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1948

PUBLIC HEARING

ON

ASSEMBLY BILLS NOS. 24, 27 and 33

Assembly Chamber  
State House, Trenton, New Jersey  
Wednesday March 10, 1948

BEFORE

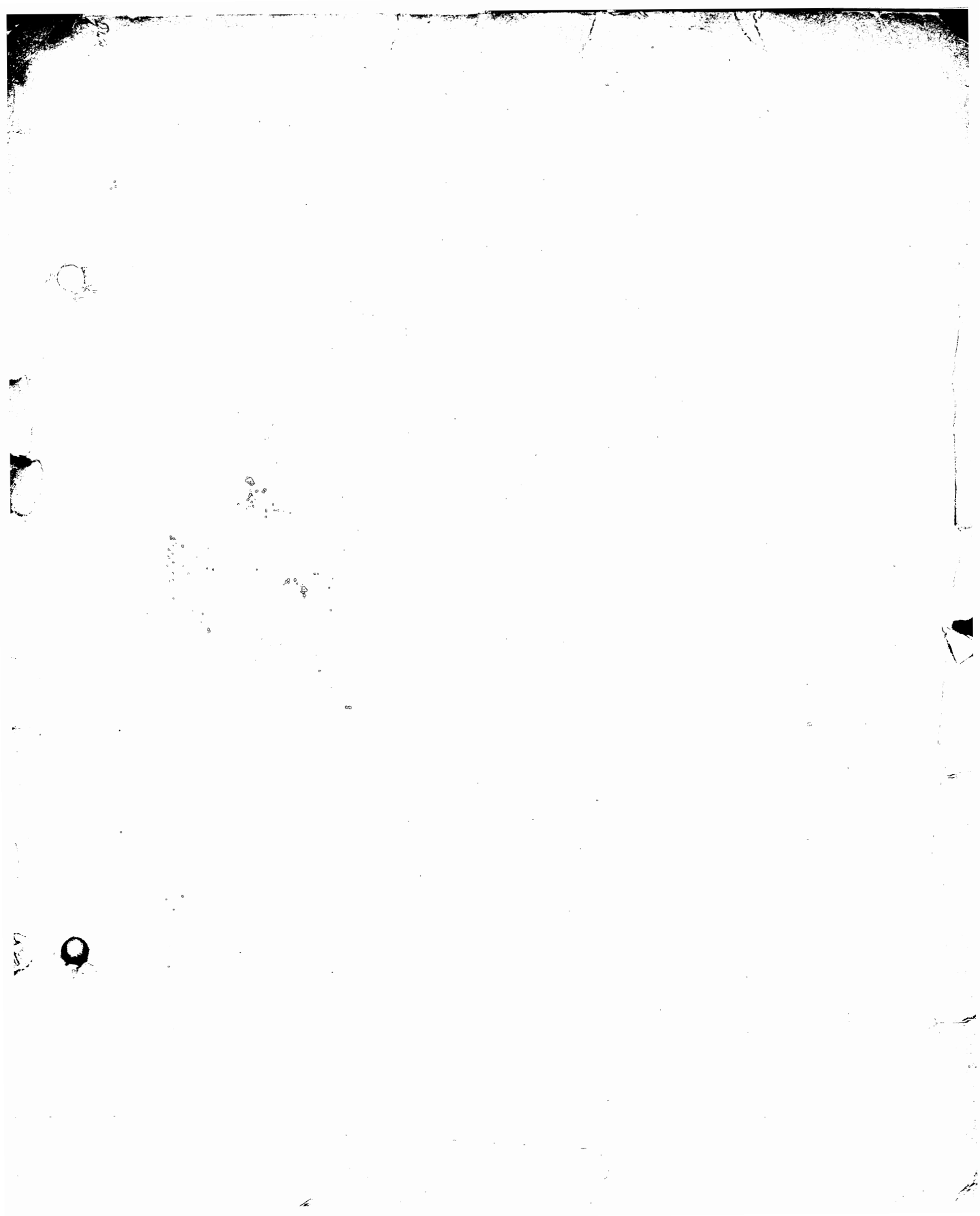
SENATE AND ASSEMBLY STANDING COMMITTEES ON TAXATION

Chairmen: Honorable Charles K. Barton, Senate  
Honorable Embury S. Kates, Assembly

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**Hearing Division  
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MR. KATES: The meeting will come to order. This is a joint hearing of the Assembly Taxation Committee and the Senate Taxation Committee on bills A24, 27, and 33. First we will consider Assembly bills numbers 27 and 33.

I now have the privilege to turn the conducting of these hearings over to Senator Barton, Chairman of the Senate Taxation Committee.

SENATOR BARTON: Gentlemen, I am wondering if it would be proper to gather in groups, if you do have groups, and have a marshal or captain of each group call upon the members of that group. I think it would be a little more practical if we could do it that way. If not, I will just have to take you as you come along and recognize anyone who desires to speak, and I will try to do it fairly and equitably. Wherever you have transcribed records, I would like you to give them to the secretary or the sergeant-at-arms. You can file those at any time, either today or tomorrow, or within the next few days, and if they are very lengthy, I wish you would take into consideration the fact that there may be many, many speakers. While the Committee is going to be very patient and permit you as much time as you care to take, we do ask that you try to avoid repetition, and where you are making repetition argument, just refer to the fact that you agree with some other speaker. That way we will save time, and a great deal of expense and stenographic work.

Now, Mr. Parsonnet, I believe that you represent

a labor group, and you have asked to be permitted to call upon the various members. I will recognize you as their representative.

Is there any other person who represents a group or class here?

MR. FRED KAMINOWS: I think my name is registered there, sir. I am Secretary of the New Jersey Food Merchants Association.

SENATOR BARTON: Are you going to have a number of speakers in your group?

MR. KAMINOWS: Well, I will represent my group, and that will save time.

MR. WILLIAM B. CALLAHAN: I represent the New Jersey Tobacco Dealers, wholesale.

SENATOR BARTON: Do you have a group?

MR. CALLAHAN: Yes sir.

SENATOR BARTON: Would you represent that group?

MR. CALLAHAN: I will speak for them sir, but there will be other speakers.

SENATOR BARTON: I was seeking to get group leadership. For instance, if I could give one group a half hour, and the next group a half hour, we could divide it up in such a way that no one would have to wait to the very end to say a word.

MR. CALLAHAN: I don't think we will take that much time, sir.

SENATOR BARTON: Now, if there are any speakers who desire to talk on more than one of these bills at the same time, we will be satisfied to have you do that. If it is to the interest of expedition to argue against the theory of taxation of all these bills, you may do that.

MR. JACOB EDELBERG: I represent the Retail Tobacco Dealers of New Jersey, and would like to speak.

MR. ROCCO B. BUNINO: I represent the United Licensed Beverage Council, and the retail industry as a whole.

SENATOR BARTON: Are you gentlemen in a group?

MR. BUNINO: Yes sir. I am the captain and will call on three speakers.

SENATOR BARTON: All right. Mr. Parsonnet, you spoke to me first, so I will call on you.

THOMAS PARSONNET, representing N.J. State Federation of Labor, City of Newark, and Americans for Democratic Action.

Senator, I appear at this time in behalf of three groups. May I, for a moment, speak on behalf of the City of Newark. The Board of Commissioners of the City of Newark met this morning and instructed me to appear before this Committee for the purpose of requesting that additional time be given to municipalities, especially the City of Newark, and such other municipalities as would

take an interest in the matter for the purpose of presenting their whole point of view to this Committee. The hearing, as you know, was announced only on Monday, and they have not had an opportunity to study the entire program. They do take the position, however, that they are opposed to the program as it now stands on the ground, especially with respect to these two bills, that there is no provision for distribution of the funds to municipalities as state aid, for education, or otherwise. They feel that provisions should be made in any tax program for distribution of state collective revenues to municipalities.

The impression that they have at the moment -- and this is the reason they asked for an extension of time in order to be able to study it more thoroughly -- is that any tax taken out of activities such as these taxes are, should be returned in large measure, eighty to eighty-five percent to the municipalities from which they are collected in order to be of assistance to municipalities. There therefore ask for time to study this measure and this whole tax program so that they might present their considered opinion at a later time, perhaps in a week, two weeks, or three weeks at the utmost.

SENATOR BARTON: I think that will be all right, Mr. Parsonnet, because the Committee expects to be sitting for two or three weeks, in view of the fact that there are eight of these measures, I believe, and these are only two of them. I would suggest that you get your arguments in as soon as you can by way of typewritten statement.

MR. PARSONNET: Thank you, sir.

Now I am also authorized to speak for the New Jersey State Federation of Labor, and have been requested by Americans for Democratic Action for New Jersey to state that their position concurs with the position of the New Jersey State Federation of Labor on the question of these taxes.

The New Jersey State Federation of Labor opposes these taxes very bitterly. These are sales taxes, and as sales taxes, they do not tax in accordance with ability to pay. Take for instance the cigarette tax. It is perfectly obvious that the overwhelming majority of the money that is realized from this cigarette tax will come from the pockets of the working people, already now practically unable to support themselves on their income in respect to the present cost of living. Only the day before yesterday there appeared in the newspaper - perhaps the members of the Committee have seen the statement - the statement that now for the first time since the war started there has been a marked increase in borrowings on insurance company policies, an indication that the savings of the workers are gradually dwindling down to the zero mark. War Bonds are being cashed in. We are not buying as many as we did. The purchase of War Bonds has reduced drastically. And in view of the tremendous cost of living we take the position that for a sales tax to go on, particularly at this time, is decidedly unfair, because of the fact that it will be paid in large measure by the working people.

It is amusing to note that working people cannot as a rule afford cigars. Cigars are exempted from this tax; cigarettes are not. The tax is to be on cigarettes. We do not say it is because they are purchased in large measure by the workers, but the result is the same, because the workers will be paying the tax. And again you will find that those with large incomes will proportionately be paying far less than those who are really unable to pay the tax.

Our basic objection has been, and always will be, that a tax should be levied on the basis of ability to pay, and the sales tax totally disregards that point. We know that 12 or 13 years ago there was an abortive sales tax. We know also, those of us who were interested in these activities at that time, that the New Jersey State Federation of Labor took a most active part in opposing it and securing its appeal. A great deal of furor occurred because of the adoption of the sales tax at that time. We do not believe that the workers should be expected to pay 90 percent of the cost of government of the State of New Jersey, as this tax and other such taxes would require. Ever since the abortive sales tax of 12 or 13 years ago, the conventions of the New Jersey State Federation of Labor, which from time to time have represented between 350- and 450,000 workers in this State, have gone on record year after year opposing the adoption of a sales tax as an unscientific, unsound, and discriminatory measure based, not upon the ability to pay, but taking the money out of the pockets of the working people rather than out of the pockets of the people who really can afford, at least, to pay

some portion of the running expenses of the government.

Now, if the Committee, please, there will be a hearing, as you know, on next Tuesday dealing with another portion of this general program of taxation on the part of the State. At that time the Federation will be prepared with a full memorandum covering this as well as the other subjects. At that time we will present for your consideration Assembly Bill 302 which has been introduced on behalf of the State Federation of Labor as an alternative method of securing a reasonable degree of revenue for the State based upon ability to pay. We will not present that as an insistence on the part of the Federation, because you know better than we do whether or not the State needs the money. We believe the State does need money and additional revenues in order to properly administer the State government. If it does, then we suggest that 302 is the proper method of raising the necessary funds. In the interim we do say that a sales tax is utterly the worst method that can be used for the purpose of exacting revenues from your State residents, because of the fact that it will load an intolerable further burden upon the workers of the State who cannot afford now to live upon their incomes without dipping into their savings to such an extent that they have gone beyond their savings and are borrowing on their life insurance policies.

I will leave that short statement as the statement of the Federation now, with the understanding, if the Chair please, that at the next Tuesday hearing we will develop our entire

argument both on the basis of sales and gross proceeds tax, and point out what we think is a far more sound tax if the State must proceed upon any basis at all.

May I therefore now call on several people representing labor.

SENATOR BARTON: Just a minute, Mr. Parsonnet, Senator O'Mara would like to ask you a question.

SENATOR O'MARA: Mr. Parsonnet, would you tell me briefly what this Assembly 302 is that you just mentioned.

MR. PARSONNET: It is an income tax bill, Senator, which would provide for the payment of an income tax by single individuals on incomes above \$3000, and on married individuals on incomes above \$4500., with an additional exemption of \$500. for each dependent. So a married person with two dependents would start paying income tax on incomes above \$5500. The tax is more or less based upon the New York State income tax rates, so that we can in that way discover exactly what would be paid. We estimate that there are approximately between 17 million and 20 million dollars of revenues being paid to the State of New York by New Jersey residents, which could be brought into this State and paid to the New Jersey treasury in the event that Assembly Bill 302 is adopted, properly transferring between 17 and 20 million dollars of revenues to the State of New Jersey which are now, we think, improperly going into the State of New York instead.

May I now call on Mr. Harry Kranz representing the

State CIO.

MR. HARRY KRANZ, New Jersey State CIO Council.

Mr. Chairman and Members of the Committee: My name is Harry Kranz. I am Chairman of the Legislative Committee of the New Jersey State CIO Council. Representing 250,000 CIO workers in our state, I appear before you today to register our opposition to Assembly Bill #27, the Cigarette Tax Act introduced by Mr. Mehorter.

In his Budget Message, Governor Driscoll recommended a three-cent cigarette tax to finance additional State Aid for schools and the debt service on necessary institutional construction. The Governor stated that this proposed tax on cigarettes was designed to provide the state with \$14,200,000.

I want, at the outset, to state that the New Jersey CIO is in complete accord with the Governor as to the desirability of securing funds with which to finance increased school aid and urgent institutional construction. We are in accord with the purposes of the program, but we are opposed to the method suggested as the means of raising the revenue.

Our disapproval of the cigarette tax bill is based primarily on the fact that the proposed legislation is, in actuality, a sales tax in disguise. This proposed bill carries with it every evil of a general sales tax. As such, we find it hard to reconcile the words of our state officials who have gone on record opposing a sales tax, with their actions in

supporting this measure. The experience the people of the State of New Jersey sustained a few years ago when a general sales tax was in effect here under Governor Harold Hoffman is firsthand evidence of the undesirability of such legislation and of the inequitable effect it has upon the vast majority of the state's citizens.

To begin with, this cigarette tax is completely regressive. It imposes the burden of providing revenue for necessary social progress upon the shoulders of the low and middle income groups. Let us take the specific effect this bill would have upon two men, for instance, both of whom smoke at the rate of two packs of cigarettes a day. Regardless of the fact that one man might earn \$100,000 per year, and the other \$1,500 per year, both would still be required to pay to the state the sum of \$21.90 in additional taxes. To the low-income smoker, this would be an annual income tax of 1.46 per cent. To the high-income smoker, this would be a tax of only 2/10,000 of 1 per cent. Where is the justice of a tax system which makes a low-income citizen sustain a proportionately larger amount of the tax burden?

Perhaps most of us lack perspective in looking at the tax program being presented in our state. We lose sight of the fact that our system of imposing taxes upon our people cannot be separated from other daily inelastic costs which must be

met by the working people of the State of New Jersey. Let me enumerate some of the recent additional costs which have been imposed upon New Jersey citizens.

First, the Public Utilities Commission granted the Bell Telephone Company permission to raise its rates. The telephone is a necessity in our modern society. There was no recourse but to accept the raise and revise the family's budget to allow for this increased cost.

Secondly, through the shortcomings of the Milk Control Board, the price of milk has consistently grown higher. Milk is a necessity without which our children cannot grow into strong, healthy citizens. Despite the fact that a CIO survey demonstrated recently that the increased milk prices have forced workers' families to do with less, the increased cost is still another item upon which the family budget must be revised.

We can take no pride in stating that one of our New Jersey Senators has made it possible for rents to be increased 15 per cent in some instances and an unlimited amount in others. During this housing shortage when workers are often evicted from their homes and forced to accept almost anything that faintly resembles a roof and four walls, the increase in rent is still another item which forces a reconsideration of the family budget.

The Public Utilities Commission has before it now the

request of the Public Service Corporation to increase their bus fares from 5 to 7¢. If this increase is granted, the costs of daily transportation would constitute still another threat to the budgetary equilibrium of the low-income group families.

In New Jersey, as in only one other state throughout the nation, a worker must still pay a 1 per cent payroll levy to the State Unemployment Compensation Commission. This, in spite of the fact that the fund is the healthiest in the country.

The cumulative effect of these government-approved increased costs for telephone, milk, rents, transportation and an unfair payroll deduction is not to be regarded lightly. Computed on an annual basis, the additional costs which a worker's family must pay in New Jersey out of a dollar whose value has been cut in half by generally inflated prices are a threat to the already tottering financial stability of many families throughout the state.

As if this were not enough, here is the cigarette tax bill which throws still another burden upon a worker who is slowly being submerged in our inflationary whirlpool.

Only four states in the country use a cigarette tax to finance their programs of school aid. By far the large number use a state income tax to provide the revenues required for their educational needs.

The GIO maintains that our state's tax system should be

based exclusively on the principle of ability to pay. According to statistics compiled by CIO researchers, the state of New Jersey could have available for its educational program and whatever else it deemed worthy the sum of \$40 million if a state income tax were levied upon all individuals earning over \$5000 annually. Such an income tax - together with the \$13 million -- and I might add that these are last year's figures. I believe Mr. Parsonnet gave you the later figures -- which now goes to New York from New Jersey residents working in that state and which would be returned to New Jersey under a reciprocal agreement - would provide our state with considerable funds to enlarge a progressive program of beneficial legislation. The need for additional state housing expenditures, for instance, is as urgent as any other need. There can be no arguments dislodging the charge that a cigarette tax such as this one is a regressive tax which burdens disproportionately the low and middle income groups. In addition, this measure at best is merely a temporary expedient and provides the state with piecemeal revenue. There is no assurance that additional taxes will not be required again next year. Rather there is every indication that the cigarette tax will fall short of its expected return. If you adopt this bill in all likelihood we will be here again next year discussing another type of sales tax to make up for the deficiencies left by this cigarette tax bill - or any combination of sales tax measures.

Since this proposed tax is regressive, inequitable, and a disproportionate burden to the low-income groups of the state of New Jersey, the CIO is strongly opposed to its enactment.

SENATOR BARTON: Let the secretary have a copy of that, Mr. Kranz, please. I have one more speaker for Mr. Parsonnet, then I would like to go to some other section or group.

MR. PARSONNET: Thank you very much. I think I shall call upon Mr. Harold Krieger who is counsel for a number of labor unions in the County of Hudson, and is general counsel for the International Distillery Workers Union.

MR. HAROLD KRIEGER, Counsel, several labor unions in Hudson County, and General Counsel for International Distillery Workers Union.

I want to merely point out that this type of tax affects the worker, as said by Mr. Parsonnet and the speaker for the CIO. Not alone are these two products overtaxed today, but this additional tax would be a much greater burden. For example, cigarettes today are taxed 7¢ on a package which is sold for 15 or 16 cents, which is approximately 100 percent of the actual cost, which makes it unreasonable and means an additional tax of 3 percent, and it means a 20 percent increase as far as the consumer is concerned.

I would also like an opportunity to submit a memorandum to the Committee as far as our opposition is concerned.

SENATOR BARTON: Thank you, sir. What other group now?

MR. IRVING C. EVERS, NEW JERSEY TAXPAYERS ASSOCIATION

I am Clerk for the Legislative Committee of the New Jersey Taxpayers Association, and I am here to voice opposition to the two tax bills which are now being considered. And I too, sir, would like to request the opportunity on behalf of the Association to be permitted to present a memorandum setting forth the views of the Committee for the consideration of this group.

SENATOR BARTON: We would be pleased to have them. Who else wishes to speak now?

MR. WILLIAM B. CALLAHAN: Could I have Mr. Eisler speak first.

MR. MILTON EISLER, New Jersey Tobacco Distributors Association of New Jersey. My name is Milton Eisler. I represent the Tobacco Distributors Association of New Jersey. I am unalterably opposed to the enactment of cigarette tax legislation because of its disastrous effect on the consumer, the retailer, and the tobacco distributor in the state of New Jersey.

1. A 3¢ cigarette tax imposes a 20% indirect tax on every consumer who smokes - coming at a time when he can least afford such a marked increase in his cost of living, this tax is both inflationary and unjust.

2. Cigarettes today are more heavily taxed than any commodity on the market and it seems unfair to continue to pile taxes on a product which to a large segment of our population constitutes a basic necessity.

3. The 3¢ cigarette tax would also result in a 30 to 40% decrease in the business of the retailer as well as that of the wholesale tobacco distributor in the state of New Jersey, would be bad from an economic point of view, and would without a doubt tend to create a competitive atmosphere which would make it well nigh impossible for the legitimate wholesaler to continue to operate and remain in business.

MR. WILLIAM CALLAHAN. My name is William Callahan. I am engaged in the wholesale tobacco business in Wildwood, New Jersey, and am also a Director of the Board of Directors of the Wholesale Tobacco Distributors of New Jersey. Our association represents the wholesalers in New Jersey who transact the major volume of all business in cigarettes and other tobacco products and who serve approximately 30,000 retail tobacco outlets. I am appearing here in behalf of the Association and myself to testify on Assembly Bill No. 27 and Assembly Bill No. 33.

With respect to Assembly Bill No. 27, we of the tobacco industry feel that our products, particularly cigarettes, are already saddled with a too heavy yoke of exorbitant taxation. If you stop to realize that 7¢ of the consumer's purchase price of cigarettes represents the Federal Cigarette Tax - which is approximately 50% of the cost of cigarettes - you can realize that this tax alone is a substantial item. We feel strongly that any additional tax burden on the consumer in New Jersey would be unfair and inequitable.

However, notwithstanding our opposition to further levies on cigarettes should our state in its wisdom determine that it is in dire need of finances to provide for essential services, we reluctantly bow to its wishes and shall concern ourselves at this time with the accomplishments of a workable statute.

On the whole, the tax bill as proposed seems to us satisfactory, except for one provision. I refer to the proposed tax of 3¢ per package. This is tantamount to an additional 20% impost on the consumer and is in another respect wholly detrimental to an important segment of the industry. I therefore urge that this amount be reduced to 2¢ or less per package.

May I hasten to assure you that should this bill be enacted into law, the tobacco distributors in New Jersey whom I represent, and who would be primarily responsible for the collection of these taxes, will to the best of our ability endeavor to render our State the maximum of efficient service. In order to enable us to provide those services and to safeguard the best interests of the State and the public, we urge simultaneous and favorable consideration and action of the accompanying measure, Assembly Bill No. 33.

Why do we feel that this bill is so imperative for the best interests of the public at large? Because as experience bears eloquent witness, the large sums of money accruing to the State from cigarette taxes should and must have the protection afforded by this type of law. If cigarettes are used as "loss leaders" and as a result fall into a state of disrepute among the merchants selling them, it seems obvious that there will be a drop in sales with a consequent loss in

taxes to the State. This revenue must be protected. In the absence of such a law, both wholesale and retail merchants and the State are likely to suffer. The wholesale distributor who serves the state needs and requires this protection. The 30,000 small merchants - the symbol of American freedom of opportunity - need and require this protection.

What we are seeking is not a security of profits. While the average cost of wholesaling ranges between 5% and 7%, and the average cost of retailing ranges between 17% and 25%, the bill provides for a mere three and a fraction per cent for the wholesaler and 8% for the retailer - certainly inadequate and insufficient to even defray the cost of handling the merchandise. What is entailed here is a general principle of equity. They are purchased and consumed at an amazing frequency and they are more easily accessible to the consumer than any other product. Because of this aspect of cigarette merchandising, cigarettes are subjected to more unfair competitive abuse and mishandling than practically any other consumer products. When a commodity finds itself in that predicament, the interest on the part of both the wholesaler and retailer becomes wholly apathetic, complacent and indifferent. When such an attitude develops, then the State's expectation of the estimated yield from the tax becomes questionable.

When, however, instead of the prevalence of such an attitude,

the State, by adopting a reasonable safeguard (as provided in this measure) has at its continuous service an enthusiastic and faithful industry comprising a vast number of wholesalers and retailers, then the State's income, in keeping with budgetary estimates, is obtainable.

It has been our privilege and pleasure to have several audiences with the tax officials of the State who were entrusted during the preliminary stages of formulating this program. We would certainly be remiss in our appreciation were I not to utilize this opportunity, on behalf of my associates and myself, to commend the Tax Department of this State for its splendid grasp of the problems confronting the industry and its willingness to cooperate in promulgating equitable provisions.

May I also, in conclusion, state that my associates and myself will, as heretofore, sustain our policy of rendering our sovereign state every measure of cooperation.

That is all in our group. However, there may be others in the tobacco industry here.

SENATOR BAR TON: I will now call upon Mr. Smith. He has preference on the list.

MR. JAMES J. SMITH, New Jersey State League of Municipalities,

Mr. Chairman and Members of the Committee: The New Jersey State League of Municipalities representing 406 municipalities of the State and 95% of its population approves and supports

Assembly 24, 27 and 33.

It is not necessary to impress upon the State Legislature the need for new or additional taxes and new sources of revenue to support state and municipal government. The bills under discussion at this hearing have for their purpose the collection of a state cigarette tax and an additional tax on beer. The State School Aid Commission recommended these additional taxes as part of a program to provide \$13,000,000 by the State to meet its Constitutional obligations to provide "for the maintenance and support of a thorough and efficient system of free public schools."

The desperate need of additional state aid for education is quite generally conceded and accepted. The people of our State will pay these taxes with good grace if they know their children are the beneficiaries of the tax.

The financial problem in government today is economic. It is not peculiar to the State of New Jersey nor New Jersey municipalities. It is a situation that is prevalent throughout the United States. The imposition of the taxes proposed in these bills is nothing new in taxation. Similar taxes have been imposed on a state level but there are many municipalities that have a municipal tax superimposed on the Federal and/or state tax. We have but to cross our borders into New York and Pennsylvania to be confronted with a cigarette tax.

The solution found in many states to meet similar financial problems throughout the length and breadth of the nation has been found in additional state-shared taxes or new sources of revenue made available to municipal government.

In answer to the question of the State School Aid Commission as to where they would find the necessary funds to provide the additional support necessary for education, we replied and we now reiterate that while we do not have the answer we respectfully suggest that the State of New Jersey follow the lead of many of the states of the Union where the present economic problem affecting government has been met by the levy of a state sales tax or a state income tax or both. New and additional sources of revenue have also been made available to municipal government. We must recognize the economic change and we must meet it practically and realistically. New taxes and new sources of revenue are in order if adequate financing of current state and municipal needs are to be properly met.

These bills will partially meet the problem. They will help to provide the \$13,000,000 we urgently need now to help our municipalities and school districts to maintain our standard of education. Our financial difficulties, however, will not be adequately met until we have an over-all tax such as we have previously advocated.

SENATOR BARTON: Thank you, Mr. Smith. I will now call upon Dr. Hipp.

DR. FREDERICK L. HIPPI, New Jersey Education Association.

The New Jersey Education Association, with its 27,000 New Jersey teacher-members, endorses the taxes proposed in Assembly Bills 24 and 27. It urges that these bills be adopted.

We take this position because of the need for a broadened tax base in New Jersey, the need of increased state aid for schools, and on the basis of considered action approving the taxes suggested to the Legislature by the State School Aid Commission.

The need for a broadened tax base in New Jersey needs now elaboration. Two years ago the Commission on State Tax Policy said,

"New Jersey is a great industrial State, but its densely populated areas are still attempting to finance their municipal services as if they were agrarian communities."

One year ago the same Commission said:

"The people of New Jersey cannot look across the Hudson River on the one hand or the Delaware on the other, at the standard of governmental services or the level of the general property tax, and attempt to equal either of them here in New Jersey under our agrarian system of taxation."

A 1941 report by the U. S. Department of Commerce showed that New Jersey depended upon property taxes more heavily than any other state for its state and local revenues. Our Association has been urging for many years that the tax base be broadened with special emphasis on school support. Some small

progress has been made; these bills would continue that necessary work.

New Jersey schools need the increased state aid which these measures are partially intended to provide. The gravity of that need is generally recognized. It should not be necessary here to review the teacher shortage, the school building problems, to pay adequate salaries, or the steadily increasing numbers of pupils.

The State School Aid Commission created by the 1947 Legislature said in its report:

"The Commission found that in order to secure teachers and operate the schools, local boards of education have been obliged to make great increases in their budgets for 1946-47 and 1947-48. Local tax rates have reached unbelievably high levels. This condition is general throughout the State.

"Most of the local school districts have used up their reserve balances to provide the moneys necessary to increase teachers' salaries and to meet other higher costs in 1947-48. It is expected that the costs of all other operational expenses are still on the upward trend. Consequently, the revenues required for the operation of the 1948-49 budget will include necessarily still higher costs for materials, supplies, salaries and wages plus the amount of reserve balances appropriated for the 1947-48 budgets.

"Unless action is taken now in order that local boards of education may know that more state aid will be available, the 1948-49 school budgets will cause an unbearable increase in the tax load borne by real estate."

The State School Aid Commission suggested five taxes to the Legislature. A tax on cigarettes and an increase in the beer

tax were among them. After careful consideration our Association endorsed "any or all" of the taxes suggested, recognizing that the income of the State must be increased, not only for the support of education but to carry out the necessary work of other state agencies.

There is ample reason to support the two taxes here proposed. Both cigarettes and beer are luxuries rather than necessities. Last year thirty-two states, two thirds of the total, were levying taxes on cigarettes. Among these were every one of our neighboring states except Delaware. The proposed rate for New Jersey would not put New Jersey merchants at a disadvantage with their New York or Pennsylvania competitors. Actually it would amount to little more than the difference we now pay between cigarettes purchased at a chain store and those purchased in machines.

An increase in New Jersey's beer tax seems justified when we study the comparative revenues of our neighbors from alcoholic beverage taxes. New Jersey gets only 5.7% of its state revenues from ABC sources. Delaware on the other hand derives 7.8%; Connecticut, 9.1%; New York and Pennsylvania 9.3% each. The average for all the states is 7.1%, substantially higher than New Jersey.

It would appear that our State is not deriving its reasonable proportion of state revenues from this source, and that is

probably not due to the fact that New Jersey does not drink its share.

Finally, it seems clear that the people of New Jersey are willing to accept these taxes to help their schools. The New Jersey poll recently asked New Jersey citizens this question:

There is a plan before the state legislature to provide 13 million dollars to help local communities meet rising costs. Would you be in favor of such a plan or not?

Nearly nine out of ten, 77%, said they would favor such a plan. These were asked this question:

Would you be for or against this plan if it might mean additional state taxes, for example a 2¢ tax on cigarettes and a 1¢ tax on soft drinks?

Again nine out of ten said yes.

If the poll, which is operated by Princeton Research Service, can be believed, four out of every five citizens of New Jersey are in favor of a tax plan similar to this, if it is needed to provide the \$13,000,000 state aid which the schools are asking.

The New Jersey Education Association, therefore, urges that a cigarette tax and an increase in the tax on beer be adopted by the 1948 Legislature to help finance \$13,000,000 in increased state aid to schools.

Thank you, Mr. Chairman.

SENATOR BARTON: Thank you, Doctor.

I am going to take the liberty at this time, if you don't mind, to just welcome the eighth grade students from Vineland, Cumberland County. Their very genial Senator from that county, Senator Elmer Wene, is their host today. (Addressing the students) We hope you have a nice day in Trenton. This is not a session of the Assembly. This is a meeting or a hearing on three bills, and the Committee on Taxation is hearing the evidence of all sides, and we hope you will profit by it. The Committee is going to try to profit by it. The best I can do is say we welcome you and we hope your stay is a pleasant one here in the capitol.

I will now call on Mr. Jacob B. Edelberg.

MR. JACOB B. EDELBERG, Retail Tobacco and Confectioners Council of N. J. Inc. My name is Jacob Edelberg, representing the Retail Tobacco and Confectioners Council of New Jersey. We represent 6000 retailers, and we feel that it is necessary for the State of New Jersey to put a tax on cigarettes. It is also necessary to pass Assembly Bill No. 33 to protect the livelihood of the retailers of this State. I have a brief here which I would like to present to the Secretary, and I also have three other men who would like to speak. It will only take a few minutes.

(The following brief was submitted by Mr. Edelberg)

Speaking on behalf of the Retail Tobacco & Confectioners Council of N. J. Inc., a trade association representing some six thousand (6,000) organized, small independent retail tobacconists in New Jersey, we sincerely hope that the New Jersey Legislature will enact into law at its present session Assembly Bill No. 33, which has the very laudatory purpose of outlawing unfair and destructive practices in the sale of cigarettes at retail and wholesale in our state.

If the State of New Jersey is to have a cigarette tax law, and if it is the intention of the Legislature that such a law be enforced and respected, then the Legislature must have the equal desire to protect those who will assist the state in the collection of these taxes. The expressed intent of Assembly Bill No. 33 to be known as the "Unfair Cigarette Sales Act" is to assist the state and to stabilize the collection of cigarette taxes, and at the same time to promote the public welfare by prohibiting trade tactics which seek to demoralize and disorganize.

The enactment of Assembly Bill No. 33 will spell finis to those few merchants in the state who have indulged in cut-throat competition in the sale of cigarettes for their own immediate selfish purposes and at the expense of the ethical retailers and the consuming public. No honest merchant can long stay in business without recouping his cost of operation,

but the cut-throat cigarette dealer or "loss-leader" practitioner as he is better known, does sell cigarettes below cost and holds out his "bait" before the consuming public knowing that once he gets Mr. and Mrs. Consumer into his store, he will be able to sell them other items, the prices of which are not well known and on which he makes an exorbitant profit.

We have long outgrown the economic philosophy of "let the Buyer beware" or "the dog eat dog" practices which encouraged monopoly and the elimination of small enterprise. Today, small business is one of the greatest manifestations of individual enterprise and economic freedom in our country. It must have the air to breathe and the right to flourish if we are to continue in our way of life. No man can be bigger than the State; no man should take the law into his own hands; no man should destroy the property and lives of others. If small business is to have a place in our economy, it must be protected against the unscrupulous practices of those few selfish people who have no regard for the welfare of others. The "Unfair Cigarette Sales Act" proposes to protect the ethical and honest merchant from the pillaging tactics of the price-cutter, and to protect the state in its collection of taxes as well as protect the consumer from deceptive and predatory business practices.

For years and particularly during periods of depression

the price-cutters were the parasites of trade. Aroused by public clamor, the legislatures of some 45 states, including our own, passed fair trade laws to rescue the independent retailers from the quicksands of price-cutting competition which slowly but surely were sucking them into economic oblivion. This movement to reestablish free and fair competition in trade had many true champions, none of whom surpassed the prophetic wisdom of Mr. Justice Oliver Wendell Holmes who once said: "I cannot believe that in the long run the public will profit by this course, permitting knaves to cut reasonable prices for mere ulterior purposes of their own, and thus impair, if not destroy, the production and sale of articles which it is assumed to be desirable the people should be able to get."

There then followed in the past decade or so the enactment in more than half of the states of "Unfair Sales Acts," which supplement the fair trade laws. Unlike the fair trade laws, which merely permit the manufacturers and owners of trade-marked merchandise to establish minimum resale prices, these unfair sales acts are mandatory and self-executing. They prohibit, in similar fashion as does the proposed Assembly Bill No. 33, retailers and wholesalers from selling merchandise at less than cost with intent of injuring competitors. All of these various fair trade laws have endured the test of time and

have been upheld in the Supreme Court of the United States and in many of the highest courts in the states. In recent years unfair cigarette sales acts almost identical in scope with Assembly Bill No. 33 were enacted in several states having cigarette tax laws. Notable among these is the Massachusetts cigarette tax law, which in one single statute embodies the tax provisions and the prohibitions against the sale of cigarettes below cost.

Under the proposed cigarette tax law (Assembly Bill No. 27) for our state, all retailers and wholesaler of cigarettes will be licensed. Under Assembly Bill No. 33, licensees will not be allowed to sell cigarettes below cost with intent to injure competitors. The provisions of this bill, requiring the revocation of license in the event of violation, are surrounded with every reasonable constitutional safeguard. The standards for determining cost are those commonly used in business. The evidentiary aids to assist in enforcing the provisions of the proposed act are clear and unambiguous.

The purport of Assembly Bill No. 33 is simply to prevent the mischief and evil of unbridled competition. The public policy declared in the preamble of this proposed new law is to defeat and crush monopoly which can only thrive and grow in the distributive fields if price cutting is allowed to run rampant.

We, therefore, respectfully urge this committee to approve Assembly Bill No. 33 and to further its passage into law.

MR. EDELBERG: I would like to call on Mr. Langer from Union County.

SENATOR BARTON: Will these people be very brief?

MR. EDELBERG: Yes, they will be brief.

SENATOR BARTON: We are trying to please everybody here today. You may introduce him, sir.

MR. FRANK J. LANGER, Retail Tobacco Dealers of New Jersey.

Ladies and Gentlemen, my name is Frank J. Langer, from Union County, New Jersey. I have been a resident of New Jersey all my life and a retail tobacconist for the past fifteen years.

I am also Vice President of Retail Tobacco Dealers of New Jersey, the state trade association representing thousands of tobacconists throughout the state.

I appear before you today on behalf of the independent tobacco dealers in New Jersey, who have a vital interest in the passage of Assembly Bill No. 33.

No businessman likes to see a specific tax imposed on the articles which he sells for he knows that such tax raises the retail price without increased compensation to him and puts him in the position of acting as a tax collector for the State. Although opposed to the imposition of a State cigarette tax, nevertheless it is important when a state

deems such a tax necessary that the regulations regarding the collection of this tax be such that the legitimate retailer is protected.

Assembly Bill No. 33, Unfair Cigarette Sales Act, proposes just such protection to the thousands of tobacco retailers by preventing the sale of cigarettes below cost. Cigarettes have long been recognized as an item that is used to attract store traffic by retailers who merely sell them as a sideline at cost or less than cost. This "loss-leader" practice results in great hardship to the thousands of retail tobacco merchants to whom cigarette sales represent 40 or 50% of their total volume of business.

In the independent retail tobacco stores, cigarettes generally sell today at 16¢ per package. Under the Unfair Cigarette Sales Act, cigarettes would still sell at the same price plus the tax. The effect of this legislation would be to return the cigarette business to the tobacco retailer and take it out of the hands of the gas stations and those who use cigarettes as loss-leaders merely to sell other unidentified merchandise that does provide them with a legitimate profit.

I urge your favorable action on Assembly Bill No. 33 for I feel it will have a stabilizing effect on the business of thousands of small independent retailers who are truly interested in the promotion and sale of tobacco products.

SENATOR BARTON: Thank you, Mr. Langer. Who is the next one of your group, sir.

MR. EDELBERG: Mr. Friedman of Essex County.

MR. FRIEDMAN, Essex County Retail Tobacco Dealers

Mr. Chairman and gentlemen, I am representing the Essex County Retail Dealers. We have about a thousand in our group.

I would not say that I am in favor of the tax on cigarettes, but if the State must have an income of revenue from cigarettes, I will not oppose it. However, at the same time as we are about collecting a tax for the State, we feel that the dealers in this State must, or should be protected with bill number 33 for the reason that there are some businesses in this State, like gas stations and others, that are selling below cost and we little dealers cannot exist if this keeps on. So we are here to urge the Assembly of this State to try and pass that bill #33.

I thank you.

MR. EDELBERG: The next is Mr. Miller of Middlesex County.

MR. GEORGE MILLER, President, Middlesex County Retailers Association

Mr. Chairman and gentlemen: I won't take up any more of your time. I just want to add that I am President

of the Middlesex County Retailers Association, and our views are the same as those expressed before me.

Thank you.

SENATOR BARTON: Thank you, sir. Does that finish your group, sir?

MR. EDELBERG: That is all.

MR. RICHARD E. CHISLETT II, representing Newark Chamber of Commerce.

I represent the Newark Chamber of Commerce.

I want to thank the Committee for the very broad view they have taken of this thing in allowing us to speak on all the bills at the hearing today at once.

I would like to further impose upon the Committee's good will, and refer at least briefly to tax legislation upon which hearings will be held next Tuesday. We believe that the problem which the State now faces is not advisable, unless you assume that Governor Driscoll's request for 37 million dollars in new income can be fully justified, which we do not believe is so.

I am here today to present to you the views of the Newark Chamber of Commerce on A 24, A 27 and A 33, measures concerned with the taxation of cigarettes and beer.

Consideration of these and other pending tax bills has been complicated by the fact that the Legislature has not yet passed upon the merits of the Governor's total budget requests. This is important, since what may be a desirable tax given one level of expenditure may be totally undesirable at another lower level of expenditure. At the outset, we firmly believe that the State's obligations can be met with new revenue totalling substantially less than the 37 millions of dollars mentioned in the budget message.

From our point of view, neither these tax measures now under consideration nor the others to be considered on Tuesday are satisfactory. We believe that already there is substantial inequity and distortion in New Jersey's tax structure. Some types of businesses pay very heavy taxes, others pay little or none - some individuals contribute substantially to the support of government in New Jersey, some, well able to pay, do not contribute directly one cent toward the maintenance of state and local functions. Although one may draw an inference from the Governor's budget message that his recommended program would correct this situation in some degree, we are afraid that the permanent adoption of any or all of the taxes he suggests would only add to an already long list of inequities and outright injustices.

The basic difficulty in considering the State's revenue

problem is lack of information about our present tax structure and the burdens it imposes, together with lack of informed conjecture about suggested new sources of revenue.

The Newark Chamber has considered this basic problem in a letter addressed to the Governor and the Legislature. I shall not take time to read this letter now, but will leave copies with the clerk for your Committee's perusal.

Briefly, we have recommended that an independent agency survey State and local revenue needs, the State grant-in-aid system, and present tax burdens and inequities. We also suggest that this survey include an assessment of the possible effects of a variety of taxes. The report is to be factual and as unbiased as possible. We recommend the report be submitted to the Governor and Legislature early in 1949, that it be given full discussion and consideration, and that a major overhaul of the whole state and local tax structure be performed in 1950.

For too long have we been engaged in minor adjustments here and there, in the random allocation of new taxes to segments of the State's economy. Present injustices should be cured; future injustices should be prevented. It is time that the state and local revenue situation be viewed as a whole, and that such readjustments be made as will produce

a well-rounded, equitable tax system which will afford the revenue required for economical operation of our state and local governments.

We believe that if any of the tax measures suggested this session can be justified at the present time, they can be justified only as emergency measures and not as desirable additions to the state's tax structure. For that reason, if you do decide it is best to adopt in any form either of the measures before you today, we would strongly recommend that a limiting clause be inserted in any tax bill, providing for the expiration of the law by June 30, 1950.

I want to thank you very much for this opportunity of presenting our views.

(The following letter was presented by Mr. Chislett  
for the record)

March 10, 1948

Honorable Alfred E. Driscoll  
Governor  
State House  
Trenton, New Jersey

Dear Governor Driscoll:

The Tax Committee of the Newark Chamber of Commerce has given serious consideration to the tax measures presently pending in the Legislature. They have asked me to communicate the following recommendations to you.

Individual consideration of the pending bills must inevitably lead to an examination of New Jersey's state and local tax structure as a whole. New taxes should not be added to the State's fiscal system without thorough examination of their probable effect in relation to the total tax burden and its distribution. This is particularly true if taxes adopted to meet a specific or an emergent situation are likely to be "frozen" permanently into the tax system. For too long has the State followed a policy of expediency, adding taxes from time to time without sufficient regard for the entire revenue system, and the burden it imposes.

It is patent that there exist now a number of inequities in New Jersey's state and local tax system. It is our considered opinion that many of these inequities are susceptible of correction. However, there is grave danger that permanent adoption of any of the pending measures will only increase present maldistortion. The recent experience in Connecticut demonstrates how thoroughly tax measures must be examined both in themselves and also in relation to the revenue system as a whole, before they are made part of the revenue structure.

With these thoughts in mind, we should like to offer the following recommendations for your consideration and also by the Legislature:

First, any tax measure passed this year should contain a limiting clause providing for the expiration of such legislation on June 30, 1950.

Second, there should be performed an overall survey of the state and local tax burden, the probable revenue requirements of state and local governments, and state grants-in-aid. This survey should assess the income potentialities and all the advantages and disadvantages of all possible types of taxation, with particular reference to experience in other States. It should pay particular attention to the effect of the present tax structure, and of any new tax system which might be devised, on business and industry in New Jersey as compared to business and industry in other competing states; and to the effect of such systems on the desirability of New Jersey as a place in which to invest capital and expand employment.

This study could be performed by a competent independent agency, and should be supervised by a committee representing as many classes of taxpayers as may be feasible. The report must be factual and impartial, and possibly should not include a recommended program, thus freeing the study from bias to some degree. Such report should be completed early in 1949, to insure full discussion prior to a major overhaul of the State's tax system in 1950, should sufficient need be indicated by the study.

We believe that only in this way can the State hope to build a tax structure which will raise the amount of money required for economical government in a manner fair and equitable to taxpayers at large.

If our recommendations are favorably received, the Newark Chamber offers its full cooperation in the carrying out of such a program. We would be pleased to be advised of your reaction to our suggestions.

We have taken the liberty of sending copies of this letter to the President of the Senate and the Speaker of the Assembly, that those bodies may be advised of our thinking.

Very truly yours,

E. W. WOLLMUTH  
Executive Vice President.

SENATOR BARTON: Mr. Goldberg, do you wish to speak now?

MR. NATHAN N. GOLDBERG - Wholesale Distributors of Cigarettes

Thank you, Senator. I am Mr. Goldberg, associated with Lou Lesser in Hackensack, New Jersey, in the wholesale distribution of cigarettes.

While there was some talk a few moments ago by the representative of the New Jersey Tobacco Distributors Association, I want to point out that that Association does not represent the entire industry, but a portion of it. Our position is that because of the favorable position of the wholesale distributors and retailers in this State, we do a great deal more cigarette and tobacco business than any other State in this country on a per capita basis, for many reasons.

One, commuters who work in New York and New Jersey, and other neighboring states bring cigarettes with them to that state, not so much for so-called bootlegging purposes, but for their own consumption in that state, because they feel that they are saving money when they buy cigarettes in their home town. Furthermore, we have a very thriving mail order business which is selling cigarettes throughout the country. When I say "we", I mean people in the State of New Jersey. We are not in the mail order business, though we do supply cigarettes to such mail order houses. All of you members of the Committee are undoubtedly familiar with the fact that on the

highways leading to New York State and to Pennsylvania, cigarettes are being sold in gasoline stations. These cigarettes are used outside the State, and, of course, are purchased in this State. We feel that there will be a loss to all those wholesale jobbers who distribute in the areas bordering New York and Pennsylvania of some 50 to 60 percent of their volume of business. That would mean the difference between staying in business and going out of business.

I am sure the Legislature does not propose to put these wholesale tobacco distributors out of business, and that is another reason why this tax should be passed. Of course we hear discussions by some representatives of the jobbers and retail dealers saying if we must have a tax, let us have this companion bill, and they say it properly, but this companion bill is one of the reasons why they do not object as strenuously as they might to the tax. They are in the unusual position of saying, "Well, if you want to tax us, tax us. We will cooperate, but give us this companion act". It puts me in mind of those people in the European countries who now say, "If you will give us bread, let us have communism. We don't want communism but we want the bread". And here we say, "Let us have regulations. Come in and regiment us if you will guarantee profits to us". I am enough of an individualist, and I am sure the jobbers in the State are of the same opinion, that we do not require regulation. We can run our business to suit ourselves. Do not tax us.

Thank you, sir.

SENATOR BARTON: Thank you, Mr. Goldberg.

MR. SOL L. KESSELMAN, representing Cigarette Vending Machine Operators of New Jersey

There are approximately 12,000 machines in the State of New Jersey presently in operation. I can speak for all of them. In the association which I represent there are over 9000 machines represented, and as I also stated, I represent a larger number to make up close to 12,000.

We feel that a very important part of this argument has not been presented with respect to the 3¢ tax. New Jersey stands in a very enviable position now of being a tax free state on cigarettes. We have a tremendous amount of out-of-state business. We feel that anywhere from 30 to 35 or 40 percent of the cigarettes sold in and through the State go outside of the State for consumption. In the event that this tax would become law at 3¢, the State of New Jersey would definitely lose all of that business.

The position that we take now is that if there is to be a tax, and we admit that the State needs revenue, it ought to be considerably lower. The net result of having a lower tax would do two things. It first would not impose a burden on the lower income bracket people referred to by Mr. Patsonnet and other speakers. It will also tend to have whatever tax may be levied paid by sources and from sources from without the State. That is, if the tax is much lower than the 3¢, 2¢ or less, we shall be able to retain that favorable balance or favorable position which we now have in the distribution and sale of cigarettes. And that, I think is an important

point to be remembered by members of the Committee, and the Governor's committee with respect to the imposition of the tax on cigarettes. It is something that is known within the trade itself.

I would like to point out that in the message prepared by the Governor, he states that we should have a surplus of approximately 9 million dollars, assuming that the present program goes through. We fail to see why 9 million dollars should be held as a surplus when the average taxpayer today is trying very hard to make ends meet, and we feel that any legislation that may be enacted should be enough to cover the present needs of the State government.

With respect to the section which has not been touched upon, and which directly affects the people I represent, that is the anticipated tax of \$5.00 per machine which is in the bill - it is called a license - the State of New Jersey intends to impose a five dollar tax on every retail outlet, be it a store or a cigarette vending machine. And in the act the cigarette vending machine is considered a retail outlet. You take the 50 thousand in existence in the State of New Jersey today, and multiply it by five dollars, which is \$250,000, in accordance with one of the paragraphs of the proposed act, that should cover the cost of administration. We feel that the imposition of such a tax or license of \$5.00 on each vending machine is a burden and hardship for several reasons.

It may or may not be known to members of the Committee that presently there are taxes levied by individual municipalities

upon the use of a cigarette vending machine. It has been our contention right along that the levy of such a tax is a tax on the method of doing business, and we feel that that particular practice -- we know that to be so, -- is now beginning to become extremely burdensome, and is increasing by municipalities and with them continually. It is not only <sup>a</sup> question of the number of municipalities which do legislate, but of those that intend to legislate on this subject.

It is our belief, and we propose to the Committee, that two things be done in that regard. First, that the license be reduced to a point not to exceed one dollar, and that for regulatory purposes only. It is our feeling that of the 50,000 that do exist, if a license rate of not more than one dollar is levied, 50 thousand dollars from that source will come in, and if many, many millions of dollars are anticipated from the cigarette tax, whatever the amount may be, then certainly the other 200 thousand dollars can well come from that source of income. The effect of a five dollar license on the vending machines would be to throw a separate and distinct burden on the vending machines. To point out how inequitable it would be, we can merely take a distributor who sells millions of dollars worth of cigarettes a year. He would only have to pay \$250, as a license fee, and the very small vending machine merchant, the man who distributes cigarettes through a small number of 100 machines and barely is able to carry on the business and make a livelihood, out of the 100 machines -- and keep in mind it is a penny business -- he

would have to pay \$500., being one hundred times five, in order to be able to stay in business. That is our feeling, and I do not believe the Committee realized this when the particular section was put into the act.

We would like to call to your attention another thing in one of the sections, and this is merely correcting the English that is used. On page 5, line 37, a statement is made that, "Any person licensed only as a distributor or as a wholesale dealer shall not operate as a retail dealer". We are satisfied that the intent of that section is to permit anyone operating as a distributor to also be able to operate as a wholesaler, but it is our belief that the language could be more clearly stated in that particular section. There seems to be some doubt in the minds of a number of people I represent as to just what is intended by that. We do not object to the provision itself, provided appropriate licenses are taken out.

We would also like to point out to you gentlemen that in order to have a proper regulatory feature of the general act, we are in favor of #33 provided it is tied in with #27. One is a companion bill to the other. With respect to page 5, line 47, with respect to the issuance of licenses and transferrals, I imagine that is something to be taken up with the Tax Department.

So, to reiterate the position we have taken on this, we feel that the tax of 3¢ is highly injurious to the income of the State of New Jersey. We can state to you definitely, having

been in this business for many, many years, that higher taxes tend to decrease the amount of sales. And we know that in the cigarette business today, in the event you have the 3¢ tax and do not make it lower, shall we say up to a point of 2¢, you are going to find that your sales will be far less than were anticipated in the preparation of this particular bill.

We are interested in seeing the State get revenue. We are interested in seeing it also being taken care of from sources from without the State.

I would also like to point out, or perhaps repeat, that the section which we seek to eliminate is the local taxes on these vending machines. That should be specifically put into the act. Now, that would have the effect of permitting the State to regulate the sale of cigarettes, particularly when it is considered that there is a certain base or acquisition cost that is mentioned in the bill, and if we have to add on additional cost in the form of tax rendered by the various municipalities, that will somewhat break up the tax situation. We ask, therefore, that there be a special provision in the act prohibiting the various municipalities from levying these specific taxes. Now, there may be a question raised in that regard that you may have opposition from some that are collecting it today. Therefore, I say to the Committee now that there are comparatively few municipalities that are levying such taxes, and the benefits that they will receive from the act itself in the collection of these millions of dollars

will far exceed the small amount that they are presently collecting under the local municipal acts.

We would like also to present a memorandum of our position, and we will do so within the next week. I wish to thank you very much.

SENATOR BARTON: Thank you, Mr. Kesselman. Now I will come back to Mr. Parsonnet.

MR. PARSONNET: Mr. Chairman, before introducing the next speaker, may I, on behalf of the City, point out that while Mr. Smith was talking he mentioned that he represented the League of Municipalities, but in making his statement he did not represent the views of the City of Newark, as I explained earlier.

May I introduce Mr. Walter Ruhnke, representative of Brewery, Syrup, Yeast and Grain Workers, Local No. 24251 of Newark.

MR. WALTER RUHNKE, Brewery, Syrup, Yeast & Grain Workers, Local 24251 of Newark.

Mr. Chairman and members of the Committee: We are in accord with the views of Mr. Parsonnet.

UNIDENTIFIED SPEAKER: Mr. Speaker, may I be heard?

SENATOR BARTON: Yes sir, but there are still three of these very short brief remarks endorsing some positions. Nothing lengthy, Mr. Parsonnet?

MR. PARSONNET: They will be very short. Mr. J. J. Duey, Secretary-Treasurer of Teamsters Local No. 185 of

Hudson County.

MR. DUEY

Mr. Chairman, I will express myself the same as my co-speaker here, that I am absolutely in accordance with the views of our counsel, Mr. Parsonnet.

MR. PARSONNET: Mr. James F. Thornton, Business Agent of Bartenders Union, Local No. 131 of Newark.

MR. JAMES F. THORNTON

Mr. Chairman, I am a representative of Bartenders Union, Local 131, of Newark, and we are in accord with the speech which Mr. Parsonnet made.

SENATOR BARTON: Thank you, sir.

MR. PARSONNET: Mr. Herbert J. Heilmann, a representative of Teamsters Local Union No. 153 of Newark.

MR. HERBERT J. HELLMANN

Mr. Chairman, I wholeheartedly agree with Brother Parsonnet in opposing this legislation at this time. And I would like to go on record saying that I believe it is pretty near time that the administration, particularly the Republican people of this State, did something for us. Bear in mind that for 14 years the working people have been looking for some kind of relief from taxation, and it is now the duty of the Republican Party to see that the people get that relief.

MR. PARSONNET: Mr. Joseph G. Landgraf, President of the Mercer County Central Labor Union, and Business Representative of Teamsters Local 134.

MR. JOSEPH G. LANDGRAF:

Mr. Chairman and Committee members: I too wish to concur with the remarks of our counsel, Thomas Parsonnet. Thank you.

MR. PARSONNET: Mr. Harry T. Nolan, Secretary-Treasurer of Local Joint Executive Board of the Catering Industry of Essex County.

MR. HARRY T. NOLAN

Mr. Chairman, I wholeheartedly concur in the remarks of Brother Parsonnet, but I would like the Committee to view our situation so far as our wages are concerned. Our average wage in the culinary alliance is \$32. to \$38. I think that the means that Mr. Parsonnet mentioned to raise these taxes is the right way. We are overburdened with taxes — very much so. Our average worker cannot go out and get the scotch and soda that the big fellow gets. He cannot go out and get the cigars that the big fellow gets, and I think that it is time now that we be relieved of these taxes. I am speaking for that small group of which we have 4500 in Essex County, and in the State close to 35,000 people.

MR. PARSONNET: Mr. Samuel Edwards, President of Catering Employees and Bartenders Union, Local 386.

MR. SAMUEL EDWARDS

I happen to be fortunate enough to represent a minority group, and I am here today to fight for the minority group. I am wholeheartedly in accord with the views expressed by Mr. Parsonnet.

MR. PARSONNET: Mr. Joseph J. Quillan, President of Beer Drivers, Warehousemen, Bottlers and Helpers, Local No. 843.

MR. JOSEPH J. QUILLIN

Mr. Chairman and members of the Committee: First I would like to get myself straightened out. Are we now talking on Assembly Bills 27 and 33, or are we talking on both bills?

SENATOR BARTON: Both the cigarette and beer tax bills.

MR. QUILLIN: We happen to be in a very good position as far as the 48 States are concerned right here in New Jersey as a beer State. We have close to 9000 beer workers working in the State, and it seems that our people get hit from every angle. Many of our people have lost their jobs lately because of a curtailment put on by the government now in Washington. Our beer taxes are so high today that many of the working people do not

go out and buy the amount of beer that they would like to buy. I don't mean by that that they would over-indulge in it. If this bill went through and the increased tax from  $3\frac{1}{2}\text{¢}$  to  $5\text{¢}$  a gallon on beer was imposed upon the working people in the State, it stands to reason that many of our people would lose their jobs. And then it would also cut down the size of the glass of beer.

We are strongly opposed to the tax. Why are our people in the beer business asked to carry a tax that would be used to run the government of the State of New Jersey when that government would be protecting all of the people in the State? We would be carrying the load. On one hand we have the prohibitionists. We do not think too well of them either. The money that the State will take in would be spent to help the prohibitionists, and yet you are asking us to pay that bill. We feel that if a State tax is imposed it should be imposed upon everybody. Let everybody pay their fair share of the tax, because everybody is going to gain equally because of that tax, and especially the people in the higher income brackets.

I heard a gentleman on the other side of the room say that he represented 27,000 teachers. I believe that is what I heard him say. Well I know that if there is only 27,000 teachers in the State of New Jersey that he surely does not represent the group of teachers in Essex County, because two weeks ago on Friday night the teachers' delegate to the American Federation of Labor in Essex County got up on the floor, and he vigorously attacked this proposed

bill number 24, and that can be verified by contacting that organization in Essex County. A teacher, like a brewery worker, does not make much pay, and he likes his glass of beer, and he likes his cigarettes. And I cannot see why any man would get up and say that the teachers are in favor of a tax that would cause an extra burden on the teachers, and to free another person of everything. Our people strongly oppose Assembly bill 24. We hope and pray that the Committee will give us what we feel should be a fairer way of collecting the taxes by taxing all of the groups. As long as all of the groups are going to get the benefit of the tax, then tax all of the groups, and not the poor brewery workers. We are already punch drunk from taxes now.

MR. PARSONNET: Mr. Chairman, I would just like to introduce these people. Mr. Edward Kennedy of the Painters Union in Trenton. I do not think he has anything to say except to concur with the State Federation of Labor.

MR. KENNEDY: We do concur with the State Federation of Labor.

MR. PARSONNET: I saw Mr. Edward Benz here, and I believe I am authorized to say he supports our position.

SENATOR BARTON: Thank you. Who would like to speak now?

MR. FRED KAMINOWS, Secretary-Manager of the New Jersey Food Merchants Association

We represent over 5000 of the neighborhood grocery stores, they are the independently owned food stores. This afternoon I heard a gentleman over there say that cigarettes are luxury items and not items of necessity. I say that because I am speaking on bills A 24, A 27, and A 33. We are vitally interested in these three bills. Beer and cigarettes are definitely items of necessity. The reason I say that is when we see the consumer in the neighborhood adding to her purchases a bottle of beer and a package of cigarettes, we know that that housewife has the interest of the workers of that family in mind, and wants to see that they get the proper feeling, or the proper relaxation from a very hard day's work. Now we have the reaction of the consumer regarding taxes, regarding prices, and regarding all such matters that pertain to her budget. We have an obligation to these people to see that the budget is met for household needs, and when you start putting taxes on items like this, that means that that consumer must take that out of her earnings, or it means that she will have to do without that commodity. We feel that beer is a very important item in the household, and it should not be imposed upon by any additional taxes as mentioned in bill A 24 so that the housewife or the storekeeper must pay. In the first place, the storekeeper cannot afford to absorb that additional cost because the grocer today is in a very highly competitive field, and there are too many items that he must

sell as a loss leader, not because he wishes to do so, but because of the competition involved.

Our very good friend who gave such a very fine talk, representing the CIO, mentioned the high cost of living, and used as an item, milk. I should like to point out that the grocer loses profit on the sale of milk. It costs him out of his own pocket something like 13.3% loss on every bottle of milk he sells. So, despite the fact that milk is a very high cost item, the grocer must suffer the loss of profit. Now I bring that out to you because we are near to the neighborhood, to the housewife, to her budget, and so we must try to do everything to meet their requirements.

So, we are definitely opposed to bill A 24, and ask that the tax as it is, the  $3\frac{1}{2}\%$  be retained, and that it not be increased.

Now, regarding Assembly Bill A 27, we feel that it is a very much involved piece of legislation. As it is the neighborhood grocer is burdened with all kinds of regulations, all kinds of licenses and taxes, and to come along and place another such involved law upon him is going to put him out of business. He must submit to a beer license, to a milk license, to a Board of Health license, to personal taxes, and to many other regulatory measures both local and state and federal. Sometimes I wonder whether it wouldn't be much nicer to see more customers in the

store than to see all these over zealous inspectors crowding the man's store checking on his records and otherwise creating harassment in his store.

Now, we had quite an experience during the OPA days. Our Association went wholeheartedly to endorse the OPA when it was necessary to have it, but when the war was over and we were being grossly harassed by these over zealous inspectors who would creep upon a small merchant who sometimes would be relieved by his wife who knew nothing about the business, cross-examining her, and otherwise harassing the merchant, we then thought it best to ask for the abolishment of the OPA, and we were fortunate in securing that. So we do not want to have any more involved laws such as this one, which among other things, requires a retailer to take out a license of five dollars and subject himself to making reports. That only does not go to the retailer, the wholesaler, and the distributor, but it even goes so far as to require the consumer to take out a license. Can you imagine that? A consumer must ask for the privilege to buy smokes, and that is what the bill here involves. It may not be as much money, but it is going to be like the old prohibition days. Every consumer is not going to go through the trouble of taking out a license for the privilege of buying cigarettes. Some retailers and many consumers are going to be entering into black markets and bootlegging, and be constantly violating laws, although they do not want to do so.

We certainly want to go on record at this point as

saying that we want to wholeheartedly support the State in helping meet its budget, but we do want a reasonable budget, and we want reasonable taxes, so we do not think that A 27 is going to do it.

We have before us several other tax bills. Can you imagine what it is going to mean to a small merchant? He has to be a lawyer, an accountant, and a doctor to be able to run the grocery stores, and if he is not able to do that, he has to hire people, and that costs more money, to go over his books, or to engage an attorney to know whether he is violating or not violating the law. There are other ways of trying to raise revenue, and we think, as was pointed out several times today, that some measure could be drawn up whereby those who have the ability, according to their means of income, might share in the cost of the government expenditures. But first let us make sure who we can reduce the budget, how we can reduce expenditures in this State without involving everyone else in the payment of these many forms of taxation.

Now another thing I would like to point out to you is that every time a tax is imposed that means that you are restraining trade in this State. The customer definitely is going to watch her purchases. She is going to stop buying these commodities that are being taxed. The merchant is either going to go out of business because he cannot stand the burden any longer of making reports and paying taxes, and many people who want to go into business will be discouraged from it. So you will have no little

merchants, but you will have probably just large corporate outfits who have plenty of money to back them up, who will create a monopoly in that field of retail trade.

Now we can highly appreciate and quite sympathize with the tobacco dealers who mention something about a companion bill A 33. Evidently if A 27 goes through as it is, A 33 will go through, and if one does not go through, the other one won't go through. Now we ourselves certainly do not like to see any item being sold as a loss leader. We certainly do not want to see cigarettes sold as a loss leader because we have so many things that we are subjected to that must be sold as a loss leader, not because we want to, but because the competition forces us to do so. So we say that instead of singling out any one particular commodity as cigarettes under a fair trade bill, or to avoid loss leaders, let us take in all the items; protect the grocer, protect everyone who is affected by loss leaders.

At the present time, I might point out to my very fine colleagues in the retail trade, they have protection, if it is just tobacco they want to be protected from, under our fair trade laws. Of course under that particular law we cannot get protection on everything, but if it is a question of singling out certain commodities, then that is a very good law to go to for that protection. So I say, gentlemen, let us be protected so that we are not subjected to loss leaders, but do not let us single out any one particular item.

Now I think I covered the subject fairly well. I do want to leave this final thought, that we as neighborhood grocers feel we have an obligation to the consumer to give her merchandise at the most economical prices, at the best quality obtainable, and in view of that, whatever taxes we can avoid the consumer paying, whatever increased prices we can avoid the consumer paying because of taxes, we want to do so. So we are on record to oppose bills A 24, A 27 and, of course, the companion bill A 33. Thank you very much.

MR. KATES: Thank you, Mr. Kaminows.

MR. KAMINOWS: I want to conform with the request of our Speaker not to call upon many people, but I do want to call upon Mr. William Lief, who is a neighborhood grocer, and who happens to be Vice-President of the New Jersey Food Merchants Association.

MR. WILLIAM LIEF: Vice-President, N. J. Food Merchants Association

Mr. Speaker, I do not want to take up any time. I have been in the business for over 35 years. Not only am I a neighborhood grocer, but we carry a full line of food products. I wholeheartedly agree with Mr. Kaminows and I support his remarks.

MR. KATES: Is there anyone else in your group, Mr. Kaminows?

MR. KAMINOWS: That is all just now, Mr. Kates.

MR. KATES: I would like to make a suggestion

that we hear further comments on A 24, the so-called beer tax bill. Does anyone wish to be heard on that subject?

MR. ROCCO B. BUNINO, Chairman, United Licensed Beverage Council

I am Chairman of the United Licensed Beverage Council comprising every retail association in the State of New Jersey, representing in the neighborhood of 14,000 licensees and 100,000 employees, and as a licensee and representative of this group I want to say that we are very much opposed to any further taxes on an industry that everyone in this room is well aware is very much overtaxed, notwithstanding the fact that we are one of the largest revenue and tax paying industries in the State. For some reason or other it seems that every time there is some revenue to be thought about or gotten up by our State Legislature we seldom miss the ax. It has not been too long ago when we were given a 50% increase on the whiskey end of our business. We have had a substantial increase in our beer. Speaking of regulations, as I heard another gentleman here this afternoon comment, Lord knows that our industry is by far the most highly regulated industry in this State -- far more regulated than a doctor who deals in lives and a druggist who deals in poisons, and anyone else that you can think of. We certainly are not opposed to increased revenue to help our school system, but there is a difference between overtaxing an already overtaxed industry and taxing someone or group that is well able to pay. In our industry it makes no difference to us whether we get taxed out of business or

whether we get put out of business through other things, and that is exactly what is going to happen to the liquor industry of the State of New Jersey if this taxing continues. We are struggling to survive now.

It is well known by the Legislature of the State of New Jersey that our industry is over-populated. That is why you acted last year and gave us the limitations bill. It came a little bit late, but better late than never, and by the same token, the overtaxing of our industry will produce an influence for unlicensed dealers and bootleggers to take a more active part in it. It is a known fact that the State of New Jersey is free and clear, about as much of it as is humanly possible to keep a State free and clear of unlicensed activities. We have a clean State. Our business is cleaning itself day by day. Let us not overburden an already overburdened industry.

Now at this time, if the Chairman will permit me, I would like to call on Joseph Meehan the Secretary of the New Jersey Licensed Beverage Association.

MR. JOSEPH A. MEEHAN, Secretary, N. J. Licensed Beverage Association.

Mr. Chairman, members of the Committee, ladies and gentlemen: The Association I represent is heartily opposed to Assembly bill A 24 on the ground that it places a further burden upon us as retail merchants. I would like to say that we have assumed much in the way of increased taxes since 1933 without passing it

on to the general public or to the consumer. We have, however, been forced to cut the size of glasses. This became necessary because of the natural increase in the cost of materials. However, in most instances the reduction in the size of glasses is approximately 20%, while the increase of retail costs to us has been more than 40%. Any further increase in tax will lead to the bankruptcy of many small tavern owners who will not be in a position to sell their merchandise profitably at the present price charged by him, and certainly at the present time he cannot ask the consumer for a higher price for the glass he is now being served. All in all, any tax increase on beer hits the low income citizen, for he is the one who consumes most of the beer sold in New Jersey.

It will mean that beer can no longer be sold at 10¢ per glass and thereby the working man of New Jersey will be in most instances deprived of his glass of beer after a hard day's work. This, gentlemen, is not a good condition for the State of New Jersey.

While we are in agreement that our State does need further taxes to meet the increased cost of government, we do also believe that the alcoholic beverage industry in New Jersey is already overtaxed, and that you gentlemen should look to some other sources for this needed tax, or at least wait until the federal wartime excise tax on alcoholic beverages is repealed before any further taxes on beer is imposed, so that we may maintain the present 10¢ glass of beer for the working man of New Jersey.

I would like to ask permission to file a

memorandum at a later date, if I may.

MR. KATES: Certainly.

MR. GUS WALDRON, President, N. J. Retail Liquor Package Stores Association.

Ladies and gentlemen, I am here on behalf of our group to file a protest against any further increases in taxes on beer or alcoholic beverages. We feel that the time has come when we must assert ourselves and try to get a little more recognition from the people in authority in so far as trying to tax us out of business. In placing these taxes on the various commodities that we handle it is creating not only a great hardship on the business, but it is placing a greater hardship upon the consumer. The consumers of beer, as you might readily understand, are made up mostly of working men and their families. Not being in the same category where they might be able to buy the imported liquors and whiskeys that have been almost taxed out of existence, they find today that they are running into the same situation as those who can better afford the higher priced commodities.

For your information, I would like to say that prior to 1917 there was a tax in this country on beer of 60¢ a barrel. That has grown in leaps and bounds until right before the war, or during the war, it had reached a point of \$7.75, and now it has reached \$10.76 a half. If this new tax goes on it will be 50% over the first of the war years. Who suffers? Well, we can say

we have to pay it, and we pass it on to the consumer. Unfortunately, the consumer happens to be the individual who makes less money than any other branch of people in this State, and they and their families must suffer because of the fact they cannot pay the added taxes to enjoy a bottle or a glass of beer. The taverns have tried to keep a low cost per glass, but if the tax is going to go up they will be compelled to ask for more money for smaller glasses, and they will be condemned by the men who make these regulations saying that they are racketeers or grafters, and trying to hornswaggle people out of hard earned money.

Now, gentlemen, there are a lot of reasons why you should consider the fact that this added tax on beer should be eliminated. We have conditions throughout the State that are entirely different from one another. I heard one gentleman say it was necessary to raise extra revenue in order to take care of the increase in the cost of government. We will not deny the fact that more money is needed, but we do say that if they would use more judgment and put less frills into the operation of government, possibly they could save the necessary money on that particular score. We also want to know why we should be picked out to have to pay a greater price in order to stay in business and to pass it on to those who can least afford it. A beverage is a beverage, and the fellow who comes out and says, "Oh sure, put an extra tax on beer" - those folks may like tea or coffee. That is a beverage. Why isn't a tax put on their beverage? They enjoy it as do the people who

take the beer. But no, that would hit the folks who are too active in trying to make our business look ridiculous.

Here in Trenton -- I happen to be a native of the town, formerly from Paterson, Senator -- I want to say that you cannot blame any individual for wanting to drink a glass of beer. If any of you have tasted our water during the past winter, you can readily understand that the flavor is certainly anything but pleasant. So we must either resort to getting spring water or go to a bottle of beer. Now, are you going to cause the folks who can least afford it to be made to pay additional sums for a little beverage that they enjoy? I do not think after you have gone into the matter thoroughly you will say that these folks should suffer. Although it wouldn't surprise me. We have been kicked around like an English soccer football all of our lives and we are getting accustomed to it, and we feel now that the time has come when we should make a declaration and ask for a little assistance instead of being pushed down in the old hole.

So, gentlemen, we make this plea with you, that you go on record opposing any further increase in taxes on beer in the State of New Jersey. I thank you.

MR. JOHN TEEYAN, President, New Jersey Tavern Association

Mr. Chairman, we go on record as opposing A 24 and A 27. The cigarette tax will affect the tavern man where you tax machines. We are the assessed party. We wish the Committee to note that beer in 1939 cost us \$7.75. Under the proposal of this tax, beer will go to approximate 10 or 11 dollars. Sure, they will tell you they have cut the glasses, but we feel that the tavern group is certainly absorbing its share, with the increase in costs in rents, which was never controlled, in the increase in labor and utilities as a whole. I say that you will be putting a very, very unfair burden upon the largest tax paying group in the country. And I ask, and I plead, with the two previous speakers, that for the first time the Legislature think in the manner of relief for these people who are in the majority the small - and very small in more than a lot of cases - business men.

When the Governor asked us for a fifty percent increase per gall and told us it was needed, we as a group did not oppose it, but we are positively opposed to any further increase in taxes whether it be on cigarette machines, or whether it be on beer or whiskey.

Thank you. We will file a brief further.

MR. BUNINO: We of the retailers wish to thank the Committee for their courtesy this afternoon.

MR. KATES: IS there anyone else?

MR. JOHN E. FARRELL, Assistant Secretary, P. Ballantine & Sons of Newark, New Jersey

I wish to make it clear that the remarks I am about to make are made on behalf of the brewers who are members of the New Jersey Brewers Association, comprising some eight local breweries. We have prepared a memorandum which I think is in the hands of the members of the Legislature, but if it is not, we will leave some copies here with you today. I therefore will make my remarks very brief.

New Jersey, in addition to being one of the high beer consuming States, is considered a center of the beer manufacturing industry. We are the fifth largest State in the Union in point of beer produced here in New Jersey. Our principal argument, gentlemen, is this: The Federal and State excise taxes today constitute 42% of the cost price of a barrel of beer to the retailer. In other words, a barrel of beer which sells for, we'll say, somewhere in the neighborhood of \$21.00 or \$21.50, of that amount nine dollars and three and one-third cents is made up of Federal and State excise taxes. And I say and emphasize "excise taxes" because in addition we pay all of the other taxes that are paid by business and industry. As a matter of fact, our business is peculiarly susceptible to high ratable assessments because it requires large plants and large amounts of personal property in order to carry on our business. To cite an example with which I am at first hand familiar, P. Ballantine and Sons in the City of Newark

this year will pay in real and personal property taxes that amount somewhere between three and four hundred thousand dollars. That has nothing to do with excise taxes. That is real and personal property taxes to the City of Newark. That is in addition to the corporation franchise tax we pay to the State of New Jersey, unemployment taxes, income taxes, and all of the other taxes and burdens that go with business. So this excise tax is somewhat in the nature of an additional burden and not a substitute for taxes that other people have to meet.

Now, when you are taxing our product, that is the Federal government and the State, to the extent of 42% of its retail sales price, we say you have gone a little beyond, or a great deal beyond enough, and any further tax will certainly kill the goose that lays the golden egg. We are not alone in those sentiments, gentlemen. No less a personage than the Governor of this State, within the past few years, has to my personal knowledge on several occasions stated that beer taxes are now too high, and he was speaking of the combined Federal and State excise tax. Within the past two weeks at a meeting with Governor Driscoll which I attended, the Governor stated, and I am substantially quoting his statement, "Gentlemen, I am still of the same opinion. Beer taxes are too high". So again I wish to point out, gentlemen, that we are not alone in the opinion that we are already over taxed.

Now, we are a licensed industry in the State of New Jersey. To police our industry requires a great amount of

money, and that is another point I wish to make clear to the Committee. In 1947 the cost of the State of New Jersey was five hundred and 23 thousand and some odd dollars to operate the Department of Alcoholic Beverage Control. That was not paid for out of taxes from our industry; that was paid for out of license fees from our industry, which we pay in addition to taxes. In other words, the State of New Jersey in 1947 collected \$636,000 in State license fees. In other words, a surplus over and above the amount needed to operate the A.B.C.. And I want to again make it clear that they were State license fees in addition to our State excise taxes which are at present entirely surplus and go into the general revenues of the State, and are not used in any part toward the benefit or policing of our industry.

Now, there are some incidental results which the Committee and Assembly must consider in connection with this bill. You have heard the representatives of the retail trade tell you today that they cannot absorb any further increases. The Assembly cannot evade or sidestep the fact that this increase is eventually going to be paid by the beer consumer, the working man. So the glass of beer goes to 15¢ -- down goes consumption; down goes the total over-all taxes collected by the State. Your wholesale and retail dealers will suffer accordingly as will we the manufacturers. Practices may arise in the industry, which today we are happy to say do not exist as they do in other States, and I mean unsavory practices that are resorted to for the

purpose of collecting additional, unlicensed and illegal revenues. And again that view is shared by the Governor of this State who has on occasion stated that he is fearful of higher taxes because of the practices that may arise as a result of higher taxes.

Now we, as I said before, are a very substantial industry in the State of New Jersey. We give employment to approximately some 9,000 people. We are part of an industry which includes some 12,000 retail dealers in addition to many wholesale dealers, all of whom pay not only liquor taxes, license fees, but also the other taxes that are normally assessed on retail and wholesale businesses in this State.

In closing, gentlemen, I simply want to point out that, assuming the State needs more money, I think that you cannot overlook the fact that in this increase in beer taxes you are picking on an already overtaxed industry. In effect, you are passing along to the working man a sales tax on his glass of beer, and we must concede, gentlemen, that he is the fellow who is the big beer consumer and the fellow who is least able to pay it. You cannot overlook the law of diminishing returns, and as I mentioned before, you are killing the goose that is laying the golden egg and bringing in substantial taxes to the State at present.

Therefore, on behalf of the New Jersey Brewers Association and its members, I wish to register our very violent protest to this proposed Assembly 24. Thank you.

STATEMENT BY  
NEW JERSEY BREWERS' ASSOCIATION  
ON PROPOSAL TO INCREASE MALT BEVERAGE TAXES  
ASSEMBLY 24

In considering the proposal to increase the malt beverage tax payable to the State of New Jersey from 3-1/3 cents per gallon to 5 cents per gallon, it must be remembered that the total tax (State and Federal) paid upon each barrel of beer sold in New Jersey is now \$9.03, or slightly more than 42 per cent of the total present price (including taxes) of most beers to the retailer. The normal average price per barrel is \$21.50, of which \$9.03 is tax.

The tax here under consideration has no relationship to the matter of enforcement. This tax is imposed solely for the purpose of collecting revenue for state purposes. A reasonable effort has been made to comply with the original theory that licensees should pay license fees in sufficient amount to pay the cost of enforcement of the alcoholic beverage laws and the cost of licensing the business of manufacturing and selling alcoholic beverages and the cost of administering the laws applicable to that business. The cost of operating the Department of Alcoholic Beverage Control for the fiscal year ending June 30, 1947 was \$523,594.94; there was appropriated for this purpose for the year ending June 30, 1948 the sum of \$575,205.00;

and the proposed appropriation for the year ending June 30, 1949, is \$580,190.00. (Budget Message, page lvii.) The actual state income from beverage licenses for the fiscal year ending June 30, 1947 was \$638,272.96; the estimated income for the year ending June 30, 1948 is \$650,000.00 and for the year ending June 30, 1949 is \$650,000.00 (Budget Message, page xxx).

Thus, the beverage taxes, which for the fiscal year ending June 30, 1947 were \$13,169,337.62, which for the year ending June 30, 1948 were estimated at \$13,500,000.00 and for the year ending June 30, 1949 are estimated at \$14,000,000, apparently without giving consideration to the proposal to increase malt beverage taxes, are taxes which are in no way related to the administration and enforcement of the laws applicable to the product upon the sale of which the tax is imposed.

This places malt beverages in that class of products which are taxed on a basis entirely separate and apart from the products of industry generally.

The special taxation of such a class of products of industry has a long history, and possibly the original reason for such taxation is not now clearly known. It may be a combination of the application of the theories of taxation of luxuries, of hidden taxes and of the theory of getting taxes where they can most easily be obtained. But it has

been a fact that malt beverages are used very largely by people of the low and modest income class. The theories of taxation of malt beverages cannot be carried too far in the face of the fact that to do so will conflict with the fact that low and modest income earners consider beer their beverage.

Whatever the theory, the tax has been an ever-increasing one. Malt beverages were first subjected to taxation on August 1, 1862. The rate first imposed was \$1.00 per barrel. From that time until October 3, 1917 the tax ranged between 60 cents per barrel and \$2.00 per barrel. For about a year and a half commencing October 4, 1917 the tax was \$3.00 per barrel. Between February 25, 1919 and October 28, 1919 the tax was fixed at \$6.00 per barrel. The above described taxes were imposed by the Federal government. Generally, during that period, states imposed no taxes upon the manufacture or sale of malt beverages.

Since repeal of the national prohibition amendment the tax has continued to increase. The first post-repeal federal tax was \$6.00 per barrel. Very shortly that tax was reduced to \$5.00 per barrel, which rate continued in effect for more than six years. New Jersey imposed its first tax immediately after repeal at the rate now in effect, amounting to \$1.03 1/3 per barrel. The federal tax has gradually been increased to

\$8.00 per barrel. The majority of that increase has been related to the war effort and the necessities of that effort. However, the tax is still \$8.00 per barrel.

That the tax has not been further increased by the federal government and that it has not been increased more by the various states during recent years undoubtedly has some relation to the danger of diminishing returns as applied to taxation. Whether the time has come when it can be known whether there is danger of diminishing tax returns to either the federal government or any state cannot be definitely answered. There has been little opportunity to observe the application of the increased taxes to a free and normal market. The war activity, with its resultant population shift and with its abnormal acceleration of maturity of members of the armed forces probably has increased temporarily the demand for malt beverages. That unusual situation is in process of returning to normal. Necessarily, and in common with all other merchandise, costs of production have increased because of increases in wages and higher material costs resulting in a corresponding increase in the price of the product. The effect of these changes must be observed before it is safe to assume that an increase in tax can be added to the consumer's price without a serious reduction in consumer demand.

Obviously, there is a point at which an increase in the rate of the tax upon a particular product may result in a diminishing tax return. Whether that is the present situation in New Jersey depends on more factors than the simple question of the proposed tax increase. Influences upon the future market, increases in the consumer price of the product and social and economic readjustments natural to every post-war period must be known before it can be known what will be the effect of an increase in tax.

There is some evidence that alcoholic beverages are now at the danger point. On March 21, 1947, Chapter 18 of the Laws of 1947 became effective and increased the tax on spirituous liquors from \$1.00 to \$1.50 per gallon. In 1946 9,337,500 gallons of such liquors were taxed in New Jersey. In 1947 the gallonage was reduced to 7,300,000. With an increased tax in effect from March 21, 1947 the total tax paid to the state was less in 1947 as compared with 1946 by more than \$100,000.00. Consider the additional factors that such liquor was in greater supply in 1947 than in 1946 and that merchandise purchases generally indicate a greater purchase power in 1947 and the result is a strong indication that the tax probably was less in 1947 than it would have been without a tax increase.

The recommendation of the Governor for an increase in the

malt beverage tax at this time is contrary to his thinking as expressed at about the time he became a candidate for election to the office of Governor. He then expressed the opinion to representatives of the malt beverage industry that the product was already bearing too great a tax load; in fact, a load that carried with it certain dangers. He further expressed the belief that the federal tax should be again returned to the pre-war rate of \$5.00 per barrel and that when that was accomplished the state should not increase its tax upon this product by more than one-half of the amount of the reduction in the federal tax.

The danger understood to have been foreseen by the Governor was not that of possible bootlegging of beer, because such a bulky product does not readily lend itself to bootlegging.

There is, however, another very real danger. It is that if the cost of alcoholic beverages generally is so increased by taxation or otherwise as to decrease the normal earning expectancy of the operators of retail outlets, there arises a very strong inclination to resort to various illegal means of supplementing income. It may take any one of many forms. It may be the handling of alcoholic beverages which can be bootlegged and upon which, therefore, the profit may be greater. It may be trade practices unsound in the alcoholic beverage industry. It may be an increase in those activities which for public reasons are prohibited in or upon retail

consumption outlets. It undoubtedly would mean bankruptcy for some retailers.

It has already been demonstrated in the State of New Jersey that the alcoholic beverage industry is not free of all economic limitations. Admittedly New Jersey is a state well located from the point of view of the conduct of the business of brewing. Information available indicates that except for war conditions one of the largest breweries in the United States would have located a plant in New Jersey. Another has purchased and is operating a brewery in New Jersey. Yet the number of breweries has decreased. There have been failures. One brewery in the State of New Jersey is now endeavoring to reorganize.

Very recently there has been evidence of a downward trend in the sale of malt beverages not only in New Jersey but in many other localities. Apparently, therefore, there does come a time when a product generally regarded as having a market among those people in the lower income level loses that market because of the price element.

An analysis of the rates of taxation of malt beverages by the states discloses anything but uniformity. Trends are hard to determine. It does appear, however, that those states having the highest taxes are those which apparently do so generally for the purpose of discouraging the sale of the

product. The exceptions, if any, appear to be those cases in which the state is endeavoring to cash in on a tax which it believes will be primarily paid by visitors. This may be the explanation of the Florida tax and possibly of the Maine tax.

There is one trend that seems quite obvious. Approximately 80 per cent of all malt beverages produced in the United States are produced in ten states. In the order of production they are as follows, with the rate of taxation set opposite each state:

		<u>Rate per barrel</u>
New York	3 1/3¢ per gallon	\$1.03 1/3
Wisconsin	\$1.00 per barrel	
Pennsylvania	\$2.48 per barrel	
Missouri	\$ .62 per barrel	
New Jersey	3 1/3¢ per gallon	1.03 1/3
Illinois	4¢ per gallon	1.24
Ohio	\$1.50 per barrel	
Michigan	\$1.25 per barrel	
California	\$ .62 per barrel	
Indiana	\$ .08 per gallon	2.48

These figures indicate that in general those states which are large producers of malt beverages have kept the tax upon the sale of the product at a low rate. Among the really sizable producers, Pennsylvania is the exception. Its rate was increased last year and, it is submitted, under very special circumstances. Apparently these states feel that because the industry otherwise greatly contributes to their economic welfare, it is reasonable that the industry should have the benefit of the low rates above set forth.

Examination of the tax rates applicable to malt beverages in our neighboring states, excepting Pennsylvania, discloses that New York, Connecticut, Maryland, Delaware and Rhode Island impose malt beverage taxes at rates equal to or lower than the present New Jersey rate.

The Pennsylvania tax, which is noted as an exception among both the large manufacturing states and our neighboring states, was increased in 1946. The increase is understood to have been a part of a program including for the first time the imposition of a tax upon the sale of non-alcoholic beverages.

There was some suggestion at one time that New Jersey might follow the Pennsylvania example of imposing taxes upon the sale of non-alcoholic beverages and that, as occurred in Pennsylvania, the result might be a substantial increase in taxes upon malt beverages. The Association's counsel conferred with the Governor and inquired whether any program such as that of Pennsylvania was being considered. He reported to the Association his assurance from the Governor that no such program was under consideration and that should there be any change in consideration of tax matters resulting in serious consideration of the Pennsylvania program, the industry would be promptly notified and would be given an opportunity to express its views.

This, coupled with the early expressions to the effect that the product was already overtaxed, led the industry to believe

that no move toward increase in the malt beverage tax was to be expected notwithstanding much public information indicating the necessity for more state income and notwithstanding the fact that some of the proposed beneficiaries of that increase were publicly suggesting a soft drink tax and an increase in the malt beverage tax.

It was therefore somewhat surprising to learn of the introduction of Assembly 24. Ever since that occurred there have been continuous efforts to obtain an appointment with the Governor and present to him the industry's views. It is recognized that illness has very seriously retarded the Governor's activities during all of this period. Therefore, in view of the possibility of early action upon tax legislation, this method of presenting the industry's views is being availed of.

MR. KATES: Thank you, Mr. Farrell. Is there anyone else to be heard at this time?

MR. CHARLES ULIGOFF, Trader Horn Tobacco House, Hoboken, N. J.

I have heard a lot of discussion pro and con about this bill, and you too. You probably are in as much confusion as I am, but I am in a different type of confusion.

In this bill you referred to a distributor, a wholesaler, a retailer, a consumer, a place of business. I am in the mail order business. I have a fairly substantial traffic in cigarettes which go outside of this State. I have been in business for over five years. I believe I am in the right place to get an interpretation as to what a law means. So assuming that I am not wrong in that contention, I would like to find out if it is possible that I could be told what this law means in reference to me, and that is the mail order business. There is nothing in this law which says anything about out-of-state sales.

I would like to point out for the Committee's consideration just a few facts. If this sales tax goes through, I am out of business. Make no mistake about it. We heard about the grocers and we heard about the tavern owners, but they will have their sign on the window long after the tax is in. Make no mistake about that. I want to know if it is possible to find out if this will put out the entire mail order business automatically

we  
or will/be permitted to operate under penalties the business we have. Now then, if you put the tax on and we are put out of business, there is a substantial loss to be made to business and to property owners in this State. Automatically a good many concerns would go out of business. Their landlords will not get rent. As a second result, the State suffers no loss in revenues from any sales we make because we do not make them within the State. It is made outside the State. Now then, what happens if we go out of business because no provision in this law is left there for our protection. It means that we are either going to go out of business, or we are going to go elsewhere. I don't think there is any mistake about that. Assuming that a goodly portion should go elsewhere to another tax free State, I don't have to elaborate very finely on where our most potential source of business will be derived. Why we can do very well with what we will get out of New Jersey alone. That makes New Jersey a three time loser. They lose on business from other merchants that get from us. They collect no tax that way. And we will probably - not to your liking of course - be the source of getting tens of thousands of people who will divert their sales from the legitimate New Jersey retail outlets, and they will come to us. So New Jersey loses three times.

Now then, what I would like to know is: Can we stay in the State of New Jersey, conduct business in

New Jersey and not have to go out of business, and go elsewhere and make the State suffer by that? Do you suppose I could get a classification of that phase of it?

MR. KATES: Yes sir, you can. But at this time I would say that I do not think it is within the province of this Committee to, at this point, interpret the law. We would like to hear your view on it. Now, if there is some vagueness present, we are receptive to amendments whereby it might be clarified. It would seem that hearing your pronouncement on this subject that it depends on where the actual sale takes place. Now, we would have to know something about the facts and circumstances surrounding your business.

MR. ULIGOFF: Well, anything that the Committee might like to know, I would be very happy to tell them, but there are several points in this bill, and it is article 3, paragraph 303, which is sales exemption. It says, "No tax imposed by this act shall be levied upon cigarettes or the sale of cigarettes which this State is prohibited from taxing under the Constitution or the statutes of the United States." That would take in inter-state commerce as I read it, and since we are engaged wholly and entirely in inter-state commerce, I am wondering if that is the exception in the sales exemption from taxes that would cover me. That would be very plausible.

Secondly, you have under wholesalers and retailers a very substantial paragraph. "Wholesale dealers and

retail dealers shall not accept deliveries of unstamped cigarettes. All packages of cigarettes shall be examined by wholesale and retail dealers within twenty-four hours of their receipt and they shall, within forty-eight hours of such receipt, return any and all unstamped cigarettes to the vendor...." Then it says, "Unless substantial evidence to the contrary be shown, the possession of any unstamped cigarettes by a wholesale or retail dealer shall be prima facie evidence that such cigarettes were possessed in violation of the provisions of this act." All right. Now, if we are not making any sales within the State, certainly there is no prima facie evidence that we are violating this section of the bill.

I would like to take this opportunity, if the Committee pleases, to make a notation that it may be well not to force the mail order businesses out of being, which will automatically happen if we are not licensed, and then let us run around the country to some distant point as far as California. I was born in New Jersey and lived here for 35 years. I love New Jersey too much to want to take a chance of getting the business away from here. But I ask you, if you were in that type of business and you wanted new business, what place would you go to get any new business and take it away from the legitimate retailer and distributor here? That gives you fellows a very fine situation.

MR. KATES: The Committee will place, as a matter of record, the interpretation of article 3, section 303 and section 406 relating to mail order business.

MR. ULIGOFF: Have you section 405, Mr. Kates, in which it says, "...all deliveries except those to points outside the State, to other licensed distributors and those which this State is prohibited from taxing under the Constitution or the statutes of the United States."

MR. KATES: Please put 405 on the record also.

MR. ULIGOFF: Thank you very much for your attention, and I hope we can get that phase of it cleared up, because there is no sense in New Jersey looking to lose business when we are trying to get business for Jersey.

MR. KATES: Thank you very much. Is there anyone else?

RICHARD H. CLEMENS, State Beverage Distributors of New Jersey

Mr. Chairman, we oppose an increase of tax on beer for the simple reason that, as you have heard here this afternoon, the tavern owners talk of raising the price of their beer or cutting their glass, and the beer that is sold across the bar today is small enough, and if it is cut any more or raised to 15¢ your consumption throughout New Jersey will take a big drop, and with the drop in consumption in beer, actually your income from your tax is going to drop also.

I just want to point out one other thing. I come from Union County, and I have a home delivery business on bottled beer, and in 1939 we were selling a case of beer to the home

for \$2.00. With the increased cost in brewery costs, and the increase in taxes, we are now charging \$2.85, and as you gentlemen are well aware, the average take home pay from the plants and factories now in the City of Elizabeth, where we are located, is not very high. We have the Singer Manufacturing Company, and the Standard Oil Company, who employ 15 to 18 thousand men, and it is a known fact that their average take home money has dropped down from in the fifties to forty, and sometime thirty, and if the taxes keep going up on beer, the consumption throughout my territory and the rest of the State will fall off. We as State beverage distributors oppose the increase of this tax, and later on our secretary will file briefs if the Chairman will permit.

MR. KATES: The Chair will permit that. Is there anyone else who is desirous of being heard? If not, may I take this opportunity on behalf of the Committees of both the Senate and the House to thank everyone for their attendance and the courteous attitude shown here, and the decorum which was evidenced today. We are hopeful that not only your views may be considered as a part of this hearing, but we shall be receptive to any substitutes or ideas that you may have in the way of legislation concerning other sources of revenue to this State.

I also want to announce that on Tuesday of next week we shall continue with these taxation hearings at ten o'clock in the morning at which time we will hear about the so-called railroad

tax bills, Assembly #34 and #35. And at 2 o'clock in the afternoon of the same day we will have a hearing on the so-called gross receipts tax bills, and if time permits we will go across the board with a hearing on the racetrack legislation.

Thank you. We will declare the hearing adjourned.

THE FOLLOWING STATEMENT WAS SUBMITTED BY CHARLES D. ANDERSON,  
ASSISTANT COMMISSIONER OF EDUCATION.

The State School Aid Commission recommended the following taxes:

1. A cigarette tax. Experience in other states indicates that each levy of one cent per pack will produce about \$4,500,000.
2. An additional tax of one cent per gallon on gasoline. This will yield about \$9,000,000.
3. Providing the Federal Government abolishes its tax on amusements, a three percent tax on admissions to amusements. This will yield about \$1,500,000.
4. A one cent tax on each five cent bottled soft drink plus a tax of .76 on each gallon of soft drink syrup. This will yield about \$7,500,000. A tax on soft drinks would probably necessitate an increase in the tax on other beverages in order to place all beverages on a comparable basis. Such an increase would yield an additional \$4,500,000.
5. A five percent tax on cosmetics. This will yield about \$1,500,000.

The Commissioner of Education feels that these were good recommendations, and still feels so.

In his Budget Message, Governor Driscoll recommended the following taxes:

1. A three cent cigarette tax to finance additional State aid for schools and the debt service on necessary institutional construction as recommended by two outstanding citizen committees to produce \$14,200,000 net.
2. Increase the lower range of the State's share of the pari-mutuel take from four to five percent to produce \$1,500,000.
3. Increase the present tax on beer from 3 1/3 cents per gallon to five cents per gallon to produce \$1,800,000.
4. Assess a gross receipts tax of 1 1/2 mills on business properly allocable to this State, as an adaptation of the recommendations of the second report of the Commission on State Tax Police, to produce \$19,500,000.

The Commissioner of Education feels these would be satisfactory taxes.

The following are letters submitted by  
the New Jersey State Department of Taxation and Finance.

March 10, 1948

Senator Charles K. Barton, Chairman  
Senate Standing Committee on Taxation,  
Assemblyman Emory S. Kates, Chairman,  
Assembly Standing Committee on Taxation  
State House  
Trenton, New Jersey

A-33 - Unfair Cigarette Sales Bill.

Gentlemen:

Your Committees now have under consideration A-33,  
"An act to prevent unfair competition and unfair trade practices in  
the sale of cigarettes \* \* \*."

This bill was prepared by the Division of  
Taxation, State Department of Taxation and Finance, with the  
assistance of counsel for the Tobacco Distributors' Association.

It is respectfully suggested that the bill  
should be considered as a companion measure to A-27 (The Cigarette  
Tax Act).

The tobacco industry feels that if a cigarette  
tax law is to be enacted in this State, then an unfair cigarette sales  
act should be adopted at the same time.

Your efforts in having this measure favorably  
reported out with the Cigarette Tax Act will be greatly appreciated.

Very respectfully,

Homer C. Zink, Acting as  
Director, Division of Taxation.

By (s) Aaron K. Neeld  
Assistant Director  
Division of Taxation.

AKN:MR

March 10, 1948

Senator Charles K. Barton, Chairman,  
Senate Standing Committee on Taxation,  
Assemblyman Emory S. Kates, Chairman  
Assembly Standing Committee on Taxation  
State House  
Trenton, New Jersey

A-27 - Cigarette Tax Bill

Gentlemen:

Assembly Bill 27, being "An Act imposing a tax on the sale \* \* \* of cigarettes \* \* \*," is now under consideration by your committees.

This measure was drafted by the Division of Taxation at the direction of the Governor.

It will be greatly appreciated if the following changes can be made in the printed copy of the bill before it is reported out of committee:

Page 2, lines 12 and 13: After "State" insert "unstamped"; and after "cigarettes" eliminate "at least seventy-five per centum (75%) of which are".

Page 2, line 18: After "cigarettes" insert "at least seventy-five per centum (75%) of which are".

Page 8, Section 405, line 3: After "distributor" add "within twenty-four (24) hours of their receipt, exclusive of Saturdays, Sundays and legal holidays, and".

Page 10, Section 408, line 13: Change "of" to "or".

Page 12, line 11: After "judicial" insert "district".

Page 16, Section 607, line 16: Change "confirmation" to "confiscation".

For the convenience of your committees a printed copy of the bill with the above changes indicated therein is attached hereto.

It is respectfully suggested that A-33, being the Unfair Cigarette Sales Bill, be considered a companion measure to the Cigarette Tax Bill and that the two move along together.

In the course of the hearing on A-27 some misrepresentations were made. It was said:

All consumers must be licensed: Not so. Sec. 101 (f) specifically provides that a consumer, within the intendment of the act, is only such person as shall bring or cause to be brought unstamped cigarettes into the State. This provision is intended to prevent evasion of the tax by bringing in or receiving by mail unstamped cigarettes. Only those who do so must be licensed.

All retail dealers must file monthly reports: This is a misinterpretation of the provisions of the Bill. Section 205 (p. 6, lines 10-12) provides that retailers shall file reports only "upon notice" from the direction of taxation. This is an administrative measure which will permit the director to require a retailer to report where circumstances may indicate that the dealer is resorting to tax evasion practices.

Mail-order houses: A representative of a mail order house inquired as to whether his shipments of cigarettes by mail to points outside the State would be subject to tax. Cigarettes sold for delivery outside the State are not subject to tax. (Sec. 405, Sec. 409). It is to be noted, however, that a mail order house licensed either as a distributor or as a wholesaler would be required to file monthly reports with the director and by interchange arrangements with officials of other cigarette tax states, schedules of all out-of-state shipments would be forwarded to the officials of the states concerned. New Jersey, to date, has been the most important center of cigarette mail order house business in the country. Their activities have been adversely felt by all of the 38 cigarette tax states. Many states, especially our neighbors, have estimated revenue losses of from one to three millions of dollars annually. New Jersey will, of course, if it adopts a cigarette tax, be subject to the same attack. That accounts for the threat that these mail order houses will move to Delaware, Maryland or some other state without a cigarette tax law so that they may add this State to the list of those which they now flood by mail with unstamped cigarettes. The Committee may be interested in the fact that there is now pending before the Ways and Means Committee of Congress a bill which would go a long way toward stamping out this tax evasion practice.

Vending Machine License Fee: The bill provides an annual fee of \$5.00 for each vending machine. This, the vending machine operators contend is too high. Notwithstanding this contention it is believed that their opposition to the \$5.00 fee would be lessened, if not removed, if they were assured that it would be in lieu of all other municipal license fees on cigarette vending machines. It is believed that this is the effect of the proposed bill since R. S. 40:52-1 provides that:

"Nothing in this chapter contained shall be construed to authorize or empower the governing body of any municipality to license or regulate any person holding a license or certificate issued by any department, board, commission, or other agency of the state. \*\*\*."  
(As amend. by c. 92, L. 1941; c. 245, L. 1944 - N.J.S.A. 40:52-1)

Cigarette Tax Laws Elsewhere: There are presently 38 states imposing a tax on the sale and consumption of cigarettes at rates ranging from 1¢ to 6¢ per standard pack; those close by having the following rates:

Pennsylvania	4¢
New York	3¢
Connecticut	3¢
Maine	4¢
Massachusetts	4¢
Rhode Island	3¢

Three states which enacted a cigarette tax law on July 1, 1947, viz., Indiana, Michigan and Minnesota, adopted a 3¢ rate. Cigarette tax laws have been in operation in Pennsylvania and Connecticut since 1935, and in New York and Massachusetts since 1939.

It is estimated that a 3¢ tax in New Jersey would yield approximately \$14,200,000 annually.

Very respectfully,

Homer C. Zink, Acting as  
Director, Division of Taxation.

By (s) Aaron K. Neeld  
Assistant Director  
Division of Taxation.

AKN:MR

