

PUBLIC HEARING  
before  
ASSEMBLY TAXATION COMMITTEE  
on  
GOVERNOR'S TAX REFORM BILLS

Held:  
June 9, 1972  
Assembly Chamber  
State House  
Trenton, New Jersey

MEMBERS OF COMMITTEE PRESENT:

Assemblyman Eugene J. Bedell ( Chairman )  
Assemblyman Chester Apy ( Vice Chairman )  
Assemblyman Walter E. Foran  
Assemblyman Francis J. Gorman  
Assemblyman James J. Mancini  
Assemblyman Steven P. Perskie  
Assemblyman James P. Vreeland

Also:

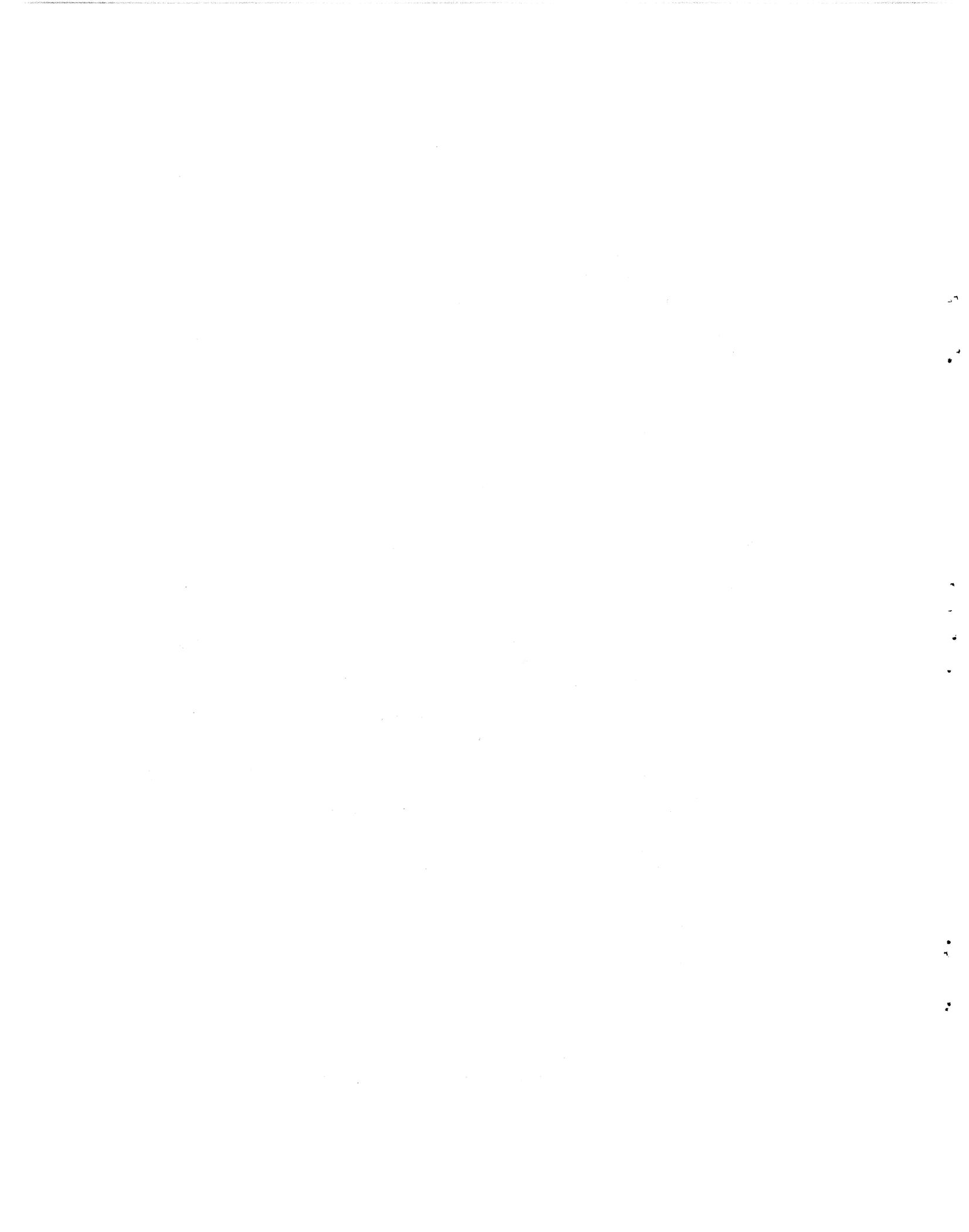
Senator Joseph P. Merlino  
Senator William E. Schluter

\* \* \* \* \*



I N D E X

	<u>Page</u>
Robert Henry Princeton Borough Counsel	3
Charles W. Sandman, Jr. U. S. Representative 2nd Congressional District	13 & 92 A
John Wallace Mayor, Princeton Township	40
William J. Glading, Esq. Chairman, Taxation Section New Jersey State Bar Association	41
Leonard Goldberg, Esq. New Jersey State Bar Association	45
Lawrence Reich, Esq New Jersey State Bar Association	51
Saul A. Wolfe, Esq. New Jersey State Bar Association	54
Russel T. Wilson, Chairman Tax Study Committee N. J. State League of Municipalities	65
Charles DeFoe, Executive Vice President New Jersey Retail Merchants Assoc.	75
Prof. H. Peter Gray New Brunswick Chapter American Assoc. of University Professors	79 & 109 A
Mrs. Ruth Ford, Director League of Women Voters of New Jersey	82
Joseph F. Shanahan South Hunterdon Taxpayers Assoc.	2 A
S. Herbert Starkey Director of Research New Jersey Education Assoc.	5 A
John T. Ash, III Task Force on Taxation Church & Society Committee of the Synod United Presbyterian Church	14 A



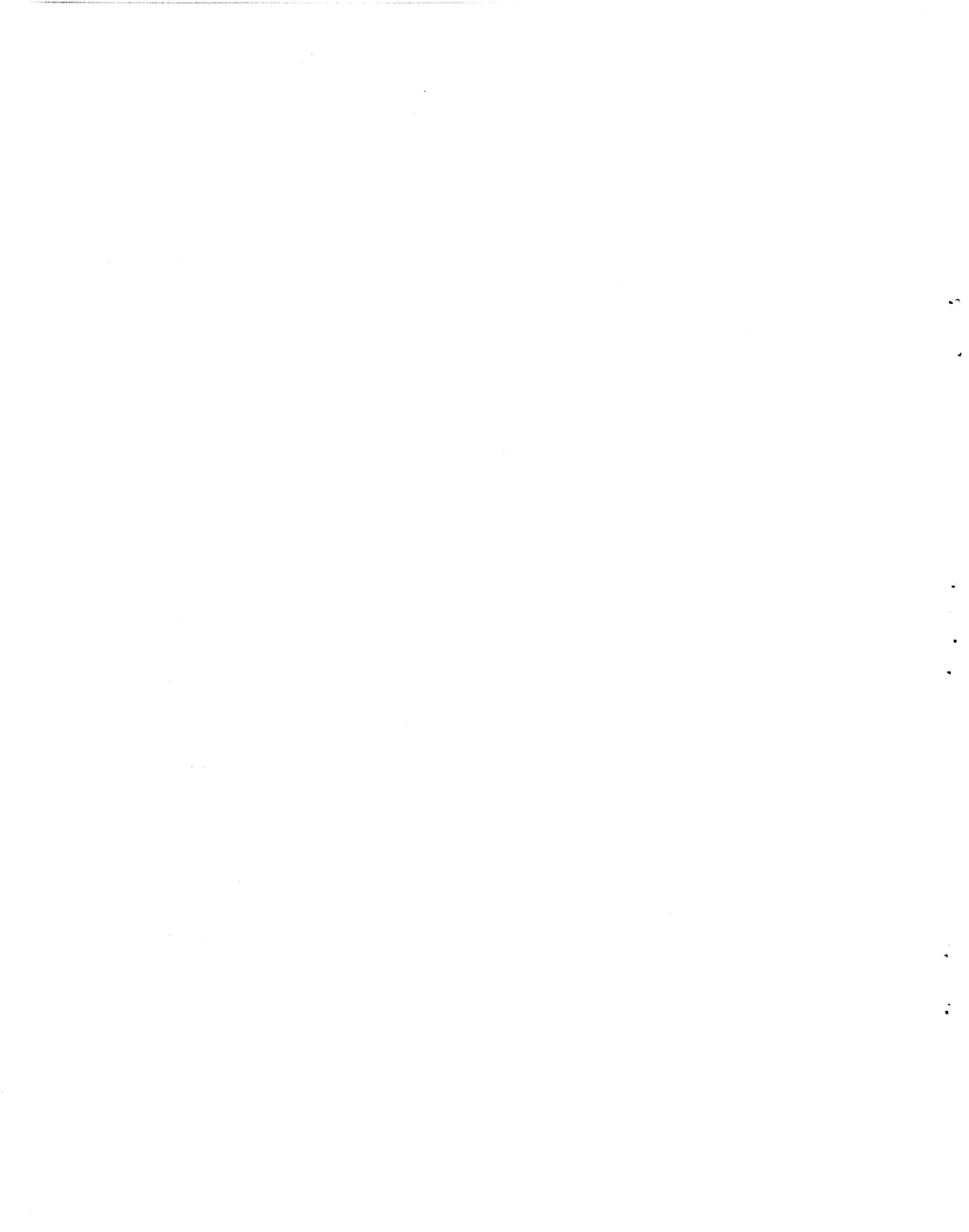
I N D E X

	<u>Page</u>
Charles Marciante, President AFL-CIO	24 A
Robert Forrey, Executive Vice President New Jersey Bankers Association	34 A & 96 A
Mrs. Dorothy Lewis Administrative Director Mobile Home Owners Assoc. of New Jersey	43 A
Frank W. Haines, Executive Director New Jersey Taxpayers Association	48 A
Walter W. Salmon, President Municipal Assessors Assoc. of New Jersey	56 A
Mrs. Doris W. Dealaman, 1st Vice President New Jersey Assoc. of Chosen Freeholders	62 A
Robert Woodford, Assistant Secretary New Jersey Manufacturers Assoc.	66 A
Albert Pittis Plainfield, New Jersey	73 A
Joseph Rauch Legislative Representative New Jersey Municipal Tax Collectors and Treasurers Association	80 A
John Horchner Bernardsville, New Jersey	87 A

- - - - -

The following statements were submitted:

New Jersey Petroleum Council	115 A
New Jersey Direct Mail Service Companies	117 A



ASSEMBLYMAN CHESTER APY (Vice Chairman): Good morning. I would like to ask Senator Schluter if he would introduce the members of the Committee that are here this morning.

SENATOR SCHLUTER: Thank you, Assemblyman. This is a little custom that the Assembly Revenue Committee has undertaken at these hearings. They allow the home county Senator or Assemblyman to do the honors.

First let me go down the table. At the far end of the table we have Assemblyman Mancini from Ocean County. Next to him we have Assemblyman Walter Foran of Mercer-Hunterdon; our Co-Chairman Assemblyman Apy with the corn-cob pipe; next to him on this side, Assemblyman Francis Gorman of Cloucester-Camden; and next to me Assemblyman James Vreeland of Morris County.

Just a brief word about the format of the proceedings - I understand we have quite a number of witnesses who are here to testify. We have about 20 so far. This is going to be the last day of these hearings. I am somewhat of an interloper because the official body which is holding these hearings is the Assembly Revenue Committee. The bills which are being considered have to be moved in the Assembly first and they have all been referred to the Assembly Revenue Committee and they are undertaking their responsibility in the proper manner. But they have consented to invite members of the Senate Revenue, Appropriations and Finance Committee, of which I am a member, to sit in on these hearings and to be an equal part up here at the table as far as questioning of witnesses. This is the reason for my presence.

The hearings have been conducted in various parts of the State. They have elicited a good response in some areas and a rather mediocre attendance in other areas. What the Committee is attempting is to try to get the public or any particular organization to respond to these bills and to give us their criticisms, their suggestions and their comments. We have been over a lot of territory in these hearings. We would hope that the testimony will not be

repetitious. We would hope that you will bring new ideas and new comments to the attention of the Committee.

Basically the format is where the witnesses have prepared statements to deliver them up to Mr. McHugh here who is acting as Secretary to the Committee. This is very helpful to the stenographers and us. He will also put you on the list if you wish to testify. I know the Committee would appreciate, if the statement is long, to have you condense it and bring out the salient points so we can get right to the heart of asking questions about the points that you make.

With those words of welcome, I turn the microphone back to our Co-Chairman, Assemblyman Apy.

ASSEMBLYMAN APY: Thank you, Senator. I would like to note also that two of the bills, 1272 and 1287, have been referred to the Education Committee which is holding a separate series of hearings, concluding their final hearing next Monday. We will take testimony, of course, on these bills, which are educational bills. However, we would also suggest to anybody interested in that subject matter that their time perhaps might be better spent before the Committee that is directly responsible for reporting those bills out. We are not.

I would like to say finally, in trying to ascertain the response of the New Jersey community to this tax package, we have found that in some instances the public has had difficulty finding out exactly what it is all about. For that reason, we have asked the Division of Taxation to have a representative here. We have also asked the Office of the Counsel to the Governor to have someone available, the purpose being to provide, if needed, expert advice and factual answers as to the contents of the bills themselves. Because there is no sense in having someone testify for half an hour on a false premise. At times, therefore, it may appear if we bring up a subject and correct somebody, if I can so describe it, that we are trying to sell the package. Such

is not the case. We have said from the beginning that it is our function as a branch of the Legislature to simply go about finding ways to improve, finding the things that the people would like to have changed. We are not here to sell the package. We are not here to kill the package. We are here to act as a responsible Committee in regard to it so that in due course we will fulfill what becomes our final responsibility of reporting these bills out to the Legislature for their consideration.

Does anybody have anything further? If not, the first witness will be Mr. Robert Henry from Princeton Borough.

R O B E R T     H E N R Y:     Ladies and gentlemen, and distinguished Committee members: I am here at the request of the Princeton Borough Council, of which I am a member, and Chairman of the Finance Committee. By resolution the Council requested that I represent them.

Within the corporate limits of the Borough of Princeton more than 60 per cent of the assessed value of all real estate lying therein is exempt from municipal taxation and the exempt property and associated activities and endeavors are and will continue to be a benefit to the county, state and country; and

Whereas, the taxpayers of the said Borough of Princeton are heavily burdened as the result of the loss of revenue and increase in costs generated by exempt properties. . . .

That was a mandate from our Council and I would like to think of the taxpayers in the Town of Princeton.

Gentlemen, I thank you for this opportunity to come before you and present some of the concerns of our taxpayers in the Borough of Princeton and on the recommendations made and bills introduced in the Legislature covering tax reform.

I should like to say personally that the Tax Policy Committee has done a magnificent job to come to grips with the fiscal problems of our State and its over-all recommendations are supported by most of us who are close to the problems.

As a candidate for the General Assembly last year, I advocated inclusion of the income tax reform in the Democratic State Platform and during my campaign endeavored to make it a political issue.

In its call for reform, the Commission courageously attacked most of the problems and made sound recommendations. Unfortunately, one area of investigation, namely, tax exempt properties, was studied and although significant recommendations were made pertaining to governmental properties, they failed to come to grips with the private exempt property problem.

In a report issued January 30, 1970, the State's Commission studied the exempt laws in the State of New Jersey, as chaired by Assemblyman Apy. It concluded that the greatest percentage of exemptions which it considered would have to remain unchanged. But the report stated in no uncertain terms that the present inequitable distribution of exempt property for educational and other nongovernmental organizations and the consequent variable burdens of such exemptions on local taxpayers of this State should not continue.

The problem lies in the fact that in many cases property devoted to an exempt use in a particular municipality draws the beneficiaries of its exempt service from a much wider area than that municipality.

Nowhere in the State is this more apparent than in Princeton Borough wherein 39 per cent of the property values pay 100 per cent of the tax burden. The Apy Report's major recommendation was to spread the load of tax exempt properties over counties. In a statement accompanying the report, Senator Beadleston cited the deficiencies of this recommendation and stated that others - and he was talking about private schools - draw a majority or at least a large percentage of their students from without the state. This is especially true of Princeton University.

In my opinion it seems unfair to spread the load of that exemption over the entire County of Mercer, particularly Trenton. But the Senator did recommend that the Legislature

give consideration to provide adequate payments in lieu of taxes to those municipalities now carrying the full load of such exemptions.

In a Federal study, the Advisory Commission on Intergovernmental Relations pointed out that state-granted exemptions spread the cost among taxpayers in one locality, not to a statewide tax base. The impact is unequal and sometimes a community bears costs of an institution which serves a much wider area, and the legislatures are actually imposing forced contributions on local taxpayers without their consent and outside of local budgetary processes.

There is a Commission consensus - and this was alluded to in the Tax Policy Commission Report - that the State should, among other things, consider that the property tax loss should be clearly identified and be considered a cost of government - the State of New Jersey has taken action in the last two years to require a better reporting mechanism for the assessed and tax exempt property - and that furthermore no exemptions should be granted if it benefits the group at the expense of another equally disadvantaged group.

Alfred Balk in his comprehensive report, the Free List - Property without Taxes, which was financed by the Russell Sage Foundation in 1971, recommended that one approach to meaningful reform could be realized by having state reimbursement for mandated exemptions and intergovernmental payments in lieu of taxes. The State of New Jersey has reacted to the latter proposal but not to the former.

We petition the State to include in its recommendations to the Legislature payments in lieu of taxes for private institutions, similar to Assembly Bill 1269, an act which imposes property taxes upon public schools. It is only fair that the State assume the obligation for the tax-exempt creatures that they have created and lift from the shoulders of the local property taxpayer this awesome burden of supporting universal-type universities.

I would like to just take a moment and show you

gentlemen the impact of some of these statistics. Sometimes this helps to make a better impression.

(Referring to Charts.) This was taken from the Assessor's Report that is now required from each municipality to the State. The total properties reported by our Assessor total \$240 million. I'm sorry this should be in thousands, but it is \$240 million, of which 95 is the ratable base, made up of residential, commercial, etc.

The tax exempt property consists of public schools, other schools, public use, charitable, etc., totalling \$146 million or close to 61 per cent of the ratables. At the time the Apy Report did their survey, this figure was 59 per cent. As you can see, even in two years, or one year, if you will, this has already changed by 1 per cent and that is very significant.

I would like to pinpoint that figure of \$117 million which we call schools. We have three universal-type universities in the Borough of Princeton: Westminster Choir, Princeton Theological Seminary and Princeton University. Their property consists of dorms, what I like to call the people or residential-type structures. Such structures as pertain to these institutions total \$31 million. They also house about 35 per cent of the population in the Borough of Princeton. We are a town with approximately 12,000 people, of which 4,000 are students who can now vote. The other buildings are libraries, etc.

My point, gentlemen, is that these structures, if we allude to the way we apportion taxes, generate services. The town provides the services. They are tax shelters, protected by the State. We look to the State to solve this problem. We cannot do it locally. We cannot beg for contributions to offset services. We must look to the structure of legal means to share that expense.

The other matter that is of profound importance-- and this is my last point -- and as Chairman Apy commented, I should probably be taking this problem to the Education Committee which is reviewing 1272, which I will do. But I

think you as a body in this over-all structure of passing on and making recommendations should be aware of a very parochial problem that this bill creates in the Borough and Township of Princeton, two communities that over the years have wrestled with the problem of trying to consolidate and getting all tangled up in so-called draws on the basis of tax rates, not services and the real issues. But the taxpayer more or less says, you are taking it out of one pocket and putting it in the other. But there are two pairs of pants, gentlemen.

In the recommendations made - as I pointed out, this affects the relationship of the two communities - it is provided in Section 21 of 1272 that taxes required for regional and consolidated districts shall be apportioned to their constituent districts on the apportionment valuations of the respective constituent districts. This change, which is contrary to the recommendations of the Tax Policy Committee, which advocated pupil apportionment, costs the Borough taxpayer over \$300 thousand more under the proposed law, in that school operating costs as mandated by the people when voting to regionalize were to be shared on the method of pupil ratios. This was allowed under the structure, I believe, of Chapter 18, NJSA 18A:13-23, to be technical.

This change has altered dramatically the financial relationships between the community and sets the stage for greater provincialism in political and community planning and development.

I would urge you to change the proposed legislation to revert back to pupil apportionment as originally recommended and approved by the Committee on Taxation. Or, as some people have indicated to me, this becomes a very legal problem because the State has decreed that the school costs should be spread on an apportionment basis and this may be why in the introduction of that bill it was changed.

But if this must remain - and I hope it does not - you should at least allow the two communities a period of transition, being that we have two pairs of pants, even though

we are moving it from one pocket to another in a regional, two-community shared system, that would allow a financial transition as was granted to the Westwood Regional School District that was merged up in Bergen County, where it allowed the cost of apportionment that was changed be spread over a ten-year period. The transition period is 90-10, 80-20, etc., etc. If we must live with this, let us try to take financial responsibility and allow the municipal fathers in the Borough to look for the ratables necessary to overcome this type of change.

Thank you very much.

ASSEMBLYMAN APY: Thank you, Mr. Henry. I welcome Assemblyman Perskie to the Taxation Committee hearing this morning.

ASSEMBLYMAN PERSKIE: Thank you.

ASSEMBLYMAN APY: I would also note if anybody has come in since we started, if you would like to be a witness, please sign up with Mr. McHugh at the front here.

Does anyone have any questions of Mr. Henry? Mr. Perskie?

ASSEMBLYMAN PERSKIE: Mr. Henry, I don't know whether you know the answer or whether you have any reason to know, but do you have any idea what amount of money, if any, is given by Princeton or the other schools to the borough?

MR. HENRY: Certainly. Princeton University as an institution shares in the cost of the sewer and incinerator-type operation. This has extended over a period of years, with the two towns and university. They share this for the water usage and the sewer usage, which is normal. They have made a contribution over the last 10 or 15 years of payments in lieu of taxes, as it has been referred to, not for services, of \$15,000. This year, at my request, since the community was buying a \$100,000 fire truck, which was essentially to protect their high-rise buildings, we requested and received a donation of \$10,000.

I don't wish to allude to what an institution pays us

in the way of services because it is a very complex problem, as the Apy Report and every study I have read on it indicated. I have talked with the municipal people in Cambridge and the mayor in Orange where Seton Hall is. Where states protect the tax-exempt properties, the municipalities must take a very aggressive stand to try to collect for services on an equal basis, subject to negotiation. We may well have to do that. But I look to the State which has taken the first step to tax municipal-type functions - schools - which recognized the problem, but only came to grips with half the problem. I seek the whole solution.

Sir, I would like to allude to one other thing too, and that is in the true-value concept. In a municipality like the borough, which has been called one of the most affluent communities, affluency has a direct relationship to charisma of such institutions, charisma you cannot eat. Charisma doesn't pay taxes.

ASSEMBLYMAN PERSKIE: I can't resist the temptation to tell you I have had a somewhat special relationship to Princeton over a period of some years and its charisma leaves me cold.

MR. HENRY: You said that.

ASSEMBLYMAN APY: I had trouble understanding that, Assemblyman Perskie.

MR. HENRY: I believe there is another graduate of Princeton there.

ASSEMBLYMAN PERSKIE: That's part of the issue, yes.

MR. HENRY: I must compliment Mr. Apy. When talking to him at the time the study was being conducted for the Apy Report, I got finished with my rather long dissertation of about an hour and we were talking about Princeton Inn and some other things, and he said, "Yes, I know them very well. I am a graduate." I figured, there goes my case, but not so. I give credit to Mr. Apy. He was very understanding of the problems.

ASSEMBLYMAN PERSKIE: I am a little bit surprised at the

\$15,000 figure. That's why I asked. Because I don't have very much experience personally in this area. But I do think from what little I have been able to observe that would seem to be somewhat small in comparison to what some other schools may be doing.

MR. HENRY: That's a gross understatement.

ASSEMBLYMAN BEDELL: Senator Schluter?

SENATOR SCHLUTER: Councilman Henry, by way of observation and then a question, I think your testimony spoke very well about the problem of Princeton and in no effort to downgrade this problem, I do think it is significant for the Committee to know that as a representative of the district which includes Princeton, my mail on the Tax Policy recommendations is running about 80 per cent in favor from the Princeton Borough and Princeton Township community - I know that Mayor Wallace of Princeton Township is another speaker who will appear later this morning - that despite the fact that the chart shows there will only be tax relief in Princeton Borough of 4 cents per hundred dollars of valuation, which is about the smallest amount of any municipality that I have seen of like size and substance. And a number of these people are obviously going to be hit rather hard with an income tax.

Getting now to the question that I have, you have been a student of the matter of tax exempt properties because of your experience on the Board of Finance of Princeton Borough and because of your familiarization with the problem. I know that you have met with members of the Sears Committee. Would you say, Councilman, that there would be a possibility of overcoming this problem in Princeton by a payment for services formula or by State law which would allow payment for specified services, such as, police protection, fire protection, - I'm not talking about the sewer and water services which are supplied - as opposed to a different classification of assessment?

MR. HENRY: Would that I had words of wisdom. I personally prefer the State to take the action here, to arrive

at a formula of assessment. I think it becomes a very provincial problem when you leave the local municipalities to negotiate. I think it becomes a very political thing in a structure of people associated with those institutions who wish to remain under that sphere of influence. They would certainly not encourage the payment in lieu of services. There are pressures in a very small community and there is a point of no return, if you understand what I am saying.

When you look at the population of the Borough which is 12,000 and 4,000 in the student body, it becomes questionable how much and who votes, etc., and, as I say, becomes political. But I think you are only being provincial if you look to one community and this was the problem the Apy Report tried to overcome. It said, take this on a countywide basis and establish some formula of tax credit.

I have a problem, as well as the Mayor of Trenton -- I see the problem of the City of Trenton supporting the so-called affluent community of Princeton Borough for tax exempt property. I think it must be done at a State level with formulas that perhaps would provide a certain dollar of exclusion and then properties valued over that would share in the municipal and county tax, at least minimum. Schools are another problem.

As you can see, you change the name of the game and the taxpayer in the Borough wakes up the following morning and he is suddenly hit with \$3,000 more. He doesn't have any more students there; in fact, he has less students than the other chap. I think you have to create some level statewide as pertains to all municipalities. Our problem is no different than Trenton's, Glassboro's, etc. There are demands in a very conscientious community such as ours, for example, that we have public housing. We vote for these types of things. The taxpayers support these. They devote \$1.6 million in ratables for the poor, the indigent, and the senior citizen in the Borough of Princeton. This

costs on the tax rolls \$66,000. They get no credit for this type of thing, meeting the needs of the people above and beyond what the State mandates may be. We have our own local mandates.

But where you have the influence of tax-exempt organizations wishing changes within the system and changing the beneficiaries of the systems and yet they are not required to pay for them, I think the State must step in here. I am going around the bush again.

For example, you have a lot of private secondary schools that assume much of the responsibility within the State for providing a level of education. I do not subscribe that they should be taxed - perhaps by exclusion of \$1 or \$2 million and then you tax over and above that to share would be the answer.

SENATOR SCHLUTER: One more question - Mr. Henry, you said that the countywide apportionment might be a reasonable solution, as suggested by the ApY Report. But in view of the fact that the Legislature has taken action to provide public moneys for private higher education just recently, which would indicate that there is a certain statewide benefit derived from the presence of private colleges, such as Princeton and Fairleigh-Dickinson, Drew, etc., do you not think it would be better to apportion it on a statewide basis, so to speak, rather than a county basis - or to make it a State tax or a State obligation?

MR. HENRY: I think so, yes. I would agree.

ASSEMBLYMAN APY: The sum total then as I understand it is that you would not really suggest that we take the formula that has been proposed in the legislation for regional districts of the municipal rate and apply that to private institutions. Is that right? In other words, you don't view that as the ideal solution. However, from your point of view, would it be an improvement?

MR. HENRY: Yes, it would be an improvement. I am trying to overlook the provincial problem within the Borough.

It is equally a problem throughout the State.

ASSEMBLYMAN BEDELL: Thank you, sir.

MR. HENRY: Thank you.

ASSEMBLYMAN BEDELL: It would be extremely difficult not to recognize the appearance of one of New Jersey's Congressional Delegates. In deference to his busy schedule on behalf of the public today, I would like to call him at this time. He is a Member of the United States House of Representatives, representing the 2nd Congressional District, the Honorable Charles Sandman.

C H A R L E S     W.     S A N D M A N,     J R.:     Thank you.

Mr. Chairman, I have a statement but I am not going to read it. I am going to try to cover it as quickly as I can and narrate upon the leading points that I feel should be considered by the Committee.

(Written statement submitted by Congressman Sandman can be found beginning on page 92 A.)

At the outset, I am not opposed to tax reform. I don't think anybody is. If I thought for one moment that this package represented tax reform, I would be for it. I am here opposing it because I do not believe it represents any reform whatever. In fact, if we called it what it is, we would say it is clearly and purely and simply an income tax by deception. That is what it is.

Now this is not new. It is something that has been kicked around for quite a few years. The thing that I think we should discuss first is the method by which it is being attempted to be accomplished and with this I sympathize with all 120 members of the Legislature, having served here for a decade. I think it is grossly unfair to submit this mess upon the Legislature. The tactics used, the method used, are exactly the same as were attempted in the years that I was here and I watched several other great ideas by other Governors being advanced.

I remember when Governor Meyner was going to save the earth by refinancing the New Jersey Turnpike. It was

submitted to the people and it was soundly trounced by the people.

I remember when Governor Hughes in the first year of his first term came forward with a package far more appetizing than this, because it was going to rebuild New Jersey and it was going to do it without any tax whatever. Now you can't ask for more of a Utopia than that. The only thing he wanted to do was to spend all of the receipts of the New Jersey Turnpike to the year 2002. Fortunately for us, the New Jersey Constitution required that such a program as that and such a program as that suggested by Governor Meyner had to be submitted to the people on referendum. Now that proposal had the support of everybody. It was being promoted by the same highly-paid, high-polished Madison Avenue outfit that you have promoting this.

All that you read about in the media are all of the great things about this proposal. We now have committees being formed, such as happened in 1962 by Governor Hughes. He came out with the same approach - it has to be bi-partisan - and, gentlemen, whenever anybody says that, you want to put your back against the wall and then get awfully suspicious. Because if it is so bad that it has to have both parties' blessing and it has to have everybody's support in the Legislature, there has got to be something wrong with it. Because you and I know as legislators, whenever anything is that great, we have that innate selfish feeling that we want the credit. You see, this is not one of those things that can stand on its own and for this reason, there is this overwhelming outpouring of generosity to put everybody's name on it. So if you do go to the well, you go together. And if you go to the chopping block, you also go together. That's the method behind all of this.

If we take the two eras together, it is an exact duplication of what happened in 1962. The only thing that has happened now is that they have changed a few of the players, but the method is the same. The bi-partisan committee

for the \$750 million bond issue in 1962 was headed by some of the most powerful Republicans in the United States. Although the plan was a Democrat governor's plan, this was the best way to do it. He had everybody for it - everybody - all kinds of publicity, the same kind of a Madison Avenue approach. The only one against it was the Senate Majority Leader who happens to be the Congressman from the 2nd District today in New Jersey. Again, fortunately for 7 million poor souls in this State, that proposal had to be submitted to the electorate and that proposal was soundly trounced at the polls and thank God that it was.

Just look at that one for a moment. Had the people voted on that, about 7 or 8 days earlier, believe it or not, it would have passed. Now what would have happened had it passed? You talk about the sale of a bill of goods. This was it in the superlative degree. If you gave away all of the proceeds of the New Jersey Turnpike to the year 2002, how in God's name would you ever pay for the \$400 million necessary for the improvements and the widening of the Turnpike? Has anybody ever answered that one? That is how silly that proposal was and that came within a hair of becoming the law of this State.

I have to give you this kind of background because it has a lot to do with the method that is being used on this.

Now the Meyner proposal involved only a few bills on refinancing the Turnpike and that was not hard to understand. The Hughes proposal for the \$750 million bond issue required very few pieces of legislation. This - I don't know what it requires. One day I read it is going to require 48 bills. The next day I hear it is 66 bills. And by the time you fellows get to vote on it, it will probably be 166 bills. You know nobody is that smart that I have ever met, and that includes yours truly too, that is going to be able to understand that maze of legislation,

the impact it is going to have upon the eighth largest and most heavily populated state in the Union. And I am absolutely confident that what the Governor said to the AFL-CIO has a lot of merit. This, I think, is the most honest statement made by him on this proposal up to date, and that was, the AFL-CIO, one of the largest unions on the face of the earth, with its battery of attorneys and experts of all kinds, decided not to be for this proposal because they didn't understand it. Gentlemen, if you forget everything else I have to say today, remember this. I think he is probably right. Even with all they have at their disposal, they do not understand this mess.

Let's look at a little bit of history attached to it. This is not the first Tax Policy Commission. Seven such Commissions existed during the ten years that I was State Senator. They didn't recommend all these things, but they did come up with some recommendations that would have forced upon the State a long time ago a sales tax and an income tax.

The Sears Commission took more than two years to study this. I read over their findings, as best I could, and I didn't have enough time to really devote all the time I should to it, but it took the Governor three months for him to read it and understand it before he came up with some of his recommendations. Now he has had the benefit of public opinion as to the Sears Committee's mistakes and, boy, there were plenty of them. That was a package that couldn't pass in a hundred years and everybody knew it. It took him three months, him, meaning the Governor, to come up with this proposal and he is asking you to put your necks on the chopping block to do this during the long, hot summer, when nobody is paying any attention to anything, with a hope and a prayer that the 166 bills, if that is how many is going to be necessary, will be rushed through under emergency proceedings probably on the eve of January 3rd or some such good date when everybody wants to be any place except here, and with

a hope and prayer that nobody in the seven and one-half million population ever understands what is being attempted here.

Now I suggest to you, if in doubt,-- this is what I told the people in 1962 when I was the only voice the people had in 1962. I was the Senate Majority Leader that year and, believe it or not, I couldn't get the Republican Party to support my position against the \$750 million bond issue and we met many times to do that. I suggest to you, as I suggested to the people in 1962, if in doubt vote no because this proposal has far-reaching effects that are going to be felt long after you and I are gone if this thing is ever adopted.

I don't think that you should pay any attention whatever to the threat that in the next election the people will probably say to you, "What did you do to hold back my real estate taxes? Why didn't you vote for that proposal? My real estate taxes went up 15 per cent." Now that is just about as ridiculous as the statement made to the AFL-CIO. This, my friends, does not become effective until after the term of the present Governor and this Legislature expires and that being the case, it can have absolutely nothing whatever to do with any rise in taxation in the tax year '72 or '73. That's how ridiculous that statement is. And I don't think we should judge this on the outcome of the next election anyway.

I think it is high time that we started to rationalize and take a picture of what we are really trying to do. What are we attempting? I suppose I have a name of being against all kinds of taxes, and that's a little unfair. I opposed the sales tax for very definite reasons and I am opposing this tax for very definite reasons. I oppose it because I believe in sound, long-range planning. Let's think of that for a moment - sound, long-range planning. I was against the sales tax way back because I knew, and so did anybody else that paid any attention, that there was going to come a day under the very expensive program of Medicaid, and it was

right in the Federal legislation, that by January 1st of 1970 all 50 states had to have their own program. Then Dr. McCorkle made the statement that such a program by the 1st of January would cost New Jersey \$100 million. And I went along with that amount. So the idea there in opposition to the sales tax all those years was to save that tax so that a large part of it could be dedicated for that \$100 million when it was needed.

Well, when I left the Legislature in early 1966 and the Democrats took over - and I am not trying to be partisan - I'm trying to give you history - the sales tax was willy-nilly enacted. Its proceeds were promptly dispersed into about a million different potholes and no one paid any attention as to where the \$100 million was coming from on January 1st, 1970, and that brought about the debacle.

My friends, it is not possible using prudent judgment for this State to have a financial crisis. It is not possible. The only way that it could possibly happen - and this you have to watch on a monthly basis - is an unsuspected drastic fall-off of revenues. Then you have an excuse. But you don't have an excuse because expenditures increase.

So the crisis of 1970 to the tune of \$100 million plus was a manufactured crisis for which there was no planning.

Now I went through that to give you a reason why this should definitely be opposed. In the future you are going to have some demands upon the capital and the receipts that you collect from the taxpayers. There is no question in my mind about that. It would seem to me that we have to realize, and I am certain the people realize, that the last big source of big State revenue is the thing that is hidden in this mishmash, and that is New Jersey's first State income tax. That is the last big State revenue. There aren't any others that will go into the size of this, a half billion or more. That means to me that if that is the last big source, it should be protected, as I recommended the sales tax, which is the second largest source, should have been protected,

but it wasn't. It has been dissipated and today you have one of the highest sales tax in the Nation. There is a limit to how much you can do with that to get more revenue.

So this is the one that you have to conserve. This is the one that has got to be protected. Otherwise, you will be guilty of creating a manufactured crisis at some later date.

I think it is altogether fair to tell to the people -- and one of the principal reasons that I am here - I have a right to be here because I am one of those seven and a half million people that are going to be paying for this thing if it is ever adopted - is because I have studied state budgets for 17 years. I don't think I am the dumbest individual in this State when it comes to the fiscal affairs of this State and I have a right to voice my opinion to those who represent me here in the State Legislature, as you have a right to pass resolutions memorializing the Congress of the United States and people like myself to do as you would suggest. So I don't want you to think that I am trying to impose on your authority. That is not the case. And I don't think I am any smarter than anybody that is in this Legislature. Please don't take that as being any kind of an attempt either.

I think it is altogether proper to give you at least one man's observation who does try to pay attention to things in Washington. No matter who is the next President of the United States, in my opinion, if we are to stop inflation the 10 per cent surtax must be re-enacted. That is a drastic increase, my friends, in the income tax. I think the working man - I think everybody that pays an income tax - and that's almost everybody that breathes in this State - should know this. In my opinion this will definitely be adopted in the 93rd Congress because no matter what we try to do we are facing a \$26 billion deficit this year and with all the paring down, holding back, it's going to be at least that much. If revenue sharing on a willy-nilly basis is passed, such as has been recommended by everybody that thinks they are getting something for nothing, you can tag another \$5 billion

on top of that. So if we are going to save the value of the American dollar, we have to be prepared to pay for it and the taxpayers of all 50 states are going to get waffled with income tax increases during the next two years in my humble opinion. And I say this regardless of what happens to the war in Southeast Asia. If there is total peace throughout the world, that statement holds true because we know from the Korean conflict and we know from ending World War II how long it takes to have any recoupment of moneys that allow any kind of a balanced budget after that date. So this I think you have to be prepared for and this I think the people have to be warned about. Your Federal income tax in the next two years must go up.

Now I don't think this Legislature should put another income tax at a State level on top of that. I think you are going to have a tax revolution maybe if that happens and I wouldn't want to be responsible for that.

I said before other attempts were made under the same kind of presentation. Other attempts were made by the finest publicity known to man. That comes from Madison Avenue. Other attempts were made by attaching beautiful names to a proposal that couldn't stand on its own two feet. I have cited two proposals that were defeated and they were defeated by the people.

This proposal is far more dangerous than any of the others because this proposal, unlike the two I talked about, Governor Meyner's proposal and Governor Hughes' proposal, does not have to be submitted to the people. That is the big difference between the two. And I have no doubts what would happen to this package if it were submitted to the people. I am not recommending it be submitted to the people. But I am saying this: We should bring this thing out in the open and call it exactly what it is. It is an income tax with certain little flourishes and that's all it is. The only difference between this and what Governor Hughes tried to do, this has the Federal style of the boondoggle known

as an omnibus bill. This is an omnibus bill. Make no mistake about it. What is an omnibus bill? It is the worst kind of legislation that exists.

About once or twice a year in the Congress, in an effort to pass a bill that can't stand on its own two feet, they put together the omnibus bill which is everybody's little plum, in the hope to get everybody's vote to pass a bill that nobody wants. That's what this is.

Now some things have been taken out of the Sears Report and these are the plums. Can you imagine anybody having the courage of voting for the repeal of veterans' exemption? Of course, not. So that is taken out with a hope and a prayer that the veterans now will at least think - they are getting nothing additional - but we are not going to take anything away from them so this should give us the veterans' vote. That's the plum there.

Then, of course, that other brilliant recommendation by the Sears Committee, that one that puts the sales tax on clothing, which was as popular as a case of the measles, is out of this one. That is not here. This then is the appeal to the housewife. She is not going to pay the 5 per cent every time she buys a pair of little shoes or something else. And because we are not giving her anything but we are not taking anything away, this should give us the housewife, you see. Little plums are put in.

Here and there, there is a hope and prayer that education may do better than it is today with a hope that that block will be brought in. There is an appeal here to the private colleges and the private schools that perhaps they will get a crumb - perhaps. So this is their little plum in exchange for their possible support for the program.

The worst hypocrisy of all in the whole program is what they are trying to tell that poor homeowner all over again. I lived through this for ten years. I watched everything I predicted happen, and so did you. I said that the sales tax was not going to lessen anybody's taxes, not

even for a single year. I said the only thing it is going to do is find itself into a million potholes and nobody's taxes are going to go down. We are not going to make anybody happy. If we spend it all on education, the educators will be here saying we are not doing enough for education, we are not doing enough for the Teachers' Colleges and all the other places, and no doubt we are not, but that is another reason. So I said then, this is going to bring on an income tax - that's what is going to happen. Because if you can get away with this thing under the style that you have adopted it, you can get away with anything, and I believe that yet.

Somebody has said that there is a court decision that makes unconstitutional the present system of collecting taxes for the public schools. Well, whether we agree with that decision or we don't, let's assume the decision is going to be the law of the country. I hope it isn't. I don't agree with the decision as a lawyer. But let's assume that it does become the law of the country. This proposal, my dear friends, does not meet the things required by the Botter decision and don't think it does. Because in nobody's estimation does this package pay for all the cost of the public schools. And if it doesn't pay for all the cost of the public schools, it is as unconstitutional as if it pays for none of the cost of public schools.

I think too we have to pay some attention to a bit of salesmanship here which I think somebody has run away with. I always get suspicious when somebody tells me they are doing something to help me before I even ask them to help me. This is what is being attempted here. And we are going to put safeguards in this thing so no one can ever hurt you. That has been said too right in this Chamber. We're going to have some constitutional amendments. Oh, this makes me smile. First of all, we are going to help the homeowner with his real estate taxes. So the first thing we are going to do is give him a real estate tax he never had before, one which is levied by the State, one that has

an invisible tax collector that nobody ever sees, nobody ever will see and no one can ever argue with. You can get far with him. The guy who collects my taxes, the guy who assesses my property - I'm happy I know his name. I know where he lives and if I am not satisfied with what he does, I can go see him. There is a system under our laws in this State today where I can get some pretty good attention and so can every other citizen. But under this system, I don't know what attention you are going to get.

Now to safeguard that tax, whoever put this thing together says we are going to have a constitutional amendment so that it can never get higher than one dollar a hundred. Well, that is big-hearted. If you leave it at a dollar a hundred, in ten of the sixteen municipalities in Cape May County where I live - and every one of them are run well - we don't need this kind of a proposal because we think we run our government well at the local level. But under this proposal, without the income tax, ten out of sixteen municipalities get a tax increase. We don't save a dime. So I am pretty confident how the legislators from that area are going to vote. I'm not saying what the income tax does to them. But there is going to be a lid put on that tax by virtue of a constitutional amendment - remember that.

There is also going to be a constitutional amendment proposed for other things affecting the county tax and the local tax. That is big-hearted also. Do you know what you do when you do all of this? You have then effectively controlled through amendment to the State Constitution taxation of every level of government, except one, right here. There is no amendment proposed in this proposal that sets any limitation whatever on the personal income tax. Why was that one left out? That's a good question. Why was that left out?

Secondly, let's be honest. If you are going to help that poor homeowner - we have lied to him so long it is

pathetic -- if we are going to help him, if we are going to absorb the public school cost, there is only one way you do it, you dedicate forever a State revenue for that purpose. There is no constitutional amendment proposed by whoever dreamed up this program to dedicate the biggest tax there is, the income tax. Why wasn't that part of the package? The strongest recommendation I can make to you gentlemen -- and I am not recommending - please don't misinterpret what I am saying - I am not recommending the implementation of a State income tax at this time. I am not doing that.

I studied economics for a long time. One of the fundamental principles of taxation that I learned, and I have tried to subscribe to through all of these years in government at the State and Federal level, is that you never tax the people until it is necessary at the time the tax is enacted. That is as sound as you know your name. This proposal enacts a tax two years before it becomes effective. It uses figures that will be four years old at the time the tax becomes effective. It brings into being the largest revenue that the State can ever have and it has no control over what use that revenue is going to be used for, none whatever, and I say this is wrong.

If you are going to have an income tax - and perhaps this is something that this Legislature should come back with when it meets next week - if there is one thing you are going to submit to the people, I think you should submit to the people a proposal in the event that the State of New Jersey shall ever have an income tax, it shall be forever a dedicated trust fund, the largest part of which will be used to pay for and absorb the cost of primary and secondary education to the tune of 100 per cent. That way you will help the homeowner because you will have taken away his obligation to pay the school tax. You will have helped the homeowner. You will have given him all the security he needs. Because this Legislature and no other

can change what can happen to the biggest revenue there is because it will be trust funds that you cannot legislate and you cannot change the expenditure thereof unless you submit another proposal to the people and the people give their consent to you to amend their Constitution. This, I think, is sound planning.

So, gentlemen, it is grossly unfair for anybody to ask you or me or anyone else to support a maze of legislation that not even the AFL-CIO can possibly understand and to do it during the long hot summer. To ask you to do something that nobody else has been able to do in a long, long time, I think is unfair and I am confident that when this proposal is refused by the State Legislature, you will be pretty assured of coming back here to do another good job for the people. Thank you.

ASSEMBLYMAN BEDELL: Assemblyman Apy?

ASSEMBLYMAN APY: Mr. Congressman, I want to ask you a question that I have always wanted to ask a Congressman. What effect do the memorializing resolutions that we pass have when they get to Washington?

CONGRESSMAN SANDMAN: Well, truthfully, I can't speak for all of the members. I get a great deal of stimulating thought from a lot of the resolutions not only from the Legislature, but from even some of the smallest towns. So, in answer to your question, I pay a lot of attention to them.

ASSEMBLYMAN APY: Good. Some I vote for and some I don't and I often wonder if it is an exercise in complete futility. That is why I wanted to get a reaction from somebody that we direct them to.

The other thing goes to the content of your remarks. I want to try to understand your position. Directing our attention to education, you do not accept the principles of the Botter decision, as I understand it, as is true of many others. However, assuming that the time comes when this decision is upheld, as I understand it, the responsibility

would then be the State's to meet the educational cost which right now totals slightly over \$2 billion from information we have.

Do I understand you feel, number one, that whatever means is used should be a dedicated means? In other words, whatever tax is used to meet the cost of education by the State should be a dedicated tax?

CONGRESSMAN SANDMAN: If you are going to do it through this method-- and again I said I do not favor the implementation of the big tax at this time because you are using figures that will be four years old by the time this thing becomes effective.

One other thing I didn't say here either: This does not take into consideration the mass of legislation that I feel the Federal government will enact in the next two years, which will be effective before this will, affecting revenue sharing, affecting pollution control and affecting the take-over of welfare costs. These, I think, have to be known before you go into this.

If the Botter decision stands, which I hope and pray it does not, but if it does, then, of course, you are resolved back to an over-all State assessment of taxation.

ASSEMBLYMAN APY: From some source.

CONGRESSMAN SANDMAN: -- for the whole bit. See, this program here doesn't meet that test because this program does not cover all of the cost of primary and secondary education.

ASSEMBLYMAN APY: I understand. What I am trying to do is to give us some guidance for the future, which is what I understand your remarks to be, in trying to anticipate what is one of the possibilities. As a matter of fact, it is the existing law now.

CONGRESSMAN SANDMAN: Right.

ASSEMBLYMAN APY: At that point in time, if I happen to be a member of the Legislature, as I understand it, I am going to have to turn to some means to provide the funds.

As I interpret your remarks, we should do it that time as some sort of a dedicated tax.

CONGRESSMAN SANDMAN: That's right. That should be a trust fund that should go up and down according to the needs of primary and secondary education.

ASSEMBLYMAN APY: We would probably anticipate, based on past history, it would primarily go up.

That being the case, I understand you would in effect wait until that point of time before saying that perhaps finally we had to go to an income tax.

CONGRESSMAN SANDMAN: Well, if we went to an income tax, - let's assume you are going to do your financing by virtue of an income tax - I first recommend very strongly that soon there should be an amendment to the State Constitution which will allow the dedication of a revenue which under present law, as you know, we cannot do.

ASSEMBLYMAN APY: Right.

CONGRESSMAN SANDMAN: You could not by simple act of the Legislature dedicate the income tax. So it would seem to me that what should happen here is that this Legislature should consider submitting a referendum to the people to say in the event there is such a tax at any future date, it will be used thus and so, as a dedicated revenue, and it would be treated forever as a trust fund.

ASSEMBLYMAN APY: Right. Let me get another response if I could based on your experience. Knowing as you do the resources available for purposes of taxation, would you favor using one of these resources exclusively for education by way of a dedicated tax as opposed to using several of them? Specifically, we are all aware of the fact that we could use all real property taxes or all the sales tax or all the income tax or all the corporate tax, whatever. But in order to foot this \$2 billion bill, that is now \$2 billion, if and when that time comes, do you feel that one tax and one tax only should be used to foot the bill?

CONGRESSMAN SANDMAN: That's a hard question to answer.

The only honest answer I can give you is, first of all, it should be done at the time when we would have reason to come close to what we need. You can't possibly do that using figures four years old. You can't possibly do it without having some idea of what other revenues are going to be available to you from the Federal government, and I think everybody is pretty much assured there will be other revenues.

ASSEMBLYMAN APY: You support revenue sharing yourself, don't you?

CONGRESSMAN SANDMAN: I support revenue-source sharing, which is far different than the President and Wilbur Mills. But because of the kind of rule that they are coaxing everybody to be for, my bill won't even get consideration.

Truthfully it is worth talking about for a moment. Under the President's bill, New Jersey gets \$153 million; under Wilbur Mills' bill, we get the same amount. Under my bill where the Federal government is deprived of the right to just tax alcoholic beverages, we get \$395 million from just that. It stays in New Jersey. My bill doesn't cause a \$5 billion deficit; theirs does. There is a big difference between what we stand for. And I am not going to vote for this bill just because somebody is in a big rush trying to get something that they think is for nothing. We have heard too many candidates complain that New Jersey is dead last on what we get back from Uncle Sam and I want to do something about it.

ASSEMBLYMAN APY: One other thing I might point out because I have had the opportunity to read the bills is that I actually don't think that the proposed package - as a matter of fact I know that the proposed package does not have in it a Constitutional amendment as to the county and municipal tax rate. The only Constitutional amendment is as to the dollar limitation on State property tax. The \$1.50 and the \$.50 for county is in a bill, but is not one of the three Constitutional amendments. I just draw it to your attention.

CONGRESSMAN SANDMAN: I understand. I apologize for

making that mistake.

ASSEMBLYMAN BEDELL: Assemblyman Vreeland?

ASSEMBLYMAN VREELAND: Thank you. Congressman, I just have one question, and I want to say I certainly was impressed with your talk. I think you brought out some new ideas to this Committee. If the Botter decision is upheld, as you have pointed out, and you are not in favor of an income tax, how then would you implement the decision without a State property tax?

CONGRESSMAN SANDMAN: I said, Assemblyman, if the Botter decision is upheld - and I hope it is not upheld - because if it is upheld the other parts of this measure are going to fall with it and then we are going to be back to where we started, all over again. If the Botter decision is going to be met under the circumstances that the judge describes, you would have to enact an over-all levy at the State level. This I think is his direction. I don't agree with his being right at all because if you do that and if you agree with other provisions that have been discussed in this measure where a community is not going to be bound to the State average on the cost per pupil - they can by referendum increase that by 15 per cent, you see - now that in itself puts us right in conflict with the Botter decision all over again. Now I want everybody to get the same kind of equal education and I am sure everybody does. But if a municipality wants to spend more money for education and the taxpayers in that municipality agree to do it, I think they have a constitutional right to do just that. This is why I think the Botter decision is wrong.

ASSEMBLYMAN VREELAND: I think that is true. But I think the package does allow for what you have just said, for any municipality to spend more than the State average. And I think the Tax Policy Committee agreed too that that part of the proposal as to its legality or constitutionality is not definite. I think that is true.

CONGRESSMAN SANDMAN: That's right.

ASSEMBLYMAN VREELAND: Thank you.

ASSEMBLYMAN BEDELL: Assemblyman Gorman?

ASSEMBLYMAN GORMAN: Congressman, in trying to sum this up in my own mind I find somewhat of agreement between you and the Governor and some disagreement. The agreement comes in the Governor's address to this Legislature. He initially started off with the statement, the same as you did, that we don't need an income tax. In the Madison Avenue type of thing and the television programs since then, the Governor normally starts with this thought, "We do not need an income tax." Of course, then the Governor goes on to qualify it, that we do not need it if we want to continue the burden on the local property taxpayer. This is where I seem to see the disagreement. You feel if we did have an income tax, the local property taxpayer would not be relieved of the burden. Am I correct?

CONGRESSMAN SANDMAN: He would get some immediate relief, don't get me wrong. Of course, the six largest cities would share well in the program. I mean, if you are aiming your desires at making them happy, you are going to make them happy with this proposal. Maybe that is what is behind all of this, I don't know.

What happens here in this proposal is a levelling off. The municipalities that apparently are in pretty good shape are not going to do anywhere near as well as those that are not. There is a levelling off here.

I believe that over a period of time which is not in the distant future, the tax advantage, if there is any, on the average state taxpayer will dissipate after about the second year. This is the fear I have.

ASSEMBLYMAN GORMAN: Thank you.

ASSEMBLYMAN BEDELL: Assemblyman Perskie?

ASSEMBLYMAN PERSKIE: Congressman, I have two questions. One has to do with revenue sharing. Are the bills that are sponsored or being suggested by the President or the Chairman of the Committee for revenue sharing tied into the type of revenues generated by the states?

CONGRESSMAN SANDMAN: I have great affection for Congressman Mills. Let's talk about his bill. But first I will say with regard to the President's bill, it is one of the few areas where I have had sharp disagreement with the President in the six years that I have been there and I have discussed this with his people.

The first Mills bill was directly tied into whether or not you have a State income tax. I always felt this was the wrong way to give a place aid by first analyzing how hard they soaked their taxpayers. Under either proposal, Mills' or the President's proposal, New York per capita gets many times more than we do only because they not only have an income tax but because they have exhausted so many other fields of taxation that we have not. This I think is wrong, fundamentally wrong.

The first Mills bill that he put in-- in fact he put it in a few days after I had testified before the Ways and Means Committee on revenue-source sharing, which up to that time the Chairman felt was a sound way to do this. Everybody I talk to says this is the sound way to do it. But I truthfully don't have enough votes for source sharing. My program gives 44 states more money; six states get less. The President can't be for any bill that is going to give a lot of states less money. For that reason, I can understand the President's position. And since Wilbur has become a candidate for President, I can understand his position too. They lose their better judgment when they get these high ideas sometimes.

Anyway, in the first Mills bill, it was directly tied into the income tax. The Mills bill is a five-year bill and under the first bill he said that after the second year, you would not get the same proportionate benefit unless you had an income tax. I confronted them then that that proposal would never stand and it would probably be defeated as soon as he made an address to some legislature in a state that didn't have an income tax. And it happened

exactly the day that he addressed the New Hampshire Legislature that doesn't have a state income tax. When he got bombed by almost the entire Legislature, he then announced a change in his bill, which is the bill that is going out of committee. In the Mills bill, the two-year provision is changed to five years. In other words, there is no change in what a state will get until after the fifth year, provided it has not adopted an income tax.

That is a frivolous provision because the Mills bill expires in five years. You see, it says nothing. So under the Mills bill which is one that has been voted out of the Ways and Means Committee, the effectiveness of having an income tax is not in it at all.

ASSEMBLYMAN PERSKIE: The other question I have is with respect to the Botter decision. We have been talking about whether or not it is upheld on appeal. You do concede, don't you, for the moment and until something happens that hasn't happened yet, it is the law of the State?

CONGRESSMAN SANDMAN: That's correct, sure. But it is a Superior Court decision which you and I know can be changed.

I don't agree with the concept of the thing at all.

ASSEMBLYMAN PERSKIE: I understand that.

CONGRESSMAN SANDMAN: We have a right to disagree.

ASSEMBLYMAN PERSKIE: I'm not even sure in my own mind whether I do either. And I certainly agree with one aspect of what you said, which is that these bills don't meet that decision, assuming you agree with it. I operate from the theory that we have to assume until it is shown to the contrary that that is the law of the State. Given that assumption and given the dollar figures that Mr. Apy has mentioned, isn't it indicated that we have to do something soon?

CONGRESSMAN SANDMAN: Well, I think if you are going to do it and you are going to do it in a fashion that is going to help the homeowner, it would seem to me that you have to dedicate the big revenue.

ASSEMBLYMAN PERSKIE: I am not trying to say that this is what we have to do. I am not at all certain of that for many reasons, some of which you said. What I am getting around to is - do you feel, considering the effect of the decision, that this Legislature is in a position wherein - I don't know whether June 15th is what I am referring to - let's say this year, we have to address ourselves to the question of raising that \$2 billion on the State level?

CONGRESSMAN SANDMAN: As I understand the Botter decision, he gives you until 1974.

ASSEMBLYMAN BEDELL: January 1st, 1973, to adopt a plan.

CONGRESSMAN SANDMAN: That can be done. You don't need a constitutional amendment to adopt what he wants you to do, and in the interim you can do it on a statewide assessment basis, which I hope doesn't happen.

ASSEMBLYMAN PERSKIE: Let me ask just one more question. Again working on the assumption that we have to come up with something and apart from the package that the Governor has proposed, would you, after having considered the State's financial picture for 17 years, be more inclined toward the imposition of a statewide income tax with the dedication feature that you have mentioned or, in the alternative, a statewide property tax again with a dedication feature?

CONGRESSMAN SANDMAN: Well, the statewide property tax in my opinion would have to be dedicated and that would require constitutional amendment.

If the Botter decision stands, of course, it has to give you some time to act if it does stand. The higher court would see to that I am sure. It would have to give you sufficient time to allow a referendum, I think, and at that time it would be the choice of the people whether they wanted that as a dedicated revenue or the income tax.

ASSEMBLYMAN PERSKIE: What would your position on that be?

CONGRESSMAN SANDMAN: Well, it is giving you a position on something I don't want to happen. Of course, under that position, I would suggest the statewide property tax. Because if you are going to use the big revenue at a future date to alleviate the homeowner, knowing that you can't do that as quickly as you can the State property tax, I would want the income tax at some future date when that big revenue is needed to take the place of the real estate tax assessment in toto and apply it to the cost of education in primary and secondary schools.

ASSEMBLYMAN PERSKIE: But for the time being I gather - and I don't want to misquote you or misinterpret you - but for the time being you would prefer if we had to do something, to do it by means of a State property tax?

CONGRESSMAN SANDMAN: In a practical sense, it would seem to me you would have to go to the property tax first. But in preference to one or the other, if you could do the other first, then, of course, the income tax should be the dedicated trust fund for education.

ASSEMBLYMAN PERSKIE: As a matter of tax policy, which do you think would be a more equitable or a more just kind of a measure to enact?

CONGRESSMAN SANDMAN: I firmly believe that the income tax, if dedicated as a trust fund -- and you don't have to dedicate it all. You have to dedicate a sufficient amount of it, which can go up and down according to the needs of primary and secondary education. That would be the fairest tax. But this would absorb it all, it would be locked in and it couldn't be used for any other purpose, that portion that you need for this.

ASSEMBLYMAN PERSKIE: Such an income tax, even with the dedication feature, considering the \$2 billion figure we have heard today, would probably have to be represented by a rate schedule at least double what has been proposed in this bill - I am told something 3 1/2 to 4 times. Would your position still be the same or would you want to consider

the use of the statewide property tax as a means of offsetting that kind of rate structure?

CONGRESSMAN SANDMAN: Truthfully, I can't give an intelligent answer for that - I don't think anybody can - because I don't know what the cost is going to be. I would be working on hypothetical figures, which this program is working on. It is working on figures four years old that no one can know about, and this, I think, is wrong.

ASSEMBLYMAN PERSKIE: Thank you very much.

ASSEMBLYMAN BEDELL: Senator Schluter?

SENATOR SCHLUTER: Mr. Chairman, I think we should recognize Senator Merlino who has arrived and that makes us just about equal, two against your seven.

ASSEMBLYMAN APY: Wait until we start voting. Then you will find out how equal we are.

SENATOR SCHLUTER: Through you, Mr. Chairman, I would like to ask the Congressman several questions.

Congressman, three of the members of the Committee have asked you about your position with respect to the Botter decision and I just want to see as a result of Assemblyman Perskie's questioning if I understand this. Do I understand correctly - and this is hypothetical and it is based on your experience in the Legislature and your knowledge of State affairs - if the Botter decision is upheld and you had to raise money for financing schools in a different manner than it is raised now, you would prefer a statewide property tax?

CONGRESSMAN SANDMAN: If you could enact one as quickly as the other, I think the more equitable tax would be an income tax for that purpose, if it is specifically nailed down and treated as a trust fund by constitutional amendment. I don't believe you can enact that that quickly. The statewide property tax you could. So in the interim to meet the qualifications of the Botter decision, only for that purpose, it would appear to me that you would have to

go to the statewide property tax.

SENATOR SCHLUTER: That is clear in my mind. Secondly, though, you did say that in your judgment an income tax is a fairer type of levy although there are problems ---

CONGRESSMAN SANDMAN: If it is a dedicated revenue and trust fund.

SENATOR SCHLUTER: Fair enough. Congressman, you referred to the 1962 three-quarters of a billion bond issue and I think it is very appropriate because that particular issue brought in all the elements of certain methods of financing - public referendum and general political support. Congressman, in 1968, we had a bond issue which was the result of the Governor's Commission to study the capital needs or some such commission. The extent of that bond issue was \$990 million. What was your position on that bond issue?

CONGRESSMAN SANDMAN: I was against it because it circumvented the direction of the people on what was going to happen to the money. The money is still not under contract or good bits of it. I favored it being split down into several bond issues for specific amounts and smaller amounts, each time going back to the people when you want more. This thing was a billion dollars. Of course, the people have absolutely nothing to say with what has happened to it ever since. This is the reason I opposed it, not because I oppose bond issues. In the ten years that I was here, I was the sponsor of every successful bond issue that did pass.

SENATOR SCHLUTER: Congressman, as you know, that bond issue did pass and I think it is fair to characterize it by saying it passed overwhelmingly. Do you feel that it has been a failure? Incidentally, there were three specific questions making up the \$990 million, as you know. But in view of the Legislative watch-dog committee which has processed the allocations for the various institutions and highway programs, etc., do you feel that this bond issue has been a failure or has been unresponsive?

CONGRESSMAN SANDMAN: I think that that bond issue has met with about the same success as a good many other bond issues. The money has been available for a long, long time and the production for which it was appropriated leaves a lot to be desired. When I landed in my plane at Mercer Airport, I noticed that your good road here stops at Scudder's Falls. We had money to complete that road back in 1963 when I was in the Senate. So I don't think that this is good production and it is not caused by lack of money.

SENATOR SCHLUTER: Congressman, that particular road is an Interstate and has been financed out of current capital funds.

CONGRESSMAN SANDMAN: The money was frozen by two Presidents of the United States because New Jersey was incapable of using the money available.

SENATOR SCHLUTER: Congressman, we have a communication from you. I don't know whether it was to members of the Appropriations Committee or to all legislators or to the public or a certain segment of the public in particular. But there are two things here that deeply concern me and I would like you, if you would, please, to elaborate. On page 2 of your memorandum which came to me dated May 27th, you characterized a portion of the so-called tax package as a deliberate fraud upon the public for anyone to continue to claim that enactment of the Governor's tax package will bring about lasting tax relief. And this morning, sir, you commented -- I don't think it was in the written testimony, but you commented that we were getting an income tax by deception.

I wonder if you would elaborate, in view of the fact that two previous Governor served on the Sears Committee, in view of the present Governor's record of candor, on those two statements.

CONGRESSMAN SANDMAN: First of all, the income tax is hidden in there. It is hidden in the guise that it is

supposed to be tax reform. I said at the outset, if I thought it was going to be tax reform, I'd be for it. I am against it because I am convinced it is not. To present it to this Legislature in this fashion, I think is grossly unfair. I think to push it upon the people in this fashion with the affirmative statement that this is reform, I think is a fraud upon the public.

SENATOR SCHLUTER: By way of retort, Congressman, fraud in my judgment means intention to deceive. You indicated that the income tax was hidden and I see nowhere that it is hidden or concealed from the public.

CONGRESSMAN SANDMAN: It is hidden in the guise that it is going to help their taxes. It is hidden in the guise that it is tax reform. You read in the newspapers that the polls favor the income tax. I don't know where they took that poll. It depends on the question asked. "Would you go along with the tax if this represents reform?" You see, it has a supposition that it does represent reform. I say it does not. It's that simple.

If you control all levels of taxation, why don't you control the one big one, the income tax? This package doesn't do that.

SENATOR SCHLUTER: But, Congressman, when you characterize something as fraud, isn't it the implication that the persons perpetrating this so-called fraud, which would include the present Governor and two previous Governors, are intentionally trying to distort the facts, which I don't think they are trying to do?

CONGRESSMAN SANDMAN: I think the facts are misrepresented. Maybe the word "fraud" is a strong word. I would rather say they are unintentionally doing this to the people without knowing any better. Now I am not at all impressed with the fact that two former Governors are for this program. Because I saw each of their programs go down the drain and I talked about that today. The Meyner proposal was defeated by more than a half a million. The Hughes

proposal that had everything going for it, except the people, was defeated. This we don't have a chance to defeat because it never gets to the people. This is done by arm-twisting of the Legislature. This, I say, is wrong.

SENATOR SCHLUTER: Mr. Congressman, one last question. I do want to point out I was referring to Governor Driscoll not Governor Meyner, who was a member of the Commission. And I will accept your explanation then that you are not characterizing this as a fraud but perhaps a naivete.

CONGRESSMAN SANDMAN: It is not a fraud in the sense that the Governor is going to get the money. I am not saying he is. But I think it is a misrepresentation on how the money is going to be spent. If it wasn't, he would agree to dedicating the revenue as a trust fund.

SENATOR SCHLUTER: Since you raised the question again, are you saying that this misrepresentation is intentional?

CONGRESSMAN SANDMAN: I say that this is an income tax through the back door under the guise of tax reform and that is deception, as I understand the meaning of what Webster wanted to attach to the word.

ASSEMBLYMAN BEDELL: You have anticipated all the questions I have had, Congressman. I want to thank you for giving us the benefit of your time.

I am sorry, Senator Merlino. Did you have a question? You are not at the table.

SENATOR MERLINO: You don't have a table big enough for all of us.

I would merely like to say to you, Congressman, that I am sorry I missed your initial presentation. But I am on your mailing list and I have been keeping abreast of your comments, proposals and constructive criticism. I can only say that I am rather disappointed that the administration hasn't really paid more attention to what you have been saying these past several months. Hopefully, this Committee will take into consideration some of the things that you have said. I don't agree with all of them,

but I think there is merit in the thought that the people should more or less have a bigger voice in this so-called tax reform.

CONGRESSMAN SANDMAN: Thank you very much.

ASSEMBLYMAN BEDELL: Thank you again, Congressman.

May I say to the people waiting to speak that we did permit the Congressman more time than usual. We beg your indulgence. But we have heard repeatedly from proponents and we are well aware of their position. The Congressman is one of the most outspoken critics of the program and we thought it necessary to have him enlarge upon his areas of criticism. Thank you, Congressman.

The Committee would like to call on Mayor John Wallace, Princeton Township.

J O H N W A L L A C E: Mr. Chairman, my remarks will be very brief and not at all sophisticated.

I have no prepared statement. I do expect the Princeton Township Committee to pass a resolution on this matter before you and it will be forwarded to you during the period of your formal hearings.

As you know, Princeton Township is one of those municipalities whose citizens, according to many, have much to lose and little to gain through passage of the Governor's tax policy. Even if you stick to the published figures alone, that statement we believe is somewhat misleading. A number of groups in our community will get net tax relief; that is after taking into account Federal income tax offsets. These, of course, include a number of very important segments of our community, such as the elderly, the retired, the young, a great number of lower-income and middle-income homeowners, commuters, and after giving effect to Federal income tax credit, many others.

This is much more than just a dollars and cents situation. It is high time, we feel, that the citizens in the suburbs recognize our responsibilities to the State

as a whole, and that the problems of the cities are ours also, that we have obligations to do all we can to alleviate the difficulties of those cities, and that a strong Trenton means a strong Mercer County and hence an improved environment for all of us.

Unfortunately we can't stop the world. These major problems have to be dealt with. I believe it is time for a lot of us small-town, suburb officeholders to stand up and be counted. The tax program is right socially, economically and morally, and I am appearing to endorse the principles, objectives and major recommendations of the Governor's tax policy program.

In closing, I might point out that the owner of an \$80,000 house in Princeton Township who has \$40,000 of income, would have a net tax increase under the proposal of less than 1 per cent. To my mind, to improve the over-all lot of this State and, in fact, improve the lot of the Princeton homeowners, this is very, very modest payment. As you get down to somebody who is in a \$40,000 house with \$20,000 of income, you are talking about a net tax increase of less than 1 per cent. As you go down the line, you have a lot of people that will come out ahead.

ASSEMBLYMAN BEDELL: Thank you very much, Mayor Wallace. Any questions of the Mayor? (No response.) Thank you, Mayor.

I would like to call Mrs. Letitia Ufford. (Not present.)

Mr. Robert Forrey (Not present.)

Mr. William Glading.

MR. GLADING: I came with a team, Mr. Assemblyman.

ASSEMBLYMAN BEDELL: The more the merrier. You may proceed.

W I L L I A M G L A D I N G: Mr. Chairman and members of the Committee, my name is William J. Glading. I am an attorney from Red Bank, New Jersey. I am here as Chairman of the Taxation Section of the New Jersey State Bar Association. I would like to introduce to you other officers of the

Taxation Section, who will testify concerning some of the specific proposals pending before your Committee. To my immediate right is Leonard Goldberg, an attorney from Newark, New Jersey, who is the Chairman-Elect of the Taxation Section. To his right is Laurence Reich, who is a Vice Chairman of the Taxation Section and also practices in Newark, New Jersey; to his right is Saul Wolfe, who is the Chairman of the Committee on Property Taxation of the Section of Taxation of the State Bar, and Saul also practices in Newark.

The positions that we present to you with respect to the tax reform program in general have been endorsed by the trustees of the New Jersey State Bar Association and are incorporated in a report prepared by the Section. With your permission, I would like to offer a copy of this report for inclusion in the minutes of your Committee hearings, although each of the legislators have previously received a copy. I would like to incorporate this in the minutes of your meeting with your permission.

ASSEMBLYMAN BEDELL: So granted, sir.

MR. GLADING: I would also like to make an observation concerning the package of specific bills which have been introduced.

As you know all too well, there has been a minimum of time available for a critical review of these many bills. Members of our Taxation Section have been able to make a preliminary analysis of some of the more significant proposals and we will comment on those this morning.

We would also respectfully request an opportunity to submit a written supplement to our oral remarks. However, we must report to you that our examination of the income tax bill, Assembly 1250, in particular, is incomplete. And since we feel that this is a key proposal, we request that additional time be allowed to review and present comments on the income tax bill.

In our preliminary analysis, we have discovered several technical deficiencies and we suspect that there are many others. Mr. Goldberg will point out to you some of the technical deficiencies.

As indicated in our conclusions with respect to the New Jersey Tax Policy Committee Report, the Bar Association recommended that the piggyback approach be given further consideration by the Legislature from the standpoint of simplicity and efficiency in the imposition of the tax, in the collection of revenue, and the administration of an income tax system.

In the light of our preliminary review of the income tax bill, we feel even more strongly that further consideration of the piggyback approach is justified. In any event, we have concluded as of this moment that the income tax bill, 1250, should not be passed by the Legislature without further time for a complete analysis and report.

There are other bills pending before this Committee which we have not had the time to study adequately. Several of those relate to the corporation business tax and the excise gains tax on other types of businesses. These proposals represent significant changes in the taxation affecting the business community and we believe that they too merit further study before enactment.

We thank you, gentlemen of this Committee, on behalf of the Bar Association for this opportunity to present our views on this important matter and we would like to assure you of our continuing interest and our availability to discuss any questions which you may have.

I would like to present now Mr. Leonard Goldberg, who will comment specifically on the income tax bill.

ASSEMBLYMAN APY: Mr. Glading, before Mr. Goldberg comments, let me just ask this question both of you and of the Committee: You have indicated that you would like to have time for further study, which we very much appreciate and would like to have. Can you or Mr. Goldberg give us

an indication timewise? Deadlines are the best way to get things done. Can we know when we can anticipate having a reply?

MR. GLADING: We think that we would need at least 30 days. In the week that we have had since we received a copy of 1250, we have had committees studying it and the technical deficiencies and defects that we have encountered seem to us to necessitate an almost line-by-line comparison with the Internal Revenue Code on which this is presumably based. Now those sorts of problems evaporate and disappear completely if you gentlemen would consider a piggyback approach. We need a minimum of 30 days if we are to consider this bill and then comment on it intelligently.

ASSEMBLYMAN APY: Have you had an opportunity in developing your study to sit down with any representatives of the administration who actually drafted the bills?

MR. GLADING: No, sir. We actually requested that opportunity and probably because of the time schedule, it was not afforded to us.

ASSEMBLYMAN APY: If that were possible, do you think it might help you out in terms of moving along?

MR. GLADING: We would be very happy to sit down with the drafters of this bill and see if we could coordinate our expertise with theirs to see what could be done to correct some obvious deficiencies which Mr. Goldberg will refer to.

ASSEMBLYMAN APY: My question to the members of the Committee is this - whether or not, in light of our schedule and everything here today, we ought to proceed with this as far as they have gotten or wait until they put the whole package together. I am just thinking about this specific income tax bill. Do you want to go ahead and get the reaction so far?

ASSEMBLYMAN PERSKIE: I would like to hear some of the deficiencies.

ASSEMBLYMAN APY: You want to get their reaction

so far. O.K., fine. I just wanted to find out what the Committee wanted to do.

MR. GLADING: This is a very preliminary evaluation of the bill. As far as we have gone, we see problems. Mr. Goldberg will describe those problems. Again, Mr. Apy, we would be very happy to sit down with anybody who is interested in coming up with a fair and equitable income tax proposal.

Mr. Goldberg -

L E O N A R D G O L D B E R G: Before addressing myself to the technical deficiencies, I just want to amplify briefly what Mr. Glading mentioned with regard to our now endorsement of the piggyback alternative. I am sure that most of you gentlemen are aware of the general outlines and probably a good deal of the details of the so-called Mills Bill which was reported this past April by the House Ways and Means Committee. At the time that we prepared the report, which Mr. Glading previously referred to, we did not have the benefit of that bill before us and had suggested further study.

Having seen the Mills Bill, we believe that a bill in New Jersey along the lines tailored to conform with the Mills Bill would be the most feasible alternative. If the Mills Bill does pass Congress, we think it would be foolhearty for New Jersey and very expensive for New Jersey to put into effect an entire duplicate tax structure in terms of collection personnel as well as interpretative and administrative personnel. To now pass this bill and start gearing up the type of bureaucracy and organizational structure which would be required to implement and enforce our act in 1974 and then seek to shift ground if the Mills Bill passes, we think would account for a good deal of wastage. Even if the Mills Bill does not pass Congress - and there is a good deal of thinking that the Mills Bill or some form thereof will pass Congress - but even if it does not pass Congress, we would be in favor of a piggyback

alternative because of the reduced administrative cost to the State of New Jersey and the reduced burden upon the individual taxpayers in the State.

The only argument which we have heard advanced to us against the utilization of a piggyback alternative or a Mills Bill approach is the concept of the sovereignty of the State of New Jersey and that we want to have our own modifications. While we are sympathetic to some of the modifications which have been suggested, we believe on a balancing of the interest that the administrative ease and cost-saving to the State of New Jersey and to the taxpayers thereof outweigh the few modifications which have been suggested which could not be accommodated in a piggyback approach.

Specifically, we would endorse the use of a piggyback approach as a percentage of the Federal tax, since this would build in the graduated tax structure of the Federal system as well as to build in a separate rate schedule for different types of taxpayers - married, head of household, single individuals - which we had in our previous report which has been submitted in evidence to you this morning. So we endorse the use of separate rate schedules in recognition of the family unit as being the basic tax-paying entity.

We further go on to suggest, whether or not you immediately enact a piggyback alternative, there should be a constitutional amendment of the Constitution of the State of New Jersey to make it clear that the New Jersey Legislature can incorporate by reference and adopt a piggyback approach. So even if we do not now have a piggyback approach, if the Mills Bill does pass and we later want to have a piggyback approach, we can avoid some of the constitutional questions which have been discussed in connection with the entire tax package with regard to incorporating the Federal law by reference.

If it is now adopted, it would probably be necessary

to have a backup title in much the same fashion as Chapter 9 of Assembly Bill 1250 is an alternative backup proposal to Chapter 2 of that bill in the event of its invalidity.

Going further and assuming for the moment this morning that we are not now going to enact a piggyback approach, I want to comment on Assembly Bill 1250 as before you. As Mr. Glading indicated, we strongly urge that passage of this act be delayed until the Bar Association and other interested professional organizations can analyze and offer comprehensive technical critique and comments.

I was in meetings all day yesterday and the day before on this bill with various members of the Section and I think it is fair to report to you that a very preliminary analysis of this bill by just a few members of our Section indicates numerous technical deficiencies in the bill. By technical deficiencies, I am referring to matters which in our belief are not necessarily controversial and that there will be agreements on once the problems are recognized.

Rather than go on for a few hours to illustrate all of the technical deficiencies which we have, perhaps I can illustrate by mentioning three or four items as illustrative of what we are talking about. I should preface that by stating that it is my view, and I think the view of most the members of the Section who have looked at this bill, that the bill in a number of regards indicates a miscomprehension of the structure of the Federal income tax and particularly the interplay between what deductions come from gross income to adjusted gross income and what deductions come from adjusted gross income to taxable income. This becomes important in our bill which uses as a tax base concept adjusted gross income as defined for Federal income tax purposes. I think there are a number of glaring gaps in some cases and over-laps in others as a result of this miscomprehension.

Another type of item which the bill is deficient in

and a specific example of one of the deficiencies is a lack of correlation between this bill and other provisions of other taxing statutes in New Jersey. The base, as we stated before, for computing New Jersey taxable income is adjusted gross income for Federal income tax purposes. Under Federal law, this would include all of the stockholders' share of the earnings of what is referred to as a Sub-Chapter S corporation; that is, a corporation which does not elect to be taxed as a corporation but the individual stockholders pick up as part of their income a share of the corporation's income.

Under present law in New Jersey, a Sub-Chapter S corporation is subject to the corporate franchise tax. No amendment has been proposed to that act. The result would be, if no further amendments are made and 1250 is passed, there would be a double taxation on the earnings, once at the corporate level and once on the stockholder level, not in the same way as dividends but even if undistributed in the corporation. We believe that this is an unintended result that would be clarified if attention was called to it. It is inconsistent with the Federal system.

Senior citizen's tax credit, the amount of the credit in Assembly Bill 1250 is defined by reference to "gross income." Yet I, at least, in the time we have had available have not been able to find anywhere in the statute a definition of "gross income." The entire concept that we have is a concept of adjusted gross income. If they really mean gross income in the usual sense of the word, we believe that it would operate in an inequitable fashion. Let us take the example of the person who operates a corner candy store with \$10,000 of gross sales or gross income and has \$8,000 of expenses or the senior citizen who has a little business on the side and has \$2,000 net income. Is he entitled to or not entitled to the senior citizen's tax credit? A look to the definition of "senior citizen" doesn't help, because there they shift around and refer

just to income without specifying whether they are talking about gross, adjusted gross or net income. This is a definitional problem, but it is illustrative of a number of definitional problems that we have found within the bill.

The last one which I will indicate to you now is another form of double taxation dealing with the interplay between Chapter 3, which disallows a deduction for excess investment interest, and Chapter 10, which imposes a minimum tax on certain items of tax preference, including excess investment interest. After disallowing the deduction, they hit you with an additional tax on it.

Again this is inconsistent with the Federal system and defies any logic to say something which you are not allowing as a deduction is an item of tax preference.

I could go on but I think that this is enough to illustrate the type of things that we are concerned with. There are numerous others that we have been able to identify so far and what we are concerned about is that there may be many more on further examination which we would uncover.

If you have no questions, I would like to introduce ---

**ASSEMBLYMAN PERSKIE:** I have a couple of questions. It all actually comes under the same general heading. I was originally going to ask you about the piggyback approach, but your three examples sort of fit in. You have indicated three examples and apart from the purely definitional one, the senior citizens, let's go to the other two for the moment. You have indicated in one instance there is a double taxation - I guess in both instances there is a double taxation - and that, therefore, because it is inconsistent with the Federal, it is irrational.

My basic question was originally going to be - and I will use these two examples as buttress - the Federal government in its income tax provides certain exemptions and deductions and exclusions which it does as a matter of policy on a nationwide basis. If we adopted a piggyback

approach, wouldn't we be adopting all those same decisions without necessarily considering whether as a matter of policy they would be beneficial to the citizens of New Jersey?

MR. GOLDBERG: Yes, we would. The Tax Policy Committee and really the underlying theory of Assembly Bill 1250, as well as the thinking of most people who have considered state income taxation statutes, recognize that we cannot start to construct our own New Jersey Internal Revenue Code. We must start with a basis of the Federal, otherwise we are going to have a proliferation of laws, forms, interpretations and administrative bodies which would be unnecessary and duplicative. So in any event, we start with having a few modifications of the Federal. It is our view that even though some of those modifications may be worthwhile, in balancing the interest of having some modifications which may be worthwhile against the overwhelming savings to be projected, both in terms of time and effort of the citizens of the State and cost in bureaucracy of the State government, we would come out strongly in favor of giving up the modifications.

ASSEMBLYMAN PERSKIE: But, Mr. Goldberg, isn't it correct that the Sears Report made that decision and basically you are making that decision from the perspective of the ease of administration and the cost of administration of a State income tax? And I agree, the closer we come to the Federal, the easier it is to administer. But isn't it a fact that that decision is based on the administrative aspect rather than any particular questions of tax policy?

MR. GOLDBERG: That is correct.

ASSEMBLYMAN PERSKIE: So, for example, when you point out that we would impose a corporate tax on a Sub S corporation which merely would put us, if we did it, into what I would call the regular method of double taxation of corporations, that becomes not an administrative question but one of tax policy, doesn't it?

MR. GOLDBERG: I don't believe so. We are not concerned about the aspect of double taxation where a corporation, a Sub S or regular corporation, declares a dividend so that the individual taxpayer actually receives money. The way the Federal law operates is that if you so elect, notwithstanding the fact that the corporation may not give its stockholders any dividends and may not have any money, and keeps it undistributed, they can elect to have that taxed to them and the corporation will not pay tax. I am not even addressing myself as to whether you cure this - I have definite ideas on that - by saying that we allow or do not allow a sub-Chapter S election in New Jersey. But there is no logic to taxing an individual on income which he does not have and is merely a buildup of his equity in a corporation. That is not the traditional form of double taxation. When it is a dividend to him, it will be taxed to him. Or, if you allow a Sub S election, he elects to be taxed on the income when it is earned by the corporation.

ASSEMBLYMAN PERSKIE: Thank you.

MR. GOLDBERG: If there are no further questions, I would like to introduce Laurence Reich who will address himself to the sales and use tax bills which are before you.

L A U R E N C E R E I C H: My name is Laurence Reich. I am an attorney in Newark, New Jersey.

Addressing my remarks with respect to Assembly Bill 1251, which is the sales and use tax amendment bill, I would commend to the Committee the report of our Sales Tax Committee, of which I am Chairman, which is reproduced in the report of the Tax Section of the State Bar Association, which has been submitted as an exhibit for the minutes of this session.

The Assembly Bill has generally followed the recommendations in most important respects of the Tax Policy Committee, of which we were critical with regard primarily to the tax on all services generally. The reasons

are stated in our report. Primarily the reasons may be summarized as follows:

First, the taxation of all services, as distinguished from sales of personal property and as distinguished from services connected with tangible personal property which are presently subject to tax in a number of areas, poses very serious, we think insolvable, jurisdictional problems. These are not mere technicalities - the question whether a service is performed within the State of New Jersey so as to be subject to tax in New Jersey. In the case of sales of tangible property, there is little problem. In the case of services wholly unconnected with any tangible property, there are great problems, great difficulty.

The bill does not solve this flaw in the Tax Policy Committee Report. It, in fact, in some instances compounds it. For example, in speaking of sale for resale, it is rather difficult to conceive of when a sale of a service can be deemed a sale for resale.

The use tax, for much the same reason, is ineffective. To pick up those services which will be rendered to New Jersey residents by out-of-state practitioners, the result will be obvious. It will shift the performance of services in many instances from New Jersey practitioners and New Jersey service industry to out-of-state practitioners, out-of-state service industries.

We question the unlimited coverage of all services generally with a few specified exceptions. I submit that this framework of the bill will result in practice in subjecting of services to a sales tax in many areas in which this is not intended or contemplated or believed to exist. I contend to you the fact that the service sales tax would be equally applicable to banking, brokerage, and insurance activities in many areas as it is to the practice of law, the practice of accounting and the practices of architecture and engineering, which are clearly understandably comprised within this area.

The exceptions, moreover, are without rationale and consistency for the most part. Putting to one side the obvious exception for medical and dental services and exception for barber shop and beauty services, why an exemption for shoe repairs? Why for employment agencies? Why, moreover, for advertising, something which I don't believe was in the Tax Policy Committee Report but is included within Assembly Bill 1251?

Finally, there is the overriding problem --- First of all, we are not aided in the solution of any of these problems by reference to the law of any other state. No other state has attempted to impose a tax upon services generally which Assembly Bill 1251 purports to do and would do if enacted.

Now it is somewhat paradoxical for a state in the geographical and business position of New Jersey to be the first to attempt such a move. Situated as we are between New York on one side and Philadelphia on the other, the result is going necessarily to be a shifting, as I indicated previously, of business to service industries of those two metropolitan areas.

In this respect, obviously we are speaking for the State Bar Association, which is comprised of lawyers who would be affected by this. But let me state that the legal profession would perhaps be less affected in this regard than many other professions. For example, architects and engineers who operate on something of a fixed fee schedule, have to be in direct competition in measurable terms with their New York and Philadelphia counterparts and it is not necessary to go to a New Jersey architect merely because you are building a building in New Jersey. The New Jersey Bar must be resorted to in many instances where you cannot go to a New York attorney or Philadelphia attorney.

We further suggest that this may well have a counter productive result in terms of revenue production which will reduce the anticipated revenue from the sales tax and indeed

reduce the income tax revenue because you will be reducing the income of service industries in New Jersey.

In our report we have suggested, although we do not favor it, if the revenue needs are deemed sufficiently critical to warrant some extension of the sales tax base to include services, that many of the problems which relate to non-property-connected services would not affect property-connected services; for example, laundry and dry cleaning; for example, the construction business. It is rather difficult to construct a building in New Jersey in New York, quite impossible obviously. This would by the estimate of the Tax Policy Committee - these two industries would produce \$104.7 million out of the total \$154 million which the Tax Policy Committee estimates for all services and that is quite a significant sum. We say again we do not favor this, but it is an alternative which might be considered by this Committee.

If there are no questions in this area, I would like to present Saul Wolfe of Newark who will speak in regard to real property tax.

S A U L     A.     W O L F E:     Good morning, gentlemen. I would like to apologize for not having a prepared text to spread upon the record, but I received the invitation to participate in this presentation yesterday as I was congratulating my wife in the hospital on the arrival of our first child, so I hope you will bear with me as I ad lib these remarks.

At the outset, there are two particular bills which one might characterize as sleepers in the over-all package. The first, which has received a great deal of attention in the report of our committee, is 1288, the bill that provides for regional assessing districts. Our committee recognized the concern expressed by the State Tax Policy Committee and supports the objectives, that all assessors be full-time assessors; supports the elimination of Boards of Assessors and elected assessors, and the creation of taxing districts

sufficient in size to justify the employment of full-time assessors. However, our committee opposes the appointment of assessors by the Director of Taxation as recommended in 1288 and recommends that the assessors continue to be appointed by the governing bodies of the districts in which they are situated.

We did feel that in order to implement these recommendations, it would be necessary to provide that a time limit be established within which all municipalities in New Jersey would accomplish the employment of full-time assessors, either individually or collectively under the Joint Assessing statute, and that upon failure to do that within that reasonable time, then the Director could create joint or single assessing districts as he saw fit and have the opportunity to create the full-time assessors that we recognize is required.

The Tax Section of the State Bar Association recognized that the intent was merely to create assessing districts large enough to support a full-time assessor and we see no virtue in bigness alone and we are opposed to large multi-municipality taxing districts.

Now the other bill that has not received much attention or publicity is an amendment to the business personal property tax. As you all know, the main feature of that was to deal with the increase in the rate. However, the bill before you also purports to redefine and substantially broaden the scope of business personal property.

ASSEMBLYMAN APY: Excuse me. Do you have the number of that bill?

MR. WOLFE: Yes, sir. It is 1257.

As you can see by an examination of that bill, while it does increase the tax rate, it also very much changes the definition of business personal property and includes as business personal property that which had previously been deleted by virtue of being attached to the freehold in such manner that it could not be removed without substantial damage.

The impact of this may be to result in double taxation of such machinery and equipment since under our real property tax law those items are presently taxed as real property or it may be the intent of the author that with this sleeper, the municipal tax base would again be shrunk by taking away from the municipalities that machinery and equipment which is presently taxed and adding it to the State tax base.

In any event, this was not recommended - this legislation was not recommended by the Sears Report. The Sears Report took a different view. It suggested that regulations be enacted by the Director. Our committee, dealing with the Sears Report and not with this bill, opposed that recommendation. We felt that the law of New Jersey has evolved and is continuing to evolve upon a decisional basis. It is almost impossible to define either by regulation or legislation every category of machinery or equipment that ought to be included as real property or excluded and taxable as personal property, as has been attempted here.

With regard to 1261, the mobile homes bill, we support that bill in concept. However, we think it is drafted in such fashion as to raise horrendous problems of administration and we think it needs to be revised substantially, although we do support the concept.

We are concerned about the pipeline taxation bill. That is 1262. This seems to establish a standard of value other than that required by our New Jersey Constitution and we are very much concerned about it and recommend that no action be taken on this bill, but that the matter be restudied and that appropriate legislation be submitted in this area.

With regard to 1273 on county tax boards and appeal procedures, we feel there is a necessary change that should be made in the statute in line 5, And it talks about a taxing district which feels "discriminated against." That language has been used heretofore to limit the right of a

municipality to correct an erroneous assessment on appeal. The feeling of our Section and our committee was that this should be changed to "feels aggrieved" so that a municipality could bring the problem before the County Tax Board or before the Tax Board, as appropriate. We also note that that bill deals with petitions being signed by petitioners or agents and we felt that attorneys should properly be included.

With regard to 1264, the county tax board qualifications bill, this is not in our report. It was not submitted to the trustees of the State Bar Association. We had not seen that bill. But it is the view of our Real Property Tax Committee and Division of Tax Appeals Committee that that should contain some objective criteria rather than the broad language that is in the proposed bill. It is the suggestion of those committees that the bill be amended to require a requirement that within one year after appointment to a county tax board, the member so appointed be required to pass the written examination presently required for appointment or election as a certified tax assessor. We are not interested in imposing the educational or other prerequisites. It matters not how that member attains the necessary information to pass the examination; we merely would want him to be able to demonstrate by this objective criterion knowledge in the area of appraisal and of assessment.

With regard to Bill 1265, which deals with county board procedures, we feel that there is an erroneous deletion from that bill. The bill in the amendment deletes the requirement that the county boards "keep a full record of their proceedings." We think it is imperative that the county boards keep a full record of their proceedings and urge that that portion of the amendment be restored.

1266 is a very complex bill which deals with ratios and discrimination. Our Section and the State Bar Association have endorsed this concept in principle, but find the bill in its present form rather confusing and would recommend

that no action be taken at this time until there could be further clarification on that bill.

With regard to farmland assessments, we urge the adoption of increased rollback requirements as originally recommended by the Sears Report. We also recommend consideration of further action in order to implement the ultimate objective of preservation of open spaces.

With regard to 1274, which deals with the taxation of county property, and 1298, which deals with the taxation of certain State property, we feel there is a glaring omission, although we support those bills; that is, there is no right of appeal. The bills specifically preclude any appeal. We feel that both the municipality and the county or the State, as the case may be, should have the right to appeal to the Tax Court from a determination, just as any other taxpayer or any other municipality in any other tax appeal. We feel this is a glaring error in those two bills.

We note that there is no bill in the tax package presently pending before you, although there is one in the Senate, to create the Tax Court. Many of these bills deal with a Tax Court and we would urge that you at the time when you deal with this subject also deal with the Tax Court, which we applaud and we feel would be a great step forward in the over-all property and inheritance picture in New Jersey. We endorse the bill that gives the court jurisdiction over transfer inheritance tax problems.

ASSEMBLYMAN APY: Let me interrupt you for just a second and note something you have no way of knowing. Actually the bill doing that will be introduced on the 15th. It has been given a number within this series. It is going to be No. 1289, along the lines of S 502, with certain other modifications.

MR. WOLFE: Thank you.

ASSEMBLYMAN APY: The Committee noted that omission too. That's why it is going in.

ASSEMBLYMAN PERSKIE: A few things, we note.

ASSEMBLYMAN APY:-- this committee as distinguished from

the Sears Committee.

MR. WOLFE: We were quite divided on the issue of 1260, which deals with the apportionment of public utility revenues. Heretofore, in New Jersey, if you had a smelly old generating plant in your municipality, you collected a revenue from that. Under the proposal - it's hard to tell from the caption of the bill - but there is the proposal in there, 1260, and the effect of that would be to redistribute around the county the revenues that the municipality receives from such utilities.

Our committee was divided on this bill. We call it to your attention for your consideration, but it is important to at least know what that bill is accomplishing since it is hard to tell from the caption.

Our committee felt that Bill 1300, that's site-value taxation, was one about which we had grave reservations. Substantial doubt exists among our committee as to the possibility of any beneficial effects to be obtained by this unorthodox method of assessment. And we recommend that there be no enabling legislation until such time as there is further study of experiments that are presently being conducted on the subject of site-value taxation.

We support the property tax limitation concept as set forth in the bills pending before you and we support the concept of the direct appeal to the Tax Court in matters where the value exceeds \$100,000.

I believe that this in general covers the basic principles that we wish to bring to your attention here today. I would say to the extent that we may be of any service to your committee or to the Legislature in general with regard to any technical changes in these bills, we will be happy to assist. We are not condemning the authors of these bills. We think that they have done a good job in the limited time they had available, but we felt, with the expertise of our committee, perhaps we could render some assistance to improve these bills.

I know I have taken ten minutes. I would like to

impose on the committee, if I may, for about two minutes more.

ASSEMBLYMAN BEDELL: May I interject and ask: The services you offer to render, are they in the public's interest; I mean, are they gratis?

MR. WOLFE: Yes.

ASSEMBLYMAN BEDELL: O.K.

MR. WOLFE: As are many services of the legal profession, I might add.

MR. GLADING: These services are gratis. If some of these changes aren't made, they will be paid-for services later on.

MR. WOLFE: You may recall that I appeared at your hearing in Union at the Newark State College, not as a representative of the State Bar Association, but personally, and I asked if I could come back and see you after we had a chance to look at the package.

I would like, if I may have the courtesy, to take about a minute and one-half as Saul Wolfe, not representing the State Bar Association, not representing any organization, but as a citizen of New Jersey.

I am quite concerned about the problems in all of the bills that we have discussed with you. The climate in New Jersey seems to be either you are for tax reform or you are against reform; you have to take the whole package or none of the package. And indeed, criticism of part of the package plays into the hands of those who would oppose the entire package.

As a concerned citizen supporting the over-all principles of the package, I would urge you to give serious consideration to the possibility of segregating the vital parts of the package, the income tax, the statewide property tax, the various specific half-dozen or eight bills on which the whole reform stands or falls, the issue of the new structure of public finance in New Jersey. I think that many of the objections deal with other bills. You

could build a strong foundation now and deal with the other matters at your leisure to put the framing around the foundation and build from there.

I would urge you not to get bogged down in the kinds of details that we have addressed ourselves to with regard to specific bills which are not essential to the totality of the problem and that we may in the future get to those.

Thank you for your courtesy.

ASSEMBLYMAN BEDELL: Sir, that is the intent of the Committee.

MR. GLADING: Mr. Bedell, may I say on behalf of the Taxation Section, our committees will continue studying all 57 of these bills. We will be preparing written resumes of our conclusions. May we offer them to your committee?

ASSEMBLYMAN BEDELL: We will welcome them, sir.

ASSEMBLYMAN PERSKIE: Mr. Wolfe, I would like to address this question to you. I don't know whether it is in your individual capacity or representing the Section, but it is specifically not in your capacity as Tax Assessor. I would like to ask you with respect to Bill 1288, what the substance of the objection to the appointing power in the Director is?

MR. WOLFE: There were many reasons expressed among the committee. The committee report refrained from expressing a specific single reason because while the committee was unified in its opposition to this, there were many different reasons expressed by various members of the committee. Some felt it was an unwarranted usurpation of home rule. Some felt that it was an undue concentration of vital taxing power. There were many reasons expressed. But the basic feeling, I think, that prevailed was that dealing on a year-to-year basis with the intricacies of property valuation, the most comprehensive understanding of those subtleties would be at the local level rather than at some regional level.

ASSEMBLYMAN PERSKIE: Doesn't that raise the spectre though that some of those understandings might wend their way into undue pressure?

MR. WOLFE: I am sure you are aware, Assemblyman Perskie, that the State Assessors Association was the driving force in convincing the Legislature some years back to create an Assessors' Tenure Act. As of today, no Assessor can be appointed in New Jersey or elected in New Jersey without having qualified by being a Certified Tax Assessor which has high educational requirements and requirement of specific knowledge in the area. The bill provides for the creation of tenure of office in a much shorter time than any judge can obtain tenure of office in New Jersey. Once tenure of office is obtained, whether the initial appointing authority is at the local level or at the State level, the spectre of influence, I think, is substantially diminished. I think we have very well dealt with that problem in New Jersey and I think we are far ahead of many states in that regard.

ASSEMBLYMAN PERSKIE: The Association then, I take it, or the Section for which you speak, would, however, recommend changes to the extent that there would no longer be elected assessors?

MR. WOLFE: Yes, sir. We recommended that there be no more elected assessors, and no more Boards of Assessors, and that all assessors be full time. We definitely supported that proposition. But we again felt that it should be not on a regional basis but on a local basis, except to the extent that the municipalities take advantage of the Joint Assessing Act on a voluntary basis.

ASSEMBLYMAN VREELAND: I would just like to find out from the representatives of the Bar Association - I gather from what I have heard here today that the Bar Association endorses the tax reform proposal with these exceptions that we have heard. Is that right?

MR. GLADING: That's correct.

ASSEMBLYMAN VREELAND: Then I have one other question. I think in one of the bills, it spells out the makeup of the Appeals Board and says that one of them must be an attorney. Do you have any comment on that? Do you feel as though this is --- I am speaking about the County Tax Board. I think one of the bills does require that. There has been some comment in these hearings and I was wondering whether you feel as an association that this is a necessity?

MR. GLADING: I don't know whether the Association has ever taken a position on that.

ASSEMBLYMAN VREELAND: It is not your bill and has nothing to do with you. But there is a bill that spells up the makeup of the County Tax Boards and it does say that one of them must be an attorney.

MR. GLADING: I think as representatives of the Association, we could not answer that question now. But I would be glad to look at the bill and get the views of the trustees. I would hate to give a personal opinion. You probably would guess what it would be anyway.

ASSEMBLYMAN APY: You would recognize the wisdom of the attorney who drafted the bill.

The other thing that you might do when you react to that specific question, the thought has occurred to me quite frankly that if you are going to start making qualifications for members of the County Tax Board, you might want to consider a realtor if you are going to put categories of persons on the board. You might give us your reaction to that too.

MR. GLADING: Yes, sir, we will be glad to consider that and give you a report on it.

ASSEMBLYMAN BEDELL: Thank you very much, gentlemen, for giving us the benefit of your thoughts.

ASSEMBLYMAN PERSKIE: I can't help but take the opportunity to observe that with all of the observations that have been made recently with respect to the influence

of the Bar in the Houses of the Legislature, I think we can all concede that the testimony of the Bar Association before this Committee has been very enlightening.

MR. GLADING: Mr. Gebhardt of the Bar Association is going to give each of you a copy of our report.

ASSEMBLYMAN BEDELL: It is not the intent of the Committee to limit anyone's testimony, but we do ask that you be mindful of the fact there are several speakers and we want to accommodate everyone.

I would like to call upon Dr. Ella Filippone, Environmental Research Association. (Not present.)

Mrs. Betty A. Little, Citizens for Conservation. (Not present.)

Mr. Russel Wilson, New Jersey League of Municipalities..

R U S S E L T. W I L S O N: Gentlemen, good morning. My name is Russ Wilson. I am the Assessor for the City of Hackensack and Chairman of the Tax Study Committee of the New Jersey State League of Municipalities. My statement today can be divided into two parts. My comments on the specific provisions of several of the bills in the package will be made on behalf of the Committee and not necessarily on behalf of the League as a whole. The short time interval between the introduction of the bills and the scheduling of these hearings has not permitted sufficient time for us to proceed through the normal committee channels in the structure within the League organization.

However, there are a number of major policy objectives contained in the tax package which the League, as a statewide organization representing 563 of the State's 567 municipalities, has endorsed in previous public statements and Conference resolutions. Let me first address myself to those areas wherein I can reiterate the standing policy of the League.

I want to preface my general comments by saying that the measures contained in the Sears Committee Report as translated and modified by the Governor's legislative package represent the most comprehensive and significant attempt to effect a solution to the tax ills of our State that has come along in decades.

The League most certainly concurs with the alarm expressed both by the Committee and by Governor Cahill over the skyrocketing property tax rate which has imposed an ever-increasing burden on the homeowner in New Jersey. It is not necessary here to document the dimensions of the soaring local property tax levy; it has been very eloquently set forth in the Sears Report. Clearly interwoven with the heavy property tax burden is the increasing difficulty which many of our municipalities are experiencing as they attempt to finance rising demands for local public services through the property tax levy which constitutes the only major

source of revenue available to them. The fiscal crisis facing our municipalities was very effectively articulated by the prestigious County and Municipal Government Study Commission, which in 1968 observed - "New Jersey is in desperate need of a better allocation of the fiscal and governmental responsibilities for the planning, financing and performance of the functions and services provided by its local government system".

Gentlemen, the League, therefore, gives its full endorsement to the objectives of the package which will reduce the local property tax burden by shifting the responsibility of financing certain basic public service costs away from municipalities and counties and assigning them to the State. I am referring specifically to the costs of local education, the costs of the county court system and the remaining costs of local and county welfare programs. The League has endorsed State assumption of costs of these services in a number of resolutions in the past. It seems that the court has spoken in the Botter decision making state financing of education mandatory. We doubt the pending appeal in the New Jersey Supreme Court will substantially modify the philosophy of the Superior Court.

To the extent, then, that the tax package represents a dramatic reassignment of the responsibility for financing the services outlined above to the State and thereby bringing long-overdue tax relief to the local property owner, it is consistent with goals which have long been sought by the League of Municipalities.

The League, as a statewide organization, however, is not presently in a position to make a policy statement on the matter of the State financing its newly acquired fiscal responsibilities. The revenue source contained in the package is, of course, the graduated personal income tax. Since the collection and administration of an income tax is beyond the purview of municipal government, we are not addressing ourselves to that question at this time. And I might say,

parenthetically, I doubt that the League will ever be in a position to take a position on the income tax. There is just no unanimity of expression in that area.

So much for the general objectives which the League supports in principle. Turning now to some of the specific bills which have been considered by the Tax Study Committee, let me reiterate that these measures have not been reviewed by the League as a whole for the reasons indicated earlier.

These comments should not be considered as a final definitive statement, since our individual committee members are still considering the technical implication and application of the legislation. The Committee has directed its attention to tax bills which directly affect local government. We have not considered many of the bills which would affect State taxing policy and administration.

The Committee has no comment to make at this time on the State School Funding Act, the Constitutional amendment providing for a State Property Tax for Schools and related bills. The League has endorsed State financing of education, as I indicated earlier.

Here, again, let me interject at the risk of repetition - Saul Wolfe has already expressed many of the thoughts we have with respect to specific bills and I will take this as a warning never to invite him to another meeting at which I preside - he stole all my thunder here.

The Committee has given some consideration to legislation affecting county tax boards and providing for the establishment of a New Jersey Tax Court. Assembly 1264 establishes qualifications for members of county boards of taxation. We favor the provision requiring county tax board members to be qualified and to have knowledge and experience in matters concerning the valuation and taxation of property. However, we believe the bill should be amended to provide that such tax board members should be required to take and pass the examination currently required for the certification of local assessors. Such examination should

be taken and passed within one year of the effective date of the board members' original appointment. In the event that a new tax board member fails such certification, he should be prohibited from serving as a member of the tax board and not be eligible for re-appointment until he has properly qualified through examination and certification. The League strongly endorsed the certification of local assessors and we believe that county tax board members should be at least as qualified as local assessing officials.

Assembly 1265 provides for the standardization of regulations and procedures governing county boards of taxation. We favor this particular amendment; however, we object to deletion of material on line 2 of paragraph 1 wherein a board is not required to keep a full record of its proceedings. We believe that this deletion is contrary to the Sears Report and urge that the present statute, which requires a full record of proceedings, be maintained.

Assembly 1303 provides for the assumption of costs of county boards of taxation by the State and we have no objection to the amendments contained in that bill.

Assembly 1263 provides for direct appeal of certain assessments to the State Tax Court. We suggest an amendment in line 5 of paragraph 1 so that any taxing district which feels "aggrieved" may appeal. The present law allows the taxing district to appeal only if "discrimination" is charged. From experience, it has been shown that many appeals by the taxing district are denied because of being restricted to "discrimination".

The League, as well as our Committee, has supported the establishment of a State Tax Court for a number of years, such Court replacing the Division of Tax Appeals. We have no further statement to make on the Tax Court at this time, since we cannot determine which tax court bill is being considered by the Legislature. One of the greatest deterrents to equity in the administration of the property tax is the slowness in the appeal procedure. This

delay works a hardship on the aggrieved taxpayer as well as the remaining taxpayers in the district appealing a decision. We, therefore, reiterate our support for a new agency to expedite the handling of appeals on the State level.

Several bills deal with the principle of payments in lieu on State and County owned properties with the exception of properties used or acquired for roads, bridges, parks and recreation purposes, riparian lands, watersheds, reservoirs, forests, game preserves and Green Acres areas. At the present time there are a number of piecemeal payment in lieu statutes on the books and their implementation has often been unfair and discriminatory. In several Conference resolutions, the League has supported the enactment of payment in lieu statutes for state and county owned properties.

Assembly 1274 provides for taxation of certain county properties and Assembly 1298 provides for in lieu payment by the State. We strongly support the principle of both of these bills; however, we are opposed to paragraph 5 in each bill which prohibits the right of appeal by either party to question the director's determination of the in lieu tax payment. Appeals in both bills are limited to typographical and mathematical errors and we believe that a general right of appeal to the tax court should be provided in these bills.

Our Committee has not taken any action on Assembly 1300 and Assembly Concurrent Resolution 111, the accompanying constitutional amendment. These bills would provide for an option to 10 of our urbanized municipalities to adopt a system of site value taxation, under which land would be assessed at full value and improvements at 50% of full value. We understand that several of our large municipalities, as well as the State Bar Association, view such a procedure with alarm. At this time, we believe that not enough is known about site value taxation and it could

actually accelerate abandonment of property in our urban cities, we feel. This proposal should be studied carefully by the ten communities which would be affected by it. Even though such legislation would be optional, the 5 year period for implementation, and the ensuing 5 year period for abandonment of the procedure, could well confuse the assessment administration in a large municipality for a decade or longer.

Assembly 1261 would impose a property tax on mobile homes. The League has long endorsed this proposal, since mobile homes are being utilized more and more throughout the State to house our citizens and we see no equity in allowing such type housing to escape property taxation. This bill would also allow a senior citizen deduction to qualified owners of residential trailers. Obviously, we support this.

Assembly 1268, the proposed amendment of the Farmland Assessment Act which would require gross sales of \$500 per year plus an average of \$5.00 per acre and an average of 50¢ per acre in the case of woodland and wetlands for each acre over 5, meets with our reluctant approval. "Reluctant", being born of the fact that we don't think it's sufficiently strong; we think the additional earnings requirement should be somewhat higher than that.

The bill should be amended, however, because during the twelve public hearings conducted by Task Force "C" of the New Jersey Tax Policy Committee, one area that received considerable adverse criticism was the Farmland Assessment Act, in that, in its present form, land speculators receive a tax windfall at the expense of the homeowner. In an effort to correct this condition, the Tax Policy Committee recommended a change, as found listed under "eligibility" on page 39 of Report No. 2, which would require that the owner receive at least 25% of his gross income from the farm operation. This change is

patterned after the Texas Farmland Law. Believing that this is one of the outstanding improvements recommended by the Tax Policy Committee, it is earnestly requested that it be inserted in Assembly Bill 1268.

Additionally, it is our opinion that the Sears Committee recommendation increasing the roll-back from three to five years should be part of this bill.

Assembly 1269 would impose property taxes for municipal purposes on regional school districts. We believe this is a worthwhile amendment and urge consideration of similar treatment of any regional facility such as sewer plants, water systems, etc. The burden of having a regional facility located within its boundaries should not fall upon one municipality.

Assembly 1299 establishes limitations on property tax levies for county, municipal and school purposes. We support this bill, but here again we can see no equity in denying the right of appeal, except in the case of arithmetical or typographical errors. We suggest that paragraph 8 be deleted from the bill.

Assembly 1257 would increase the tax on personal property used in business from \$1.30 to \$2.00 per \$100 of taxable value. This is the recommendation of the Sears Committee Report and we support this amendment. We believe that some confusion could arise in the administration of the other amendments contained in the bill. The taxation of apartment house kitchen appliances such as refrigerators and stoves comes to mind. If such items were to be considered as personal property, administrative difficulties would occur when applying the capitalization approach to apartments or houses, for example. Individual air conditioning units in such apartments would also be treated as personal property when for tax purposes, they are presently an actual part of the improvement. We would prefer an amendment to Assembly 1257 listing items which should be considered as "personal property" rather than listing items which should be considered as "real property"

as is currently contained in the bill.

The Committee has a comment to make with respect to Assembly 1301 and 1302. While somewhat complex, these bills appear to deal with the surtax on the excess gains resulting from the adoption of the new tax package. We feel that windfall taxes, if any, should be shared by the State and municipalities, with the share represented by property tax relief going to the municipalities.

Another important proposal on which I would like to comment deals with the appointment of district assessors by the State Director of Taxation. While the bill to implement this particular procedure is not yet available, the League Tax Study Committee addressed itself to the underlying concept. We are opposed to the creation of assessment districts and appointment of assessors by the State Director of Taxation as proposed in the Sears Report. We believe that there are adequate statutes on the books providing for voluntary consolidation or the creation of joint assessing districts. The assessors and other local officials sought the enactment of assessor certification statutes and the joint assessing district statutes. We can see no improvement in assessment administration if the assessor is further removed from the local scene. If an assessor is properly trained, qualified and certified, we believe that the statutes will be enforced equitable for all taxpayers. If discrimination exists, there is the right of appeal, and if administration is of poor quality, outright removal of the assessor is possible.

Gentlemen, that concludes my prepared testimony, but let me add just one note before you throw any questions at me, and this is in the form of a personal observation, strictly personal - as Saul said, "Russ Wilson personal".

I am extremely sympathetic to the views expressed by the very first witness this morning, the gentleman from Princeton. The Exempt Property Study Commission,

which was so ably chaired by Assemblyman Apy, introduced a very comprehensive report on exemptions. That report appears to have been substantially overlooked by the Sears Committee and the Governor, for which I fault them. Incidentally, I happen to be a member of the Commission to which I refer. I think private educational exemptions are now particularly significant, in view of the 18 year old vote which could well become disastrous to any municipality.

Thank you, gentlemen.

ASSEMBLYMAN BEDELL: Assemblyman Vreeland.

ASSEMBLYMAN VREELAND: I just have one question. The recommendation on the farmland assessment, which would require that the owner receive at least 25% of his gross income from the farm operation in order to be eligible for the farmland assessment - I gather that's what you're saying there.

MR. WILSON: Exactly.

ASSEMBLYMAN VREELAND: It seems to me - and personally I would be affected by it and I know one of the other members of this Taxation Committee would be affected by any such recommendation as that -- it would throw out an owner then who has a farm which is being farmed by somebody else.

MR. WILSON: I suppose that would be the effect.

ASSEMBLYMAN VREELAND: Now I happen to have a farm which is being farmed by my son so, therefore, I would not be eligible, under your proposal. I don't agree with it.

MR. WILSON: Excuse me, sir, that was not my proposal, that was a proposal of the Sears Committee, if I'm not mistaken, or at least it was proposed to the Sears Committee; whether they adopted it, I don't recall.

ASSEMBLYMAN VREELAND: You're right, but I thought you recommended it.

MR. WILSON: The League is recommending it in this sense - the League is concerned with the potentials

for speculation, the opportunity for speculation which is now being exercised by many large corporations, and we're talking about railroad companies and steel companies, companies of this kind. These were not the original intent of the Farmland Assessment Act, I agree.

Now it could be that, without stepping on the toes of gentlemen who might own a farm being legitimately farmed by relatives or by tenant farmers, there could still be a way to avoid this speculative element that has now crept in.

ASSEMBLYMAN VREELAND: Yes, but not by this recommendation.

MR. WILSON: Perhaps this could be modified. Our basic intent is to avoid the speculation by indiscriminate corporations.

ASSEMBLYMAN BEDELL: Assemblyman Apy.

ASSEMBLYMAN APY: Mr. Wilson, in reference to your testimony about site value, on page 4, Assembly 1300 and ACR 111, I'm wondering really - I know that there are questions raised about the value of it and the consequences, but I'm wondering really what the harm would be in giving these towns the option. You recognize that it is an option, in your statement.

MR. WILSON: Oh, yes.

ASSEMBLYMAN APY: Apparently, they seem to feel that it would help. Isn't this sort of an experimentation that perhaps you should give to the local areas, such as this, this power to experiment and perhaps they can help themselves. Now they may experiment and find out they have made a mistake and ultimately we're going to have to pay for it. That's part of the problem. But isn't it primarily for that.

MR. WILSON: It would take ten years to correct it, if they do.

ASSEMBLYMAN APY: That's right. Once they started down the road, it's a ten year road to go down. I realize

that.

MR. WILSON: Well, actually, Mr. Apy, as you very well know, site value taxation has been experimented with in this country, in Pittsburgh and in California, and more particularly in New Zealand and Australia, and the results have not been at all impressive. I personally have visited with the representatives from the George School, for example, who are exponents of this particular form of assessment and, while they claim tremendous things, it just has not developed that way. It is an area where experimentation, further experimentation is perhaps essential. And, as you point out, to make it optional - well, I am sure it would be no violation of confidence but Saul Wolfe, himself, has said that he would object, as the Assessor of Newark, for example, to the potential that Newark might embark upon this. He's afraid that it would become so politically expedient as a cure-all that they would just be forced into it even though it were optional with the cities.

So, with that in mind - we took that position, to be perfectly honest, at the instigation of the assessors of our two largest cities.

ASSEMBLYMAN APY: So that what you're really saying is that we should really slow down on this.

MR. WILSON: Go slowly on it, at least.

ASSEMBLYMAN BEDELL: Thank you very much, sir.

MR. WILSON: Thank you.

ASSEMBLYMAN BEDELL: Mr. Charles DeFoe, New Jersey Retail Merchants Association.

C H A R L E S De F O E: My name is Charles DeFoe. I am the Executive Vice President of the New Jersey Retail Merchants Association. The NJRMA is a state-wide trade association with offices at 926 West State Street, here in Trenton. The Association represents some 2200 retail stores throughout the State.

While the members of the NJRMA approve the basic concepts of the Tax Study Committee recommendations; and believe New Jersey must alter some of its current taxing methods, we do take exception to some of the pending legislative proposals under consideration by this Joint Committee.

New Jersey retailers for the last six years have strenuously objected to the unfair and highly discriminatory Retail Gross Receipts Tax. Since this tax was enacted in 1966, we have continuously appeared before the Legislative Tax Committee and protested this unfair tax. The Retail Gross Receipts Tax is not a tax in lieu of some other tax; it is a special tax imposed only upon retailers of this State. Retailers pay all of the other taxes paid by New Jersey businesses, but then are called upon to pay this one additional tax. Retailers don't ask, nor do they expect any special services from State or local government, yet we are asked to pay the special tax.

The unfairness of the Retail Gross Receipts Tax was recognized by the New Jersey Legislature in 1971, when the Assembly voted to repeal the tax by a vote of 68 to 2. We are confident, had Governor Cahill not requested the Senate to delay action on repeal legislation such as this tax until the Tax Study Committee had made its report, that the bill would have cleared the Senate last year, and today we would be without this discriminatory tax.

The special burden that is imposed upon retailers by the Retail Gross Receipts Tax is all the more compounded when one sits down and calculates the tremendous costs that the retailers of this State suffer in serving as the unpaid tax collectors of the Sales Tax for the State of New Jersey. We have authoritative studies that indicate that it costs New Jersey retailers some \$15 to \$20 million dollars annually in additional administrative

costs for collecting the sales tax and remitting it to the State. I would point out, of course, that the sales tax is currently the State's largest revenue producer. I would also point out that in better than 20 of the 45 states that impose sales taxes, the retailer is granted a form of vendor discount on his sales tax collections as a partial offset to his collection costs. In no state, where they're as high as 3% even, do they begin to cover the cost that the retailer suffered. In New Jersey we're not even granted this.

Because of the complete absence of any justifiable reason for the Retail Gross Receipts Tax ever being enacted, and whereas we are suffering in other costs, such as donated services to the State, we certainly feel that the Retail Gross Receipts Tax should be fully repealed immediately.

Previously I stated that our Association takes exception to certain measures that are before this Committee and I would like to call your attention to two of them.

We feel that the proposed Excess Gains Tax is going to be a tax, if enacted, that will be impossible to administer and highly unfair to the New Jersey business community. Additionally, we note that in the legislation setting out the proposed Excess Gains Tax - Assembly Bill 1301, the Retail Gross Receipts Tax is one of those taxes used in the formula for arriving at what total Excess Gains Surtax a business might be subject. We feel this is most discriminatory when you look at the fact that there is legislation pending before this Committee that will remove the sales tax on the purchase of equipment and machinery by manufacturers - I assume there will be some benefit to the manufacturers in that, and yet that tax is not calculated in determining the Excess Gains Tax.

By the way, I would like to point out that retailers do pay and will continue to pay under any pending legislation sales tax on their purchases of equipment and machinery.

Because of these two inequities that I have cited, I think the Excess Gains Tax becomes all the more detrimental and would be more difficult to live with for all of us.

The members of our Association also would like to echo the statements of some earlier witnesses here today concerning the site valuation taxation principle. We're advised that in the city of Pittsburgh, Pennsylvania, where such an assessment method has been employed for some time there had been no demonstrated benefits to new construction while there has been some concern over property ownership. We would urge that this Committee not recommend any action on this particular legislative approach at this time until there has been a greater opportunity from the studies being conducted nationally to determine the actual possible impact of this tax.

In closing I would like to remind you that the New Jersey Retailers pay all the business tax imposed on all businesses in New Jersey and, I assume, will shortly be paying some 70% increased corporation net income tax, a 54% increased business personal property tax and receiving little, if any, real property tax reduction. And also, we will continue to serve as the unpaid tax collector for the State. And if you leave that provision in 1301, in calculating the excess gains tax, we will also be continuing to pay the retail gross receipts tax.

A revision in the State's tax structure is very definitely needed, and we hope that the revision will be achieved, and we hope those revisions will be equitable to all citizens including the retail merchants of New Jersey.

Thank you, gentlemen.

ASSEMBLYMAN BEDELL: Any questions? (No questions)

I want to thank you very much, Mr. DeFoe, for a very excellent presentation. Thank you, sir.

Professor H. Peter Gray, Rutgers Council,  
American Association of University Professors.

H. P E T E R G R A Y: Gentlemen, good afternoon. My remarks in general support of the tax proposals will be brief. My written statement will provide any greater elaboration that may be needed.

My name is H. Peter Gray, Professor of Economics at Rutgers, and I represent the New Brunswick Chapter of the American Association of University Professors. However, the views that I present here cannot be attributed to AAUP in every detail.

It seems to me, gentlemen, there are two things that we should concern ourselves with, and a question of disbursements and revenue.

Is the general level of disbursement appropriate for the State? And I take the position that there is a prima facia case that the general level of disbursement by the State of New Jersey is less than optimal and, therefore, some significant increase is in order. And I want to raise a couple of points that in the tax proposal seem to have special virtue from the point of view of revenue raising.

The first of these depends upon the fact that the basis for revenue is an income tax and that we should be able to shift some of this burden to other states. It has long irked me that people who go and work in New York City pay money to Rockefeller and Trenton doesn't get enough of it, if any.

The second stems from the increased progressivity of the package which, apart from being desirable in its own right on a moral basis, does enable a larger element of effective subsidy to come to the State of New Jersey out of the U. S. Income Tax.

Both of these advantages will be retained by the piggyback approach, and I would like to make two points

that are not in my statement on the comments by Mr. Goldberg of the State Bar Association.

On the general basis, I would agree with Mr. Goldberg's point that the savings in administrative detail probably outweigh the virtue of a show of state sovereignty that seems to be one of the main reasons for opposing the piggyback approach. I would, however, draw the attention of the Committee to the fact that the Federal tax system is by no means as progressive as the rate structure makes it appear. As a source of study on this, there has quite recently been done a study by Dr. Peckman of the Brookings Institution which was the Presidential Address to the American Finance Association last December, and if you would be interested I could arrange for copies of this to come to the members of the Committee.

It shows effectively, I think, that the degree of progressivity in the Federal system is minimal on the personal income tax side.

And I think a third point to make on the subject of piggyback is that there does seem to be a groundswell in Washington for significant tax reform. So that any legislation in Trenton based on a piggyback system would, in fact, be legislation - with at least two farmers on the Committee, I hate to use the term "a pig in a poke" but it does seem to me that we don't know what is going to happen in Washington in the next five years and some allowance would have to be made in legislation for the New Jersey legislation to be flexible enough to cope with the changes at the Federal level.

And finally, I would like as an Economist and a registered Democrat, to take issue with the opposition to the package by the State AFL-CIO on the grounds that the excess gains tax is to apply for only three years.

Technically, the problem in any tax measure which redistributes the base for taxation from a property tax to

an income tax, is to prevent windfall gains from accruing to property owners. It is also important that existing businesses should not be penalized by paying higher effective tax rates on the property - that is, tax plus excess gains tax - than are new businesses. The AFL-CIO seems to have overlooked the pressures of competition which work upon all economic units and which will erode over time the ability of any business to enjoy the windfall gains of a reduction in property tax. A three year duration for an excess gains tax is not right and it isn't wrong. The tax seems to me to be a well-conceived - and I read in the New York Times the other day that a colleague of mine from Rutgers, Newark, used the words "stroke of genius" - I'm not as lavish in my praise as that, but it does seem to me to be a well-conceived sort of stopgap or transitional gap, if that's what you want, and three years is as good a number as I can think of. I have no quarrel with three; I don't object to two or four or even five. But it does seem to me that the AFL-CIO has overlooked this idea that competition will work upon the windfall gains or the potential windfall gains, and that it is impractical to impose any type of excess gains tax in a perpetual situation.

I do believe the AFL-CIO made cogent points with reference to the desirability of having landlords pass on property-tax savings to renters regardless of the size of the property. However, even here, the AFL-CIO seems to have underestimated the strength of the forces of competition because if big buildings reduce rents, small buildings will be forced to compete to a certain degree. Competition is not perfect but it does work effectively. And, similarly, the resolution of opposition by the AFL-CIO seems to have overlooked the pragmatic problems of enforcement.

That, gentlemen, is all I have to say. I would

commend the comments of the members of the State Bar Association here this morning. I think the Legislature has an arduous job to do and I wish you luck.

ASSEMBLYMAN BEDELL: Thank you sir.

Are there any questions? (No questions)

Thank you again, sir.

MR. GRAY: Thank you.

ASSEMBLYMAN BEDELL: Ruth Ford, New Jersey League of Women Voters.

Mrs. Ford, I might interject that the Committee is completely aware of the League's position. We've heard testimony from several members of the League and we certainly do not want to diminish your opportunity to speak at all, but we would hope that you do your best to amplify those areas that you think important because we are aware of the League's position.

R U T H F O R D: Thank you. I do intend now to give the official League testimony which will be different from that given by individual League members who testified as individuals on the basis of their own study of the Tax Policy Committee's Report and on the basis of the League's summary of the Report.

ASSEMBLYMAN BEDELL: This is the official position of the New Jersey League of Women Voters.

MRS. FORD: Yes, that's correct.

I am Ruth Ford, a Director of the League of Women Voters of New Jersey. The League appreciates this opportunity to present its official testimony in favor of the Governor's tax reform legislation.

I will not burden you with a long recitation of the League's twenty years of effort to get a fairer and more adequate tax structure for New Jersey. The state-local tax structure has been allowed to develop without plan or purpose other than the expedient of balancing each recurring state budget - and minor measures to relieve the property tax burden.

And I might interject here, parenthetically, that the minor measures I refer to do constitute the whole of the yield of the sales tax. As we see it, aid to local municipalities, counties and school districts has increased since the enactment of the sales tax by more than the total yield of the sales tax. I think this should be noted since often testimony says that they don't know what ever happened to the sales tax. We recognize that the sales tax has been used to reduce the property tax burden by some one-half billion dollars. In other words, the taxpayer would be paying one-half billion dollars more in property taxes if the sales tax had not been used for this purpose.

The League thinks that this complicated, industrialized society has reached the end of its ability to finance essential services with a tax structure that relies so heavily on regressive and inelastic taxes - particularly the property tax. I would remind you that in this state incomes under \$3,000 bear nearly four times the relative tax burden that incomes over \$25,000 bear. Such a tax is not only grossly unfair, it is underproductive.

The Tax Policy Committee's program for tax reform, released in February, comes close to fulfilling the League's high hopes for a program of fair and adequate taxation for the State of New Jersey. And several of the reservations the League had about the Committee's recommendations have since been answered satisfactorily in the Governor's Master Plan for Tax Reform. I will touch on some of these in responding to your request to focus testimony on certain specifics of the legislation.

The State's assumption of the major costs of public schools, welfare and the judiciary, plus the urban block grants, constitute an eminently reasonable means of sharply reducing property taxes and removing the primary pressures for their re-escalation. The proposed statutory

limitations on county and municipal property tax increases will provide an added and necessary restraint. In urban counties such as Hudson and Essex, the conclusion seems inescapable that property tax relief of this magnitude holds out the only hope of reversing the exodus of business and industry and encouraging necessary private renewal.

The proposed graduated personal net income tax will bring a substantial degree of progressive balance to the tax structure -- a long overdue improvement. If the proposed income tax were graduated as steeply on incomes above \$25,000 as on lower incomes, the additional \$40-\$50 million yield could be used to reduce the regressive excise taxes recently increased to balance the 1972-73 budget.

Even with steeper gradations, the income tax would not be a burdensome tax, and most families would be better off with the changed tax structure than they are today. This is the important message the people of the State should understand.

The League agrees with the Tax Policy Committee that the proposed graduated personal net income tax is far superior to a piggyback income tax, which is a percentage of the federal tax. There is no point in repeating here the many good reasons why this is true, which are cited in Part V of the Report of the Tax Policy Committee. We would call attention, however, to the public furor over the loopholes in the federal income tax, which it is safe to assume the citizens of our State do not want repeated at the State level with a piggyback tax. Such a tax would be less progressive, too, than the well-conceived state income tax recommended. The tax structure needs more progressivity, not less.

And I would say, as an aside, that the efficiency referred to in earlier testimony sometimes frustrates simple justice to people, which is our major concern. I submit that the legal fraternity is not entirely a disinterested party in tax matters.

A net income tax makes allowances for size of family and other individual circumstances. A graduated tax takes into account ability to pay - an almost totally neglected tax principle in this State's tax structure.

Besides progressive balance, an income tax would contribute more grow power to the State's tax structure, which is critically needed to match the annual state budget growth required by an expanding population and expanding needs. The more steeply graduated tax mentioned earlier would have far greater growth power because the greatest income growth occurs in the highest incomes.

The League of Women Voters believes that the public is not reminded often enough that an income tax provides instant federal revenue sharing. Through deductibility on the federal tax return, a state income tax yielding \$440 million would retain in New Jersey approximately \$165 million that otherwise would go to the federal government.

And I would like to say, parenthetically, here, this is one of the reasons Congressman Sandman mentioned a little while ago that we are dead last in federal aid - one of the reasons is, we don't have an income tax to deduct from the federal tax.

This is almost as much as the Mills Committee's revenue-sharing bill promises for New Jersey. Revenue sharing through deductibility is available now and does not wait upon congressional action. If the Mills bill ever is passed, that will provide still more federal money and will favor states which have income taxes.

Opposition to the income tax in the context of genuine tax reform seems to me unfounded paranoia at best and demagoguery at worst.

Concerning the \$1.00 statewide property tax for school support, while the League recognizes that it is a state edition of the same onerous property tax which the League and the Committee criticize as being regressive,

nevertheless, even with the \$1.00 tax, the proposed tax structure would be vastly superior to what we are trying to live with today. The statewide tax does have the advantage of raising some \$9 million from industrial tax havens, which have not been contributing their fair share of the cost of schools and other necessary services. While the League believes that such specifics as tax rates are not suitably included in a constitution, a constitutional limitation may be necessary to reassure the public about possible future legislative escalation of the statewide property tax.

We agree with the Governor's decision not to impose a tax on clothing and shoes.

The Governor's legislation to provide that tenants receive a major part of the landlord's property tax reduction seems fair to both tenant and landowners and answers a deficiency in the Tax Policy Committee recommendations.

Similarly the Governor had provided a satisfactory answer, we believe, to the problem of the excess gains that healthy business and industry would realize from property tax reduction. In high property tax rate urban areas, a special provision of the excess gains tax would exempt owner-occupied property from the tax as an incentive to halt the exodus of business and encourage private renewal.

We hope the confusion over the three-year evaluation period provided in the Governor's excess gains tax legislation is cleared up so that everyone will understand there is no intention to let the business and landowner windfall go into effect after three years.

Concerning the proposed \$2,000 higher education income tax deduction, the League would point out that such measures are more beneficial, generally speaking, to middle and upper-income families than to lower-income families. Such a deduction may be politically desirable

but it is one more example of the fact that virtually every equalization measure designed to levy the cost of necessary public services according to ability to pay becomes modified in the legislative process to help the better-off more, proportionately, than lower-income citizens. This has been true of so-called school aid equalization formulas here in New Jersey and elsewhere, as the California, New Jersey and other school support decisions emphatically stated.

At best, the proposed tax reform program for New Jersey would convert a sharply regressive tax structure into a somewhat regressive one. We would still not have a tax structure actually based on ability to pay. The improvement proposed is marked enough to warrant the League's support, but we do not favor adding measures to lighten the proposed modest tax share of middle- and upper-income taxpayers and thus tip the balance scale back in the direction of greater regressivity.

Now, my next paragraph is devoted to the question of gambling as a solution for New Jersey. I realize that this Committee is not considering gambling. We put it in here for the record but I won't take your time to read it. We think it is a totally inadequate and inequitable solution.

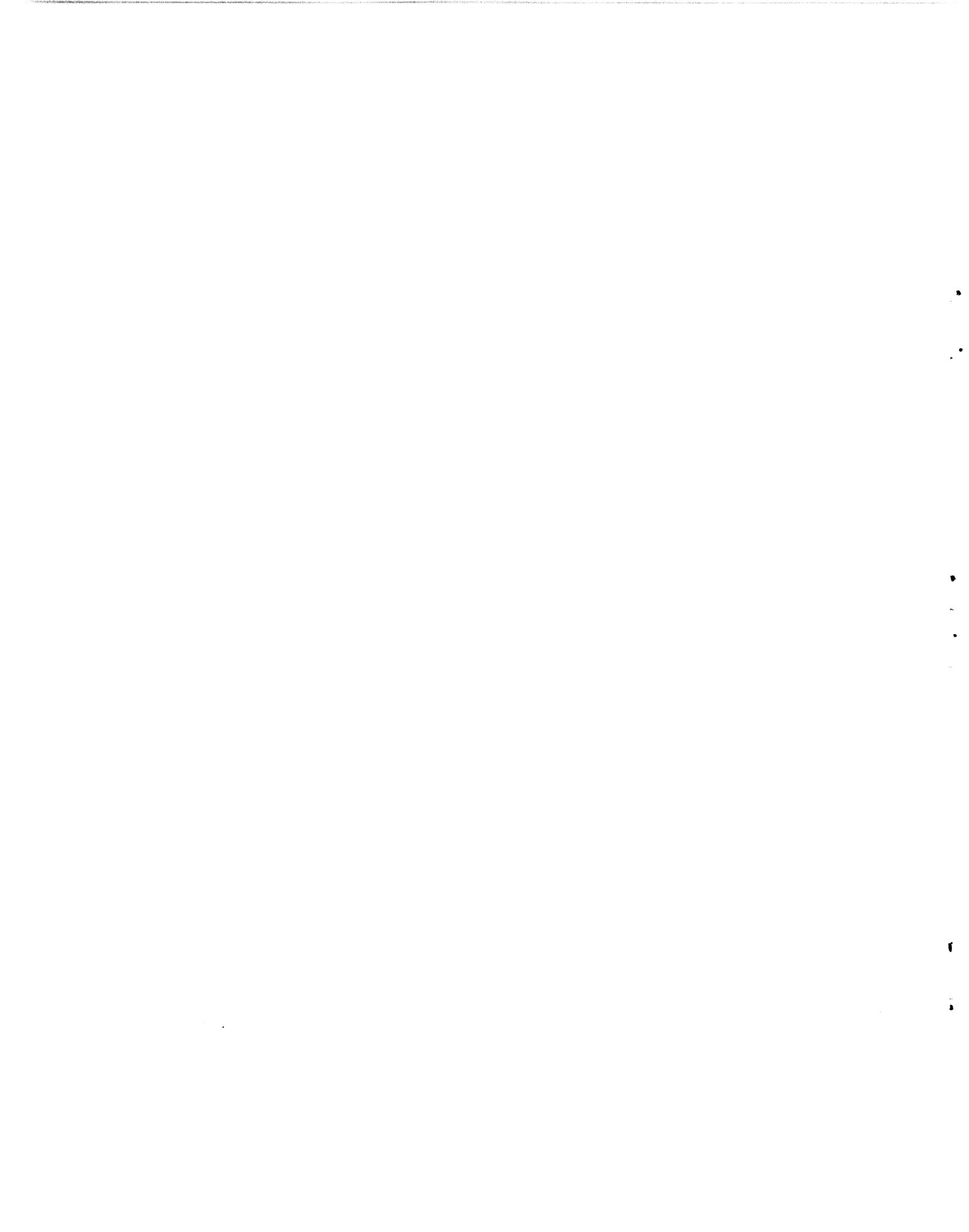
The League of Women Voters of New Jersey, which we believe has recognized longer than any other large organization the importance of state tax policy in the lives of its citizens - and has long protested the unfairness and inadequacy of this State's tax structure - urges that the tax reform legislation, regardless of some imperfections, receive serious, prompt and positive legislative action in the June special legislation session.

I thank you.

ASSEMBLYMAN BEDELL: Thank you very much. We appreciate your coming here.

The hearing will now be in recess until 2 o'clock.

(Recess for lunch)



(Afternoon Session)

ASSEMBLYMAN BEDELL: The final public hearing of the State Legislative Committee relating to the Governor's tax proposals will now come to order.

I would like to just briefly explain that this Committee is not here to explain, criticize or defend the policy report or the legislation. We are here attempting to get the viewpoint of the citizen groups and the individual citizens of New Jersey on the legislation. If you have position papers when you are called upon to speak, if you have copies made, please submit them to Mr. Peter McHugh who is right here. If you only have one copy would you allow us to have it to reproduce and we will return the original to you, please.

Anyone who wishes to speak, who hasn't done so, please fill out a paper with the same gentleman so that we can have your name, organization and address in some sort of a speaking order.

I would like to digress from the program for just a moment to say that legislators sometimes ballyhoo the fact that they give more of their time to individual efforts like committee work, as we are involved in now, than some others do at some sacrifice to ourselves. This brought to my mind Assemblyman Steven Perskie from Atlantic who is a part of this Committee. He has been attending these meetings all over the State and today is his wedding anniversary. We want to thank him for his sacrifice today in being with us.

(applause)

ASSEMBLYMAN PERSKIE: Thank you. We have some candy here.

ASSEMBLYMAN BEDELL: May I also say before we call the first speaker that we do have a voluminous list of people who want to speak. While we do not want to limit anyone's right to talk or make comments on the

subject matter before us, please be mindful of the fact there are others who want the same opportunity. We will stay here until we have exhausted everyone's opportunity.

The Committee would like to call upon J. Kenneth Hickman, Greater Newark Chamber of Commerce.

(not present)

Mr. Joseph F. Shanahan, South Hunterdon Taxpayers' Association.

J O S E P H F. S H A N A H A N: Mr. Chairman, members of the Committee, my name is Joseph Shanahan of Lambertville and I am here to speak for the South Hunterdon Taxpayers' Association on the subject of the proposed tax reform package. Our purpose in coming here is not to give it either a general endorsement or general opposition. The matter is just too complicated and its possible ramifications too far reaching to make any such judgment on such short notice. We would like to make specific suggestions relative to particular pieces of legislation which are part of the package and hope that some heed will be taken by you gentlemen. Since we are only a small group in one county and do not have the enormous statewide membership of the AFL-CIO, we cannot expect the Governor to implore us to get behind the tax reform proposal. From past experience we anticipate being ignored but we always hope that we are wrong.

The only thing that we can endorse generally is the fact that the plan is supposed to cut property taxes by 40%. In our area it might come to 50%, so that a person with a \$20,000 non-income producing home who now pays more than \$1200.00 a year would get substantial relief. So we have to go for this even if it means an income tax. It's the only game in town. We just have to take the chance that the income tax will not take it all back, and more. We just have to hope and put our

faith in you gentlemen, When a man is dying of fever and the doctor packs him in ice in a freezing room to bring his temperature down, it is no time to worry about him possibly getting pneumonia. First things come first.

We would now like to address ourselves to the main problem as we see it, and that is to keep the property tax assessments down so that we can maintain the promised tax relief. Here are our specific suggestions:

In the Newark Star Ledger of 2 June the Governor recommended that the State Constitution be amended to fix the State Real Estate Property Tax at \$1.00 per \$100.00 of value. He then stated "This would be the strongest guarantee possible to you that the State Government could not increase the property tax it levies."

We are not as sure as he is, if we are talking about the amount of tax actually paid by a taxpayer. The rate may not change but the assessment might. If the proposed amendment is Assembly Concurrent Resolution #110, we do not like the way the word "value" is described in it as "equalized valuation of the taxable real property within the State." If that means what we think it does then we are still stuck with that old devil inflation since any artificially contrived true value will continue to reflect an increase in paper value to the average property owner, and therefore means a continuous increase in the property tax. We suggest that such valuation be changed to one which is assessed at a certain base year, say 1973, based on a realistic statewide appraisal of all real property and then, as far as non-income producing property is concerned, be fixed for a period of at least five years, after which a maximum of 10% might be added to such valuation. This would be a better guarantee that property taxes could not be increased for at least five years. We also suggest that the same change be

made to Assembly bill 1299 which has to do with the local property tax limits and allows a local referendum for any proposed increases.

Our next suggestion is in the area of County Boards of Taxation and with reference to Assembly bill 1264, which has to do with the qualifications for membership on such Boards. We are opposed to the mandating of attorneys as members of the Board, his expertise is as a lawyer, not a real estate appraiser. We do feel that an attorney would have a role to play in this area but in an ombudsman type of position wherein he would represent the taxpayer and not the Board. Since the whole foundation of real property taxation is based on a fair and relatively consistent method of assessment, it stands to reason that a way should be devised so that an aggrieved taxpayer is able to bring his complaint economically, conveniently, and properly into the administrative channels. What better way than to have a lawyer assigned to each board to act as a sort of public defender who could intervene in behalf of certain taxpayers whenever a grave injustice is brought to his attention. And while on the subject of convenience in this area of tax appeals, we also suggest that consideration be given to the passing of legislation authorizing night sessions for county tax boards for all appellants who desire such hearings. It is usually a serious consideration for the average taxpayer to sacrifice a day or a half-day's pay to press his appeal in a hearing during business hours.

Finally, we would like to make one specific recommendation concerning the adoption of a state personal income tax which would undoubtedly be accompanied by that immoral payroll deduction plan. Since it seems to be inevitable, please let it be of the "piggy back" type with the state tax being a percentage of the Federal. The State would simply use the Federal rules of exemptions, deductions, exclusions, and so forth, and then set a rate

to be applied to the Federal Tax. This should also have the added feature of being cheaper to administer than a whole new program.

In the interest of saving time there will be no summary but we will merely say that this concludes our statement and thank you for your interest and courtesy in having heard us.

ASSEMBLYMAN PERSKIE: As I understand it Mr. Shanahan, the comment you made about the county tax boards having night hearings, wouldn't require legislation. I think that is within the purview of the county tax boards now.

The only other thing I really wanted to note was that if there is any taxpayers' group, from any county, that doesn't have to worry about its voice being heard in the Legislature, I think it would be somebody from the County of Hunterdon.

ASSEMBLYMAN FORAN: I'll take that as a compliment to myself.

MR. SHANAHAN: Then perhaps I should say the night hearings should be mandated because I don't think you will find any county board that will hold them. We have asked in our county and they refused.

ASSEMBLYMAN BEDELL: I have no questions, sir. Thank you very much.

If it appears that I am calling people out of the ordinary attrition of slips here, it is because we have had some requests prior to today for these people to be allowed to come before the Committee.

I now call Mr. Herbert Starkey, Director of Research, NJEA.

S. H E R B E R T S T A R K E Y: I am S. Herbert Starkey, NJEA Director of Research, representing the New Jersey Education Association. I regret not having a prepared statement. I am very busy right now preparing one for the Education Committee. My reason for being here is because in a few cases there are

some tax implications in certain bills that concern education.

Our association is on record endorsing with certain conditions the tax reform, the income tax, and in general the tax program. I would say the major groups in the education area, including school boards, superintendents, parent-teacher organizations, as well as the professional teachers, probably see eye to eye in terms of the major advantages of tax reform. After all we do have a court decision hanging over our heads.

We do have a genuine concern for a very serious question. How much revenue from these tax bills will be available for this distribution of the full cost responsibility of current operating expenses? This is a crucial question. It is one I hope you have the answer to before the bills are completed. We are most appreciative of the problems of drafting this many bills, having it ready in a rush, and I would be the last one, I think, to criticize the possible small errors and technical corrections that are needed in many of these bills.

It is very obviously a super human job to draw all this together in such a short time. Therefore, ours is not criticism but just questions which we hope you will help have answered before the package is completed.

A-1272, which is the responsibility, I believe, of the Assembly Education Committee, was referred to this morning as a two billion dollar appropriation item. That is a lot of money. And if it is that much, and we agree it probably is, then it has to be done carefully. You can't appropriate money you don't have. The question then is, is there revenue to balance that kind of distribution?

Our concern is, if there isn't, we don't have any alternate if this package goes through. I worked in this area on the Dumont State Aid Act of 1954 and

I have worked on all the ones since that time and everytime it was difficult to find tax money, we found refuge in the local property tax. That door is apparently going to be closed at this time and the responsibility then is completely on you gentlemen in the Legislature, and the Governor, for children's education, whether it is high quality, average, or low, it is in your hands - it won't be in the local property owner's any longer. It is a serious responsibility and we are sure you are equal to it.

Our question first is in reference to Assembly Concurrent Resolution #110. This resolution amends the Constitution to insert a one dollar per hundred of equalized valuation for a state tax. I note this morning the question was raised about dedication. We are not raising a question on that at this point. We think there are other ways to assure that the money will be used for education but we do have a very serious concern about the timing on this change of the Constitution. We want to make sure you see the danger in this being put to the voters in November if the package has not been enacted into law. In other words, it would be disastrous, I think, for this to be put on the ballot without an income tax, because if any of this package goes through - or none of it goes through - and the court decisions are saying, "no local property tax," the only place left that we know of is a state property tax for all of education, and you couldn't do it with a dollar - you would be talking \$2.25 to \$2.50.

So, we are simply saying please be sure not to allow that resolution and that amendment to the Constitution to be enacted until there is a complete package.

The same thing would be true for ACR-111 because we think in that area of changing the assessment

practice on property, could be dangerous. It would be uncertain if we are going to have to depend on property taxes because of court pressure.

Now on Assembly Concurrent Resolution 112, and I'd like to take along with that, bill 1299, which imposes tax ceilings - my major testimony is in this area of tax ceilings - it appears to us to have a double standard, one standard for municipalities and counties and for some reason, which I am not clear why, a different standard for boards of education and school funds. In all three areas there is a provision for exceeding the ceiling. It means going to the people on a referendum. What we can't understand is why in section, I believe, 7, which is the ceiling for county and municipal purposes, it is simply a majority vote of those voting at a referendum.

Back in Section 3, we have inserted as a minimum the number of votes cast at such referendum shall equal at least 15% of the total number of votes cast at the preceding election. We don't understand why this appears. The situation is the same. If the people wish to vote a higher tax upon themselves it would seem to be their right so why the distinction? We would oppose any minimum. It is a new principle to enhance non-voting and say that all you have to do to cast a ballot is to stay home. But that is what you are doing if you have a minimum in there.

I would like to mention-- This is not a criticism or opposition in any way but I'd like to mention a little research we were doing that I think even the League of Municipalities and county government groups would be interested in. In 1299 the method of determining the ceiling is to take the average equalized valuation taxable for three prior years. I have checked over a few places in my own county of Mercer, like Ewing Township where I live, Morris Township, and I checked Madison Township, and it is my belief - and here

again it is all right as long as you know what's going to happen - that by taking this average of the three prior years in these fast growing communities you could have a difference of 25% in the rateables you are using to determine the ceiling. So, I would say that in a fast growing county, that 50¢ rate you pay, in actuality, would be more like a 40¢ rate, or 42¢ rate. As I looked at Madison Township, \$1.50 municipal might, in reality - in terms of what is used in determining the current tax rate - be no more than \$1.20. I think you ought to examine that and see if that is what you intend.

The other problem is the fact of the school leeway in the sense-- There is no ceiling on school levy; in other words, any additional cost in the school area is by referendum. We have a problem here that is in ACR #112 - and that is why I am bringing it up here - and that is the question of the optional right to spend more money than the standard that the State sets. The way the resolution is written, and the way the Legislation is written, is that a present expenditure level may be maintained. Our concern here is that it does not take into consideration any inflation - the normal changes that go on year after year. Let me cite that by an illustration. If we took \$1,000 as a standard figure the State might set, and a community is currently spending \$1,200, under this legislation there would not need to be a referendum as long as that figure stayed at \$1,200 per pupil. Unless something different has happened in the last 30 or 40 years, that thousand is going to gradually creep up and reach that \$1,200. I don't know the number of years it will take, but what you are saying to that district that is spending \$1,200 is that that leeway is really shrinking every year and bringing it down to the average.

I don't want to complicate what we are saying in the Education Committee and get you involved, but my concern is this, why is that district at \$1,200? And the answer may not be quality; it is in what part of the State it is. We believe that the best way to take care of cost of living differences and cost of services differences is going to have to be, until we perfect the data we need for being more objective, through leeway. We might be saying to a district in Northern Jersey, where costs are greater, where the teachers quality may be better - they are buying teachers at the top of the scale because they want experienced people - we may be saying to that district, "you have an inferior education" because they can't go above that point, \$1,200 without a referendum. What we are saying is this, couldn't that be changed to a percentage above the standard of 20%, that is what \$1,200 is, and that they can stay there at 20% above the State standard? That's like a millage allowing someone to vote themselves a 10 millage over the standard, as long as it doesn't change. So we are asking that you consider that. We will be talking to the Education Committee along the same lines on that point.

I have one other point I think should be brought up and that I think is all that is necessary except to answer your questions. We appreciate that between now and the time your Legislative session is over the biggest job of all is matching revenue with need. I am just reiterating our concern that this time and from now on if this package is moving then the quality of education in New Jersey won't be conditioned primarily by the local taxpayer; it is going to be in the hands of the Commissioner of Education and the Legislature who are going to apparently set the standard quality. We hope you do as good a job as the local school boards and taxpayers have done in the last 20 or 30 years.

I don't think I have to apologize for the average educational level in New Jersey. New Jersey has, and always has had, on the average, good schools. The only sad thing is there are too many schools that are below average.

ASSEMBLYMAN PERSKIE: Mr. Starkey, what do you see as the impact of this package of proposals on the - what we would call the highest caliber schools?

MR. STARKEY: If the courts do not step in and say that above a certain point is inequitable and cannot be tolerated, I would say that provided-- I feel this way, that much of the difference in cost, much of the difference, maybe a majority of the difference between communities in the State, is related to the areas of the State and the salary - not necessarily the cost of living but the going rate on salaries paid, whether it be for a secretary, a bus driver, a teacher, or anybody else - it relates more to, perhaps, per capita income in various communities. There is probably too much differential. I think this program, given a little time to work and using a leeway, would be much more equitable than it is now.

ASSEMBLYMAN PERSKIE: All right. I am concerned in the direction, not with bringing up the lowest caliber educational facilities but rather, what, if any, negative impact there might be on the, what we would call, the higher caliber schools. I wonder if you can give me any reaction - if you have any reaction - to whether or not if this package goes through and the option to provide excess over State aid is left to the voters, whether you can give me any reading as to whether you think many of the communities with the higher caliber educational facilities now would voluntarily vote to increase or at least continue where they are?

MR. STARKEY: I wouldn't predict; it is a different kind of election than we have had before.

ASSEMBLYMAN PERSKIE: This whole thing is a whole different ballgame and we need as much information as we can get.

MR. STARKEY: I feel this way, if you allow, according to my testimony, a district that is now 20% above - I am not necessarily saying the quality is better because of the 20%, it may be that is just costing that much more to produce the same quality, but if we could permit that 20% to be maintained without a referendum and only require referendum if a district tried to move, say, to 25%, or some higher percentage. I think, then, that the districts that are above in quality will stay there. I think we are worried about it, though, if it is a ceiling of a dollar amount, in which the difference is going to shrink to zero.

ASSEMBLYMAN PERSKIE: Do you feel that that kind of a program would tend to impede the extent to which the higher caliber schools would continue to search for even higher quality?

MR. STARKEY: I don't think so for this reason, we are saying to the districts below the State mandated figure that they may come up to that figure, and are encouraged to do so, at the rate of 20%, say, per year. I am sure that if they can do that, the wide disparity in salaries, let's say, in Southern New Jersey and Rural New Jersey and the Northern part will begin to be eliminated and I would think in terms of being able to seek experienced, quality trained people, they may be able to attract them much better. In fact it would be much more attractive to--

ASSEMBLYMAN PERSKIE: Are you saying then this would tend to increase or decrease the extent to which the availability of high caliber teachers would tend to be reflected in the salaries? In other words, if there are more high caliber teachers attracted because of the increase at the bottom of the scale, what will this

do to the schools that are now paying a very high rate? Won't they have to increase just to keep what they have?

MR. STARKEY: No, I think the difference is this, in the past 20 years we have had a shortage of teachers and one district would have to steal, perhaps, from another. It doesn't look that way for the next 10 years. So I would assume that given ability to finance sound salaries in the poor parts of the state good teachers will be available to fill those jobs.

ASSEMBLYMAN PERSKIE: I don't doubt that. Again, my concern for the moment is what happens to the systems in the richer parts of the State that are now enjoying, in effect, a monopoly amongst the highest qualified teachers because of the salaries that they are now paying. This inevitably would have to suffer, wouldn't it?

MR. STARKEY: Not if you are assuming there is an ample supply of teachers, and I think there will be.

ASSEMBLYMAN PERSKIE: Thank you.

ASSEMBLYMAN MANCINI: Mr. Starkey, what has been the increase, roughly, during the past 5 years on the average for per pupil cost? In other words, reflecting on the 834 dollars, or what have we, we actually do not know what this figure will be if this program is implemented in 1974, but can just roughly guess.

MR. STARKEY: We have done work in that area and I think we can give you a pretty accurate answer. Not saying what it should be, but on the average, using the weighting that is proposed in 1272 - we are now in the year '71-'72 - the figure of \$842 is pretty accurate; in '72-'73, I'd say a little over \$900; in '73-'74, which is the year I think we are talking about, I would say again the present cost, using that same method of weighting, would be around \$960. Where the actual cost

of education, unweighted, jumped from '69-'70, to '70-'71 by \$110 per pupil, which was a rather surprising 12% or 13%, the percentage has been dropping every year since and I believe you will find the figure for '71-'72 is 10% and looks more like 7% in the future at least. We don't know how to project beyond that.

ASSEMBLYMAN MANCINI: You anticipate with the bigger quantity of teachers available, that this will continue to go down - this percentage of increase per pupil cost?

MR. STARKEY: It is hard to say; the inference you are making, of course-- Yes, in dollar amounts I think that teachers salaries occupy a big amount in the budget but for years, percentage wise, we could see no difference in the increases for teachers' salaries than for anything else the school buys; they are all in the same ballpark.

ASSEMBLYMAN MANCINI: Thank you.

ASSEMBLYMAN BEDELL: Thank you very much, sir.

Mr. John T. Ash, Cape May, New Jersey.

J O H N T. A S H: Mr. Chairman, Members of the Committee, I am John Ash from Mays Landing and I am speaking today on behalf of the Task Force on Taxation of the Church and Society Committee of the Synod of the United Presbyterian Church here in New Jersey.

My statement is in rough form and I do not have copies for each of you.

The Synod of New Jersey of the United Presbyterian Church, last October, adopted the following recommendation. The Synod recorded its deep concern for comprehensive revision of the tax structure and revenue distribution system of New Jersey that will provide for tax equity, tax relief and tax reform. Since that time our Church and Society Committee and its task force has studied the issue. At this time we cannot speak for the Synod itself since it will not meet until October; neither can we speak for

the full committee since its scheduled meeting is not until next week. Rather with the rush of the time of the hearings, we are speaking for ourselves as the task force.

We have reviewed the current proposals for tax changes in light of the desire of the Synod for tax equity, tax relief, and tax reform. The Task Force finds itself in full agreement with many of the basics of the proposed legislation that are intended to create income elastic tax sources, provide property tax relief and the State assumption of the various costs, to enact comprehensive municipal block grant programs, to enact a graduated personal income tax and to attempt to move away from the present regressive tax system that, according to the Tax Policy Committee's report, is taking 19% of the income of those under \$3,000 and only 5.4% of those over \$25,000.

Many people have said, and I am sure you gentlemen have had well impressed upon you, that the time for change is now. I don't think, and we don't feel it can be considered a truism that we must provide for equal opportunity in education, that we must stop the burden of the property tax in New Jersey and then do nothing about it. It is our hope that the necessity for change can be seen not only in light of certain judicial mandates that may become law, as in the case of the Botter decision, but also in terms of the necessity to provide a realistic and fair tax base that can have some hope of providing funds for State and Local Government.

It is also our hope, as you have heard many times this morning, that the tax package that you now have before you will not be blocked simply because there are many special interest and preferential treatments that are demanding attention and therefore putting the pressure on you not to support the issue

of tax reform unless these things are compensated and changed according to their desires.

Certainly we have every confidence that the Legislature can put forth a fair program. We would specifically stress several key points of the legislation introduced by the Governor. First, we concur strongly on the need for setting maximum amounts that can be raised by the property tax without specific approval by the voters to exceed these limits, or in the case of the statewide property tax by constitutional amendment. We see two reasons for this, one has been dealt with many times, the confidence of the voter - will there in fact be tax relief or will there just be one tax piled on another?

Secondly, we feel that statutory and constitutional limits will help produce the guaranteed reduced role for the property tax in the overall revenue system. The Tax Policy Committee has offered as its goal that no more than 1/3 of state and local tax income come from property taxes. If the proposed limits are maintained, there is the possibility that this 1/3 can be lowered even more since the other sources of income would continue to rise..

However, it must not be forgotten that even with property tax relief, the overall tax system in New Jersey is still not progressive, as indicated in table 18 of the first report. In line with these concerns for property tax limits, the task force is convinced that the initial municipal block grants should be mandated for property tax relief, as the Tax Policy Committee recommended in Chapter 4 of the third report.

Assembly bill #1275 containing the block grant program specifies that the funds shall be used for the maintaining and upgrading of municipal services in Section 6. The bill, however, does not specify that such funds shall initially be used for property tax

relief. It was the intention of the Tax Policy Committee that the \$1.00 limit for municipal expenditures, exclusive of a debt service and the reserve for uncollected taxes, and the \$.50 for county purposes would be feasible due to the relief possible through the municipal grant program. Based on the reduction schedule, the Tax Policy Committee calculated the resultant tax rates that would be obtained for the 567 municipalities. However, the calculations of the Committee do not indicate actually which municipalities would be in excess of that dollar and fifty cent limit at the time the legislation went into effect, and if you study the material it doesn't seem that you can determine that. There is only some indication even of what the debt service and the reserve fund of collected taxes is for selected municipalities.

The report does indicate the net effect of the reduction of taxes due to the block grant but it would have been helpful to have the actual resultant tax rates for the municipal operations, exclusive of debt service and the reserve, in order to see the comparative cost in property taxes of municipal government after the block grant, assuming that the block grant were used for tax relief .

Nonetheless it can be seen which municipalities will continue to have a high rate of taxation even with the proposed block grant and the transfer of certain functions to the State and even if the block grant is used for property tax reduction.

I have selected a few cities here which I will just briefly refer to for comparison; those are the "big 6" plus some others in the urban northeast compared with certain districts in Bergen County which is one of our more affluent counties. The municipal tax rate then - county rates - including debt service and reserve in places like Newark would be 3.23, Jersey

City \$2.68, Camden \$3.25, Trenton \$2.78, Paterson \$2.47, however, Bergenfield would be \$1.22, Englewood \$2.06, Fairlawn \$1.03, Ft. Lee \$1.48. There still remains a large discrepancy in the tax necessary to finance municipal government between the older urban centers and the more affluent communities. And so the issue confronting the urban centers is the extent to which they will use the block grant for tax relief if it is not so mandated in either the first or subsequent years.

Since the need for municipal services and functions continues so high, the temptation would be to let the tax rate remain high while using the block grant for upgrading services. Thus, if the rate is above the limit initially and permitted to be so, according to the legislation, it might be permitted to remain there, if the statutes allow, rather than lower the taxes. Perhaps a closer interrelationship of 1299, sections 3 & 5, needs to be taken in conjunction with 1275, sections 3 & 6.

The task force further believes the statutes should require limits to be set on the amount that can be spent for education for each school district. Legislation introduced reflects the conviction expressed in the Governor's tax message and I quote, "school districts which desire to spend more than their present rate of the State rate established by the Commissioner of Education may do so without any restrictions as to the level of spending, subject to the approval of the local electorate." The Governor continues, "localities must be permitted to supplement State funds with local resources as the people from each community determine the wisest course for the education of their children. I recognize there are certain unresolved constitutional differences in this area. Unless judicially mandated to the contrary, we should not foreclose a district

where the citizens desire to provide the ultimate in educational programs."

It is our opinion that such a plan would not provide for true equal educational opportunity which is mandated by the constitution in the terms of providing a thorough and efficient education for every child in the State. Rather, such local options would perpetuate the gap that separates the higher spending districts from the lower ones. It is true that the cost of education would raise on the average to the State support level, which is way above the average spent by a number of districts. But the top 20% to 30% would still be provided with certain advantages that would propel them beyond the opportunity afforded the rest of the children. Certainly the amount spent is not the sole indicator - I think our previous speaker spoke to that, about spending and equality, or quality of education - but nonetheless if you do have more money to spend in one community, there is some hope, assuming proper management, that you can produce better quality.

It would have been beneficial, in fact, to have an estimate of how many districts now below the State support level would raise their expenditures in order to capture a part of their share of the State leeway fund. The Committee's report does not indicate whether or not it felt there would be such a large number of districts to the extent they would have a significant impact on the total cost of education. The calculations on which the need for new monies are based, namely those on page 49 of report 3, assume that the State share of leeway will be limited to those already spending above the suggested base, and of course these figures will be out of date by the time of that implementation.

Furthermore, it would have been useful to have an estimate of what the overall pupil expenditure

would be with a base of \$8.43. That is, since many districts will be above that base, what, in fact, would be the final average per weighted pupil in the State? As best I can figure, it would be an average, on their calculations, of about \$915. As was previously mentioned, all these figures must stand the scrutiny of regional cost factors. The value of an \$843 education in the Southern Counties would no doubt be higher than that in the more costly urban Northeast. The Commissioner, under the proposed legislation, could reduce the sum to certain municipalities whose costs were less than the average and raise those whose costs were higher, a leeway from 80% to 120%.

And yet, however, the real distortion in the averages for monies spent comes in the Northeast itself where we might assume that cost factors of operating a school are somewhat uniform, uniform, say, in the 20 mile radius of Newark. It is in the 6 counties of that area, Essex, Hudson, Morris, Passaic, Union and Bergen, that some of the most glaring expenditure variations occur. These are the counties who have 50% of the students in the State school system and whose cost per pupil is generally much higher than that in the Southern counties. But it is in these counties where you have some schools who are operating well below what the average would be now and therefore when the average will raise, will continue to operate well below what some of the counterpart communities would have.

Two issues can be raised, one is in conjunction with section 4 or 1272, the other with the amount spent on leeway expenditure. The Commissioner is given the authority to raise or lower, as I indicated, the average pupil expenditure per district. For example, it is easy to see that this may be reduced for the Southern Counties and raised for the Northern ones. Measured by the Consumer Price Index and other indices, cost and

income are lower in the South than in the North. The Northern Counties in a sense then must spend more to stay even. It is probable that the Commissioner will determine the basic State sum for each municipality on each municipality's own terms. For instance, would it be expected that the base cost of education in an affluent Bergen County suburb would be raised due to regional cost? If it were then that date would provide--

ASSEMBLYMAN BEDELL: Sir, may I interrupt for a moment? You are getting rather deeply into legislation that is not before this committee; it is before the Education Committee. We are superficially interested but there is no point in going into any extreme and in-depth of the wherewithal of that legislation because it is not under our consideration at this time.

MR. ASH: O.K. Let me just say that we do feel that the cost should be limited because when it is all but impossible for a community to raise its level of expenditures above the 133%, after which no State leeway funds are available, this would not have the same difficulty upon the more highly rateable rich communities and I think the limits on spending become very glaring on that, especially when you consider the communities in the Northeast which have such a great variation.

We raise these questions, not because we are not in sympathy with the proposed legislation or the intent of tax reform, we are very strongly for it, but we are even more strongly for an equitable and fair tax system to be devised and implemented at this time so that, in a few years from now, we don't have the same questions raised all over again, "what happened to the money" or "why were we unable to take care of the kinds of needs we thought we were taking care of?"

In line with this, it is unfortunate that the Tax Policy Committee did not provide for the Legislature

and for the Governor, what the effect of these proposals would be over a five to ten year period on the income gap that is predicted for '75 and '80. It is unfortunate they did not run simulations and projections in order to give as balanced and as accurate a presentation as possible.

This concludes my testimony on behalf of the task force of the Church's Society Committee. I would like to make a personal statement at this time; that is, my own particular view.

It is generally argued that the State cannot rely too much on the income tax since it does not have open to it deficit spending in the manner of the Federal Government. Consequently, some of the reasoning goes, the reliance on the income tax cannot be too great because in the event of an economic down-turn there will not be sufficient money to carry on existing programs - personal income will be less, consequently so will tax collection. It seems to me that this is part of the reasoning that leads to the recommendation for the Statewide Property Tax of \$1.00 and an income tax rate that is basically one-half that of New York State. The proposed rate, according to the Committee's report would take about 1½% of the personal income of the residents of the State, an amount about equal to the proposed amount of the income from the Statewide Property Tax, somewhat in the neighborhood of \$550,000,000. So, together, they would take about 3% of personal income with the understanding that part of the Statewide Property Tax, of course, is borne by business and commercial interests.

A more important point is, for the sake of argument, when the 3% is divided between property tax and income tax, the tax is not as progressive as it would be if it were borne totally out of an income tax. Comparing figures over the last ten years indicates the changing economic conditions do not have much to do

with the amount of income that would be received from an income tax. The table I have prepared, based on an equalized valuation and the reported figures for personal income in New Jersey, show that the income that could have been raised over a ten-year period on a, reflecting back, \$1.00 property tax and 1½% gross of personal income - graduated personal income tax - would produce funds that would, in most instances, be equal to the funds that would be raised by a State Income Tax of around 3%. The table shows that if an income tax of the full New York rate, twice the projected rate, were enacted there would not be any loss of money that could be guaranteed by a property tax rather than an income tax. In fact, a 3.2% income tax would have raised more money in each of the 10 or the 11 years from '61 to '71 than the combined taxation and, if we assume some constant, 20% of this hypothetical dollar, were for commercial and industrial share, a low percent, it could be deducted from the total tax of property funds raised and then the raise for the income tax would not need have been higher over the last 11 years than about 2.86% of personal income. The progressivity of such a system would be fair and the elasticity of the income source, as well as its security, would have provided the necessary balanced tax structure.

Consequently, if a full income tax rate were adopted at something less than the New York rate, say 2.7% of personal income rather than 3% - or for the year 1971 a difference of some \$103 million to the taxpayers - this rate of 2.7%, being substituted for the 1.5% rate would permit the elimination of the Statewide Property Tax of \$1.00. The taxpayer would then have a total of about 50% or more in property tax reduction. It might be argued that the income tax could always be raised but the property tax was fixed, etc. That is an argument, I am sure, that will

go on until the last Legislature closes.

But while the constitution cannot be amended quite so easily, nonetheless I think we could keep in check, provided we had the accurate data, the rate at which the income tax is levied.

It was somewhat personally dismaying to me that in the end the Committee, and subsequently the Governor, opted for a tax revision that was still not progressive. Table 536, summary 5 table, indicates that there is a substantial shift in the progressivity index but the Committee opted for a system that is basically proportional rather than progressive.

It is my hope, and my belief, that our tax system should be progressive, not regressive or even proportioned. Thank you.

ASSEMBLYMAN PERSKIE: Mr. Chairman, I just want to note for the record, because I happen to know Mr. Ash and I am proud of his testimony, that Mr. Ash is a resident of Mays Landing which is not only in, but also is the County Seat of Atlantic County, not Cape May.

ASSEMBLYMAN BEDELL: That is my error.

ASSEMBLYMAN PERSKIE: No, I think it is the address listed there.

ASSEMBLYMAN BEDELL: Thank you very much, sir.

I will now call upon Mr. Charles Marciante, President, New Jersey State AFL-CIO, Trenton, New Jersey.

C H A R L E S M A R C I A N T E: Mr. Chairman, my name is Charles Marciante, President of the New Jersey AFL-CIO and I'd like to thank the Committee at this time for giving me the permission to appear.

First off I'd like to congratulate the Committee for the durability they have shown throughout the various hearings.

The State AFL-CIO had a committee that looked into the recommendations of the State Tax Policy Committee

and also had a very short time to review the recommendations of the Governor which he made following the Committee's report.

Our purpose here today is to reiterate the position of our organization. You have the copy of the report that has been submitted to our convention and also a resolution that was adopted at our convention. So, without trying on your patience I would like to begin on page 8 of that and list our objections to the tax proposal. With your permission, at the bottom of the page: Thus, in conclusion, we recommend the following, that although we recommend the need for more tax income and a general revision of our State's tax structure, we should oppose the proposed tax program for the following major reasons:

1. There should be no windfall for business and industry at the expense of the personal taxpayer, either now or at any time in the future. Taxes on business and industry should be increased proportionately with the taxes on individuals and preferably through the same income tax law.
2. There should be no new tax of any kind unless there is first adopted a constitutional amendment guaranteeing that there will be no increase in any such new, or any existing, broad base tax. What we are saying, in effect, is go back to the people by referendum.
3. Landlords of whatever rental housing unit may exist should not profit from tax reduction, for which they are now charging their tenants, at any time now or in the future, either wholly or in part.
4. No personal income tax should be imposed on any individual or family unit whose income is not above the poverty level.

Now with your permission I would like to review those four points and sort of outline to you

some of the reasons for these recommendations. I think it is fairly well recognized that over the years big business, banks, insurance companies, through legislative action have received tax concessions. We don't feel that these should be further improved, since they already - a majority of the larger industries and your banks and insurance companies - do enjoy a privileged status at the present time.

On the second point, the idea of having a guarantee, we feel, is of the utmost importance if there is to be an income tax, and the earliest possible date that a guarantee could be put into the constitution would be January 1 of 1974 because you would have to go through this legislature with action taken by the body in its entirety. Also, in 1973 they would have to do the same thing, approve the constitutional guarantee and then, of course, submit it to the electorate in November of 1973 to become effective in January of 1974. We feel that the guarantee is probably the most important thing that we can rely on.

With regard to point three, our resolution which was adopted at convention and is not spelled out in the third point that was presented in the report - our Executive Board took the action that protections to the tenant be guaranteed by an adequate form of rent control. Now I understand those who are speaking for tenants are saying that they will accept the package as it is and they say that is the realistic approach. We feel the realistic approach is through some form of rent control.

The other part that disturbs us with regard to the proposal on rental units is that rental units of three or less are tax exempt; they don't come under the provisions of the proposal. Now we realize that 40% of our State's citizens live in rental units, and then when you begin to break down the units of three or less,

I think you will find, although I don't have those figures, unfortunately, that the higher percentage of that 40% of our State's citizens do live in units of three or less and we feel that these people who own these units, in many cases slumlords, should not be exempt from coverage of the act.

Our fourth point, no personal income tax should be imposed on any individual or family unit whose income is not above the poverty level - The poverty level cannot be in a fixed figure because, as we know, the cost of living goes up annually. We feel that some provision should be made to - if possible through the Bureau of Labor Statistics - annually determine the poverty level so that these people's incomes, or what money they do receive, will not be affected.

We have listed our objections and we find that if these objections are met, our problem will very, very, quickly subside.

I would like to point out one item and it has been mentioned in the press. This may not be the place to mention it but I would like to express it, that the labor movement in New Jersey is being charged with the defeat of an income tax. This same argument was used in 1966 and I must state at this time that in 1966 the newspapers were entirely wrong, for most of you who served in the Legislature at that time knew that it was the action of political leaders on Legislators that stopped that tax reform. This time we are running into the same thing. Having worked in the Legislature and knowing the temper of the Legislature, that temper was hardly-- I would even venture to call it lukewarm towards the imposition of an income tax. I happen to know, as a matter of fact, that it was quite cool. That is, of course, the reason for you people conducting these hearings, not only today but for the

many weeks that you have been conducting them, to find out what the temper of the people is, and their opinions. We have expressed ours in the report that was given to our convention and the adoption of the resolution, which you have before you, at the convention and, incidentally, it was adopted unanimously.

That concludes the testimony that we have for presentation today.

ASSEMBLYMAN BEDELL: Thank you, sir. Would you remain seated and answer questions from the Committee?

Assemblyman Apy?

ASSEMBLYMAN APY: Unfortunately, I have not had an opportunity before now to review the text of the report that was adopted apparently in Atlantic City by the Executive Committee, as I understand it.

Looking at it quickly though, I see one statement that I wonder if you can amplify for me. It says that the sales tax amendment proposed is going to include a sales tax on work clothes. Can you tell me the basis for that? What section of the bill is that in?

MR. MARCIANTE: Could you give me the page, please?

ASSEMBLYMAN APY: On page 3, toward the top, in the first paragraph, in the factual statement that was presented to your group, by your Committee, under Mr. Murphy's signature, I believe, the statement is made, "while the sales tax remains at 5% (although it is broadened to include such things as work clothes) there is nothing to stop its increase next year."

I had not been aware of the fact that the sales tax as recommended in the legislation was being broadened to include work clothes.

MR. MARCIANTE: We have not had an opportunity to review the 54 bills nor the 361-page tax proposal and regulations. However, I think the reference here--

that recommendation was made by the Tax Policy Committee. The Governor's recommendation, of course was to wipe that out - the idea of a sales tax on work clothes. You will find that stated, I believe, Assemblyman, back on page eight, point one. On May 18th the Governor came out with his own tax program. It is essentially the same as the Committee program with some differences - number one, the sales tax on clothing would be eliminated.

ASSEMBLYMAN PERSKIE: Page 7.

ASSEMBLYMAN APY: I picked that up. Well now, directing your attention to that particular change, you are in favor of that change?

MR. MARCIANTE: Yes. Our points of objection, sir, are listed, as you will see, where I quoted beginning on page 9, actually, and running those four points.

ASSEMBLYMAN APY: On page 7, being you directed my attention to it, there is a reference to a collection of \$800 million more for a three-year period which is the time period being used in the proposed legislation for the windfall, if there is to be a windfall - in other words, 100% excess gains tax. Where did the \$800 million figure come from?

MR. MARCIANTE: It was an approximation on the \$285 million that was so touted about publicly by the Senator from Middlesex.

ASSEMBLYMAN APY: Right. But you have not, yourself, verified the figures?

MR. MARCIANTE: We have had an expert look into the figures and he found them to be conceivably much higher than the \$285 although we have not released any type of figures, we sort of went along with them.

ASSEMBLYMAN APY: Do you think you could make those figures available to the Committee so we would have the opportunity to check them?

MR. MARCIANTE: I would be very happy to.

ASSEMBLYMAN APY: Would you try to get them to

us within the next couple of days?

We have asked all those who have testified who have had the opportunity to have statisticians work on this, to submit them to us so that we can cross check them with the information we have.

Another question that I had: I understand the position about the problem at the end of the three years but I don't understand, really, why you feel that the excess gains tax would not eliminate any possible windfall during that three-year period.

MR. MARCIANTE: Why it would not eliminate a windfall? I don't understand the question.

ASSEMBLYMAN APY: Well, the theory of the excess gains tax is to eliminate any possible windfall.

MR. MARCIANTE: Correct.

ASSEMBLYMAN APY: Now, why isn't that going to work?

MR. MARCIANTE: Why won't it work?

ASSEMBLYMAN APY: Yes.

MR. MARCIANTE: After the three-year period?

ASSEMBLYMAN APY: No, during the three-year period. It will work during the three-year period.

MR. MARCIANTE: Certainly it would work--

ASSEMBLYMAN APY: There is no disagreement on that?

MR. MARCIANTE: No.

ASSEMBLYMAN APY: O.K. Now I understand your explanation on your analysis of rental units, although I was sort of surprised to hear that you felt that most were in the three-family and below the 40%. I would have felt there were more multiple family ones, but in any event, apparently you don't feel that the potential windfall to landlords has been eliminated by the provision of the return back to the tenants?

MR. MARCIANTE: That is correct. Particularly on those of three or less.

ASSEMBLYMAN APY: Well, it wouldn't completely

on those of three or less.

MR. MARCIANTE: Yes.

ASSEMBLYMAN APY: What about those in the category that do fall within the definition?

MR. MARCIANTE: We feel that they should not be exempt from the excess gains either after the three-year period.

ASSEMBLYMAN APY: All right, well what about during the three-year period?

MR. MARCIANTE: During the three-year period it is fine; you know they are going to be paying that to the State. But certainly when they come under that relief we are sort of dubious whether they will make that saving that they will receive reflect on the rents that these people have to pay.

ASSEMBLYMAN APY: It would help us, I think, then if you could perhaps review, in more detail, the bill that spells out these provisions for insuring the return, to suggest ways to us if the bill does not accomplish this because I think many share this concern. If the bill does not accomplish a guaranteed return to the tenant of any windfall to the landlord, we would appreciate any suggestions on ways that that legislation can be tightened up to accomplish this, as opposed to rent control which is another broad area of principle. I mean, directing your attention to these specific bills, other organizations have been able - perhaps you were here this morning and you heard other organizations testify that have gone through all of these bills and have been able to do this, bill, by bill, by bill, making specific suggestions - and it would help us if you could do the same thing.

MR. MARCIANTE: We have, Assemblyman, We are beginning - we haven't concluded, of course, but we have begun a study into each legislative bill and where we feel changes are to be made, we will certainly offer them as amendments to the legislation for consideration.

ASSEMBLYMAN APY: The reason I suggest that is that, of course, nobody knows what is going to happen to the package; however, it would seem everyone has an interest, if they are interested in a particular bill, in seeing, if the bill does come out to the floor and is adopted, that it has in it those things which bring about the end result that they are looking for.

I have another quick question on the initial remarks of your Special Committee's Report. The statement is made at the very beginning, on the first page, second line, that no bills of substance have been introduced to carry out the Committee's program - referring to the Sears Committee Program. I recognize that this is a conclusion and a value judgment as to what is a bill of substance. My question is, in light of the fact that the main thrust of the Sears Committee report is in the package of legislation, how the conclusion was reached that no bills of substance had been introduced to carry out the Committee's program?

MR. MARCIANTE: We did not have in our possession, and I don't believe there were tax bills prepared, when this report was submitted to me. I received this report on the Friday prior to, the Friday afternoon prior to the opening of our convention, which would be May 27th or 26th, I am not sure which date it was, and we had no bill in our possession at that time. When the Committee attempted to get the bills, they had not been printed.

ASSEMBLYMAN APY: Many of the bills were not printed until toward the end of May; that's right.

MR. MARCIANTE: Yes, and we did not have them in our possession and that is the reason for the statement in here.

ASSEMBLYMAN APY: I realize you had a problem, with the convention coming up and you wanted to consider the legislation. We have all had this particular

problem, and, of course, we all want reactions to be based on the realities of the legislation introduced. In addition to what I have already said about appreciating your suggestions on specific bills, I am wondering if the Committee that initially introduced this - the Special Tax Committee - is going to be, or has met since the convention or is it going to be meeting again this week, now that these are available, so that they can review them further?

MR. MARCIANTE: We held a meeting on Wednesday of this week. We will hold a meeting at noon on Monday and there will be a number of meetings scheduled before the Legislature reconvenes.

ASSEMBLYMAN APY: Right. So there is a possibility then of further supplemental reports from you about this?

MR. MARCIANTE: Oh, yes, we will guarantee it.

ASSEMBLYMAN APY: O.K. fine, thank you.

ASSEMBLYMAN BEDELL: Assemblyman Vreeland?

ASSEMBLYMAN VREELAND: I was just going to ask Mr. Marciante about the landlords and the rental housing which he has as number three here, because I recall that Mr. Aranow, who is the President of the New Jersey Tenants' Association, testified before our committee that the Association felt now, since the changes, as recommended by the Governor in the proposal, that they favored it. But I think Mr. Apy has brought this out and Mr. Marciante has answered his questions. I have nothing further.

ASSEMBLYMAN BEDELL: I have one question, Mr. Marciante, it is a point of interest to this Committee. We have read in the newspapers where representatives of your organization and the Governor were supposed to have gotten together following your convention to attempt to resolve your differences and we certainly want to be aware of what information we might be able to glean from you as to what took place, if the meeting took place, if you are at liberty to tell us, sir.

MR. MARCIANTE: So far the newspapers have been telling when we are meeting. We do have a meeting scheduled for 12:30 on Monday.

ASSEMBLYMAN BEDELL: Thank you, Mr. Marciante.

Mr. Robert FORREY Executive Vice-President of the New Jersey Bankers Association.

R O B E R T F O R R E Y: Mr. Chairman and members of the Committee, I am Robert C Forrey, Executive Vice President of the New Jersey Bankers Association of Princeton. I know you have had a long day and I will try to be brief and summarize the contents of this, about the last half of which--

ASSEMBLYMAN BEDELL: We will be very grateful, sir, at this point.

ASSEMBLYMAN APY: You don't think you can just say for or against and go home do you?

(Laughter)

MR. FORREY: Our Association supports the principles of tax equality and tax uniformity on all the individuals and corporations in the State. We outlined this position before this Committee at a hearing in September 1969 on the County Bank Stock Tax, a tax which was doubled in February of 1970. I think you will remember. To depart for a moment, I was surprised at Mr. Marciante's comment about the privileged status of banks, I think the sole privilege we have had is to have our tax doubled which is not shared by any other body in recent years.

On page 3 we point out a Peat, Marwick study which showed in detail that banks are being taxed 60% higher than other corporations doing business in New Jersey and 16 times as much in state taxes as savings and loan associations and savings banks and I think probably in this 50 bill package it would be hard to find an increase in taxes that would be doubled, as ours was in February 1970.

In brief, on business taxation, our Association recommends that all present business taxes in New Jersey be repealed and that they be replaced by a simple State income tax which is a set percentage of the Federal income tax applied to all companies, corporate and unincorporated, business and financial. Of course, religious, educational and other non-profit corporations would continue to be exempt. That has been our basic philosophy within our Association.

Now I would like to turn to the package of tax bills that are presently before this Committee and to discuss particularly, and I hope briefly, 1251, 1285, 1286 and 1301.

As you know, Assembly bill 1251 would amend the New Jersey Sales and Use Tax. It would change the approach dramatically by making all services subject to the Sales Tax unless they are specifically exempted, and there is quite a list of services that are exempt.

The bill would bring under the sales tax "all services, professional and otherwise" except as otherwise provided by the act. There is no definition of "services." What is a "service" will be left to regulation by the Division of Taxation, or ultimately to the decision of a court. The scope of activities which could thus be brought into the sales tax field through the inclusion of the service concept is very broad.

We suggest certain services should be exempt from taxation under the tax in the interest of fairness and to avoid the loss of business and jobs in New Jersey.

It appears that this bill would apply the Sales tax to charges for the handling of checking and savings accounts by banks and other institutions in New Jersey. Such a Tax would be self-defeating and could result in the transfer of many checking

accounts to Pennsylvania and New York. We understand that in New York City an amendment to the city sales tax would have reached deposit accounts and the provision was rejected on the ground that it would result in the flight of checking accounts out of the city. With our thousands of New Jersey residents working in New York and Pennsylvania or living near there, there could be a wholesale flight of accounts to those states.

In addition, we feel that applying the tax to deposit accounts would be regressive, it would fall only on the poor and people in lower income categories - those without the means or the income to maintain deposit balances above the minimum level for immunity from service charges.

We urge that this bill be amended to exempt charges of every nature imposed upon deposit accounts, whether they are demand, savings, or time.

The dollar impact of such a tax on a bank deposit account would be small, but we are convinced that the outrage of New Jersey citizens when they find sales taxes levied on their checking and savings accounts would cause them to move their accounts to New York and Pennsylvania. Both of these States have Sales taxes but they don't apply the tax to deposit account charges. In fact, we were unable to find any State in the country where Sales Taxes were applied to such services.

Now, also under A-1251, it appears that the sales tax would be imposed on receipts for services rendered by executors and administrators of decedents' estates, by guardians, trustees, and similar fiduciaries. The tax would be payable whether the services are performed by an individual or corporate fiduciary, and of course it is a tax imposed on the beneficiary of the fiduciary assets. Therefore the family of a decedent would not only pay a transfer inheritance tax, and,

as proposed under A-1250, a tax on the income of an estate, but under this bill, he would also pay a sales tax on the fees and commissions for services in administering the fiduciary assets.

A guardian administering assets for the benefit of a minor or incompetent would be required to collect a sales tax on the fees for performing these services, while the minor or incompetent would also pay the additional income tax imposed by A-1250. We note that sales of property by a mortician are exempt under section 8 (q) while charges for fiduciary services would be subject to the sales tax.

We are afraid that the proposed tax would represent a clear inducement to New Jersey residents to appoint a New York or Pennsylvania fiduciary for inter vivos trusts. One example would be a New Jersey bank that just got two \$1 million living trusts and we computed that the tax would be \$500 on each of these, each year, and we feel without question that would be enough to cause these two trusts, as an example, to go back to New York City.

We submit that those upon whom this tax burden falls are already subject to substantial tax impact. We urge that receipts for services rendered by fiduciaries, and in an agency capacity, be exempted from the sales tax. Fiduciary services are not subject to the sales tax in either New York or Pennsylvania and, again, we have been unable to find any State in the Country in which such fiduciary services are subject to a tax.

Another point, it is not clear whether the duties of transfer agents and registrars in connection with securities would constitute "services" taxable under this bill. The services rendered by transfer agents and registrars can be performed in one State as well as another and if they are faced with a sales tax the corporate entity could very easily select

a transfer agent or registrar in some other state. This kind of tax, we think, would be self-defeating and could be easily avoided, to the detriment of the transfer agents and registrars of New Jersey. At a time when we, and our State Administration too, are seeking to attract to New Jersey firms engaged in the securities business and compete with the virtual monopoly enjoyed in New York, we submit that a tax on transfer agents and registrar services is contrary to this competitive position. Again, this is not a tax on them, it is a tax on our customers.

Again, we hasten to point out that there would not be any tax savings at all to banks in the exemptions that we are suggesting from the Sales Tax. These exemptions would benefit lower income families, widows and orphans, and we believe they would help insure equality of taxation. They would also prevent the loss of business and jobs to New York and Pennsylvania where each of these services is exempt from the Sales Tax.

I would now like to turn briefly to the "excess gains" taxes, 1285, 1286 and 1301. In the interest of time we will just summarize our recommendations. We have attached a detailed letter to counsel to the Governor, spelling out the situation.

Briefly, there is no uniformity at all among the three bills. Even the definition of excess gains itself differs among the bills. The formula for imposing excess gains tax differs; 1285 and 1286 say one thing and 1305 says another. No two of the three bills have the same provision on real property which is occupied by tenants. 1301 has a special provision benefiting municipalities where the real property tax rate exceeds the State average by 25% or more and the other two do not.

All three of these bills have a common object. It would seem that the laws intended to achieve that

object should be consistent with one another but they are really completely inconsistent.

For these reasons, we urge that banks, financial businesses, general businesses, corporations, building and loan associations, savings and loan associations, savings banks and credit unions all be brought under the provisions of Assembly bill 1301. Automatically all would receive equal treatment in sharing a common burden and it would remove all of the problems of differing impact.

We have tried to analyze all of the 50 bill package. It has been difficult in such a short period of time to comment on all of them. We have commented on all of those which we feel are important and have tried to point out inconsistencies and unequal tax burdens. We have tried to recommend changes for uniformity and to avoid the flight of business from our State. We would appreciate it, if the Committee were willing, to permit us to file, early next week, specific amendatory language which, if adopted, would carry out these recommendations.

I have appreciated this opportunity to appear before the Committee.

ASSEMBLYMAN BEDELL: We'd appreciate your doing so, sir.

Assemblyman Apy?

ASSEMBLYMAN APY: I might say, if you didn't get them in until the end of the week I don't expect that we will be acting on 58 bills between now and the end of the week so that you are on pretty safe grounds.

Let me ask you this, on 1251, the gist of your observations, are they based essentially on the problem of the definition of services?

MR. FORREY: Yes, as well as the philosophy. In the past all sales were subject to tax unless specifically exempt. All services were exempt unless specifically included. Now they have gone the other

way and all service would be included unless they are spelled out specifically as being exempt.

ASSEMBLYMAN APY: Right. So that would it be fair to say what you have done is try to cover every conceivable situation that might be included and in your outline of possible ramifications of the bill as it now stands--

MR. FORREY: No, actually there are many more and there are perhaps a dozen that banks would have to levy that we have left out because we see no compelling reason for their exemption.

In other words, we have analyzed all the impacts we can see ourselves that would particularly affect banking services but we are only mentioning those where we feel there is a compelling reason for exemption.

ASSEMBLYMAN APY: Insofar as the public interest is concerned?

MR. FORREY: That's right. There are perhaps a dozen others that we have not mentioned.

ASSEMBLYMAN APY: We would like to know, of course, the other 12 when you are able to submit your suggestions.

MR. FORREY: Just for example, armored car service, computer service, commissions on utility bills, sales of imprinted check books, premium items, safe deposit, safe keeping, they are an example.

ASSEMBLYMAN APY: We have a tax on safe deposit boxes now.

MR. FORREY: That's right, that would be continued, it is already there.

Commitment fees, appraisal fees, inspection fees, in connection with real property there are a substantial number of services for which fees are billed and apparently they would all be caught and included under the sales tax. If that is the will of the State, we would agree.

ASSEMBLYMAN APY: Assemblyman Foran said

if you get those amendments in we would appreciate it, plus if you come across any technical deficiencies, submit them to us with copies to the composers of the bill on the Governor's staff. As you indicated, it would be helpful.

ASSEMBLYMAN BEDELL: Assemblyman Schluter.

ASSEMBLYMAN SCHLUTER: Mr. Forrey, did you or your group testify before the Sears Committee as to your feelings about a piggy-back tax?

MR. FORREY: We-- Our then President did present a brief statement before one of the task forces of the Sears Committee.

ASSEMBLYMAN SCHLUTER: Did it include your advocacy of that type of approach? You talked about a general income tax--

MR. FORREY: We had a problem at that time because of Section 5219 of the U. S. Statutes on National Banks. At the moment, under Federal Law, a prohibition against a tax that is part net worth and part income would have been prohibited. This would have created a problem for us. We were thinking before that date of including banks under the existing Business Corporation Tax and we thought perhaps at some time this would change but it appears that this may continue for some years. So for that reason we subsequently turned to suggesting a straight income tax. Earlier we were suggesting including banks under the existing Business Corporation Tax.

ASSEMBLYMAN SCHLUTER: Business Franchise Tax.

MR. FORREY: It appears year after year #5219 continues, and we feel this is a fair approach anyway, based on ability to pay. We did testify urging a switch to an income base but not specifically piggy-backing it on the Federal Tax.

ASSEMBLYMAN SCHLUTER: Mr. Forrey, in the

various services which you point out, you have fears they might be subject to the sales tax. Have you checked with the Division of Taxation if it was their intent, number one, or if they included those in their calculations as to the revenue produced by this package?

MR. FORREY: We did check this week and it is our feeling that they were unaware that these services were included - checking accounts and fiduciary. They may have been aware of the problem, I think they were with transfer agents and registrars but the other two matters, I think, were newly brought to their attention this week.

ASSEMBLYMAN SCHLUTER: Would you say then that you raised a new point and this conceivably had not been contemplated by the framers of this package?

MR. FORREY: Yes, I think that is true.

ASSEMBLYMAN SCHLUTER: Thank you.

ASSEMBLYMAN BEDELL: Assemblyman Vreeland.

ASSEMBLYMAN VREELAND: Mr. Chairman, I just have one question of Mr. Forrey. I am reading the forward here as to the position of the Bankers Association, and I may not understand it too well. What I am trying to find out is, does the New Jersey Bankers Association endorse the Governor's tax proposal with the exception of these three bills that you mentioned here?

MR. FORREY: Not specifically.

ASSEMBLYMAN VREELAND: Not specifically.

MR. FORREY: Our President on May 17th said that revision of New Jersey's tax structure is a particularly vexing problem facing our State and a reform program that would provide for tax equality on both individuals and businesses is extremely important. We have indicated what our feelings are about a fair impost on corporations. He also said that the need for prompt action in the personal income tax area is clear and refers to the court decision which seems to make some change in our existing tax structure necessary. He further stated

that two basic methods have been proposed, a statewide personal income tax and a statewide uniform real property tax and neither would appear to meet the test of the court decision.

ASSEMBLYMAN VREELAND: I think the question is, does the Bankers Association endorse those three alternatives, the income tax, the property tax - the state property tax - and the local tax?

MR. FORREY: I think you can't say we endorse the combination. What we say is, either or both would accomplish the problem of tax equality which the court decision says is necessary.

ASSEMBLYMAN VREELAND: Thank you.

ASSEMBLYMAN BEDELL: Thank you very much, sir.

ASSEMBLYMAN APY: I have confidence in bankers who are cautious.

ASSEMBLYMAN BEDELL: Mrs Dorothy Lewis, New Jersey Mobile Home Owners Association.

Mrs. Lewis, may I say as a preface to your testimony that we have heard from 21 individuals whose main point of comment was mobile homes and trailer parks. We have spoken to over 200 people in Ocean County. So I would hope in the interest of the time allotted to us, you won't give us the entire history of your criticism but rather synopsise your point because we have heard this thing until we were getting to the point where we were having an adverse reaction to these things if we heard any more about it.

M R S. D O R O T H Y L E W I S: I am going to speak directly to 1261 concerning the taxation of mobile homes.

As you can see in the written testimony, I am the Administrative Director of the Mobile Home Owners Association of New Jersey. This is a Home Owners Association separate from the dealers and the park operators.

I would respectfully submit that 1261 is an

inadequate bill with no safeguards for the mobile homeowner.

First, as stated, the only excluded vehicles are "camper type mobile homes mounted and transported wholly upon the body of a self propelled vehicle." This would not include travel trailers being used as recreation vehicles being towed by an automobile and requiring a motor vehicle registration. Any unit 8 ft. wide and 33 ft., or less, in length is considered a travel trailer.

We recommend an amendment to exclude travel trailers from the real property definition.

Secondly, there is no indication as to the method of assessment to be used to evaluate the mobile home. If the purchase price is used the owner would be taxed on the sales commission, sales tax and furniture.

Using the "Official Mobile Home Market Report" Blue Book would be inadequate as many mobile homes are custom made and therefore not included in this publication.

We would suggest the bill contain a specific statement as to the method of mobile home assessment. A possible method may be to use the purchase price as a base with a set percentage deducted to allow for the commission, sales tax and furniture. A statement of an annual percentage to be deducted for a period of five years should be included to allow for the depreciated value of the mobile home.

Thirdly, it is unfair to assess the tax to the park owners rather than directly to the mobile homeowner. The park owner must act as tax collector and be responsible for the taxes by having a lien upon his property if they are not paid.

Diverting from the written testimony, this makes the property tax an indirect tax on the mobile homeowner, just as the fee now assessed by many

municipalities is such a tax.

We feel the mobile homeowner should be responsible directly for his tax. A statement verifying the payment of taxes could be required before a permit would be issued by the State to allow the mobile home to be moved to another area.

Fourth, the senior citizen deductions were included in the bill but a veterans' deduction was not included, as it is on real property at the present time.

We recommend the senior citizen and veterans' tax deductions be included and, in addition, this should be based on the real property tax deduction rather than on the personal income tax - it precludes that the personal income tax will be in effect in this bill.

Fifth, and perhaps most important, there is no guarantee in this bill to prohibit local municipalities levying additional fees and assessments on the mobile homeowner or park owner, nor is there a requirement to eliminate current local fees and assessments against the mobile homeowner and/or park owner.

We would recommend a specific control be included in this bill to prohibit double taxation by these methods in local municipalities.

Again may I divert by adding that this bill can only be effective if the mobile home is removed from motor vehicle status and determined to be real estate, even though in most locations they are on rental premises.

I would like to offer my thanks to the Committee and offer the assistance of the Executive Committee of the MHOA to the Taxation Committee in the interest of fair taxation to mobile homeowners.

ASSEMBLYMAN BEDELL: Mrs. Lewis, I'd like to say thank you because we have been dealing extensively with testimony on this problem, you have summed up all

of the reservations about the existing legislation with brevity and very precisely. It was a very, very, well done report.

The only thing I would like to add, and we added this at the other places we appeared with regard to this, and that is that the Committee has had a bill covering mobile homes before it prior to the advent of these proposals. We do believe at this time that our bill is superior but yet not good enough for us to bring out of committee. That bill is being sponsored - the main sponsor is Assemblyman Perskie here. Do you want to make comment on it, sir? I would be very happy to have you do so,

ASSEMBLYMAN PERSKIE: My comment is that for the first time-- We have been working on my bill since February and I see this as the first time that I have had some suggestions or proposals that make any legislation in this area workable or feasible. I'd like to express my gratitude. I am very dissatisfied with bill 1261. I have been getting a lot of mail on it, but I could never figure out why I didn't get any mail on Assembly bill 697. I got one letter from the State League of Municipalities which was in favor and that was it. But we didn't let the bill out of this Committee because it was insufficient with respect to the administrative provisions. I think these suggestions are very workable and I am hopeful that we can put them into effect.

I might note, just by parenthesis, that I am particularly interested in what you note as recommendation number 5. It has been my opinion all along that the licensing by the municipalities is illegal anyway.

MRS. LEWIS: I am not referring to the license on the business or the park owner, this is the additional fee assessed per square---

ASSEMBLYMAN PERSKIE: That is what I am referring to and I think that it is the consensus of this Committee, particularly those who have considered my bill previously, that any legislation that would serve to tax mobile homes as real estate would also involve, by definition, a prohibition against any type of licensing or fee taxation.

MRS. LEWIS: Currently there is no control on those fees and the municipalities can raise them at any time within two months, with an ordinance.

ASSEMBLYMAN PERSKIE: We have discussed this matter extensively and there is some debate as to whether or not those fees are even constitutional.

MRS. LEWIS: They have been in existence for a long while.

ASSEMBLYMAN PERSKIE: I have nothing further.

ASSEMBLYMAN BEDELL: Thank you very much. The Committee is going to take a 10 minute break, a recess for 10 minutes.

The next speaker will be Mr. Frank Haines, New Jersey Taxpayers Association.

(recess)

(After recess)

ASSEMBLYMAN BEDELL: We will resume the hearing.  
The Committee will call Mr. Frank Haines, New Jersey Taxpayers Association.

F R A N K W. H A I M E S: My name is Frank W. Haines. I am Executive Director of the New Jersey Taxpayers Association. With me is the Association's Director of Research, Maurice S. Shier.

The Association was organized in 1930 as a non-profit, non-partisan governmental research organization devoted to governmental efficiency and economy at all levels. Our role is one of fact gathering, analysis and interpretation, and public dissemination of the results of the research.

The Association's platform and program has long contained a statement recognizing need for improvement in administration of the property tax, maintenance of a healthy and competitive State economy, and in recent years, concern for the desirability for reforming the State-local tax system and providing local property tax relief.

In the 1972 Platform and Program, the Association stated:

"Relief in the local property tax deserves high priority for action. Efforts toward a solution must include both tax reform and governmental reform, or the inevitable result will be a higher total tax burden without correction of existing inequities. Properly planned and implemented reforms are the key to local property tax relief."

Rising property taxation and discriminatory assessment have involved our staff frequently over the past two decades in searching for ways to achieve more equitable assessing procedures. We were involved also in developing alternatives to court-mandated true value assessment of real and personal property. Thus Association policy adopted years ago concerning improvement of property tax administration and various types of property, is appropriate today in evaluating tax reform as recommended by the Governor's Tax Policy Committee.

## NJTA's Tax Study

In an original study released last October, "Financing New Jersey State and Local Government - The Major Problem", the New Jersey Taxpayers Association concluded that tax reform and property tax relief were absolutely essential for the long-term economic viability of the State. The Association's Report recognized the basic approaches available to reduce the local property tax burden -- State aid, State shared taxes, State assumption of functions provided at the county and municipal level, and property tax exemptions or deductions. While each one of these approaches has been utilized in small measure, none has been successful in checking the growth of the local property tax.

The Association recognized further that broad-based taxation could provide property tax relief if other reforms were also implemented. It would be unfortunate if the last major untapped tax were enacted for the sole purpose of financing increased State government expenditures.

## Points of NJTA and State Tax Policy Committee Agreement

The Association in its review of the Tax Policy Committee's voluminous Report noted that many of the Committee's recommendations were similar to earlier recommendations by NJTA in its study. The Tax Policy Committee, like NJTA, recognized serious inequities that need correction and urged equitable sharing of the costs of government without undue reliance on a single tax source.

The New Jersey Taxpayers Association is in agreement with most of the major recommendations of the Tax Policy Committee. NJTA concurs on the following 12 major points:

-- Transfer of the cost of elementary-secondary education (current expense), vocational education, welfare, judiciary and county tax boards from the municipal and county level to the State.

-- Use of a municipal block grant program and State payments in lieu of taxes to be applied directly as offsets to property tax levies.

-- Property tax rate limits on municipalities and counties and limits on education cost increases.

-- Senior Citizens' tax relief in a manner other than by limited reduction of the property tax provided in current law.

-- Repeal of veterans property tax deduction. The veterans deduction is discriminatory both on veterans who are non-property taxpayers, on non-veteran property taxpayers, as well as on veterans themselves. It has cost New Jersey property taxpayers nearly \$200 million since 1964, while benefitting only a minority of the group. Further, veterans who received bonuses in other states from which they entered the service may qualify for the New Jersey deduction.

-- Repeal of the unincorporated business tax, the retail gross receipts tax, and the restoration of the sales tax exemption on business machinery and equipment.

-- Inclusion of the imputed value of public utility personal property in the base for allocating county taxes.

-- Tightening the farmland assessment law.

-- Encouragement of regionalization of municipal services and consolidation of governmental units with financial incentives. The Association would have preferred stronger more far-reaching recommendations concerning local government regionalization and consolidation than those made by the Tax Policy Committee. Opportunities for property tax savings and efficiencies are lost unless there is greater action in this area.

-- Imposition of a package of taxes including the personal income tax, statewide property tax, business taxes and broadening the sales tax base to finance the proposed cost transfers at the State level, and consequently overall reduction of the property tax.

-- Revision of procedures and improvement of property tax administration. NJTA views reform of property tax administration as an absolute necessity to insure fair, equitable consistent treatment for all property taxpayers as the State looks to a statewide property tax. Even though the total yield of the property tax should be significantly reduced under the Reform proposal, the local property tax together with the State property tax will still be the single largest tax in the overall State-local system, and will necessitate the highest degree of uniformity in assessment and equalization possible.

The Association views Assembly No. 1288, drafted but not yet introduced, as a major component of property tax administrative reform. The bill would create regional assessing districts and provide for appointment of qualified full-time assessors by the State Director of Taxation. This bill is essential to insure equitable tax treatment in administering the statewide property tax.

-- Establishment of a simplified property tax appeals procedure in which an individual assessment ratio exceeding a common level range of  $\pm 10\%$  of the district's average assessment ratio shall be substantial evidence of a correct assessment. (Assembly No. 1266 provides this procedure, but uses a  $\pm 15\%$  deviation.)

#### NJTA Exceptions to Tax Policy Committee Recommendations

There are certain aspects of the Tax Policy Committee's Report with which the Association does not agree. These recommendations, in our opinion, do not meet the test of fairness and equity and will be detrimental to the longterm economic health of New Jersey.

The Association for many years has favored repeal of the tax on business personal property because it places the State at a competitive disadvantage with its neighboring states. Accordingly, NJTA not only disagrees with the proposed increase in business personal property taxation (Assembly No. 1257), but prefers that the tax be repealed.

The Association also questions the advisability of modifying the corporate income tax by adding the so-called "throwback" rule. The provision would be felt most heavily by manufacturers who export the bulk of their products out-of-state. The change introduces the threat of double taxation.

The Association did not agree with removal of the sales tax exemption on the sale of clothing and the vast broadening of the sales tax on services without any clear understanding of the full ramification of the impact of the proposal.

Another area of difference in agreement is that of "site value" taxation (Assembly Concurrent Resolution No. 111 and Assembly No. 1300). The Association questions the usefulness of the method as a fiscal tool for cities in New Jersey particularly in light of the proposed cost transfers and limited information on which to base a sound judgment.

#### NJTA Position on Governor's Program

The Association agrees with those portions of Governor Cahill's program that implement the Tax Policy Committee recommendations on which we have commented.

However, the Association is opposed to enactment of the various so-called "excess gains" taxes which the Governor proposes. Inequitable taxation is a cancer affecting all taxpayers in New Jersey. To assert that a particular group of taxpayers in one municipality would be treated fairly and another group of taxpayers in the same municipality would receive a "tax windfall" is a distortion of the concept of fairness and uniformity for all. Use of "excess gains" taxation is in effect creating classes of real property taxpayers for the purpose of taxation at differing rates, a principle which the Association has long opposed.

The municipal block grant (Assembly No. 1275) and the in-lieu payments bills (Assembly Nos. 1269, 1274 and 1298) fail to require a municipality recipient to use the funds as a direct offset to property tax levies as recommended in the Tax Policy Report. The absence of this provision not only lessens the maximum possibility for property tax relief but practically guarantees added spending. Furthermore, it is in contradiction to the tax reform goal of reducing property taxes.

It must be recognized that the proposed municipal and county limits are on tax rates, thus the limits will not be guaranteed deterrents to spending or property tax levy increases. Growth in property valuations and non-property tax revenues will provide for increased budgets and expenditures without tax rate increases. Although favoring limitations either on rates, appropriations or property tax levies, the Association has doubts about the desirability of defining limits and procedures for school tax levies in the Constitution (Assembly Concurrent Resolution No. 112).

#### Examples of Bills Requiring Amendment

Many of the bills in the tax package need modification to clear up technical and procedural discrepancies as well as to clarify intent. Here are several examples.

1. The vagueness of certain sections of the sales tax bill, Assembly No. 1251, leaves the reader in doubt. For example, in the broad language covering taxation of services, would all financial transactions regarding money be taxed, such as bank deposits, purchase and sale of securities and bonds where the broker is the mediator between buyer and seller, installment credit service charges, and other services where a consideration is given? Delineation in the law of the services to be taxed would place the decision on what would be taxed on the Legislature rather than the tax administrator through administrative regulation.

2. The Association is concerned with various definitions used in the bills to compute equalized valuations and effective rates of tax and with certain procedures in relation to the statewide tax and reduction of school levies.

a. We question whether there are provisions to cover inclusion of the statewide property tax (Assembly No. 1252) in levying taxes on added and omitted assessments, and whether there is need to specify disposition of the State portion of such taxes.

b. Use of the current year's assessments in the tax base for the statewide property tax after the transition period, rather than the Oct. 1 base, would provide a significantly higher yield from the tax.

c. There are a number of municipalities in the State in which State business personal property replacement taxes or public utility gross receipts and franchise taxes have been transferred in the municipal budget from the municipality to the school district in order to offset school taxes. There is the likelihood with State assumption of school current expense costs, that revenues previously transferred to the school district may exceed the school tax levy. Our staff finds no provision in the bills for the municipality to apply miscellaneous revenues as an offset to the statewide property tax levy in such municipalities to reduce taxes, and suggests that such enabling amendment be considered.

3. Although the Association does not favor the excess gains bills, it wishes to point out many problems with the legislation. The language in Section 3-d of Assembly Nos. 1285, 1286 and 1297 is different in each bill. Further it questions why Assembly Nos. 1285, 1286 or 1297 should not have a provision similar to that provided in Assembly No. 1305 which gives credits or rebates to tenants of landlords pursuant to Assembly No. 1301 in certain high tax rate municipalities.

NJTA suggests review of the procedure for calculating the "effective tax rate" mentioned in Assembly No. 1301 using the apportionment valuation (Column 11 of the Abstract of Ratables). Apportionment valuation includes an imputed value of State-taxed business personal property, true value of railroad property, and under Assembly No. 1260, would add the imputed value of public utility property. None of those three classes of property pay taxes at the local property tax rate.

4. Assembly No. 1298 requiring State payments in lieu of taxes, provides for calculation of a payment on the combined municipal and county portions of the rate. It does not specify whether it is intended that the municipality pay to the county its apportioned share of the rate. It is suggested that the intent of the bill be determined so as to clarify whether the county will share in the tax payments. Please note Attorney General's opinion F. O. 124, No. 2, relating to distribution of payments in lieu of taxes in the Round Valley and Spruce Run Acts of 1956 and 1958 respectively, which stated that municipalities should pay the apportioned share to the county (and school district) under R.S. 58:20-5 and 58:20-6.

5. Although general discussion of transfer of welfare, judicial, and tax board functions to State financing might imply State assumption of all costs relating to those functions, the Association does not find this to be the case.

a. In Assembly No. 1292, the municipality would still be responsible for 25 per cent of the costs of certain medical services for certain welfare clients.

b. The several bills providing for State assumption of county courts and tax board salaries and operating costs do not provide for reimbursement to counties of office space and office equipment provided by the county.

c. In Assembly No. 1288, it should be noted that although appointment of district assessors would be by the State, municipalities would continue to be responsible for the salaries and operating costs of the district assessor's offices.

6. In Assembly No. 1269 which provides for taxation of regional school district property, we question the necessity for this payment when all or part of the bill would probably be paid by the State in its assumption of current expense costs. It is suggested that such payment apply only when the regional school district's property is located outside of the school district's boundaries.

As indicated from the above random comments, the Association sees the necessity of extensive review and amendment of many bills in the proposed legislative package. NJTA questions whether it is practical or feasible to modify them for decision within the suggested timetable. If a vote is essential in the next few weeks, it may have to be based on the conceptual philosophy of the bills, with subsequent detailed review by legislative committees, together with administrators and bill drafting technicians.

### Conclusion

The alternatives of inaction on the problem of tax reform should be carefully weighed. The New Jersey Taxpayers Association recently wrote to all members of the Legislature pointing out the recent rapid expansion of the State budget and frequent tax increases, as well as new taxes imposed to balance it. As indicated earlier in this statement, NJTA is concerned that delay in enacting this tax reform program will ultimately result in use of the personal income tax and increases in other taxes to finance State spending without property tax relief.

The Association urges that the Legislature consider this question: "Where will the State be going tax-wise, if the essential elements of a tax reform program are not adopted in the near future?"

The Association wishes to acknowledge publicly its admiration for the members of the Tax Policy Committee who worked long and diligently to produce their monumental report, and for the Governor for his forthrightness in presenting his program of reform. NJTA also wishes to commend you gentlemen of the Committee for your fortitude in holding extensive public hearings throughout which you have been extremely polite and patient.

We urge continued unrelenting effort in the achievement of a better New Jersey tax system. It will be most unfortunate if everyone's work has been in vain.

Thank you for allowing us to appear before you today and present our reaction, opinions, and views on the State's number one problem.

ASSEMBLYMAN BEDELL: Thank you very much, sir.  
Assemblyman Perskie.

ASSEMBLYMAN PERSKIE: Mr. Haines, did I understand you to express opposition to the proposal that the income from municipal bonds would be subject to the income tax?

MR. HAINES: No. This was not ours. We had this called to our attention this morning just as we were leaving the office, by telephone. It was expressed by some municipal officials and we have not had chance to really check this out. We're under the impression that since they are exempt at the Federal they be taxed by the State.

ASSEMBLYMAN PERSKIE: All right. I don't want to be in a position of appearing as the sponsor or attorney for the defense on this proposal but I am obligated to indicate to you that under the bill the interest and dividend income of New Jersey municipal bonds would enjoy an exemption from taxation under this proposal. However, the dividend income from bonds of other states or other municipalities would not.

MR. HAINES: Then the gentleman who informed us had not had an opportunity to read the bill and I should withdraw that comment from the record. If that's the case, I apologize if we missed it.

ASSEMBLYMAN PERSKIE: That's all. Thank you.

ASSEMBLYMAN BEDELL: One brief question. I know you have done some extensive work, your organization has done some extensive work in trying to analyze the proposition before us. Even considering the dozen or so bills which might constitute the main thrust of this legislation, in light of the time schedule placed upon the Legislature, this Committee particularly, to analyze and prepare for floor action these, say some dozen, bills, do you think we have ample time to justifiably do the job that might be required, sir?

MR. HAINES: This is a tough one for me to answer, sir, because I don't know how much time you gentlemen in the Legislature are prepared to spend.

ASSEMBLYMAN BEDELL: I'm just asking for an opinion, as a person who has expertise in fiscal matters. We are supposed to go into session on the 15th and be there until the 4th of July.

MR. HAINES: This is a personal opinion. Let me say that, as one who has attempted to read all of the bills, except this one, - and I tried to skim over this - and in trying to do a summary which we have done on 16 pages - just to read them, without attempting to analyze them, has been a significant task. I would be very frustrated if I were on a very restricted timetable and had to make decisions based on a five-volume study plus all the rest of this.

As I say, you have far more extensive staff available to you than we do and I don't know how much time you gentlemen of the Legislature are prepared to give in the next month or so, less than a month, to try to arrive at a decision. But regardless of whatever it is, it's a tremendous task. I will not deny that one bit.

ASSEMBLYMAN BEDELL: I would hope you have a bigger staff than we do, not in quality necessarily but at least in quantity. I wish to impress upon you that we don't have much of a staff. What we have is good.

MR. HAINES: Well, let me say, you have a lot more than we do.

ASSEMBLYMAN BEDELL: Thank you, sir.

ASSEMBLYMAN PERSKIE: It has been suggested by some, with reference to how much time we have, that we have all summer, hasn't it?

ASSEMBLYMAN BEDELL: Yes.

MR. HAINES: Thank you, sir. Let me say that any time we can be of assistance in answering any of these questions as we see them, we would be very pleased

to do so, either individually or cumulatively.

ASSEMBLYMAN BEDELL: We may take you up on that offer, sir.

Thank you.

Mr. Walter W. Salmon, President, Municipal Assessors of New Jersey.

W A L T E R     W.     S A L M O N: Gentlemen: My name is Walter W. Salmon. I am the President of the Association of Municipal Assessors of New Jersey, and I feel like I'm ten years old after trying to follow Saül Wolfe and Russ Wilson. I came from a big family and the first one up was the best dressed. So I don't know what I can add to what they have already said.

However, I am going to cut my remarks down. I told Assemblyman Apy that I could do it in three minutes and he said, "Fine." So, I'll start at the bottom of page two.

Of primary importance in the administration of the assessment program is Assembly Bill No. 1288. The purpose of the bill is to empower the Director of the Division of Taxation to establish taxing districts; to appoint District Assessors, and approve of Deputy Assessors in a district; to require qualification of assessing officials; and to mandate certain other requirements. Problem areas in the bill can be noted as follows:

1. The Assessors Association and the Director have been attempting to determine the definition and/or the composition of a taxing district. Neither has been able to present a workable solution.

2. Under the bill it has been interpreted that every position of assessor will be abolished, and be subject to appointment by the Director.

3. Funding of the position of District Assessors or Deputy Assessor as appointed, is a municipal responsibility as stated in the bill. Municipal funding of this

office is one of the short-comings of administration of the assessment office. In most cases it has not been possible to secure adequate compensation for an Assessor to make it full time and neither has it been possible to have most municipalities to properly staff an office in order that the function may be strengthened and professionalized to the degree that the Assessors believe would be satisfactory to, and recognized by members of the Legislature and the general public.

Inasmuch as A-1288 presents a picture of confusion, limitation, opposition to some present legislation, we strongly recommend that A-1288 be held in Committee until such time as the Committee on Taxation of the Assembly, the Director of the Division of Taxation, and representatives of the Association of Municipal Assessors have an opportunity to mutually express alternatives.

Further, A-1264 and 1265, should be rewritten. We see no valid reason to impose on the County Boards of Taxation a requisite of one attorney-at-law and two other members, or two attorneys-at-law and three others. Questions of points of law at this level are quickly expressed by fee attorneys representing clients in appeals cases. It is the consensus of opinion that members of County Boards of Taxation must be qualified under P.L. 1967, C-44. And I think that you recognize that that's the certification law of the Assessor.

A-1265 should have reinstated in its wording, the requirement to record procedures in appeals cases, and then become law.

A-1252 is an act imposing a State tax of \$1.00 per \$100 of equalized value, etc. The equalized value of \$1.00 at an equalized rate of 80% amounts to \$1.25. Therefore, the municipality must raise additional moneys to pay the additional 25¢. There is no provision in the bill for a reduction in payments to the State based on ratables that may be reduced because of fire, demolition, errors, or reduction by appeal.

Our Committee and our Legal Advisors are of one unbiased opinion, that being that Tax Reform must be based on good legislative bills to protect and serve all taxpayers alike. It is also our opinion that of the fourteen bills analyzed, very few have any resemblance to the recommendations of the Tax Policy Committee Report, in the realm of administration of the property tax.

We therefore cannot commit ourselves to approval or disapproval of the Tax Reform Package, but do commit ourselves to the task of equitable, workable legislation.

We do not feel that this is either the time or the place to bring before you our determinations and/or opinions of the Committee's recommendations on Appeals as noted in Chapter 10 of the Report. It is our sincere hope that such will be more sincerely studied, in order that the purpose of taxation be more fully served and preserved.

The whole purpose of our appearance here today is to demonstrate our sincere concern over pending legislation that will undoubtedly adversely affect the Administration of the Assessment Function, and in some respect erase some of the present law that demands equity in taxation. My closing comment is one that has already been published: "This self-defeating pattern of declining ratables, followed by fleeing business firms, followed by rising tax rates, must be stopped before it spreads even further than it already has into our growing suburbs." The author of that was William T. Cahill, Governor.

We feel that there are many things and we would hope that we could be afforded a 30 day period in which we could talk with the Director of the Division of Taxation to analyze these bills and see if we can't come up with some more workable proposition.

We believe that in a good many of the bills there are a lot of good parts; we feel in some of them there is bad legislation; in some - we already have legislation covering a good many of the bills. And we can't understand

why we should upset good legislation in favor of some that is likely to water down the property tax administration or the assessment administration function. So, if you will, gentlemen, I would like to be able to report to my Association and my Committee that we do have a 30 day period in which to analyze the bills and come back to you at a later date.

Let me continue. One of the big problems - Mr. Glaser has charged us with the responsibility of creating a taxing district. Well, we have analyzed both Gloucester County and Burlington County and, believe me, what would work in one county cannot work in another. However, it's quite possible to make districts within a framework of, let's say, line items, population and ratables. For instance, we can take three municipalities in Burlington County, put them together and create a district which wouldn't encompass more than maybe 12 or 15 miles and they would have sufficient line items to keep an assessor, plus help, busy. But yet if we take Washington Township and Woodland Township - I think it's Washington and Woodland - there are just under 200 square miles in the area and in the 1970 census there were fewer than 600 homes. So somewhere along the line we have to come up with some reasonable criteria on what would create a district. And for that reason and since we have been asked by Mr. Glaser to do it, I am sure that his schedule is just as busy as ours, and I would ask if we could have 30 days before we come back, or whatever you can give us.

ASSEMBLYMAN BEDELL: I'm not sure that the decision to do so is entirely the decision of this Committee, sir. As you may be aware, we are scheduled to meet again, that is the Legislature, on the 15th of this month and continue in session until, I think, July 4th, or around that time, and during that period of time the sponsors of this legislation - it is their intention to get the main thrust of the legislation at least on the floor during that period

of time. We ourselves may not have 30 days in which to deliberate; in fact, I'm sure we won't have it if this is one of the bills that the sponsor wishes to move during that period of time; if it is not, then both you and we would benefit from the time we would have to give these particular bills further consideration. But I am not sure that we have the sole decision over the time schedule at this time.

MR. SALMON: We don't want to do anything - in other words, as I've already said, we are neither for nor against, so we don't want to delay whatever action is to be taken. But we do feel very strongly that if these bills are pushed along with the package, as has happened so many times, then it's almost impossible to get a bill changed at a later date. For this reason, - well, if you want to make it a shorter time and meet with the Taxation Committee of the Assembly and the Director, we would be glad to. We've spent months on it now and we might just as well go broke doing the whole works.

ASSEMBLYMAN BEDELL: Well, as I say, sir, we would probably desire, very much desire, that is the Committee, far more time than we are going to be allotted to consider these bills. If we do have the time, we'd certainly appreciate your report as quickly as it can be dispatched to us, but we have no real control over the time schedule or the posting of bills in this House for voting. It is not within this Committee's province. We more or less find ourselves victims also of the time schedule. I wish I could extend to you that privilege. I know it would be very beneficial to you and to us.

MR. SALMON: Well, we're always available. There are a number of us - Saul Wolfe, Jim Reeves, and myself, we're always available for a discussion if you felt you wanted to discuss any of the administrative bills and we would be glad to meet with you.

ASSEMBLYMAN BEDELL: We may very well take you up on that.

MR. SALMON: All right. My address is on the letterhead.

ASSEMBLYMAN BEDELL: Thank you.

Any questions by the Committee?

ASSEMBLYMAN FORAN: I would just like to compliment you on astuteness in picking up that little point of the lawyers being on the County Tax Board. That's my feeling exactly.

ASSEMBLYMAN PERSKIE: There are some of us on this Committee who might think that perhaps it might be a good idea to have all three of the members of the County Tax Board as attorneys.

ASSEMBLYMAN BEDELL: Mr. Vreeland?

ASSEMBLYMAN VREELAND: The only thing I want to say, Mr. Chairman, is I think the point that Mr. Salmon is making about more time - I think it's a good one and I think probably if he gets in touch with Mr. DeKorte and the Governor's Counsel they could probably work this out, the Association, with those gentlemen. I think they could probably do that.

MR. SALMON: Well, we don't feel that these particular bills, like 1280, would have any bearing on it at all. But before these bills are made into law, they should be clarified.

ASSEMBLYMAN BEDELL: This is what we're attempting to do now, sir, to get from the sponsor and the Speaker which bills they want to entertain first.

MR. SALMON: Make ours last.

Thank you very much, gentlemen.

ASSEMBLYMAN BEDELL: Thank you very much, sir.

I would like to call upon Mrs. Doris W. Dealaman, Somerset County Freeholder and 1st Vice President of the New Jersey Association of Chosen Freeholders.

I am very pleased to have the opportunity to make this introduction, having been a former Freeholder myself.

D O R I S     W.     D E A L A M A N: We thank you, gentlemen, for this opportunity. We also, in the interest of time and because you have our written statement before, will be as brief as we can.

We are delighted with the unanimity of opinion from the Tax Policy Commission concerning the transfer of welfare and court costs to the State Government. These are major areas of fiscal responsibility on the part of the counties at this particular time and we honestly feel that in both instances not only would the transfer of the funding make for more efficient administration, it also would make for more equitable distribution of the cost.

Let's examine the welfare situation. New Jersey is one of the few states which rely primarily on local government units for the distribution of welfare funds and services. It is our counties which bear the major financial burden for New Jersey welfare services at the local level, in the amount of \$66.5 million dollars in 1971.

Counties and municipalities must fund their share of welfare costs from their own revenue sources. In New Jersey this has but one result, an ever increasing rate in the local property tax to raise these millions of dollars for welfare assistance programs. With the State's assumption of the remaining local share of welfare costs there will be an immediate and in some cases a significant reduction in the local property tax rates. Welfare costs amounted to nearly 16% of the total revenues raised by the County Purpose Tax in 1971. The State's ability to fund welfare programs from non-property tax sources will ensure that welfare will not continue to be a burden on the local tax rate.

I will not belabor the point by citing statistics to justify and support the State's assumption of welfare assistance and administration costs. You have the research work of the Tax Policy Committee showing these costs and

their effects available to you. There is only one possible conclusion, we feel, from this overwhelming evidence, welfare has long since ceased to be a justifiable local responsibility. It is clearly impossible for our counties and municipalities alone to affect the root causes of welfare. just as it is becoming increasingly impossible for them to continue funding welfare assistance programs from the local property tax.

In addition, welfare is being recognized as a federal problem, recognition which we, incidentally, feel is long overdue. We view the State's assumption of our remaining local welfare responsibility as an interim measure until the full federalization of welfare is a reality. Local units of government and even the State are, as we have indicated, unable to effect all the necessary policies which can reach the root causes of our welfare problem. It is a national problem requiring concerted action on a national level. Until this is done we can only hope to keep pace with the ever increasing cost burden of welfare assistance programs.

The judicial function of county government is another case of fiscal responsibility being placed, we feel, at the wrong governmental level. The judicial system is a state responsibility by constitutional mandate and yet the counties expended over \$30 million last year in support of the courts and allied offices of the Prosecutor and Probation Department.

Parenthetically, may I note that in the material that we have been able to receive, we do not yet find bills relative to the transfer of the Prosecutor's cost. Either we have not been able to get it or it is still in the works.

ASSEMBLYMAN PERSKIE: It's there.

MRS. DEALAMAN: All right. We'll look for it again. Thank you.

The Courts are totally under State jurisdiction and administrative control. The State's assumption of these

court costs will place them at the proper level.

Again, there is a great deal of evidence for the transfer of court funding. The Tax Policy Committee's report gives a sound, reasoned argument for such action, showing this transfer to make sense from any viewpoint. It will help reduce the property tax; it is a recognition of the State's responsibility for the court system; it will permit better coordination and planning in criminal justice and it offers the possibility of reduced future expenses via a coordinated State Probation Services system reducing recidivism.

We, as well as the New Jersey Taxpayers Association, and the County and Municipal Government Study Commission, advocate the State's recognition of its responsibility for the court system by undertaking the complete funding of our court system.

We are concerned, may I add, with the lack of finding what kind of fiscal relief we might be able to expect in terms of the provision of space. This has become a major problem for most of our counties as our judicial system grows. We would like to hope that that might be considered.

Gentlemen, you are in a position to perform a great service to the people and counties of New Jersey. Through the transfer of welfare and court function from counties to the State you will remove nearly \$100 million from the property tax rolls, as of 1971, and place them at a level better able to absorb the costs involved. We urge your favorable consideration towards the legislation which will accomplish this.

We would also like to comment on another bill of this tax package, Assembly Bill No. 1290, the State Aid Road Act of 1972. This bill provides, as you know, state aid to counties and municipalities for road projects. Section 10 of this Act includes a provision which we feel is unjustly discriminatory in its limiting of total state

participation to only 50% of county road projects while allowing up to 75% for municipal projects. The perpetuation of this unequal treatment can only have serious consequences for the over 6700 miles of county roads in our State. An easy answer to this is that the revenue base of counties is far larger than that of municipalities but is it in reality? Counties have responsibility for funding a great number of service areas at a much higher expenditure level than municipalities are capable of doing but they must also use the property tax to generate their funds. Counties alone do not have the necessary funds to accomplish all their responsibilities.

In addition, the Interstate Road System will rely heavily on county roads as connectors and feeders. This will undoubtedly result in increased expenditures by counties to maintain these roads due to what we have already seen, the heavy increases in traffic load. There will also be a need for considerable construction work for overpasses and access areas to the Interstate Roads.

Our Association is on record as advocating the State support of county road projects to a maximum of 75% of the total cost of such projects. In view of similar treatment for municipalities and especially in view of the county's increasing role in transportation systems, we feel justified in requesting that this bill be amended to reflect this recognition of the county's need by providing equal treatment for both our levels of local government.

Thank you very much. If there are any questions I can answer for you, I would be happy to do so.

ASSEMBLYMAN BEDELL: Yes. Assemblyman Perskie.

ASSEMBLYMAN PERSKIE: I just wanted to point out that the bill in question, about the Prosecutors, is Assembly Bill 1304.

MRS. DEALAMAN: Thank you very much.

ASSEMBLYMAN VREELAND: Mr. Chairman, I notice that the Association of Chosen Freeholders, through Mrs. Dealaman and her report, have endorsed certain aspects of

the proposal and I think my question is as a matter of information to this Committee - Has the Association of Chosen Freeholders endorsed the Governor's Tax proposal as a whole?

MRS. DEALAMAN: You mean as a total package?

ASSEMBLYMAN VREELAND: That's right.

MRS. DEALAMAN: We have not yet. And I hate to be reiterating what other people have said. We have not yet been able to review the total package. The two aspects of the package that we are endorsing - the assumption of welfare costs and the assumption of court costs - were part of our ten point legislative program as of last September. We are just delighted to see them picked up.

ASSEMBLYMAN VREELAND: In other words you haven't made any decision as to the total package.

MRS. DEALAMAN: That's correct.

ASSEMBLYMAN VREELAND: Thank you.

ASSEMBLYMAN BEDELL: Thank you.

Mr. Robert Woodford, New Jersey Manufacturers Association.

ROBERT WOODFORD: Gentlemen, I will abbreviate my remarks on some sections.

I am Robert Woodford, Assistant Secretary of New Jersey Manufacturers Association, appearing on behalf of the members of the Association, as a result of the work of several committees and our Governing Board on this issue. As I am sure you are aware, we participated in the Tax Policy Committee Study and have been very emphatically in favor of a revision in the tax laws that would result in relief of property tax.

Our objectives have been twofold. First of all, we feel that the reconstruction of the cities in New Jersey - which is an important first-priority item - is impossible while the impediments of extremely high property taxes continue. Secondly, we feel that New

Jersey can, in fact, have a sounder, more uniform system of taxation which would give us the type of system which would create additional jobs for a rapidly growing population.

We presented three statements to the Tax Policy Committee on various aspects of the tax program. One of the things that we said was that despite the fact that in the past the business community has found the personal income tax rather unpalatable, we recognized that major substantial tax reform can only be accomplished if the personal income tax is in fact a major part of the program of replacement revenue.

Now in May of 1971 we indicated our support for a personal income tax tied to a program of property tax relief and we set forth three conditions: First, that there be a substantial property tax relief and that the funds raised not be used for simple expansion of State programs; secondly, we indicated that the programs to relieve local property taxes must be designed in such a manner as to guarantee the durability of relief; and third, we indicated that expenditure controls would have to be built into the proposed programs to safeguard the expenditure of aid monies.

A review of the Governor's proposals has led us to conclude that the proposed program of property tax relief does, in fact, provide substantial property tax relief. We also feel reasonably assured that the program provides safeguards on the use of State aid and restraints on expenditures continuing to be financed through the local property tax. In addition, we fully support the reforms in administration of the property tax that the Tax Policy Committee recommended and for which the Governor has indicated his support.

We did not have at the time of our study Assembly Bill 1288 available to review the extent to which the Governor has, in fact, picked up the recommendations of

the Tax Policy Committee. We did, however, favor all the recommendations of the Tax Policy Committee in regard to assessment and appeal procedures.

While we support the program side of the Governor's proposals, we cannot support certain elements in the tax program. Now, the elements that we do not support are: (1) Assembly Bill 1301, the excess gains surtax. We were particularly disturbed by this bill which imposes an excess gains surtax on all businesses, other than regulated companies and residential lessors. Under A-1301 businesses would pay an excess gains surtax at the rate of 100% of any decrease in tax liability in 1974, 1975 and 1976 as compared with liability that would have resulted in those years under 1973 taxes and tax rates. The taxes compared for the purposes of determining excess gains taxes, I am sure you are all aware of and I will not go into the details.

It is important to note precisely who are subjected to the tax imposed by A-1301 and who will not be subjected to it. Commercial and industrial businesses located in communities with equalized property tax rates that exceed the Statewide average effective property tax rate by 25% or more in 1973 are exempted from the provisions of A-1301. Since the provisions of A-1301 offset increases in business taxes against decreases in business taxes in determining whether a so-called excess gain exists, commercial and industrial business for whom corporation and business personal property tax increases exceed tax relief will not pay an excess gains tax.

The burden of the excess gains surtax will fall solely on businesses that are less profitable, marginal or suffering an income loss and who happen to be located in a community whose property tax rate in 1973 did not exceed the Statewide average property tax rate by 25%. The decision to deny property tax relief to those businesses with the poorest earning records certainly cannot be

defended on grounds of equity. Nor does the perpetuation of an excessive tax burden on these businesses serve to stimulate their growth or encourage the creation of new job opportunities to offset this State's high rate of unemployment.

Industrial and commercial businesses will be faced with increased taxes on their income and personal property as well as new sales taxes on an array of business services which are presently untaxed. Consequently, a large majority of industrial and commercial businesses and, in fact, in our experience, every industrial business with whom we have had contact will pay increased taxes under the Governor's Master Plan for Tax Reform. The effort to deny relief to the remaining minority of the commercial and industrial businesses through A-1301 is truly an effort to deny uniform and equitable treatment to such taxpayers.

We also oppose the provision of the Tax Policy Committee recommendation, which the Governor has endorsed, to tax entire contracts of construction rather than construction materials only. While this change will simplify administration of this portion of the sales tax, it will also more than double the amount of sales taxes paid on construction. The attempt to fashion the means of property tax relief should not lead us to devise a tax system which deters growth in our economic base.

The rapid rate of population growth in New Jersey necessitates significant expansion in housing facilities and in the business base needed to provide our citizens with employment and a high standard of living. A 5% tax on all costs of construction will clearly discourage the expansion of business facilities. It will also counteract the effect of property tax relief in stimulating other kinds of construction.

In a great many communities, the sales tax on construction will raise mortgage costs by more than property tax relief will lower tax costs.

Therefore, the increased sales tax burden on construction will discourage growth in our economic base and impede the construction of new housing; which are two objectives of property tax reform; therefore, we must oppose the passage of this portion of the Governor's tax program.

In addition, an item which is minor in its dollar consequence but major to certain types of industry, - the Tax Policy Committee's recommendation that the sales tax exemption for sales of chemicals and catalysts used to induce or cause a refining or chemical process be limited to chemicals or catalysts with a useful life of more than one year. The Committee failed to provide a reasonable explanation for its proposal, merely stating that it proposed this modification to "insure utmost clarity of intent" in the exemption.

Imposing a one year life requirement for catalysts does not clarify intent but, instead, it would constitute a wholesale removal of the exemption. The exemption for catalysts is a valuable inducement to industries processing by catalytic process and should be retained without modification.

Now the type of catalyst we're referring to would be called a raw material, would be exempt from the sales tax if it were not for the fact that it disappears, that is it's self-destroyed in the process by which it converts raw materials to a manufactured product.

And finally, Assembly Bill 1253 raises the rate of the net income portion of the corporation business tax to  $7\frac{1}{4}\%$  of net income while retaining the present tax on corporate net worth. Together, these two segments of the corporation tax will demand 9% of corporate net income, one of the highest rates of corporate taxation in the nation.

What disturbs us about this bill is our concern with the efforts to alter the present destination rule used in the sales factor of the corporation tax apportionment formula. And under this formula, the sales of the

corporation, the property of the corporation and the payroll of the corporation are all merged into a single fraction and that fraction times the national or international income of the corporation determines what portion of it is taxable in New Jersey. To attribute to New Jersey sales to other jurisdictions, including all sales made to the Federal Government wherein the goods are shipped from New Jersey, is an unwarranted distortion of the destination sales rule.

Sales to the Federal Government are normally taxed by the destination state. Income attributable to these sales will be taxed twice if the recommended Federal sales rule is not struck from A-1253. The same likelihood of double taxation exists if New Jersey attempts to tax sales to jurisdictions which purportedly lack jurisdiction to tax such sales. Jurisdiction to tax is one of the most unsettled and contested areas of the law. A sale made to a customer in another state, which appears not to fall within the State's taxing jurisdiction, will, almost without exception, be treated as taxable by the state of destination.

The specter of double taxation would be a clear deterrent to corporate location in New Jersey. We urge that the destination sales rule in the corporation business tax be retained without modification.

To summarize our position, I wish to reiterate our support for the objective of substantial property tax relief, combined with a sound system of state taxation. We approve of the various programs that have been designed to relieve municipalities, counties and school districts of costs which are now supported by the local property tax. We are satisfied with the safeguards built into these programs.

In light of these conclusions, we regret that we must oppose the Governor's program because of various tax measures which are part of that program -- Assembly 1301,

the increased sales tax burden on construction, the sales tax on catalysts, and a distortion of the destination rule in the corporation business tax sales apportionment formula.

Thank you, gentlemen.

ASSEMBLYMAN BEDELL: Senator Schluter.

SENATOR SCHLUTER: Mr. Woodford, you have been very patient all day. Do you have any idea what those four exceptions which New Jersey Manufacturers has taken to the total proposal, what those four amount to in yield of dollars?

MR. WOODFORD: In the case of the construction exemption that now exists, the estimate by the Tax Division that the Tax Policy Committee used was that the taxation of construction services would in fact bring in about \$92 million, using the 1971 base year.

Now, of the other areas, I don't believe any price tag was put on the change that the Tax Policy Committee called a clarification of intent in the exemption on catalysts. But there should have been a price tag. I don't know how much revenue could have been yielded by wiping out the basic elements of this exemption. It was presented as a mere clarification and therefore no price tag was put on it. It's not just a clarification.

Assembly Bill 1301, frankly, I don't know of any way that anybody could estimate what the tax yield would be. I know for a fact that a profitable business will pay more in replacement taxes than it will get in property tax relief. So that profitable business, in fact, will not pay the excess gains surtax.

A question then arises - what will the corporate taxable income or personal income on unincorporated business sources be that will be offset, and business personal property tax that will offset property tax gains. I don't think anyone can predict. No one has, I think, a figure on the amount of the cost in this bill of the

exemption extended to those areas with the high property tax. So I don't know how much you would lose and I don't know of any fiscal estimates on how much this bill is worth.

We attack the bill not on the basis of what it will draw from business but on the basis of the businesses from whom it draws, the businesses to whom it denies the property tax relief that we feel is one laudable objective of the program. If we had wanted to save business costs, we would in fact have opposed the corporate tax hike or oppose the personal income tax or oppose the increase in business personal property tax which we are very unhappy about but we recognize that there is a cost to business in this tax revision program and we're willing to pay part of it, a fair share of it. I don't think this means that we should extract from the business in trouble an additional levy to satisfy what has become primarily a political point.

ASSEMBLYMAN BEDELL: As a matter of fact, this is somewhat of a rare occasion in labor-management relations because we have in New Jersey the AFL-CIO and the New Jersey Manufacturers somewhat in agreement today, for different reasons but both opposed to the program as presently constituted.

MR. WOODFORD: Well, we should feel, I suppose, a little uncomfortable. (Laughter)

ASSEMBLYMAN BEDELL: Thank you very much for your patience also.

Mr. Robert Pittas.

A L B E R T P I T T I S: It's Albert Pittis. I'm from Plainfield where I do real estate management work. I am here to speak for myself.

I would like to speak on three different subjects this afternoon. The first has to do with the excess gains tax.

Governor Cahill said in his recent address to

the Legislature: "The purpose and thrust of the Sears Committee, therefore, was not to find new taxes for the State but rather to find a way of relieving the burden of the real estate tax on our citizens." Then the Tax Policy Committee recommended: "massive reduction in the burden of the property tax as a basic policy accompanied by every possible improvement in the structure of the tax and its administration."

Gentlemen, in view of this, how can we or how can the Governor even think in terms of a proposed 75 to 100% excess gains tax?

I am thinking of a situation where, let's say, I break my arm and it's giving me a great deal of pain so a doctor comes and he sets the bone, puts it in a cast, and he gives me a shot to make me feel better, and then he comes around and breaks my other arm to compensate for what he just did before.

Not only do I think the excess gains tax is very inequitable because of it being a 75 to 100% excess gains tax but, worse yet it's a differential excess gains tax.

Years ago, vacant land and residential property were often purposely assessed at a lower percentage of true value than industrial or commercial property. However, about ten years or so ago our State courts held that all real estate should be assessed at the same percentage of true value within each taxing district or within each county. They seemed to recognize the necessity of having all real estate assessed at the same percentage of true value.

In spite of this, however, the Tax Policy Committee said, and I quote: "The Committee concludes that the assessment process must be strengthened to reduce variations in individual assessments present in most municipalities." And then a little later they said in their Report: "Vacant land is found frequently underassessed in comparison to residential property and there appeared to be a more than accidental pattern of discrimination against

commercial and industrial property."

The point here, gentlemen, is that we have a discriminatory excess gains tax now being loaded up on top of an already discriminatory assessment system, that is, discriminatory against industrial and commercial property. If it was right that all real estate should be assessed at the same percentage of true value, I then think it is wrong to simply impose a new tax which essentially is a real estate tax but under a different name and bring back all the old inequities as they existed before.

However, if we must have an excess gains tax, why not make it nondiscriminatory? Apply it uniformly to all types of property across the State. After all, it's quite probable that certain commercial and industrial property owners need tax relief a great deal more than some owners of private residences.

If you wish to apply differential rates of excess gains tax, depending upon the difference between the taxing district's equalized tax rate and the State average, the State median, that's fine, but I say apply it in the same way to all forms of real estate. By that I'm saying, if you have an excess gains tax with a certain percentage and you have a community whose adjusted tax rate might be 20% above the State average, then let the property owners in that community have a 20% credit against the excess gains tax or whatever it is. If the adjusted rate is 40%, let the owners in that community have an adjusted rate - have a 40% credit against the excess gains tax, just some gradational effect.

In going over the specifics of Assembly Bill 1301, I read both paragraphs 4A and 4B where the meat of the bill is covered, and frankly, I'm still confused as to exactly where I would be under different circumstances. There are all sorts of variations in the contractual arrangements that can be made between a landlord and a

tenant and I doubt that they have all been covered in paragraphs 4A and 4B in bill 1301. It is easy to imagine some gross inequities that may occur to the landlord, particularly where the lease has been drawn up before the excess gains tax was imposed.

Let me give you one example relative to paragraph 4A. Let's say you have the landlord and tenant entering into a lease over a long period; in that particular community the local effective tax rate exceeds the State average by only 20%; they have a flat rent that the tenant pays the landlord every month but in addition to that he has an increase-in-tax clause where he pays whatever increase in taxes occurs on the property over and above the taxes of the year in which his lease was started. So in the first year of his lease say the taxes on the property were \$600 which the landlord paid; then let's go a few years further on to the current year and now the taxes are \$1,000. So in this year, as in previous years, the landlord bills his tenant for the difference - that's \$400 that the tenant pays to the landlord and the landlord pays in taxes to the municipality. Then let's say the next year you find that the tax program has passed and the taxes drop 40%, they drop down to \$600 again - fine, the tenant is tickled pink. In effect, his gross rent has been reduced by \$400. Then the State comes in and tells the landlord he now has to pay an excess gains tax of \$400. The landlord goes to the tenant and he can't get that \$400 from the tenant because the tenant says, my lease only allows for an increase-in-tax clause, no increase that may have been brought about by an excess gains tax.

Here you have a situation where there is no relief for the landlord, he's still paying the top tax dollar as he was paying before; but the tenant has gotten relief.

In paragraph 4B, which concerns itself to a special allowance of only 75% excess gains tax instead of 100%

excess gains, where the effective local real property tax exceeds the State average by 25% or more, you can have identical properties side by side in different communities and, of course, where the landlord has similar problems with fire insurance, maintenance and things like that. In the one community the effective local property tax rate exceeds the State's average by only 24% - he pays 100% excess gains tax; whereas in the adjacent community where they have virtually identical property maybe the effective local real property tax rate exceeds the State average by 26% - so, for this small difference, the second landlord has only a 75% excess gains tax. This seems very inequitable.

Also in paragraph 4B the tax credit is allowed to the tenant but it's allowed in proportion to the area occupied. So you know yourself, you can have one building where 1,000 square feet might rent for twice what 2,000 square feet might rent for somewhere else in the same property on the same floor.

So I suggest this, if there be a tax credit to the tenant it should be not in proportion to the area occupied but rather in proportion to the rent paid.

I also was reading over Assembly Bill 1302 and I see there that they distinguish between an owner-occupied property which is a three-family house property, as opposed to an owner-occupied premises which is a four-family house.

In the first case, the owner-occupant pays no excess gains tax; in the second case he pays a 75% excess gains tax. I certainly see no equity in this. You have to draw the line somewhere but to jump from zero excess gains tax to 75% excess gains tax just because there is one extra apartment in the property, doesn't seem right at all.

So I say again, if there must be an excess gains tax, apply it uniformly to all forms of real estate.

And where the lease actually allows the tenant a net rent reduction because of the tax reduction, or some other reason, the landlord should be allowed an equivalent credit on his excess gains tax.

Bill 1302 does allow a form of credit to the landlord where he reduces the tenant's rent; however, there does not seem to be any such provision in 1301.

The second point I wanted to cover has to do with the veteran's property tax reduction which I realize was originally proposed in the Sears Committee Report which was not included in the Governor's program. I'm a veteran myself; I'm proud of it; I have a veteran exemption on my own house; however, I do feel that this veteran exemption should be repealed as part of any over-all consideration of a tax program in New Jersey.

First let me say that military service is primarily a Federal obligation and it's the Federal Government that should provide any necessary veteran benefits. Second, this veteran benefit, created by the State of New Jersey, is a prime example of buck-passing in that the State set up the enabling legislation but then required each municipality to pay for this themselves. Third, the tax deduction bears no relationship to the length of military service --

ASSEMBLYMAN BEDELL: Sir, may I just interrupt for a moment. As you have stated, that has been deleted from the legislation that we are considering. I can tell you in all honesty, sir, that this Committee does not advocate placing it back in the legislation.

MR. PITTIS: Very well. I will go on to one more point then, gentlemen.

As a citizen, I am provided with certain public parks, forests, golf courses, tennis courts, etc. by State, County and Local Government. If I find any fault with them, I can speak to those who manage them and suggest certain improvements that might be nice. If I am still

not satisfied, I can join a private club of some sort that provides the same service for which I would have to pay. Now if I came to you asking for an income tax credit or a deduction because of the dues or other charges charged by this private club that I just joined, you would think that I was out of my mind. However, aren't you considering just exactly the same thing now in the matter of tax credit to children in private schools and parochial schools?

I won't belabor this point much more, gentlemen, except to say, please don't. I think any extra money you may find around, please give it to the public school system where the State's primary responsibility is situated.

Thank you.

ASSEMBLYMAN BEDELL: Thank you, sir.

Mr. Joseph Rauch, New Jersey Tax Collectors and Treasurers Association. I might apologize, Mr. Rauch, I took you one number out of order. I should have had you prior to the previous speaker.

J O S E P H R A U C H: I have a prepared statement and then I would like to make a few remarks of my own. In fact, I would like to make a couple before I start.

I am not one of these uninformed persons as far as the business of taxation is concerned. I live with taxation every day of my life. This is my business and, furthermore I represent half of the local tax administrators of New Jersey.

ASSEMBLYMAN BEDELL: Where is your home?

MR. RAUCH: I live in South Brunswick Township, Middlesex County.

I will read my statement now and then I will make my further comments at the conclusion.

Gentlemen, I am Joseph Rauch, Tax Collector - Treasurer of South Brunswick Township. I am the Legislative Representative of New Jersey Municipal Tax Collectors and Treasurers Assn. and I represent my association on the League of Municipalities Legislative and Tax Study Committees.

In 1970 I appeared before the Governor's Tax Policy Committee in Atlantic City during the League of Municipalities Conference and presented a resolution on behalf of our state association that offered seven specific proposals to revise the Farmland Assessment Act of 1964 and I will present a copy of that resolution to you today. (See p. 114 A)

I stated then that it was time that the legislature end the "Biggest Tax Evasion Racket" in New Jersey.

Now, in 1972, this same tax evasion racket is functioning bigger than ever.

We were pleased when the Governor's Tax Policy Committee on page 39 of Report II acknowledged that land speculators were shifting their taxes to others in the communities. They recommended specific changes to close these tax loopholes to provide that only legitimate farmers receive the reduced assessments as the voters of New Jersey had originally intended.

It must be noted that although there were and are some differences among the members of the Governor's Committee, no one disagreed on these recommendations. It must also be noted that, while legislators may differ on some aspects of the proposed tax reform, they should be in complete agreement to immediately closing tax loopholes and ending this tax evasion racket under the existing Farmland Law.

Assembly Bill 1268 "Does Not", I repeat "Does Not end this Racket". What kind of justice or tax reform can we have if these changes are not made first?

My own municipality of South Brunswick Township has 11,000 acres as qualified farmland, but 6000 of these acres, or 58% are owned by non-farmer interests. The present farmland law has shifted over five million in actual tax dollars from these non-farmer owned lands to the rest of our taxpayers since 1965.

Even the bankrupt Penn Central's land holding company, Manor Real Estate, has 337 of its 413 acres (81%) in South Brunswick farmland assessed. One of these parcels of 55 acres was purchased in 1964 for \$166,500 and is assessed today at \$11,000.

For your information, the records will show that these non-farmer interests using the farmland assessment act and shifting their own taxes to the homeowner include: the Railroad, land speculators, political contributors, industries, developers, unions, doctors, attorneys, commercial interests, churches, local officials and even members of the New Jersey State Legislature.

Gentlemen, why not put this question on the ballot in November and let the taxpayers of New Jersey for once vote to "reduce their tax burden".

Now, I would like to just add a few comments based on some statements made earlier here today. I heard the presentation made by the gentleman from the Attorneys group covering taxation - I know his name - yes, Mr. Wolfe, - I have attended a number of meetings with him; Mr. Wilson, Mr. Haines, different gentlemen to whom I have spoken on these matters in the past, and we all seem to agree, but regardless of how much we agree we're not getting any place, we're spinning our wheels.

I feel very strongly, as does my organization, - they have endorsed my comments here 100%. Now they have not made their final determination for a specific reason, they feel that if we can't correct these loopholes - and Lord knows if anybody who lives with the tax books and sees injustices and sees differences in assessments and sees all these discrepancies and questions that could be raised about equity in taxation, it's the tax collector. They see the bills and, of course, they see the hardships that are created on the taxpayers. And if we cannot end this situation and truly reform these loopholes, close these loopholes, then everything you're doing here is

meaningless. We're coming out with new taxes without solving problems in the existing tax laws. I don't see this as being tied, necessarily, to the whole reform program; but what better time - and the Governor's Committee did recommend this - than right now. Close these loopholes.

I heard earlier a comment made by a member of the Committee here that he and another member here has an interest in farmland and that his son does farm this. Now I don't come here without constructive suggestions. I live with this. I think of these things day and night. We discuss them around the State. And I say there are ways of handling this, where a legitimate farmer or a member of his immediate family is farming a tract of land. That's an entirely different story. That can be handled. You can also take into consideration the possibility of zoning, tying this in. How many of these land speculators would allow you to zone their property F-1. Don't allow them to use it for industrial development. Don't allow them to use it for housing. They'd laugh at you. They want their cake and eat it too.

ASSEMBLYMAN FORAN: May I interrupt just a second?

MR. RAUCH: Yes.

ASSEMBLYMAN FORAN: I'm the other member of the Committee that Assemblyman Vreeland referred to. I was left by my father 56 acres of land which I rent out and it is farmed by a neighboring farmer. I don't farm it myself. What is your opinion on that as far as farmland assessment?

MR. RAUCH: What is my opinion on that?

ASSEMBLYMAN FORAN: Yes. It's being farmed, it's in crops.

MR. RAUCH: You have 56 acres?

ASSEMBLYMAN FORAN: Yes.

MR. RAUCH: How much income do you derive from that?

ASSEMBLYMAN FORAN: I rent it for \$10 an acre and,

although part of it is in a lake front, I receive a total of \$350 which just about pays the taxes under farmland assessment. Do you think that is wrong?

MR. RAUCH: Let me say this, sir, --

ASSEMBLYMAN FORAN: Because if you do and it is changed, I'll sell it to a builder where you get the top dollar for it and then you've lost open space again.

MR. RAUCH: Well, you see, the point is, you do have the option to sell it and you have the option --

ASSEMBLYMAN FORAN: And you have the rollbacks also.

MR. RAUCH: Let me show the other side of the coin. What about the people in my community - a person you would never know, named Sophie Moore, who lives in Monmouth Junction and she's half crippled. We have the highest water and sewer rates in New Jersey. We don't like to brag about it, we're trying to do something about it. But between that and the taxes, the woman is about to lose her home. Part of the reason is because of this shift from these land speculators. Does RCA need the farmland assessment in South Brunswick? Does Phelps-Dodge need it?

ASSEMBLYMAN FORAN: Let's stay with me in Hunterdon County where a farm is a farm.

MR. RAUCH: I say this, sir, I would say, unfortunately, you probably should not have it under the terms of the Governor's Committee recommendation unless you can come up with another zoning proposal which can be tied in as an option. In other words, unless the municipality were to zone these areas F-1, say, - farm qualified - which means you cannot sell it to a developer or a housing developer. Now, if you are willing to submit to something like that --

ASSEMBLYMAN FORAN: You're getting into now the constitutional question of the right of individuals to do what they want to with their own property.

MR. RAUCH: Right. But I'm saying some of the big farmers of today are the millionaires of tomorrow too. Now I'm not out to deny, nor is our Association, anybody, any individual who is legitimately involved in the farm business. But real estate companies are not involved in the farm business. The voters never intended - I worked for passage of that amendment and the voters never intended that all these other people get the benefit of this farmland. They never intended that all these taxes be shifted.

ASSEMBLYMAN FORAN: I can understand your problem with land speculators and large land grabbings, and so forth, because we do have some of that in our county. But if the Sears Report recommendation stood, I think - well, from my own example, I would sell for top dollar and get out. And this is not good, in my estimation, for my county where we are trying to save open spaces, we're trying to save our farmlands, we're losing roughly a farm a day. Without the farmland assessment bill, it has been testified before this Committee, that prior to that bill's passage we were losing up to two and three farms a day; with the passage of that bill, we're saving those farms and we're only losing one a day to land speculators or to builders.

Now, I understand that we have an awful lot of people, but I come from the rural county of Hunterdon and this is what we're trying to keep. And if the farmland assessment bill stayed, as far as the Sears Report recommendation it would wipe my county out as a rural county. So I am very much opposed to what you're trying to say.

MR. RAUCH: I not only take it, sir, that you're opposed but I also know that another member is opposed, and perhaps because of your personal interest maybe you should remove yourselves from consideration on this matter.

ASSEMBLYMAN FORAN: I would like to remove myself

from this entire Committee. This is our eleventh hearing on this.

ASSEMBLYMAN BEDELL: I don't want to limit the dialogue but, as a non-farmer, I think the general point you're trying to make is the fact that there is a distinction between a bona fide farmer and a speculative involvement by an absent owner, so to speak, and there may well be a slight grey area in between that could possibly be resolved by further legislation. Not to detract from that, but at the present time there is a very pronounced difference between the farmer and non-farmer interest.

MR. RAUCH: Well, let me say something in answer to a couple of comments the Assemblyman just made. I've heard every argument - I've been to so many meetings and I've heard every argument pro and con on this issue so many times, and I've lived with it for years. It's frustrating when you are trying to get things changed and you just can't get anywhere and you see people getting away with murder.

Now the answer to this business about green acres and open space, losing farms, - you may be losing farms, sir, but you're getting new ones. You check your records. I know most of the Collectors in the State of New Jersey personally and I have records that you wouldn't believe. I can show you my own community where we lost 100 acres here and 100 acres there and all of a sudden here is another 100 acre farm which was only a woods for years and years and all of a sudden a guy puts a cow on it and sells it and he's got a farm.

This law as it stands is ridiculous. Now any of you that really deal with this know that. There is no assessor and none of these qualified men that disagree. Every one is urging you, please do something about it, stop this racket that's going on.

Now I say again, whether it involved going into -

you would have to have a constitutional amendment to change the rollback from three to five, you would have to have a constitutional amendment to put this 25%, or what-have-you. Texas does it. We originally proposed in the resolution 30% and I think maybe that's what Texas has. But the point is, I don't feel these are unreasonable. You can sell your property, and you can sell your property, but what can these other people do? They're helpless. And as far as RCA, the farmers in my town before the Farmland Act were renting land from industry and farming it because industry didn't want the trees to grow up and they didn't want to have to bulldoze and spend a fortune to clear the land. So the farmers have always rented land. This is the argument that speculators and everybody else uses. The legitimate farmers and everybody will benefit by this reform because it will eliminate the non-farm interest, the ones that were never intended to get this benefit.

And in all honesty, gentlemen, I have to go back this coming week and meet with my Executive Committee, and these are very informed people and you may know some of them, and I feel strongly that if something definite cannot be done on this - the League of Municipalities endorsed this, everyone who has any background has endorsed this, the Governor's Committee proposed this, and I certainly hope that you do not put yourself in the position of rejecting all of this. We are trying to sell tax reform. I know and the members of my Association know how much tax reform is needed in New Jersey as well as anyone. But if this kind of situation - and this is only one, this is the most depressing racket today - there are others too - but if this kind of thing cannot be resolved by you gentlemen, then everything else is really worthless. I feel very strongly about that and I can't urge you too much to please make this your number one point and show that you can solve the existing inequities. And, if you do that, I don't know anybody in New Jersey who is not

going to support you in the rest of your efforts.

ASSEMBLYMAN BEDELL: Thank you very much, Mr. Rauch. We appreciate very much your testimony and I might hope that if we do get involved in this legislation at some time you may be able to give us some help.

MR. RAUCH: I will be very happy to.

ASSEMBLYMAN BEDELL: Thank you.

Mr. Donald Tripolsky, Neighborhood Cleaners Association. (No response)

John Horchner, Bernardsville, New Jersey.

J O H N H O R C H N E R: I might say that I got a good education tonight and I am very grateful for the diversity of the subject matter that surrounds the tax program. I was quite impressed with the educational benefit to me personally, and I appreciate being here and having you gentlemen, all six or seven of you, sort of standing by to listen to what I have to say.

I am John Horchner of Bernardsville, New Jersey, Somerset County area. I would like to say that I am quite concerned about one aspect of this tax reform law.

Tax reform must begin with a just basis, a just basis for raising funds. This is essential. Using tax revenue for allowing tax credits, as Governor Cahill has proposed, for financing non-public schools is wrong. This is being done and is being proposed. Such conduct goes right against each citizen's right to have protection from the entanglement of church and state, a protection won for us and passed down to us. This right is expressed in the First Amendment of our Federal Constitution. The exercise of this right has been a more tolerant society. If we give in and allow this right to be ruptured, we invite resentment. I see it among my own citizenry and people whom I know, and I can see where there is going to be a cause for a considerable amount of resentment if it is allowed to continue.

Are you going to give this right up, and not pass

it on to your children?

Now these laws permitting the use of tax revenue for the non-public schools are being held unconstitutional in Connecticut, Rhode Island, Pennsylvania, this State - the last bill this Legislature got through, most of it or quite a bit of it has been determined unconstitutional. There have been attempts now to circumvent this and dress it up in another form.

I agree with that first speaker this morning, the way he expressed himself, the guise that Cahill is using to use this expression "tax reform" - he's pushing this use of public tax money for the non-public schools, there is so much money for elementary school students, so much money for the secondary school student. He's off base; I'd like to peg him out.

Siphoning tax funds like this is going to further the segregation of the school population and invite further social problems. This will tend to weaken our public school education. I've been in school situations; I've been a teacher; I see both the financial aspect of it and I see the real gutsy aspect of what effect it will have on the school system, what we're trying to do in a democratic society in a democratic style of education as opposed to any other style, authoritarian or what-have-you.

The institutions are asking for funds. Now the institutions that are asking for funds are the very ones that have enormous wealth in stockholdings, land, tax exempt commercial enterprises, and yet they are asking the citizens of this State, New Jersey, to dip into their marginal savings to support their particular orientation and education philosophy.

This is what we're saying. First, before we get into the nitty-gritty of a lot of this detail around here, let's first restore and keep the tax system on a fair basis. I'm speaking of what will be fair for everyone. I don't care about the scope of even those pleading for the funds. In the long run it has got to benefit them as well as the

ones that aren't going to be directly benefitted by the use of public funds for the non-public schools. Let's put it on a fair basis. This is the first step in a tax reform. In fact, let's make it a condition, make it a condition to Cahill and those sponsoring this bill to wipe out the non-public school tax expenditures and proposals for it before proceeding further. Now this is really the gist of it.

And another things - for instance, let me just quote several documents or articles in the Wall Street Journal that have to do with -- first of all, why should you as Legislators take the public tax revenue and allow it to be placed in the hands of the non-public schools?

Here's an article that just came out, January 11, 1972, in which the National Association of, for instance, one of the groups that's seeking funds, - and this ranges from the Baptists to the Lutherans, to the Catholics, to the Jewish groups and what-have-you -- in the Parochial School System, the National Association of Laity of the Roman Catholic Church is a 12,000 member organization identified with the Progressive wing of the Church, is charging in a 100 page report, to be made public today, that the financial statement of nearly every diocese in the country that has issued a statement is incomplete and misleading and that they are designed in many instances to give the impression of poverty at a time when the Church is campaigning to gain public funds to support its school system.

Now, for instance, this Association of Catholic Laity asserted that Catholic bishops are collectively spending over \$6 million a year in lobbying in efforts to obtain tax support for the Catholic schools.

Now there is a word of warning that they had down here - the Association maintains - this Association of Catholic Laity themselves maintain that its members neither oppose nor favor government aid to Catholic schools

but in the light of its finding it urged Legislators to require full financial disclosure to establish existence of the needs.

Now, if public tax funds are going to be handed out, gentlemen, here is a group being very candid and honest themselves and they say, legislators, look, don't rush into this thing. Even our own group here says that these reports are misleading and inadequate and incomplete. And, therefore, find out what the financial disclosure is. This is the Wall Street Journal, January 11, 1972, it's entitled Catholic Laity Group calls fiscal reports of most diocese incomplete and misleading.

Now the question about the outcome of what ill effects will be to foster the use of public funds, to foster non-public schools. It fosters greater segregation. Now, you say, well, what proof have we of this. Well, for instance, I notice that the Star Ledger this year - the government reported yesterday for the first time that there are more black pupils attending all negro schools in the North than there are in the South. Officials said busing in the South was one of the main reasons for the turn-around.

Now I remember attending these sessions about three or four years ago when the Republicans just about nipped that appropriation for the financing of busing for non-public schools almost in the bud and then almost defeated it, but it narrowly got through. That expenditure, of course, is another substitute in a way for capital expenditures, if you don't need to have as many schools if you can bus them.

But there again it's a circumvention of the use of public funds to in a sense - getting back to this other point - to foster segregation, further segregation which is apparently greater in the North than it is in the South. And are we being really honest when we criticize the South for promoting segregation.

Let's first then find a just basis for the raising of funds; let's first eliminate or put a condition on - look, you can't have the use of public funds for non-public schools. Let's separate the church and State. The right that we have in the First Amendment, let's preserve it. We've been given it; let's pass it on. It has been a basis of tolerance for all of us up to this point and I think you Legislators have a responsibility and I encourage you to exercise it.

I do thank you for hearing me out.

ASSEMBLYMAN BEDELL: Yes, sir. Any questions?

ASSEMBLYMAN FORAN: The only comment I'm going to make is, God bless you for being here all day because I know what you've been through. I think you ought to get a medal for being the last speaker because we're winding this up.

MR. HORCHNER: Thank you very much. I appreciate everyone hearing me. It has been much on my mind and I do thank you all. Good luck.

ASSEMBLYMAN BEDELL: Thank you.

The Committee would like to hear from Mr. Stephen Richman. (No response)

I have no further scheduled speakers. There being none, I declare these public hearings now closed.

(Hearing concluded)

U.S. REPRESENTATIVE

CHARLES W. SANDMAN, JR.

REPUBLICAN—NEW JERSEY



Prepared Statement of  
U. S. REP. CHARLES W. SANDMAN, JR. (2-NJ)  
before the  
NEW JERSEY ASSEMBLY TAXATION COMMITTEE  
Trenton, New Jersey - June 9, 1972

The Governor's proposal for a new statewide income tax and property tax does not constitute tax reform, nor would it alleviate taxes for the homeowner.

The Governor's proposal is not at all new. It is being sold to the public by a hired, highly polished Madison Avenue firm. It is being rushed-in during the long, hot summer when few people pay attention to what is going on in the State Capitol.

The most amazing statement so far was made by the Governor when he said: The AFL-CIO came out against the tax proposal because they didn't understand it. This statement shall long be remembered in the annals of political history because it in itself depicts the real reason why this Legislature should not act upon this grandiose proposal in haste.

The Governor admits that perhaps the world's largest union, with its battery of attorneys and experts of all kinds, does not understand what he calls a tax reform proposal.

There is merit in what the Governor said because I haven't found anyone who understands this mess. One day I read that there will be forty-eight (48) bills needed for the package, and the next day it is closer to sixty-six (66) bills. By the time the vote is taken, around midnight on July 3rd when no one could care less, the Legislature will probably be asked to pass 166 measures, none of which will be understood by anyone, least of all the poor taxpayer who must pay the bill.

A far better procedure would be to say that when it comes to taxation "if in doubt - vote no."

The second great thrust to the Legislature was that if you don't vote for his package, people will say "Why didn't you -- my real estate taxes went up 15%."

How ridiculous can this statement get? The Governor's proposal would not become effective until 1974, after his term and the term of the current Legislature have expired. No matter what you do here, the bills you vote on will have no effect on the taxes people will be paying between now and the next election.

Several major Federal programs will be passed prior to 1974, affecting Federal Revenue Sharing, pollution control, and the Federal take-over of welfare. These should be known before any massive step is taken, such as proposed by the Governor.

In addition to that, even with a complete withdrawal from Southeast Asia and with no military conflict anywhere in the world, the next Congress will be forced to reinstate a 10% surcharge on the Federal income tax in an effort to halt inflation. Wage-earners are going to be hit hard again and again by Federal income taxes. Under these circumstances, a state income tax, which would be piled on top of those other taxes, should be done after only the most careful scrutiny.

I opposed the sales tax because I wanted it to be saved for a day when we could dedicate a big part of its receipts. In a State such as New Jersey, where the Constitution prohibits an unbalanced budget, there is no reason for any financial crisis or unforeseen deficit, proper long-range planning can avoid all of this.

I predicted the need for \$100 million in new money to pay for Medicaid in 1970 as required by Federal law. The previous Administration made no plans for that. Thus came the crisis of January 1970.

If this Legislature wants to compound that crisis, all they have to do is give away all of the proceeds of the income tax under this frivolous program that has been advanced by the Administration.

We have lived through this kind of hysteria before. Governor Meyner had a great idea of re-financing the Turnpike. Fortunately, for the

people, that proposal had to be submitted by referendum and it was defeated by one of the largest pluralities in history.

Governor Hughes had his own brainchild in 1962 - a program that he promised would "rebuild" New Jersey. He wanted to spend \$750 million on a bond issue without costing the taxpayer a dime. He planned to use all proceeds of the New Jersey Turnpike until the year 2002, with no plan whatever on where he would get that extra \$450 million to widen the Turnpike.

The Hughes' plan is similar to Governor Cahill's current proposals; Hughes hired Madison Avenue experts and came forward with a citizens committee headed by the most powerful Republicans in the state. Doesn't this remind you of what is happening today?

In 1962, the plan of the \$750 million bond issue had but one major opponent - the State Senate Majority Leader who today happens to be the Congressman from the Second District of New Jersey.

Dick Hughes had the whole world with his program. He had everything but the people, and when it was submitted to referendum, his plan was trounced.

The current idea by the present Governor is far more dangerous because it is not being submitted to the people by referendum. It is being pressured upon the State Legislature by the Governor of the State.

It has an altogether new twist - different from those of Governor Meyner and Hughes. It is the Federally-flavored boondoggle known as the "omnibus bill." What is an omnibus bill? It is the worst kind of legislation possible. It is something used in Congress when everyone's pet project is joined into one bill just to get their votes in an effort to support something that cannot be supported on its own merit.

Let's look at a few things in this bill. The Sears Committee made some horrible mistakes. It recommended the repeal of the Veterans Tax exemption, attached a sales tax to clothing, and countless other things.

These are all either hidden, replaced or changed in the Cahill plan. By the repeal or change of each, you happen to get the pressure group that change affects the most. Education, for example, is told that they will get better treatment this way. The private schools are given a hope and prayer that they will be included in extended aids.

The home-owner is given the greatest piece of deception of all. In this way, a little bit of support here and there, to pass only one big thing -- not tax reform, just New Jersey's State Income Tax and nothing else.

The most interesting part of the proposal, which reeks with hypocrisy, is the fact that a Constitutional Amendment is going to be sought to hold the State Real Estate Tax at \$1 per 100.

Constitutional Amendments are promised so that the County Tax will be held at a particular figure as well as the local tax. In fact, Governor Cahill is controlling every level except the one he is in charge of. He places no control over the one that he really wants - the State Income Tax.

If the Governor and this Legislature want to help the homeowner, it would seem to me the place to start is long-range planning which cannot be done in the long hot summer during a fit of hysteria.

We should realize that the last big source of state revenue is the income tax. This should not be dissipated as the sales tax was. It should be used as a dedicated trust fund forever.

This requires a Constitutional Amendment, and if you want to do away with school taxes and help the homeowner, this is the tax to dedicate.

If you could have only one Constitutional Amendment, this is the one to have. The others are meaningless.

# New Jersey Bankers Association

499 North Harrison Street, Post Office Box 573, Princeton, New Jersey 08540 609/924-5550

Statement for New Jersey General  
Assembly Taxation Committee  
Hearing, Trenton, June 9, 1972

I am Robert C. Forrey, Executive Vice President of the New Jersey Bankers Association, Princeton, and I reside in Princeton. I welcome this opportunity to comment on the proposed tax reform program on behalf of the Association, whose membership consists of all 211 commercial and all 20 savings banks in New Jersey.

Our Association supports the principles of tax equality and tax uniformity on all the individual and corporate citizens of the State. We outlined this position in a statement before this Committee in September 1969 on the County Bank Stock Tax, a tax which was doubled in February of 1970. Our Association President before our May Convention, Horace G. Moeller, said "Revision of New Jersey's tax structure is a particularly vexing problem facing our State, and a reform program for tax equality on both individuals and business is extremely important."

While our specific purpose today is to discuss provisions of several bills in the Tax Reform Program, it might be helpful to reiterate our Association's basic position on state taxation, which has been stated publicly before.

The New Jersey Bankers Association recommends that all present business taxes in New Jersey be repealed, and that they be replaced by a simple State income tax which is a set percentage of the Federal income tax applied to all companies, corporate and unincorporated, business and financial. Of course, religious, educational and other non-profit corporations would continue to be exempt.

The need for prompt action in the personal taxation area is clear. Just this year a court decision in New Jersey gave the State until January 1, 1974 to revise the school tax base to remove its present dependence on local real property taxation. Two basic methods have been proposed, a state-wide personal income tax and a state-wide uniform real property tax, and either would appear to meet the test of the court decision.

The need for appropriate action to revise New Jersey's taxation of companies -- both business and financial -- is also very clear. Right now New Jersey has a welter of different tax laws on business and finance. Companies are subject to, or exempt from, the Business Corporation Tax, Bank Stock Tax, Financial Business Tax, Business Personal Property Tax, or

unincorporated Business Tax, depending on the special features of these laws, as well as special taxes on railroads, insurance companies, and others.

Present New Jersey tax laws place a much heavier burden on banks than on most other corporations, both business and financial. A recent definitive study by Peat, Marwick, Mitchell & Co., showed that New Jersey banks pay 60% more in state taxes than other corporations doing business in New Jersey. Commercial banks are paying 16 times as much in state taxes as savings and loan associations and savings banks of the same size would pay.

Corporate taxation in New Jersey should be levied by a fair and equitable method, based on ability to pay, and applied with simplicity and uniformity. Complexity and red tape should be avoided.

Our proposal that all business taxes in New Jersey be replaced by a simple State income tax would meet the tests of ability to pay, equality, simplicity and uniformity. It would cut through red tape, by instructing businesses to pay a set percentage of Federal income tax to the State, and would replace the patchwork of taxes recommended by the Tax Policy Committee as an interim solution. And the Legislature could set the rate at a level to insure that New Jersey businesses of all types pay their fair share of state taxes as corporate citizens.

Having stated our Association's basic philosophy on state taxation, we would like to turn to the package of bills presently before the Assembly Taxation Committee and to discuss particularly Assembly Nos. 1251, 1285, 1286 and 1301.

Assembly, No. 1251 would amend the New Jersey Sales and Use Tax by changing its philosophy in a major way. Up to the present, all sales of goods have been subject to the Sales Tax unless the law made them specifically exempt, while all services have been exempt from the sales tax unless the law made them specifically taxable. This bill changes the approach dramatically by making all services subject to the Sales Tax unless they are specifically exempted in the bill. And there is quite a laundry list of services which are to be exempt, including haircuts, shoeshines, beauty shop services, and sales of property by morticians among many others.

Assembly, No. 1251 would bring under the coverage of the Sales and Use Tax Act "all services, professional or otherwise" except as otherwise provided by that act. There is no definition of "services." What is a "service" in a given case, is thus left to regulation by the Director of the Division of Taxation, or ultimately to the decision of a court. The scope of activities which could thus be brought into the sales tax field staggers the imagination. Lawyers' fees would be taxable. Engineers' fees, accountants' fees, would also be taxable. Every service which is not expressly exempt would be taxable.

We suggest that there are certain services which should continue to be exempt from taxation under the Sales and Use Tax Act in the interest of fairness and to avoid the loss of business and jobs in New Jersey. It is the purpose of this paper to identify some of them, and to state reasons why we have reached that conclusion.

It appears that Assembly, No. 1251 would as presently drawn apply the Sales Tax to charges made in connection with the handling of checking and savings accounts by banks and other financial institutions in New Jersey. Such a Tax on charges on deposit accounts would be self defeating and could result in the transfer of many checking accounts to Pennsylvania and New York. We understand that in New York City an amendment to the city sales tax would have reached deposit accounts and the proposal was rejected on the ground that it would result in the flight of checking accounts out of the city. With the thousands of New Jersey residents working in New York and Pennsylvania or living near there, there could be a wholesale flight of accounts to New York and Pennsylvania.

In addition, with the natural tendency of persons to maintain their savings accounts and checking accounts in the same bank, and with the convenience offered by "bank by mail" programs, significant sums of savings deposits in banks in New Jersey could very well follow the flight of checking accounts to New York.

It is the deposit accounts in New Jersey that provide the source of much of the money for residential mortgages and many other purposes in the public interest.

In addition, the tax would be regressive in that it would fall only on the poor and persons in lower income categories - those without the means or the income to maintain deposit balances at greater than the minimum level require to give immunity from service charges.

We urge that the bill be amended to exempt charges of every nature imposed upon deposit accounts, demand, savings and time, maintained in all institutions authorized by law.

The dollar impact of a Sales Tax on a bank deposit account would be small, but we are convinced that the outrage of New Jersey citizens when they find sales taxes levied on their checking and savings accounts would cause them to move their accounts to New York and Pennsylvania. Both these States, of course, have Sales Taxes but they don't apply the tax to deposit account charges. In fact, we were unable to find any State in the country where Sales Taxes were applied to such services, but we fear A. 1251 would do so in New Jersey because the bill is so broad.

Under Assembly, No. 1251, and its broad language, it appears that a sales tax would be imposed on receipts for services rendered by executors and administrators of decedents' estates, by guardians, trustees, and all similar fiduciaries. This tax is payable whether such services are performed by an individual or corporate fiduciary, and is of course a tax imposed on the beneficiary of the fiduciary assets. Thus, for example, the family of a decedent would pay not only a transfer inheritance tax and, as proposed under A. 1250, a tax on the income of an estate, but under this bill, he would pay sales tax on the fees and commissions for services rendered in administering the fiduciary assets.

Similarly a guardian administering assets for the benefit of a minor or incompetent would be required to collect a sales tax on the fees receivable for performing these fiduciary services, while the minor or incompetent would also pay the additional income tax imposed by Assembly, No. 1250. Note that receipts from the sales of property by a mortician are exempt under section 8 (q) while charges for fiduciary services would be subject to the sales tax.

The proposed tax represents a clear inducement to New Jersey residents to appoint New York or Pennsylvania fiduciaries for inter-vivos trusts.

We submit that those upon whom the burden tax falls are already subject to a substantial tax impact. We urge that receipts for services rendered by fiduciaries, and in an agency capacity, be exempted from the sales tax. Fiduciary services are not subject to the sales tax in New York or Pennsylvania and, in the limited time available, we have been unable to find any state in which such fiduciary services are subject to a sales tax.

It is not clear whether the duties performed by transfer agents and registrars in connection with securities constitute "services" taxable under Assembly, No. 1251. The services rendered by transfer agents and registrars have no roots in any geographical area. They can be performed in any one state as well as another. The corporate entity whose securities are involved, when faced with a sales tax on the services performed by its transfer agent or registrar could, without expense and without effort, select another agent or registrar located in a jurisdiction which does not impose such a tax. This kind of tax, too, would be self-defeating, because it could so easily be avoided, to the detriment of the transfer agents and registrars of this State. The loss to the State-probable lay-off of employees and otherwise-would certainly not be in the public interest.

At a time when we, and our State Administration, seek to attract to New Jersey firms engaged in the securities business and related financial fields, and thus compete with the virtual monopoly enjoyed by our sister State of New York, we submit that a tax on the services of transfer agents and registrars is contrary to this competitive position which New Jersey seeks to establish.

We hasten to point out that there would not be a penny of tax savings to banks in the exemptions we suggest from the Sales Tax. These exemptions would benefit lower income families, widows and orphans, and we believe they would help insure equality of taxation. They would also prevent the loss of business and jobs to the States of New York and Pennsylvania where each of these services is exempt from the Sales Tax.

There are perhaps a dozen other services and sales by banks which would fall under the Sales Tax but we make no request for their exemption. Our recommendations are restricted to the areas we mentioned, where we feel inequities to New Jerseyans will result if exemptions are not spelled out in the law.

We would now like to turn briefly to the subject of the proposed "excess gains" taxes, which are contained in Assembly, Nos. 1285, 1286, 1301 and, for individuals, 1302. Our comments are limited to the first three of these bills. In the interest of saving time we will just summarize our recommendations on "excess gains" and attach a detailed letter which we have sent to counsel to the Governor.

In short, there is no uniformity among A. 1285, 1287 and 1301. They appear to have been drafted by three different people with no comparison or uniformity. The definitions are different, and the names given to the same subject are different ("comparison year" one place, "current year" another place). Even the definition of "excess gains" itself differs among the bills. There is a definition which is never used in one bill. The formulas for imposing the "excess gains" tax differ between A. 1285 and 1286 on one hand, and A. 1301 on the other.

No two of the three bills have the same provision on real property which is occupied by tenants.

One of the bills (A. 1301) has a special provision benefiting municipalities where the real property tax rate exceeds the State average by 25% or more. The other two do not.

Assembly Bills Nos. 1285, 1286 and 1301 have a common object; namely to avoid a financial windfall to owners of real property used for business purposes which would presumably result from the enactment of the Administration's tax reform program. It would seem that the laws intended to achieve that object would be consistent one with the other. That is not true of these Assembly Bills.

For these reasons, we urge that banks, financial businesses, general business corporations, building and loan associations, savings and loan associations, savings banks and credit unions all be brought under the provisions of Assembly, No. 1301, so that all may receive equal treatment in sharing a common burden.

It has been difficult to analyze all of the tax bills, and to develop recommendations on them in the short period between their availability and the date of this hearing, but we have endeavored to point out inconsistencies in several of the bills, which would cause unequal burdens on various taxpayers and to recommend changes to insure uniformity of taxation on New Jersey's individual and corporate citizens and to avoid the flight of business to nearby states. We would appreciate it if the Assembly Committee would permit us to file with it early next week suggested specific amendatory language which, if adopted, would carry out our Association recommendations made today.

We appreciate the opportunity to appear before the Committee.

# New Jersey Bankers Association

499 North Harrison Street, Post Office Box 573, Princeton, New Jersey 08540 609/924-5550

ISRAEL SPICER  
COUNSEL

June 8, 1972

Pierre P. Garven, Esq.  
Counsel to the Governor  
State House  
Trenton, New Jersey 08625

RE: Assembly Nos. 1285, 1286 and 1301

Dear Judge Garven

The New Jersey Bankers Association urges that Assembly, Nos. 1285 and 1286 be withdrawn, and that all corporate owners of real property used for business be made subject to the provisions of Assembly, No. 1301. Our reasons follow.

Assembly Bills Nos. 1285, 1286 and 1301 have a common object; namely to avoid a financial windfall to owners of real property used for business purposes which would presumably result from the enactment of the Administration's tax reform program. It would seem that the laws intended to achieve that object would be consistent one with the other. That is not true of the Assembly Bills captioned above.

All three bills use the term "excess gains." Assembly Nos. 1285 and 1286 define "excess gains" as follows:

" 'Excess gains' means the savings in taxes between qualified taxes due and payable in the comparison year and qualified taxes due and payable in the base year"

Assembly, No. 1301 makes a minor verbal change in this definition by substituting "current" for "comparison", but it does, however, depart substantially from the other two bills in its definition of "excess gains" as follows:

" 'Excess gains' means the amount by which the total of qualified taxes set forth in section 1 b. (1-8), when applying current year rates to the tax base for the current year is exceeded by that amount of qualified taxes set forth in section 1, paragraph b. (1-8) which would have been imposed by applying base year rates to the tax base for the current year."

"Excess gains" as defined in Assembly, No. 1301 differs in substance from "excess gains" as defined in the other two bills. Under Assembly, No. 1301, current/comparison year qualified taxes would be determined by applying the current/comparison year rate to the current/comparison year tax base. The same holds true in respect to the other two bills. However, whereas in the other two bills the base year qualified taxes would be the qualified taxes actually payable in the base year, under Assembly, No. 1301 the base year tax would be determined by applying the base year rates to the tax base for the current year. There could be a difference under Assembly, No. 1301 in the amount of qualified taxes due and payable in a current/comparison year and the amount produced as the basis for the surtax in that same year. We submit that there is no justification for differentiating in this manner between banks and financial businesses on the one hand, and general business corporations on the other hand.

Assembly, Nos. 1285, 1286 and 1301 have provisions applicable to the situation where real property is occupied in whole or in part by tenants. No two bills have the same provision. The provision in Assembly, No. 1285 reads:

"Every taxpayer or, in the circumstances described in sections (1) and (2) below, their tenants shall be subject to the surtax upon all excess gains except:

(1) Tenants of real property owned by financial businesses where the tenants have contractual responsibility for the payment of real estate taxes on such property; and

(2) Tenants of real property owned by financial businesses who have reduced the rents to their tenants as a result of contractual agreements in their leases relating to the payment of real property taxes, to the extent of such rent reductions."

The provision in Assembly, No. 1286 reads:

"Every taxpayer or, in the circumstances described in sections (1) and (2) below, their tenants, shall be subject to the surtax upon all excess gains: except excess gains attributable to local property tax reductions from the following property:

(1) Tenants of real property owned by banking companies where the tenants have contractual responsibility for the payment of real estate taxes on such property; and

(2) Tenants of real property owned by banking companies who have reduced the rents to their tenants as a result of contractual agreements in their leases relating to the payment of real property taxes, to the extent of such rent reductions."

The provision in Assembly, No. 1301 reads:

"4. Excess gains with respect to taxes set forth in section 1 b. (2) shall be determined in certain municipalities as follows:

a. With respect to taxpayer owner-occupants and taxpayer lessees who have contractually assumed responsibility for the payment of real property taxes, if the base year effective local real property tax rate of the taxing district where the taxpayer's property or a portion thereof is located exceeds the base year average effective tax rate for all municipalities by 25% or more, there shall be no excess gain to that extent.

b. With respect to lessors who have not entered into any agreement with their lessees for the lessee's payment of real property taxes, if the base year effective local real property tax rate wherein said property is located exceeds the base year average effective tax rate for all municipalities by 25% or more, then 75% of the difference between the base year and current year state and local real property tax on such real property shall be collected by the State and returned to the lessee by means of a tax credit or rebate in proportion to the area which he occupies. The remaining 25% shall not be included in the calculation of the qualified taxes as described in section 1 b."

Why should there be these differences between surtaxes payable by banks, by financial business and by business corporations? We submit that, in view of the expressed objectives of the Bills, the differences between them would appear to be illogical and capricious.

All the Bills contain provisions requiring taxpayers to file returns on or before May 15, 1975 and annually on or before May 15 thereafter until and including May 15, 1977 and further requiring that the tax be paid on or before the due date for filing the return.

Assembly, No. 1285 provides "This act shall take effect immediately and shall be applicable to taxes due and payable in the year 1975 for the year 1974, and in each year thereafter." Assembly, No. 1286 contains a similar provision which differs from that in Assembly, No. 1285 in that it omits the words "for the year 1974." These provisions would seem to require surtax payments in perpetuity, despite the fact that the obligation to file returns would continue only until May 15, 1977. Assembly, No. 1301 on the other hand, provides only that "This act shall take effect January 1, 1974." These discrepancies too should be eliminated.

Pierre P. Garven, Esq.

Page 4

June 8, 1972

With the scope and the depth of the Administration's tax reform program, it would be reasonable to expect that all owners of real property used for business purposes would be subject to the surtax. There are significant oversights - it is not apparent that any bill thus far introduced would reach building and loan associations, savings and loan associations, savings banks and credit unions. There would appear to be no justification on any rational, moral or social grounds for their exemption from the tax.

We have heard no reason why banks and financial businesses are being treated differently from general business corporations in the Administration's tax reform program. It is true that Assembly, No. 1253 provides for an increase from 5 1/2% to 7 1/4% in the tax payable on general business corporation income. However, in view of the fact that the Bank Stock Tax Act was doubled in 1970, the present proposed increase in the general business corporation tax should not, on the basis of fairness, be used as a reason for not now treating general business corporations and banks alike for the purpose of the surtax on excess gains. This becomes especially apparent when it is realized that, even with the proposed increase in the general business corporation tax, banks will be paying at least as much and perhaps even more in taxes than if they were taxed as business corporations.

There is no impediment to including banks in Assembly, No. 1301, since such inclusion would be in accordance with Federal law on state taxation of national banks (Section 5219 of the Revised Statutes of the United States), because the tax is one on real property.

For the foregoing reasons, we again urge that banks, financial businesses, general business corporations, building and loan associations, savings and loan associations, savings banks and credit unions all be brought under the provisions of Assembly, No. 1301, so that all may receive equal treatment in sharing a common burden.

Sincerely



Israel Spicer  
Counsel

IS/md

STATEMENT OF H. PETER GRAY TO THE NEW JERSEY ASSEMBLY

ON THE TAX PROPOSALS

Trenton, N.J., June 9th, 1972

My name is H. Peter Gray. I am Chairman of the Department of Economics of Douglass College, Rutgers University and I represent the New Brunswick Chapter of the American Association of University Professors. However, the views that I present here cannot be attributed to AAUP in every detail.

I support the package of tax measures placed before the New Jersey Legislature by the Governor. There are two main questions that should be asked about any program of taxes--is the level of spending by the State Government on the provision of public services in some sense "correct", and is the burden of taxation spread equitably across the population of the State. Clearly no collective program can be expected to be ideal from the point of view of every individual and organization in the State, therefore support must be given or refused on the basis of orders of magnitude of expenditures and a general philosophy with respect to the equity of the distribution of the burden. However, I would like to make one point explicit if only because economists are sometimes interpreted as saying the opposite: government expenditures for current services (including depreciation of capital) must be paid for by tax revenues and not by bond flotation. This truth applies inexorably to any government not capable of printing money.

New Jersey does not have an enviable record on expenditures for the provision of social services. Despite its affluence, New Jersey has always kept provision of such services at or near some irremediable minimum. On this basis alone, the argument for an increase in expenditures by Trenton must be a strong one.

Exceptions to these minimum levels have occurred when a sufficient part of the population has been made personally aware that the alternative to tax-financed state expenditures is higher disbursements by the citizens themselves. One clear example is higher education. Higher education in the State has expanded at a very commendable rate in recent years. It will probably be necessary to continue this rate of expansion for some years to come. However, neither the A.A.U.P. nor I give testimony here in support of this Bill in the expectation that its passage will provide some cornucopia on which education can draw.

Add to New Jersey's history of low expenditures per capita, the need for the State to play a much larger role in education at the pre-college level and the argument for substantial increases in revenue and expenditures by the State become overwhelming. This does not mean that the Governor's proposed level of expenditures is in any sense exactly correct or ideal, but it does imply that the emphasis in the legislative process should be placed on the question of the equity of the burden of the taxes as much as or more than on the volume of expenditures.

The source of revenue by the State Government and by local governments in New Jersey has been regressively distributed for a long time--weighing more heavily on the poor than on the affluent. There are three aspects of the tax package that are particularly pleasing. (1) The partial replacement of the regressive property tax with a statewide income tax that consists of a progressive set of rates and a series of progressive exemptions for specific expenses. (2) The deductibility of the property tax component of rents paid by tenants from taxable income. This is an innovation in which the Federal Government would do well to follow New Jersey's lead since there is an unbecoming blatancy about the preferential treatment given to homeowners in the Federal regulations. (3)

I applaud the switch to major reliance upon an income tax on the grounds that this form of taxation will shift some of the burden of taxation onto other units of government in the United States. Because of this shiftability feature, New Jersey's net proceeds from the tax package will exceed the net payments of New Jersey residents. There are two sources of saving--other state governments and the Federal Government (I think that the saving from the Federal Government could be called "involuntary revenue sharing"). New Jersey residents who work in and pay income taxes to neighboring States will now be able to credit their N.J. tax payments from taxes due to other States. In effect, this process will switch the taxes from those States to New Jersey at no cost to the New Jersey taxpayer. As a resident of New Jersey I have long been riled by this unnecessary leakage of funds and found the recent reversal of income tax legislation in favor of a higher sales tax by the State of Connecticut to be professionally demoralizing. Involuntary Revenue Sharing will come about as a result of two separate features of federal tax regulations. First, the deductibility of taxes paid to states from adjusted gross income for computation of federal tax liabilities constitutes a subsidy by the Federal Government of taxation by the individual States. This subsidy is only paid when deductions are itemized on the federal tax return (that is, the standard allowance is not claimed). Studies based on large numbers of federal tax returns show that the likelihood of deductions being itemized increases with the income of the recipient. Thus, to the extent that the new tax package is progressive and weighs proportionately more heavily upon the affluent, a greater share of New Jersey tax revenues can be expected to receive the subsidy under the proposed tax package than under a less progressive one that raises an equivalent volume of revenues. Second, the fact that the federal tax system is progressive means that the more affluent the person making the deduction, the higher his marginal

tax rate and the higher the rate of federal subsidy of New Jersey tax revenues will be. Thus any redistribution of the tax burden in New Jersey--such as is contained in the proposed legislation--will increase the rate of "subsidy" received from the Federal Government.

Finally, I would like, as an economist and as a registered Democrat, to take issue with the opposition to the package by the State A.F. of L. and C.I.O. on the grounds that the "excess gains tax" is scheduled to apply for only three years.

Technically, the problem in any tax measure which redistributes the base for taxation from a property tax to an income tax, is to prevent windfall gains accruing to business, (and other property owners) but it is also important that existing businesses should not be penalized by paying higher effective rates of property tax (tax plus excess gains tax) than new businesses. The A.F. of L. and C.I.O. seems to have overlooked the pressures of competition which work upon all economic units and which will erode over time the ability of any business to enjoy the windfall gains of a reduction in property tax. A three year duration for an excess gains tax is neither right nor wrong--but the tax is a well-conceived means of preventing windfall gains to business and the three-year duration is a good pragmatic length of time over which to impose the gains tax. In the course of three-years, the potential for preserving any windfall gain will have been largely eroded by the changing economic circumstances in our State. A permanent excess gains tax on business currently located in the State would not have been either a good policy or practicable. Computation of the tax-saving will become ever more difficult with the passage of time and the difference between the tax treatment of old and new businesses and locations would have caused many businesses to move with, at a minimum, inconvenience to their employees.

I do believe that the A.F. of L. and C.I.O. made cogent points with reference to the desirability of having landlords pass on property-tax savings to renters regardless of the size of the property. However, even here, the A.F. of L. and C.I.O. seems to have underestimated the strength of the forces of competition. If big buildings reduce rents, small buildings will be forced to compete. Similarly, the resolution of opposition seems to have overlooked the pragmatic problems of enforcement. Given the clear benefits to workers in general from the increased progressivity of the tax package, it is both surprising and disappointing that the State A.F. of L. and C.I.O. did not give, at least, qualified endorsement and press for minor changes to be effected in the Legislature.

R E S O L U T I O N .

WHEREAS, the Municipal Receivers, Tax Collectors and Treasurers' Association of New Jersey is constantly striving to educate it's membership and others in the administration of the property tax laws of New Jersey; and

WHEREAS, we are also obligated, as responsible Tax Administrators, to point out serious tax inequities where they exist; now therefore,

BE IT RESOLVED, that the Governor and State Legislature of the State of New Jersey be advised of the serious inequities in the Farmland Assessment Act of 1964, and that amending legislation be adopted immediately to accomplish the following:

1. Amend the Farmland Act to apply only to land owners who derive at least 30% of their income from the land under application or that the farm activity is the primary source of income.
2. Amend the Farmland Act to apply Roll-back taxes when either there is a change in use or in ownership, whichever occurs first.
3. Amend the Farmland Act to remove the eminent domain clause and require Roll-back taxes be paid on all State and Public Agency acquisitions at the time of change of title.
4. Amend the Farmland Act to allow qualified farmland assessment only to those acres in actual farm use.
5. Amend the Farmland Assessment Act to require clear and absolute proof of farmland income.
6. Amend the Farmland Assessment Act to provide for up to five years Roll-Back Taxes.

7. Amend the Farmland Assessment Act to provide for both assessed values to be indicated in the official Tax Duplicates of the Municipality.

BE IT FURTHER RESOLVED, That a copy of this Resolution be forwarded to the Honorable William T. Cahill, Governor of the State of New Jersey; the Honorable Harry Sears, chairman of the governor's Tax Reform Commission; to each member of the commission; and to the members of both houses of our state Legislature, and the League of Municipalities.

I certify that this Resolution was duly adopted by the Municipal Receivers, Tax Collectors and Treasurers' Association of New Jersey on 11-17-70

STATEMENT  
to  
ASSEMBLY COMMITTEE ON TAXATION  
concerning  
TAX REFORM BILLS

submitted by

NEW JERSEY PETROLEUM COUNCIL

Trenton, N. J., July 9, 1972

Chairman Bedell, Gentlemen:

The New Jersey Petroleum Council, a business league representing major oil companies and their affiliates, has reviewed the report of the New Jersey Tax Policy Committee and the bills before you which would implement that report, with various additions and changes.

Unfortunately, our review of these bills was limited because of the brief time span between their availability to the public and the hearings of this Committee. Thus, it has been difficult, if not impossible, to fully assess the probable impact upon an industry such as our own.

It has been the general consensus of the company taxation experts we have consulted that the well-reasoned recommendations of the Tax Policy Committee, if implemented in total, would provide an acceptable and overdue restructuring of New Jersey's revenue-producing system. The Committee and State Administration are to be commended for undertaking this effort. In general, we would be prepared as an industry to support these recommended changes.

However, we cannot support the unique and probably unworkable concept embodied in the two Excess Gains bills -- A-1301 and A-1305. Basically, we oppose the Excess Gains Tax for these reasons:

1. It is contrary to the Tax Policy Committee's recommendations to provide property tax relief for all taxpayers in New Jersey.

2. It is discriminatory against business in that it effectively creates classification for real property tax purposes, which has been condemned in principle and in practice by most tax experts from both the public and private sectors, including the Governor's Tax Policy Committee.

3. It would appear to require an entirely new, elaborate and costly state organization to administer the tax.

-continued-

4. It may involve a question of constitutionality under the uniformity provisions of Article VIII of the New Jersey Constitution, since its avowed purpose is to reclaim the tax savings of business, under the real estate tax relief proposals.

We also would have some reservations about A-1299 and ACR-112. These are the measures which would set a local property tax limit and enable a constitutional amendment for supplementary school tax referendums.

We would point out that the only firm tax rate limits established by these proposals is that county and municipal rates may not increase more than 10 per cent over the prior year. Other limits established are only temporary and can be increased by local referendum. Also, expenditure areas such as capital outlay, debt service, reserve for uncollected taxes and special schools are exempted from the limits.

These proposals will undoubtedly slow down the rate of growth of future property tax levies by requiring referendums. Nevertheless, they provide avenues for gradual escalation of property tax levies back to present peaks and beyond. To be truly tax limiting bills, they should establish absolute ceilings. More stringent controls would be needed to prevent continued escalation of property taxes.

Another comment supplied by our committee of tax specialists which reviewed this package of bills concerns A-1300, which proposes optional site valuation for urbanized centers, and ACR-111, which proposes a constitutional amendment permitting site valuation classification in urban centers. The committee noted that, like most proposals for property classification, these bills would tend to be discriminatory and inequitable since rural and urban taxpayers would be taxed on a different basis. If site valuation is to prevail, it is the committee's opinion that this method should be made available on a statewide basis and not limited only to urban centers.

As noted earlier, our analysis of the impact of these tax bills had to be more cursory than desired because many were not available in printed form until very recently. We would be pleased to provide more detailed and specific suggestions with regard to these pending bills as desired.

In summary, we would again emphasize that we generally support the recommendations of the Governor's Tax Policy Committee and certainly would be willing as an industry to bear our fair share of New Jersey's tax burden. We believe that with some amendments the present bills could be clarified to accomplish the Tax Committee's excellent goals. We are opposed, however, to the Excess Gains Tax proposals which we feel depart from these goals.

\*\*\*

STATEMENT OF THE NEW JERSEY DIRECT  
MAIL SERVICE COMPANIES BEFORE THE  
ASSEMBLY COMMITTEE ON TAXATION

6/9/72

My name is John Owens. I am speaking here today in my own behalf as Vice President of Clark-O'Neill, Inc. of Fairview, New Jersey, and also as a spokesman for an association of direct mail service companies located in the state of New Jersey. We employ some 2,000 people. Most of our business comes from out-of-state sources.

We have periodically appeared before the Assembly Committee on Taxation. Our testimony appears in the report dated January 28, 1970, page 84A. We also appeared before the New Jersey Tax Policy Committee Task Force D. This testimony is in the hearing report dated March 26, 1971, pages 23 and 110.

Our arguments against the application of the sales tax on our industry are well defined in these reports and deserve your attention.

The highlights of our arguments are:

1. The practical consequences of the Sales and Use Tax on our industry which are alarming.
2. The unconstitutionality of the tax as related to interstate commerce.
3. Discriminatory taxation of our mailing services while exempting all other media, i. e. magazines, radio, TV, newspapers and billboards. Prior to March 1, 1970 we competed for the advertising dollar on an equal footing.

The current Sales and Use Tax law (Section 3 (b) (5)) taxes "advertising services." The New Jersey mailing industry has opposed application of the tax to the mailing services performed by it on the grounds that they are not performing "advertising service" within the meaning of the act; and on the further grounds that to tax them, and not newspapers, magazines, TV and radio, etc., is to unconstitutionally deprive the mailers of equal protection; and that furthermore, the tax on mailing services constitutes a burden on interstate commerce and an encroachment in the federally pre-empted area of the postal area.

These contentions were tested first in the Division of Tax Appeals, and that tribunal ruled that to tax the mailers where performing services required by federal postal regulations, they are non-taxable; they rejected the other argument. The decision was appealed and is currently pending before the Appellate Division of the Superior Court.

It is important that the legislators should be cognizant of these matters in its consideration of tax reform, because the current law is clearly so ambiguous as to its application and so doubtful as to its constitutionality (as it has been applied to the mailers by the tax administration authorities) that it constitutes an unending source of confusion and pitfalls for the prudent businessman engaged in mailing and for his customers.

We appeal for your review of the facts previously presented.

Thank you.

APR 3 1985



