It is to be noted that elements of control by way of supervision or prescription are retained by the Commissioner of Education through statutory authority contained in Title 18. For example, with the advice and consent of the State Board he may prescribe a minimum course of study for the elementary schools and for high schools. N.J.S.A. 18:3–17. In the past the Commissioner has exercised this power in regard to secondary schools only. However, the Commissioner could require that educational programs which will be carried into classrooms as part of a "course of study" be approved by him initially.

The question answered in this opinion differs from a question dealing with educational television which was raised some time ago. It is our understanding that at that time the question was whether various boards of education could participate in the organization, operation and maintenance of a noncommercial, nonprofit educational television station in order to utilize its services. Assembly Bill No. 300 of 1962 was aimed at expressly permitting school districts to do this. This Opinion only concerns the power of a local school board to utilize under contract the services of an educational television station in the manner previously described.

Very truly yours,

ARTHUR J. SILLS
Attorney General

By: THOMAS F. TANSEY
Deputy Attorney General

DECEMBER 10, 1962

HONORABLE JOHN A. KERVICK
State Treasurer
State House
Trenton, New Jersey

FORMAL OPINION 1962—No. 3

DEAR MR. KERVICK:

You have requested our opinion with respect to the effect of the recent decision of the New Jersey Supreme Court in *Switz* v. *Kingsley*, 37 N.J. 566 (1962) upon certain existing property tax exemptions, specifically the exemptions now accorded to veterans, senior citizens, household property and parsonages. We have concluded that the Supreme Court's decision requires that these exemptions be computed by deducting the amount of the exemptions from the true value of the taxable property. Our reasons follow.

I. VETERANS' EXEMPTION

The recent *Switz* case involved the constitutionality of Chapter 51, Laws of 1960. This statute relates to the taxation of real and personal property for the use of local government. It provides, *inter alia*, that all real property subject to assessment and taxation for local use shall be assessed according to "the same standard of value, which shall be the true value," but that the assessment shall be expressed in terms of the "taxable value." The "taxable value" is defined as that "percentage" of true value which each county board of taxation may establish for the taxing districts

within the county (L. 1960, c. 51, § 1; N.J.S.A. 54:4–2.25). The percentage must be a multiple of 10 and may be no lower than 20 or higher than 100 (L. 1960, c. 51, § 2; N.J.S.A. 54:4–2.26), and the percentage shall be 50 if the county board fails to fix a different one (L. 1960, c. 51, § 3; N.J.S.A. 54:4–2.27). The Court held that this statute was constitutional in all respects with one exception not here pertinent.

The argument was made by the plaintiff in that case that Chapter 51 was unconstitutional because it would result in inequality with respect to the veterans' exemption provided by Art. VIII, sec. 1, par. 3 of the 1947 Constitution. This constitutional provision exempts veterans "from taxation on real and personal property to an aggregate assessed valuation not exceeding five hundred dollars ($500.00)." The Supreme Court rejected this argument, stating at pages 573 and 574 of 37 N.J.:

> "This is an inaccurate view of the *Constitution* and *Chapter* 51. The *Constitution* provides that the exemption shall not be 'altered.' The Legislature can neither enhance nor reduce the worth of the exemption. It cannot, by the use, let us say, of 10% of the standard of value, enlarge the exemption to $5,000, nor by the use of 200%, cut it to $250. If the Legislature provides for taxation on a percentage other than 100% of value, then the first $500 of value is excluded from the true value of a veteran's property and the remainder is subjected to the percentage which the statute prescribes. Thus if a veteran's property is worth $10,000, the sum of $500 is first deducted, leaving $9,500 to be treated in the same way as the property of a non-veteran. Nothing in *Chapter* 51 speaks to the contrary. Hence the value of the exemption remains constant throughout the State, notwithstanding differences in the percentages as among the several counties."

The Supreme Court in the *Switz* decision was concerned with the potential effect of Chapter 51 upon the value of veterans' exemptions. Chapter 51 is not operative at the present time and will not go into effect until the tax year 1964 (with the exception of *Section* 13 thereof). L. 1962, c. 20. The decision raises the question, however, as to the proper determination of veterans' exemptions under existing law.

The present law governing assessments of real and personal property for purposes of taxation states:

> "All property real and personal within the jurisdiction of this State not expressly exempted from taxation or expressly excluded from the operation of this chapter shall be subject to taxation annually under this chapter at its true value * * *." R.S. 54:4–1; L. 1918, c. 236, § 202, as amended.

The statute implementing the constitutional provision for veterans' exemptions provides:

> "Every person a citizen and resident of this State now or hereafter honorably discharged or released under honorable circumstances from active service in time of war in any branch of the Armed Forces of the United States and a widow as defined herein, during her widowhood and while a resident of this State, shall be entitled, on proper claim being made therefor, to exemption from taxation on real and personal property to an assessed valuation not exceeding five hundred dollars ($500.00) in the aggregate." N.J.S.A. 54:4–3.12j, L. 1951, c. 184, § 2, as amended.

Under present law, true value assessments are the only lawful assessments now recognized by the Legislature. *Switz* v. *Middletown Twp.*, 23 N.J. 580 (1957); *Ridgefield Park* v. *Bergen Co. Bd. of Taxation*, 31 N.J. 420 (1960), *appeal dismissed*, 365 U.S. 698, 81 S. Ct. 834 (1961). The constitutional and statutory term "assessed valuation" used in connection with the veterans' exemption should, therefore, be construed with reference to the long-standing statutory provision that property be assessed at true value. Cf. *Key Agency* v. *Continental Cas. Co.*, 31 N.J. 98 (1959); *West Shore R.R. Co.* v. *State Bd. of Taxes*, 92 N.J.L. 332 (Sup. Ct. 1918), *aff'd*, 92 N.J.L. 648 (E. & A. 1919); *Duke Power Co.* v. *Hillsborough Twp.*, 20 N.J. Misc. 240 (State Bd. of Tax App. 1942), *reversed on other grounds*, 129 N.J.L. 449 (Sup. Ct. 1943). So construed, there is no conflict between the "true value" of a veteran's property and its "aggregate assessed value," as provided by the constitutional and statutory provisions for veterans' exemptions.

It is clear, therefore, and the Supreme Court has so indicated, that the statutory provision that veterans be accorded a partial exemption from taxation on real and personal property to an "assessed valuation" not exceeding $500 means that the $500 exemption must be referable to the true value of taxable property. Accordingly, we advise you that under present law, since there is no legal basis for the assessment of real and personal property except at its true value, the $500 veterans' exemption must be computed as a deduction from the lawful assessed valuation of the property, its true value.

II. Senior Citizens' Exemption

Provision for an exemption for senior citizens was made by an amendment to the Constitution adopted in the general election held in November 1960. The amendment added paragraph 4 to sec. 1 of Art. VIII of the 1947 Constitution. It provides:

> "The Legislature may, from time to time, enact laws granting exemption from taxation on the real property of any citizen and resident of this State of the age of 65 or more years residing in a dwelling house owned by him which is a constituent part of such real property but no such exemption shall be in excess of $800.00 in the assessed valuation of such property and such exemption shall be restricted to owners having an income not in excess of $5,000.00 per year. Any such exemption when so granted by law shall be granted so that it will not be in addition to any other exemption to which the said citizen and resident may be entitled."

The Legislature implemented this constitutional amendment by enacting L. 1961, c. 9. In pertinent part this statute provides:

> "Every person, a citizen and resident of this State of the age of 65 or more years, having an income not in excess of $5,000.00 per year and residing in a dwelling house owned by him which is a constituent part of his real property, shall be entitled, on proper claim being made therefor, to exemption from taxation on such real property to an assessed valuation not exceeding $800.00 in the aggregate, but no such exemption shall be in addition to any other exemption to which said person may be entitled." L. 1961, c. 9, § 2.

The precise question is whether or not the Supreme Court's determination in the *Switz* case, as it affects the proper computation of veterans' exemptions under present law, also applies to the determination of the senior citizens' exemption.

There is no material difference in the essential constitutional and statutory language providing for the veterans' and the senior citizens' exemptions. The respective constitutional and statutory provisions utilize the term "assessed valuation." Both statutes and constitutional provisions deal with the same subject matter. They establish similar exemptions. Both exemptions are personal, are partial rather than total, and are predicated upon constitutional imprimatur. Moreover, both exemptions were intended to be applied consistently. Paragraph 4 of sec. 1 of Art. VII of the Constitution provides specifically that:

> "Any such exemption [for senior citizens] when so granted by law shall be granted so that it will not be in addition to any other exemption to which the said citizen and resident may be entitled."

It was determined in a previous opinion of the Attorney General, Formal Opinion 1961—No. 12, that these exemptions were interrelated.

Since the statutes deal with the same subject matter and are interrelated, they should be construed in *pari materia*. *City of Clifton* v. *Passaic County Board of Taxation*, 28 N.J. 411 (1958); *Nordell* v. *Mantua Twp.*, 45 N.J. Super. 253 (Ch. Div. 1957); *State* v. *Brown*, 22 N.J. 405 (1956). The respective constitutional provisions should likewise be so construed since the rules for statutory interpretation are applicable in construing constitutional materials. *Lloyd* v. *Vermeulen*, 22 N.J. 200 (1956); *State* v. *Murzda*, 116 N.J.L. 219, 222 (E. & A. 1936); *In re Hudson County*, 106 N.J.L. 62 (E. & A. 1928); *DeCrescenzi* v. *Veritas, Political Club*, 24 N.J. Misc. 246 (Cir. Ct. 1946).

These considerations strongly dictate that the identical words "assessed valuation" used in each statute and constitutional provision should be given a consistent interpretation. The term "assessed valuation" as used in L. 1961, c. 9 and Art. VIII, sec. 1, par. 4 of the Constitution providing for the senior citizens' exemption should, therefore, be deemed to mean lawful assessed valuation or true valuation, which is the meaning ascribed to it with respect to the veterans' exemption.

It may be noted parenthetically that at the time the senior citizens' exemption was propounded most taxing districts did not in fact assess property at true value. Such assessment practices, however, were in disregard of the categorical statutory directive that property be assessed only at true value (*Switz* v. *Middletown Twp.*, *supra*) and cannot serve to dislodge or alter the meaning of "assessed value" as established by the Legislature in plain and unambiguous terms. Cf. *Weinacht* v. *Bd. of Chosen Freeholders of County of Bergen*, 3 N.J. 330, 335 (1949); *Loveladies Property, etc.* v. *Barnegat City, etc., Co.*, 60 N.J. Super. 491, 504 (App. Div. 1960), *pet. for cert. denied*, 33 N.J. 118 (1960).

Moreover, while it appears that the drafters of this constitutional amendment thought that "assessed valuations" could mean assessments at less than true value, (Senate Committee on Revision and Amendment of Laws, *Public Hearings on Senate Concurrent Resolutions Nos. 4, 12 and 13* (1960)) their intention should not govern or influence the proper interpretation of the senior citizens' exemption. It must be assumed that the people of the State of New Jersey, in adopting the constitutional amendment providing for senior citizens' exemptions, intended that this amendment have the same general interpretation and application as the veterans' exemption since the two are correlated. The intention of the people in adopting this constitutional amendment, not the intention of the framers of the amendment, is paramount and

dispositive of the proper interpretation to be accorded its provisions. Cf. *Gangemi* v. *Berry*, 25 N.J. 1, 16 (1957); *State* v. *Lanza*, 27 N.J. 516, 527 (1958); cf. *Kervick* v. *Bontempo*, 29 N.J. 469 (1959).

It may also be observed that the veterans' exemption must be computed by deducting $500 from the true value of property. A construction of the senior citizens' exemption which would permit a deduction of $800 from an assessed valuation other than true value would produce inequitable and disparate results. Such a construction is not dictated by the Constitution or the statute and should be avoided. *City of Clifton* v. *Passaic County Board of Taxation, supra*; *Elizabeth Federal Savings & Loan Ass'n* v. *Howell*, 24 N.J. 488, 508 (1957); *Schierstead* v. *Brigantine*, 29 N.J. 220 (1959); *Giordano* v. *City Commission of the City of Newark*, 2 N.J. 585, 594 (1949).

By way of conclusion, we express the opinion that the Supreme Court's decision in *Switz* compels a consistent treatment of both the senior citizens' exemption and the veterans' exemption. We advise you, therefore, that the senior citizens' exemption must be computed in the same manner as the veterans' exemption, namely, by deducting the amount of the exemption from the lawful assessed value of property, which is true value.

III. Household Goods Exemption

The exemption of household goods is provided in R.S. 54:4–3.16, N.J.S.A., as follows:

> "Household furniture and effects to a value not exceeding one hundred dollars ($100.00) in amount, when located and used in the residence of the owner thereof, shall be exempt from taxation under this chapter."[1]

There is no constitutional provision for the exemption of household goods.

The exemption for household goods was first provided by statute in 1918 by L. 1918, c. 236, § 203; R.S. 54:4–3.16, N.J.S.A. At that time, the Constitution of New Jersey provided for the assessment of real property "according to true value" and the statute providing for the assessment of real property provided that property be assessed at true value. L. 1918, c. 236, § 202; R.S. 54:4–1. Applying basic canons of statutory construction, R.S. 54:4–3.16 and R.S. 54:4–1 should be interpreted in *pari materia*. *City of Clifton* v. *Passaic County Board of Taxation, supra*; *Nordell* v. *Mantua Twp., supra*; *State* v. *Brown, supra*. So construed, it is reasonable to

[1] L. 1960, c. 51, § 13 (N.J.S.A. 54:4–9.2) provides for the taxation of household goods and personalty according to fair value, expressed as the same percentage of fair value which is established as the percentage level for taxation of real property within the county. Such household personalty, however, may be made completely exempt from taxation upon the adoption by the governing body of the particular municipality of an ordinance providing for such exemption. Section 37 of Chapter 51 (N.J.S.A. 54:4–2.33) provided for the specific repeal of R. S. 54:4–3.16, N.J.S.A., for the year 1962 and thereafter and Section 38 of Chapter 51 (N.J.S.A. 54:4–2.34) provided generally that Chapter 51 shall apply to taxes due and payable in the year 1962 and thereafter. The operative effect of Chapter 51, however, was postponed to the year 1964, with the exception of Section 13 (N.J.S.A. 54:4–9.2) relating to taxation of household personalty (L. 1962, c. 20). Chapter 20 of L. 1962 also postponed until 1964 the repealer of R. S. 54:4–3.16, N.J.S.A., as provided in Section 38 of Chapter 51. Consequently, although Section 13 of Chapter 51 (N.J.S.A. 54:4–9.2) is now operative with respect to the taxation of household personalty, it is still subject to the partial exemption provided by R.S. 54:4–3.16, N.J.S.A. The purpose for permitting Section 13 to be operative was to enable those municipalities (in excess of 500) which have already adopted ordinances providing for the total exemption of household personalty under Section 13 (N.J.S.A. 54:4–9.2) to continue these exemptions. Since, however, the operative effect of the remaining provisions of Chapter 51 has been postponed until 1964, no enforceable county-wide assessment ratios or percentages can be established legally by county boards of taxation pursuant to Section 3 of Chapter 51 (N.J.S.A. 54:2–2.27). Therefore, at the present time, household personalty which is not exempt must continue to be assessed for purposes of taxation "at true value" under R.S. 54:4–1, N.J.S.A.

conclude that the Legislature intended that the household goods exemption be computed by deducting the $100 exemption from the lawful assessed value of property, namely, true value.

After the enactment of the 1918 tax revisions, the Legislature passed several amendments to the exemption provisions of the 1918 Act (L. 1918, c. 236, § 203). None of the subsequent amendments were intended to modify or change the original provision for the household goods exemption. Cf. *Garifine* v. *Monmouth Park Jockey Club,* 29 N.J. 47, 58 (1959); *State* v. *DeGennaro,* 147 Conn. 296, 160 A. 2d 480, 484 (Sup. Ct. of Err. 1960), *cert. denied,* 364 U.S. 873, 81 S. Ct. 116 (1960).

The enactment of Chapter 51, Laws of 1960 would not alter the conclusion that the household exemption must be computed by deducting the statutory amount from the true value of the property. The meaning of "value" as used in R.S. 54:4–3.16 became fixed at the time of its enactment in 1918. *Yanow* v. *Seven Oaks Park, Inc.,* 11 N.J. 341, 348 (1953); *Crater* v. *County of Somerset,* 123 N.J.L. 407, 413 (E. & A. 1939). At that time this term unquestionably meant "true value." The Legislature did not intend to alter the household exemption unless and until the provisions of section 13 of Chapter 51 (N.J.S.A. 54:4–9.2) become operative, at which time R.S. 54:4–3.16 will be repealed in toto. Presently, however, household goods, not totally exempt from taxation under section 13, must be assessed at true value under L. 1918, c. 236, § 202; R.S. 54:4–1.[2]

We advise you, therefore, that in computing the exemption for household goods, the $100 exemption should be deducted from the true value of the household property.

IV. Parsonage Exemption

The exemption from property taxation of parsonages is provided by statute rather than by constitution. N.J.S.A. 54:4–3.6 provides:

> "The following property shall be exempt from taxation under this chapter: * * * the building actually occupied as a parsonage by the officiating clergymen of any religious corporation of this State, to an amount not exceeding $5,000.00."

This exemption was recently amended by L. 1962, c. 154, which increased the exemption "to an amount not exceeding $25,000.00."

Unlike the other statutory exemptions provided for by N.J.S.A. 54:4–3.6, as amended, the parsonage exemption is not a total exemption but rather only a partial one. The question is suggested by the *Svitz* decision, therefore, as to the proper method for computing this exemption, and specifically whether it should be computed by deducting $25,000 from the true value of property or from its assessed value.

At the outset it must be observed that the parsonage exemption does not contain the words "value," "assessed value," "true value," or the like. It merely provides that a parsonage shall be exempt "to an amount" not exceeding $25,000. It is obvious, however, that the Legislature did not intend that such an exemption be taken as a flat deduction from the final tax bill since it is unlikely in the extreme that property taxes on parsonage property would equal or surpass $25,000. It is also unlikely that the Legislature could have intended that the $25,000 be deducted from assessed value since many taxing districts assess at very low percentages of true value.

---

[2] See footnote 1.

The statutory exemption for parsonages is one of long standing. It first appeared in 1863 when the Legislature provided for a parsonage exemption not to exceed $5,000 in value. L. 1863, c. 278, § 2. Shortly thereafter, in 1866, the parsonage exemption was repealed. L. 1866, c. 437, § 32. It was re-established, however, in 1893 in the same amount. L. 1893, c. 122, § 1. By this time the New Jersey Constitution of 1844 had been amended to provide that property shall be assessed "according to its true value." In 1903, the Legislature provided explicitly that all property shall be subject to annual taxation "at its true value." L. 1903, c. 208, § 2. The 1903 Act also continued without any significant change the exemption for parsonages to an amount not exceeding $5,000. L. 1903, c. 208, § 3(4).

It is reasonable to infer therefrom that the Legislature did intend that the parsonage exemption provisions be referable to and be applied consistently with the prevailing statutory provisions for the assessment of property for taxation and that the amount of the parsonage exemption should, therefore, be taken as a deduction from the lawful assessed value of property, namely, its true value.

This legislative approach was continued and incorporated without substantive change in the general tax revisions of 1918. L. 1918, c. 236, §§ 202, 203(4). Parenthetically, it might be noted that the revision of 1918 also provided for the veterans' exemption "to a valuation not exceeding in the aggregate five hundred dollars" (L. 1918, c. 236, section 203; R.S. 54:4–3.12[3] as well as the household and parsonage exemptions. Subsequent legislative amendments of section 203 of chapter 236 of the Laws of 1918 did not alter or change the essential provisions for these exemptions. The exemptions for veterans, parsonages and household goods were obviously considered by the Legislature to be fundamentally similar (although predicated upon different policy considerations). Each exemption is a partial exemption from property taxation rather than a total exemption, and consequently, each exemption must be computed as a deduction from the valuation of the underlying taxable property. It is not reasonable to infer that the Legislature intended that these exemptions be computed or applied in a disparate or non-uniform manner. It is clear, therefore, that the Legislature did intend that each of these exemptions, including the parsonage exemption, be computed consistently and uniformly with reference to the lawful assessed value of property as determined under L. 1918, c. 236, § 202; R.S. 54:4–1, namely, true value.

The most recent amendment increasing the parsonage exemption to $25,000 (L. 1962, c. 154) was enacted subsequent to the passage of Chapter 51 of the Laws of 1960. In increasing the parsonage exemption in 1962 it does not appear that the Legislature intended to change the method of computing this exemption. The parsonage exemption was merely increased by the 1962 Law, predicated upon the prior statutory provision in L. 1918, c. 236, § 202. Significantly, however, in enacting L. 1962, c. 87, authorizing a partial exemption for blast or fallout shelters, the Legislature provided that this exemption "shall not exceed $1,000.00 of the assessed value of such a property based at 100% of true value." In enacting this new exemption,

[3] The veterans' exemption was originally statutory. It was enacted in 1918 despite the important decision of *Tippett* v. *McGrath, Collector,* 70 N.J.L. 110 (Sup. Ct. 1903), *aff'd,* 71 N.J.L. 338 (E. & A. 1904), which held that exemptions from property taxation that are not based upon any unique characteristic of the property itself are void. The framers of the 1947 Constitution recognized the infirmity of the statutory personal exemptions and thus drafted a specific constitutional provision for veterans' exemptions (Vol. I Constitutional Convention of 1947, pp. 745-758). In the statute implementing the veterans' exemption under the Constitution, the Legislature recognized that "personal" exemptions could not be predicated upon legislation alone. N.J.S.A. 54:4–3.12i, Historical Note.

the Legislature has taken cognizance of the Supreme Court decision in *Switz* v. *Kingsley, supra.*

You are advised, therefore, that the proper mode or method for computing the parsonage exemption provided by N.J.S.A. 54:4–3.6, as amended, is by deducting the amount of the exemption from the true value of the taxable property.

In concluding, it is not inappropriate to observe that to use varying, non-uniform standards for computing the present partial exemptions based upon the failure of assessors to assess taxable property uniformly at true value may raise serious questions under the Federal as well as our State Constitution, which questions we do not consider necessary to resolve in view of our present analysis. Suffice to say, the effect of the Supreme Court's decision in the *Switz* case is to compel consistency and uniformity in the treatment of the present partial exemptions from property taxation and that the exemptions for veterans, senior citizens, household goods and parsonages must each be computed with reference to the true value of the underlying taxable property.

Very truly yours,

ARTHUR J. SILLS
Attorney General

By: ALAN B. HANDLER
Deputy Attorney General

MARCH 12, 1963

HONORABLE JOHN A. KERVICK
State Treasurer
State House
Trenton, New Jersey

FORMAL OPINION 1963—No. 1

DEAR MR. KERVICK:

You have requested our opinion whether the issuing officials, being the Governor, yourself, the State Treasurer, and the Comptroller of the Treasury, may lawfully provide for and cause the issuance and delivery of $32,000,000 State Recreation and Conservation Land Acquisition Bonds (Series B) under the "New Jersey Green Acres Bond Act of 1961," Chapter 46 of the Laws of 1961, in view of the fact that there exists litigation which apparently questions the constitutionality of a companion statute, the "New Jersey Green Acres Land Acquisition Act of 1961," Chapter 45 of the Laws of 1961, N.J.S.A. 13:8A–1, *et seq.* Your inquiry is prompted by the fact that the State has on February 19, 1963 accepted a bid for the purchase of the foregoing bonds pursuant to a public Notice of Bond Sale. The Notice of Bond Sale, pursuant to which bids were submitted, provided that before the successful bidder would be required to accept and pay for the bonds, he would be furnished satisfactory certificates to the effect that "there is no litigation pending or (to the knowledge of the signer or signers thereof) threatened affecting the validity or payment of the Bonds."

The litigation to which you have referred is entitled *State of New Jersey, etc.* v. *New Jersey Zinc Co., et al.* (Superior Court, Law Division, Docket No. L-23109-61).