: Well, Judge, except that Mr. Moore is trying to gather some information so that we can make recommendations to the Legislature. We are very sincere about wanting to reform the system, to better the system. We recognize the fact that you are working under a great number of difficulties, and certainly your testimony is going to carry a lot of weight with us, as far as our recommendations to the Senate and to the Assembly. And if you feel that you do need some law clerks or professional people --

JUDGE SAVINO: It wouldn't be a bad idea to have three or four young lawyers attached to our staff to help us in reading the transcripts and digesting material for us, and perhaps polishing off an opinion which we have really made in rough-draft form. I have to now write a rough draft of an opinion with pencil and yellow pad and I go over it again and polish it up. That's time consuming. Then I have to dictate it to a machine and take the machine to a girl, a professional stenographer, and have it typed up. That's the routine I go through to get my opinions out. Now, if I were overloaded, as I am going to be now with this list of cases, a helping hand would expedite my work because I could go on hearing cases and have somebody else doing the writing for me.

MR. MOORE: What about the appraisal staff? Would it be useful for the judges to have on particular types of cases assessors that they could send out to make an independent assessment of the property or to make it ahead of time, before the case is heard?

JUDGE SAVINO: I would appreciate that kind of help more than any other kind of help. I would like to have the right to be able to hire an independent appraiser, picked by the State, he could be an employee of the State, to go out and make an independent appraisal of some difficult problems. Very often we will get cases where there is such a divergence of opinion as to value that, you know, you're left in a fog where one expert says it's worth \$2 million and the fellow who is just as expert says it's worth \$10 million - you're left up in the air, because who do you believe. Now, if you had an independent man who would go out without bias - experts work for their clients -- and if we had someone working for us, that is the State,

we'd get an unbiased opinion on difficult cases. And we should have access to such help. I can think of many cases where I wish I did have an independent appraiser because you will get experts differing, the same way you do in any law court.

MR. MOORE: When you said that you felt what you needed immediately was two to four more judges --

JUDGE SAVINO: And we need more girls in the office, too. There's an overload there. It's unbelievable.

MR. MOORE: -- you're really speaking there of trying to deal with the backlog that you have immediately. Is that your recommendation on a long-term basis for a Division of Tax Appeals or any type of State Tax Appeals?

JUDGE SAVINO: Two to four more judges would be needed, and perhaps more, because the number of appeals is increasing every single year. More and more people are appealing as the taxes are going up. And, as you know, Senator, they go up every single year.

SENATOR DUNN: It wouldn't be that somebody was promoting that, would it, Judge?

JUDGE SAVINO: Promoting what?

SENATOR DUNN: Promoting the tax appeals?

JUDGE SAVINO: No. The taxpayers are the ones that are in distress and they're the ones coming forward with their appeals. You can understand that. A man's property assessment goes up every single year, he reaches the point where he becomes frantic and he's looking for relief and he comes to the tax court for relief. If he's entitled to relief, we give it to him; if he's not, he doesn't get it. But our workload is not going to decrease, that's for sure. We could use more judges. It would be the cheapest way out of it for the State to clean up that backlog. We could merely add two to four more judges and give us another courtroom to sit in, get us more space. That Newark courtroom is busy every single day. I can't get in there. Judge Stanziale is in the building next door and she tries her cases in there immediately. When I get up there every day is filled and I have to come out to East Orange, in city halls, I'm sitting all over the place. It's not a bad idea, incidentally, using the vacant rooms in the State. Believe me, there are more vacant rooms laying around the State and it's unbelievable they are not being used for any reason. There is no reason why the State couldn't rent certain rooms that we could use. For example, Jersey City, Hudson County Board of Taxation has three ideal type hearing rooms. The State should rent one of those for ten months of the year because they involve themselves for two months and the other months they are not used at all. They have three beautiful rooms. In Essex County the Essex County Board of Taxation has three perfect rooms for our hearings and they are only used by the local county board two months a year. So we could get ten months up there in those two locations. We could have two more courtrooms up in the northern part of the State for practically nothing. You could make a deal with the Freeholders up there and rent the rooms for maybe \$25 or \$50 a session, for the purpose of clearing up, and so on. It's as simple as all that, and it's not done. We've made those requests time and again.

SENATOR DUNN: Judge, this is positively my last question. You alluded before to a case that was rather trying for you, and I think you said

it involved 70 plants making up this one factory.

JUDGE SAVINO: Right.

SENATOR DUNN: Did you visit those buildings personally?

JUDGE SAVINO: Yes. Senator, whenever I get an industrial complex I make a personal visit to the property with both lawyers and the appraisers and I go through the buildings one by one because it is very hard for an appraiser to describe a specialized building in an industrial complex. The buildings in a complex have been built for a particular purpose, and to describe them from the witness stand is difficult. So I go to the site. I go to every industrial building that I hear. And sometimes I go and look over properties, like an apartment house where the contest is about location, for example, and general condition of the building, and I will ride by and take a look at it. I did that in Atlantic City last week. I was down to Atlantic City for two days last week. There's a property there that they described to me as having zero value because it is all boarded up and wasn't being used, and I got curious about it because the assessor said it was a beautiful building, he said that all it needed was to be repaired, and so on. I went and looked at the building and it was a beautiful, well-built, brick building about six stories high, very large, and it was boarded up and it had been vandalized, all of the plumbing had been torn out of it and it was just sitting there. And I had to give it a zero valuation because it had no income. This was a great big structure which would cost perhaps several million dollars to replace.

Another building, in the same city, was in such a dilapidated state that we had to give it zero value. The City Assessor told me that they had already started condemnation proceedings to tear the building down because it was so bad, it looked so bad. It was right on the boardwalk. So I gave it a zero valuation but I told the assessor, if you don't get that building down immediately, if any taxpayer comes in here and appeals his taxes for the reason that this building is depreciating the value of his property, I am going to give him a tax reduction because it's up to you to get rid of that building. So the tax assessor said he would do that. After court, the owner - the lawyer got me outside and he said, you're putting me on the spot; he said, you know, we're going to fix that building up now that the casinos are coming in.

SENATOR DUNN: Well, Judge Savino, I appreciate and, on behalf of the entire Committee of Senators, I thank you for your testimony which is certainly going to be taken with a great deal of merit in helping us reform the Tax Appeals Court which I think the State Senate, at least, is positively committed to doing, and I think the Assembly is and I know the Governor is too. We appreciate it.

So, with that, I think we are going to adjourn until 2:30. I apologize to the other witnesses who thought they would testify prior to this time but we will, if Mrs. Szymanski is still available, start with Mrs. Szymanski at 2:30.

JUDGE SAVINO: Thank you, Senator.

SENATOR DUNN: Thank you.

(Recess for lunch)

(Afternoon session)

SENATOR DUNN: I apologize for being late. We will continue on with the meeting with Senator McDonough and myself representing the Committee. The first witness will be Mrs. Angela Szymanski who is Secretary of the Middlesex County Board of Taxation, who I understand has a prepared statement.

(Witness sworn)

ANGELA J. SZYMANSKI: Senator Dunn and members of the Special Committee, I want to thank you for allowing me to speak. My name is Angela Szymanski and I am the Secretary of the Middlesex County Board of Taxation.

I have submitted a chart for your convenience showing an analysis of the tax appeals filed with the Middlesex County Board of Taxation in the past five years. In the first column are the total number of appeals filed with the County Board; in the second are the totals stipulated by the assessor and the taxpayer; the total that the Board has reduced; the next column is the total that the Board has increased; the total that were withdrawn; the total for failure to prosecute; the total affirmed by the board; and the total appeals that were carried on to the Division of Tax Appeals from the decisions of the Middlesex County Tax Board.

The total for the five years is 8,806 appeals. And from that total, 2,194 were carried on to the Division of Tax Appeals, or approximately 25% of all appeals filed with the Middlesex County Board.

The Middlesex County Board is a three-member board appointed for three years, staggered terms. They normally start their appeals in June or July, depending on the amount of appeals filed. You can see, in 1973, for instance, that was a heavier year because the County went from 50% of assessing to 100%. Normally, they start after August 15th, which is the deadline for filing appeals, and they sit on an average of 4 days a week until the beginning of November.

SENATOR McDONOUGH: Excuse me, what year did you go to 100%?

MRS. SZYMANSKI: 1973, sir. That's the largest amount of appeals filed, that year, and that's the reason.

They sit, as I say, an average of 4 days a week. The only thing I tried to show in this analysis is that the County Board of Taxation in Middlesex County is eliminating the workload of the Division of Taxation at least four times over their present load. And that's all I have to say.

SENATOR McDONOUGH: What is the compensation of your Board members?

MRS. SZYMANSKI: By law - you mean their party affiliation?

SENATOR McDONOUGH: No, no. What is the pay for your board members?

MRS. SZYMANSKI: The pay? I think it's \$8,000 for the President, and \$7,900 for the other two members.

SENATOR DUNN: Mrs. Szymanski, you are a full-time employee of the Middlesex County Board?

MRS. SZYMANSKI: Yes, I am, sir.

SENATOR DUNN: And over a five-year period, out of the 8800 cases that came before the County Board, 2194 eventually went to the State. Is that correct?

MRS. SZYMANSKI: Yes, sir.

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MRS. SZYMANSKI: Yes, sir.

SENATOR DUNN: After each case is disposed of on the State level, do you tabulate what the results are, do you set up statistics as to how many times the County Board was upheld or how many times it was overridden by the State Board?

MRS. SZYMANSKI: We don't keep an analysis or chart but we do have to adjust for the overpayment of county taxes in our abstract of ratables. We account for moneys that the municipality had to return.

SENATOR DUNN: Well, is it safe to say that, of the 2194 cases that go to the State, an overwhelming number of decisions rendered are in favor of the taxpayer who goes to the State Tax Appeals Board?

MRS. SZYMANSKI: For this past year there were quite a few that were increased, sir. The Division increased the appeals this year. I don't say that happens every year. And I wouldn't say that there were that many more that they reduced, other than they affirm the Board. I don't know. I didn't make a study on it.

SENATOR DUNN: Are you saying that the State Tax Appeals Court increased the assessed valuation of the property in many cases?

MRS. SZYMANSKI: For cases that they heard in '73, yes, because they heard quite a few cases in Middlesex County - judgments were rendered last year for '73 appeals. And, as I say, in '73 it was a complete reassessment by every municipality to get to 100%. And in cases there, in Edison specifically, they did raise the assessment over what the County Board had reduced it, yes.

SENATOR DUNN: Do you sit in on meetings of the County Tax Board?

MRS. SZYMANSKI: Yes, I do, unless - again going back to the year 1973, the Board split and they had to have three hearings on the same day so, therefore, it was impossible. But I do sit on practically all hearings, yes, for the purpose of taking minutes.

SENATOR DUNN: On properties with an assessed valuation of \$50,000 or more, would it be fair to assume that most of these people are represented by attorneys?

MRS. SZYMANSKI: Not today. \$50,000 isn't much when you're talking about residential properties.

SENATOR DUNN: How about \$100,000 or more?

MRS. SZYMANSKI: \$100,000, yes, I would say they are represented by attorneys. But the normal homeowner is not represented by attorneys or appraisers.

SENATOR DUNN: At the meetings that you attend, would it be your observation, or was it your observation that the attorneys representing high property taxpayers wouldn't put much of a defense for their clients at a county board hearing and would save the ammunition or the defense for the State level?

MRS. SZYMANSKI: In many of our cases the appeals are filed year after year because it hasn't been heard before the Division. In a case of that nature, I would say the attorney does not offer any more testimony unless it's new evidence. The first time an appeal is filed on a property, our Board insists that the entire case is heard. They do not allow the attorney to bypass the County Board because they're going to go on to the

Division. They hear the entire case. The following year, if their case is not heard yet before the Division, which it normally isn't, they do file again with the County Board. If they have new evidence to present, the County will hear it; if it's only the same evidence that it presented the year before, then the County normally doesn't hear any more testimony the second year.

SENATOR DUNN: How long have you been in this position?

MRS. SZYMANSKI: Five years.

SENATOR DUNN: Would the five-year tenure give you enough time to draw some conclusions that many of the attorneys that represent the high property taxpayers simply do not put much of a case forth for their clients before the county board, rather giving the impression that they can get a much better shake by letting it go and filing an appeal to the State Tax Appeals Board?

MRS. SZYMANSKI: Again, I can only speak for the Middlesex County Board. They will not allow this, sir.

SENATOR DUNN: How can they stop it?

MRS. SZYMANSKI: Because when the taxpayer comes in, they have to prove that the assessor is wrong and they have to come in with testimony to prove that the assessment is wrong; the burden of proof is put on the taxpayer to prove that the assessor's assessment is wrong. And they can't come in with just an attorney because the attorney doesn't testify to value. If an attorney is going to come in, he has to bring an expert with him. And the rules of the County Board are that a corporation has to have an attorney and they have to submit a written appraisal seven days prior to the hearing to the assessor and to the county board.

SENATOR DUNN: Do you have any question, Pete?

SENATOR McDONOUGH: Yes. Do you have a backlog in your system, as the State has in their system?

MRS. SZYMANSKI: No, we don't. Under the law, the County Board has to hear all appeals by November 15th.

SENATOR McDONOUGH: That's it.

SENATOR DUNN: Glen, do you have anything?

MR. MOORE: No questions.

SENATOR DUNN: All right. Mrs. Szymanski, thank you very much for tabulating these figures (for chart, see p. 102 ). It is most helpful. And I want to thank all of the others who have given similar type documentation to our Committee. So thank you very much.

MRS. SZYMANSKI: Thank you.

SENATOR DUNN: Mr. George Harraka who is Chairman of the Legislative Committee, New Jersey Association of Municipal Assessors.

(Witness sworn)

G E O R G E H A R R A K A: Mr. Chairman, before I give my statement and my testimony here, I would like to point out to the Committee that my testimony is based on just one aspect which, in my capacity as Chairman of the Legislative Committee, I have found sorely needs revision if the tax courts are to be revised in some manner or form. I feel that this is one area which the Legislature should pay attention to in order that our courts

be brought up to what the Senators would like to see as far as being complete in every aspect.

My name is George Harraka, and besides being the Assessor for the City of Summit, I am also the Chairman of the Legislative Committee for the New Jersey Association of Municipal Assessors.

During my tenure as Chairman of this Committee, I've had the opportunity to observe the action of both Houses of the Legislature in the area of the many proposals concerning property tax administration filed for consideration, and of these many proposals that have been enacted into law.

There is no denying that the current tax appeal procedure needs revision in many areas, but bear in mind that the use of the appeal procedure is "after the fact" and that "fact" being the current laws that may be responsible for unnecessary tax appeals.

We, as Assessors throughout New Jersey, must constantly abide by the premise that "equality is the basic principle of taxation" and we must also abide by Article VIII, Sect. 1, Para. 1 of the Constitution which states that "All property, situate in any taxing district, must be assessed under the same standard of value."

However, with the enactment of the many laws pertaining to property tax administration which occurred after Article VIII, Sect. 1, Para. 1 came into being, the theory for the assessment of property under the same standard of value became an almost unworkable situation for the assessor in a taxing district. Instead of equality prevailing in taxation, erosion to the municipal tax base is beginning to appear in many taxing districts.

What is the reason for this threat of erosion to the municipal tax base? Throughout New Jersey, property taxes have been recognized as the main source of revenue for municipal and county operations and for many years there have been many efforts made by taxing districts to maintain stability and uniformity in their districts.

However, there have been many contributing factors which prevented many taxing districts from maintaining this uniformity and stability which instead was being replaced by an eroded tax base. It is my opinion that there are many important contributing factors to this erosion, namely the astronomical cost of education, the astronomical amount of exempt property and the current liberal interpretation by the courts of those laws which affect property taxation.

If I may be permitted to do so, I'd like to offer a brief comment on each one of these.

Pertaining to education cost, it is a foregone conclusion that 54.6% of every municipal tax dollar collected is used for the purpose of local education. The effect of this staggering 54.6% has been recognized by the Legislature and resulted in the enactment of the Sales Tax and the recently enacted State Income Tax. It has certainly been hoped that the enactment of these two taxation laws would eventually result in the reduction of the property taxes.

Whether this can be true or not is solely dependent upon the last two items relating to exempt property and liberal court interpretations. These two items must be discussed together since one is directly dependent upon the other.

In the area of exempt property, not enough can be said about the effect exempt property is having on the municipal tax base. There is no denying that there should be an allowable amount of exempt property in a community. However, what are the limitations of which a municipality can absorb? Although the average exempt property in New Jersey is 21%, many communities far exceed this 21% and the resulting effect is that shift of the burden of taxation is great enough to render useless the whole municipal tax base. A prime example would be the towns of Orange, Newark, Camden, Elizabeth and Paterson.

In the case of the Dwight School of Englewood v. State Board of Tax Appeals, Justice Heher of the New Jersey Supreme Court, in his concurring opinion states that:

"Exemption from taxation can be justly sustained only upon the principle that the concession is due as quid pro quo for the performance of a service essentially public, and which the State thereby is relieved pro tanto from the necessity of performing, such as works of charity and education, freely and charitably bestowed --- Without that concurring prerequisites an exemption becomes essentially a gift of public funds at the expense of the taxpayer, and indefensible, both under our public policy of equal taxation and our constitutional safeguard against illegal taxation."

In analyzing Justice Heher's opinion, one has to wonder that since there is a constitutional safeguard against illegal taxation why is there not a safeguard against the unlimited granting of exemptions that far exceed the quid pro quo concept under which the exemptions are granted.

Since the Legislature is the only one that can enact laws granting exemptions, then the Legislature must become aware of the effect of the excessiveness in exemption laws is having on a taxing district.

Not only are the laws having an effect on a municipal tax base, but the many known ambiguities contained in many of these laws are having a greater effect on our Tax Appeal Courts.

The lack of one inclusion of a clear-cut legislative intent or a definition thereof has resulted in a more than liberal interpretation by the courts at various levels.

Statements such as "not for pecuniary profit" or "for the fair enjoyment thereof" which are qualifying prerequisites for exemptions contained in Title 54:4-3.6 which pertain to non-profitmaking charitable institutions, and also statements such as "not to exceed five acres" or "actively devoted to agricultural or horticultural use" as contained in the Farmland Exemption Statute has resulted in conflicting decisions by the courts.

The inconsistencies shown by the courts in the many opinions relating to the ambiguity and the lack of the presence of a clear-cut legislative intent in the exemption statutes has resulted in costly, needless litigation besides influencing further litigation by both the municipality and the taxpayer.

To further substantiate this statement, I draw your attention to the most recent Annual Report by the Director of the Division of Taxation. Contained in this Report are the most recent cases adjudicated during 1976 which pertain to property tax administration. In the cases involving

woodland, to be exact, inconsistency in defining woodland qualifications is clearly visible.

In the case of Boys Club of Clifton, Inc. v. Township of Jefferson, which began in 1971, the decisions by the courts at all levels were all of a see-saw nature. To be exact, at the hearing on the county board level, the request for exemption by the non-profit corporation was denied, only to be overturned in 1974 by the Division of Taxation whose decision was overturned by the Appellate Court in 1975, which was ultimately overturned by the Supreme Court in 1976. The influencing factor for the Supreme Court was taken from a case that took place in 1907. It is very questionable whether circumstances that prevailed in 1907 are comparable to the same circumstances that existed in 1976.

Decisions, such as these, have been duplicated many times over during the past years. The biggest concern over these decisions is shown by the municipalities because of the economic effect these decisions have on the municipality. It must be noted that litigation involving exemption appeals oftentimes results in a complete removal of the current assessment. Oftentimes the amount to be placed in reserves by a municipality pending adjudication is not equal to the taxes in litigation because of the statutory limitations on reserves that a municipality can have. In the above case, the five years which have transpired between the initial filing and the final adjudication can have a very serious negative economic effect on a municipality and present a very definite threat to the municipal tax base.

For an emphasis to this statement, you need only to recall the situation that currently exists in the Town of Florence, where an appellant, whose taxes represented 16% of the amount to be raised by taxation by the municipality, failed to pay the taxes during a five-year period while the case was pending before final adjudication, only to declare bankruptcy after the final judgment was rendered against the taxpayer. The resulting effect to the municipality was the filing of special legislation in the Legislature seeking financial assistance from the State in order that the City of Florence can continue to provide the services as mandated by various statutory legislation.

During these hearings on SR-30, this Committee will hear various testimony and will be provided with various input by assessors, collectors, county board members, and other court officials. Of the many suggestions that you will receive, I feel that the most prominent areas where revisions are needed are those that I have mentioned here. The many ills in the tax appeal system are reflected in the many proposals filed in the Legislature, which call for a revision of the appeal system. Municipalities and taxpayers alike have suffered financial hardships because of these inequities.

Other input provided by the assessors will probably reveal that although preparations completed in regard to appeals at the county board level oftentimes is for naught - the records will probably show that in regard to appeals concerning commercial enterprises complete disregard is shown to county board decisions. The records will also show that many stipulations without prejudice of appeals at the county board level are only for the purpose of wanting a hearing at the division level despite the knowledge of a better than three-year wait for a hearing. The filing of Assembly Bill A-1620 by Assemblymen McDermott and VanWagner sought to correct this situation

by proposing that tax appeal cases at the division level must be heard within the year of filing.

At the hearing in the Taxation Committee on this bill, it was brought out by a representative of the Division of Tax Appeals that because of the more than 28,000 case backlog it would be an impossibility to clear these cases through the use of the current system. Reference was also made to the filing of almost 13,500 cases for tax appeal during 1976 alone.

It seems rather ironic that R.S. 54:3-26 mandates that county boards of taxation must hear and determine all appeals at their level within three months after the last filing date for such appeals, while there are no regulatory statutes mandating a comparable hearing procedure for those appeals at the division level. The need for a revision of this sort is not only contained in Assembly Bill 1620 but also in the many bills filed which call for a full-time tax appeals court.

You may have already heard at these hearings, or you will probably hear, of how the implementation of the weighted ratio by the courts has also affected the assessments of property in a taxing district.

You may recall how, when the ratio system was first introduced, the intent was primarily to determine the distribution of school aid in the taxing district.

Today in the Tax Appeal Courts it is widely used as a barometer of value. However, more often than not, it is applied by the courts as an indication of an overassessment. However, what is ironic, when it is applied by the county tax board in the equalization of the tax rate, it is used as an indication of an underassessment.

The assessors have constantly maintained that if the ratio is to be used to determine value then these factors used to determine the ratio of a taxing district should be revised whereby only those sales which absolutely uphold the concept of willing buyer-willing seller be used in the sampling year.

The current inclusion of factors not determinate of true market value has contributed to a quick demise of the ratio of a taxing district, thereby resulting in an unnecessary early revaluation. It is one thing to have values raised to reflect true market value and it is another thing to have values raised to meet a 100% ratio.

In conclusion, I don't know if all the information received by this Committee can be correctly evaluated to the extent that proper legislation be enacted that will improve our tax appeal procedures, but I will say this, however, that whatever course of action the Legislature decides to pursue, it is hoped by assessors throughout the State that there will be legislation which will clearly contain the intent of the Legislature in all proposals concerning property tax administration. I will also state, in behalf of the State Assessors Association, that assessors throughout the State stand ready to assist in any way toward the enactment of this type of legislation.

Thank you very much.

SENATOR DUNN: Thank you, Mr. Harraka.

How long have you been serving as the Assessor in Summit?

MR. HARRAKA: Four and a half years, now, Senator.

SENATOR DUNN: Do you mind if I ask you what qualifies you to be a tax

assessor?

MR. HARRAKA: Yes. I am a certified assessor. I have taken the examination for assessor. I have passed the examination. I have taken courses which were prescribed by the local property tax bureau as one of the prerequisites for being a tax assessor, and I had private appraisal work prior to being - private appraisal experience prior to being an assessor.

SENATOR DUNN: Are you elected to office or appointed?

MR. HARRAKA: I'm appointed, sir.

SENATOR DUNN: And when, if ever, do you get tenure in that job?

MR. HARRAKA: My tenure will be - you mean in my position? The next appointment, July 1st, I will have tenure.

SENATOR DUNN: Do you feel eminently qualified to assess all types of property in the town of Summit?

MR. HARRAKA: Yes, I am.

SENATOR DUNN: Do you think you typify the type of assessor we have throughout the State of New Jersey?

MR. HARRAKA: Yes, I do.

SENATOR DUNN: Were you here earlier to hear Judge Savino?

MR. HARRAKA: Yes, I did hear Judge Savino's testimony. If I may add, Senator, as to Judge Savino's testimony, I would be remiss in not stating that I felt a little hurt that Judge Savino had made mention of the fact that assessors are not doing their homework. There was an implication there that all assessors are not doing their homework, and that's not true due to the fact that assessors throughout many taxing districts in the State of New Jersey who are full-time qualified assessors, sometimes more qualified than I am, based on experience, put hours and hours of work in preparation of tax appeals. And to categorize assessors in the manner that Judge Savino stated this morning was sort of - it would be an affront to many assessors who have worked hard at their work and are constantly working hard at their work.

SENATOR DUNN: Have you personally been involved with appeals that reached the State level?

MR. HARRAKA: I have been. When I first took over as Assessor in the city of Summit, in my second year there were cases that were filed in 1970 that were heard in 1973, the early part of '73, at the State level. And if I may be permitted to say so, these appeals involved residential property and I, for one, could not understand why they were even heard at the Division level since they pertained to values which were set during revaluation, which I had brought to court and comparable sales substantiated the assessment placed on the property, only to have the Division of Taxation apply a ratio for the year of the hearing and not the year of the appeal, which reduced the property. I felt that action such as this by the Court was dangerous to the extent that other people would file an appeal to have their property reduced to a comparable reduction set by the courts.

SENATOR DUNN: By using that formula, you're saying that the city of Summit lost tax dollars. Is that right?

MR. HARRAKA: Yes. And there was a threat that Summit could have lost more tax dollars if this procedure had been followed by everyone in the community. Then I would dare say that if everyone did follow this same procedure then it would result in uniformity in some form or way and the resulting

action would be that the tax rate itself would just rise appreciably to the reduction of the value. As everyone knows, your tax rate is based on the amount of ratables and amount of money to be raised by taxation. Any reduction in the amount of ratables, the amount to be raised by taxation would remain stable so, consequently, the third factor would be an increase in your property tax rate.

SENATOR DUNN: From where you've been sitting, do you feel that in an overall sense there needs to be a radical change in the tax appeal system on the State level?

MR. HARRAKA: I would say there is room for revision, yes, on the State level, in the area I mentioned here, to the extent that the long time period between filing at the Division level and the final adjudication by the State Courts - municipalities are faced with a hardship, and providing money for uncollected taxes or tax appeals to be set aside --- As you already know we are now governed by the Cap System in the State of New Jersey where you are only allowed to put a certain amount of money in reserve, even though the tax system doesn't come under the Cap Law. But there is another law which states that they are only allowed to put a certain amount of money in reserve. And any increase in the reserve amount, if it doesn't meet the needs of the municipality, it would have to be raised through taxation.

SENATOR DUNN: Mr. Harraka, much of your statement goes into the philosophy of what's wrong with taxation, per se, in the State of New Jersey. We're primarily concerned with the mechanics of the tax appeal system. And from your position as Tax Assessor who has gone to the State Tax Appeals Court, are you convinced that there is fairness and equity in the handling of all cases that go before the Tax Appeals Court, or do you feel that there might be some preferential treatment shown to those big taxpayers who are represented by specialists?

MR. HARRAKA: Senator, I can't answer that because of the fact, as I stated before, most of my appeals were on residential property at the State level. And everyone that came down there came down without benefit of attorney; they came down as taxpayers of residential property. I did not have any commercial appeals, if that's the reference in the question, so, consequently, in my four and a half years I haven't been able - I can't answer that question completely.

SENATOR DUNN: Well, Mr. Harraka, are you testifying as the Tax Assessor of Summit or as the Chairman of the Legislative Committee of the Association?

MR. HARRAKA: Mostly as Chairman of the Legislative Committee of the Association in regard to laws pertaining to tax appeals, because of the fact, Senator, that I've had funneled to my committee many requests by assessors throughout the State that something should be done with the Tax Appeal system in order that there can be adjudication at a fair level for all communities.

SENATOR DUNN: But as Chairman of the Legislative Committee, have not some of these same things been brought to your attention that have been brought to our attention about the preferential treatment given by the system itself to the large taxpayers who are represented by legal firms specializing in tax appeal work?

MR. HARRAKA: Senator, this will be in the record, I must state that this is an off-the-cuff remark by various assessors. I will say yes. Like everyone else, assessors tend to discuss things amongst themselves, and remarks have been made that they haven't been receiving a fair treatment at the courts, at some levels - well, I will state at the Division level.

SENATOR DUNN: Have you ever heard of the allegation that compromises have been forced upon tax assessors to reduce assessments on order of or strongly on the suggestion of the presiding judge?

MR. HARRAKA: No, Senator, I haven't heard that directly said to me, no.

SENATOR DUNN: You've never heard of tax assessors being told to go into side rooms or anterooms?

MR. HARRAKA: Yes, that I did hear. If that's what the Senator means by compromise, yes I did hear those statements.

SENATOR DUNN: Well, wouldn't a compromise mean that the tax assessor would be expected to reduce the assessment?

MR. HARRAKA: Based on your definition, yes, that there would be a settlement that should come forth between the two bodies, yes, and the settlement oftentimes results in a reduction of value. How else could a settlement be?

SENATOR DUNN: And when a compromise is reached through this procedure that differential has to be made up by burdening other taxpayers with that differential?

MR. HARRAKA: That would be the resulting effect, yes.

SENATOR DUNN: Any other questions, Glen?

MR. MOORE: No.

SENATOR DUNN: All right, Mr. Harraka. Thank you very much.

MR. HARRAKA: Thank you, sir.

SENATOR DUNN: Mr. Walter Salmon from the Municipal Assessors Association.

WALTER SALMON: In deference to what has been said this morning and what was said by Mr. Harraka, I would like to be put on the agenda for the 30th to give you an official statement from the Executive Committee of the Assessors Association.

SENATOR DUNN: Certainly. Thank you very much.

May we now hear from Mr. Lawrence Lasser of the firm of Lasser, Lasser, Sarokin and Hochman. Mr. Lawrence Lasser.

(Witness sworn)

SENATOR DUNN: Do you have a prepared statement, Mr. Lasser?

MR. LASSER: I don't have a prepared statement, Senator, but if I might, I would like to make some preliminary remarks.

SENATOR DUNN: Fine.

LAWRENCE LASSER: My name is Lawrence Lasser. I am a partner in the law firm of Lasser, Lasser, Sarokin and Hochman of Newark. I've been engaged in the practice of law for approximately 25 years, and during that period of time have spent a good deal of time in the taxation field, particularly in the field of state and local taxation. During that period of time I have handled many cases before county tax boards and the Division of Tax

Appeals. Also during that period of time I have devoted considerable time to the study of the tax laws, the study of our taxation system in New Jersey, as well as other states; I have lectured on those subjects; I have taught at Rutgers Law School on that subject; I have written articles on that subject; I have served as Chairman of the Tax Committee of the New Jersey State Bar Association; and I have testified on a number of occasions before New Jersey State Legislative Committees. I have served on the State Tax Committee which rendered its report in 1974 with respect to the reform of our tax system. And through those activities, I have been interested in the reforming of our State Tax System, both substantive and procedural.

This Committee, I am pleased to note is concerned with procedural reforms in our tax system. There are many procedural reforms that are needed badly in this State, partly because the system of taxation and the review of tax matters is very old and has been revised only infrequently and many years ago. It is badly in need of revision at the present time.

There are two aspects of that revision that are necessary. One, in the area of statutes that relate to our tax laws. Those statutes include a great many inequities and injustices that should be corrected. And my objective over a number of years was to achieve a legislative commission which would review the tax laws of the State of New Jersey in much the same manner as the corporation laws were reviewed and revised, or as the matrimonial laws were reviewed and revised. Such a revision might take into consideration, for instance, the fact that if a home is destroyed by fire after January 1st, that homeowner is required, under our statutes, to pay taxes for the entire year. It might take into consideration the fact that the distinction between real and personal property is very vague, very fuzzy, and taxpayers are in a position where they don't know whether they must pay taxes under the real property tax laws or under the personal property tax laws on a number of types of property. For instance, in connection with mobile homes there are some areas that have to be revised.

There are revisions in not only the substantive tax law but in the procedural tax law that should be discussed, considered and changes made. An example of this might be the possibility of assessing, instead of every year as we do now -- if, for instance, we were to adopt the system of assessing so that it would encompass the assessment every three years, we could, by that method, eliminate a great deal of paper work, permit tax assessors to spend much more time making their tax rolls more perfect and alleviating some of the backlog that we have at the review levels.

That's only one example. The possibility of - instead of requiring the assessor to make up his tax rolls every year, other states provide that they make them up every two years, every three years, or other periods of time. It seems to me that's an example of the type of procedural form that would be of assistance to everyone and that would make our system more efficient.

In the area of review of property tax assessment, the increasing importance of our taxes-- we now have an income tax, and other taxes that the State imposes on people are an increasing burden. The tax system that we now have, the system of review that we have, goes back to the 1910's, '20's, '30's and we still have the same system. It might have functioned adequately at a

time when government was operating at a much lower level. It doesn't, we are all aware, function adequately now because of, first, the importance of taxation - the fact that a taxpayer in the 1920's may have paid \$80.00 on his house and now he may pay \$1600 on his house. It's a matter of much greater importance. There are many more taxes. There are many more taxpayers. We still have only the seven Division of Tax Appeal Judges who sit at the pinnacle of our entire system of review. They are part-time judges. They have to handle more and more cases of increasing complexity, not only in the property tax field but cases which involve corporate franchise taxes, matters involving taxation of interstate transactions which are very complex and which require a great deal of expertise.

I think, ultimately, everyone will agree that we must have a full-time judicial tax court. Now, other states handle their tax appeals in the judiciary. The State of New York, for instance, has a system which is called certiorari proceedings under which property tax cases are heard from judicial judges, full-time judicial judges. In the State of Oregon, that State recently, about two or three years ago, perhaps four years now, created the Oregon State Tax Court which, I understand, is operating successfully and providing a measure of relief and review that was not previously available.

The American Bar Association has, through its committees on taxation, drafted and approved a Model Tax Court Act. The tax court bill that you, Senator Dunn, have introduced, is consistent with that Model Tax Court Act and follows a movement which began in the State of New Jersey back before 1960. In 1960, I believe it was that Senator Deamer first introduced a tax court bill. That bill received the approval of the New Jersey State Bar Association. Since that time State tax court bills have been proposed, have been introduced. In 1974 that bill passed the Assembly, did not pass the Senate. The New Jersey State Bar Association has, through that entire period of time, endorsed a full-time judicial tax court. During that period of time I, and other members of the Tax Committee of the Tax Section of the State Bar Association, have worked together with Legislators, members of the Court, in seeking to achieve a bill that would be acceptable to all. To this date, we have not succeeded. I would hope that this Committee would be successful in achieving a procedural reform to our tax system which will result in a full-time judicial tax court.

Now, there is a transition that is possible. In other words, it is possible that the Division of Tax Appeals can be changed and modified so as to provide a half-way house toward our ultimate goal of a full-time judicial tax court. I believe ultimately we must have a full-time judicial tax court. The question is whether we can get there by a gradual step. For instance, the Division of Tax Appeals now is in the Department of the Treasury. When we talk about taxpayer confidence in their government, it doesn't help the taxpayer in his feelings to go before a body which is part of the Department of the Treasury. So that it has been the recommendation of many that at the very least the Division of Tax Appeals be removed from the Department of the Treasury and put in some other department. If it is the decision of the Legislature that the Division of Tax Appeals should be retained, at least it ought to be out of the Department of the Treasury so that when a taxpayer comes before it he doesn't

have the feeling that he's coming before the very body that initially imposes the tax, because we know in our tax system the Department of the Treasury has the Director of Taxation; the Director of Taxation is in charge of the Tax Boards and the Assessors. The whole system gives the impression that the review body is also in the same camp.

There are many other reforms that should be accomplished, even if we don't achieve the ultimate objective. Those reforms include - and I might add that the Division of Tax Appeals is working on this now, the making available of reported decisions. To my own mind, when we talk about a system of judicial review or a system of review of tax matters, there is an advantage in having that body have not only the prestige that is necessary to instill taxpayer confidence, there is a feeling on the part of taxpayers that somehow or other it is the judiciary that protects them from their government.

It seems to me that a judicial body is more appropriate in instilling confidence in the taxpayer that he is getting a fair shake if he deals with judges rather than if he deals with an administrative agency.

When we talk about the government, the State Government, I think that it's of great assistance to our tax administration if they know that they've got a consistent body of judicial decisions made by a group of judges who have expertise in the field. I know that it has been the position of the Director of Taxation that his work would be assisted by the existence of a tax court, that is, a judicial tax court, but I will let him make the statement for himself. But it's my feeling that our State Government - our local governments would be helped by a body of persons who would render decisions which had the imprimatur of the judiciary. I think that the taxpayers would be served, I think the public would be served, and I know that the Bar would be very anxious to have that kind of a body.

So, in conclusion of my remarks, which are obviously overly long, for which I apologize, I would say that the goal is to achieve a full-time judicial tax court; the goal is to achieve a review of all of our taxing statutes because over the years many things have crept into them. But in the intermediate position there is a compromise or an alternative. We can create an administrative agency, a tax court not in the Department of Treasury but under some other portion of the Executive or Legislative Branch with enough judges and enough assistants to do the job that the Division of Tax Appeals can't do now because they are still operating on a 1940 basis.

SENATOR DUNN: Have you finished?

MR. LASSER: Yes, sir.

SENATOR DUNN: I appreciate that because I think you pretty much encompassed in your thinking the feeling of many members of the Senate as to what they see in the way of reform. And I think there is almost unanimous opinion that we would like to see the system put in the Judiciary in the same vein or the same way as we do with our County Court System or Superior Courts, and whatnot. So you have been most helpful in confirming what I think does reflect the thinking of most of us.

Mr. Lasser, were you the gentleman that the Judge spoke to last night?

MR. LASSER: No, I was not, Senator.

SENATOR DUNN: Well, he referred to the gentleman as the biggest in the business. He had 150 cases last year, appeals.

MR. LASSER: I don't claim to be the biggest in the business, Senator.

SENATOR DUNN: Did your firm have more than 150 appeals last year?

MR. LASSER: To the Division of Tax Appeals?

SENATOR DUNN: Yes.

MR. LASSER: The answer is yes. I guess I have to explain that. I think that our firm filed something like 300, or thereabouts, appeals last year. However, about two-thirds of them were repeats. I'm not sure whether the Senator is familiar with the problem that we all have, and that is because of the fact that there is a necessary delay; for subsequent years, we file again. In other words, when I referred to assessments once every three years I was comparing the fact that we now assess every year. That means every assessment must be appealed. If you don't get heard on the assessment in the first year, then you have to file for the second year and the third year. By my way of thinking, I would love to have a system where we had one assessment for a whole three-year period so that we could file one appeal and we wouldn't have this repetition.

One of the facts, I guess, with respect to the Division of Tax Appeals, is that although they have a very large number of cases many of their cases relate to one property for a few years. So that if we file something in the area of 300, 200 of them are repeats of last year or the year before. So that it may be that something in the area of 100 are really new appeals for that year.

SENATOR DUNN: Where is your main office, Mr. Lasser?

MR. LASSER: In Newark.

SENATOR DUNN: Do you have branch offices throughout the State?

MR. LASSER: No, we don't.

SENATOR DUNN: Do you handle cases representing all areas throughout the State or do you spread your business?

MR. LASSER: I do get and our firm does practice in many areas of the State. I might say that we don't only handle tax matters; we are in the general practice of law and I, and my partners and my associates, do practice in many areas of the State. We like to try to limit ourselves to North Jersey. Sometimes we find that impossible but we try to limit ourselves, although I have had experience in handling cases in other parts of the State.

SENATOR DUNN: So, in 1976 you handled approximately 200 hundred new cases?

MR. LASSER: Before the Division of Tax Appeals, I would guess, and I haven't checked the records, - I would guess 100 cases before the Division of Tax Appeals.

SENATOR DUNN: How many cases, old and new, do you have before the State Tax Appeals Court right now?

MR. LASSER: I would have to guess. I can't tell you exactly, but I would have to guess something in the area of perhaps 300. I guess that's right, no, perhaps 300 or 350, something in that area.

SENATOR DUNN: Representing what kind of properties, Mr. Lasser?

MR. LASSER: Oh, I guess many kinds of properties; I guess all kinds of properties, commercial, industrial, residential, multi-family residential, small taxpayers, large taxpayers.

SENATOR DUNN: What would be the bulk?

MR. LASSER: That's hard to say. I think that it's just a variety of a lot of different kinds of properties.

SENATOR DUNN: Do you specialize in any one particular city, in any one given county in the State?

MR. LASSER: No, we do not. I would guess, in answer to your prior question, it might be - and I haven't really checked our records with this in mind -- I would guess that commercial properties might be more prevalent but I do not know. I know that I handle commercial, industrial, residential. It would only be a wild guess.

SENATOR DUNN: Would it be unusual, if at all, for your firm to come in on the day of filing of appeals to file a list with the city tax board representing as many as 65 clients from one town?

MR. LASSER: Would it be unusual for us to have 65 clients in one town?

SENATOR DUNN: At one time.

MR. LASSER: At one time? Before the Division, are you saying or --

SENATOR DUNN: Well, going to the county first.

MR. LASSER: In a particular county? I would say that that is possible that we would represent 65 clients in a county or perhaps more. I can tell you that one of the problems that we encounter is that which we find with condominiums. You can have one piece of property, one condominium apartment house that may have 200 separate owners, which means you file 200 appeals rather than one appeal, or they are regarded as 200 separate appeals.

SENATOR DUNN: Well, let's talk about 50 separate property owners. Would that be an unusual situation for your firm?

MR. LASSER: In one town?

SENATOR DUNN: Yes.

MR. LASSER: I would say yes. I would say that that would be unusual for one town. I am trying to remember. There are some towns - it's possible that we file 50 appeals, or perhaps more, in the City of Newark because that's where our office is located. We probably file more appeals in the City of Newark than we do in any municipality. But for other municipalities, I would say it would be unusual for us to file that many in one town.

SENATOR DUNN: Would your firm be one of the firms referred to by Mrs. McConnell, that has so many clients that you have to bring the paper work in in boxes rather than --

MR. LASSER: I do not - I'm sure we never brought our paper work in in boxes. And, as I say, the most, I believe the most we have ever filed to the Division of Tax Appeals was in the area of 350, something like that. I guess considering 13,000 that's not really an awful lot.

SENATOR DUNN: Do you have any idea how many firms are similar to yours, specializing in tax appeal work?

MR. LASSER: How many? First, I guess I have to answer by saying there are degrees. There are some single practitioners who handle almost exclusively tax appeals. I would take a guess and say there might be between five and ten in the Northern New Jersey area that I'm aware of. Then there are - I do not know of any firms that handle tax appeal work exclusively, but there are firms who do a lot of tax appeal work. Our firm handles tax matters, not only with

respect to property taxes but also franchise taxes and other types of taxes. And were I to venture a guess, I would say, if you were looking for someone who specialized in state and local taxation, you might have or you might find in the State of New Jersey something in the area of 20 or 25 firms that would handle that work, possibly more. Perhaps I'm not taking into account Southern New Jersey or giving them the significance that they should have. That's my guess.

SENATOR DUNN: How often do you represent residential homeowners with property assessed at less than \$100,000.

MR. LASSER: Not very frequently.

SENATOR DUNN: Would the bulk of your cases be properties involving assessed values of more than \$100,000?

MR. LASSER: Well, we do handle a number of commercial properties that would be in the less than \$100,000 area. They may be store properties, they may be - oh, I can't think specifically. I guess mostly they might be store properties.

SENATOR DUNN: I'm generalizing. How about in the million dollar category? How many do you represent in the million dollar category?

MR. LASSER: How many properties?

SENATOR DUNN: That you presently have under tax appeal.

MR. LASSER: Oh, I would say - and this is only a guess, but it might be a hundred.

SENATOR DUNN: In assessed value over a million?

MR. LASSER: That's a guess. Yes. I might be wrong. I guess I would have to say 50 to 100 because, as I say, I haven't looked and it's only a guess.

SENATOR DUNN: Again, in a very general way, Mr. Lasser, and without wanting you in any way to be specific, when you do represent a sizeable taxpayer, how is your fee set?

MR. LASSER: Well, the first policy that we follow in our firm is that we give the client a choice of whether he wants to retain us on a contingency basis or on an hourly basis or on some sort of a negotiated fee basis. We do handle tax matters on all of those bases. We do handle them on that basis for large taxpayers and small taxpayers. That is, there are large taxpayers who prefer to pay us on an hourly basis or on a negotiated fee basis; there are large taxpayers who prefer us to handle matters on a contingency basis. And the same thing is true of small taxpayers. So that the answer is that the matter is discussed with the client and the choice is his as to how he wishes to retain us. And the result is either a contingency basis or some other negotiated fee basis.

SENATOR DUNN: If you were to represent a municipality, how do you suppose you would work out a fee or endeavor to work out a fee with a municipality?

MR. LASSER: When we represent municipalities, we generally do it on an hourly basis. And we have represented municipalities and we're perfectly willing to represent them, and we do always represent them on an hourly basis.

SENATOR DUNN: Is it more lucrative to represent a private taxpayer than it would be to represent a municipality?

MR. LASSER: Well, that's hard to say. There are some cases that are lucrative and there are some cases that you lose money on. I think that we're always willing, we're always happy to take cases on an hourly basis because we know we're going to get paid. We are willing to accept a case on a contingent basis if we feel the case has merit and if the client insists we handle it on that basis. I can't say which is more lucrative, except to say that certainly the chance of making more money is greater on a contingent basis. But the chance of continuing to pay the overhead is greater on an hourly basis.

SENATOR DUNN: I am trying to find the right way of framing this without insulting you.

MR. LASSER: Well, I think what we want to do is, we both have the same objective and we want to --

SENATOR DUNN: You know, when you talk about representing a hundred clients who have property in excess of a million dollars and having a tremendous effect on the financial status of a municipality, one can't help but wonder what makes one firm stand out among so many other lawyer firms as specialists in this field of work.

Do many of your clients come to you by referral from other lawyers?

MR. LASSER: Some do. Some come to us by word of mouth. Senator Dunn, as I've said, I've been doing this for 25 years. I think that I have done a competent job. I think that I have cared about my clients and I also think that I've been interested in making sure that justice was done. When I thought that my client was not entitled to relief, I told him so. So I think I've been conscientious. I think I've been well prepared in my cases. And I think that by word-of-mouth people have heard of me and I guess I also have an ace up my sleeve. My father was also in this field and they knew him. And he had practiced law beginning in 1919, so I guess that those kinds of things result in people hearing about you and coming to talk to you about their problems.

SENATOR DUNN: Would your firm ever have reason to have employees of the firm go to a tax office at a special time of the year to seek out the assessed values placed on commercial properties, especially?

MR. LASSER: Yes, it's quite possible that we would do that.

SENATOR DUNN: Why would you do that?

MR. LASSER: Because when we talk about commercial properties - we do represent commercial clients - the first thing that we do is, we are interested in the assessments on our own client's property.

SENATOR DUNN: Excuse me. I'm talking about properties that are not represented by you at that particular time.

MR. LASSER: I can say that it's possible that we would do that as a comparison. For instance, if we represented a commercial property, we would be interested in the assessments -- let's say a food market - we would be interested in what the assessor does on all the food markets in that area. And so it is possible that we might go to the tax assessor's office, although I don't think we do it frequently. It depends upon the situation. But I would say it is possible that we would want to check, in that kind of an instance, to see what assessments on other food markets are.

SENATOR DUNN: Well, don't you agree that that might be grounds for suspicion, to a mayor, for example, when he's informed that a particular law

firm sent an employee of the firm into the tax assessor's office and picked out all the choice properties and marked down what the assessments were and then, a couple of days later, to have the same law firm come in to file appeals for maybe 50 out of the 60 that were written down on a piece of paper? Wouldn't you say that that was at least grounds for suspicion? I'm not referring to your firm, I want you to know that.

MR. LASSER: I think that one would have to have more than a suspicion. I don't know, I would guess in that situation if that firm or person followed that course of action that perhaps you might be justified in asking for an explanation. I don't know how otherwise to characterize that. I think one may have suspicions about a lot of things which may turn out to be perfectly harmless.

SENATOR DUNN: Well, Mr. Lasser, I'm sure that as a prominent attorney and member of the Bar, I mean member of the various Bar Associations and whatnot, that if there were something of an unethical nature of this type brought to your attention you would do something about it.

MR. LASSER: I would be concerned about it.

SENATOR DUNN: You'd be concerned about it.

MR. LASSER: Yes, I would.

SENATOR DUNN: In your long experience, do you know of any action taken or suggested by the Bar Association against lawyers who might be doing something of that type of thing?

MR. LASSER: No, I do not. I do not know. I am not aware of any complaint that was ever made to the Bar Association. That doesn't mean that there wasn't any. It's just that I'm not aware of it.

SENATOR DUNN: Do you know of any complaints at all, in the 25 years that you've been practicing and specializing, - of any complaints at all taken before the Bar of lawyers promoting business of this type without being solicited by the client themselves?

MR. LASSER: I believe that I recall that there was a case. I can't remember specifically, but I believe a number of years ago there was such a case that was the subject of an ethics opinion. I just am a little fuzzy on it but I think that there was.

SENATOR DUNN: Mr. Moore has a question.

MR. MOORE: You have obviously given a great deal of thought to the tax appeals procedure in the State over the years, and maybe you could address sort of a general question which has come up in looking over this data we've been able to obtain through Barbara McConnell. According to her data, 50% of the appeals which are filed involve assessments of over \$100,000. I think we could assume the greatest proportion of those are commercial properties. And another 25% involve assessments between \$50,000 and \$100,000, and we could probably assume that a good deal of those are also commercial properties. So it would appear that commercial property owners use the tax appeals procedure to a much more heavy degree than do residential property owners. Why would you think that is the case?

MR. LASSER: I think that what happens in our system is that a great many homeowners file appeals to the county tax boards and I think that either they get the relief that they're looking for or they are satisfied in one way or another at the county tax board level. One of the good parts of the system

we now have is that we have a two-step system of review, the county tax board level and the Division of Tax Appeals. The county tax board is an institution that is very helpful to the whole administration of the tax laws in the State of New Jersey because there are 21 bodies of local people, people who live in the county, people who are concerned with the county, people who are concerned with the people in the county. And the way I look at the system myself is that this is a relatively informal body that doesn't deal in technicalities, and it shouldn't deal in technicalities; it should remain informal, it should remain a place where the taxpayer can come to his neighbors and say, I have a problem, I have water in my basement, or they've closed off the street, or something happened that makes my property worth less than my neighbor's property, and there get a sympathetic reception from the county tax board, which he does. So it is my belief that a great many taxpayers meet their government, meet their taxing authority on an informal basis and are satisfied. Perhaps they get reductions, but even if they don't get reductions they are able to come and tell what's wrong with their property and have somebody listen sympathetically and respond to them in some way.

The reference that Mr. Harraka made to the fact that county tax boards hear and determine their cases within a relatively short period of time contributes to the beneficiality of that kind of a system. Quick action, sympathetic action, informal action. I think, therefore, the county tax boards provide a screening process. They take care of a lot of people who are not happy but in one manner or another they are made satisfied.

When we get to the Division of Tax Appeals level, a lot of those people have been screened out.

Now, the other part of the answer I guess obviously has to be - and the small taxpayer finds it difficult to go to the Division of Tax Appeals, not difficult because the procedure is difficult but it's in Trenton, it's perhaps less convenient and a stranger to him. And perhaps, although we know that an individual homeowner can file an appeal on his own, he doesn't have to have an attorney to represent him, whereas a corporation by our law is required to be represented by an attorney - perhaps the homeowner does have a problem with the cost of filing an appeal to the Division of Tax Appeals. For that reason, in Senator Dunn's bill, there is a specific provision for a small claims division. There is no question but that we must give the same relief or the ability for the same relief to every taxpayer. And I think that the small claims division does that. I think, in my experience, the Division of Tax Appeals also, I think, bends over backward to try to make it convenient for small homeowners.

But there is still another part to the answer and that is, it may also be possible that the level of assessment of homeowners' properties is not as high in many municipalities as the level of assessment on commercial and industrial properties. The facts, as shown in the Director of Taxation's sales-ratio studies, for instance, show in many instances that class 4 properties, class 4 properties meaning commercial, industrial and multi-family residential, are assessed at a higher level of value than one-to four-family houses. And that may also account for a larger volume of those kind of appeals before the Division of Tax Appeals.

MR. MOORE: This is sort of a follow-up to a question Senator Dunn asked earlier.

Does part of your explanation there imply that perhaps the county boards are not able, as presently structured, to give the type of attention to commercial properties which they can give to residential property owners? Is that one of the reasons we see an awful lot of commercial property appealed at the State level?

MR. LASSER: I think that the county tax boards generally do a good job in all kinds of property. I don't think it's that they don't have the ability. One of the answers I guess I can give is that in a property that involves a larger amount of money, if the taxpayer is satisfied with the county tax board result, then it's possible that the municipality appeals. In other words, because more money is involved, the chances are that one side or another will appeal are greater. And that may be the explanation to the fact that there are more class 4 properties. I think there's really no one explanation. I think there's a combination of explanations. I think it's the fact that class 4 properties, commercial, industrial and multi-family residential, involve more money and, therefore, people will fight harder. It may be that they are assessed, in some instances, at a higher level in some municipalities than other property. There may be many factors which add up. It may be that the homeowners are just not able to afford to file the appeals or pursue them. I think it's a combination of all those factors.

MR. MOORE: The reason I asked the question was, as Senator Dunn pointed out, earlier we heard informal statements from assessors, and so forth, that many times on a commercial appeal the attorney just won't bother to present much of a case at the county level since he knows he's going to the State level no matter what the determination is.

MR. LASSER: And I've heard that and I have sometimes - I think what I've tried to do is try my cases before the county board. But there are two answers to that. One is, no matter what the result is one side or the other is going to appeal. Then you might take the attitude, well why make a big deal out of it. The other problem is that it is true that the county tax board does not have as much time to devote to the hearing of a particular case as the Division of Tax Appeals. So if you're dealing with a very complex property, the function of the county board is to handle a mass of appeals and to dispose of - if they can handle hundreds of appeals and dispose of 80% of them, then they've done a very good job; and if the 20% or 25% that they are unable to dispose of includes those properties that are more complex, then I don't blame them. I don't blame the county board for saying, here's a case that would take three days to try. We don't have the luxury of trying a case for three days before the county tax board because we have a limited period of time in which to hear appeals, and the beauty of the county board is that we do dispose of so many cases we can't be expected to be perfect, we can't be expected to take that 20% or 25% and dispose of them and come up with a clean record. Although there are some county boards that have very few appeals to the Division of Tax Appeals. But still, I think one of the benefits of the system is that the hard case, the case that no matter what the county board would do one side or another would be dissatisfied, has to go up, and when it goes up we would like to have it go up to a judicial court and when that judicial court gets the hard case and writes an opinion on it

then that's an opinion that has a lot of weight and it then becomes a guide to everybody else down the line.

MR. MOORE: Thank you.

SENATOR DUNN: Mr. Lasser, to get to the State level, though, you must bat zero on the county level, otherwise you wouldn't go up to the State. Do you keep score as to what your batting average is on the State level?

MR. LASSER: No, I don't keep score.

SENATOR DUNN: Do you have more wins than losses?

MR. LASSER: I win some and I lose some. Well, it depends upon what a win is. Sometimes you may get a reduction that's not what you think you're entitled to and I don't know whether that's a win or a loss.

SENATOR DUNN: Don't you feel confident that when you literally bypass the county that you're going to get a break for your client on the State level?

MR. LASSER: No, I don't. First, Senator Dunn, I think that many of my cases, as a matter of fact, - I can't deal in percentages but I can tell you many, many of my cases are disposed of at the county tax board level. I feel that I owe it to my client to try to finish it at the county tax board so it doesn't hang on for a number of years. And if we were to review the figures, I am sure we would find that many, many cases are disposed of at the county tax board level.

The ones that go up to the Division of Tax Appeals sometimes go up because the municipality appeals, sometimes go up because we appeal. I don't keep a box score. I think that we get our share of wins and we get our share of losses. My experience with the Division of Tax Appeals is that they are, if anything, leaning over in favor of the municipality. Now that may sound odd to you, and that's from my own prejudiced point of view. To the extent that I represent taxpayers, I think that I have an uphill fight with the Division of Tax Appeals. To the extent that I may represent municipalities, I think that I might have just a little easier time. Perhaps that's because of presumption of correctness which we have to fight, which is in favor of the municipalities and in favor of the county tax board.

But I cannot say that the Division of Tax Appeals has been either unfair or prejudiced in one way or another, except that I think that I have a tough row to hoe when I'm against a municipality.

SENATOR DUNN: Well, you've built up a fine reputation in 25 years to become the specialist that your firm is. I would assume that if you had more losses on the State level than you had wins, you wouldn't enjoy that good reputation that attracts so many clients to you. So I must assume that you have more wins than you do losses on the State level, which means that the municipality is losing considerably on it because of your talents. But we're very curious about the settlement of these cases without full-blown hearings, especially cases involving millions of dollars, at least hundreds of thousands of dollars in taxes to a municipality, but over a period of years many millions of dollars.

Have you experienced, at least a few times in your practice, compromises being suggested by the judges before a full-blown hearing is entered into?

MR. LASSER: That's hard to say.

SENATOR DUNN: Let me just say this, to make it easier. Some tax assessors have told us that it is a very usual procedure to have judges suggest

the attorneys for the taxpayer and the tax assessors for the municipalities go somewhere in the backroom and compromise a situation because they have too many cases to handle, and don't come back until you compromise something. Have you ever been party to something like that?

MR. LASSER: It is true that some judges of the Division of Tax Appeals do encourage settlement and do give the municipality and the taxpayer an opportunity to discuss settlement. And I have participated in settlement discussions which have occurred prior to the trial of the case. It's possible, although I don't myself recall any instance where a judge has suggested a settlement figure. I just don't recall anything more than the fact that a judge would encourage settlement and that a settlement would be entered into. Generally, settlements are backed up by appraisals. Settlements with respect to municipalities many times, I can't tell you whether it's so in every instance, are approved by the municipality, in many instances by the governing body. But the settlement procedure is one that can be relatively involved, including a lot of people looking at the settlement to see whether it is fair.

SENATOR DUNN: But when a settlement is urged in a backroom by a judge, doesn't that become obvious that the tax assessor must reduce the assessed value on that property?

MR. LASSER: No, I don't think so. If I was representing a municipality and a judge asked us to settle and we couldn't arrive at a settlement, I would go ahead and try the case. And I have, in many instances, whether I represent a municipality or a taxpayer; if settlement is impossible, I proceed to try the case. I think that even throughout our judicial system there is an inclination on the part of any judge to try to dispose of a case by settlement rather than trying it because you save a lot of taxpayer money by not going through the trial.

SENATOR DUNN: But you also lose a lot of money. If we're talking about a \$100,000 tax bill and the judge suggests a compromise and you bring it down to \$25,000 or bring it down \$25,000, then that means that the city is losing \$25,000. You've saved \$25,000 for your client. And let's assume you're working on a contingency basis, he's picking up a few bucks, you're picking up a few bucks, and yet the taxpayers are paying for it.

MR. LASSER: Well, maybe the municipality is getting a bargain. You know, frequently taxpayers will settle cases for less than they really believe they're entitled to and that their appraisers have provided appraisals for. Sometimes settlements are a good thing. Sometimes a municipality can minimize its loss by a settlement. If it goes to trial, they may lose a lot more. And I guess the Appellate Division and the Supreme Court have many, many decisions where municipalities have lost more than they might have lost had they settled the case.

SENATOR DUNN: Well, let's assume that that might be true, and if you're representing a client and you know you can get a better deal by going the full route, why would you be party to a compromise?

MR. LASSER: Well, partly because of the delay. I would say many clients of mine would rather settle at a figure that was less favorable to them because of the delay in trying the case. There are many factors, I guess, that lead you to compromise at a figure that might be less favorable to you than you would really want. In tax cases there are lots of benchmarks. For instance,

the sale price. Suppose we bought a piece of property for \$100,000 and it was assessed for \$200,000. In that instance, would I, on behalf of a client, insist we try the case because the proper assessment is \$100,000 or would I compromise, would I make a compromise at \$150,000 or \$140,000 or \$160,000 just so that we didn't have to wait, or at some other figure above the sale price, for many reasons. And the answer is many times we do. There are many reasons why a taxpayer or a municipality will settle a case, and the answer is always that they think it's to their best advantage. And I think that settlements shouldn't be discouraged. I think that there is an advantage at every level of the judicial system in settling cases. Because, if we didn't settle cases, then the burden on the system would be even greater.

SENATOR DUNN: Okay. Mr. Lasser, I don't know whether or not you have been asked to furnish this or not but, if not, would you voluntarily give us a breakdown on the number of cases your firm brought to the State level in New Jersey last year, and in 1975, and what cities, of course - a breakdown of the cases that you brought to the State level and what cities were represented and how much money was involved?

MR. LASSER: I would be very happy to provide anything that this Committee needs for its deliberations. And I might also say that if there is any further -- I would be happy to meet with you again to discuss with you any other aspect. There are a great many details that we haven't been able to talk about now in procedural tax reform, both of the appeals system and the whole procedure of assessing. And if at any time you should want to, I would be happy to meet with you at any time at any place to talk about that further.

SENATOR DUNN: Thank you, Mr. Lasser.

MR. LASSER: Thank you, Senator Dunn.

SENATOR DUNN: Is Mr. Rosenblum here?

MR. ROSENBLUM: Yes.

SENATOR DUNN: Mr. Rosenblum, would you mind if I called a ten minute recess? The Governor has just sent for me.

MR. ROSENBLUM: Fine.

SENATOR DUNN: All right. We will recess for about ten minutes.

(Recess)

(After recess)

SENATOR DUNN: All right, Mr. Rosenblum

(Witness sworn)

SENATOR DUNN: Mr. Rosenblum, for the record, will you identify yourself.

LEO ROSENBLUM: My name is Leo Rosenblum. I am Senior Partner of the firm of Rosenblum and Rosenblum in Jersey City. I would like to briefly state some of my background, very briefly, looking at the clock.

I have been interested in the field of ad valorem taxation for the past 35 years. Commencing in 1942, I was appointed as President of the Hudson County Board of Taxation and I served in that position for a period of approximately 8 years, at which time I resigned and took over the responsibility of running the Assessing Department of the City of Jersey City. I did that for a period of six or seven years, at which time I undertook practically all of the principal tax legal work on behalf of the City of Jersey City at all

levels, county board, Division of Tax Appeals and the courts. For a number of years I was Counsel to the New Jersey Association of Municipal Assessors. I still am Counsel to the Hudson County Association of Assessors. Over a period of years, I have, on various occasions, represented approximately 30 or 40 different municipalities in this State on special assignments. And I would say, at the present time I still am representing possibly 7 or 8 municipalities. That generally, sir, states my background.

SENATOR DUNN: Well, it's a fine one.

One of the positions that I thought I heard you mention, and it was a current one, that you were tied in with some municipal association.

MR. ROSENBLUM: No, no. At the present time, I said, I represent 7 or 8 municipalities in tax work on special assignments, as special Counsel. One town I've represented consistently in that group, in all of their tax work, probably the last 12 or 15 years, that's the town of Secaucus. At the present time, I think for the past four or five years, I've done a substantial part of the major tax work of the city of Perth Amboy, as well. And the other municipalities I represent on special cases.

SENATOR DUNN: Do you have branch offices elsewhere?

MR. ROSENBLUM: No, sir, just in the city of Jersey City.

SENATOR DUNN: Do you have any specific recommendations that you would want to make to this Committee that we might consider incorporating into legislation that would improve the State Tax Appeals process?

MR. ROSENBLUM: Yes, sir, the same position I've taken consistently for the past ten or twelve years that I always have been and still am in favor of the substitution of the New Jersey Tax Court which would be a subordinate court in the judicial system to take over the duties of the Division of Tax Appeals and possibly a few other duties in the tax area on a full-time basis. This would remove the Division from the Executive Department into the Judicial Department, where I think it rightly belongs. And by virtue of the judges - and I mean a fully implemented court, staffed court - the judges working on a full-time basis, in my judgment, would probably be able to catch up with this caseload which has caused so much difficulty in past years. That has been my consistent position and it's not a new one.

SENATOR DUNN: How many appeals does your firm have currently before the State?

MR. ROSENBLUM: Well, in terms of actual appeals filed, I would say probably we filed in the year 1976 somewhere in the area of 250. That's just a guess. But you must remember that there are multiple appeals which really constitute a single case. For example, you may have a single land case involving a number of contiguous properties. They might go in as 10 or 12 appeals but essentially it's only one case. But in terms of actual separate petitions filed, I would say somewhere in that area.

SENATOR DUNN: Would your practice be comparable to the one described that Mr. Lasser is part of?

MR. ROSENBLUM: I'd have to see his income tax return.

SENATOR DUNN: Pardon?

MR. ROSENBLUM: I would have to see his income tax return to answer that one.

SENATOR DUNN: I am talking about the type of practice.

MR. ROSENBLUM: The type of practice would be, except for his general practice, and we, too, have a general practice substantially the same except I just don't know how many municipalities he represents.

SENATOR DUNN: Is there any one type of property over any other that you specialize in?

MR. ROSENBLUM: No. I would say that the major part of our appeals fall into the area of industrial, commercial and apartment houses. That's the major part.

SENATOR DUNN: What's your batting average before the State Tax Appeals Court?

MR. ROSENBLUM: Two weeks ago, zero. I spent two days at it and it was absolutely fruitless. By and large, it's much better than that. But I think I should explain, sir, that in getting a good batting average it really reflects something that you've done a long time before that. You just don't file a case for the sake of filing one.

One of the principal skills in this profession, this tax specialization, in my judgment is the ability to evaluate a case in advance. And if a case doesn't seem to have merit, it shouldn't be started, and we don't start them. Consequently, those cases that we do file, we feel at the outset have merit and should result, generally speaking, in some reduction. We have turned down many cases in our experience simply because on preliminary evaluation they didn't appear to have merit.

SENATOR DUNN: Even though you think it's a lost cause, you don't take it to the county tax appeal process?

MR. ROSENBLUM: No, sir. No, sir. I can think of one case in point, two or three years ago, in which a large chain of supermarkets visited me and spent a few hours in consultation. We reviewed their cases and I remember advising them not to file any of the appeals and, in fact, they did not file even at the county level. That is correct.

I will say this, though, that a great majority of those that come into the office eventually are filed, of course. Speaking in general terms, a client feels he's aggrieved when he comes to see you. In most cases they are. But you have my assurance that if we ever find or feel that a case doesn't have merit, we simply turn it away and advise the client not to file.

SENATOR DUNN: Well, there are some lawyers who feel, you know, they don't even put up a defense before the county tax board because they feel they have a much better shot on the State level. You wouldn't know anything about that?

MR. ROSENBLUM: Well, I don't want to think about what other lawyers think or do but I know what we do. Within the time limits which we're faced with under the statute which requires the hearing and adjudication of all cases by the county tax board by November 15th, there are limitations there. We do our best to prepare a case in all instances. We generally have our appraisal ready. There are cases though that simply could not be tried before the county tax board within the time limits allowed. In the last year or two, I remember trying one case before the State Division which consumed 16 full days of trial. Now, if it required 16 days in order to present the full merits, according to

our best lights, obviously you couldn't very well take 16 days out of the life of the county tax board with the limited time period they have under the statute.

But we do try to close out a case before the county board, either by trial or by settlement or whatever we can do. We prefer not to go to the Division unless we have to.

SENATOR DUNN: The case that took 16 days, do you mean that the judge who was presiding over that case actually spent 16 full working days hearing that case?

MR. ROSENBLUM: Well, first of all, I didn't represent the taxpayer in that case. It so happened I represented the municipality. I wouldn't say that he spent 16 full days. Of course there were days in which it was necessary because of the absences of witnesses, or other reasons, to break something short of a full working day. But we did make appearances and work some part of 16 separate days, yes.

SENATOR DUNN: Would you be willing, Mr. Rosenblum, to furnish us with a list of the numbers of cases that you took before the State Tax Appeals Court during the past two years, and the value of the properties and what the results of those cases were?

MR. ROSENBLUM: Just so I understand it clearly, you would like to have a separate list for each year setting forth the assessment for each one of the properties, block and lot, municipality. Would that do it?

SENATOR DUNN: Yes.

MR. ROSENBLUM: I would be glad to.

SENATOR DUNN: And what the results of the hearings were.

MR. ROSENBLUM: The results of those that were started in '75, '76 and have since been disposed of?

SENATOR DUNN: Yes.

MR. ROSENBLUM: All right. Only the ones that were disposed of or the ones that are still pending?

SENATOR DUNN: We're curious to find out just what the results of the litigations were, how much the taxpayers lost.

MR. ROSENBLUM: Senator, that's easy enough to do. I just want to know, do you want the list of cases even though the case is still pending before the Division and has not yet been heard?

SENATOR DUNN: Yes. We would like to know also the number of cases that you have in this backlog and how far back they go.

MR. ROSENBLUM: Well, then you want me to go - oh, I see. All right. Cases started in '75 or '76 with a notation as to the number of prior years for which they've been pending.

SENATOR DUNN: Right.

MR. ROSENBLUM: And where disposed of, the nature of the disposition. Is that correct?

SENATOR DUNN: Yes. We would be most appreciative of that.

MR. ROSENBLUM: I would be very happy to do that. Is there a time limit on that as to when you need this information?

SENATOR DUNN: A couple of weeks?

MR. ROSENBLUM: Very good.

SENATOR DUNN: All right, Mr. Rosenblum. Thanks very much for coming. I appreciate it very much.

Is Mr. Mandelbaum here?

MR. MANDELBAUM: Yes, sir.

(Witness sworn)

SENATOR DUNN: Mr. Mandelbaum, will you please identify yourself for the record and give us a little background?

PHILIP MANDELBAUM: Sure. My name is Philip Mandelbaum. I am the Senior Member of the firm of Mandelbaum and Mandelbaum and my offices are in West Orange, New Jersey. I have been practicing for over 45 years. And during that period I have practically spent all my time in the practice of real estate office work. I have participated in the ownership of hundreds of properties, both purchased with my own portfolio or purchased with others. I would say that during that period we went into many, many hundreds of properties, mostly in the Essex County area.

I have with the firm my son, David, who has been an attorney for approximately 19 years, and my son, Nathan, who has been a member of the firm seven or eight years.

That, I believe, gives you a general idea of my practice. I do invest in real estate, and heavily so. I've had my profits and I've had my losses.

(Discussion off the record)

SENATOR DUNN: The fact is that you are not only an attorney but certainly one completely versed in real estate, per se, in the State of New Jersey. As you know, the work of our Committee is to try to find ways and means of reforming the State Division of Tax Appeals and to draft new legislation that will guarantee fair and equitable treatment to all taxpayers in the State of New Jersey, whether they be - and I put quotes around the word - "small" taxpayers or "large" taxpayers, and we are very much concerned that people who are owners of residential properties, in particular, who either with counsel or pro se get before the State Tax Appeals Court, are treated as equitably and as fairly as are large taxpaying property owners. So that, in a nutshell, is one of our goals.

But I do know this, Mr. Mandelbaum, that you also - do you own a lot of properties in Elizabeth, too?

MR. MANDELBAUM: No, I don't.

SENATOR DUNN: Do you represent many clients in Elizabeth?

MR. MANDELBAUM: I would say only a few clients. It happens that in Elizabeth the people I do represent are satisfied with their taxation, with a few exceptions.

SENATOR DUNN: For the last taxing period, was it your law firm that came in on the day of the tax appeal deadline representing some seventy-five clients?

MR. MANDELBAUM: I don't believe so.

SENATOR DUNN: I'm not sure either.

MR. MANDELBAUM: I would say no. For the record, because of the type of work in our office and because of the volume of work, I handle tax appeals for the county of Essex, and I am assisted by my son, Nathan. My son, David, who is also well versed in real estate and has built several large shopping

centers, among other parcels, is very active in real estate, New York and New Jersey, does the tax appeals for the counties outside of Essex. And he is assisted also by my son, Nathan. And, therefore, although I have general knowledge of the activities of the office, the exact number of appeals that are filed in Elizabeth, I don't know because I leave it to my son. But I can tell you now that I would be shocked if I heard that we filed 75 appeals. Although, may I add, I wouldn't mind it.

SENATOR DUNN: No, I understand that. Do you have any idea -- I appreciate the fact that you can't provide at this point specifics as to the number of cases that you have in any one given town, but it seems to me that I read a breakdown recently, and I think Mr. Moore has it on file, that Mandelbaum and Mandelbaum in this last taxing period brought in at least 55 appeals in Hillside, a like number in Union, and a higher number in Elizabeth. But I don't say that with any validity at this point until Mr. Moore, later on, gets the material for me. But do you have any idea at all as to how many cases Mandelbaum and Mandelbaum has pending right now before the State Tax Appeals Court?

MR. MANDELBAUM: No, I do not have any definite idea but I can easily give you a list of appeals filed by the office in any county, but I do not pay attention to any appeals outside, filed outside the county. I might state, I think the hour is late but I think a system of appeals whereby the taxpayer receives a tax bill in May or June, and in the City of Newark many times in July with a deadline of August 15th - it is unfair - and we have to file them by August 15th. And I do not pay any attention to what appeals are filed outside the County. Because of the short duration - we have to file them on time and I do not know how many we file, but I will be glad to give you a list.

SENATOR DUNN: Yes, we would like to have a breakdown of just how many appeals Mandelbaum and Mandelbaum have pending before the State Tax Appeals Court.

As you may know, a rough description was rendered by Mrs. McConnell that in some instances some legal firms have so much work that they actually bring the paperwork, the files or the applications, whatever you call them, in in boxes, which would indicate that some firms are doing far better than a lot of other firms are doing. And we are trying to get a breakdown on just who these five, six, ten or fifteen big firms are that are doing all this work and what makes them stand out over all the others. But I think you are indicating by giving your background that in forty or forty-five years of experience you are certainly recognized as an expert and therefore clients seek out the firm of Mandelbaum and Mandelbaum to represent them in tax appeal matters.

MR. MANDELBAUM: I also own at least over 100 properties, myself, with others, which, of course, is also a nucleus for the filing of appeals.

SENATOR DUNN: Then what you're saying, if I understand you correctly, is that if you were to bring in a large box of appeals, you might be doing it not only as an attorney but also as a property owner too. So that Mandelbaum and Mandelbaum, the attorneys, would be representing Mandelbaum the property owner. Is that right, sir?

MR. MANDELBAUM: That is correct. But we do not bring them in in boxes,

that I happen to know. We didn't bring the boxes.

SENATOR DUNN: Well, we haven't yet been able to ascertain --

MR. MANDELBAUM: I definitely know we don't bring them in boxes. We have them in and bring them in portfolios.

SENATOR DUNN: With your broad experience, Mr. Mandelbaum, do you have any specific recommendations that you would care to make to the Senate Committee that might lead to improvement in the tax appeals process so that fairness and equity would be shown through the process for the betterment of the State of New Jersey?

MR. MANDELBAUM: Well, I feel that the time given to file tax appeals to the county should be extended beyond August 15th, so as to give us a better chance of evaluating each complaint of every taxpayer so that we don't have to rush into filing the appeal to protect the taxpayer, so that we ethically protect them and they can't say that we didn't file. Certainly 30 days or 45 days from the time the taxpayer receives a bill until he can prepare a statement of income and expenses and have pictures taken is not sufficient to give us a chance to weed out the appeals that should not be filed.

Furthermore, I do feel that some standard of ratio be applied throughout the State because we have counties, for example the County of Essex, that do not take into consideration ratios and claim to find values based on market value, whereas the State Board by court decisions must recognize ratio. It is thus very unfair to have a taxpayer go to the county and have his property arrived at at one value and then when he goes to the State Board which, rightly so, gives him ratio because they are compelled to do so by the courts. It's a very unfair procedure and causes certain people who do file appeals to get a better break than those that don't.

I further feel, in view of the fact that the State Board is overcrowded and it takes them three or four years to be reached, that there is no reason why the county boards are not given a longer time. They start, most of them, after Labor Day, and they must have their decisions by November 15th. And the result is that they cannot do as good a job, although they try hard, as they would if they had a longer period, another thirty days which actually wouldn't matter in the entire procedure. Then the statute provides that the county board must render a decision by November 15th, and many times they are dated November 15th but you don't receive them until November 20th. And you must file appeals by December 15th or you're out of luck. And I do feel that that does not give you sufficient time to evaluate just what to file and what not to file. And, therefore, many times, to protect ourselves, we file the appeal and then you will find that many of them I withdraw at a later time when I evaluate the matter and find that it doesn't matter to file. The time element is such that you can't be fair to the taxpayer and evaluate the case. So I do think that the time for the filing of appeals to the county board and the time for the filing of appeals to the State Board from the county board decisions should be extended so as to give us a better opportunity to analyze the case.

SENATOR DUNN: Well, that's very interesting, Mr. Mandelbaum. If I understand you correctly, what you are saying is that in your particular case, as a person who owns many pieces of property, because of the time factor, the time element, the deadline for filing an appeal and for the rendering a decision, it's

almost automatic on your part to file an appeal in order to meet the deadline. And shortly thereafter, you analyze your own portfolio to see whether or not you feel you were receiving equitable treatment, and in those cases where you feel the assessment is fair you will withdraw that appeal. Is that right?

MR. MANDELBAUM: Well, I didn't mean to say it's automatic.

SENATOR DUNN: No, I said almost.

MR. MANDELBAUM: You know, we do turn down a lot of appeals. The whole city of Newark is in a decaying condition. If you traveled through the city you would find that we have vandalism and we have many vacant properties. And if I would file an appeal for everyone that wanted one, it would be impossible. A lot of these properties, particularly old factories, are assessed at the same price as 20 years ago.

SENATOR DUNN: Are you talking now as an attorney or a property owner?

MR. MANDELBAUM: Both, from a practical experience.

SENATOR DUNN: But you own factories as well?

MR. MANDELBAUM: Yes, I do. I own quite a few of them. And the assessors do not, although they're supposed to, revalue properties year to year but continue to copy the same valuations. And unless an appeal is filed, the assessor will not do anything on his own. So we turn down many, but we say we could do a better job if we had more time to do it.

SENATOR DUNN: Well, I think we're in agreement. In your particular personal case, you own so many properties that it is almost automatic for you to file an appeal because of the time factor, the time elements that you are forced to abide with to protect your interests, but after that date is passed you oftentimes withdraw many of the appeals. In other words, when I see a piece of paper that Mandelbaum and Mandelbaum filed 150 appeals, it might be safe to interpret that as meaning that you filed 150 appeals on Monday but the following Tuesday you might have withdrawn part of them.

MR. MANDELBAUM: On my own properties, I can evaluate them because I live with them and I know them. I also have included in that statement other people's properties. But I do not withdraw them next Tuesday, I withdraw them most times when it's called to my attention, such as a notice of a case coming up. And then we withdraw them. So I have a history of many withdrawals, and I get in touch with the assessor and tell him that I will not proceed with that case.

SENATOR DUNN: I don't remember whether I asked you this or not. Would you be willing to cooperate with us by providing us with the number of appeals now pending before the State Tax Appeals Court being represented by Mandelbaum and Mandelbaum?

MR. MANDELBAUM: I will.

SENATOR DUNN: Would it be asking too much, sir, if you also in some way, with an asterisk or something, indicated the properties that are up for appeal or on appeal that you personally own?

MR. MANDELBAUM: Or have an interest in.

SENATOR DUNN: Yes.

MR. MANDELBAUM: With others. I believe we can do that. I see no reason why not.

SENATOR DUNN: But you have pointed out something that might be a very

important point. If I understand correctly, it's the time that a person must file an appeal in order to have his case heard and that there might be a temptation simply to file the appeal and then after giving thought to it decide to withdraw it because there might not be enough justification for carrying the case through.

MR. MANDELBAUM: That's correct.

SENATOR DUNN: And this might be the reason why in the first instance we read about so many hundreds of cases being represented by a particular law firm.

MR. MANDELBAUM: That's correct. You also have that statement that Newark, being what it is, it's a pathetic situation and every taxpayer or most taxpayers are entitled to relief. Especially not having revalued in such a long time and carrying on the books the same value as ten years ago and not giving any consideration to ratio, they deserve appeals and deserve some action either by the Legislature or by courts.

SENATOR DUNN: What is the bulk of your personal holdings? Is it residential stuff or --

MR. MANDELBAUM: I have given to the city of Newark at least 20 deeds because I don't want to carry the properties any longer. The taxes are more than the income and we are just sick of carrying them. For example, I own 45 Panther Place with David Cronheim. I was a partner with David Cronheim in his lifetime in real estate purchasing. I am still partners with his son. We bought a property for several hundred thousand dollars. We owed the Howard Savings \$40,000 and we couldn't carry it because the taxes, besides heat and everything else, was more than the income. We paid the Howard off. The city will not take your deed unless the property is free and clear, so we paid the Howard the \$40,000 because we wanted to keep our reputation. I put up twenty and Bob Cronheim put up twenty. We gave the city a deed to a property that was assessed for \$300,000. And I have many of those examples where I have given up property. But that is the situation with the city of Newark. So that many of my appeals are in the city interest. There's no end to it. They should revalue it. Something should be done.

Furthermore, I think ratios should be established, either the county and state use it or nobody uses it. It's very unfair to have the county not use the ratio and the State use it.

SENATOR DUNN: How does the city of Newark get away with that?

MR. MANDELBAUM: The Senate voted a six-month extension when Judge --

SENATOR DUNN: I'm not talking about revaluation, the differential in the ratio. Newark will have to revalue now. We did not extend the revaluation.

MR. MANDELBAUM: But the properties have been revalued in the 1950's and the assessor is not making any changes. The result is that the properties are valued at 100%; whereas the courts have held that Newark's ratio is somewhere around 80%, and this is very unfair. And the only way they can get relief is by filing an appeal. And even if they get ratio, they get relief.

SENATOR DUNN: Well, with revaluation, won't you personally be in a worse situation than you're in now.

MR. MANDELBAUM: Of course, it all depends on the revaluation, but we can't be in any worse condition than we are now where the taxes are greater than the income. I have quite a few properties I still am keeping, downtown

Newark where the income is not sufficient to carry the taxes. My income and my success is from the properties I bought outside of Newark.

SENATOR DUNN: I can understand that. And if the Concorde comes into Newark, it isn't going to help the situation too much.

MR. MANDELBAUM: That won't happen tomorrow either.

SENATOR DUNN: Pardon?

MR. MANDELBAUM: It won't happen so easily.

SENATOR DUNN: I don't think so either.

MR. MANDELBAUM: It is just conversation in the newspapers.

SENATOR DUNN: Trial balloons.

Mr. Mandelbaum, you have already indicated a willingness to cooperate in getting some of these facts to us. I not only thank you for your presence here today, but also for what you are going to do for us in getting some of this material to us. So I thank you very much.

MR. MANDELBAUM: May I state in your regulations where you have a condominium - and I have had it - where you have 40 tenants like I have in South Orange, we have to file 40 appeals.

SENATOR DUNN: That would also be an explanation as to why one law firm ---

MR. MANDELBAUM: I know my son has an appeal for a garden apartment in Somerville and I believe there were 30 or 32 petitions filed for one garden apartment. And it doesn't make sense.

SENATOR DUNN: Okay, Mr. Mandelbaum; thanks very much.

MR. MANDELBAUM: You're welcome.

SENATOR DUNN: Is Mr. Gladstone still here?

(Witness sworn)

SENATOR DUNN: Mr. Gladstone, will you please identify yourself for the record.

R O B E R T   A .   G L A D S T O N E :

Senator, my name is Robert A. Gladstone from the law firm of Warren, Goldberg and Berman. I have been asked by the Township of East Windsor, which our firm represents, to appear here today and to make the Committee aware of some concerns that are special to the township.

I had prepared a statement. It appears I am the only one who has actually prepared something. I don't know which you would prefer, that I read ---

SENATOR DUNN: I would prefer you read the statement.

MR. GLADSTONE: If I may, it is indeed a pleasure to speak before you this afternoon. I appear as tax counsel for the Township of East Windsor, Mercer County, which has experienced extraordinary budget upheavals as a result of the tax appeal process. The Governing Body feels it should make its experiences known to the Committee in the hope that by doing so, the entire tax appeal process can be improved.

Though my brief presentation focuses upon the situation in East Windsor Township, my experience includes work as tax counsel to the City of Trenton, to other municipalities and as attorney for various property owners in appeals against other municipalities. My thoughts have been formed from my sum of experiences, and hence do not reflect a narrow frame of reference arising out of one Township's situation.

Although the State has moved in the direction of an income tax, which has somewhat alleviated the heavy reliance upon the property tax in New Jersey, it is clear that the property tax remains and will continue to constitute a significant broad-based tax, and the primary source of municipal funds. An equitable and efficient administration of the tax is, therefore, essential to the financial stability and integrity of many municipalities - particularly those with sizable commercial and industrial ratables.

East Windsor Township is an excellent example of the type of community most susceptible to fiscal injury in the event of inadequate administration of the tax appeal process. Until several years ago, the Township was a rural farming community with small pockets of low density residential development. In the sixties, East Windsor's strategic location contributed to the development of several large industrial complexes, a Planned Unit Development and a multitude of garden apartment units - including a very fine complex of senior citizen housing.

The senior citizen housing development, known as Meadow Lakes, was placed on the books as a ratable in 1966 at a value of \$2,781,000, which was appealed. After four years spent going up to the Supreme Court and down again, and after five more years within the Division of Tax Appeals, the case was finally decided in 1975. During the intervening years, the property's assessment went through two revaluations and rose to \$15,484,100. Meadow Lakes paid its full taxes to the municipality each year. When the case was finally decided, ten tax years were involved, multiplying a serious loss to the municipality ten-fold. Projections indicated a possible return of tax dollars to Meadow Lakes in the amount of \$1,650,000. Fortunately, the case was settled by the parties. Nevertheless, the municipality was required to repay \$931,448 to Meadow Lakes. The loss could not be absorbed by the Township from current funds, so bonds were issued to meet the obligation.

The point being made by this example is that municipalities with a relatively small number of very large taxpayers can be financially crippled when hearings and decisions are delayed within the Division of Tax Appeals. Unfortunately, I have personally observed that Division of Tax Appeals personnel have become increasingly overwhelmed by a staggering quantity of work over the last several years. This condition has led, inevitably, to a backlog which continues to extend the number of years between appeal and resolution in the Division. The Meadow Lakes nightmare stands a respectable chance of being repeated under such conditions. Permit me to explain.

East Windsor Township underwent a complete revaluation in 1973. As is customary, many property owners appealed their assessments, and to date several have been heard and resolved. However, two large revaluation appeals remain outstanding, with combined assessments of \$24,950,000. If both appeals are heard and resolved during fiscal year 1977, the total amount of ratables involved in those two appeals alone, will be \$124,750,000. That is, five years - from 1973 to 1977 - at \$24,950,000 per year. The average tax rate during the five-year period was \$.037 plus or minus, per dollar of valuation, giving rise to a total tax bill for the two properties of \$4,615,750.

Now, sir, consider what happens to East Windsor Township's cashflow and its 1978 tax rate if a modest 15 percent reduction is granted by the Division: the Township will have to return \$692,360 to the two taxpayers out of current revenues. That sum represents 17 1/2 percent, plus or minus, of the 1977 municipal purposes budget, and could again pose serious problems if it were not monitored

and provided for.

The fiscal problems created by the conditions which I have detailed are due primarily to the multiplication effect created by the delays currently being experienced in the Division. If each tax year were heard on an essentially current basis, the return of tax dollars in my example would be reduced by 80 percent, and a municipality would have the capacity accurately to determine its ratable base. Without that capacity, how can a Governing Body make informed, intelligent budgetary decisions?

It is easy to dismiss much of the statistical information discussed here as more esoteric than real. But, gentlemen, consider the City of Elizabeth, New Jersey. That City certified a revaluation for the tax year 1976. There were a number of sizable appeals filed against that revaluation, and unless Elizabeth is uniquely blessed, many will be successful. What will Elizabeth do if the delays continue? At present rates, those appeals will not be heard until the 1980's, multiplying payback figures five to seven times what they would be were the appeals to be heard on a current basis. Crises are born from such statistics.

Gentlemen, I hope I have added to your fund of information on this very critical matter. I believe that the Division of Tax Appeals needs to be strengthened, and that cannot be done without adequate funding. Presently, part-time judges are carrying full-time workloads, and clerical personnel are working at capacity or beyond. Unless the funds are provided to compensate for the increased workload, both taxpayer and taxing district alike will continue to suffer from uncertainty and to risk fiscal calamity. I trust you will see fit to do what is necessary in this regard.

May I just add one thing, sir? I realize, having written this statement, that my remarks apply essentially to the municipalities with regard to the problems associated with financing. I think my remarks should apply equally to the taxpayers who after a five- or seven-year period find it very difficult to manage on assuming, in fact, that they are being overtaxed or overassessed.

SENATOR DUNN: Bob, that is a very interesting statement - very sad, but interesting. I don't know why you singled out Elizabeth.

MR. GLADSTONE: Because I knew you were on the Committee, sir, and I had some information on it.

SENATOR DUNN: I figured that.

I might say that is one of the reasons why I am so intimately involved in this type of problem. We have a situation in our town, because of delay in resolving the matter, from one apartment house, our city must pay with current tax dollars back to the taxpayer some \$451,000, simply because the appeal took so long to resolve. So I am fully familiar with what you are going through in East Windsor and I am sure other areas too.

We will certainly make strong note of this and I am sure that it will have an effect on the thinking of the Senators who will make final decisions after our work is done. I feel very confident that before the year is over there will be legislation introduced, debated and passed into law that will at long last bring reform to the appeals process, and this type of thing will be most helpful -- this illustration is going to be most helpful to us.

MR. GLADSTONE: Thank you very much, Senator.

SENATOR DUNN: Thank you.

Is there anybody in the audience who might wish to make a brief statement because he or she cannot come back at a later date? If not, I will adjourn the meeting. The next meeting will be the 30th of March at ten o'clock.

**Senate Special Committee on Tax Appeals**

**Statement of the Chairman**

**Senator Thomas G. Dunn**

**Members of the Senate Special Committee:**

Senator Thomas G. Dunn (D. 21st District)  
Senator Joseph A. Maressa (D. 4th District)  
Senator John M. Skevin (D. 38th District)  
Senator Frank Davenport (R. 35th District)  
Senator Garrett W. Hagedorn (R. 40th District)  
Senator Peter J. McDonough (R. 22nd District)

The purpose of this statement is to set forth some of the preliminary evidence gathered by the Senate Special Committee on Tax Appeals Procedure, and to make known certain views of its Chairman based upon this evidence regarding the condition of the tax appeals procedure in New Jersey.

At the outset it is important to note that the Special Committee has only recently begun to explore all the various aspects of the tax appeals procedure in this State, and although public hearings have been scheduled for March 15 and 30 in the General Assembly Chambers, the State House, Trenton, none have yet been held. In light of these circumstances I cannot ask my fellow Senators on the Special Committee to endorse a statement which, of necessity, is preliminary and incomplete in nature. I must, therefore, reiterate that this statement is mine alone. While I believe that the facts presented herein speak eloquently of the need for a drastic overhaul of our New Jersey tax appeals procedure, no member of the Special Committee need feel himself associated with my comments at this early time.

As Chairman of the Special Committee I am moved to issue this statement only because of the immense weight of the evidence and data which have been developed thus far by the Committee staff and my own enquiries. This evidence is so startling and disturbing, even at this initial stage of the Committee's investigation, that I can only believe that something is seriously awry in the tax appeals procedure in this State, and that subsequent evidence and testimony developed and received by the Committee will only further substantiate

what I believe is already apparent. Although a complete and detailed statement of the findings of the Special Committee will have to await the conclusion of the scheduled public hearings and the deliberation of the Committee's members, I feel it is necessary to present what has been uncovered to date so that the Joint Appropriations Committee of the Legislature, which is currently conducting budget hearings, may make informed decisions with respect to the proposed budget of the Division of Tax Appeals.

The Division of Tax Appeals requested of the Governor a budget for fiscal year 1978 of \$438,409.00. The Governor, in preparing his formal budget to be submitted to the Legislature in February, reduced the Division's request by \$69,055.00 to \$369,354.00. The amount recommended by the Governor is \$8,127.00 less than the total adjusted appropriation received by the Division in fiscal year 1977.

I wish to recommend that the Joint Appropriations Committee consider whether or not any reduction in the Division's requested appropriation would seriously compound the problems of that Division as outlined in this statement. If the Joint Committee finds that some additional funding would ameliorate some of the inadequacies of the Division set forth herein, it may wish to increase the Division's budget appropriation above that recommended by the Governor. I do not believe that either the amount requested by the Division, or the amount recommended by the Governor, is adequate to the task of providing an efficient, fair and equitable tax appeals procedure on the State level. But in this budget, the Legislature could, perhaps, provide some immediate assistance which would prevent an already intolerable situation from worsening.

I must state that I do not make this recommendation as a "friend" of the Division of Tax Appeals, but rather, as a Senator who is extremely concerned about the efficiency, equity and fairness of tax appeals procedure in this State. My personal opinion, based upon the preliminary evidence I have reviewed and my experience as a mayor and a local official of this State, is that the Division of Tax Appeals ought to be abolished, and replaced with a Tax Court, established at the Superior Court level, in the Judicial Branch of the State Government. This Tax Court should be composed of full-time, tenured judges, and should be staffed with adequate professional and clerical assistants to allow the judges to render prompt, independent and objective decisions on tax appeals. Attached to this Tax Court should be staff capable of providing professional legal and real estate appraisal services to the judges. I have introduced a bill, Senate 1351, which would establish such a Tax Court, and abolish the Division of Tax Appeals. One of the major elements of the report the Senate Special Committee will issue upon the completion of its investigation will concern the feasibility of establishing such a Tax Court.

The Division of Tax Appeals, as presently constituted, staffed and funded, is incapable of giving efficient and equitable treatment to the property owners, both residential and commercial, of this State. In fact, what I believe the evidence presented here shows is the bare outlines of a picture of a State division which is funded primarily by owners of large commercial properties, used primarily by owners of large commercial properties, and which operates primarily to the benefit of owners of large commercial properties. The residential property owners of this State feel the impact of these circumstances in higher municipal tax rates. This situation has come

about because of the apparent lack of a State commitment to an efficient and fair system of tax appeals. The evidence is, as I said at the outset, still incomplete, and the special committee will be attempting to collect further evidence to complete the outline provided here. But I believe that the picture which is beginning to emerge is extremely disturbing.

The Division of Tax Appeals is currently faced with a workload of crisis proportions. The number of tax appeals filed with the division has increased from 3,256 in fiscal year 1967 to 13,695 estimated for fiscal year 1977. The percentage of increase is 320% in 10 fiscal years. The number of appeals pending from previous fiscal years has increased from 4,112 in fiscal year 1970, to 18,775 estimated for fiscal year 1977. The percentage of increase is 356% in 7 fiscal years. On the other hand, the budget of the division has increased from \$226,581 for fiscal year 1967, to \$377,481 for fiscal year 1977. The percentage of increase here is only 63% over 10 fiscal years. When you exclude the salaries of the judges, which are statutorily fixed at \$18,000 for the presiding judge and \$17,000 for the other judges, the budget has increased from \$106,581 for fiscal year 1967, to \$257,481 for fiscal year 1977. The percentage of increase is 141% over 10 fiscal years. In 1967, the Division of Tax Appeals had 20 employees including the 7 judges; in 1977, the division still has 20 employees, including the 7 judges. Of the 13 employees who are not judges, 12 are secretaries and clerks. The only professional staff in the division is the administrative secretary.

This history of under-funding and under-staffing has produced a situation where it is estimated that as of February 1, 1977, the Division of Tax Appeals is overwhelmed with an appeals backlog of

some 28,000 appeals. Some of the appeals which make up this backlog date from as far back as 1972 and 1973. It is an incredible situation when appeals are not resolved 4 and 5 years after their filing.

In testimony presented to the Senate special committee, Barbara McConnell, Secretary to the Division of Tax Appeals, stated that each of the "part-time" judges of the Division of Tax Appeals devotes almost 40 hours a week to his duties. The preliminary data demonstrates that the average appeals calendar for a judge is about 2,000 cases, based upon the years 1975 and 1976.

While almost 60% of these cases on the calendar were adjourned, and a significant number were dismissed, withdrawn or settled out of court, the burden of cases is enormous. If one considers that an average judge tried 167 cases per year during 1975 and 1976, and that a judge is statutorily required to submit a written opinion on each such case tried, we find that these judges were writing an opinion every 2.1 days during those years. This is aside from the amount of time these judges were actually required to spend in court. In light of this information, we should not be surprised to discover that almost 3 times as many cases were settled out of court, from what I understand often at the judge's suggestion, than were ever tried.

It is virtually impossible for these part-time judges to devote the amount of time and objective consideration to each appeal which comes before them that fairness and equity require. Many of these appeals involve hundreds of thousands, and even millions, of dollars of assessed valuation. These assessed valuations are based upon extremely complex and often intangible considerations,

concerning which disagreements are inevitable. The judges do not have the independent professional staff of attorneys and assessors, nor sufficient time to devote to each case, to allow them to arrive at an independent judgment based upon the merits of the assessment. I suspect that this absence of time and staff means that a judge is forced to either choose between the tax expertise of the municipal assessor or the tax expertise of the attorney handling the case for the appellant, or attempt to get the two parties to the appeal to settle without trying the case. Thus, compromises and settlements tend to be the rule in appeals cases.

I believe I can provide some evidence which tends to corroborate my suspicion. You will note from the tables on page 3A that in 1975, 10,982 appeals were placed on the judges' calendar. Of these appeals, 930 were actually tried, while 2,426 were settled. This is a ratio of 2.60 appeals settled to every 1 appeal tried. In 1976, 16,140 appeals were placed on the judges' calendars. Of these appeals, 1,306 were actually tried, while 4,144 were settled. This is a ratio of 3.17 appeals settled to every 1 appeal tried. It is obvious from the overall statistics that the Division of Tax Appeals is attempting to calendar and dispose of more cases in order to hold down the growth of its backlog. But if the judges are required, without proper professional staff and sufficient time, to take on more and more cases, the price is likely to be a higher ratio of settlements and compromises to cases tried. I cannot believe this would promote fairness, equity and objectivity in our tax appeals procedure.

I stated at the outset that the evidence so far collected by the Senate Special Committee tends to show that the State tax appeals

procedure is funded primarily by the owners of large commercial properties, is used primarily by the owners of large commercial properties, and operates to the benefit of owners of large commercial properties. I base this belief on the fact that 50% of all appeals filed with the Division of Tax Appeals are for assessed valuations of over \$100,000, and 25% of all appeals are for assessed valuations of between \$50,000 and \$100,000. This means that between 50% and 75% of all appeals probably involve commercial properties. Only about 25% of all appeals involve an assessed valuation of below \$50,000, of which we can be reasonably certain the predominant number are residential properties. These figures are far out of proportion to the actual ratio of commercial to residential properties in the State. Further evidence of the disproportionate percentage of commercial appeals before the Division can be found in the following facts: Of the \$377,481 budgeted for the Division of Tax Appeals for fiscal year 1976, about \$300,000 was offset by filing fees charged to appellants. Over 80% of this \$300,000 was paid by taxpayers appealing assessments of \$100,000 or more, who are charged a higher filing fee by statute.

In addition, let me add that in response to my questioning at a meeting of the Senate Special Committee held on February 24, Barbara McConnell, Secretary to the Division of Tax Appeals, stated her estimate that the majority of cases tried result in a reduced assessment for the appellant. Obviously, the settlements, which outnumber cases tried by almost 3 to 1, must by their very nature result in assessment reductions. Thus, the system which is funded by large commercial taxpayers, and used by large commercial taxpayers, also benefits large commercial taxpayers. And as a mayor, I know that the impact of this system is felt by the residents

of the municipalities of this State in higher local tax rates.

The State of New Jersey must make a commitment to reform its tax appeals procedure. The Senate Special Committee has heard too many rumors and allegations concerning the manner in which large tax firms and commercial property owners conspire to manipulate the tax appeals procedure in this State in order to frustrate a fair and efficient system of assessment and appeal. I was particularly disturbed at Mrs. McConnell's testimony under oath at the Senate special committee's February 24 meeting, that the large tax firms bring appeals into the Division of Tax Appeals in "box loads" on the filing date for appeals. I am concerned about allegations of the solicitation by large tax firms of commercial property owners to appeal assessments, with the fee charged being based upon the assessment reduction attained. All of these areas will be explored by the Senate Special Committee in the scheduled public hearings.

In recommending that the Joint Appropriations Committee give immediate attention to the inadequate level of staffing and funding for the Division of Tax Appeals, I am obviously not asking that we reward the Division for a "job well-done". The job is not being done, much less being done well, and it is not likely to be done as long as the Division of Tax Appeals continues to exist in its present form. I sincerely hope that the Legislature, spurred by the final report of the Senate Special Committee on Tax Appeals Procedure, will act to establish a tax appeals procedure which is fair and efficient. But for this coming fiscal year, the Legislature should attempt to avoid compounding an already bad situation, as it considers the

elements which must be incorporated in a workable tax appeals procedure, and the options available to it for legislative action.

APPENDIX OF CITIZENSHIP AND EVIDENCE

1. The Department of Citizenship and Immigration is responsible for the processing of applications for citizenship and naturalization. This process involves a thorough review of the applicant's background, including their criminal record, immigration history, and other relevant information. The Department also provides support and guidance to applicants throughout the process.

2. The Department of Citizenship and Immigration is committed to providing a fair and efficient process for all applicants. This includes providing clear information and support to applicants, and ensuring that the process is transparent and accountable. The Department also works to identify and address any issues or concerns that may arise during the process.

3. The Department of Citizenship and Immigration is also responsible for monitoring and evaluating the effectiveness of its programs and services. This includes conducting research and analysis on various aspects of the process, and using the results to inform policy and program development. The Department also works to build partnerships with other government agencies and community organizations to improve the process and support applicants.

APPENDIX OF INFORMATION AND EVIDENCE

Division of Tax Appeals

1. Division is composed of a board of 7 judges, appointed by the Governor, with the advice and consent of the Senate, for a term of 5 years, with one of the judges designated as Presiding Judge by the Governor. No more than 4 of the judges may belong to the same political party.
2. At least 4 of the judges are required to be attorneys-at-law of the State of New Jersey of at least 10 years standing, and are chosen "because of their special qualifications, knowledge and experience in matters concerning the valuation and taxation of property, particularly of real property." (R.S. 54:2-3) At the present time, all 7 judges are attorneys.
3. Judges are required to "devote such time as shall be required for the efficient performance of the duties of office." (R.S. 54:2-8)
4. Salaries of the judges are fixed by statute at \$17,000 for each judge, except the presiding judge whose salary is \$18,000. (R.S. 54:2-8) Judges are reimbursed for necessary expenses.
5. The Division is required to keep records of its proceedings and to give written opinions.
6. The Division, an appellate body only, receives appeals of taxpayers and taxing districts from local assessments, railroad assessments levied by the State, State corporation and business taxes, public utility gross receipts and franchise taxes, State sales taxes, and all other taxes levied by the State, with the exception of transfer inheritance taxes. The Division also hears appeals from taxing districts from the school aid equalization tables, and the county equalization tables.

Division Budget Information

<u>FY</u>	<u>Appeals Filed</u>	<u>Appeals Pending</u> <sup>1</sup>	<u>Division Budget</u>	<u>Judges Salaries</u> <sup>2</sup>	<u>Other</u> <sup>3</sup>
1967	3,256	not available	\$226,581	\$120,000	\$106,581
1968	3,737	not available	\$271,529	\$120,000	\$151,529
1969	4,294	not available	\$266,224	\$120,000	\$146,224
1970	4,710	4,112	\$262,147	\$120,000	\$142,147
1971	5,521	5,786	\$284,182	\$120,000	\$164,182
1972	4,822	6,682	\$343,018	\$120,000	\$223,018
1973	5,320	8,219	\$320,940	\$120,000	\$200,940
1974	6,095	11,008	\$353,522	\$120,000	\$233,522
1975	7,287	13,475	\$379,399	\$120,000	\$259,399
1976	11,413	17,428	\$360,597	\$120,000	\$240,597
1977	13,695(estimate)	18,775(estimate)	\$377,481	\$120,000	\$257,481

1. Includes only appeals filed and not closed during previous fiscal years, but not appeals filed during the current fiscal year.
2. Presiding judge's salary has been \$18,000 since 1966. Other judges salaries are \$17,000. R.S. 54:2-8.

- 3. Division Budget minus Judges Salaries (which are fixed by statute). It should be noted that, although the Division charges fees for filing tax appeals, the revenues so collected go into the General State Treasury, and are not retained for Division use.

REVENUES: The Division produced approximately \$300,000 in revenues for the State in fiscal year 1976 from fees charged for filing appeals. Since the total budget for 1976 was \$360,597, it can be seen that the expense of operating the Division is largely offset by these fees.

PERSONNEL: The Division has 20 employees, including the 7 judges. Of the remaining 13, 12 are secretarial and clerical. The only professional staff is the administrative secretary. The number of employees (20) has not increased since 1966.

Fee Schedule for Appeals

If assessed valuation is:

The filing fee is:

Under \$20,000	\$ 2.00
\$20,000 to \$ 50,000	\$ 5.00
\$50,000 to \$100,000	\$15.00
over \$100,000	\$50.00

Property Tax Appeals\* Filed According to Assessed Valuation (Fiscal Year 1975)

Under \$20,000	945	13%
\$20,000 to \$ 50,000	873	12%
\$50,000 to \$100,000	1,818	25%
over \$100,000	3,637	50%
	7,273	100%

\*Approximately 90% of all appeals filed are local property tax appeals. The remainder are Sales Tax, Railroad Property Tax, Corporation Business Taxes, Public Utility Gross Receipts Tax, and (now) Income Tax appeals.

1975 Appeals Calendar

Month	Cases on Calendar	Cases <sup>1</sup> Tried	Settled <sup>2</sup>	With- <sup>3</sup> drawn	Ad- <sup>4</sup> journed	Dismissed <sup>5</sup> Lack of Pros.	Stipula or Withdra <sup>6</sup> from fi
Jan. 1975	879	59	265	39	505	11	23
Feb. 1975	1,498	248	297	79	867	7	27
March 1975	1,010	39	224	98	618	31	18
April 1975	1,222	88	318	114	690	12	161
May 1975	1,337	100	208	106	914	9	131
June 1975	1,155	64	224	70	780	17	205
July 1975	1,046	101	266	21	634	24	76
Aug. 1975	89	13	9	3	64	0	182
Sept. 1975	327	23	91	11	191	11	43
Oct. 1975	748	52	128	34	517	17	119
Nov. 1975	536	64	175	46	231	20	54
Dec. 1975	1,135	79	221	104	717	14	106
Total 1975	10,982	930	2,426	725	6,728	173	1,145

1976 Appeals Calendar

Month	Cases on Calendar	Cases <sup>1</sup> Tried	Settled <sup>2</sup>	With- <sup>3</sup> drawn	Adjour- <sup>4</sup> ned	Dismissed <sup>5</sup> Lack of Prosecution	Stipulated <sup>6</sup> or With-drawn from Files
Jan. 1976	1,578	102	242	210	1,009	15	55
Feb. 1976	928	40	302	106	478	2	52
March 1976	1,997	50	829	64	1,032	22	253
April 1976	1,495	85	286	108	994	22	307
May 1976	2,439	123	1,079	146	1,074	17	104
June 1976	1,433	88	412	102	809	22	103
July 1976	745	85	145	66	445	4	57
Aug. 1976	669	167	31	85	382	4	32
Sept. 1976	1,076	46	169	81	777	3	92
Oct. 1976	1,683	262	92	33	1,286	10	17
Nov. 1976	1,312	171	415	61	647	18	74
Dec. 1976	785	87	142	42	508	6	128
Total 1976	16,140	1,306	4,144	1,104	9,841	145	1,274

1. Cases actually tried by a judge after being placed on a judge's calendar.
2. Cases settled between the parties to the case after being placed on a judge's calendar. These cases were not actually tried.
3. Cases withdrawn by the appellant after being placed on a judge's calendar.

4. Cases adjourned by the judge after being placed on a judge's calendar. These cases may have been adjourned for a variety of reasons, and may have reappeared on the calendar later in the year.
5. Cases dismissed by the judge because of a lack of grounds for prosecution, after they were placed on the judge's calendar.
6. Cases stipulated or settled between the parties, or withdrawn by the appellant, before being placed on the judge's calendar.

Appeals Pending as of February 1, 1977

<u>1975</u>	<u>1974</u>	<u>1973</u>	<u>1972</u>	<u>Total</u>	
9,422	4,118	923	25	14,488	
				+ approx. 13,500	filed from January 1976, through February 1, 1977
				approx. 28,000	Backlog of appeals

Data on Workload of Judges 1975-1976

<u>Judge</u>	<u>Cases on Calendar</u>	<u>Cases Tried</u>	<u>Settled</u>	<u>With-drawn</u>	<u>Ad-journed</u>	<u>Dismissed Lack of Prosecution</u>
Pres. Judge A.M. Lario	1,195	160	299	87	620	29
C. W. Convery	5,044	356	1,172	297	3,190	20
P. E. Doherty	3,073	370	759	278	1,600	69
J. F. Evers	2,527	243	744	155	1,426	8
J. A. Mott	3,713	471	589	200	2,400	53
C. F. Savino	8,850	560	2,327	602	5,262	101
I. M. Stanziale	3,375	177	863	246	2,137	51
Average Per Year	1,984	167	474	133	1,188	22

Judge	Pct. of Cases on Calendar	Ratio cases settled to cases tried	Pct. of Cases on Calendar that were adjourned
A. M. Lario	04%	1.87	52%
C. W. Convery	18%	3.29	63%
P. E. Doherty	11%	2.05	52%
J. F. Evers	09%	3.06	56%
J. A. Mott	13%	1.25	65%
C. F. Savino	32%	4.15	60%
I. M. Stanziale	12%	4.87	63%
Average	14.5%	2.84	60%

SUBMITTED BY ANGELA J. SZYMANSKI

ANALYSIS OF TAX APPEALS FOR THE PAST 5 YEARS FILED

WITH THE MIDDLESEX COUNTY BOARD OF TAXATION

<u>YEAR</u>	<u>TOTAL COUNTY APPEALS</u>	<u>TOTAL STIPULATED</u>	<u>TOTAL REDUCED</u>	<u>TOTAL INCREASED</u>	<u>TOTAL WITHDRAWN</u>	<u>TOTAL FAILURE TO PROSECUTE</u>	<u>TOTAL AFFIRMED</u>	<u>TOTAL APPEALS TO DIVISION</u>
1976	1479	225	641	35	29	24	750	454
1975	1490	293	695	4	62	28	701	543
1974	1543	434	796	117	68	19	543	398
1973	2925	1156	1909	140	65	28	783	430
1972	<u>1369</u>	<u>401</u>	<u>838</u>	<u>19</u>	<u>44</u>	<u>36</u>	<u>432</u>	<u>369</u>
TOTAL	8806	2509	4879	315	268	135	3209	2194

Approximately 25% of all appeals filed with the Middlesex County Tax Board are carried to the Division of Tax Appeals