

P U B L I C H E A R I N G
before
SENATE REVENUE, FINANCE & APPROPRIATIONS COMMITTEE
on
SENATE CONCURRENT RESOLUTION NO. 76

(Proposes to amend the State Constitution
authorizing the taxation of property
according to classifications and standards
of value to be established by law)

Held:
July 19, 1974
Senate Chamber
State House
Trenton, New Jersey

MEMBER OF COMMITTEE PRESENT:
Senator Joseph P. Merlino (Chairman)

* * * *

SENATE CONCURRENT RESOLUTION No. 76

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1974 SESSION

By Senator LYNCH

A CONCURRENT RESOLUTION proposing to amend Article VIII, Section I, paragraph 1 of the Constitution of the State of New Jersey to authorize property to be taxed according to classifications and standards of value to be established by law.

1 BE IT RESOLVED *by the Senate of the State of New Jersey (the*
2 *General Assembly concurring)*:

1 1. The following proposed amendment to the Constitution of
2 the State of New Jersey is hereby agreed to:

PROPOSED AMENDMENT

3 Amend Article VIII, Section I, paragraph 1, so that the same
4 shall read as follows:

5 1. (a) Property shall be assessed for taxation under general
6 laws and by uniform rules *according to classifications and stan-*
7 *dards of value to be established by law.* [All real property assessed
8 and taxed locally or by the State for allotment and payment to
9 taxing districts shall be assessed according to the same standard
10 of value, except as otherwise permitted herein, and such real prop-
11 erty shall be taxed at the general tax rate of the taxing district
12 in which the property is situated, for the use of such taxing
13 district.]

14 (b) The Legislature shall enact laws to provide that the value
15 of land, not less than 5 acres in area, which is determined by the
16 assessing officer of the taxing jurisdiction to be actively devoted
17 to agricultural or horticultural use and to have been so devoted
18 for at least the 2 successive years immediately preceding the tax
19 year in issue, shall, for local tax purposes, on application of the
20 owner, be that value which such land has for agricultural or horti-
21 cultural use.

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill
is not enacted and is intended to be omitted in the law

Any such laws shall provide that when land which has been valued in this manner for local tax purposes is applied to a use other than for agriculture or horticulture it shall be subject to additional taxes in an amount equal to the difference, if any, between the taxes paid or payable on the basis of the valuation and the assessment authorized hereunder and the taxes that would have been paid or payable had the land been valued and assessed as otherwise provided in this Constitution, in the current year and in such of the tax years immediately preceding, not in excess of 2 such years in which the land was valued as herein authorized.

Such laws shall also provide for the equalization of assessments of land valued in accordance with the provisions hereof and for the assessment and collection of any additional taxes levied thereupon and shall include such other provisions as shall be necessary to carry out the provisions of this amendment.

2. When this proposed amendment to the Constitution is finally agreed to, pursuant to Article IX, paragraph 1 of the Constitution, it shall be submitted to the people at the next general election occurring more than 3 months after such final agreement and shall be published at least once in at least one newspaper of each county designated by the President of the Senate and the Speaker of the General Assembly and the Secretary of State, not less than "[2]" *3* months prior to said general election.

3. This proposed amendment to the Constitution shall be submitted to the people at said election in the following manner and form:

There shall be printed on each official ballot to be used at such general election, the following:

a. In every municipality in which voting machines are not used, a legend which shall immediately precede the question as follows:

If you favor the proposition printed below make a cross (X), plus (+) or check (✓) in the square opposite the word "Yes." If you are opposed thereto make a cross (X), plus (+) or check (✓) in the square opposite the word "No."

b. In every municipality the following question:

	Yes.	Shall the amendment of Article VIII, Section I, paragraph 1, of the Constitution agreed to by the Legislature, authorizing property to be taxed according to classifications and standards of value to be established by law, be adopted?
	No.	

I N D E X

	<u>Page</u>
Robert Woodford New Jersey Manufacturers Association	1
Louis R. Applegate New Jersey Chamber of Commerce	6 & 22
Byrnes Stanley Ford Motor Company	9
Frank Haines New Jersey Taxpayers Association	24 & 29

SENATOR JOSEPH P. MERLINO (Chairman): This public hearing is being held in compliance with the Constitution of the State of New Jersey and the rules of the Senate of the State of New Jersey. The purpose of the public hearing is to take testimony in regard to the proposed amendment to the Constitution, set forth in Senate Concurrent Resolution No. 76.

In the interest of an orderly hearing, all persons who desire to offer testimony will please give your name to Mr. Zuzzio, of our staff, and we will proceed according to the listing of names as presented to me by the staff.

For those of you who have printed, or prepared, statements, I would appreciate it if you will give the staff sufficient copies to distribute to the stenographer and to the Committee.

Mr. Woodford.

R O B E R T W O O D F O R D: I am Robert Woodford, Assistant Vice President of New Jersey Manufacturers Association.

We are aware that a number of your Committee members have sponsored bills which would establish a system of classified property taxation in New Jersey. Nevertheless, we are here to review Senate Concurrent Resolution 76, the underlying concept of classified property taxation and economic circumstances and business climate against which this proposal must be measured. We are here because neither we nor the people of this State can afford the error of judgment that passage of SCR-76 would represent.

As a representative of over 13,000 business members of New Jersey Manufacturers Association, I am here to oppose the passage of SCR-76 or any other form of classified property tax, not only because it imposes an inequitable burden on the enterprises that employ the working men and women of New Jersey, but because the

classified property tax is unsound. Such a system would distinguish New Jersey from surrounding states in a manner damaging to our economy and would further jeopardize the economic prospects of the people of New Jersey who are, today, already seriously disadvantaged by a poor business climate in seeking to satisfy their economic needs.

We have been informed that Senate Concurrent Resolution 76 is now considered an integral part of the Administration's education-tax program -- being the means of permitting municipalities to retain a share of business stabilization tax collections. If this is so, the Administration's tax proposals must be ranked, historically, as one of the more serious threats to the economic welfare of New Jersey citizens.

The classified property tax is a political device, not a sound and carefully calculated system of taxation, as some have represented. The bill before you establishes the Legislature's right to create whatever classes it chooses and favor whatever classes it seeks to favor. In that respect, SCR-76 is similar to the patently political system in Minnesota which has been the focal point of political struggle for many years by groups seeking favored tax treatment. The invalidity of such a system was appropriately summed up by the National Tax Association-Tax Institute of America in a 1973 report entitled "The Erosion of the Ad Valorem Real Estate Tax Base." That report concluded: "The classified property tax is not solidly grounded in the theory and practice of economics or ethics. There is great difficulty in finding any sound theoretical basis for treating various classes of property differentially according to use. Equally strong cases can be made for taxing either business or residential property more heavily. Once the uniformity rule is abandoned with respect to land use, the tax policy maker is at sea without a compass to guide him.

"In addition to the lack of any sound theoretical basis for a classified

tax, the practical problems are overwhelming. In the first place, the differential treatment that will be enacted initially will very likely represent the political strength of various property users, and not what is assumed to be in the public interest in terms of equity or economics. There is little likelihood that currently exempt property will be placed on the tax rolls, even with preferential tax treatment. Moreover, as the political power of property users shifts, pressures are exerted to make changes in differential treatment in favor of the stronger groups and at the disadvantage of weaker groups. Each legislative session witnesses a host of special groups seeking preferential tax treatment."

Our rejection of SCR-76 is by no means based solely on tax equity. Our organization recognizes, from over sixty years of experience in serving New Jersey's business community, that any negative factor which greatly distinguishes a state from its neighbors and competitors as a location for the conduct of business will severely hamper that state's ability to attract investment and provide job opportunities for its citizens. No neighboring state, no surrounding state, indeed no major industrial state presently has a statewide system of property classification. Being the first major industrial state to authorize property tax classification would rule out New Jersey as a location for industry and would place the economic future of New Jersey's citizens in jeopardy.

In the final analysis, the classified property tax should be judged in accordance with New Jersey's own particular economic circumstances. Most important is the question of whether New Jersey's economy is sufficiently hearty, and its business climate sufficiently attractive, to withstand the impact of property classification. Let us weigh the evidence of this state's business climate to decide whether New Jersey can withstand any act so likely to discourage new investment and to impair the continued operation of industrial enterprises in New Jersey.

The facts speak for themselves:

New Jersey employs approximately 69,000 fewer persons in manufacturing today than in 1969.

New Jersey failed to experience a significant resurgence of manufacturing employment as nationwide manufacturing employment bounced back from the 1970 recession.

New Jersey has over 260,000 persons unemployed -- 7.7% of our labor force as compared with 5.2% unemployed nationwide.

New business construction in New Jersey has consisted primarily of office and warehouse space, not manufacturing facilities, in recent years.

The rate of plant closings and business bankruptcies in New Jersey is exceptionally high.

Even more damaging is evidence from recent multi-state comparisons of the burden on manufacturing corporations of state and local taxes and governmentally imposed costs. The latest of these studies, a 9-state study measuring the burden imposed on four model manufacturing corporations, was commissioned by NJMA and performed by the national accounting firm of Ernst & Ernst. The Ernst & Ernst report, received in late June of this year, depicts New Jersey as a high burden state bordered by industrial states with low or moderate burdens. One cost alone -- unemployment compensation -- showed New Jersey to be 169% to 314% of the cost in surrounding states. All members of the Legislature were provided copies of the Ernst & Ernst report within the past month.

Also during the past month the Legislature has received a report on New Jersey's business climate from the New Jersey Taxpayers Association which again

depicted New Jersey as a state no longer able to compete for manufacturing jobs. A similar study conducted by Arthur Anderson & Company in 1973 for the New York Association of Industrial Development Agencies and a 1970 study by the Pennsylvania Economy League demonstrated that New Jersey has, for years, been a higher cost state than its immediate neighbors.

Adoption of a classified property tax in New Jersey would seriously impair any effort to stimulate growth in New Jersey's economy and restore this state's traditional economic strength. The creation of yet another major disadvantage to burden the competitive ability of New Jersey's businesses and discourage business location and expansion here will cost the men and women of our labor force countless jobs. Opportunities for advancement that arise in expanding operations will not be present in businesses contracting their operations.

Too many of New Jersey citizens who foresaw secure futures with their respective employers already have found it necessary to seek new positions when their employers were forced to discontinue part or all of their New Jersey operations. Too many have found themselves on unemployment and welfare rolls. Too many young men and women graduating from our schools have been unable to find job opportunities.

By joining SCR-76 to the administration's education-tax program, which already poses a serious threat to this state's economy, the Legislature would decrease substantially any opportunity for a meaningful economic recovery in the foreseeable future. It is essential that the Legislature act, instead, to stimulate employment for our unemployed and induce expansion of our inadequate tax base.

This Legislature has the means to pursue a strengthening of the state's economy. The question remaining is whether this Legislature has the will to pursue that objective. Your disposition of Senate Concurrent Resolution 76 will demonstrate whether that will exist.

Thank you.

SENATOR MERLINO: I think that all the members of the Legislature received copies of the Ernst & Ernst Report and, hopefully, some of them have read it. I went through it.

Mr. Applegate.

LOUIS APPLEGATE: Mr. Chairman, having learned a long time ago never to travel alone, I have a very well informed associate with me today. He is Mr. Byrnes Stanley who is Manager of State and Local Taxes for the Ford Motor Company, Dearborn, Michigan. He is here today in his capacity as Chairman of the Committee on State Taxation for the Council of State Chambers of Commerce in Washington. This is actually a nation-wide organization of state Chambers of Commerce and he will be speaking for the New Jersey State Chamber of Commerce on the technical aspects of this legislation.

Before he does that, I, perhaps, should identify myself for the record. I am Louis R. Applegate. I am Director of Government Relations for the New Jersey State Chamber of Commerce.

I just have a few remarks that I would like to make before we hear from Mr. Stanley. The Chamber, as you probably know, strongly opposes any form of classification of tax, whether it be the classified business tax or the Governor's Stabilization Tax.

At the same time, we do not support or oppose, at this moment, the State Income Tax. Our official position, taken by the Board of Directors, is that we are asking for a 90 day period of study so that the public as well as some legislators I have talked to can properly understand what is being offered.

I don't have to reiterate that there are several studies which show business and industry already burdened by heavy costs of doing business in this State. As you

heard from the previous speaker, one of the outcomes of this is a very high unemployment rate. It is a figure of about 8%, compared to a little more than 5% in the nation.

However, a lot of this unemployment centers in the construction industry and the construction industry happens to be one of the industries that sort of have a ripple effect throughout the State's economy. That is running at about 30%.

Now, the State Chamber of Commerce is cooperating once again with the American Federation of Labor and the C.I.O - A.F.L.-C.I.O - in what we think will be a rather precedent-setting march on Trenton. It is called the "March For Jobs". It will be on the 29th of July and at this time we understand - we know - that there will be at least 10,000, if not 20,000 construction and building trades representatives here to make known to the administration and to the people in this State that business is in a real tough spot in New Jersey.

SENATOR MERLINO: I hope they are not taking all this time off from work.

MR. APPLEGATE: They are taking off time from work at their expense. They are sacrificing a day's pay.

Now the reason the Chamber is involved in this is because we are part of an organization that I hope you have heard of, it is called SEED, and we are for both economic development as well as development of environmental protection.

The final thing I'd like to say is that business isn't afraid to share its load of the tax burden. If you go to a property tax, we will accept whatever you impose on the general public. But since we are paying 40% of the property taxes already, we feel we are doing a real heavy share of financing the State's operations.

I'd like to conclude by saying I am also Secretary

of the Chemical Industry Council and anything that I have said should go on the record as being their stand also.

I know you want to ask me some questions a little later, Mr. Chairman, but at this time, for the real meat of our presentation, I'd like you to hear from Mr. Stanley.

SENATOR MERLINO: Thank you, Mr. Applegate. I never knew you to be so presumptuous before, assuming that I wanted to ask you some questions.

MR. APPLEGATE: Do you want to ask them now? I will answer questions anytime you want to ask them.

SENATOR MERLINO: I'm sure you would.

B Y R N E S S T A N L E Y: Senator Merlino and gentlemen of the Committee, I want to thank you for the opportunity to testify here this morning.

SENATOR MERLINO: Mr. Stanley, I presume you were in New Jersey. You didn't come here for this particular hearing this morning, did you?

MR. STANLEY: This is the third time that I have been down here in the last two weeks, Senator, to testify against the classified property tax. I left Detroit at eight o'clock this morning. It wasn't easy. But that is specifically why I am here.

SENATOR MERLINO: I recognized your name on the card on Tuesday.

MR. STANLEY: Yes, sir, I was here on Tuesday. That is correct.

MR. APPLGATE: So you get twice as much time.

MR. STANLEY: At any rate, I do appreciate the opportunity to appear and speak. As Mr. Applegate has kindly stated, I am employed as the Manager of State and Local Taxes Nationwide by the Ford Motor Company, but I am more specifically speaking this morning for both the New Jersey Chamber of Commerce, with which, of course, you are well acquainted, and perhaps you are less well acquainted with the organization known as the Committee on State Taxation of the Council of State Chambers of Commerce. I happen to be Chairman of that organization - that is, the Committee - which is made up of some one hundred of the largest interstate multi-national corporations in the United States, most of which have an important role in New Jersey's economy, both as taxpayer and employer. Of course, that is specifically true of my immediate employer, the Ford Motor Company. But I have been authorized by these two organizations to speak for them in my statement in opposition to the classified property tax.

Initially, I should like to endorse everything that I heard Mr. Woodford say before me. He said it very well and the impact that he indicated on New Jersey, which he spoke to singularly, was well said and certainly I think completely supportable.

I will go just a little bit further in some respects than he did, perhaps less to the point, but I think perhaps nevertheless pertinently, to just a little bit of the background.

First, let me say that the organizations that I represent are completely opposed to any system of property tax classification, and Senate Concurrent Resolution 76 is the broadest measure that I have ever seen in some 25 years of work on both the governmental and business side of state and local taxation with respect to authorizing, should it become law, any legislative body to enact some type of classification situation.

A classification of property taxes inevitably is made possible for one of two or three reasons. First of all, in every part of the Nation with which I am acquainted - and that is pretty widespread - there is in truth a de facto system of property tax classification, usually illegal, but nevertheless prevalent and nevertheless expensive to business, because wherever there is classification, it means that there is less of the property tax imposed upon agricultural property and residential property and vacant land and, correspondingly, more on business property, both industrial and commercial. And that is inevitably the reason why such classifications are enacted.

Since this exists in truth because of assessment practices where businesses, generally speaking, do not vote and individuals do, is it an advisable thing to legalize that which is now generally illegal? The answer to that is, absolutely not, for this reason: If we legalize

classified property taxes, we will not do away with the illegalities that now exist, because on the legal system of classified tax, notwithstanding that it imposes a higher tax on business, you will have by assessment practice a further compounding of that legality, again through illegal assessment means, so there will simply be a doubling up. There will be a basic legal discrimination against business property and then there will be, in fact, a practical, illegal compounding of that through assessment practices.

I say that not from the point of view of an off-hand opinion. The Former Tax Commissioner - and you heard Mr. Woodford mention Minnesota - the Former Tax Commissioner, Rolland Hatfield, of Minnesota, lived with this tax as Tax Commissioner, and later as State Auditor of Minnesota, for a great many years. The classification system has existed there since 1913, for some 60 years. On this matter of illegality, Mr. Hatfield stated in writing at one time that "from observation of our system," meaning Minnesota's, "classification appears to be no cure for illegal assessments. If it really was believed in those days that legalization of what the assessor was doing illegally would stop the illegal process, especially with regard to fractional assessments, then I can also assure you that history has proven just the opposite." So he proceeds - I won't continue that -- but he proceeds to explain why that has been the practice and the outcome in Minnesota.

Another reason why classification comes forward from time to time, as it is in New Jersey at the present time, is that for whatever reason, there evolves a necessity for large amounts of additional revenue. And it is often felt that the way to get that revenue, either as replacement revenue or as new revenue, is through the property tax because the property tax today is the favorite whipping

boy of virtually everyone who is dissatisfied, as we all are, with the tax picture. Now there is a very significant situation with respect to the property tax which places a singular burden upon the homeowner. There is no question about that, and I will address myself to that presently. There is an unusual burden on the homeowner. But, notwithstanding, when the classified tax is enacted because of the need for additional or replacement revenue, there is a shift again to the business property.

We could well ask this question: If we have to have additional property tax in New Jersey, is the State tax system in New Jersey such at this time as to justify a shift of an additional burden to the business sector of the taxpaying community? I think that is a very proper question and one that we should address ourselves to.

At the present time, according to a recent study, individuals in New Jersey pay approximately 39 per cent of all state and local taxes, including the unemployment compensation tax, while business pays 37 per cent of the total tax burden, state and local, and both business taxpayers and individual taxpayers, in addition, pay the remaining 24 per cent of the total tax burden. That is the highest percentage, the 37 per cent that business pays of the total New Jersey tax burden, that I am personally aware of in any state of the United States.

Apart from the over-all picture of the tax burden borne by business, let me say, if you look at the individual taxes, that New Jersey is very heavy on business. For instance, it has an above-average rate of income and net worth taxes. It has one of the highest unemployment compensation taxes in the nation. It has what is perhaps the heaviest sales and use tax on business of any significant industrial state, with the possible exception of California, in that there is absolutely no industrial or manufacturing exemption for machinery and equipment in the

New Jersey sales and use tax law.

Further, an interesting fact about the New Jersey sales tax and use law is that in the way it was enacted - and I am not saying that this is bad at all - it has done away with a great deal of the regressivity that exists in many other sales taxes in that you do exempt home-consumed food, you exempt certain drugs and you exempt clothing, and very few industrial states' taxes do that. Further, business pays an inordinately high amount of real property tax in New Jersey. And I will say deliberately, and from some experience, that I think that there exists in New Jersey, in real property taxation again, a heavier share of the tax on business than should exist under New Jersey law.

Finally, there is also a moderate, but nevertheless significant, personal property tax on business in New Jersey, which, if you will look to your competitor states of New York, Pennsylvania and Delaware, you will find not at all.

I would say then, if you look at the entire New Jersey tax structure and look for a replacement or for new revenues, you will find no sound economic justification in the New Jersey tax system for shifting any additional burden to business whatsoever.

Now I mentioned a while ago that when we are talking about the property tax, we would be closing our eyes to reality if we say the property tax does not indeed impinge unduly on certain sectors of our society. And I speak particularly of the fixed-income people who are living in this highly inflationary period. I speak of the old, the disabled and the poor. I say to you that there has to be some type of relief found for these people if the property tax is to continue to exist as a viable means of producing revenue, and it surely will so continue. But classification is not the way to relieve the undue burden

on these groups of people that I have just mentioned. The way to do that, I would submit to you -- or a way to do that, I should more properly say, is through some type of circuit-breaker device that would insure that the property tax paid by these classes of people who are not economically able to keep abreast of the inflation that we are experiencing would pay no more than a particular stated percentage of their incomes in property tax. That would accomplish it. The classified property tax device will not accomplish it.

Enough of a background - and I will make this as abbreviated as I can. I think that the best way that intelligent people can look at a particular scheme of taxation is through the historical experience either of the immediate state here in New Jersey or, if it isn't here, as in this case it is not, then to the experience of other states. And there has been relatively little experience with the classified property tax. Let me give you a very quick rundown: Minnesota, as I stated earlier, enacted a classified property tax in 1913. It has had it for 60 years. I would emphasize that the most vocal opposition to the classified property tax in this country has come, not from the taxpayers of Minnesota, but from the administrators of the taxes in Minnesota. I mentioned a while ago Mr. Rolland Hatfield, the former Tax Commissioner. He is only one. The present Tax Commissioner has gone around the country speaking against the classified property tax at various meetings that I, for one, personally have attended, and have heard him speak. So they have said that the classified property tax is an abomination, that it produces far more ills than it cures, and they strongly advise that other states not undertake the classification of property taxes.

The State of West Virginia has had a classified property tax since 1934. A Governor's Tax Study Commission a few years ago in West Virginia recommended that there be a return to uniformity and equity in the West Virginia property tax structure.

There are a few other non-industrial states that statewide have classified property taxes, not more than four in number - Arizona, Alabama, Tennessee and Louisiana. Illinois has it on a very narrow base, geographically. I think Cooke County at the present time is the only county that has a classified property tax in the State of Illinois.

So all of those, with the exception of Minnesota, West Virginia and Montana, have come about in the last six years. So there is very little experience go on in those particular states.

If you look to New Jersey, itself, you will see in the Constitutional Convention of 1947, the classified property tax concept was carefully considered and was rejected flatly.

In 1958, the New Jersey Commission on State Tax Policy considered and rejected the classified property tax concept.

And most recently, in 1972, the New Jersey Tax Policy Committee rejected the concept of the classified property tax and had this to say - and I am quoting: "In an industrial state like New Jersey, which depends upon a healthy economic environment for industrial development perhaps more than other states, any attempt to shift the tax burden from residential to commercial and industrial property, by a legally-sanctioned classification system, would create a very damaging reputation for the state and seriously affect its future economy, employment and payrolls." That is from the New Jersey Tax Policy Committee of 1972.

I have spoken somewhat in generalities, although those have sometimes been related to specifics. Now what

happens to the classified property tax once you have it? And I am speaking of the very type that is proposed here in Senator Concurrent Resolution 76.

First of all, there begins with the introduction of classification a constant and continuing erosion of the property tax base because when classification is turned over the Legislature to establish classes as it will, it is a fact of political life that at every session of the Legislature there will be submitted innumerable bills from self-interest groups seeking to secure, each for itself, a preferred place in the structure. Those are never asking for additional property taxes; they are always asking for a lower classification, and some of them succeed. Minnesota now has 25 classes of property. And it is a tribute to the Minnesota Legislature that they don't have 125. But there is an erosion of this very important tax base.

Secondly, once this process of erosion has started and once classifications are introduced, where is the logical stopping place? And I submit to you that there is none. So as long as that exists, there will be introduced in the state this continual plowing away at the property tax base and there will be, believe me, a continual establishment of new classes of preferred properties.

Mr. Woodford has already explained to you - and I endorse that again - that there would be great damage done to this state's image, unfortunately, because New Jersey is an exceedingly important industrial state and important to the industry of this nation. It already has an unfortunately poor tax image, and I hesitate to use that word. But in the national industrial tax picture -- and I have already run down the list of New Jersey taxes and attempted to demonstrate in doing that, that wherever you strike the business tax, New Jersey, by and large, has it and has it heavily. So to add to that would be going

in the wrong direction. I say very respectfully that New Jersey should be making every effort to go in the other direction and not to aggravate that which already is exceedingly negative so far as the state is concerned, both here and nationally.

Another ground for objection is the fact that the classified property tax, as an administrative matter - and Mr. Hatfield spoke to this in Minnesota very tellingly - introduces grave administrative complications. It brings about a great deal of litigation, because, looking at Minnesota, if you have 25 property taxes, it stands to reason that there is a great deal of difficulty in determining into what class, whether a 10 per cent or 15 per cent or 20 per cent or whatever the percentage of assessment may be - into what class does a given type of property fall. That, as an every-day working matter, both among the taxpayers and among the administrators, becomes a time-consuming and expensive exercise, often in futility.

Another point - a well-balanced tax system should contain at least one tax that is tied to the concept that you are going to take from the taxpayer something for benefits directly received. And there is no tax to which you can trace the benefits more directly to the individual than the property tax. The property tax goes, by and large, mostly to pay for schools, over 50 per cent, and this is certainly so in New Jersey. It goes to pay for city government, county government and various other local purposes. Now who benefits primarily from education? Certainly industry benefits from it greatly. But I feel, having gone through the educational system, that I, as an individual, benefit more directly and immediately than does anyone else from it. Then why shouldn't I pay a fair share of the expense of education rather than attempting, let's say, to shift an undue burden to some other segment

of the economy?

On that point then, any well-balanced tax system should give some recognition to the so-called benefit concept. And to introduce a classified property tax system detracts squarely from that end.

Another thing that is a little bit remote but nevertheless true is that individuals, as I mentioned a while ago, dislike the property tax. Why do they dislike it? Well, it is pretty heavy in the first place, as we know. And, secondly, because of the way it is structured, generally they have to step up and pay the property tax in one or a very few installments that fall very heavily upon them. It is not withheld as is the federal income tax, for example, nor is it paid the way the sales tax is - as you spend a dollar, you pay the tax. So it causes citizens to be more concerned with what is happening to their dollars locally and it induces them to participate significantly in local government because, if there is a school millage election, you are going to find that the citizens are going to be out there fighting either for or against it because they know their pocketbooks are directly concerned.

SENATOR MERLINO: All five per cent of them generally.

MR. STANLEY: All right, sir. But, nevertheless, to introduce a classified tax and to place this particular tax burden unduly on business, and to remove it from the individual owner of a residence, I think is going to be a negative factor in so far as the effectiveness of local government and individual participation in local government is concerned.

To shift the property tax to business also hides the tax because property tax to business is like any other cost of business, such as material and labor. And in the long run, if a business is going to continue to exist, it must shift the burden of this tax, as its

other costs of doing business, to the ultimate consumer. It is healthier that the consumer pay the property tax directly so that he knows what he is paying and what he is paying it for, than it is to pay it hidden in the price of some product that he buys.

Finally, let me say that there have been studies of the classified property tax made by groups that are more objective than I am certainly, and more objective perhaps than those who are directly charged with raising taxes for government. One of these groups that has made such a study is the Advisory Commission on Intergovernmental Relations, which is certainly not a pro-business group. ACRI is a group established by Congress, made up largely of Federal representatives, Senators, state governmental officials and local governmental officials. And the ACRI has recommended strongly that the great ills of the property tax, which I mentioned a while ago specifically as hitting the fixed-income groups, should be taken care of by some type of circuit-breaker device and not by classification.

The ACRI, which is highly regarded throughout the nation by anyone who is concerned directly with taxes, had this to say, and with this, I am going to bring this to a close. It said: "Is tax classification property tax relief? Certainly the current intent is to provide relief to homeowners and farmers. But this intent can only be guaranteed if at the same time firm action is taken to strengthen and supervise assessment administration and to define valuation standards with greater precision. Genuine uniformity in effect will remain as elusive as it is under usual constitutional and statutory provisions. Further, tax classification may give the state an anti-business reputation, with the result that pressures may increase on local assessors to go easy on business property."

If there should have to be - and this I would certainly hope is not the case - classification of property taxation in New Jersey, Senator, it should not come in the form that Senate Concurrent Resolution 76 would accomplish.

South Carolina recently faced a situation where the Supreme Court told the state, in effect, you already, under the laws of this state, have the right - this was said to the governmental officials - to impose classified property taxes. They are now in the throes of attempting to get a constitutional amendment retaining the classification concept, as I comprehend it, but narrowing it and limiting the scope of it so that it will not fall into the political arena where it would become a legislative football every time the Legislature would meet.

So I would submit, again, hypothetically I trust, if it has to be the situation in New Jersey, then I would strongly recommend that it be done through the means of a limiting constitutional provision rather than something such as SCR 76, which says, in effect, that the Legislature shall have the right to establish any and all classifications that it sees fit.

I know that I have run on here for a considerable period of time and perhaps I have repeated myself unduly at times, because I am speaking extemporaneously. But again let me say that I appreciate the opportunity to speak here for the Chamber and for the Committee on State Taxation. And I would trust that Senate Concurrent Resolution 76 would never get on the ballot in this state because of the damage that it will do to the state and that, if it does get on the ballot, it will be defeated. Thank you very much.

SENATOR MERLINO: Thank you, Mr. Stanley. I didn't mind the time you took. I rather enjoyed it. I hope that I have learned by this time that you do learn more by

listening than by talking, especially when listening to someone as well versed on the subject as you are.

MR. STANLEY: Thank you very much.

SENATOR MERLINO: I just have one question. Both you and Mr. Woodford referred to the unholy situation in Minnesota. Would you have any idea what the unemployment rate is in Minnesota?

MR. STANLEY: No, sir, I am sorry, but I do not know what it is in Minnesota. I don't know whether Mr. Woodford might or not.

SENATOR MERLINO: Has Minnesota suffered any loss of business or jobs, that is, more so than any other state, because it has a classification of taxes?

MR. STANLEY: I can't answer that question, except to say that when Mr. Hatfield, whom I referred to as the Commissioner of Minnesota, spoke on many occasions against it tellingly, he mentioned - and I won't certainly run through all these because many of them are things that I have already said -- he mentioned a number of impacts that the tax has had on Minnesota directly. He said, for example, "It causes the property tax mill rate to be at least three times higher than it should be, which places Minnesota's tax rates out of line with other states and makes it difficult to sell state and local bonds." There are two things there that he was saying, and these are his words.

I am answering this generally and not specifically because I don't know the specific answer - but anytime that the Commissioner of Taxation will say that the tax burden is made three times higher, the millage rate in this case, by a particular device, the classification device, it has to affect certainly the expansion of business within the state and the establishment of new business within the state.

As you know, Senator, sometimes you will have people sitting in a chair like this before you, who will

indicate that their businesses will move out of the state if certain types of taxes are imposed. Sometimes that happens, but infrequently. I think you have had more of it here in this state perhaps than in the vast majority of industrial states. But may I emphasize that through my own experience at Ford Motor Company, so far as establishing a new business enterprise within a state or expanding a business within a state, the tax climate often is the determining consideration. Because while there are many more important factors than taxes in business locations, such as employment, raw material sources, transportation, and those things, especially with a multi-state company, those things tend to balance off. You have an option in locations, so that you find most of those higher echelon items balance off and so you come down to three or four locations perhaps where they are pretty even. I have seen, I would say, over the last dozen years, in my own experience, at least 15 or 20 occasions when in our company the location of an expansion or of a new business enterprise has been determined by the particular tax status of the various locations at which we were looking comparatively. And it has actually been the decisive factor.

So I would say again that where that undue burden arises, as in Minnesota, you are going to get inevitably a certain amount of that, and I think it is significant.

SENATOR MERLINO: Would you say that has been the case so far as the Ford Motor Company is concerned?

MR. STANLEY: Yes, sir. I say that emphatically and from my own experience.

MR. APPLEGATE: I would like to comment on that.

SENATOR MERLINO: I would like to ask you a question.

MR. APPLEGATE: I didn't want you to forget it. I was going to remind you.

SENATOR MERLINO: Perhaps you can get the statistics

that I asked concerning Minnesota's unemployment rate and a brief analysis as to just what, if any, loss of business or jobs Minnesota has suffered as a result of the 61-year-old classification tax system in Minnesota.

MR. APPLEGATE: I think that we can get those figures certainly.

SENATOR MERLINO: By Monday?

MR. APPLEGATE: Yes, I will try to get them by Monday.

But I think we ought to look at it this way too - I mean this is one response to your question - that if you are trying to drown a person and he is already overloaded, if you just throw one more weight, he sinks; but if he is only half loaded as far as lead, or whatever you are trying to drown him with, he is not going to sink just because you throw an extra on. I think that might be the comparison as far as Minnesota and New Jersey.

Any area of business cost you look into in New Jersey is exceptionally high. But I think you must check Minnesota in all those areas - and I am talking about property taxes and all the things that Mr. Stanley has talked about here. So I would say that you just can't ask how it has done. I think the two states are entirely different. If you take one area alone, the environmental controls that are virtually stymieing construction in New Jersey, I am sure that the same thing doesn't exist in Minnesota. Factors such as that, I think, have to be taken into consideration.

SENATOR MERLINO: Then it is not just the classified property tax?

MR. APPLEGATE: It is just one more smack, and the guy is knocked out.

SENATOR MERLINE: Thank you very much.

Mr. Haines will be the next witness.

F R A N K W. H A I N E S: Good morning, sir.
My name is Frank Haines. I am Executive Director of
the New Jersey Taxpayers Association, a non-profit, non-
partisan governmental research organization incorporated
in 1930.

While at least we got 24 hours notice - I appreciate
that much -- It was a little short but I am glad to
have an opportunity to appear before you today.

SENATOR MERLINO: But you were aware of it. In
fact, you spoke on this subject, briefly, several times
in the last month.

MR. HAINES: That's right, sir, but every case is
slightly different. You rolled in a new one on us here.

This proposed amendment to Article VIII, Section I,
paragraph 1, the tax clause of the Constitution, is designed
to abandon the uniformity standard for assessing and tax-
ing real property incorporated in the 1947 Constitution
after long hours of debate and deliberation. It would
clear the way for the Legislature to classify real as
well as personal property for tax purposes.

The views of the New Jersey Taxpayers Association
on the educational finance-tax reform program proposed
by the Governor and modified by the Assembly Taxation
Committee were transmitted to all legislators in the
form of a press release on Thursday, July 11. A week
earlier, we mailed each legislator a copy of our report,
"The New Jersey Tax Climate - Background to Tax Reform,
1974". I trust you have had a chance to see this, sir.
I think Mr. Woodford referred to it earlier.

There is a specific section in this report on tax
classification on pages 85 to 92. Mr. Shanley and Mr.
Woodford have covered a lot of material on classification
which you will find documented, again, on those pages
in that report of ours. That report also - you will know
if you have looked at it - has a chapter on the taxes
of a hypothetical manufacturing corporation in 8

industrial states, which also includes New Jersey.

I just wish to point out that on the hypothetical corporation, New Jersey's taxes are second only to Ohio if that corporation were beginning operations in New Jersey today or if it were in its 5th year of operation in New Jersey.

The principal policy position in that report was that NJTA is opposed to any form of property classification which singles out business for taxation at a higher rate than other classes of property. Accordingly, I must express the Association's opposition to SCR No. 76. The principal reason is our opinion that it can be a fatal blow to the State's economy from which it will never recover.

While it appears that the immediate reason for consideration of SCR No. 76 is to provide a Constitutional basis for the so-called business stabilization tax, it will also clear the way for numerous other property tax classification plans already introduced in both Constitutional amendment and statutory forms, most of which provide for classification of Class 4 property, that is, commercial, industrial and apartments over four units, for assessment or taxation at a higher ratio or rate than other property classes. The following comments apply particularly to those proposals.

The excellent computer analyses of the uniformity of assessment practices in New Jersey which are now published by the Division of Taxation are almost unique among the 50 states. They can be effective tools in achieving a fairness in administration of the real property tax in New Jersey. Right now they show great variations between classes of property. Methods by which more effective procedures for equalization can be developed should be studied and devised before you move to varying rate or ratio classification.

The damage which results from assessment variations is compounded by high tax rates. Indeed, nearly all students of the real property tax have used New Jersey's major cities as prime examples of the causal effect of lack of uniformity of assessment on tax rates and on the ratable base. Classification erodes the tax base. The consequence is that homeowners are called upon to pay increasingly more money in property taxes. Improvements which normally would add value to the tax base are deferred and the property deteriorates further in value. The taxing structure therefore works against itself. Not even the homeowners benefit.

No one can point to the property values, residential or commercial, in Jersey City, Newark, or Bayonne, where de facto classification has admittedly so long existed, and say that classification works well. Indeed, has not just the opposite occurred? To legalize throughout the State what is so clearly a mistake is never sound public policy.

We find nothing in the experience of other states to give cause to support any classification proposals. No industrial state with major reliance on the property tax has adopted statewide classification.

I might refer, parenthetically, to your question in terms of Minnesota. Even though Minnesota has classification, basically it does not rely nearly as greatly on the property tax initially than New Jersey does at the present time, by a considerable proportion.

Classification of property also has another and perhaps more immediately damaging effect. If a property tax amendment to the Constitution is enacted, we see few businesses being attracted to the Garden State. The present tax burden on industrial concerns in New Jersey is already sufficiently high to cause businesses

to look elsewhere when adding to their plant facilities. Manufacturing employment, as stated by Mr. Woodford, is down from 50,000 to 75,000 jobs in New Jersey from the peak levels of 1969, depending on whether you accept the lower Federal statistics or the State's more optimistic figures. The Economic Policy Council's Sixth Report suggested that a single manufacturing job in the State also created three jobs in the service industries. The loss of manufacturing jobs is therefore a serious loss to employment in the State.

I bring up the loss of jobs in manufacturing and the present high level of taxation because this was only one of numerous adverse aspects of the present New Jersey economy in our report: "The New Jersey Tax Climate".

Classification of property will only serve as a clearer warning that the State of New Jersey does not really want any further major investment.

The issue of business investment is timely. New Jersey has not fared as well as the United States average in the economic recovery of the past three years. The State's unemployment is unusually high. The unemployment compensation rates are also high. In passing, it may be of interest to note the order of magnitude of these unemployment compensation rates. If New Jersey employers were located in North Carolina for example, they would be paying \$220,000,000 less in unemployment taxes than they now are in New Jersey. The real property tax differential is even greater. New capital investments are being made in other states at a far greater rate than in New Jersey. The significance of this present trend for New Jersey's economy in the future may be spotlighted by reference to an article on page 1 of Section 3 of the New York Times on Sunday, July 14, 1974. In that article, many economists said that the projections for capital

investment by business in 1974 and 1975 indicate a "boomlet" in this segment of the national economy. Contrarywise, the New Jersey Department of Labor and Industry said in a report on July 13, 1974, that the State's economy is "in the doldrums". This would seem to affirm that New Jersey is not participating in the capital investment boom which is elsewhere so much in evidence. The long-range effect of New Jersey's employment problems is not hard to project: No investment; no jobs.

Classification would not correct this situation. Classification would only make an onerous property tax worse, a heavy business tax burden heavier, and further repel investment.

In conclusion and in summary, in the view of the New Jersey Taxpayers Association, adoption of SCR No. 76 or any amendment legalizing classification of property, could result in an economic catastrophe for New Jersey.

Thank you again, sir, for the opportunity to testify before you today.

SENATOR MERLINO: Thank you. Is there anyone else who would care to testify today?

(no response)

Thank you. That concludes the hearing.

KNOW YOUR GOVERNMENT

PREPARED WEEKLY BY THE
VOLUNTARILY SUPPORTED

NEW JERSEY TAXPAYERS ASSOCIATION AS PART OF ITS NON-PARTISAN,
PROGRAM OF CITIZEN RESEARCH AND EDUCATION IN GOVERNMENTAL AFFAIRS.

Art. #1904

PROPERTY TAX CLASSIFICATION -- A "NO-NO" FOR NEW JERSEY

Release 7/18/74

Among financing alternatives being suggested in the New Jersey Legislature as it seeks ways to fund a revamped educational system and other State expenditures is a statewide classified property tax. A recently issued study by the New Jersey Taxpayers Association indicates real property tax classification will not rectify the fiscal problems of the Garden State, but may compound them.

A property tax classification system identifies property according to its use or non-use, and assesses or taxes each class at differing ratios or rates. A classified property tax plan which favored homeowners was suggested to the 1972 Tax Policy Committee, recounts the NJTA study, adding that further suggestions were aired to further shift the brunt of the property tax load to business and industry.

The Tax Policy Committee rejected the concept of the classified property tax, noting "classification of real estate....has had little acceptance in other states and has produced nothing to commend it to this State by the few that have tried it."

Of the eight states which, to date, have adopted classification of real property, observed the NJTA Report, not one has a commercial and industrial complex comparable to that of New Jersey. Illinois became the first industrial state to permit a classified property tax system, in 1973. Action there was primarily for Cook County which had practiced de facto classification of real property since the 1920's.

Four other states which have adopted property tax classification are: Arizona (1968), Alabama (1972), Tennessee (1973) and Louisiana (1974). Because of their limited experience with the tax structure, the Association study described the situation of the three "veteran" classified property tax states -- West Virginia, Montana and Minnesota. The latter state serves as an example of a classification system gone wild.

Rolland H. Hatfield, for many years Commissioner of Taxation in the North Star State decried of the lack of a logical limit to the number of classifications in a classified system. "We started with four classes and we now have some twenty different classes," he wrote in 1967.

NJTA points out that, as with any rigid property tax system, when the governing body, local or State, must tap that source for more revenue, rates must be increased. In a classified property tax system, either existing classes are broken down or new classes added, the tax on each class also changing. In the case of Minnesota, when increased revenue was needed, the Legislature relented to fiscal pressures and devised class after class.

Resort to property tax classification is injurious to business with concentration of the tax burden on utility, commercial and industrial property. New Jersey businesses, as illustrated in the NJTA Report, already stagger under a heavy tax burden second only to Ohio among the competing industrial states. Classification could be the death blow to New Jersey industry and the State's economic growth. Classification can also be detrimental to the residential taxpayer.

A report issued in 1973 by the Advisory Commission on Intergovernmental Relations questions the viability of a classified property tax as property tax relief, citing the flaw common to all property tax systems -- the inequity of assessment.

"The current intent (of classified property tax) is to provide relief to homeowners and farmers. But this intent can only be guaranteed if....firm action is taken to strengthen and supervise assessment administration and to define valuation standards. Genuine uniformity will remain as elusive as it is under usual constitutional and statutory provisions."

The NJTA study states classification of property will not correct past errors but continue a "recognized damaging policy". "Neither citizen, business, nor municipality," concludes the Report, "will benefit from the expansion of classification to the entire State."

#

AUG 14 1985



