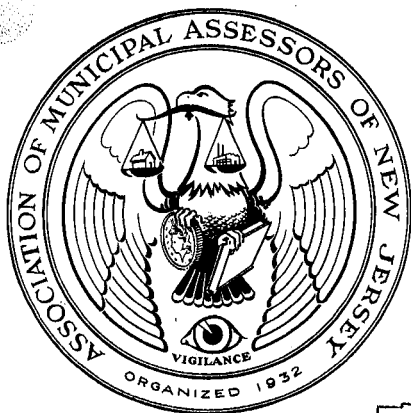


New Jersey



Assessors

Bulletin



AFFILIATES



VOL. 2 No. 2

Association of Municipal Assessors of New Jersey

JULY, 1963

THE SUPREME COURT LOOKS AT APPRAISAL TECHNIQUES

by Leo Rosenblum

Court decisions in realty tax assessment cases are becoming more frequent, as the result of which in recent years a variety of local assessment problems have been discussed and disposed of. But until last April, when our Supreme Court decided **New Brunswick v. Division of Tax Appeals** (reported at 39 N. J. 537) rarely, if ever, had a New Jersey court delved into the intricacies of appraisal techniques. In this landmark decision, Chief Justice Weintraub wrote the opinion for the court dealing with a multitude of appraisal problems and made judicial determinations with respect to each. In addition, the Chief Justice laid to rest a troublesome question concerning the application of the Director's ratios as a substitute for common level. Here are the highlights of the opinion, each discussed under a separate heading.

COMMON LEVEL

The assessments under appeal were for the years 1958 and 1959 upon a parcel of commercial property in New Brunswick occupied by a chain shoe store. The court found that New Brunswick did not have a common level "in the sense of a single level consciously applied by the assessor to all real property". Accordingly, it appeared appropriate to use the Director's ratio under the doctrine of the **Kents** case. However, in each of the two years under appeal the Director had developed different ratios, the 1958 ratio being 33.39% and the 1959 ratio being 30.05%. This squarely presented the troublesome problem as to whether in each of two consecutive years different assessment levels should be found.

The Division of Tax Appeals resolved the question by using 33 1/3% as the common level in each of the two years under appeal, thus giving effect in both years to the ratio promul-

gated by the Director for 1958. The Supreme Court approved this practice and held:

"We think the Division's finding was sound. As a political matter there must be a large measure of stability in the assessment of property, *** and hence the common level should not fluctuate from year to year."

The reasoning of the Chief Justice is manifestly logical and sound. From an administrative standpoint, an unhealthy condition would be created if in each of several successive years the same property received different assessments. Assessors are indeed fortunate that the Chief Justice perceived the need for stability of assessments and acted accordingly. Of course, where several years are under appeal at the same time with a wide variation of assessment ratios, there may be some difficulty in determining an appropriate common level for all of the years. The ultimate decision, of course, must be left to the judgment of the hearer of the appeal.

FAIR RENTAL VALUE

Prior to this decision many experts felt bound by the rentals actually being paid by tenants as of the assessment date. Thus, even though the judgment of an appraiser might dictate to him that the actual rentals were out of

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SUPREME COURT
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line with what they should be, in the capitalization process the approach ordinarily used was to accept such actual rentals and thereby obtain an indicated value as of the assessment date. This reasoning, while appropriate in a non-tax case, produces great difficulty when used in an assessment appeal. In the New Brunswick case, the taxpayer used a rental of \$8,000.00, the figure actually reserved in the lease. New Brunswick, on the other hand, used a rental of \$10,700.00 which it contended for as the fair rental value of the property. The Supreme Court made this determination:

"No doubt the fair rental value, rather than the actual rent payable under an existing lease, must control. *** True, the value of a parcel of property may in fact be affected by the prudence or imprudence of its owner, and so a long-term lease for an unfavorable rent will impair the selling price, just as a long-term lease to a triple-A tenant at a high rental may make the property more attractive to a buyer. But the valuations of properties for local taxation cannot vary with the managerial successes or failure of the owners. Adjacent properties of equal potential cannot be assessed differently because one proprietor was more or less astute than the other."

"HINDSIGHT"

Long after the assessment dates for the years under appeal, the actual rent was reduced by negotiations between the parties. The taxpayer's expert made his appraisal as of the assessment dates but after the reduction in rent had become a fact. As a result of this, he reduced the value of the property which he had previously appraised upon the basis of the actual rent then being paid. The Supreme Court upheld the Division of Tax Appeals in its determination "that the valuation, although based upon a forecast of earnings, must be found upon what was known and anticipated as of the assessing date, unaided by hindsight".

This judicial admonition against the use of "hindsight" in the manner described may produce unexpected complications. If the expert, in an attempt to determine market value as of the assessment date is unable to base his opinion upon facts that have come to pass since the assessment date, what about the use of comparable sales or for that matter the sale of the subject property occurring after the assessment date? In the past, our courts have approved the use of comparable sales occurring after the assessment date even though such sales could not have been known on the assessment date. While in this case the question of comparable sales was not passed upon in this context, the court's reasoning very well may result in such a holding in future litigation. It would be indeed unfortunate if experts are not permitted to use sales which take place within a reasonable time after the assessment date, for this information, even

though based on "hindsight", is most helpful in the search for the fair value of the property.

**CAPITALIZATION —
BEFORE OR AFTER TAXES**

Prior to this decision, it was common practice for the experts to capitalize net income after taxes, this is to say that the expert would deduct from the gross income real estate taxes in the same manner as operating expenses, and would then capitalize the remaining net income according to his personal judgment. In fact, the court noted in the New Brunswick case that not only did both experts deduct taxes before capitalizing but the Division of Tax Appeals did the same. This methodology was declared by the court to be erroneous. The court pointed out that an actual investor who accepts the existing tax treatment may for his own purposes capitalize income after taxes. Then, the following language appears in the opinion:

"But when the issue is the valuation of the property **for taxation**, the amount of the taxes, depending as they do upon the very answer which is sought, cannot be accorded a role in reaching it. The greater the tax load, the more egregious is that error, and so it is in a State such as ours in which real property is burdened with so large a share of the cost of government."

In holding that capitalization of net income in tax cases must be before taxes, rather than after, the court correctly analyzed an appraisal problem of long standing. It is clear that when an expert capitalizes after taxes and is successful in obtaining a reduction, the tax burden is different from that assumed by him in his appraisal. On the other hand, capitalization of net income **before taxes** assumes that the assessment will be according to the value indicated by this capitalization procedure.

Because of this phase of the decision, experts in future tax cases will be required to capitalize net income before, rather than after taxes. The practical result of this practice will be to produce higher values than would be indicated by capitalizing after taxes.

TREATMENT OF DEPRECIATION

The Chief Justice made several important observations with respect to the treatment of depreciation in the appraisal process. A question arose as to whether depreciation should be deducted from gross income, as an expense, or added to the capitalization rate in the same manner as taxes, discussed above. His opinion in this regard declares that "since depreciation, like taxes, depends upon the very issue, i.e., the valuation of the property, it cannot be treated as a deduction from income." This reasoning is clear. The amount of the depreciation is dependent upon the value of the structure. The valuation of the structure is arrived at by capitalizing that portion of the net income allocable to the building, as distinguished from land. Thus, by making the depreciation factor a part of the capitalization rate, the indicated valuation of the structure

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S. M. A. NOTES

A briefing session was held at the Rutgers Conference by the Society of Municipal Assessors Certification Committee for interested registrants. Its purpose was to acquaint prospective candidates for the examination with the scope and procedures. The session was not intended to be a review of study material or sample questions. Since the exam is as comprehensive as is possible, including all facets of the knowledge an assessor should have to qualify, an effective refresher course at the Conference was thought to be impractical in the limited time available.

The I.A.A.O. Newsletter for May announced that the Committee is arranging with Rutgers to offer special study courses next Fall designed to assist candidates to achieve passing grades on the written examination required for the S. M. A. designation.

Applicants already qualified for the examination will have the opportunity to sit for it shortly after the Conference, according to present plans. Applications may be obtained by writing to Margaret Jeffers, Secretary, A.M.A.N.J. Room 11, City Hall, Jersey City, N. J.

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takes into account an allowance for depreciation based upon such valuation. This will be the procedure that experts should follow in the future.

In this same area, another question concerning appraisal technique was raised and adjudicated. So much of the capitalization rate as relates to depreciation can only be applied to that part of the income which is allocable to the building. In the New Brunswick case, the taxpayer's expert ultimately allocated to the building something less than 30% of his total valuation. The court felt from his testimony that he estimated the remaining life of the building at 50 years, which would indicate 2% annually as straight-line depreciation. The court pointed out that under such circumstances, if 1% is added to the capitalization rate to be applied to all of the income, "the effect is to use a depreciation rate in excess of 3% upon the building upon the witness's own relative valuations of land and building." It would therefore appear that the only correct way to treat with depreciation in the capitalization rate is to limit its application to so much of the income as is allocable to the building.

NEW TRIAL

Despite the declaration of these various principles, the court hesitated to fix the ultimate valuations. The case has been remanded to the Division of Tax Appeals for retrial upon the issue of valuation, although the common level at 1/3% was finally adjudicated. The retrial should develop further interesting determinations

with respect to appraisal techniques. For example, the court pointed out that "there is the question whether the straight-line method of depreciation used by the taxpayer's expert is preferable to competing approaches to the problem." This point probably will be fully explored at the retrial. The court also concerned itself with the problem of the rate of earnings that the purchaser would expect. This question arose because the taxpayer's expert for 1958 used 6% and in 1959 6½% "because mortgage money was more costly on the assessing date for that year." In that connection, the court declared:

"We note in passing that the assessment process cannot be so acutely sensitive to such changes. It is not feasible for an assessor to adjust the rolls to the fluctuations of the mortgage market. The rate of return should reflect conditions for a reasonable span of years. It must be remembered that valuation for taxation cannot be dollar precise."

New Jersey assessors will do well to observe future developments in the New Brunswick case. While the present Supreme Court decision already is replete with new and important judicial pronouncements in the appraisal field it can reasonably be anticipated that the new trial will contribute much more to the evolution of decisional tax law in this state.

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EDITORIAL COMMENT

THE FARM AMENDMENT

Senate Concurrent Resolution No. 16 provides for a referendum on the question of the valuation of farm land according to its value in use and payment of additional retroactive taxes in case of a change in use. When President Marriott Haines delivered a statement at the hearings on the Resolution, reflecting the resolved position of the State Association Executive Board, he found himself the lone exponent of opposition. According to reports, a wide variety of organizations were heard, all in favor of the amendment with the sole exception of the Assessors'.

The stated objection of the Assessors was to the abandonment of the fundamental principle of the same standard of value in the assessment of property for local tax purposes. This objection is valid and deserves much more consideration than it will get by the voters in November. The abstract nature of the principle involved makes the likelihood of popular support, or rather defense, remote.

Against it, the statement appended to the Resolution calls the amendment "essential to encourage the retention of agriculture as an industry in the State and to preserve agricultural lands in an open space condition".

Even those whose devotion to principle is most zealous can find little to cavel about in these goals, even while doubting the essentiality of the proposed means of attainment. But those whose devotion to the goals is most zealous lose sight of the fact that there is only an incidental connection between the goals and uniform tax treatment. The passage of the amendment does not guarantee lower taxes on all farm land, and offers for land far in excess of its value as a farm are unlikely to be abated or to be declined because of preferential treatment as a farm.

If the problems of the agricultural industry stopped at the State line and they all stemmed

from property taxes there would certainly be a need to take a good hard look at ad valorem taxation. But the problems are interstate and our collective inability to solve them is almost a national disgrace. If these problems remain unsolved for long, even complete remission of taxes will not help much, and if they are solved, local taxes will not be any more of a burden to the farmer than to any other taxpayer. Surely the farmer's contribution to the cost of his own local government and schools in New Jersey cannot be the heart of his troubles. Nor can there be much equity in trying to solve a State open spaces problem by requiring a subsidy only from other taxpayers in districts where there are such open spaces.

Popular sympathy for the plight of the farmer and a degree of self interest of others for preserving green acres presage the passage of the amendment. Assessors will continue to try to administer the laws that are given them. They will also probably be blamed when they don't work as advertised.

THOSE INVENTORY TAXES

Since the assessment of personal property is not under the same Constitutional mandate as real property it is the express prerogative of the legislature to prescribe the rules under which it shall be assessed. We would probably do well to keep our nose out of the Legislature's business but there are times when the urge to show them the other side of the coin becomes irresistible.

For instance, when the story appeared about a delegation of merchants calling on the Governor urging the elimination of taxes on inventory. It seems that taxes are a hardship with them too, and particularly since most of them borrow the money to buy what they sell. Our favorite wage slave taxpayer, John Fee Simple, put the whole thing in perspective when he observed, "They got a point there. I had to borrow the money to get a place to live. How about knocking off my taxes on Mortgage Manor. That'd be fair."

Notice of Proposed Amendment

Executive Board Acts to Increase Number of V.P.s

In a regular session of the A. M. A. N. J. Executive Board action was taken to bring a proposal before the Annual Meeting of the Association in Atlantic City which would increase the number of Vice Presidents from four to seven. Meeting at Cooper Hall on the Douglass Campus during the Rutgers Conference the Board conference the Board considered a suggestion previously made that Vice Presidents of the organization should be nominated and elected on a "regional" basis. While there were present Presidents or Alternates from 15 of the County Chapters, there seemed to be no strong feeling in this direction. It was pointed out that the present administration was composed of men who had worked hard in and for the Association and that recognition had been given on this basis regardless of the section of the state from which they came. Nevertheless, it was generally agreed that area representation among the officers, as well as presently provided on the Executive Board, would be constructive in building the interest in State affairs and thereby increasing the membership.

It was decided therefore to propose a change in the by-laws to the full membership at the Annual Meeting making the number of Vice Presidents to be elected seven. President Marriott Haines pointed out that such a change in the by-laws required that the membership be informed of the proposal at least sixty days prior to the meeting at which it would be voted upon. The Bulletin was asked to publish this notice to comply with that requirement and make it possible, if the change was approved, to submit the enlarged slate at the same meeting.

Prior to appointing a nominating committee President Haines declared that he would implement the spirit and intent of the action by instructing the committee to prepare a slate in which at least three of the nominees for Vice President were chosen with particular regard to the location of their jurisdictions. Further suiting the action to the word, in appointing the nominating committee, those named were from the north, central and southern group of counties. Named were Harry W. Tracey, Jr., of Sea Isle City in Cape May County, Theodore A. Shaw, of Mount Holly in Burlington County, and Past President Alfred J. Greene, of the City of Clifton, in Passaic County.

Other business coming before the Board included a report that the State had been selected for the Northeast Regional Conference to be held about the first week in May 1964. Asbury Park has been selected as the host city and a committee has already made tentative arrangements with a hotel for the accommodation of our guests. Program and entertainment activities are presently under consideration and the planning is well along.

Leo Rosenblum, as Counsel to the State Association was asked to inquire into the merits of the se wherein charges were formally brought

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Bulletin Business

One of the problems that has continued to plague the staff of the Bulletin was seeing to it that all who were entitled to receive a copy, did get one. To resolve this problem, the publication committee called on Dan Kiely, Plainfield Assessor, a member of the Editorial Board. Mr. Kiely has obtained the address plates formerly used for the mailing of the Association's previous paper, "Assessors Newsletter," and has brought them up to date.

It is hoped this issue will reach every paid up member, whether an Assessor or not. The committee is indebted to Alan Hart and his staff at the Local Property Tax Bureau for their assistance in the first three mailings. They have promised and are keeping us abreast of current changes. We would be lost without this assistance. However their lists include only those who are duly appointed or elected Assessors, and not those who, by reason of some direct connection with assessing practice, are eligible for membership in the Association. Mr. Kiely's efforts, with the help of those affected, are expected to remove this difficulty and some other small bugs.

Interest has been expressed by some Assessors in having the Bulletin mailed to other municipal officials in their towns. By direction of the Executive Committee, the feasibility of this kind of circulation at a subscription rate for non-members is being studied. The new mailing plates should make this policy practical if there is enough interest. Inquiries should be directed to Daniel P. Kiely, Jr., City Hall, Plainfield, N. J.

The "Edison Extra"

The service the Bulletin rendered to the working Assessors of New Jersey and the Township of Edison by publishing the one page "extra edition" the Assessors received was undertaken at no cost to the Association. The staff of the Bulletin had been informed of the position becoming available and made a commitment to publicize it in this issue. However when it became apparent that our press schedule would not be timely, we agreed to circularize our colleagues in the profession in the way we have as a mutually beneficial service. We believe the magnitude of the

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LETTERS TO THE EDITOR

To The Editor:

Now that it appears that Chapter 51 is going to be postponed or repealed, let us put the horse before the cart where it belongs.

To administer the laws that are passed by the legislature, one needs qualified administrators. Please read the following excerpt from the International Assessors' Association Magazine of February, 1963.

"The suggestion that there be created a state board to certify the competency of assessors has brought out objections in some quarters. The cry is raised that such a board would, by its very nature, deprive the local community of home rule in the selection of assessors.

"We do not think so. There was a time when all assessors were elected, and the change over to appointed assessors produced the same old cry about the loss of home rule. There is no loss of home rule if the appointment is made by the local elected officials. A board that certifies the competency of candidates does not make the final selection, but only weeds out the incompetent. Given ten candidates of which the board finds seven competent, local officials will still have to make the choice from these seven in making the appointment.

"State boards certify engineers, electricians, plumbers, and even barbers. Bar associations, an equivalent of state boards, pass on those applicants who desire appointment to any position where legal knowledge is necessary.

"Home rule is not lost when we limit election or appointment only to those possessing the necessary skills. Certifying boards do only what local officials have been either unable or unwilling to do by themselves in the past, to take the job out of the classifications of a popularity contest, the purchase of future loyalty or the repayment of a political debt.

"If we are going to have state-wide uniformity of assessments, we need state-wide uniformity of qualifications for assessors as the first step. Local communities have demonstrated their inability to create and adhere to state-wide standards. An impartial state board will help in setting higher standards, yet will not remove the local prerogative of the selection of any qualified man for the assessor's job.

"By a strange coincidence, the hue and cry on the subject of home rule emanates from those few who in the past have shown only political astuteness and the faculty of hopping on the right band wagon at the right time, and whose actual performance as public officials is far removed from the home rule slogan now used by them as a battle cry. We hope that all clear thinking legislators will, in the interest of better assessment procedure, be guided by the facts and not be misled by slogans that have been proven wrong in the past and whose use now, if you

listen closely, has the distinct overtones of the grinding of a personal axe."

Assessors have been loaded with added administrative duties over the years, and now have the latest, with Senior Citizens, Parsonages, and the possibility of preferential treatment for farm lands.

Our Association has set up minimum standards for assessors, which are available to the legislature. When a committee is set up, let us have active representative assessors on it, recommended by our President, Marriott Haines of Vineland, or Dr. Reock of the Bureau of Government Research at Rutgers.

Clarence N. Delgado
Assessor, Ridgewood, N. J.

To The Editor:

The only area in which an Assessor can do anything about the magnitude of the taxpayer's tax bill is in the district equalization process. He cannot control the various budgets that go to make up the tax rate, but he is directly concerned with the apportionment of school aid and county taxes. It is our direct responsibility to see that each taxpayer individually and all of them collectively in our jurisdiction receives all the aid the law prescribes and pays only a just portion of the county burden shared by other districts.

Since the beginning of the sales ratio study in 1956, much of the inequity in this area has been eliminated. But the system has its weaknesses and could stand improvement. There are at least two good reasons to reexamine the system and seek refinement at this time:

1. The recent Supreme Court decision (New Brunswick v. Div. of Taxation) stated "As a practical matter, there must be a large measure of stability in the assessment of property . . . and hence the common level should not fluctuate from year to year".
2. There are strong indications that in the near future there will be a revision in the State Aid Formula for purposes of allocation.

Although the equalization process is by law the responsibility of the Division of Taxation and solely under their jurisdiction, the Local Property Tax Bureau has always welcomed suggestions and constructive criticism aimed at improving techniques. It would seem appropriate, then, for the Association to undertake a study of some of the points that have been raised and recommend changes accordingly.

Here are some suggestions that have been advanced:

- a) If an extended period were used in the study, it would level out the radical fluctuations caused by the present limitation to a 2 year basis. Commencing as soon as practicable, an additional year could be included until a five year average is developed. The result would undoubtedly be a more gradual curve — up or down — a

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LETTERS TO THE EDITOR

(Continued From Page Six)

every taxing district would benefit in the long run by the stabilizing effect. The best reason advanced in support of the two year study is that it represents a "current" picture. To this writer, the opposite appears more likely, and examples are on record to support this contention.

b) A second suggestion is for consideration of the elimination of class, i.e., Vacant Land, Residential, Farm, and Other. The limited number of sales in the Farm and Other classifications isn't an adequate sampling for those categories. Furthermore, in the absence of any sales in a class, the Residential ratio is substituted anyway. Unlike the usual poll or survey which may produce an accurate picture from a small random sample, the sales ratio study is capable of distorting the picture. Vacant Land is particularly subject to misleading ratios.

c) A third suggestion might be the use of an "unweighted" sales study, giving the same weight to a small transaction as to a large one. This is the approach used for business personality in Chapter 51, and might produce a lower ratio than the weighted ratio. However, in the long run each district would probably be similarly affected and a more equitable valuation obtained.

d) Perhaps Reason No. 26 for non-usable sales should be liberalized to give more consideration to SR-6 petitions, in which the Assessor's knowledge of special circumstances does not fit perfectly into the willing buyer-willing seller relationship.

In conclusion, these suggestions are not intended to be a cure-all for the problems of any one taxing district. Regardless of the method, there would probably be some dissension, but the prospect of improvement for the common good will always exist. With this in mind let us urge our colleagues to become acquainted with the facts and make their views known at their County meetings. Inform the State Association and the matter may be further resolved at the Annual Meeting at the League Convention in November.

Lloyd Koppe, Assessor
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BY LAW CHANGE (Continued From Page 5)

against one of our colleagues and scheduled for hearing by the Director.

In other action, the Board voted to explore the possibility of getting legislation introduced amending the Optional Municipal Charter law to exempt the office of Assessor in case of a Charter Revision, particularly where the Assessor might be out of office on the 1st of January, as the result of adoption of a new form of municipal government.

Good progress was reported in County Chapter affairs. It was reported that only three counties have failed to enroll as Chapters to date. It is understood that one of these lacks a County Association of any kind and efforts are under way to try to get one organized. The other two are expected to apply for their Charters soon.

Vets Favor Equal Exemptions

SCR 3 and SCR 5 will appear on the ballot in November as proposed constitutional amendments to grant cash remissions to veterans and senior citizens in lieu of reductions in assessed value. The benefits would be \$50 and \$80 respectively.

Action by the legislature was prompted by the Supreme Court opinion in the second Switz case that the exemptions must be deducted from true value.

Hearings on the Resolutions found all veterans organizations represented in favor of the amendments.



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1. It is the duty of every assessing officer to cooperate fully with other assessing officers in all matters affecting his official duties.

2. Information concerning persons or their property, obtained by an assessing officer in his official capacity, should be treated as confidential except for lawfully authorized uses. It is proper for assessing officers of different jurisdictions to exchange factual information concerning persons or their property to aid either or both in the assessment of property legally subject to taxation.

3. The assessor has a duty to refrain from speaking disparagingly of any other assessor, unless his official responsibilities require this course of action.

4. It is unprofessional for any assessing officer, in any writing or speech, to use the material contained in the writings or speeches of other assessors, persons or agencies, unless full credit is given to the original author.

5. It is improper for an assessing officer to represent a taxpayer in any matter involving the determination of assessments.

Relations With Other Public Officials:

1. The assessing officer has a duty to cooperate with other public officials to improve the efficiency and economy of public administration.

2. It is improper for an assessing officer,

charged by law with the responsibility for determining assessments of property, to permit his judgment of values to be influenced by other public officials for any reason other than those directly concerned with the value of the property.

3. It is the duty of the assessing officer always to maintain an attitude of respect and cooperation towards other public officials and agencies to whom the law has assigned official duties relating to the work of the assessing officer.

Relations With the Public and Taxpayers:

1. It is the duty of every assessing officer to maintain at all time a courteous and respectful attitude in his relations with taxpayers and the public generally, and it is his further duty to compel a similar attitude on the part of his subordinates.

2. It is improper for an assessing officer to accept any gift where it is clear that such gift is made solely because he is an assessing officer.

3. All conferences or discussions with taxpayers or their representatives relative to the assessment of their property should be held during business hours at the office of the assessor or at some other place appropriate for the transaction of business.

4. The assessing officer should give full faith and allegiance to his oath of office.

5. The assessing officer should apply the law of his jurisdiction to all taxpayers alike.

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ANOTHER COUNTY HEARD FROM . . .

Burlington County

On May 2, the Burlington County Assessors Association held their meeting at the Burlington Diner, Burlington, N. J. Guests for the evening were Marriott Haines, President of the State Association, and Norman Friedly, President of the Mercer County Association. Mr. Haines spoke on current proposed legislation and how it will affect the Assessors.

The position taken by the State Association pertaining to the ballot question on treatment of agricultural acreage was discussed at length. George Lange, Assessor of Chesterfield Township took issue with the Executive Committee on opposing this legislation, stating that they were not familiar with all the facts. The fact that the opposition was on principle only, in that it might open the door to preferential treatment, did not satisfy the assessors in farm areas. It was recommended that pressure be brought to exclude from the sales ratio those sales of acreage involved in a change in use. This, it was felt, would alleviate a burden placed on communities having a large percentage of their tax list in the farm category.

Cape May County

All members of the Cape May County Tax Board are voting members of the Assessor's Association in Cape May County. Larry Berardelli, the Secretary of the Tax Board and at least one member of the Board attend every meeting. This provides a little closer working arrangement between Assessors and their Tax Board. At the April meeting, the Tax Board has requested the Assessors of Cape May County to supply to the Board a copy of the recapitulation sheet and make it a permanent part of the Tax list and Duplicate. A discussion took place about the accounting involved in the recapitulation and a request that a short course in accounting be offered to Assessors by the Local Property Tax Bureau similar to Principles I and II.

Somerset County

The regular meeting of the Somerset County Assessor's Association was held on April 17, 1963. At this meeting, President August Church instructed Earl Smith, Assessor of Bedminster Township, to present the Charter with the Association of Municipal Assessors of New Jersey to Mrs. Luella Myers, Administrative Assistant of the Somerset County Tax Board. The charter will be displayed in their offices.

Hillsborough Township, Montgomery Township and Manville Borough have completed revaluation. The revaluation figures were used for 1963 and a 20% ratio was used. North Plainfield is the first municipality in Somerset County to do so. That was in 1954. Since then, all 21 municipalities have had revaluations and some further reassessment programs.

Ocean County

The Municipal Assessor's Association of Ocean County received their State Charter at their regular meeting held on April 18, in Lakewood, N. J.

The meeting was attended by fifty Assessors and guests.

Marriott Haines, President of the Association of Municipal Assessors of New Jersey, presented the Charter. Other guests present were Mrs. Haines; James Pearson, Assistant State Supervisor of the Local Property Tax Bureau; Russell Wilson, Assessor of East Orange; J. Chester Holman, Secretary of the Ocean County Board of Taxation; Al Bills, Jack Raney, and William Coleman field representatives of the L. P. T. B.

The following tax districts have put revaluation programs into effect for this year: Borough of Sea Side Heights; Manchester Township; Borough of Lakehurst and Eagleswood Township. All of Ocean County is using a 100% ratio.

Ocean County, one of the fastest growing counties in New Jersey, is not without its problems. In 1962, there was a terrific loss along the coast from storm damage, and this year at least twenty-five homes were lost by forest fires.

We are sorry to announce the death of Mr. James Reid, Secretary of the Board of Assessors in the Borough of Point Pleasant. James Anderson, a clerk in Mr. Reid's office, has been appointed for the unexpired term. Other new Assessors are: Lester Benner, Berkeley Township; Lewis Landi, Jackson Township; George Auerbacher, Mantoloking; Carl Bach, Ocean Gate and Edward Stafanik, Sea Side Park.

Sussex County

The Annual dinner meeting of the Sussex County Assessors Association was held on June 12th at the Greenbrook Inn, Route 23, Wantage Township. Guest speaker was Russell T. Wilson, Assessor of East Orange.

The newly elected officers for 1963 are: President — Clifford Ryerson, Jr., Vernon Township; Vice President — Glenn R. Lantz, Jr., Branchville Borough; Secretary-Treasurer — Anna M. McConnell, Stanhope Borough.

At a previous meeting held on May 8th, the

(Continued On Page Ten)

OBITUARY ITEMS

HENRY N. NELSON
Salem City, Salem Co.

JOSEPH J. SMITH
Newark, Essex Co.

JAMES V. REID
Point Pleasant Borough, Ocean Co.

THEODORE OTTO
Egg Harbor City, Atlantic Co.

MRS. DOROTHY BRYANT
Ocean Gate Boro, Ocean Co.

ANOTHER COUNTY HEARD FROM Sussex (Continued From Page Nine)

guest speaker was Ed Markowich, Assessor of Cranford and Chairman of the Charter Committee of the State Association. Mr. Markowich outlined the advantages of being chartered under the State Association. The Board of Trustees will study the Charter rules and regulations and make recommendations to the County Association.

Morris County

The Morris County Assessors Association capped a series of informative meetings with their sixth annual dinner meeting held at Larison Farms, Chester, N. J. on May 23rd. Over 130 persons attended. The featured speaker of the evening was Marriott Haines.

Prior to the May meeting, Morris Assessors heard speakers at each of their monthly meetings. These included Grant Parry, Vice-President of the N. J. Power & Light Co.; James Ruether, President of a Dover Realty firm; and Alfred Anderson, Consulting Engineer. No meetings are scheduled during the summer months. The next meeting will be in September.

During the past month, Morris County President John R. Budd spoke before the Morris County Board of Realtors while Morristown Assessor, Sydney E. Margolin, SMA, spoke before the local League of Women Voters on the broad base tax needs of New Jersey.

Union County

The annual meeting of the Association of Municipal Assessors of Union County was held on May 23, at the Locust Inn, Roselle, N. J. The following officers were reelected for another term: President — Lloyd Koppe, Scotch Plains; Vice-President — James Ahle, Roselle Park; Secretary — Bert Layng, Springfield; Treasurer — Sam Katz, Hillside.

A discussion was held on the New Brunswick case and the highlights were pointed out. It was felt that the Supreme Court's decisions in this case were very important concerning the assessing field.

At a previous meeting, considerable discussion was held on the matter of filing business personalty forms. It was felt that all businesses should file returns, not just those with assets over \$25,000. A night letter to this effect was sent to Senator Nelson F. Stamler, Assemblyman Elmer M. Matthews and James M. McGowan.

Hunterdon County

William Fiess, Assessor of East Amwell Township, is back on the job again after a period of illness. Mr. Fiess has been an Assessor for forty-three years. Can anyone in the State top this record?

Henry Wiegand, Assessor of High Bridge Borough, recently assessed the rolling stock of a Railroad. Not possible you say? Well, located in Hunterdon County is an old locomotive and tender, two passenger-baggage cars, a coach and a private railroad car, all of the 1900 vintage, and known as the Black River and Western Railroad. Mr. William R. Whitehead, president of the B. R. & W. wishes to run the old train as a

tourist attraction but has been unable to find any available trackage. The Taylor-Wharton Company, a local steel plant, permitted Mr. Whitehead to use some of its unused siding for temporary storage of the B. R. & W. Assessor Wiegand finding the train within his Borough limits on October 1, 1962, naturally placed an assessment on it. So There!!

William E. Davison has recently been appointed Assessor in the Borough of Milford.

Hunterdon County assessment ratios for 1963 run from a low of 11.64% in Tewksbury Township to 40.14% in the Town of Clinton.

Salem County

The Salem County Assessors recently formed a County Organization. The newly elected officers are: President — Oliver J. Henderson, Quinton Township; Vice-President — David F. Grier, Mannington Township; Secretary — Mrs. Elizabeth C. Wood, Lower Alloway Creek Township; Treasurer — J. Curtis Hackett, Upper Pittsgrove Township.

At the first meeting in Woodstown, on May 20, the guest speaker was Mr. Lee Dugan, Field Representative, L.P.T.B. The main topics of discussion were business personal property tax, postponement of Chapter 51, and the problems caused by a disaster such as the Quinton fire that destroyed 14 homes.

Another Ridgefield Park Case?

A suit of a taxpayer in Westfield, N. J. filed in Union County Court charges discrimination in the assessment of personal property in the other 20 taxing districts of the County and seeks permission to sue them all to force a more equitable distribution of the burden of County taxes. The suit was entered by Everett E. Thomas against the Town of Westfield on June 25th, claiming that the municipality has refused to take the legal steps necessary to secure equalization. The claim of the right to sue is based on a citation from the Ridgefield Park decision. The taxpayer is also requesting the taxing district be ordered to pay the legal expense of the action. Ironically, Mr. Thomas is identified as vice president of the Westfield Chamber of Commerce. The State Chamber of Commerce has been a leader in opposition to the implementation of Chapter 51, which seeks to accomplish the equalization of personal property assessments but at the lower level of book value instead of true value.

BULLETIN BUSINESS (Continued from Page 5)
assessment problem in this taxing district would be easily discerned by any working Assessor. When the municipality's governing officials also recognized it and wanted to do something about it we felt impelled to help in any way we could. We earnestly hope our effort has helped produce the prospects for continued improvement assessment administration and helped advance the effective contribution our Association can make to this end.

The Tenth Annual Rutgers Conference

One of the highlights of the Conference this year was the exemplification of an appeal hearing before the State Division of Tax Appeals. Much credit is due the President of the Division, Vincent C. Duffy of Paterson, for his cooperation in arranging the session. Chosen as a subject property for appeal was an income producing apartment building allegedly located in "Campus, N. J." The panel of the Division for the hearing consisted of President Duffy and Commissioner Paul E. Doherty. Appearing for the petitioner were two prominent men widely known in the field of tax litigation, one as a "real estate broker" testifying as an expert witness, the other acting as counsel. The real estate broker gave his name as U. R. Lowe. There was a persistent rumor which could not be confirmed, that these two men were brothers working under pseudonyms, and that they were really gassers. Or something like that.

The municipal attorney for Campus, which by its description bore a striking resemblance to the City of East Orange, introduced a witness by the name of U. B. Haigh, whose qualifications as an expert appraiser were very impressive. He was a dead ringer for a man who had addressed the Sixth Annual Conference for Assessing Officers at Rutgers in 1959, on the topic "Getting the Most Out of the Income Approach."

Fred McCoy, who presided at the meeting, mentioned one other character who was to appear as a witness. When placed on the stand this prevaricator gave his name as Al Green, who was known to have been conducting a session, in P.M.A. II at the time. Whatever his name was, he was a tall, rather heavy, loquacious individual who behaved as though he headed the list of those responsible for the Conference. When asked to testify with regard to the assessment ratio in "Campus" he sounded pretty shifty.

Lightened occasionally by some obviously tongue in cheek testimony and remarks, the presentation was extremely valuable to the assessors present in demonstrating the procedures of a model hearing. Where his municipality has chosen to employ an expert, an assessor may find that the testimony required of him concerns only clerical details and ratios. He may never be asked how he arrived at his opinion of value, or even if he has an opinion.

In the case presented, the Assessor was asked only questions relating to those of his records which had been subpoenaed. He testified to the Director's ratio, his "common level" and to the fact that he had "inherited" most of the assessments on the tax roll.

The petitioners attorney hung his entire case on the testimony and written appraisal of his expert. The script writers did a fine job in preparing the hypothesis and gave the players the opportunity to display both strength and weakness in the direct examination and in the cross examination. Part of the difficulty in observing the presentation was keeping up to the points being made as they were brought out. Every

question and answer was significant in the sense that there was something to be learned from the exchange. Many statements the witnesses were led to make are characteristic gems that typify the testimony of weak witnesses, such as, "We always do that," or, "I did not think it was important to go into that," or, "I took the owners' word for it, I didn't bother to check it."

No amount of emphasis on the need for proper preparation given in a lecture or talk could possibly bring home its importance as well as this graphic exposition. It also pointed up the advisability of close cooperation by the Assessor and Counsel.

The case for the municipality rested mainly on the testimony of its witness as adduced by the Attorney and attacked by the appellant's counsel. Particularly amusing was the caricature drawn by the witness in his burlesque of an expert stating his qualifications at length and with evident if pardonable pride. Then, in cross examination, his concern lest he be destroyed as an expert when asked the standard classic, "Have you ever bought or sold a parcel of real estate?"

The testimony of both witnesses, aside from their qualifications, was centered around the written appraisals each had made. Copies of these appraisals were distributed to the audience so that it was possible to follow the testimony and compare them as the hearing progressed. Needless to say, partly in the interests of dramatic impact, one was very low and the other very high. The low valuation included such items in the expense statement as a three year insurance premium, a liquor bill of the owner which had been lumped with other improbable items in "miscellaneous", and a payroll tax item of over \$1,000 on a labor item of \$6,200. While such "errors" are common, they are not always easy to detect, especially by an overworked Assessor in doing a periodic review or in considering an adjustment in value for the next tax list on the complaint of a taxpayer. Frequently the Assessor cannot even obtain such a statement, let alone examine each item for validity. But the effect of letting them get by without careful consideration was vividly demonstrated in the low valuation an accumulation of them produced.

The reproduction cost less depreciation approach was not treated in the Lowe appraisal report, while the unit cost in the Haigh appraisal was accepted by the Division modified by a higher depreciation allowance. The point made here seemed to be that, in a judicial consideration of the petition, weight is given to each of the three approaches to value, and in the absence of rebuttal or conflict in the experts' opinions, the opinion of the side using an approach not used by the other would be accepted, modified only by such facts as the record would show.

The market data approach as presented by each side produced some interesting results. Mr. Lowe used his comparable sales to obtain, in each case, a unit value, simply by dividing the pur-

(Continued On Page Six)

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Margaret Jeffers, Secretary-Treasurer,
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TENTH ANNUAL CONFERENCE (continued)

chase price by the number of apartments in the building. When he applied the unit value so abstracted to the property being appraised, his value by the capitalization approach was confirmed to the penny. That takes talent! On the other hand Mr. Haigh used his comparable sales to develop gross income multipliers, dividing the purchase price by the gross income, but in one instance where the multiplier was low he "adjusted" it for increase in value from the date of the sale which took place in 1955. In another instance he has apparently "adjusted" the gross income before dividing it into the sale price.

At the conclusion of the hearing, after a short recess to denote the passing of enough time for the panel to prepare its recommendation and a judgment to be written, a copy of a reconstructed appraisal report was passed out to the audience. This report, signed by I. M. Wright, represented the findings of the panel based on the evidence as presented. It served to indicate where the witnesses had erred and to what de-

gree, in the unbiased opinion of the Division. During the question period following, comment and inquiry by some of the Assessors raised questions in areas which may have been given more scrutiny than the short time allotted for the session would allow.

In very gracious closing remarks, President Duffy thanked the Conference planners for the opportunity to present the model hearing, terming it valuable and constructive, and observing that some of the Assessors' questions were "almost too perceptive."

Interest and attendance was high at each of the other sessions of the Conference, which included a discussion of the means of maintaining a revaluation program, public relations in the Assessors office, particularly with respect to the provisions of the new "Right to Know" legislation; new developments in decisional law with emphasis on the New Brunswick National Shoe Supreme Court decision; an introduction to the changes which will be found in the new manual, slated for distribution about in September; and various workshops.

Association of Municipal Assessors of New Jersey

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