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PUBLIC HEARING

BEFORE

THE COMMISSION TO STUDY THE IMPACT OF THE
COST OF AFFIXING AND HANDLING STATE CIGARETTE TAX
STAMPS, APPOINTED UNDER THE PROVISIONS OF
SENATE CONCURRENT RESOLUTION NO. 8 (1957)

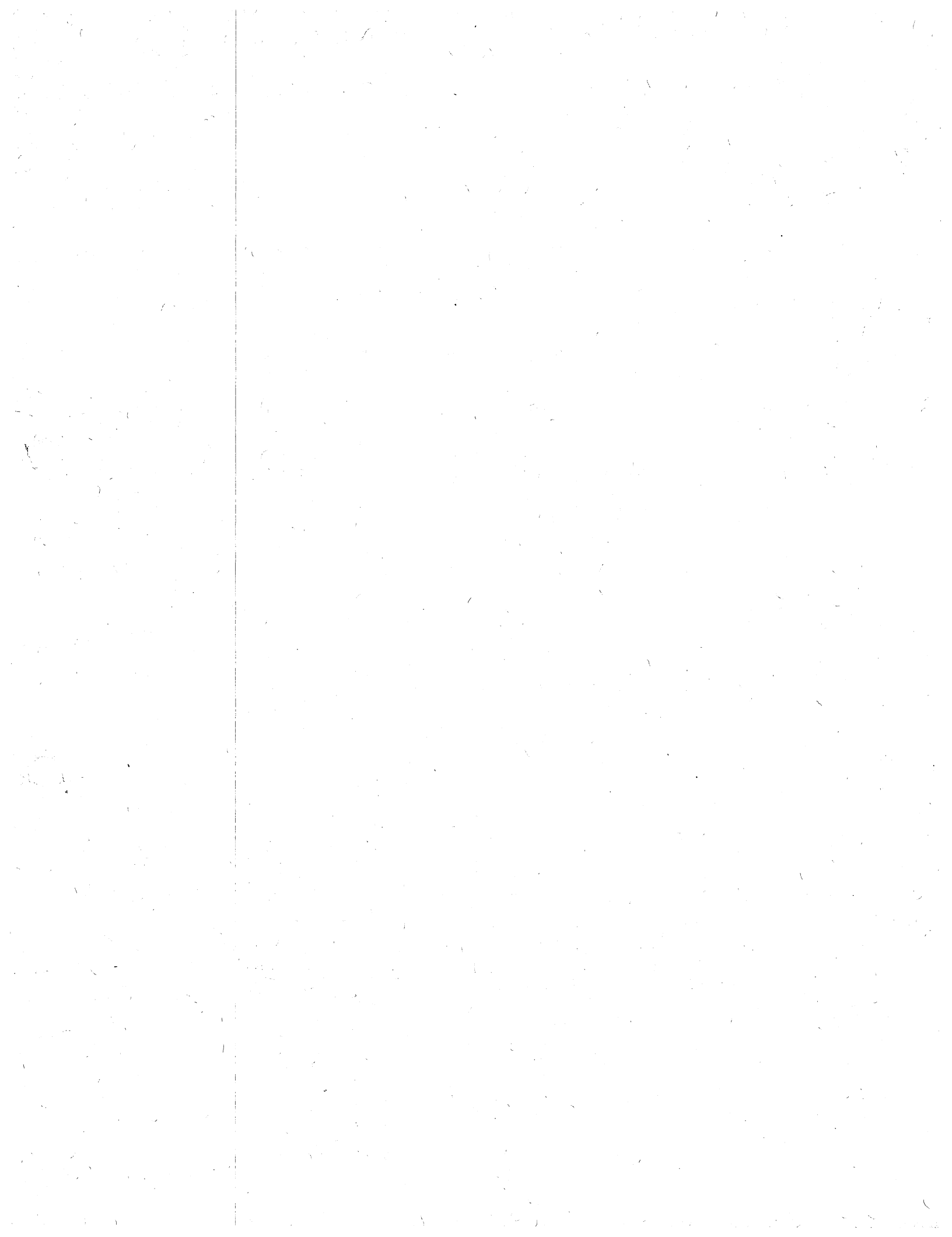
Held:
Senate Chamber
State House
Trenton, New Jersey
March 15, 1957

MEMBERS OF COMMISSION PRESENT:

Senator Frank S. Shershin (the Chairman)
Senator John A. Lynch
Assemblywoman Ruby V. Perfette
Assemblyman C. William Haines
Assemblyman Bruno V. Krawczyk

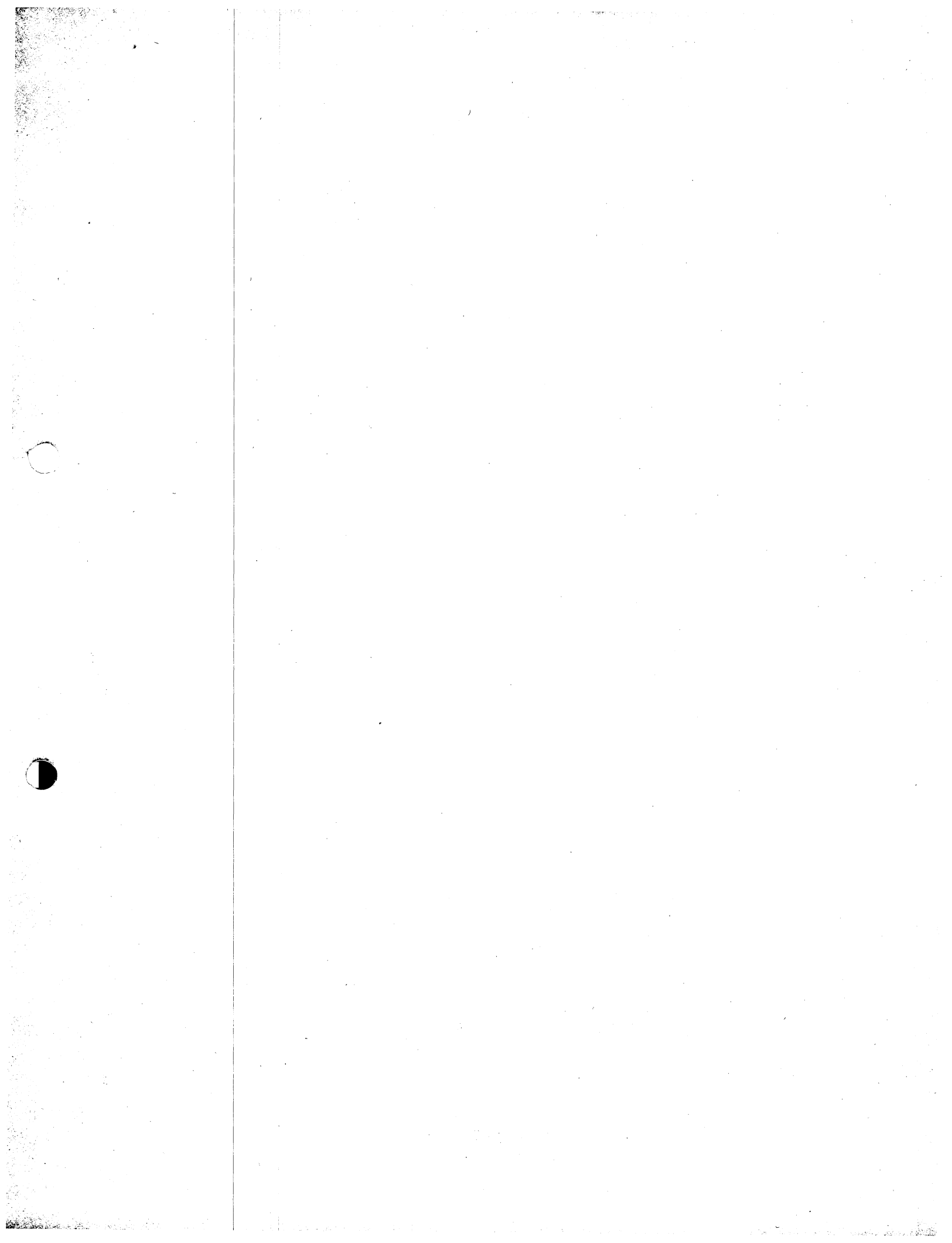
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SENATOR FRANK S. SHERSHIN (THE CHAIRMAN) This hearing will now come to order. This is a public hearing under the provisions of Senate Concurrent Resolution No. 8. We will proceed until 12:30, at which time we will adjourn for lunch. I would like to ask all witnesses to be back at 1:30, as I understand there are quite a number of witnesses here and it will take probably all day.

For the record, I understand that Mr. Bernard Saltzman is representing a group of tobacco distributors, or rather representing the Tobacco Distributors Association of New Jersey, and Mr. Aaron Neeld, Acting Treasurer of the State of New Jersey and formerly head of the State Tax Division is here with some accountants who will testify when they are requested to do so by the Commission.

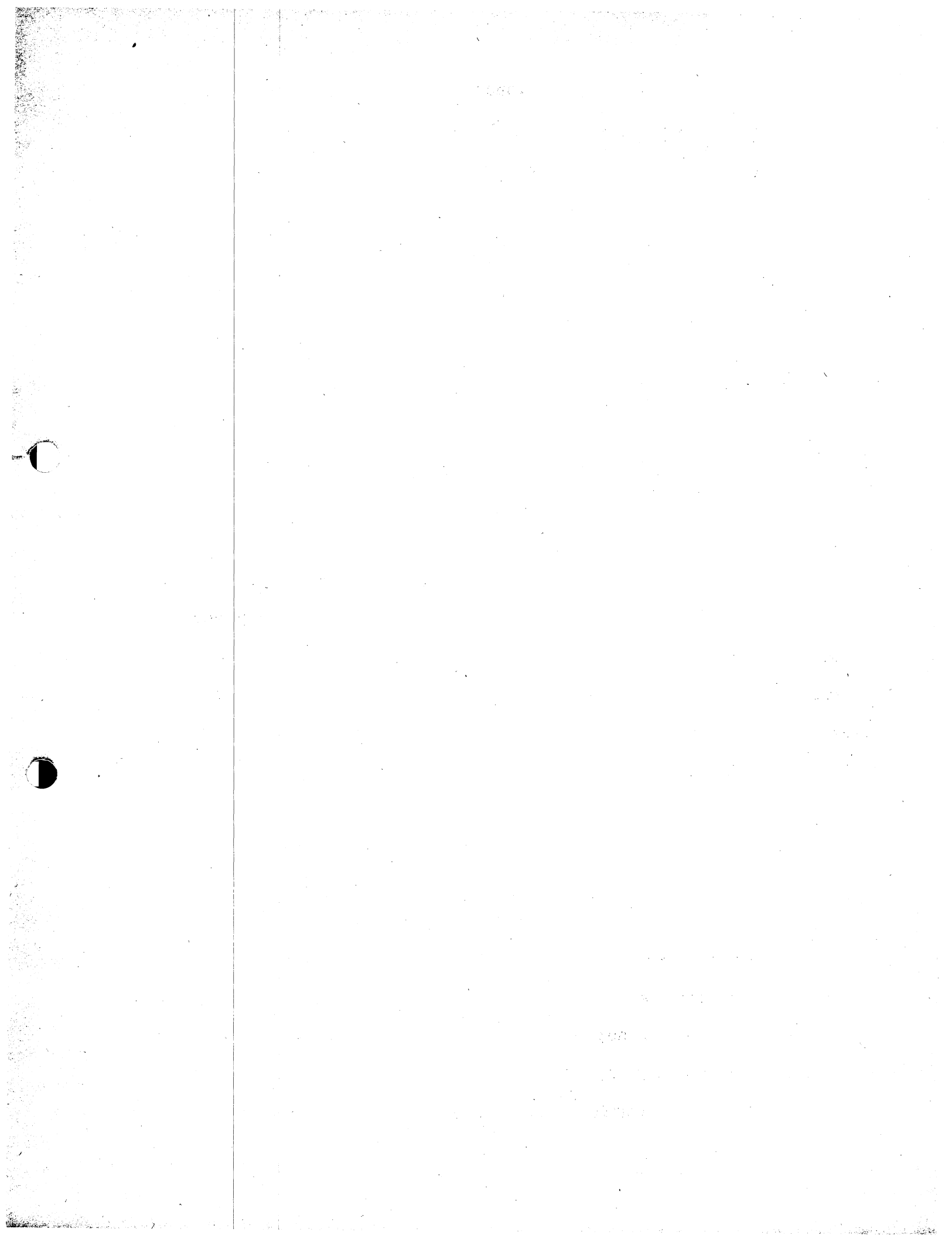
Mr. Bernard Saltzman.

B E R N A R D S A L T Z M A N: Mr. Chairman--

SENATOR SHERSHIN: Before you start, Mr. Saltzman, may I introduce the members of the Commission: To my right is Assemblyman Haines; Assemblywoman Perfette; Assemblyman Krawczyk; and my name is Senator Shershin.

You may proceed.

MR. SALTZMAN: Gentlemen of the Committee, I represent the Tobacco Distributors Association of New Jersey who are appearing here today in behalf of the cigarette industry in the State. We feel that certain inequities have resulted to the tobacco distributors in New Jersey by reason of the hurried passage last March 26 of Assembly Bill 455, which is now Chapter 10 of the laws of 1956. In order to give you a proper picture

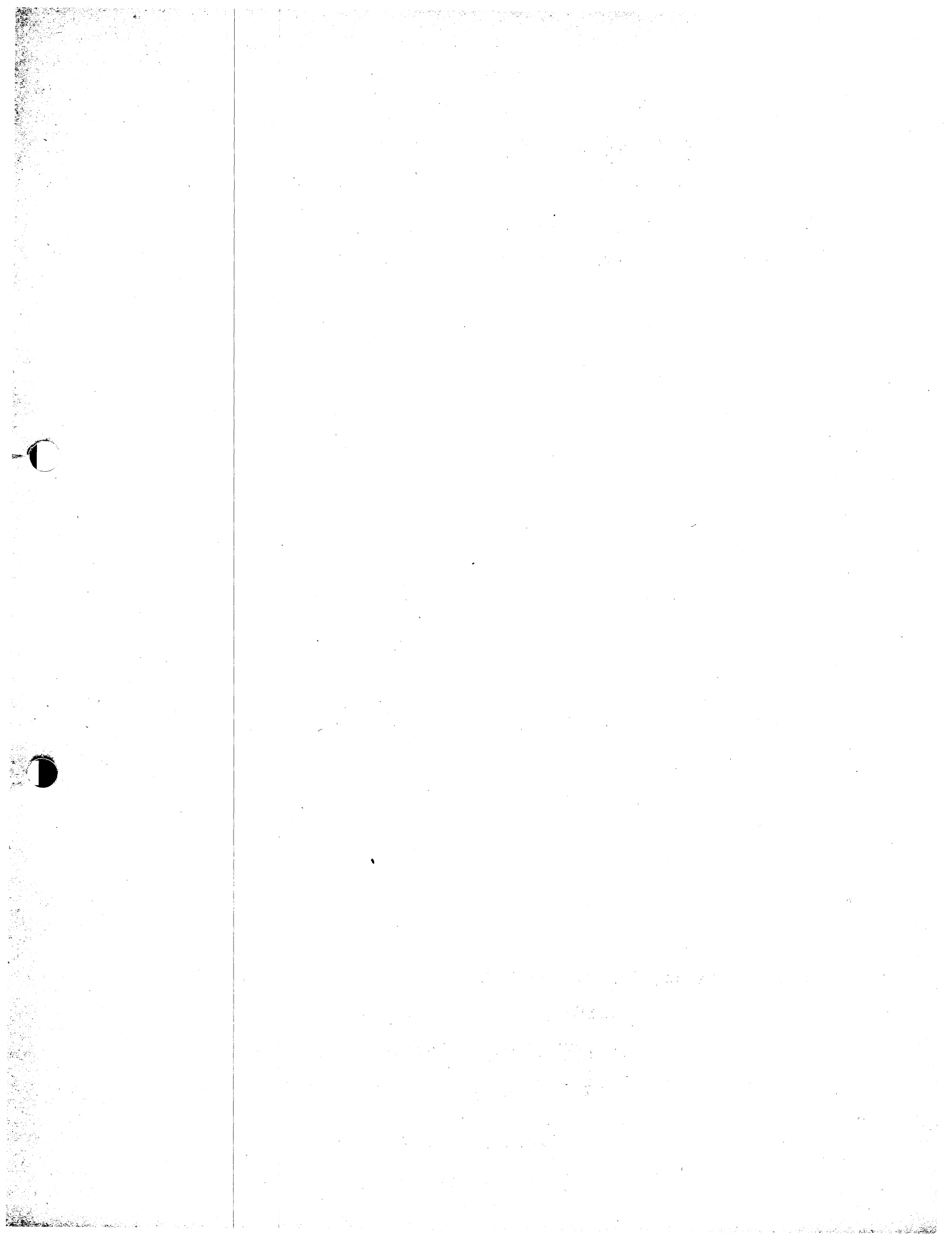


of the matter as it now exists, I will give you this brief chronological order of events. By chapter 165 of the laws of 1948, the Cigarette Tax Act was passed and can be found in New Jersey Statutes 54:40A-1, et. seq. Under that law, a cigarette tax of three (3¢) cents per package of twenty cigarettes was imposed and a discount of 5 percent of the tax was allowed to the distributors who were charged with the burden of affixing and handling the tax stamps on the cigarette packages.

SENATOR SHERSHIN: Will you say that again, I missed it. I just slipped a note to someone, please.

MR. SALTZMAN: Under the 1948 law, Senator, 54:40A-1, the Cigarette Tax Act, a cigarette tax of 3 cents per package of twenty cigarettes was imposed and at the same time, a discount of 5 percent of that tax was allowed to the distributors, who were charged with the burden of affixing and handling the tax stamp on the cigarette packages.

It later became apparent to the distributors, as a result of their experiences and trial and error, that for about 90 percent of the industry-the trade-the discount of 5 percent of that tax was not sufficient to meet the cost of their expenses which they incurred in stamping the tax and that actually they were losing money through the operation. Early in 1956, Assembly Bill #403 was introduced into the Legislature which provided for an increase in the tax of two (2¢) cents, raising it from 3 cents to 5 cents per package. This bill was silent as to any reduction in the rate of the discount and the distributors were of the opinion that their financial burden of stamping the tax would be relieved to a



great extent by being able to obtain a discount of 5 percent, the rate which existed at that time, of the new higher tax. But on the night of March 26, 1956 at about 11:00 P. M. after a conference of the legislators in the Governor's office, Assembly Bill #455 was introduced in place of Assembly Bill #403. This new bill provided for an increase in the tax of 5 cents, an increase of 2 cents, and a decrease in the rate of the discount allowed the distributors, now grading it from 5 percent to 3 percent. The sponsors of this bill pointed out at that time that it was of the utmost importance and urgency that this bill be passed that night in order to meet the deadline of April 1, 1956 which was the last date on which an increase for that year would be allowed the program of state education. These sponsors conceded that there had not been any time at all to go into a study of the problem of the amount or rate of the discount and promised that in the immediate future, real consideration would be given to the question as to whether or not the decrease in the rate had been fair and just under the circumstances. As a result of that commitment, a bill subsequently was introduced which resulted in a survey being made by the Director of Taxation.

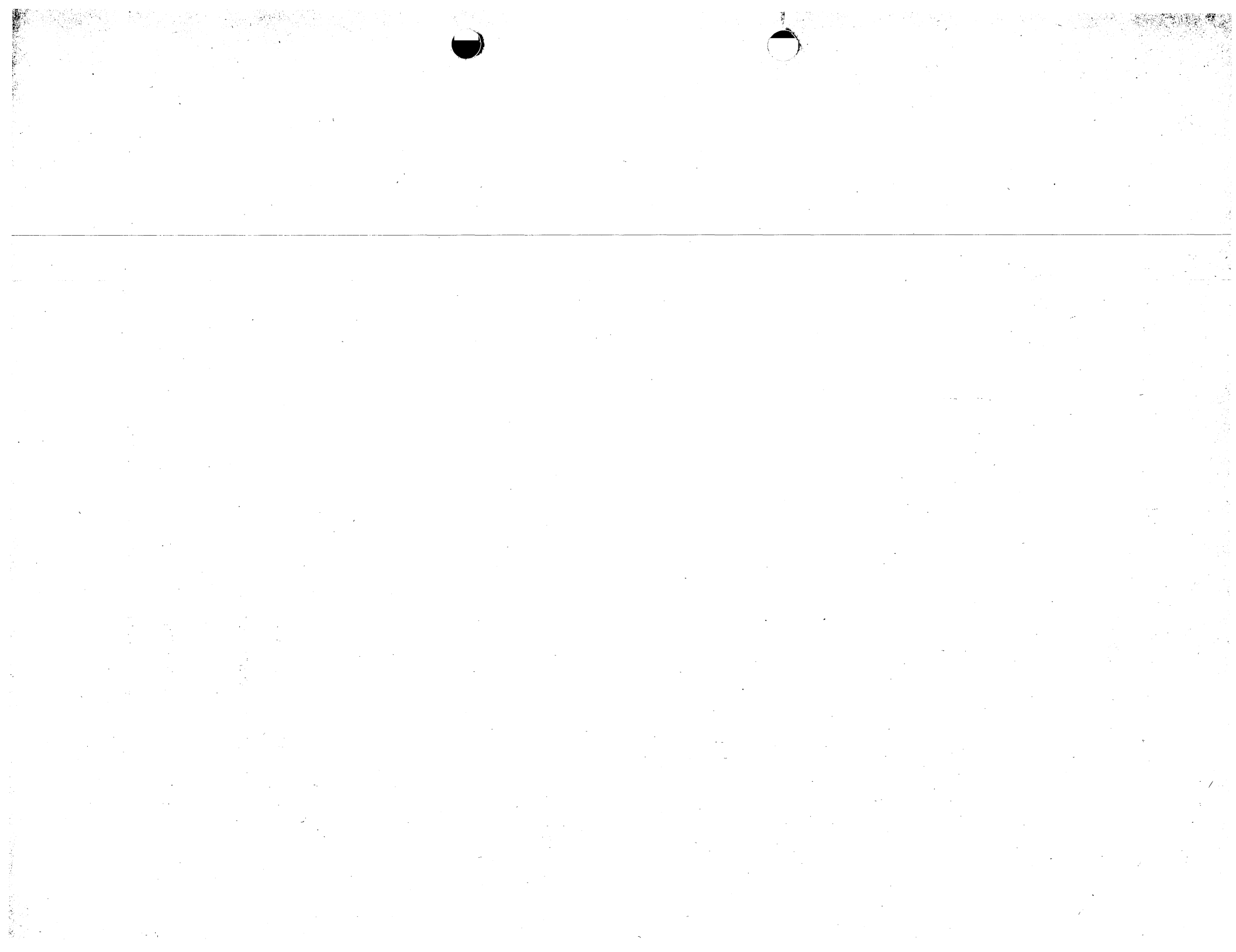
SENATOR SHERSHIN: Do you have the number of that bill, Mr. Saltzman?

MR. NEELD: S.J.R. 7.

SENATOR SHERSHIN: What year?

MR. NEELD: 1956.

SENATOR SHERSHIN: Mr. Neeld volunteers the information that it is S.J.R. 7,(1956). Mr. Neeld, was that a result



of a bill that had been introduced prior thereto? Counsel says there was a bill introduced in 1956. The bill did not move. However, a substitute was put in, S.J.R. 7. Do you know the number of the bill that S.J.R. 7 supplemented?

MR. NEELD: Senator, all of this happened in a very short period of time in 1956, in the month of April, I believe, and I have no knowledge of any previous bill. There were, of course, tax bills introduced in which the rate was proposed to be changed from 3 to 5 cents per pack and the discount rate was left at 5 percent.

SENATOR SHERSHIN: That was A-403 that Counsel is talking about and which I have sent for a copy of.

MR. NEELD: That is correct.

SENATOR SHERSHIN: Then, of course, he advises us that there was an A-455 which was your decrease bill and that is the one that evolved after a conference of the legislative leaders and the Governor. I suppose you were at that conference, too, were you not?

MR. NEELD: Yes, sir.

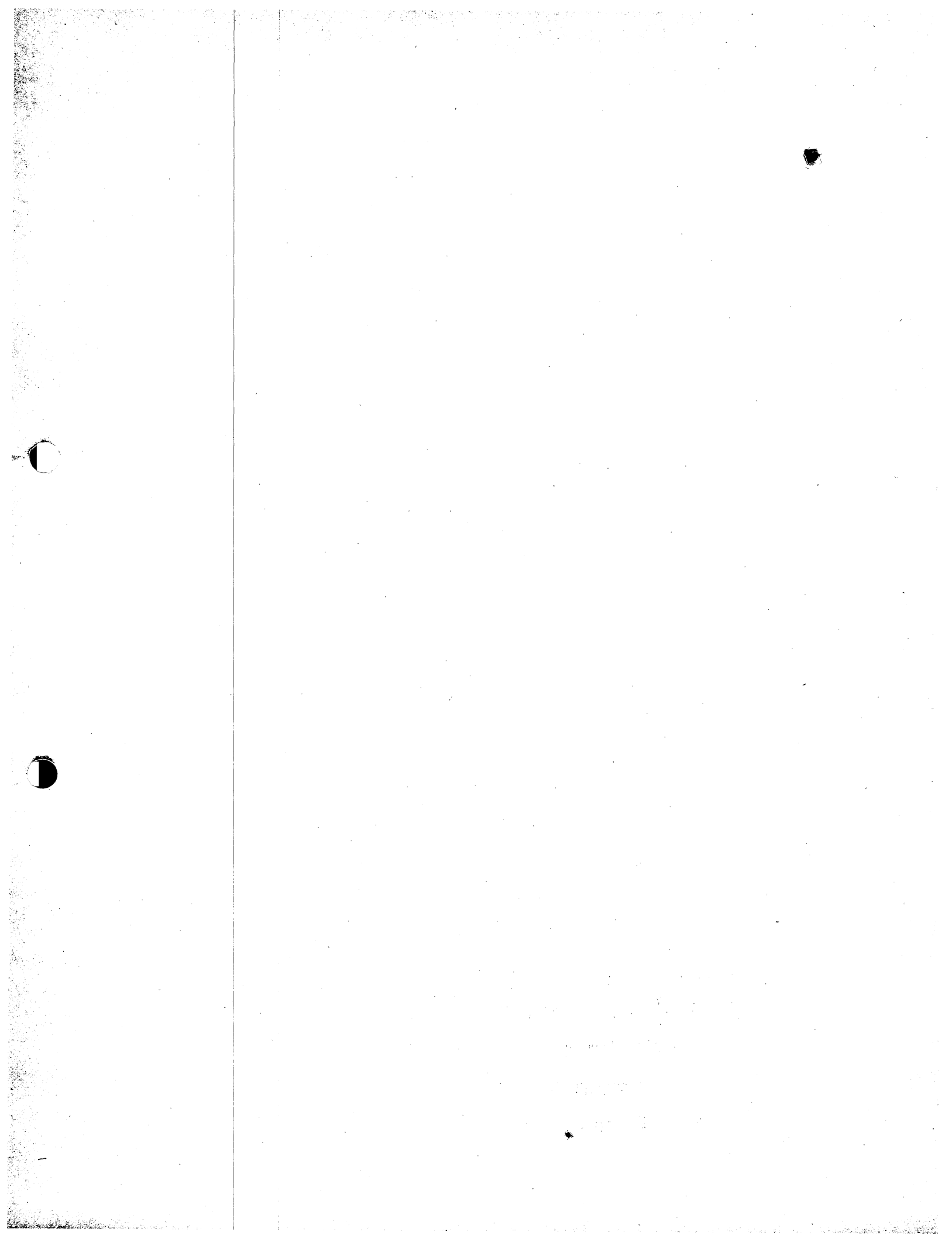
SENATOR SHERSHIN: That was at 11:00 in the evening, or something?

MR. NEELD: That went on all evening.

SENATOR SHERSHIN: That went on all evening?

MR. NEELD: Yes.

SENATOR SHERSHIN: Thank you.



MR. SALTZMAN: Senator, the bill, or resolution, that was passed, which called for the survey to be made by the Director, I believe, was Resolution #10 which was passed on June 28, 1956.

SENATOR SHERSHIN: When you are talking about Resolution #10, you will have to, Counsellor, give us better information than that. It is either a Senate resolution or Assembly resolution.

MR. SALTZMAN: It becomes Joint Resolution #10 which is referred to in the back of this part.

SENATOR SHERSHIN: Senate Joint Resolution #10.

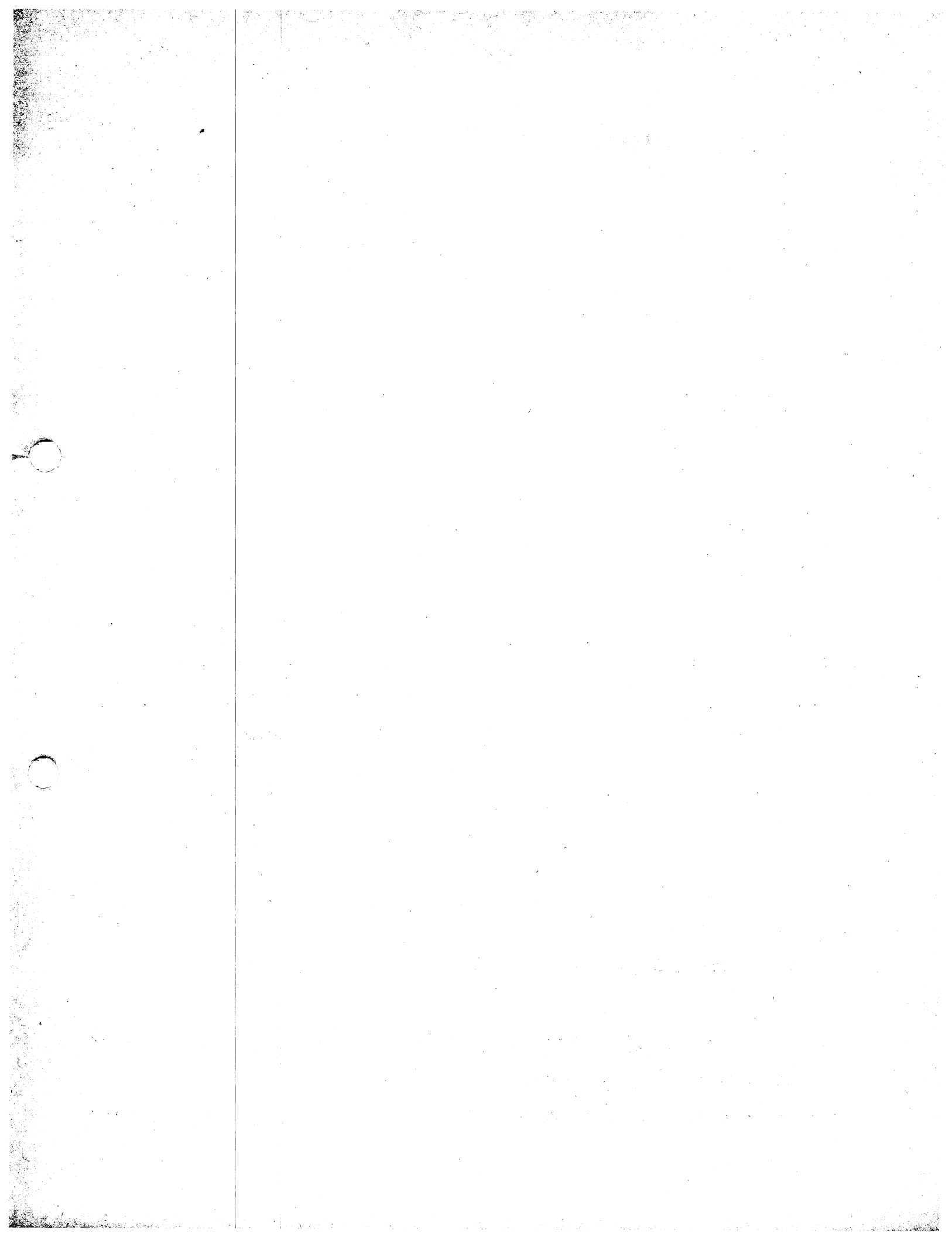
MR. SALTZMAN: Did you want to know the number of the bill that was introduced which brought about the resolution and the survey?

SENATOR SHERSHIN: That is right.

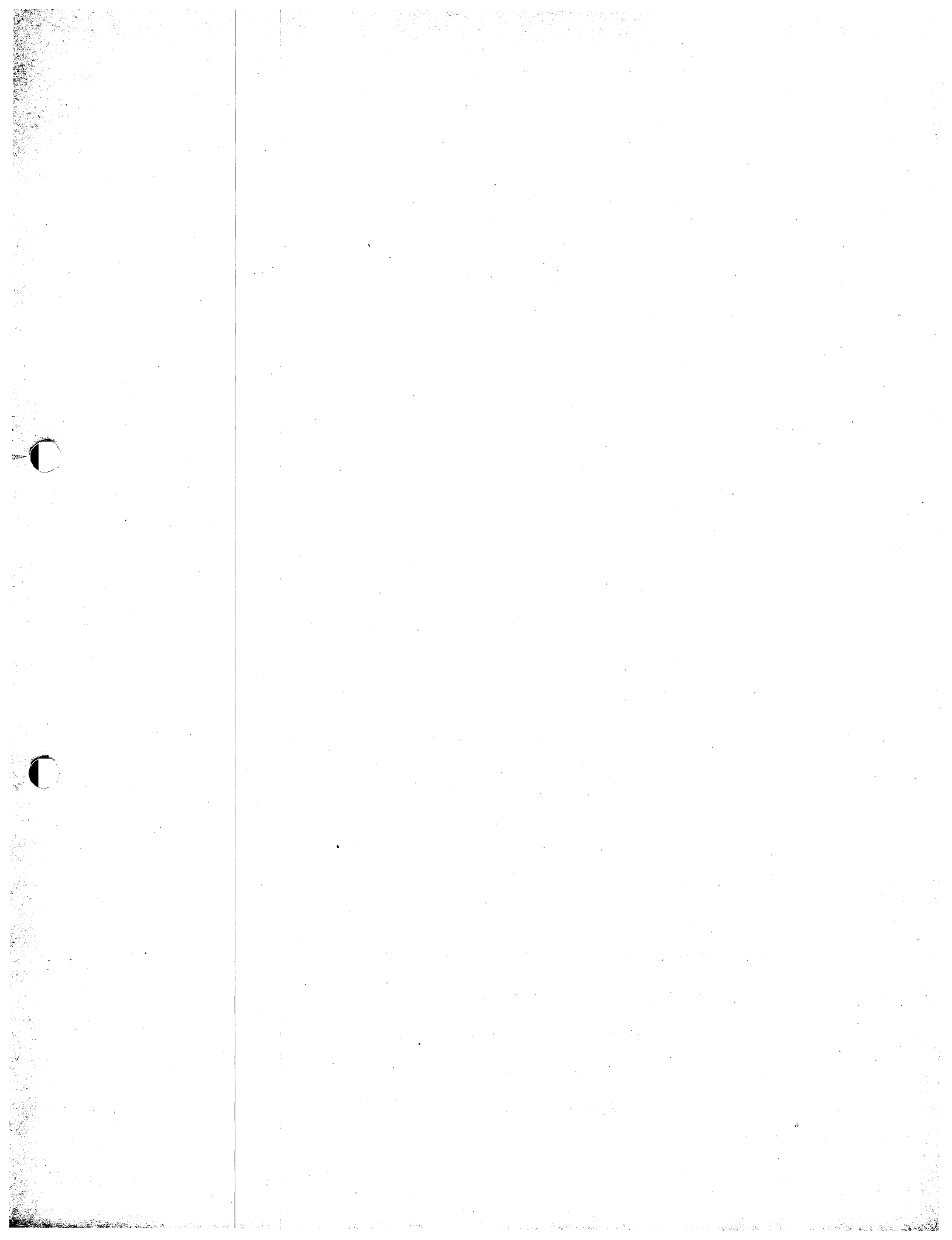
MR. SALTZMAN: As I understand, it was Assembly Bill #460 and Senate Bill #193.

SENATOR SHERSHIN: All in 1956?

MR. SALTZMAN: Yes, sir. As a matter of fact, the bill A-455 was passed on March 26, 1956, in order to become law before April 1. As I said, as a result of that commitment by the sponsors, this bill was subsequently introduced in each of the Houses and it resulted in the resolution that I told you about and a written report was made by the Director, dated September 7, 1956. I have one of the copies here and I trust that additional copies of this report, dated September 7, 1956, have been made available to the Members of this Committee.



Now, for the purpose of this hearing, I started to state that we do not take issue in this survey with the Director's figures on all costs except those of labor. While his general figures are accurate from a mathematical point of view, it is our contention, which we will today support with evidence, that its basis is erroneous and that labor costs cannot be computed on a basis of averages or percentages or on any premise of mathematical computation. But in a situation like ours, in our particular industry, there are certain practical aspects and elements which must be taken into consideration and which, in our opinion, completely overweigh and refute the mathematical formula. Our testimony will show that there are, in the Tobacco Industry in New Jersey, about 100 resident distributors, of which about 50 percent are in the category of small distributors, who are the persons or firms who are suffering financial loss because of the low rate of discount. In our view, the Director should not have pro rated the labor costs in his survey based upon the operations of only one or two distributors in the State of New Jersey who stamped 160 or more cigarette cases a day. He should consider the actual labor costs of all of the distributors in this operation. It is in that miscalculation of the basic premise that we say there is a real inequity in the matter. We respectfully ask that, after this hearing and the due deliberation of your Committee, you will recommend that adequate relief be



comprise
afforded to these distributors, who/90 percent of the
industry and whom we call the small man of the industry, by
reinstating this discount to the percentage of 5 percent
on the present tax.

SENATOR SHERSHIN: Mr. Saltzman, I understand,
therefore, that the issue before this Commission is the
one of labor costs.

A. I would say so.

Q. Your statement that there are 100 resident
distributors and that 90 percent of them are small
distributors---the 10 percent of them are large distributors?

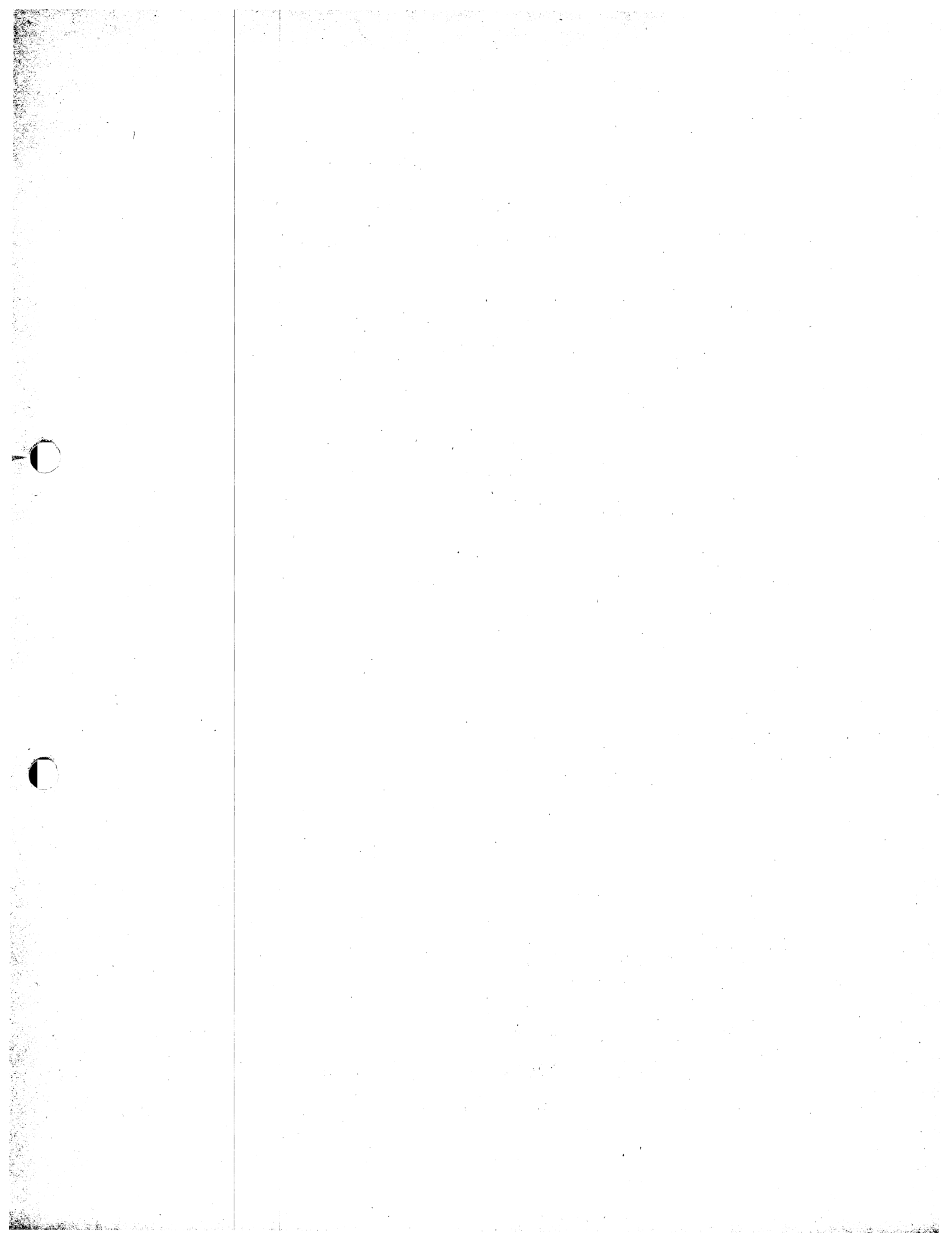
A. I would say in the category of large to medium
large.

Q. Could you tell us just what percentage of the
cigarettes sold in New Jersey are distributed by that 10
percent?

A. I think that the next witness will be in a position
to tell you exactly concerning statistics and figures,
Senator, because he is the Executive Director of the
Tobacco Distributors Association of New Jersey and has long
been identified with the cigarette industry.

SENATOR SHERSHIN: You are referring to Monroe A.
Lewis?

MR. SALTZMAN: I am referring to the first witness,
if you will permit me to call him at this time, Mr. Monroe A.
Lewis. All right, Monroe.



M O N R O E A . L E W I S : My name is Monroe A. Lewis and I am Executive Director of the Tobacco Distributors Association of New Jersey. I have held that position since April of 1948. During these nine years, I have become thoroughly familiar with all of the facets of the tobacco distributing business in the State of New Jersey. Prior to 1948, I was connected with the National Association of Tobacco Distributors for a short while and prior to that I was employed by a firm of tobacco distributors in the State of New Jersey for several years. So that I can say that I am thoroughly familiar with all the facets concerning the distribution of cigarettes and tobacco products in the State of New Jersey, both before 1948 and since 1948.

SENATOR SHERSHIN: May I interrupt you, Mr. Lewis. Can you answer the question that I directed to Mr. Saltzman so that the Commission may have a little opening here which will give a concise picture?

MR. LEWIS: Well, in the State of New Jersey, as Mr. Saltzman stated, there are approximately 100 resident distributors.

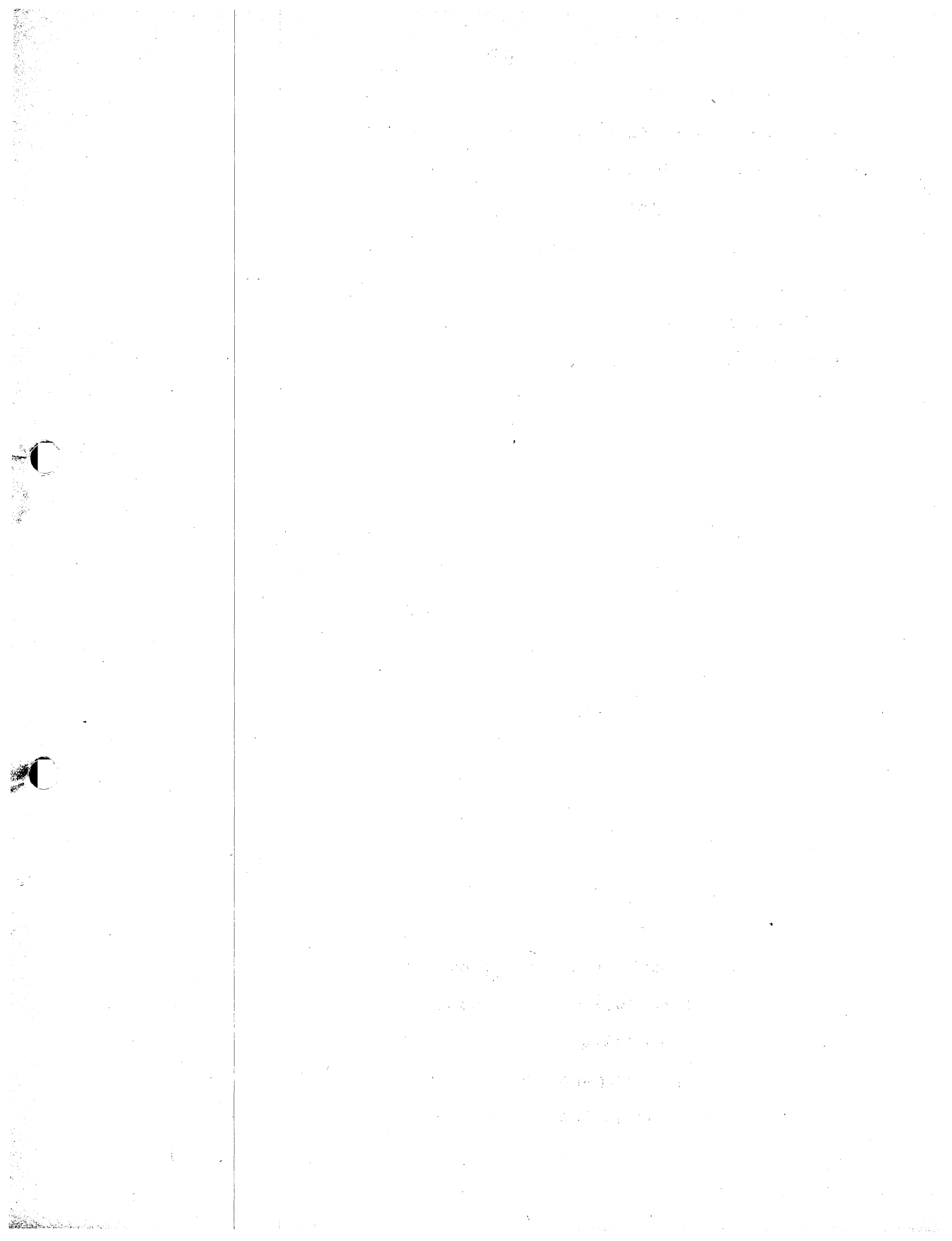
SENATOR SHERSHIN: That, we know.

MR. LEWIS: In my association - I can't talk very much for people outside the association - 95 per cent of our members are in the category of distributors that stamp between 1 and 50 cases of cigarettes per day.

SENATOR SHERSHIN: That production bears what relationship to the total production in the State of New Jersey?

MR. LEWIS: I would say about 75 per cent.

SENATOR SHERSHIN: Did you understand my question? Did I make myself clear?



MR. LEWIS: Yes, sir.

SENATOR SHERSHIN: Ninety-five per cent of the distributors--

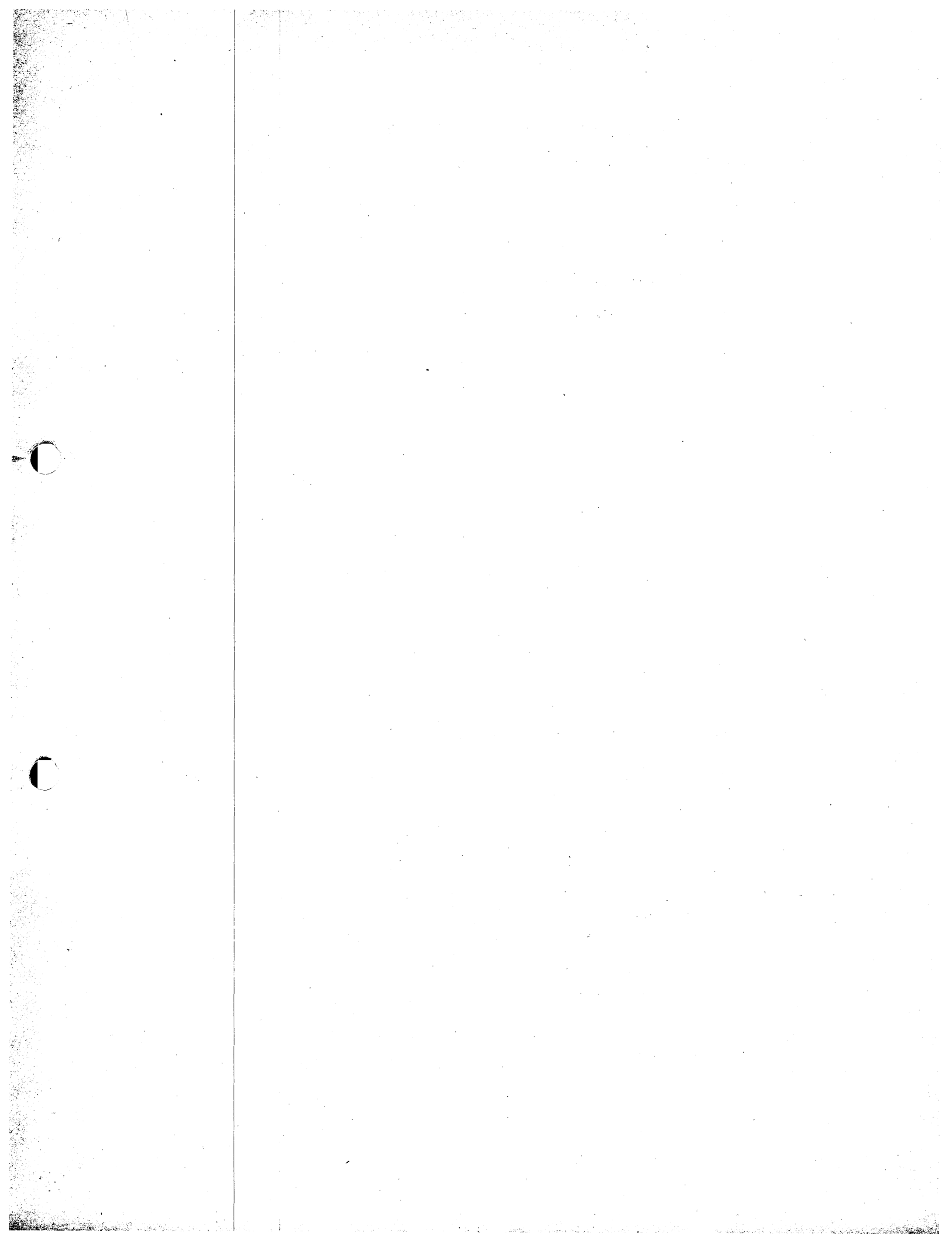
MR. LEWIS: -- sell about 75 per cent of the cigarettes.

SENATOR SHERSHIN: Sell about 75 per cent of the cigarettes in the State of New Jersey.

MR. LEWIS: That's right. So that the 5 per cent of the very large distributors, and in that category we put some of the very large chain store outlets, and one or two very, very large distributors sell between them about 25 per cent of the cigarettes in the State of New Jersey. Do you understand that, Senator?

SENATOR SHERSHIN: I understand that. The reason I wanted it clear in my mind is that I may have been under an erroneous impression. There has been no testimony, except this was an impression I had, and that's why I'm asking you to make it clear to me. You have made a statement that 75 per cent of all the cigarettes sold in New Jersey are produced by the small, as you call it, distributor, and that therefore these large distributors would necessarily sell the 25% volume. That's all, Thank you.

MR. LEWIS: Now, in 1948, the Legislature of the State of New Jersey passed the cigarette tax act imposing a 3-cent tax per pack on cigarettes. The question then arose as to the most efficient and the most economical manner of collecting the tax, and since there had been no experience in the State of New Jersey prior to 1948, it was necessary to study the experience in other States where they had a cigarette tax. Now, there are several way that the cigarette



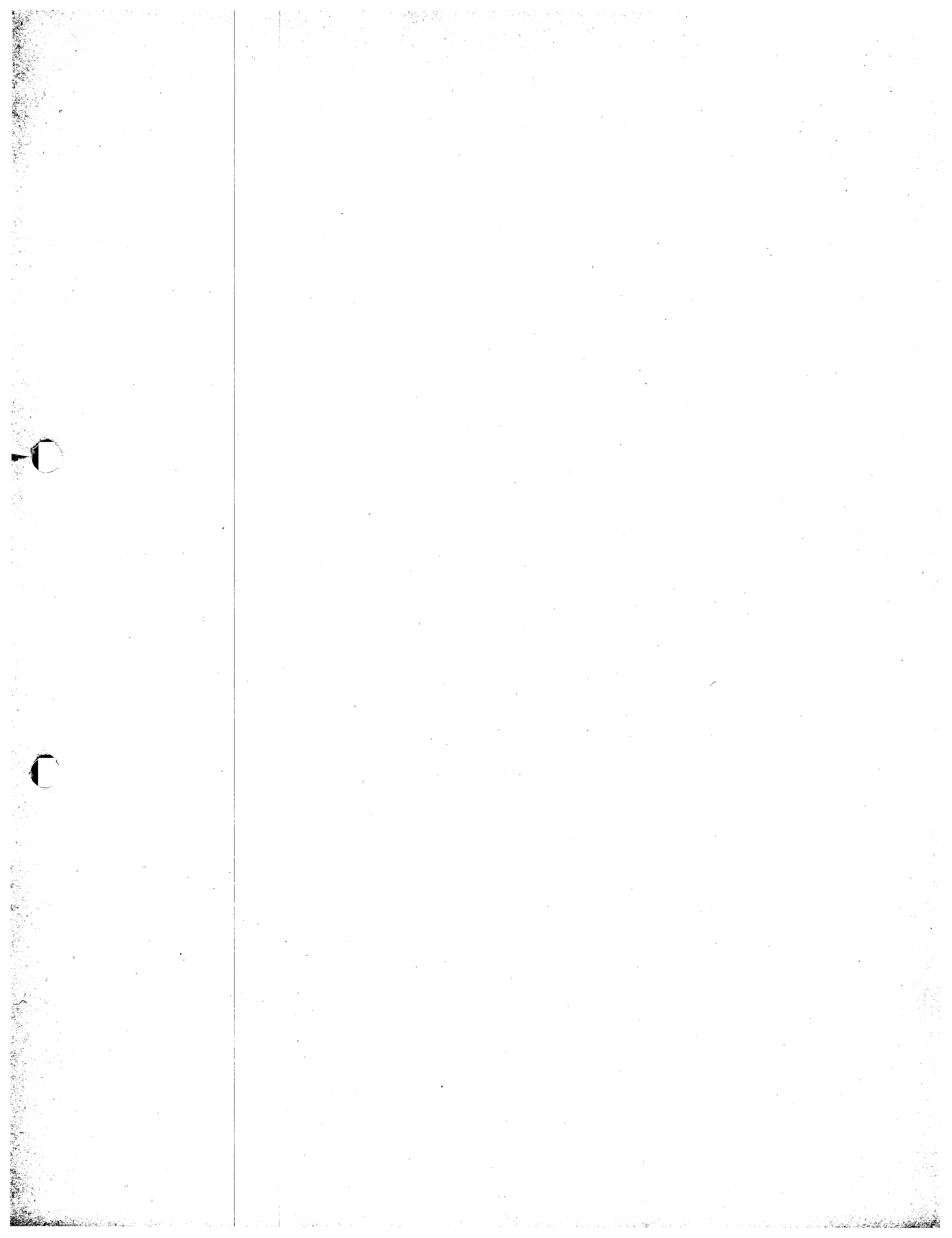
tax can be collected. We have the system that is now being used in the State of Massachusetts, where the distributor of cigarettes pays the tax to the state off his invoices that he receives from cigarette manufacturers and there is no indication, no stamping, on the cigarettes themselves as to how the tax is collected or where it is collected. There are other states. . . .

SENATOR SHERSHIN: Do you advocate that kind of method?

Mr. LEWIS: I don't. I don't because . . .

Senator SHERSHIN: Well, that would go into bootlegging, wouldn't it?

MR. LEWIS: The experiences show that in the two states where they have it, the bootlegging is out of hand. There is another method of collecting the tax and that is by allowing anybody in the industry, retailer, wholesaler or distributor to affix tax stamps and that is used in some states. But it was determined that the most economical way and the most efficient way of collecting the cigarette tax follows the system which is now used in the State of New Jersey whereby the distributor of cigarettes, stamps each pack of cigarettes either by a meter impression or by affixing a decalcomania and the distributor pays the tax in advance to the state, so in the Cigarette Tax Act of 1948, that system was adopted. Then the question arose as to the amount of compensation to be allowed to the distributor for this chore and it is quite an extensive operation and, again, there was no



experience in the State of New Jersey and it was necessary to go to the other States throughout the country to determine what was being done there.

SENATOR SHERSHIN: Before you go into that - what does New York do with respect to the distribution, with respect to the discount rate?

MR. LEWIS: Well, New York, if I am not mistaken, allows--

SENATOR SHERSHIN: Not what they allow. What method.

MR. LEWIS: -- allows any distributor, wholesaler or retailer, to affix tax stamps to the cigarettes.

SENATOR SHERSHIN: That is your second proposal that you gave us.

MR. LEWIS: That's right.

SENATOR SHERSHIN: Anybody can affix them?

MR. LEWIS: Anybody.

SENATOR SHERSHIN: Then, what is the volume of cigarettes sold in New York as compared to the volume of cigarettes sold in New Jersey?

MR. LEWIS: I don't know, except that it is recognized-- 3 or 4 times.

SENATOR SHERSHIN: What do they do in Pennsylvania?

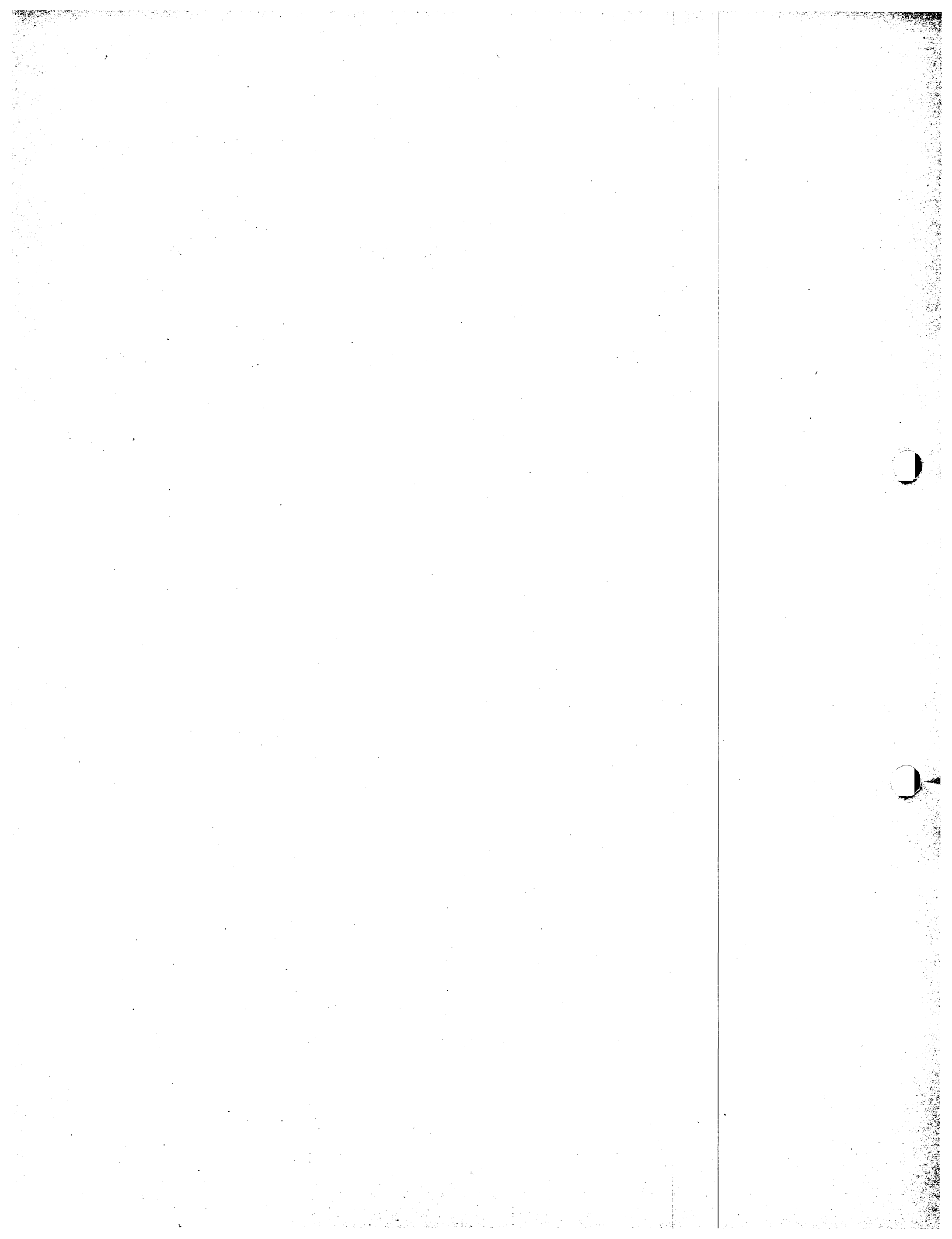
MR. LEWIS: In Pennsylvania?

SENATOR SHERSHIN: What method is used there?

MR. LEWIS: The same method that we use here.

SENATOR SHERSHIN: What basis do you have for the conclusion that this method is the most efficient, the New Jersey method?

MR. LEWIS: A study was made, Senator, by the Tax Department in 1948 and they determined that it was the most



efficient method. As a matter of fact, it is the method that is used predominantly throughout the country in other states.

SENATOR SHERSHIN: That means more to me than when you say that just the Tax Department made a conclusion. The fact that it has been adopted by most of the States is more conclusive.

MR. LEWIS: So the question arises now of how much to pay the distributor for this service, and again with no experience in the State of New Jersey, it was necessary to go to the balance of the country, and ^{at} that time an extensive study was made by the Tax Department of this State, by the Legislature, and by the Governor's Office to determine what is the proper discount, or what was the proper discount in 1948 to allow a distributor for these services rendered.

SENATOR SHERSHIN: Who made that study? Mr. Neeld?

MR. LEWIS: It was made by Mr. Neeld, if I remember correctly. Let me say this, Senator: When the bill was introduced in the Legislature, I was not in the position of Executive Director.

SENATOR SHERSHIN: You are talking about 1948?

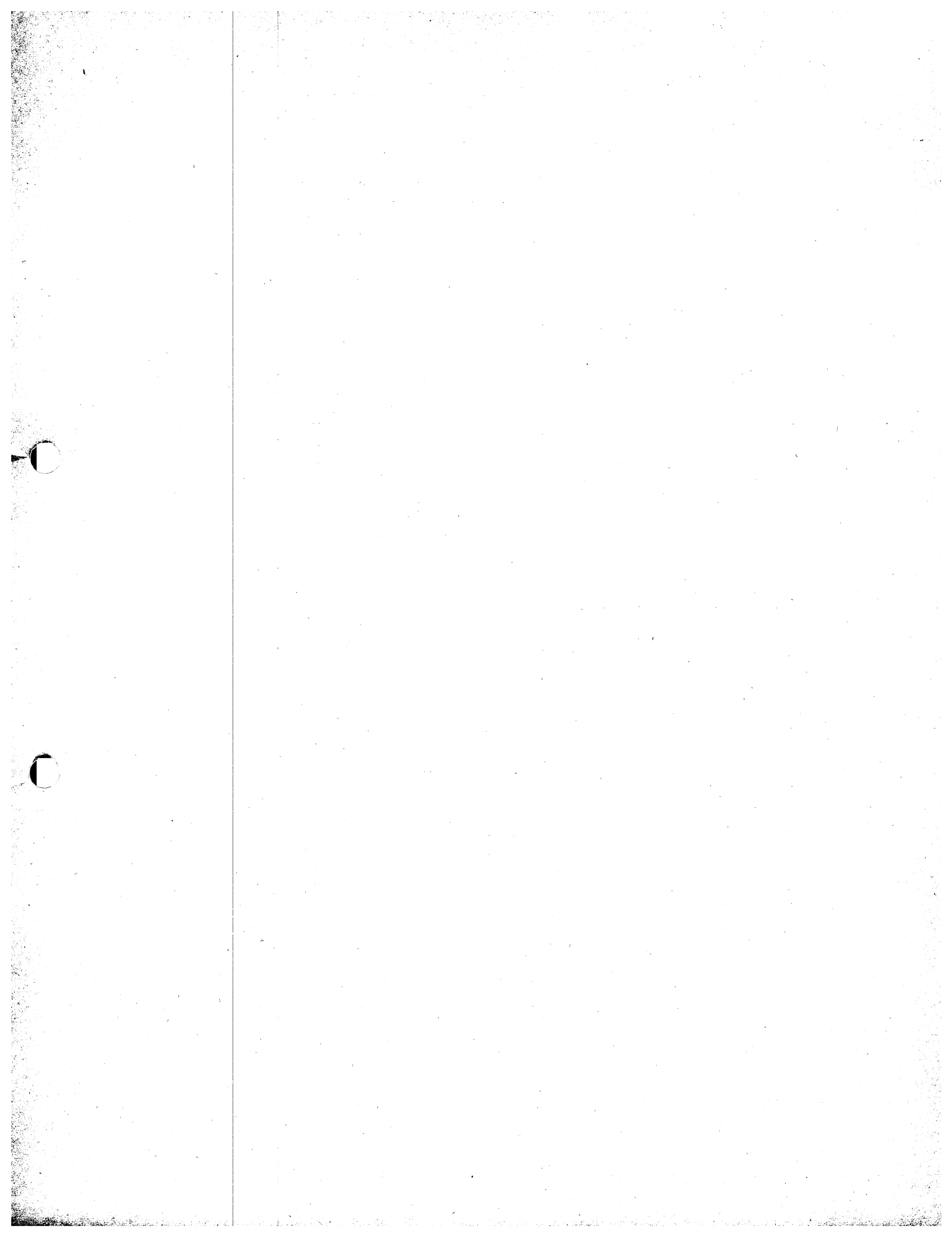
MR. LEWIS: Yes. In 1948, I was employed by the National Association. I have some knowledge of what was going on but I wasn't here.

SENATOR SHERSHIN: Let me ask a little bit out of order, - Mr. Neeld, you were in charge of that investigation at that time, the study of 1948, which arrived at a discount rate then?

MR. NEELD: No, sir.

SENATOR SHERSHIN: Well, was anybody from the Tax--

MR. NEELD: I was a member of a group that did consider the various elements relating to the adoption of



the Cigarette Tax Act in 1948.

SENATOR SHERSHIN: As a matter of fact, the State Tax Department did come up with that 3 per cent allowed to distributors?

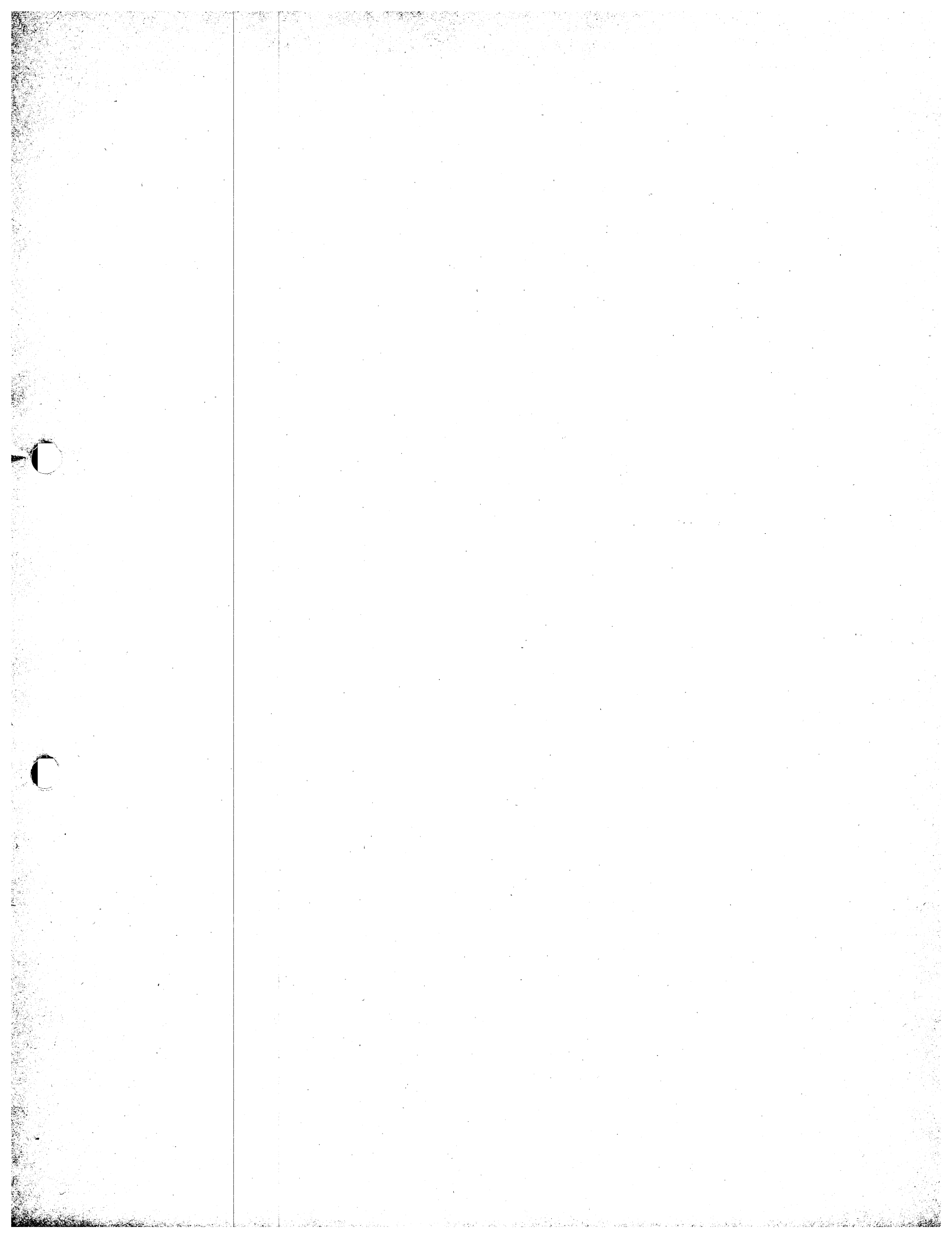
MR. NEELD: Five per cent on a 3-cent tax rate. I might say there was no investigation, no study made, for the very simple reason that, again, the act was adopted rather quickly. But more important than that, I would say that not more than a maximum of three such studies have been made throughout the United States on this question over the past ten years. I'll say frankly that in 1948, there was no study of the cost of stamp affixing.

SENATOR SHERSHIN: Thank you, Mr. Neeld. You may proceed, Mr. Lewis.

MR. LEWIS: Well, Senator, I don't want any reputations,--

SENATOR SHERSHIN: You can testify. I am not going to allow any cross-fire between witnesses. This is for my own edification.

MR. LEWIS: I recall, sir, some conferences in the Governor's Office with Mr. Lindsay DeValliere, who I think at that time was Budget Director, and I think there was a Mr. Homer Zink, who, if I am not mistaken, at that time was the Director of Taxation and, as far as I recollect, there was a study made, not of the cost of affixing stamps but of the experience throughout the rest of the country, and a relationship was established between the amounts allowed in other states and the economic position of the distributors in this State, the economic cost of doing business, and as a result,



the Tax Department, and the Legislature and the Governor came up with this 5 percent discount. Now, thereby, we started to operate under a 5 percent discount and, I think, it might be wise to take a few minutes of your time to explain some of these things you may not understand. There are two types of wholesalers. There is a distributor who buys directly from the manufacturer and, as I said, there are approximately 100 of those in the State of New Jersey--the resident distributors. These one hundred distributors are made up of the wholesale distributors, the people I represent. There is also a group of about 20 vending distributors and there is a group of about 15 retail distributors, retail chains.

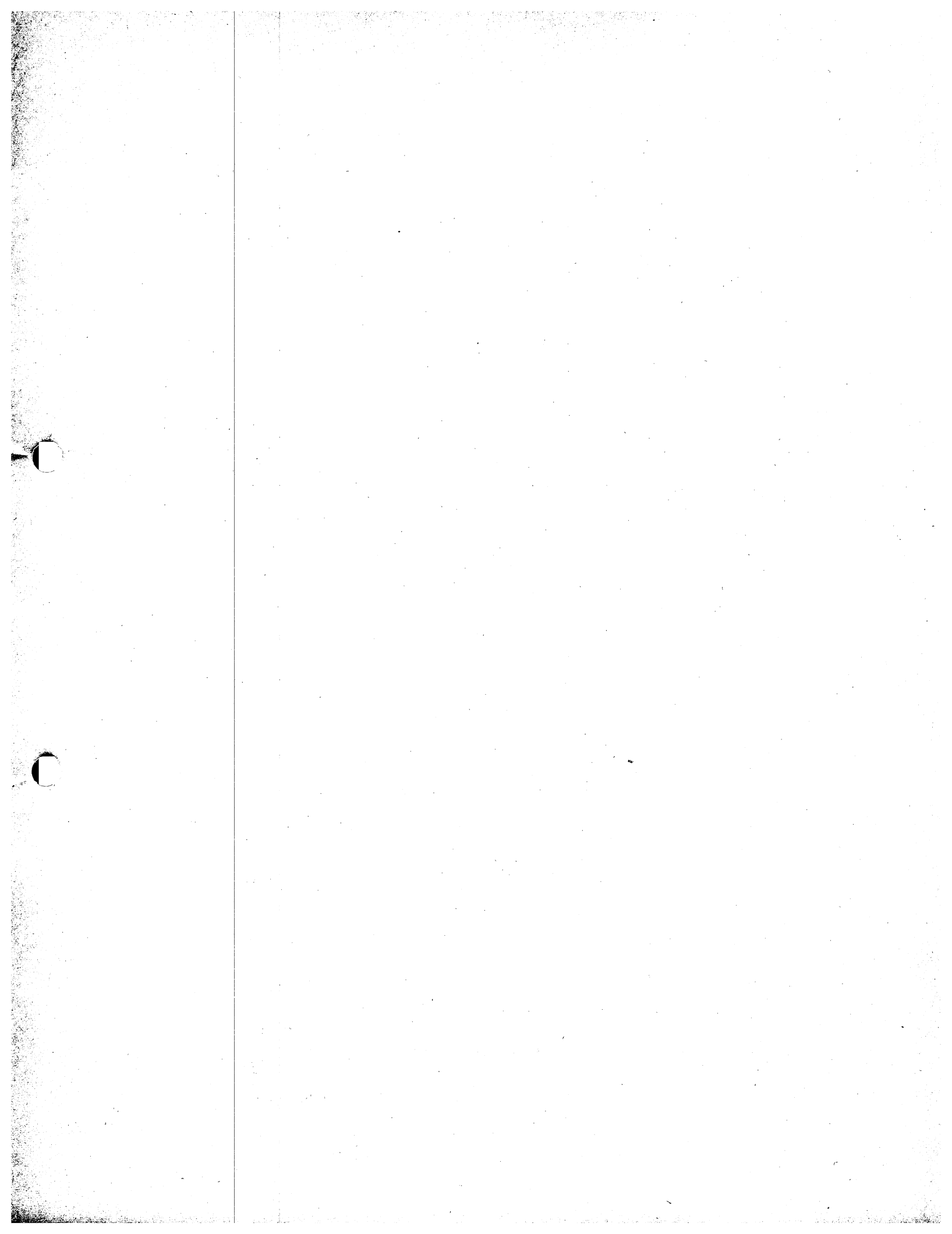
SENATOR SHERSHIN: Just a minute, you are talking in a language I do not understand. What do you mean by a vending distributor?

A. Well, there are distributors that are in the vending machine business. They do not sell cigarettes to retail stores. They operate vending machines in their locations throughout the state. They are what we call vending distributors.

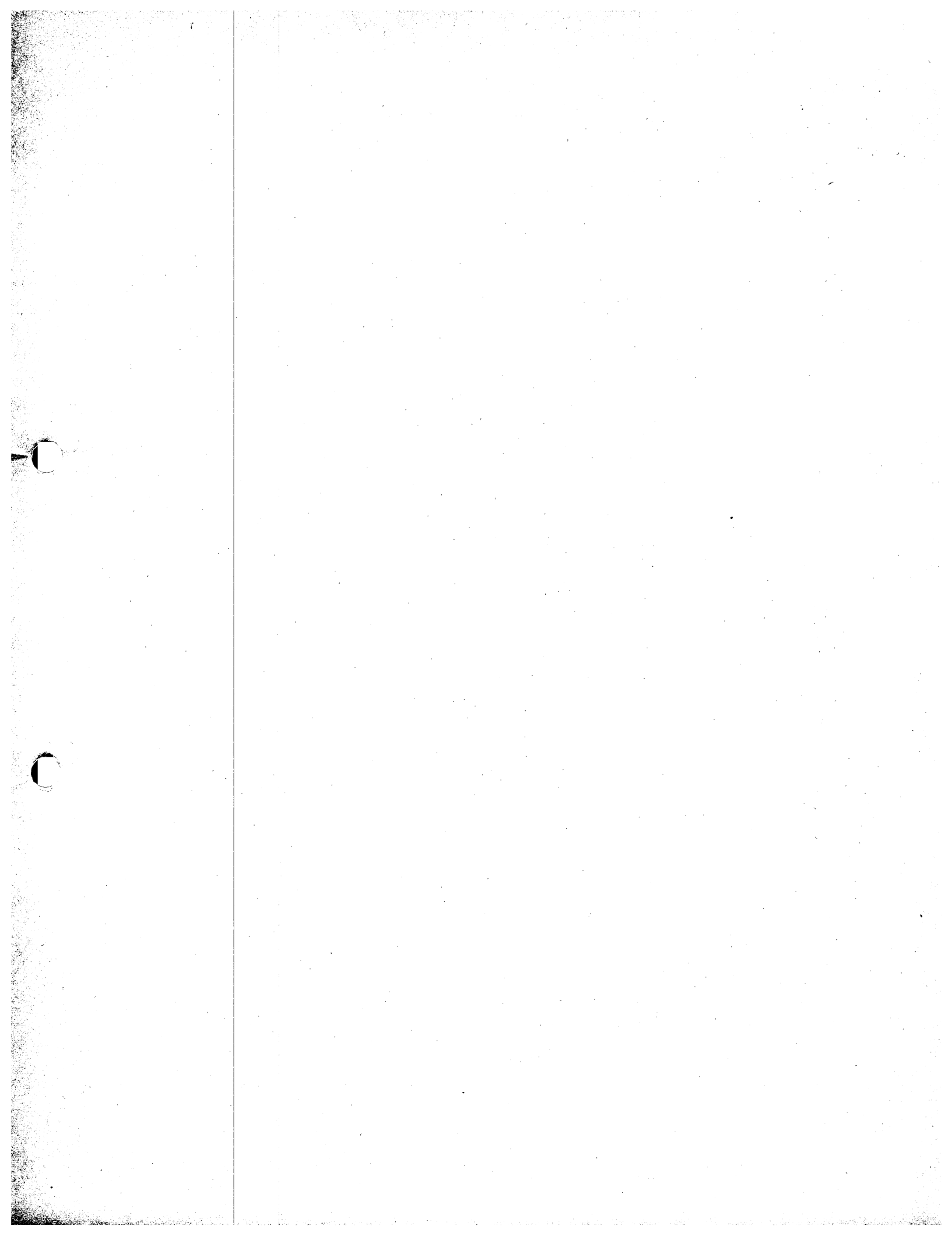
Q. Thank you.

A. As distributors, they buy directly from the manufacturer.

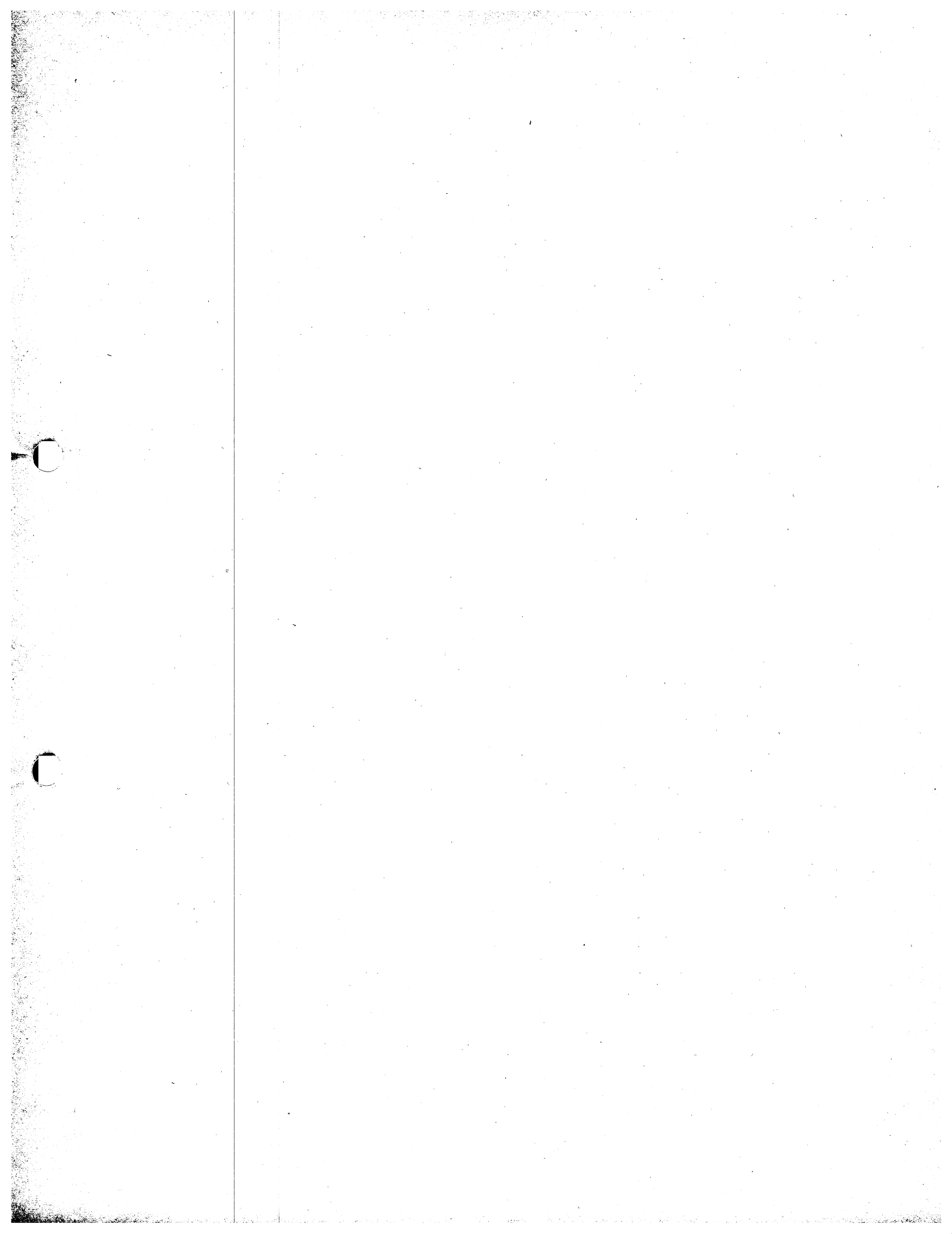
Then we have the large category of wholesalers that we, in the trade, call sub-jobbers. There are 220



licensed sub-jobbers in the State of New Jersey today. They are wholesalers, but they buy their cigarettes from the distributors and they do not do any stamping. The distributor must do the stamping and sell the wholesaler the stamped cigarettes. Now we are also going to spend a lot of time talking about cigarettes, the tax on the cigarettes at that time was 3 cents a pack. In fact, there are 10 packs of cigarettes in a carton and there are 50 cartons to a case and in the parlance of the trade, in the usage of the trade throughout the years, we have been accustomed to saying that the tax discount is 75 cents per case of cigarettes, 75 cents per 10 thousand cigarettes or 50 cartons like this. Whenever we talk about the allowance per case, we are talking about the allowance for stamping 50 cartons of cigarettes. Now, in 1948, before the inception of the Cigarette Tax Act, the cigarette distributor was a small businessman, a cigarette distributor is never a big businessman. They handle a lot of volume. The business is very big. There is a big turnover but they work at the smallest percentage of net profit of any business in the United States of America today. A year or two ago, we were second lowest but today we are the lowest. So we have a big turnover and we have a small profit and it was always necessary, in our business, to see to it that our labor produced for what we paid them. We were never in the position that we were able to afford a surplus of labor, so that the ordinary distributor of cigarettes in 1948, before



the inception of the tax, operated a little business, usually in a little store on a side street and he usually had a salesman who usually was the owner of the business and he had a truck driver that delivered orders and he usually had two warehousemen. The two warehousemen took care of receiving the merchandise, tying up the orders and of getting them prepared, getting them ready for the truck to go out. These two warehousemen invariably worked 8 hours a day. If they did not work 8 hours a day, he got rid of one and he did with one warehouseman because he could not afford to have any idle hands because his market was so small. Now along comes a tax and the distributor finds that his entire mode of operation is changed. Now instead of a little business with two people taking care of it inside, he finds that all cigarettes that come into his place must be processed and stamped. Now a distributor's business consists of about 50 percent of sales to retail stores and about 50 percent of sales to the sub-jobbers-the other wholesalers. Now before this tax, let me explain how we did business. Cigarettes would come in off the truck, they were loaded on a flat little flat car and they were wheeled into the place of business. They were set on the floor directly opposite a worktable on which these two people, who were the warehousemen, the shipping clerks, operated. The cartons, the case flaps were ripped open and right out of the original cases that came from the manufacturers, the cigarettes were pulled out and placed on the orders. Cigarettes that were sold to sub-jobbers to be sold in big lots were not handled at all because the sub-



jobber would come in and he would take the full case of cigarettes, he would take a case of Camels, a case of Luckies, a case of Chesterfields, take them out to his car or truck and ride away. So that the amount of labor that was necessary to handle cigarettes was very small.

Now we come along with a tax act which compels the distributor to place stamps, stamped impressions, on every pack of cigarettes and the distributor finds that we are now faced with a completely new operation. In the first place, he must make room, in an area completely separated from his packing department, for unstamped cigarettes because he now will have unstamped cigarettes and stamped cigarettes and God forbid they ever get them mixed up because then we are violating all the laws. So he had to make room and he had to make space in another part of the premises, which in most cases he had to build, for unstamped cigarettes and for a machine which would stamp cigarettes, and that machine is a big long machine which sets on a table.

SENATOR SHERSHIN: May I ask you this, Mr. Lewis?

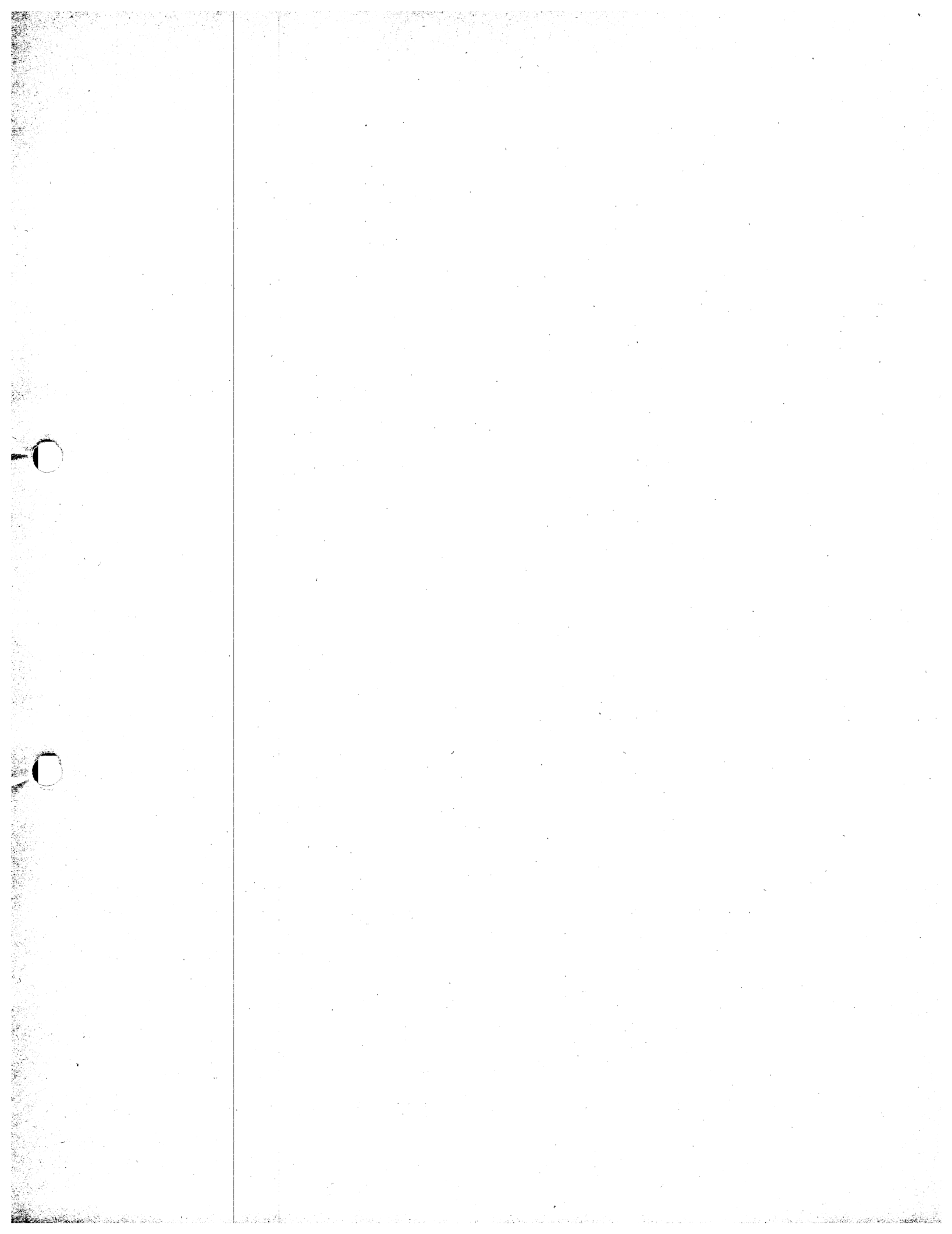
MR. LEWIS: Yes, sir.

SENATOR SHERSHIN: Do you know whether or not the survey conducted by Mr. Neeld took into consideration the capital expenditure that had to be incurred by a distributor to provide the space to store these cigarettes?

MR. LEWIS: Yes, it did.

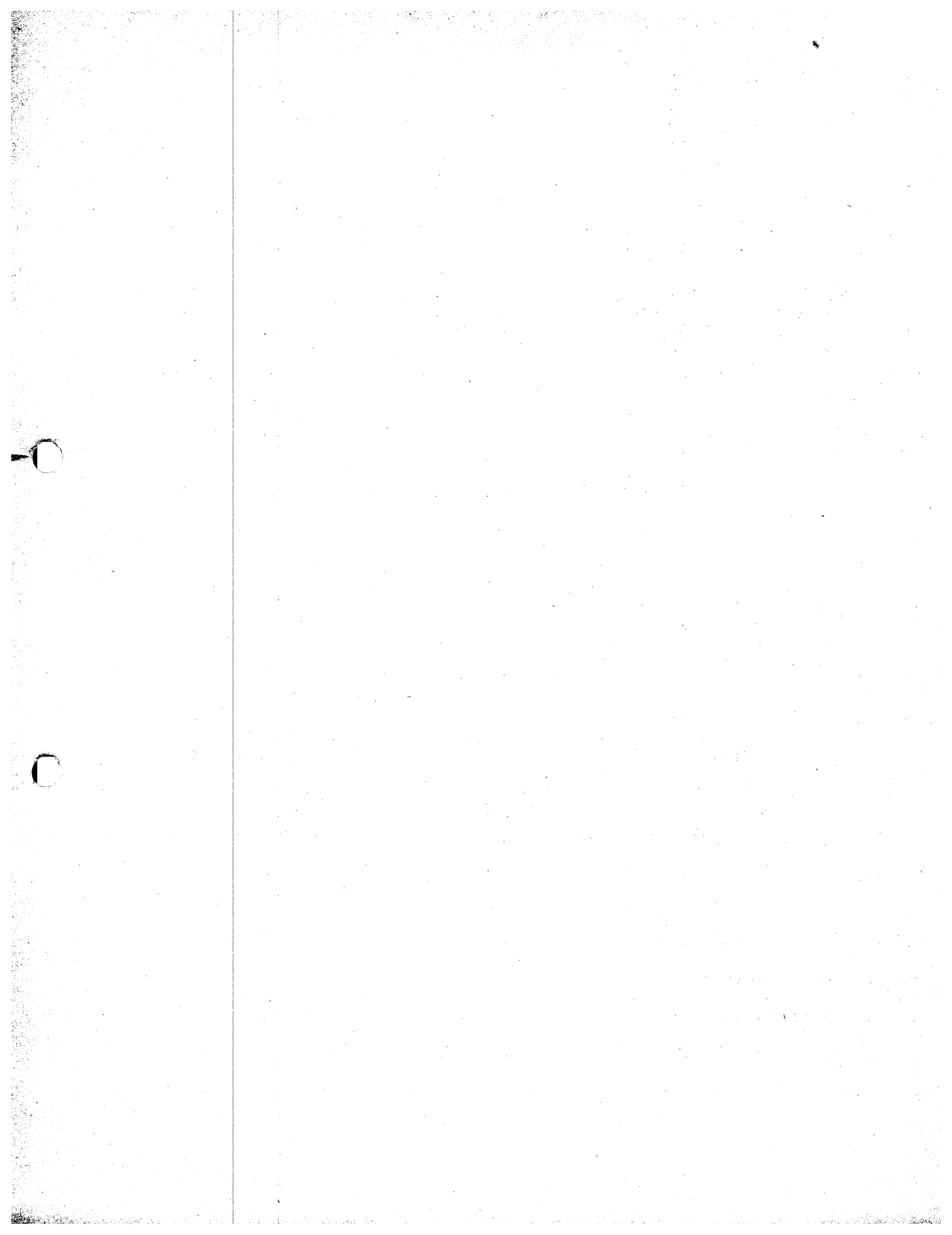
SENATOR SHERSHIN: It did?

MR. LEWIS: Yes.



MR. LEWIS: Now we have this machine and we have the separate quarters and we find that we have to then add a minimum of two people to operate a stamping machine because it is a machine whereby it takes a carton of cigarettes---- a carton is built this way. This is the way it opens. The stamp must be put on top--on here, so you cannot stamp the cigarettes in the actual form in which the carton is built. You cannot put the stamp on here because we have to get the stamp on each pack. So in order to stamp cigarettes, these cartons have to be pushed through a device which has a stationary knife. The stationary knife is set so that the carton goes through, the knife cuts the carton, cuts along, cuts here. Then the carton goes through another device that lifts over the flaps and then it goes into a metering machine and the metering machine places the impression on the cigarettes which have been exposed, because they cut this away, this is turned over and these are exposed to metering. Now this knife which cuts the top of the carton is set in such a way that it must exactly hit this little area, right here. If it is set a minute fraction of ^{an} /inch too high and this carton goes under ^{the} /knife, goes into the metering machine and the meter impressions will take place on here and then the distributor loses the money because when the ^{meter} /turns and clicks, it costs the distributor so much money for the carton of cigarettes,--the metering device.

SENATOR SHERSHIN: You are trying now to say that there is some experience in the adjustment of the knife that perhaps. . .



A. Yes, oh yes.

Q.--you do have a shrinkage for which you don't get paid from the state?

A. Well, not exactly that, but it is a question of labor time involved.

Q. Well, do you get paid for the impressions that are made on the cigarette carton itself but not on the cigarette package?

A. No.

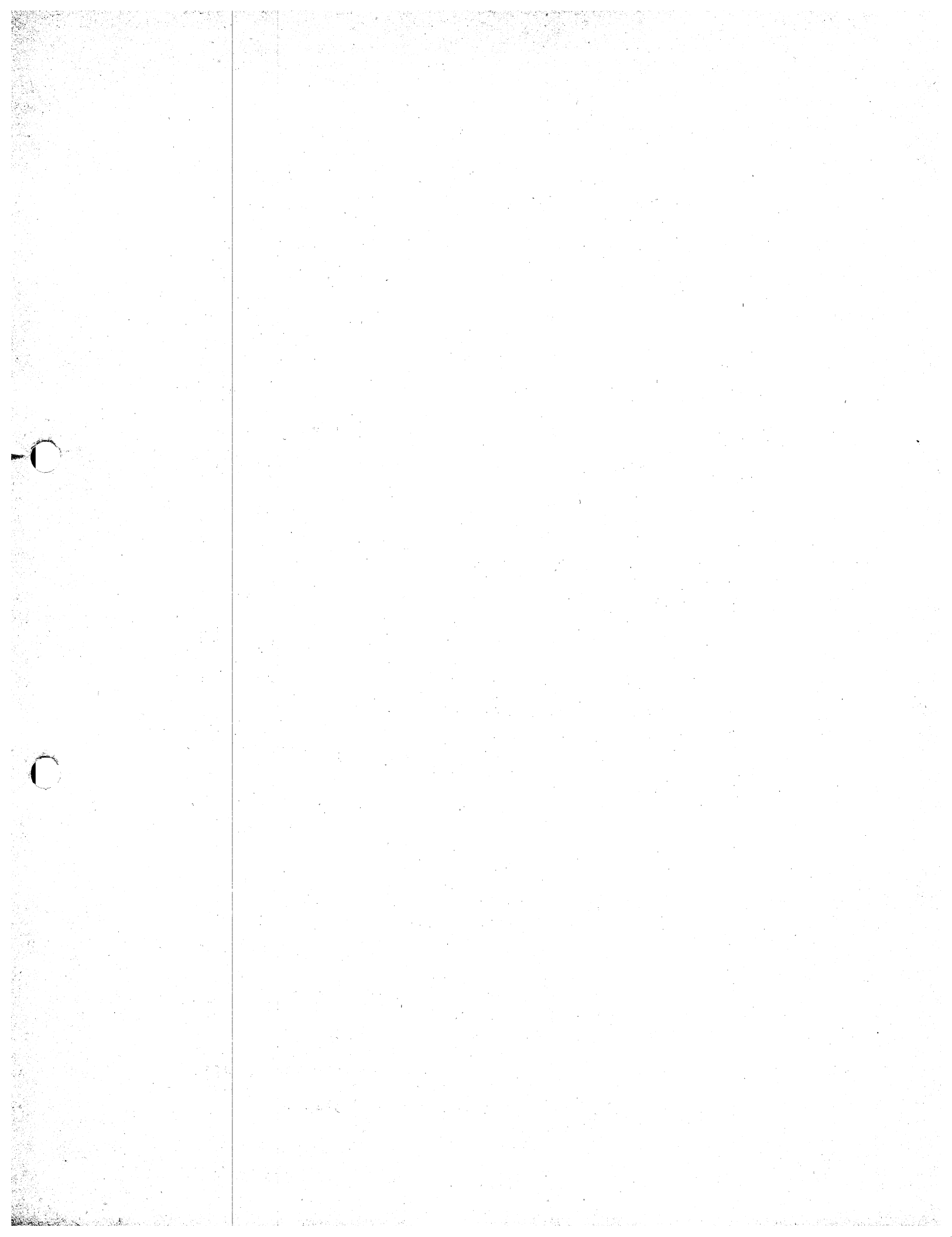
Q. You do not get paid for that? That is a loss?

A. We have accepted it as a loss. I think there are some mechanics whereby you can claim the flaps...

Q. What does it amount to?

A. But we are not contending that there is a loss in that operation. I am trying to show, Senator, that there is a certain amount of time consumed in properly setting the knife, so that we now subject ourselves to these losses. So that when we send these cartons through, that knife must be very minutely set so that the carton cuts properly. Now we have different sizes, different shapes, different types of carton and each time that another brand of cigarettes is sent through the machine, there is a great period of time wasted in setting the knife. There is also an ink roller and other settings that must be made that vary with the different sizes of the cartons. There are big cartons, small cartons, long cartons, high cartons and low cartons.

SENATOR SHERSHIN: Once set, you run all the same



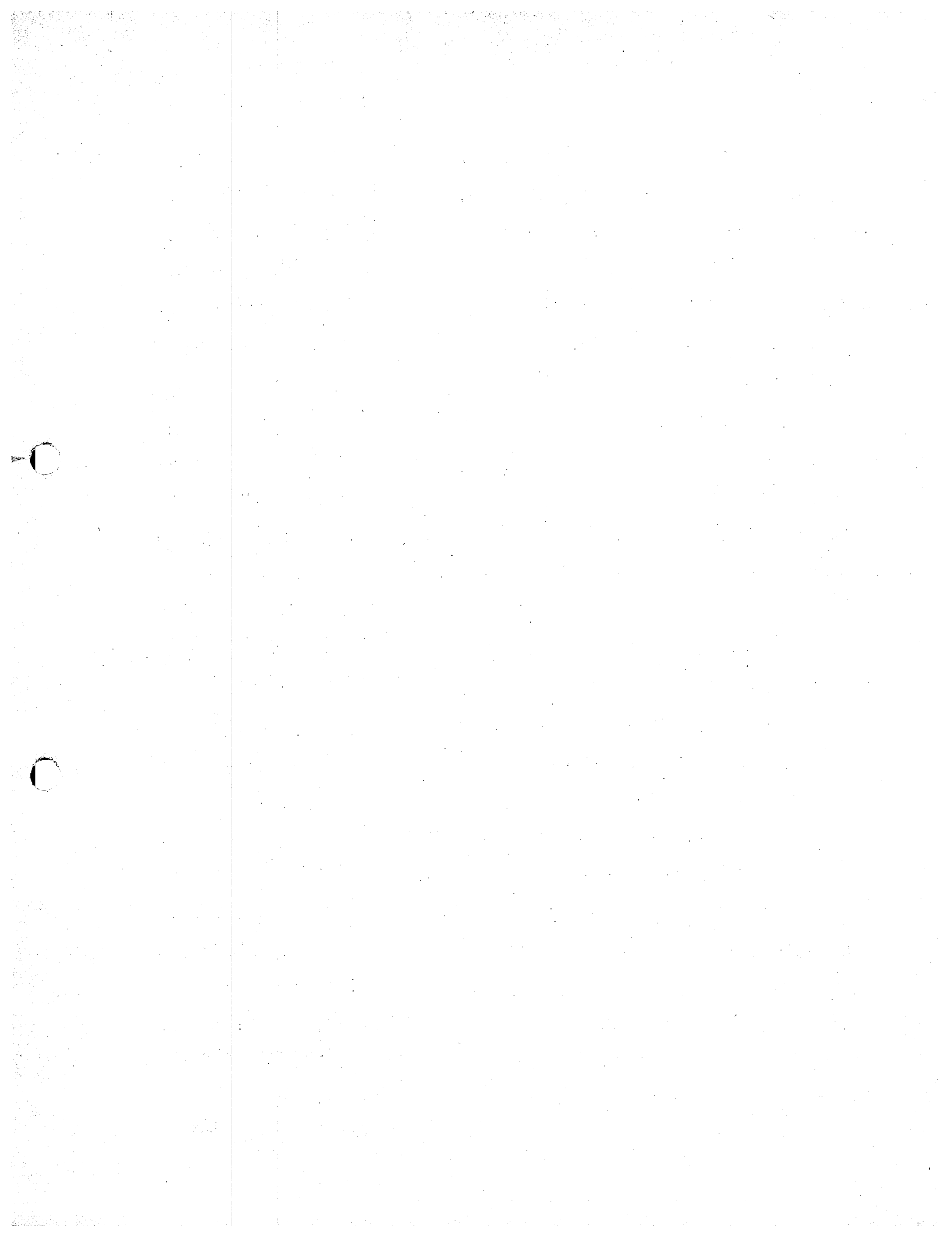
type cigarettes?

A. Not necessarily. These cartons vary in intensity. When a carton is shipped and it comes in and it's pressed down this way in the truck, it presses down a little bit and becomes a little narrower, a little wider here, a little narrower here. The next batch may be shipped this way and they are pressed down this way and they bulge out this way and we find that invariably in stamping cigarettes that every three or four cartons that are pushed through will, either not cut properly, will not cut at all or will squeeze up and smash and jam in the machine and it requires the labor, a man, to stand in the middle of that machine to catch the cartons after they come out of the cutter so that they do not go through the stamping device either unopened or either half opened or crushed in any manner or form so that they will not ^{be} properly stamped.

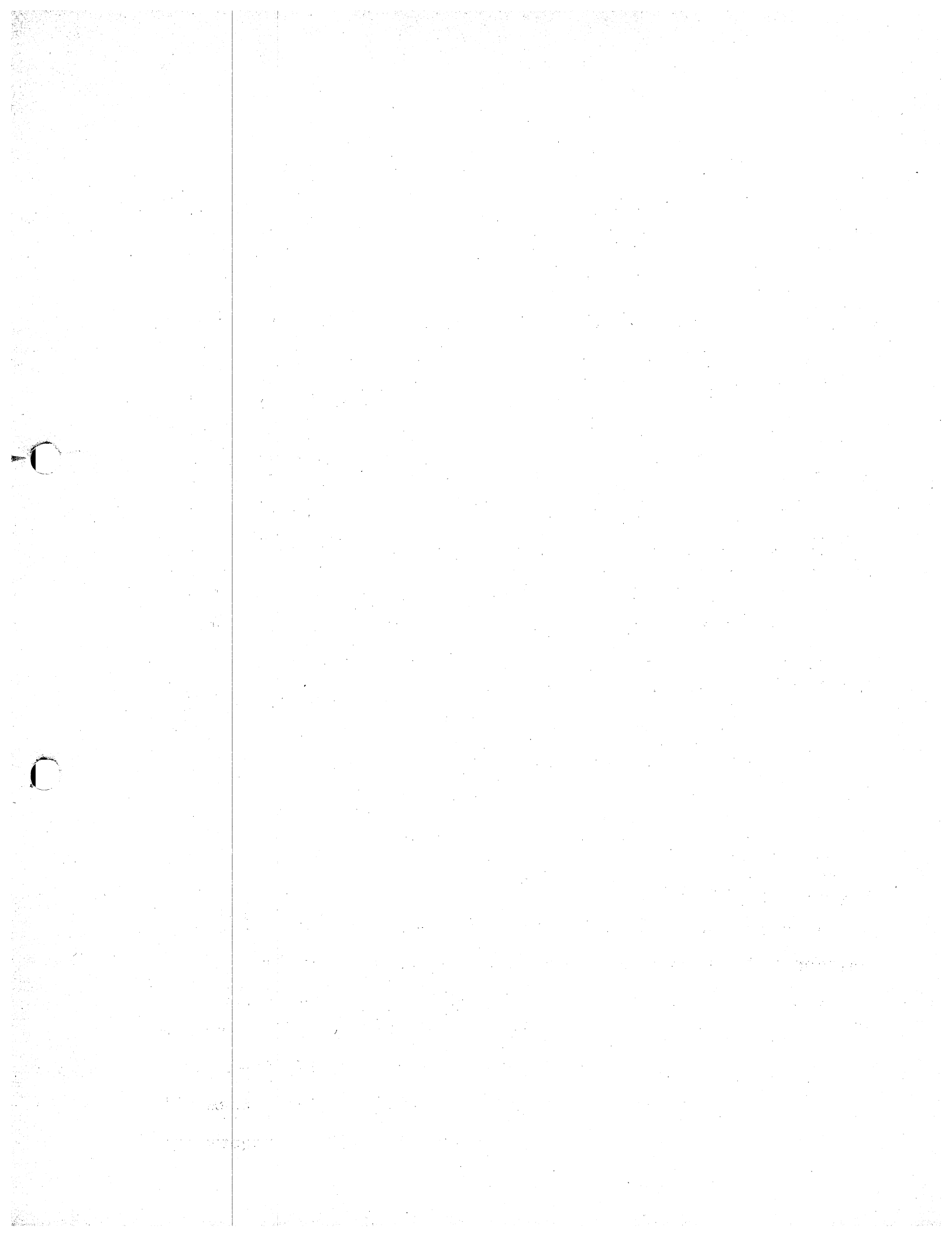
SENATOR SHERSHIN: Is it your contention that that part of the labor was not considered by Mr. Neeld's report?

A. It is my contention that all labor was not properly considered.

We found, therefore, that in a very small distributing firm, it was absolutely necessary to hire at least two people because one man had to push the cartons in one end of the machine and one had to catch them at the other end of the machine and where there was any substantial amount of stamping done in the course of the day in the category of the distributor who stamps 50 or 60 cases of cigarettes a day, it was absolutely necessary to have a man in the middle of



the machine to catch those cartons before they went through and were stamped erroneously, because if they waited for the fellow who fed, to stock his machine every minute, to run in and grab a carton and run it through wrong, it took so long that they never got through with their work. So we found there was a minimum of two, and, in most cases, three people required on this stamping machine. Now, these people had to be separate and apart from the original labor force in that distributor's house, because the original labor force was still tying up orders, making up orders, loading the truck, and doing the work that they did before. The operation now is that the cigarettes are brought into the stamping department, taken out of the case, lined up at the stamping machine, then stamped, then put back in the case again, the flaps have to be glued together, they are put back in the case again, and then they are brought to the original order-picking department. So, regardless of what type of an operation we have, we have to hire at least two or three additional people to do this stamping work. Now, an unfortunate situation arose: A distributor who does about 50 cases of cigarettes a day, and that's as much as he can do because that is all the business he has - and that, as I say, represents more than 90 per cent of the distributors in the State - found that these additional people, after working several hours on the machine, had nothing to do. They were finished with stamping and, as far as they were concerned, their day's work was finished. It would take them 5 or 6 or 6-1/2

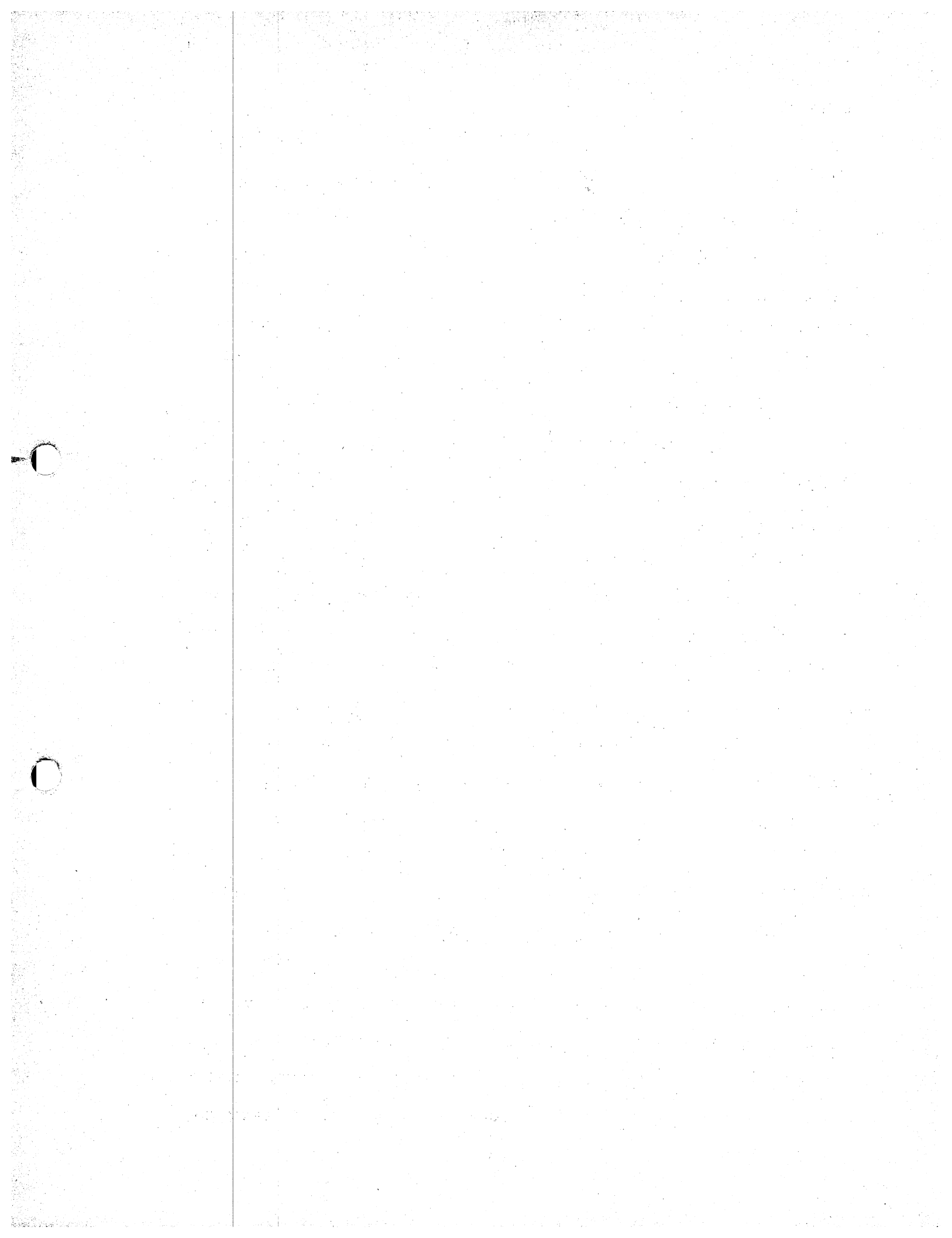


or however many hours it took, but they did not have 8 hours work a day. But unfortunately, we had to pay them for 8 hours a day and, of course, if you find people lingering around part of your premises with no work to do, you find something else for them to do. But they were not productive. We had a situation where we had 4 or 5 or 6 hours of productive work and 2 or 3 or 4 hours of non-productive work for which we had to pay labor 8 hours. It became evident that our problem was one that might be solved by part-time labor and we made an honest and sincere attempt and we are still making an honest and sincere attempt to retain part-time labor but we cannot do it.

SENATOR SHERSIN: Monroe, a question was asked by Mrs. Perfette, "Why did you have to pay for 8 hours when you only had 6 hours productive work?"

A. For this reason, Mrs. Perfette, we hire a man by the week. That man expects to get paid for 8 hours. Now if at the end of 6 hours, his productive work is finished and we tell him to go home and we are only going to pay him for 6 hours, he will not work there anymore. It's hard enough to get people to work 8 hours a day, today. They want all kinds of overtime or they won't work. But if you were to try to hire a man and pay him for 30 hours a week, he won't work. We cannot get people to work on a part-time basis. We must pay them for the full week.

SENATOR SHERSHIN: May I ask, what wage range do you pay for that type work?



A. At the present time, the average wage in this State on that type of work, is about \$1.50 to \$1.60 per hour on an average. We range from \$1.50 up to \$2.00 but I would say the average is about \$1.60. That is at the present time.

Q. What age group?

A. Any age group.

Q. Do you take them over 50?

A. We take them over 50 but we take them as young as we can get because it is hard work.

Q. Do you take them over 65?

A. I don't think we have any such people. The labor is too hard.

Q. I am talking about people that maybe retired on social security.

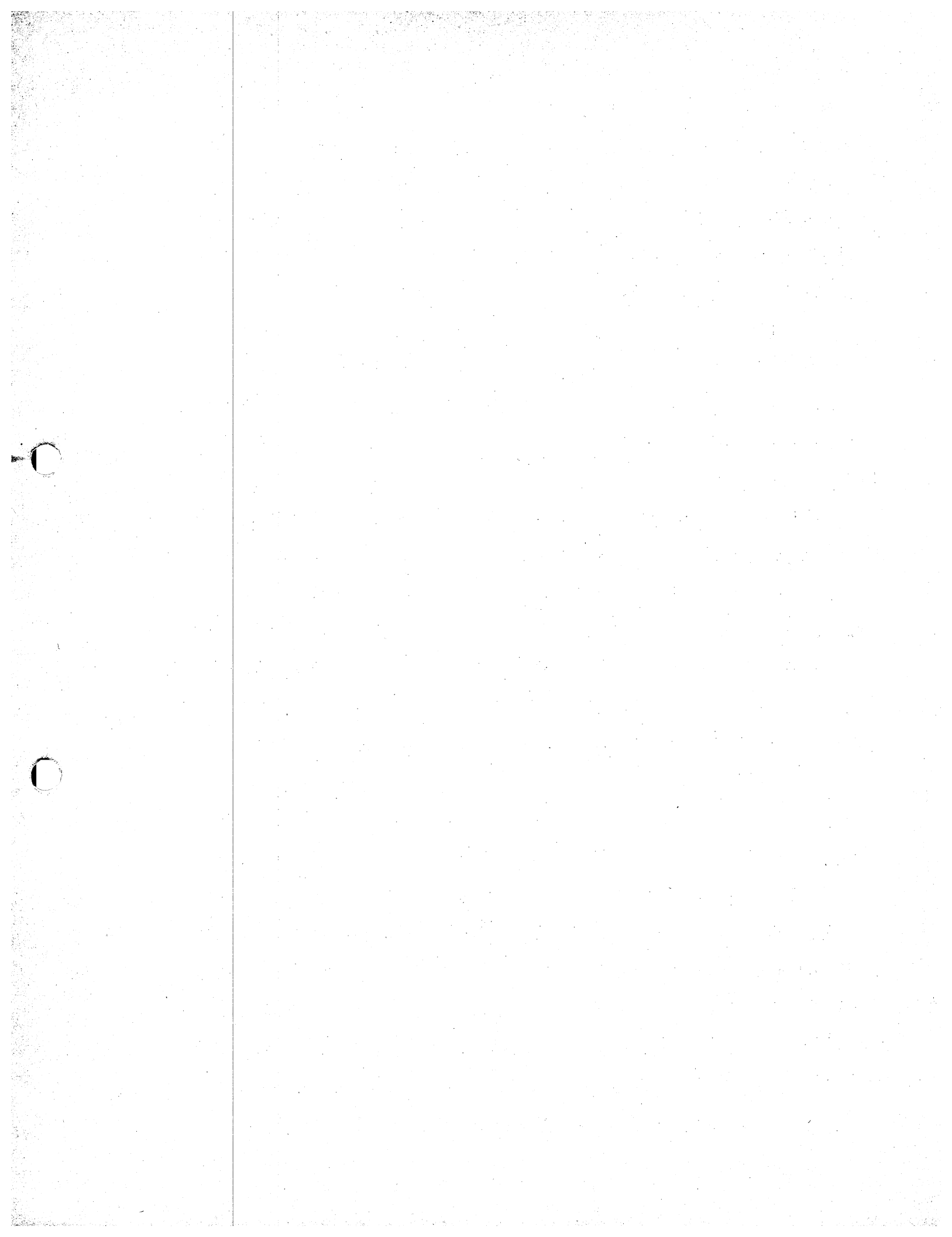
A. We tried, Senator. We tried everything we possibly can to get this type of part-time help. We tried after-school boys. It did not work. The boys would come in at 3:30 and they would want to go home at six.

Q. After-school boys could work in this type work?

A. These big high school boys.

Q. Labor laws permit that?

A. Yes, they are over the age, whatever the age is, 17 or 18, they have their working papers and that did not work out because they could not come in for a long enough period of time to do the stamping, it's a 5 or 6 hour job, and they were not steady. I mean, they were here today and gone tomorrow. We tried part-time women because there is a



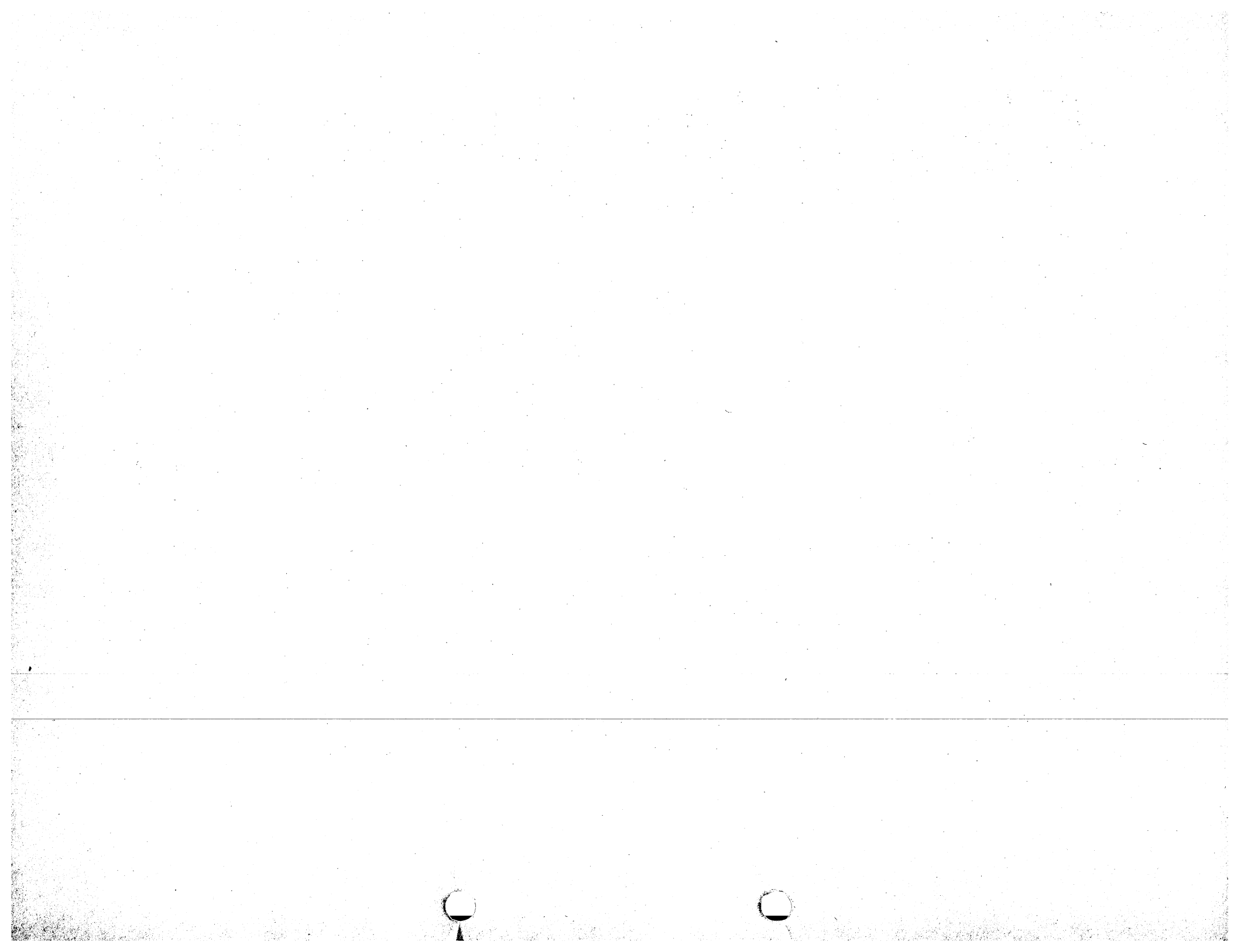
labor pool of part-time women but the work was too hard. This pushing of the cartons continually through this knife, which is a stationary knife, and the handling of the cases of cigarettes was too hard for women to do and only in very rare exceptions were we able to retain any women on this type of labor. Regardless of what we tried, it was impossible to retain part-time help effectively so we were put in the position where we had to retain full-time people on a part-time job.

That was the situation in 1948 and it became apparent right there in 1948 that despite the fact that this 5 percent rate had been set by reason of experience in other states, the average ordinary distributor who was stamping between 1 and 50 and 60 cases of cigarettes a day was losing money because of this loss of labor productivity.

Now what has happened from 1948 to 1956? I don't think I have to waste the time of the Commission and the people who are sitting here waiting for me to finish, to tell you people that between 1948 and 1956 that there has been a terrific upgrade in cost.

SENATOR SHERSHIN: You had better get it in the record because the record, you know, will not reveal. . .

A. In 1948 our average labor rate for this type of operation was 75 cents an hour. That was the minimum wage, labor was available and we were paying 75 cents an hour on an average at that time for this type of labor. Today we are paying about \$1.50 to \$1.60 and upwards and averaging, as I said, \$1.60 an hour for the same labor.



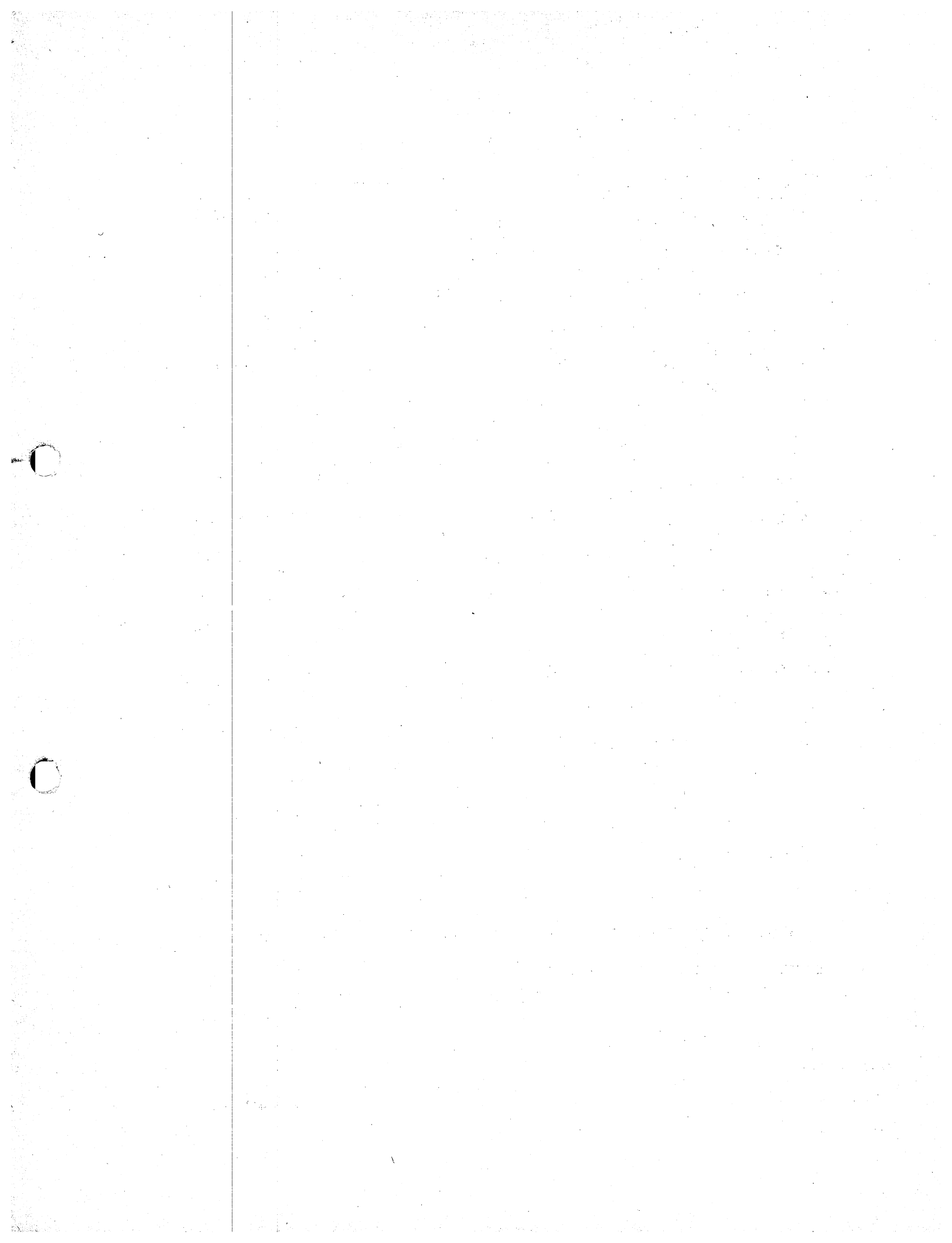
All other expense connected with this operation, raw material which is used, machinery, maintenance of machinery, insurance, etc. --

SENATOR SHERSHIN: But you are not going into that phase of it, as I understand it?

A. Have all gone up. I am showing an increase of cost from 1948 to 1956.

Q. You said we were not going to be concerned about anything else but labor costs, so let's not clutter the record with anything else.

A. Then, ^{if} we limit ourselves to the increase in labor, there has been, in our industry in the State of New Jersey, a 100 percent increase in cost of labor from 1948 to 1956. But I will say this, Senator Shershin, that it is important to go into the rising costs and all other aspects because, while we are not contesting the figures induced by the survey, we must show that between 1948 and 1956, there has been a rise, a continuous rise in the cost of every aspect of processing or manufacturing. This process is in the category of a processing or manufacturing product because we use labor, raw materials, we have lights, rent, insurance and we have bookkeeping and everything else involved. But between 1948 and 1956, there is this tremendous rise and we do have an expert witness who will testify subsequently about the conditions in the country and the 75 cents, if it was sufficient in 1948 to cover the cost of this operation, is certainly not sufficient



in 1956, I mean, that's axiomatic. I don't think we even have to look at the figures. Nobody can say, in true conscience, that an operation that would cost 75 cents in 1948, costs 75 cents in 1956.

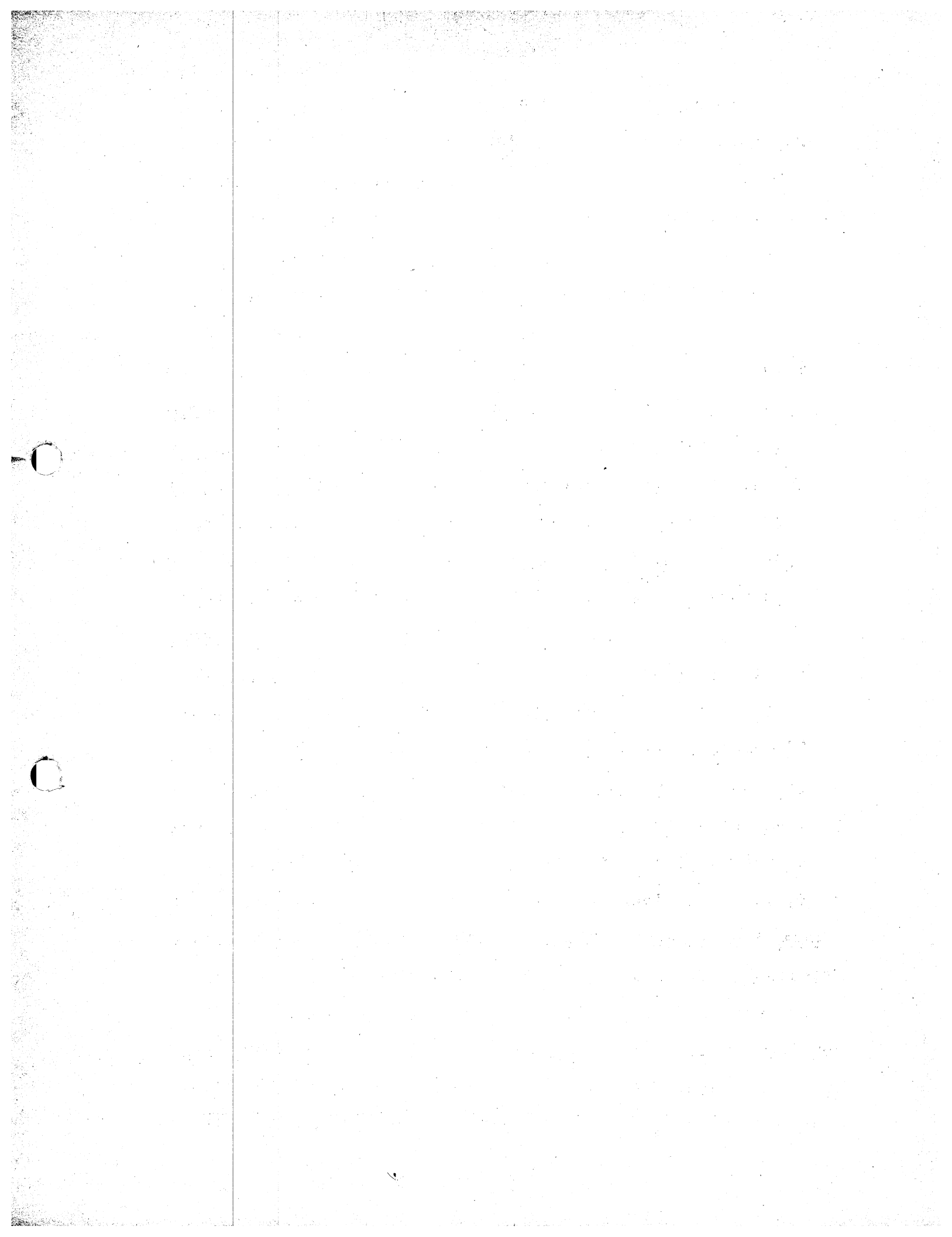
SENATOR SHERSHIN: Question; will you admit that the volume of the sale of cigarettes from 1948 to 1956 has risen?

A. The volume of the sale of cigarettes between 1948 and 1956 has risen. No question about it.

Q. What percentage?

A. Well, the volume rose ^{on} an average of about 2 percent a year until we hit, what we call the cancer scare in the years of 1953 and 1954, at which time volume dipped about 8 percent, I would say, or even more. So now we are starting to regain some of the volume that was lost because of the cancer scare and then the state adopted a 5 cent tax, so now we dipped again. Actually our volume has only risen between 1948 and at the present moment, at the most, 8 percent. Our labor costs, our other costs have risen 50 or 60 or 70 percent in the nine year interim period. Never at any time did the rise in volume keep up with the rise in cost.

One other factor is involved that raised costs between 1948 and 1956. This, I again submit, is very important. In 1948, 95 percent of the volume of cigarettes sold was concentrated in six brands. There were Camels, Chesterfields, Lucky Strikes, Old Golds, Phillip Morris and Pall Malls. Five of those six brands were of one size,



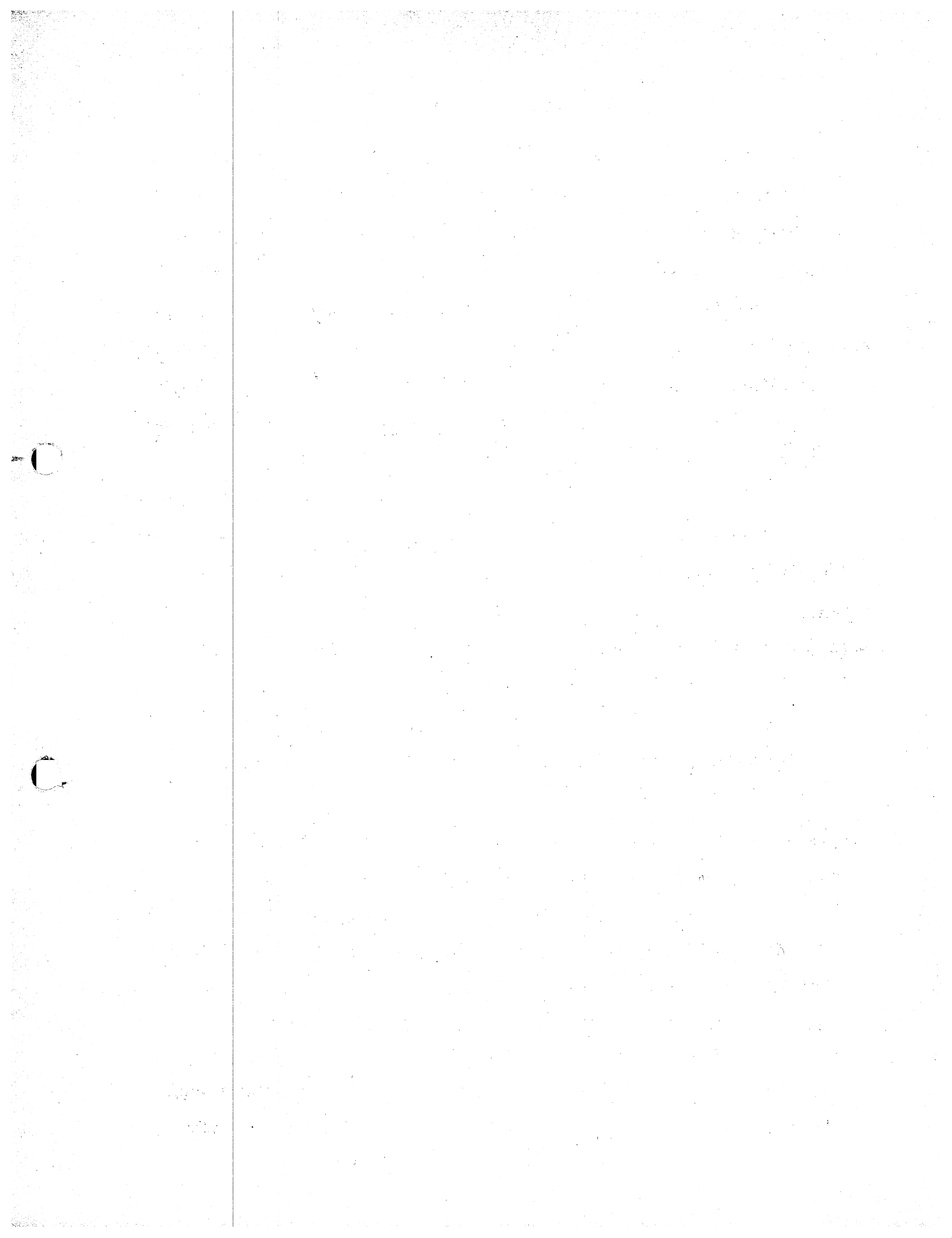
regular size cigarettes and the Pall Mall is the king size, the larger package. The other five brands were all the same size as this, the Camels. Then we ran into a situation when there was a cancer scare, and the cigarette companies, in defense of losing business, went into filter tip cigarettes and king size cigarettes and, to activate the market, they started to put out different sizes of boxes, different types of packages, of hard boxes and soft boxes, long boxes and short boxes, fat boxes and thin boxes. Until today, we have 85 brands of cigarettes being sold in the State of New Jersey as against a total of 35 brands in 1948. We have, today, Camels, two sizes of Chesterfields, two sizes of Kools, Lucky Strikés, three sizes of Old Golds, two sizes of Phillip Morris, one of which is a hard box, we have Cavaliers, two sizes of Fatimas, two sizes of Tareyton's, two sizes of Kents, three sizes of L & M. These are all new. We have Marlboros, Spuds, Viceroy's, Winston's, all different types of boxes; we have Hit Parades, Salems; we have Parliaments in a hard box, we have Benson & Hedges, Regents, DuMaurier, and Encores in hard boxes which require hand stamping, one pack at a time. What does that mean to us, in labor? It is very important.

SENATOR SHERSHIN: Let me ask you this:

MR. LEWIS: Yes, sir.

SENATOR SHERSHIN: Don't the chain stores handle the same variety of cigarettes?

MR. LEWIS: Oh, yes, and they have the same problems of stamping as we have, because they are all direct distributors.



The problem arises with these different types of boxes.

SENATOR SHERSHIN: Do the chain stores have all these brands that you mentioned?

MR. LEWIS: I don't think that the chain stores, Senator, go in for all the brands. They more or less concentrate on some of the biggest sellers. They do have a big variety as compared with 1948. They do have a big variety.

SENATOR SHERSHIN: Would you say that the variety they handle is less of a variety than the small distributor handles?

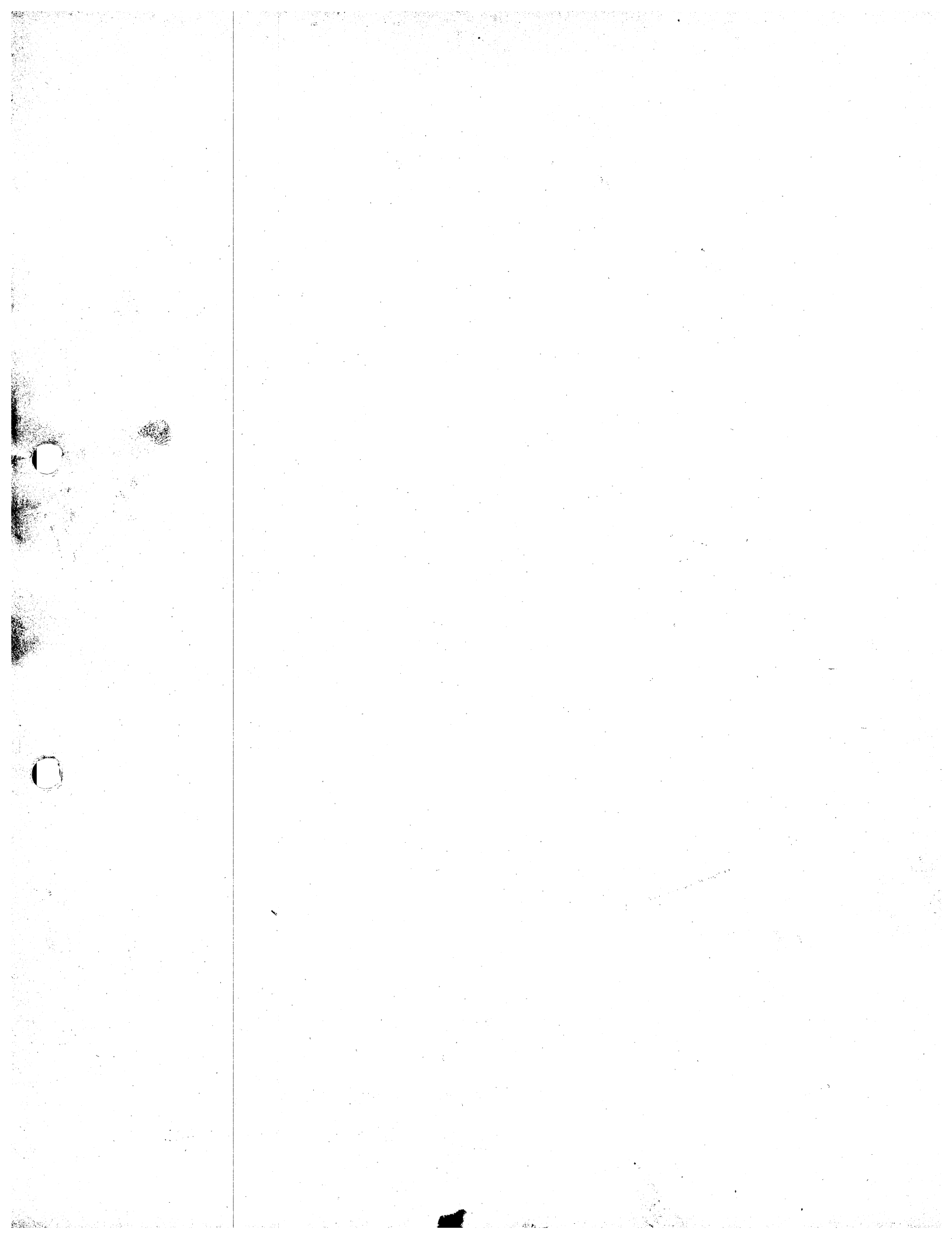
MR. LEWIS: Yes.

SENATOR SHERSHIN: Proportionately, what percentage?

MR. LEWIS: I wouldn't say offhand. The chain stores concentrate on the big sellers.

SENATOR SHERSHIN: I am trying to develop my thinking along the line of what you said about costs. If you have 85 different brands, and if you have to set your knives 85 different times, as compared to production lines with 6 or 8 lines, I can see that you can develop the question of costs.

MR. LEWIS: That is what I am developing at the moment. At the present time, and the situation has developed since 1948, all these different brands, sizes, different types of packaging, and they are all there; every one is a different size, different package, different width, different intensity of the cardboard; every one is manufactured differently and every time we have to change from one to another on the machine, there is a complete change-over in the setting of the knife and the setting of the ink roller, and everything else, so



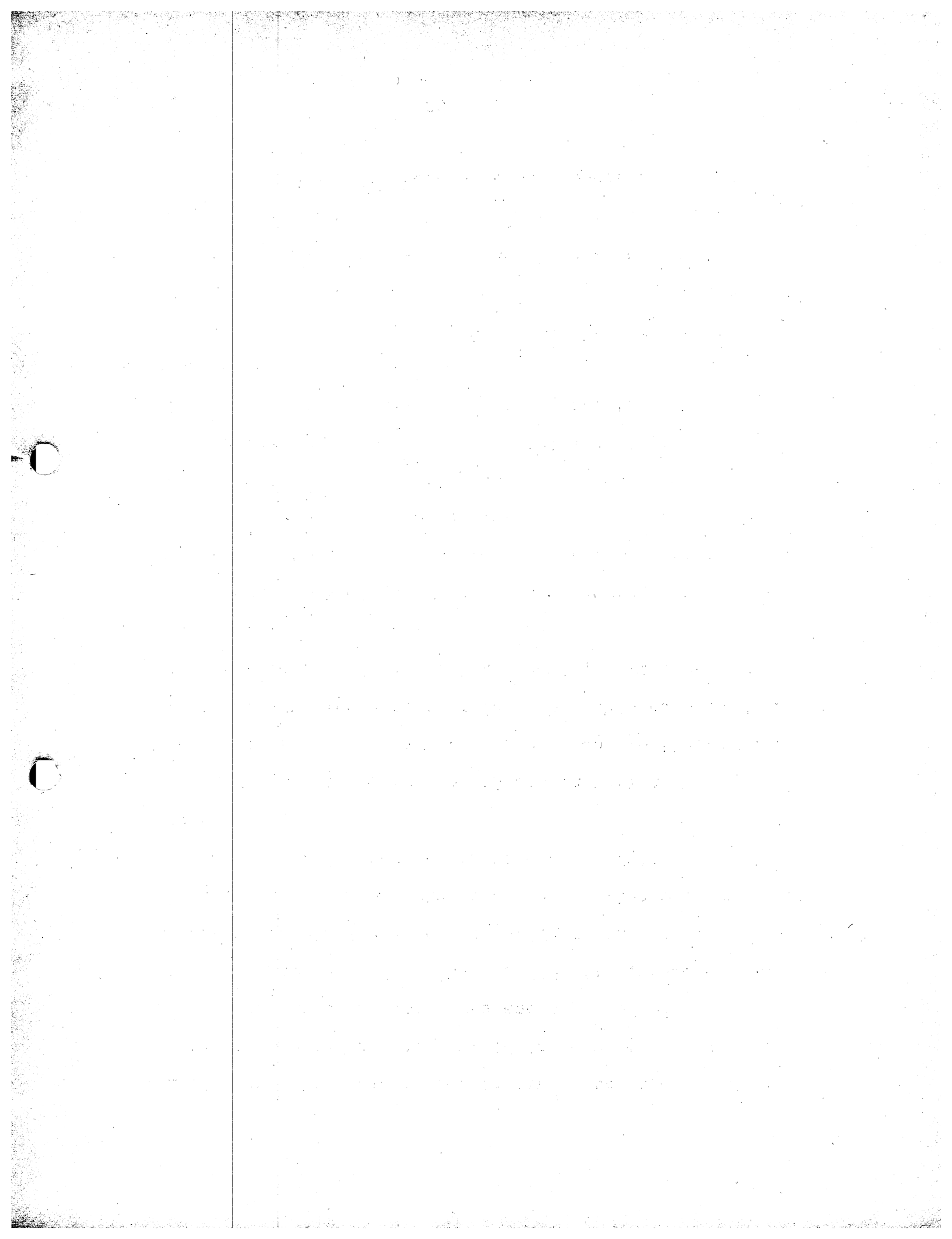
that today labor costs more; it takes more time to produce a case of cigarettes than it did in 1948, on an average, because of the different sizes and types of boxes.

Some of these boxes have a wide flap, some of them have a narrow flap inside, and some of them don't have any flap inside. Each time you change a brand in the machine, you have to adjust the machine to take care of that particular brand.

I know that to try to explain the operation of the machine is a little difficult, and I went to the trouble of having a moving picture made of how this machine operates. It is set up and if you want to see it, I will be very happy to show it to you.

SENATOR SHERSHIN: I am just wondering, Mr. Lewis, whether, in the interest of conserving time - it is after eleven o'clock now-- Suppose we reserve the motion picture until the end of the hearing and, if we do have time, we will be very happy to see it. I think that you have some important witnesses from throughout the State. Suppose we proceed with the witnesses.

MR. LEWIS: I would like to mention here that, outside of the actual operation of stamping these cigarettes, there is also required of the distributor an expensive book-keeping operation. Besides the manual labor of stamping, we now have an expensive record-keeping operation which has



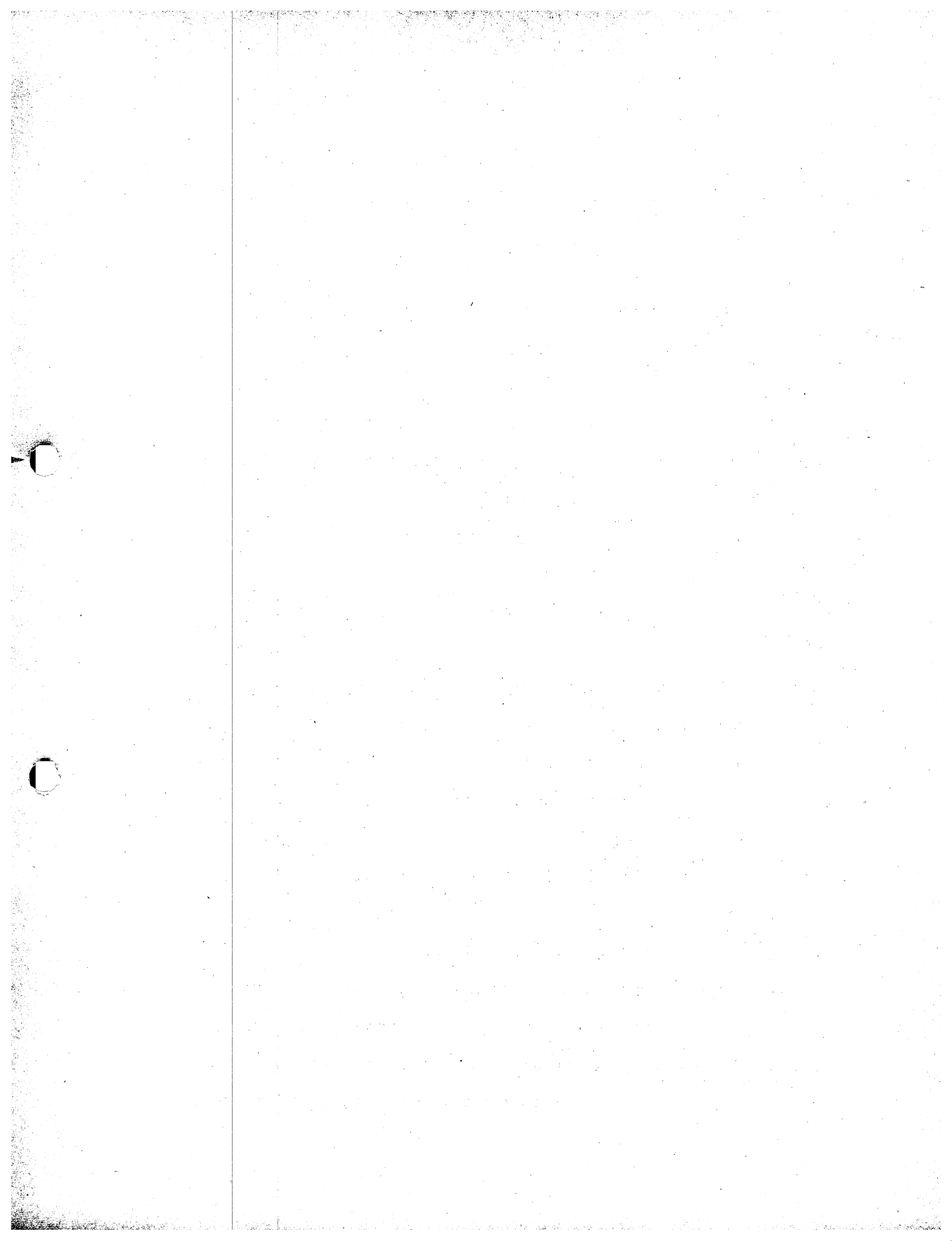
necessitated the employment of bookkeeping help. There are extensive reports that have to be filed every month and as a matter of fact, in the motion picture we were to show the lists of all of the different reports as they line up. We have to keep, today, extensive records of the sale and disposition of every cigarette that passes through our warehouse. We have here, one of the regulations CT7 of the Cigarette Tax Bureau. This is only one of a volume of regulations telling us how we run our business today and this regulation tells the New Jersey resident distributors what records to keep and what records must be produced for the State. In the first place, they want a monthly inventory. . .

Q. Did they want that in 1948?

A. Yes. I am trying to show part of our labor costs in bookkeeping. They want a monthly inventory taken at the beginning of business on the first day of each month, showing all cigarettes not bearing the New Jersey cigarette stamp and all cigarettes showing the New Jersey cigarette stamp.

No. 2. They want invoices of bills of lading covering all purchases of cigarettes whether stamped or unstamped.

No. 3. A receiving record currently posted of all cigarettes received indicating invoice number, date, quantity, brand and by whom received.



No. 4. Invoices, bills of lading and other records covering all sales of stamped and unstamped cigarettes.

No. 5. All other pertinent papers and documents relating to the purchase, sale, storing and disposition of cigarettes.

No. 6. A daily inventory of all New Jersey Cigarette Revenue Stamps and meter impressions.

No. 7. Invoices covering all purchases of New Jersey Cigarette Tax Stamps and meter purchases.

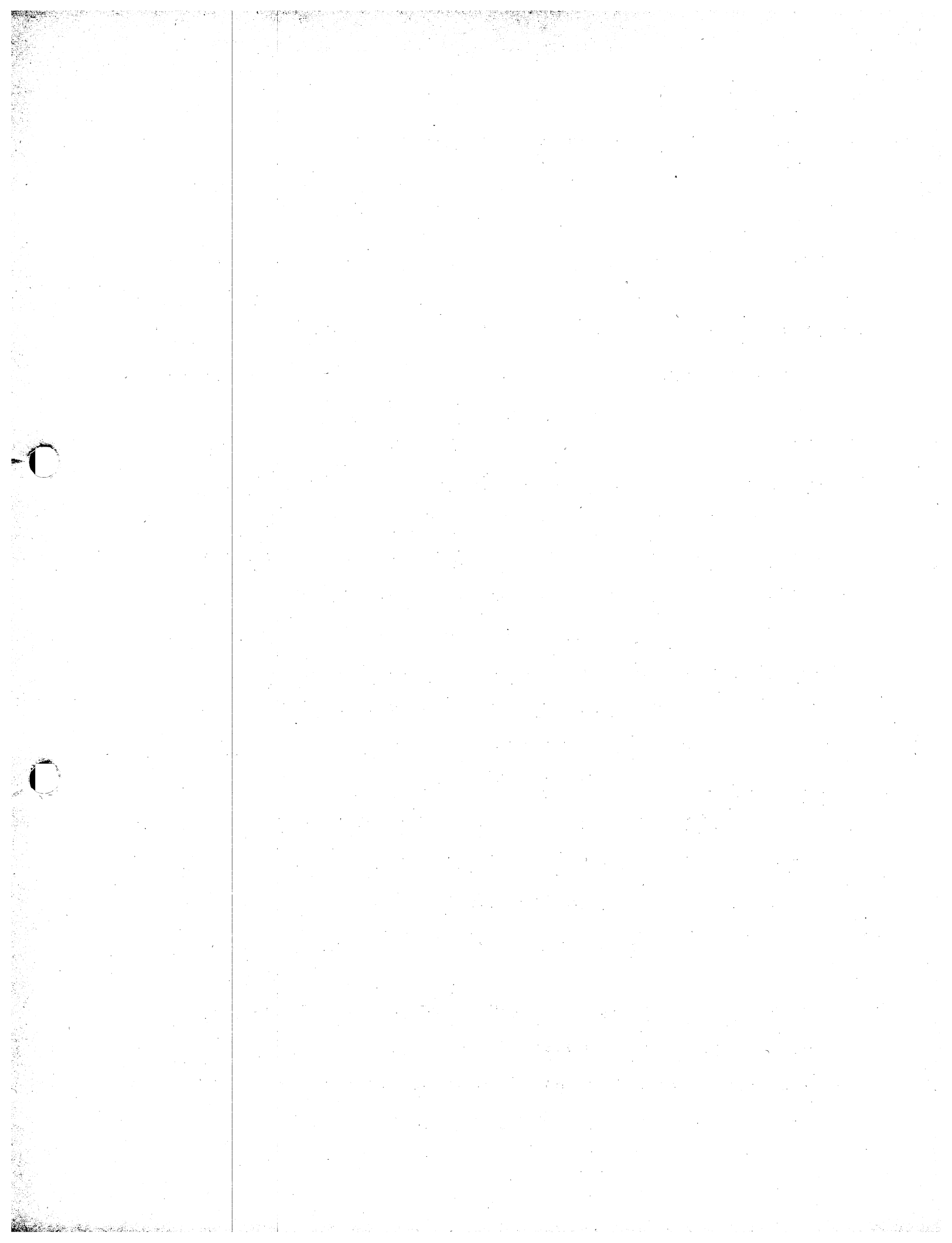
No. 8. A daily record of stamps or meterings affixed to cigarettes and each sale of cigarettes at wholesale including cash or credit transactions regardless of whether the sale was made to another distributor, wholesale dealer, retail dealer or transfer to a so-called outfit or agency must be accompanied by a completed invoice indicating, among other things, the person to whom the cigarettes were sold, the address of the place of business, date of sale, the quantity sold, brand names and the price charged. I must say that these records must be kept and are open for inspection for a period of three years.

SENATOR SHERSHIN: Mr. Lewis, do you know whether or not Mr. Neeld took into consideration the technical office help cost that was necessary?

A. Yes sir, it was all taken into consideration.

Q. Are there any records that are required today that were not required in 1948?

A. There have been some additional inventory



control records but they are not substantial. Of course, when I say, Senator, that all of this labor was taken into consideration in the survey by Mr. Neeld, I say that it was taken into consideration but not accurately allowed and not properly allowed.

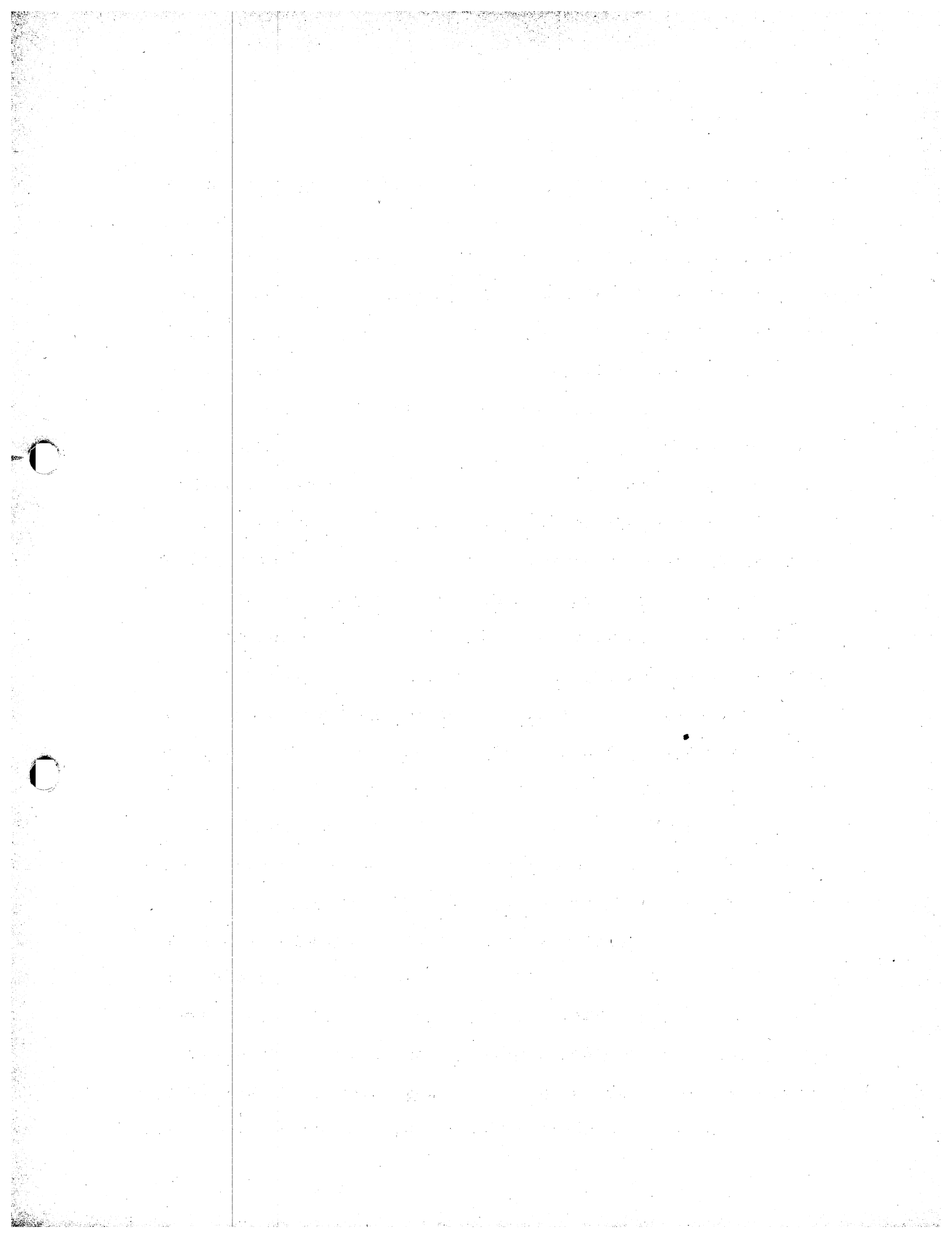
SENATOR SHERSHIN: We understand that.

MR. LEWIS: So it became apparent because of this influx in help and the waste of help and the operating expenses allowed, way back then, that we were losing money.

SENATOR SHERSHIN: May I, for the record, note the presence of Senator John A. Lynch of Middlesex, a Member of this Commission. Glad to have you with us, Senator.

MR. LEWIS: Senator Lynch, I am Monroe Lewis testifying for the Tobacco Distributors Association of New Jersey.

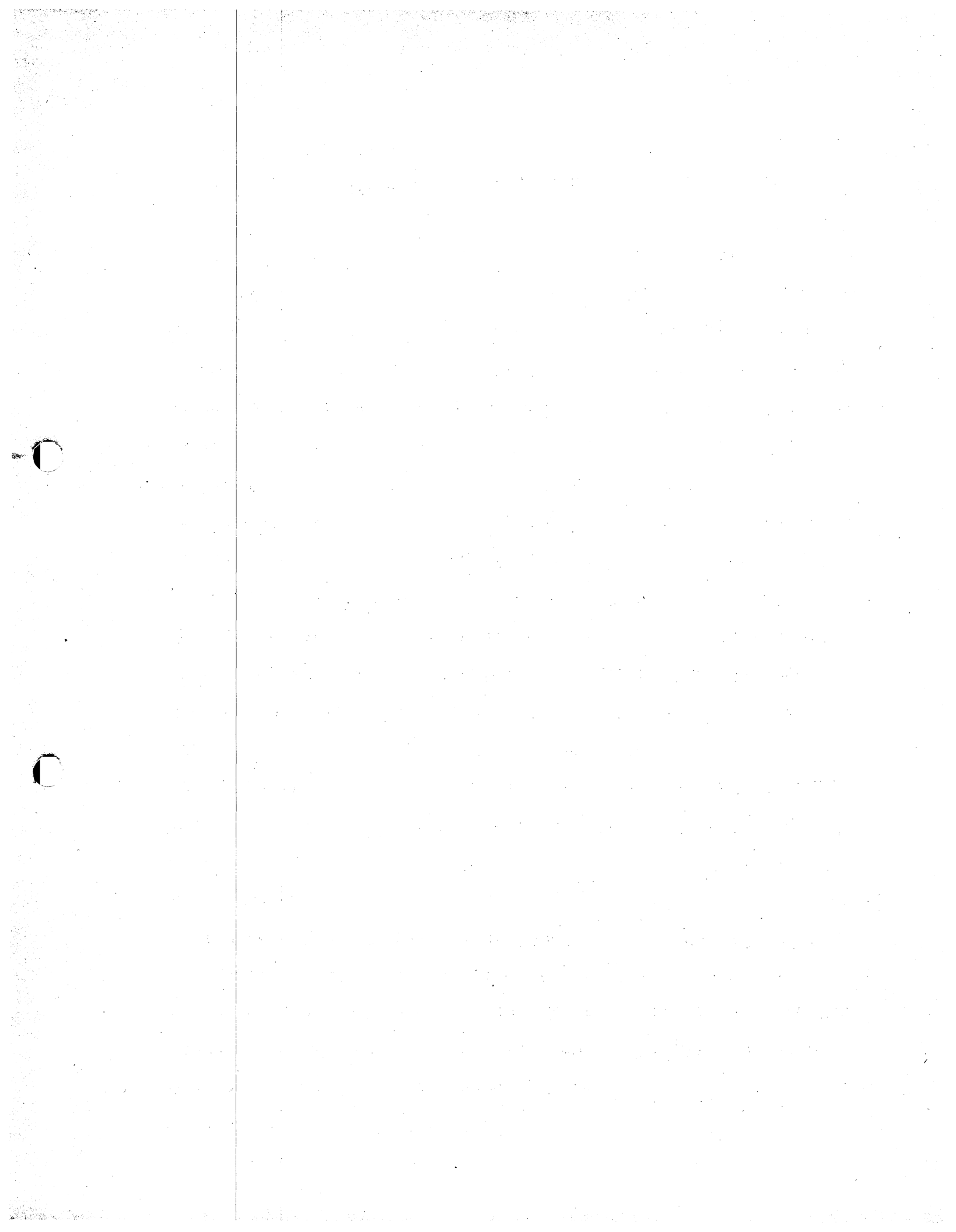
We were in a position at that time - that is in the years 1950, '51, '52, '53, when we were starting to realize as an industry that this operation was an expensive one to us -- I mean, those things do not evolve over night. This was something new and it took a few years to jell and for our people to make investigations, and it became apparent that the 5 percent that was allowed on the 3 cent tax was not covering the costs, especially since the labor costs and everything else were going higher. But there was a pattern throughout the United States at the time, and there still is this pattern throughout the country for the different states that tax cigarettes, to recognize the increase



in distributors' costs by increasing their discounts at a time when cigarette taxes are increased and there has been a constant increase in cigarette taxes throughout the years throughout the country in different states. As a matter of fact, we have an expert who will testify, I think, that in twenty-four States that have cigarette taxes - - - --

SENATOR SHERSHIN: Suppose you let him testify. The expert has that information.

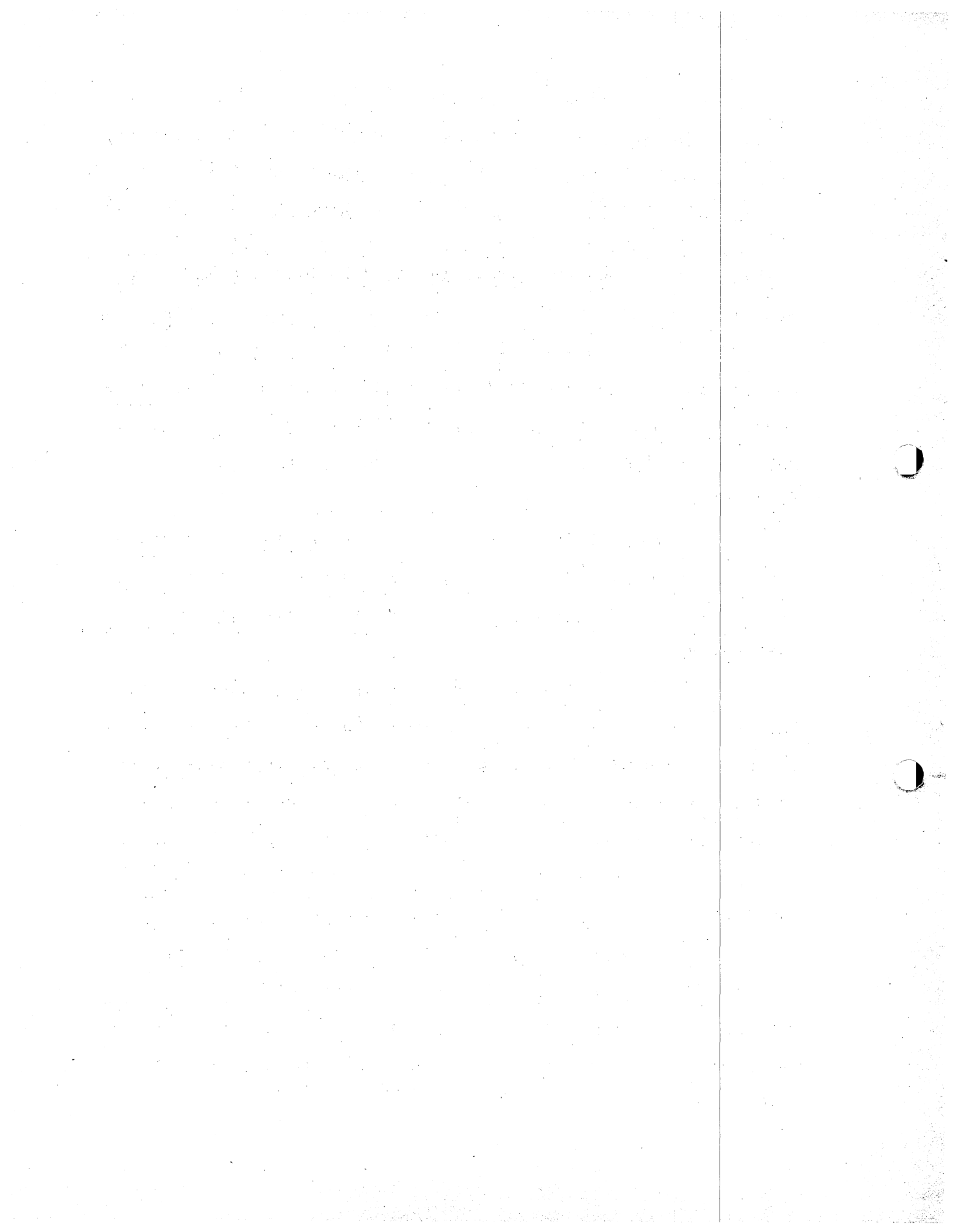
MR. LEWIS: The pattern was for the States to allow the distributors a higher rate of discount when the rate of tax was increased. Thereby, the distributor received a higher monetary discount which made up for the higher costs that were incurred. So we did nothing in this State. We never officially requested a higher discount because, starting in 1952 and right through to 1956, there were bills in the Legislature every year seeking to raise the cigarette tax above the three cent level. In 1953 there was an increase in cigarette tax bills; in 1954 there were two bills in both Houses that were tied up in school aid, and which reached the position of almost passing and they failed on the last day; in 1955 there was talk of bills increasing the cigarette tax; and in 1956, of course, the proposition of increasing cigarette tax for school construction was brought up and at no time during those years, when all of these different bills were introduced in the Legislature, was there any intimation or anything in any of these bills showing that the cigarette tax discount was to be reduced. At all times, the cigarette



tax discount of five percent remained constant with the increased amount of tax. So we anticipated, and only naturally because that was happening throughout the country, that the raise in our costs would be taken care of when the cigarette tax was raised and we would be paid the same rate of discount. An increase was discussed many times with the members of the tax department. It was not secret and it was nothing new. In 1956, there came this big drive to raise cigarette taxes because of school construction. There were bills introduced and there were discussions between Legislative leaders and the Governor, and everything else, and the only contention in 1956 was whether to raise taxes two cents or one cent. One or two counties were opposed and, God bless them, Essex County and Passaic County were opposed to any raise in cigarette tax and I doff my hat to Mr. Haines who was also opposed.

But the fact still remains that the only bill that was introduced in the Legislature in 1956 was Assembly Bill #403 which called for an increase in the cigarette tax of two cents. There was nothing said in Assembly Bill 403 about reducing the distributor discounts. We, naturally, anticipated that, whatever tax raise would be accepted by the State, the discount then would remain the same five percent.

And, lo and behold, on March 26, 1956, after kicking this question of cigarette taxes around from early morning until eleven o'clock at night, and the only bill that was being

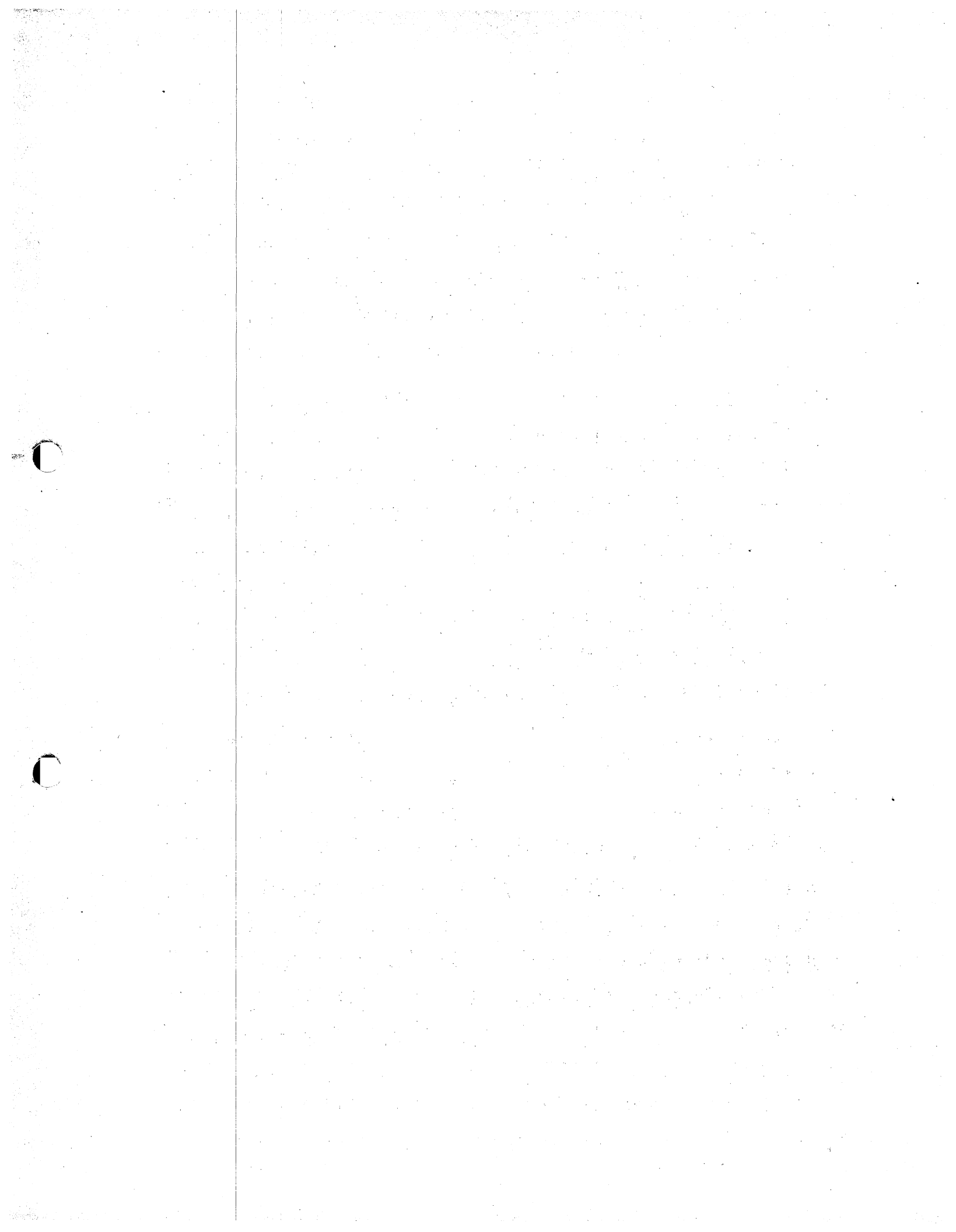


debated in all kinds of conferences and discussions was Assembly Bill 403, a conference was held in the Governor's Office, and the conferees representing the two parties in the State came out on the floor and announced that it had been decided to increase the cigarette tax by two cents. That was the first time - not then, but after the conference was held by both the majority and minority parties - then for the first time, it was placed on the board in the Assembly Chamber - Assembly Bill 455 - and it was passed in five minutes in the House of Assembly under suspension of rules, and in A-455, of which I had no knowledge and nobody else, there was a provision reducing the discount from 5 per cent to 3 per cent.

SENATOR SHERSHIN: May I ask if, during the discussions that were held by the legislative leaders and the Governor, was anything ever said about the question of reducing the discount rate?

MR. LEWIS: I wouldn't know, Senator, what happened in the Governor's Office. All I know is that when they went into the Governor's Office at 10 o'clock at night, they went in with Assembly Bill 403, which contained no provision for a reduction of the discount, and they came out with A-455 which contained this provision for a reduction of this discount, along with a lot of other onerous provisions concerning cigarette taxes.

SENATOR SHERSHIN: Do you know whether there had been any preliminary study between the time when Assembly Bill 403 was introduced on March 12 and the time that Assembly Bill 455 was introduced on March 26 which went into the question of discount rates?

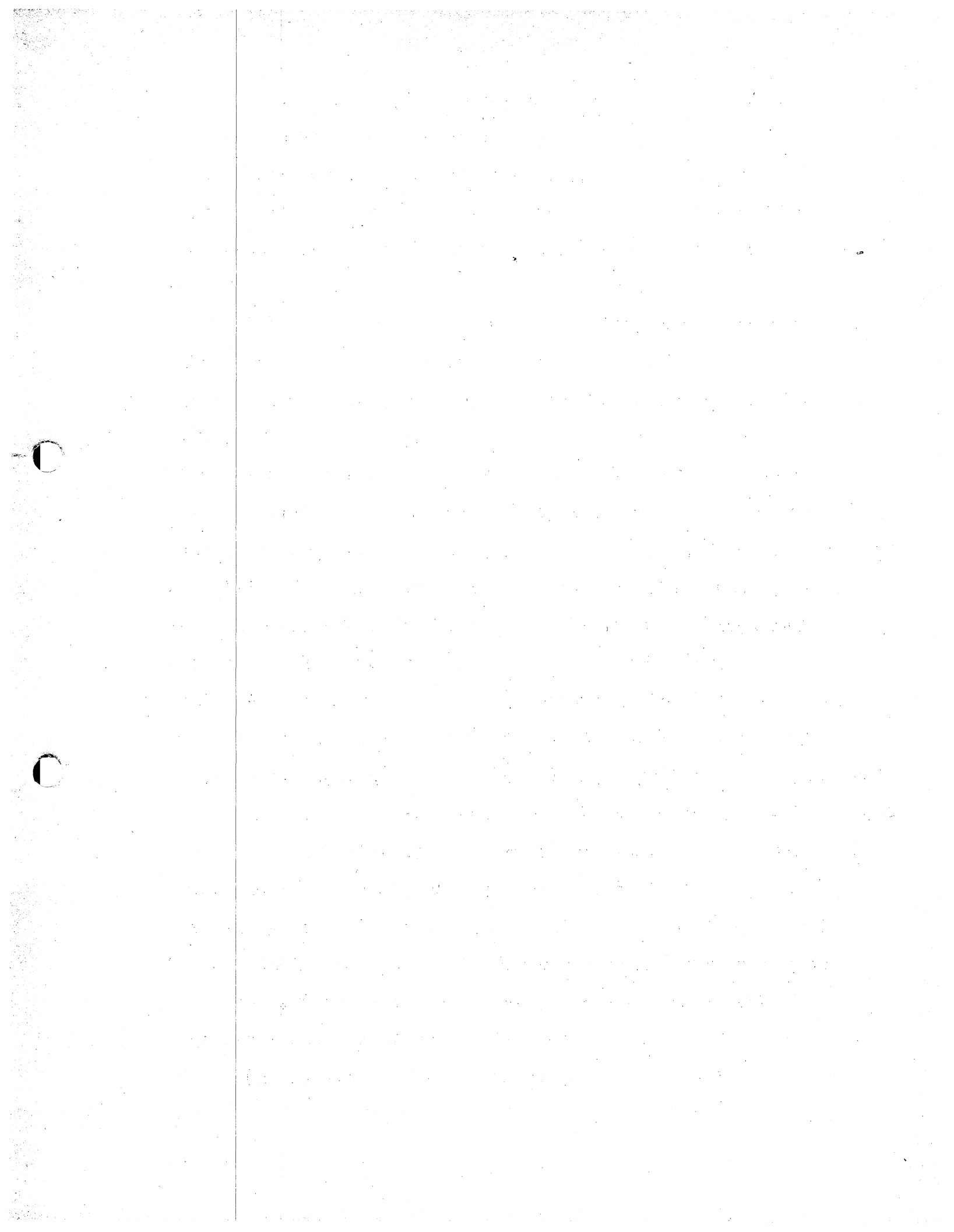


MR. LEWIS: Not to my knowledge. I would say no. Certainly not to my knowledge.

So the bill passed the Assembly and then it came over here, and I came running over here with it, and I had a little off-the-record conference out in the hall with the Majority Leader and the President of the Senate, and I told them that this bill that had passed the Assembly and was coming over here had provisions for reducing the discount and other provisions that were onerous, and that it was very unfair to put these things in legislation without giving the industry an opportunity to at least defend itself and show its position. And I was told by the members of the Senate at that time that they had to pass the bill that night in the form that it was in, and that some relief would be afforded to our industry at the next session of the Legislature.

SENATOR SHERSHIN: I will take, as the courts say, judicial knowledge of that, because I know that that was the statement that was made to us. I'll put that in the record.

MR. LEWIS: The introducer of the bill got up here on the floor and said that there were inequities in this bill and that something had to be done for the industry. Now, the position that was taken at the time by the Director of Taxation, when this A-455 was given to the Legislature, was that a 3% discount on a 5¢ tax was the same as a 5% discount on a 3¢ tax; we would be receiving



the same money, and thereby the industry would not be damaged.

SENATOR SHERSHIN: Will you say that again, please?

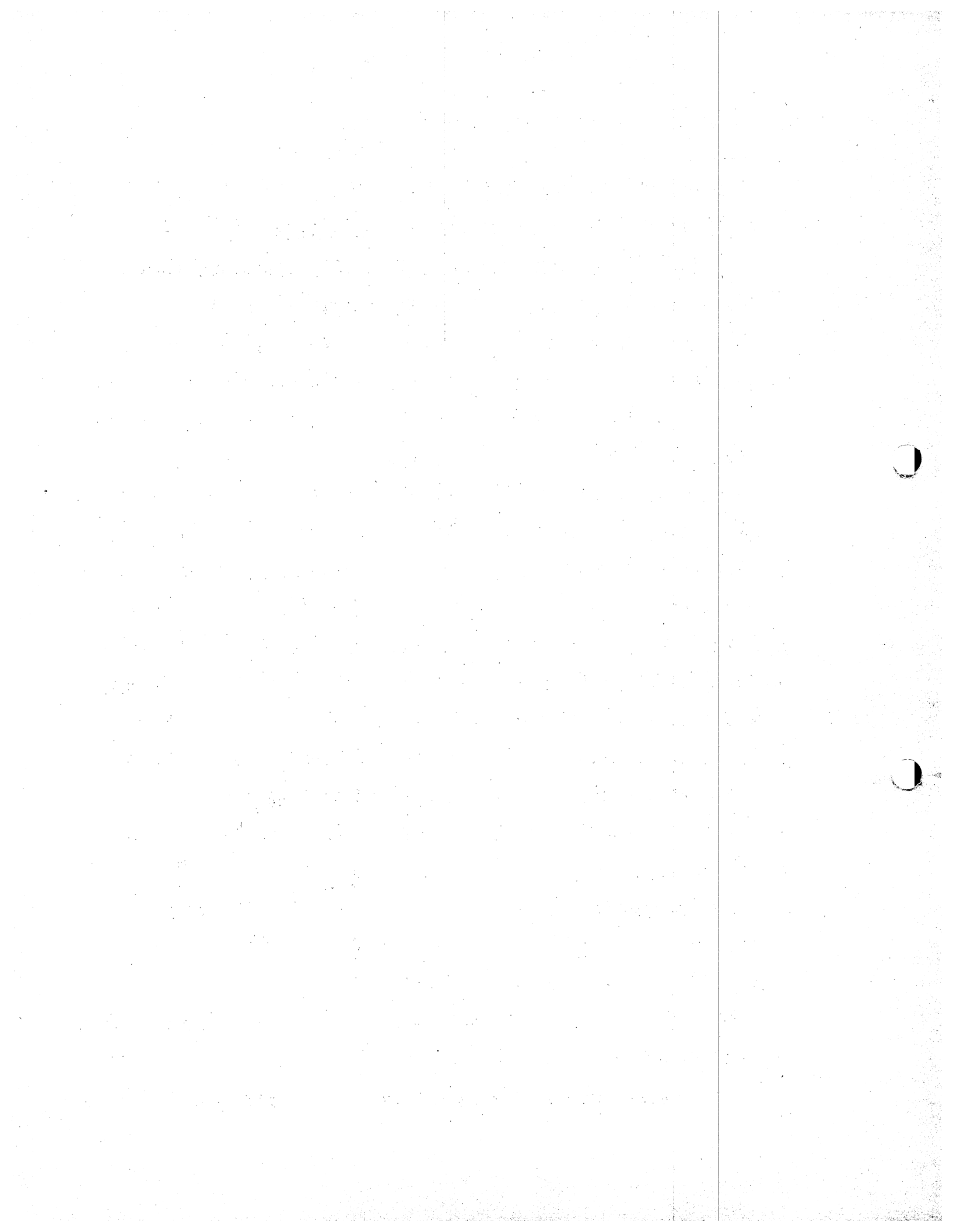
MR. LEWIS: The Director of Taxation told the leaders of the Legislature that, by reducing the discount from 5 per cent to 3 per cent, the distributors would receive the same amount of money they were receiving before, that 3 per cent discount on a 5-cent tax was equivalent to 5 per cent discount on a 3-cent tax. In money, it meant that we were still receiving 75 cents for stamping a case of cigarettes, and this, of course, is true. Arithmetically, it is true. But they disregarded completely the losses sustained throughout the years and they disregarded completely what was happening throughout the country where the other states were raising the distributors' discounts when they increased the tax. It also is not true that 3 per cent on 5 cents is the same as 5 per cent on 3 cents, because, when we have a 5-cent tax, we increase our investment by twelve million dollars a year; we increase our costs on insurance, on bonds, on every other item that goes into handling a product that sells for \$10.00 more a case, and, furthermore, there was bound to be a loss of business.

SENATOR SHERSHIN: Weren't these items considered by Mr. Neeld?

MR. LEWIS: Not as far as I know.

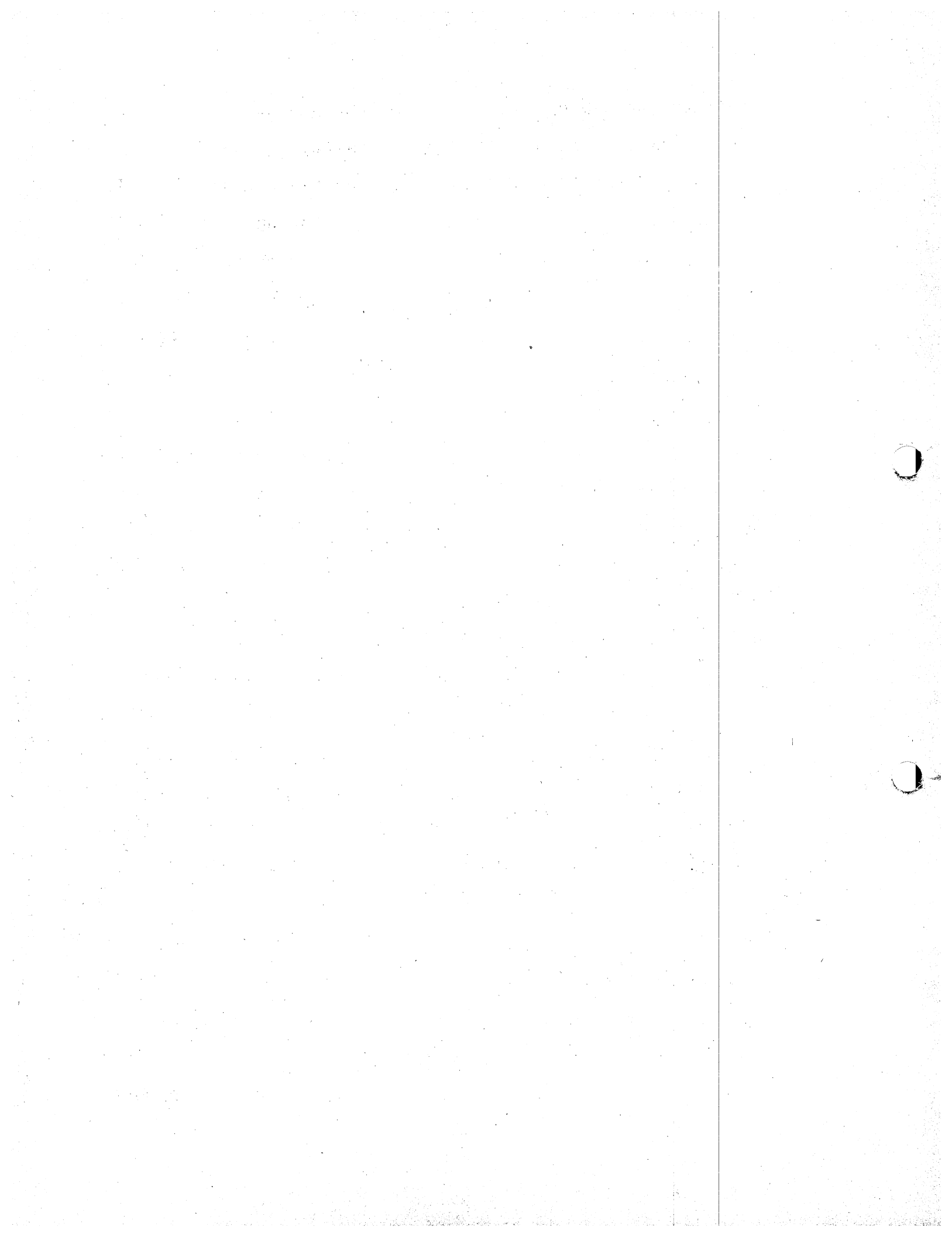
SENATOR SHERSHIN: The increase in cost, the greater amount of bond that you had?

MR. LEWIS: Not as far as I know. Mr. Neeld made a



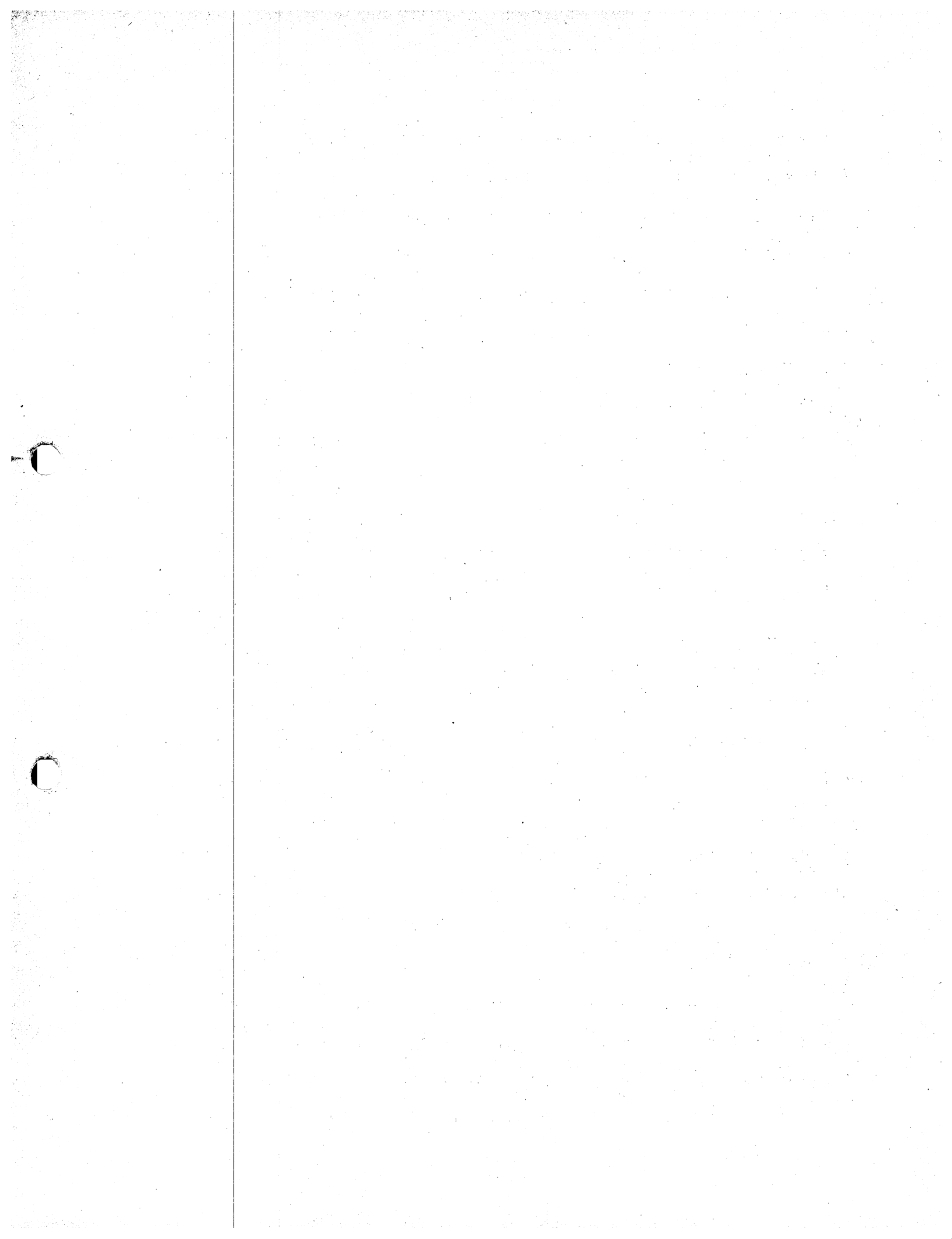
statement that 5 percent on 3 was the same as 3 on 5.

Also, that position is fallacious because the increase of tax from 3 cents to 5 cents, necessarily meant a decrease in our business because, competing with New York State where they have a 3 cent tax, competing with Delaware with a 3 cent tax, competing with the tariff where the cigarettes were coming up from Maryland and Virginia where there is no tax, The higher our tax became the less cigarettes we were going to sell. If we lose even 5 percent of our total volume of business, that is a 50 thousand dollar a year loss to the distributor in tax discounts because our overhead remains constant and we receive from the State 50 thousand dollars less a year on a 5 percent loss. We, at that time, contended it would be a 10 percent loss. Luckily, it was only a 5 percent. The 50 thousand dollars we lose because of the loss in business, added to the additional costs which would run to at least 25 to 30 thousand dollars, there alone there is a loss to the distributor of about 80 thousand dollars a year because of this change-over in tax, despite the fact that the Tax Director says that 3 on 5 is the same as 5 on 3. Thereupon, we applied at the next session of the Legislature, or bills were introduced at our request in both Houses to increase the cigarette discount. Again, we were opposed by the Tax Director and, unfortunately, at that time, we were opposed by other elements, who did not understand the situation, and as a result, in order to ascertain what



the true picture was, this resolution on the tax was passed and the tax director was ordered by the resolution, to make a study. He was ordered to study "the cost of the service and expense imposed upon cigarette distributors in connection with the affixing and handling of State cigarette tax stamps". Of course we people in the industry knowing that if anybody went out and made a survey of our industry and went into our books and records, there was no question that the books and records would show our labor costs, our other costs, and they had to come up with the answer that we were entitled to more than 3 percent discount. It could not come out any other way and we said, we would certainly abide by the figures/^{adduced} in this survey made by the Cigarette Tax Bureau.

Now we come to the crux of the problem. We met, at that time, immediately after this resolution or while this resolution was in process of passing, we had a meeting with Mr. Neeld in his office. We discussed this question of discounts and we discussed the question of service. It was our contention, at the time, and it is still our contention, that the only proper way to ascertain the cost to the distributor, is to ascertain his actual expenses, the actual costs that are added to his operation because of this tax operation. The position taken by the tax director was that probably it would be more equitable to determine how much it costs to do this operation on piece work basis, how much time is involved pushing a carton of cigarettes through, catching it on the other side and that should be



the basis of costs. This, of course, is erroneous because there are so many other factors that are involved in this question of stamping. It is not a question of piece work, we cannot get girls and pay them so much per carton to push through. We have to hire labor by the week and pay them by the week. There is all the waste of time in assembling the machine, in the cutting and fixing the knife and everything else. The only proper way to determine our costs, in my opinion, is determine the actual added costs, added to our operation because of this tax work.

Q. How would you do that?

A. By ascertaining how much added labor was necessary, how much added insurance, how much extra raw materials, the cost of the machine, cost of replacing parts, etc., etc. They are all in our records. Everything contained in an invoice.

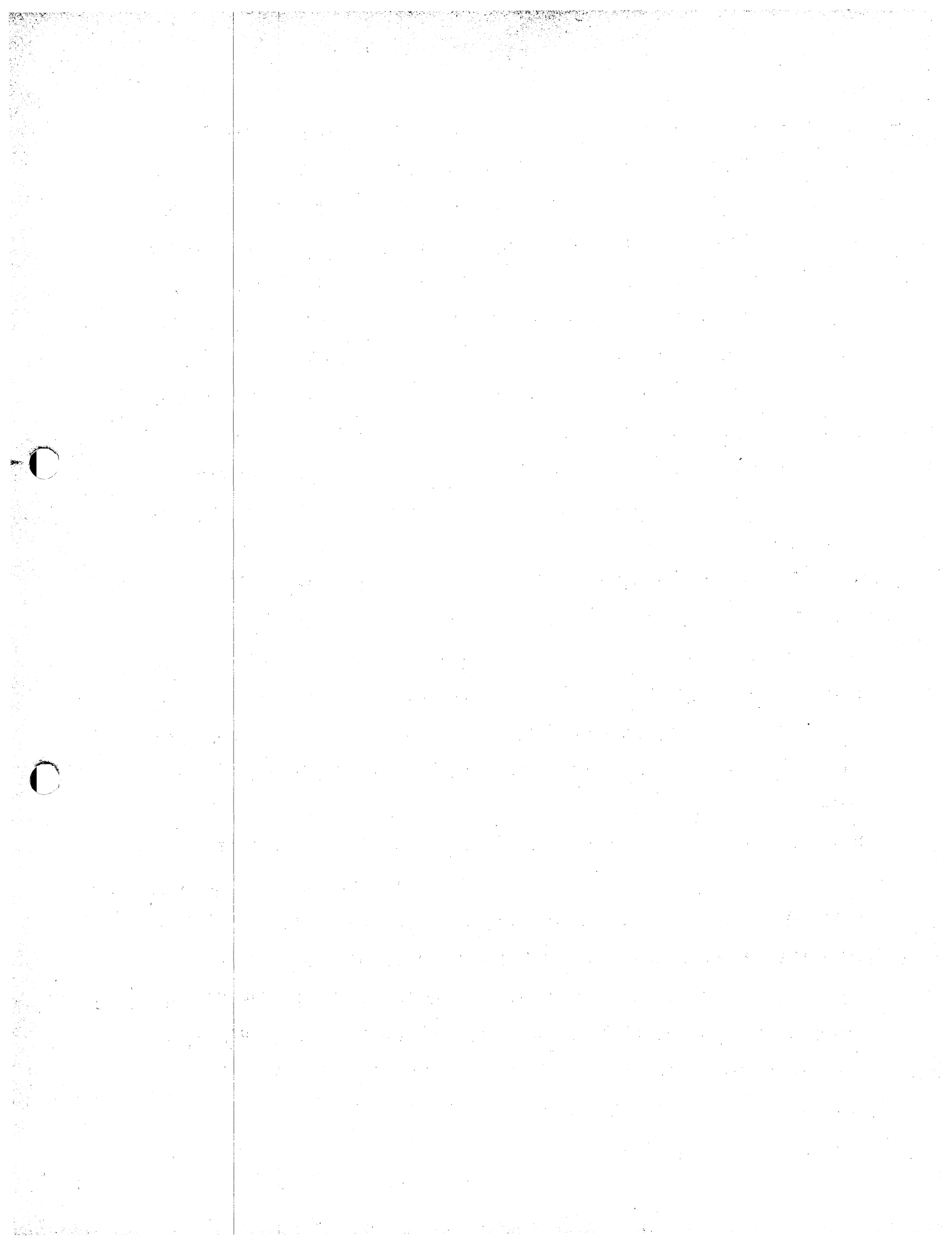
We differed with the tax director as to the proper method of ascertaining costs.

Q. Do you know whether or not Mr. Neeld had a cost accountant go through in order to help him out in his report to the legislature?

A. I do not think that ^{he had} anybody on this report, Senator, except the employees of the cigarette tax bureau.

Q. May I ask Mr. Neeld, now out of turn; Mr. Neeld, did you have a cost accountant fix, make a survey of this?

MR. NEELD: No sir, Senator, our position was that the survey should have been made by qualified cost accountants but



the appropriation for that purpose did not appear to be available, so we were directed to make the survey.

SENATOR SHERSHIN: For the record, we may say that the survey prepared by your department was done by members of your staff and not by any qualified cost accountants?

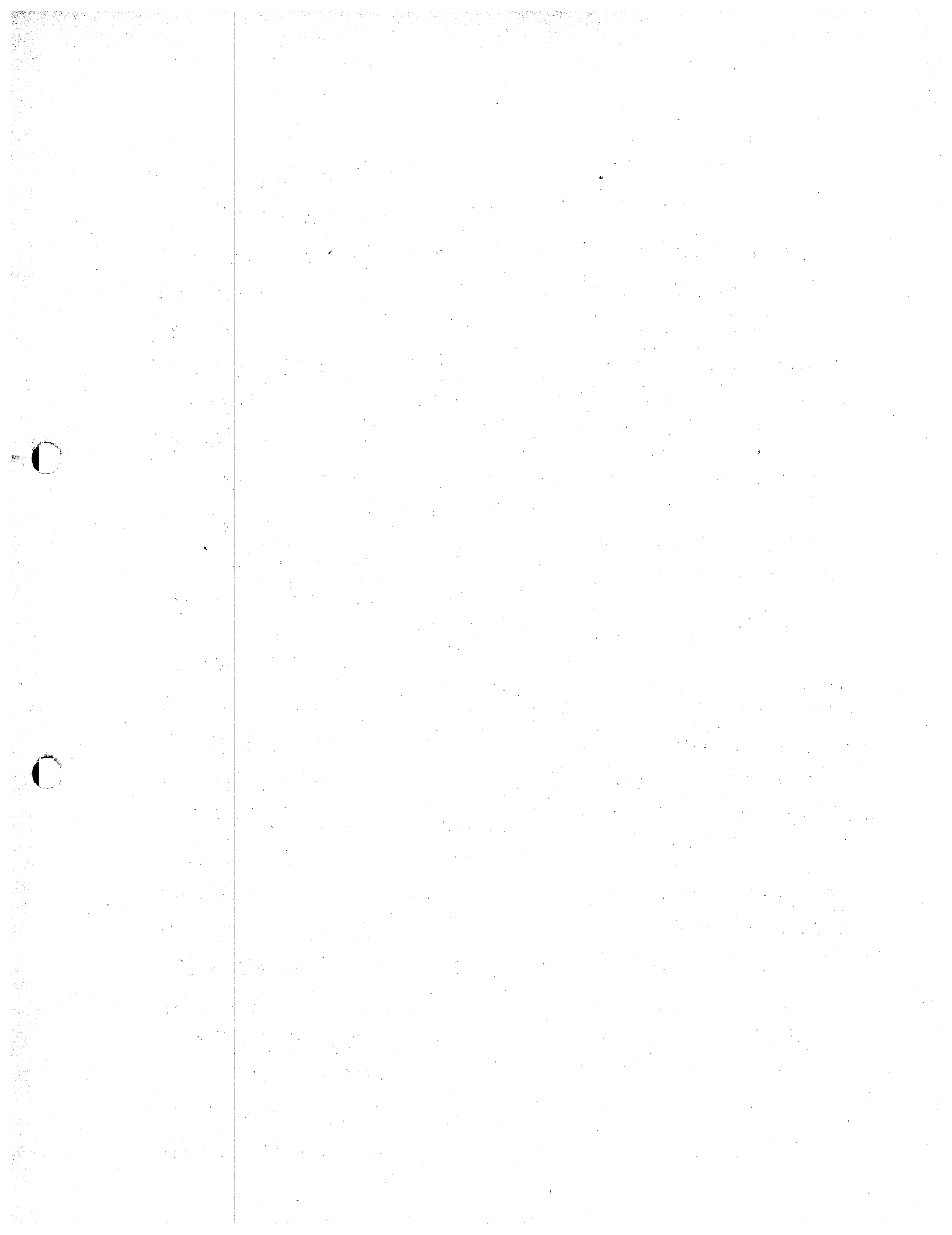
MR. NEELD: That is correct, although I would like to say for the record that we do have competent accountants within the agency.

SENATOR SHERSHIN: I didn't mean to imply, and if I did, I apologize, that they were not competent in your department. What I meant was that cost accountants, if they were on an outside basis from a certified public accountant's firm, would have to be qualified cost accountants, I did not mean to imply any unqualifiedness on the part of your men.

MR. NEELD: My answer did not intend to so reflect.

SENATOR SHERSHIN: Thank you. You may continue, please.

MR. LEWIS: In order to make our position clear to the Tax Director, and at a chronological period of time when the inspectors or the auditors of the Cigarette Tax Bureau had completed their physical work in making this survey, between that time and the time the survey was actually written and submitted, I wrote a letter to Mr. Neeld, dated August 22, 1956, which stated our position. I introduce this to show that our position that we take today is nothing new. This is nothing fabricated because of a report which was later submitted. This was our position at the very beginning and it is a very sound position.



SENATOR SHERSHIN: May I ask you this: Did you ask Mr. Neeld for a specific percentage?

MR. NEELD: No, sir.

SENATOR SHERSHIN: What is your position today? What testimony do you have to offer, or will you give us some testimony as to what you expect for a discount?

MR. LEWIS: We will base our request for a discount upon the figures in the report of the Tax Director after they are properly interpreted.

SENATOR SHERSHIN: In other words, you are just coming in--

MR. LEWIS: We are asking for the original 5 per cent.

SENATOR SHERSHIN: You are asking this Commission to study but you are not making any recommendations to it nor are you submitting any evidence.

MR. LEWIS: We will recommend that we go back to the original 5 per cent that we had before 1956.

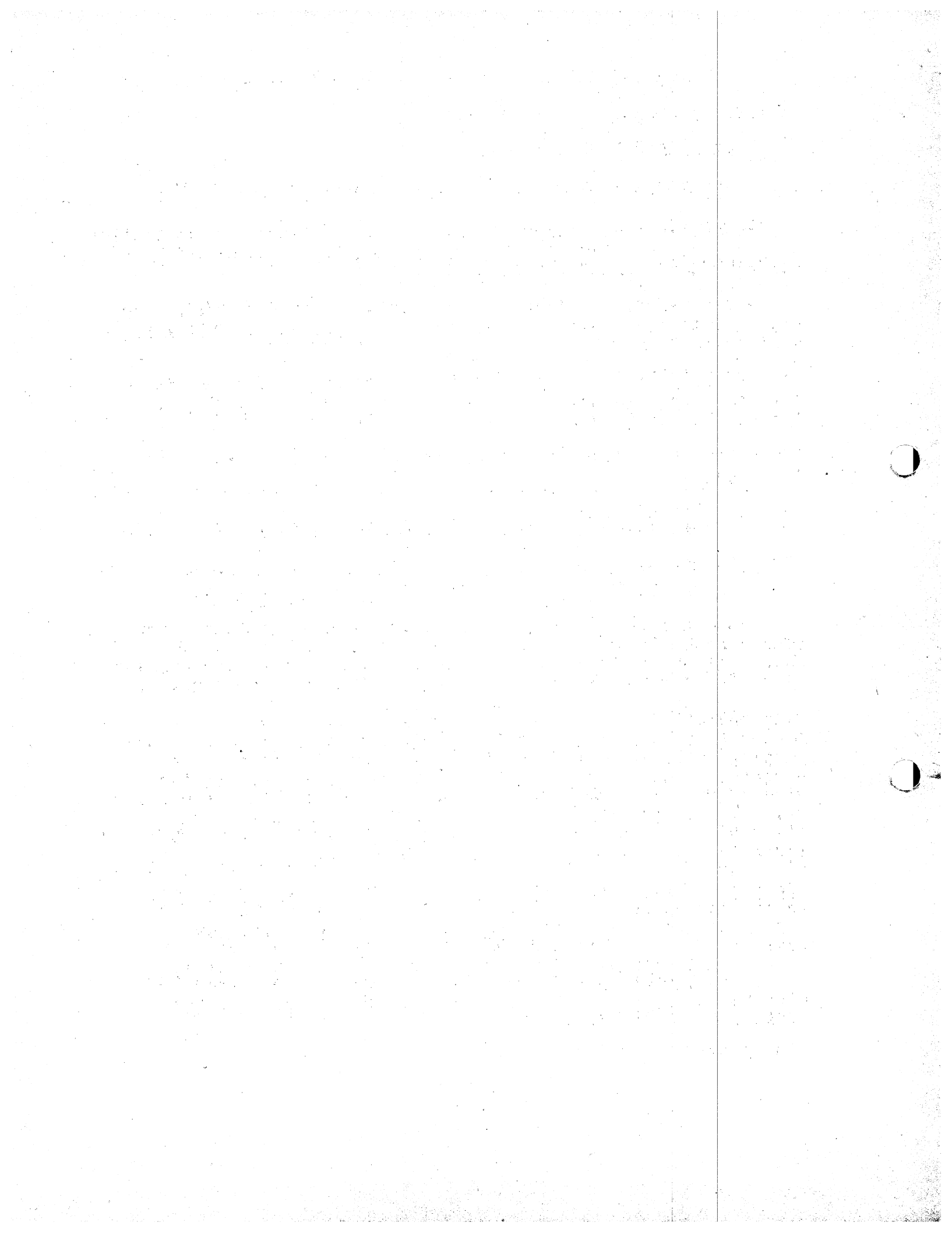
SENATOR SHERSHIN: I see.

MR. SALTZMAN: May I interrupt?

SENATOR SHERSHIN: Not just now, Mr. Saltzman, please. All right, Mr. Lewis.

MR. LEWIS: We wrote to Mr. Neeld on August 22, 1956, and I am going to take up some of your time and read this letter, because I think it is important. It shows our position at that time. Do you think for the sake of saving time--

SENATOR SHERSHIN: Suppose you give us a synopsis and offer the letter in evidence and it will be entered into the record in full.



(Letter offered in evidence by Mr. Lewis)

"Hon. Aaron Neeld
Director of Taxation
State House, Trenton, New Jersey.

"Dear Mr. Neeld:

"We understand that your Department has completed its collection of the facts and figures concerning the survey being made pursuant to Chap. JR 10 of the Laws of 1956.

"We are taking the liberty of expressing our views concerning the collation of this evidence and the proper conclusions to be derived therefrom.

"The largest item of expense involved in the cost of affixing tax stamps and in the collection of the cigarette tax by the distributor is labor.

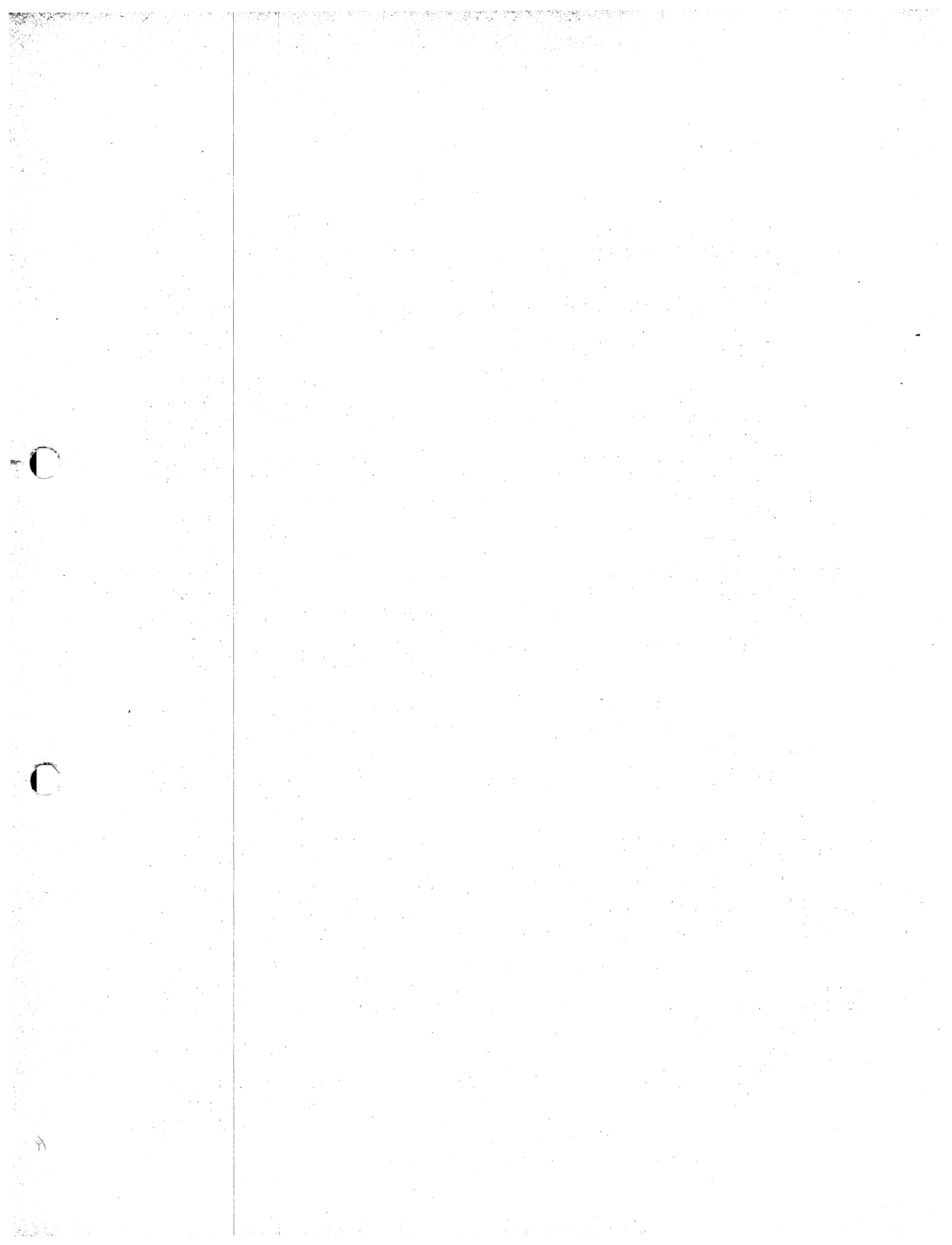
"There are two methods of considering the cost of the labor involved:

1. What additional labor is required by the distributor because of the tax operation?
2. What is the actual cost, reckoned on a man-hour cost basis, of physically affixing tax indicia?

"We contend that to properly evaluate the cost of labor, the second method must be completely disregarded. The peculiar nature of our business makes it imperative to consider premise #1 as the only proper barometer of distributors' labor costs.

"The operation of a stamp-affixing machine, the necessary manipulation of the cigarette stocks and the additional book-keeping, etc. involved, require a minimum of two to three persons. This is an irreducible minimum regardless of the size of the distributor or the amount of cigarettes stamped. We, therefore, find that even the small or medium-sized distributor has necessarily increased the size of the labor force in his business by two or three people.

"In the operation of the wholesale cigarette dealer, prior to the inception of the cigarette tax, a minimum labor force sufficient to handle the day's work was used. Our business could not afford the luxury of idle hands or idle hours. With the addition of the chore of tax collection, it was absolutely necessary to augment the labor force with the necessary number of people needed to perform the additional operations.



"We recognize that with the exception of a few large distributors, this additional labor force does not devote its full time or 8 hours per day to tax work. We expeditiously employ their idle time in other tasks. We therefore enjoy the luxury of idle hands being kept busy to keep them out of mischief.

"Unfortunately we cannot afford this luxury without being compensated for its cost.

"Our business enjoys the dubious distinction of operating at the second lowest net profit in the country. We are now approaching the stage where these net profits are becoming nil. Operating overhead costs are advancing in steady progression while our gross mark-ups remain constant.

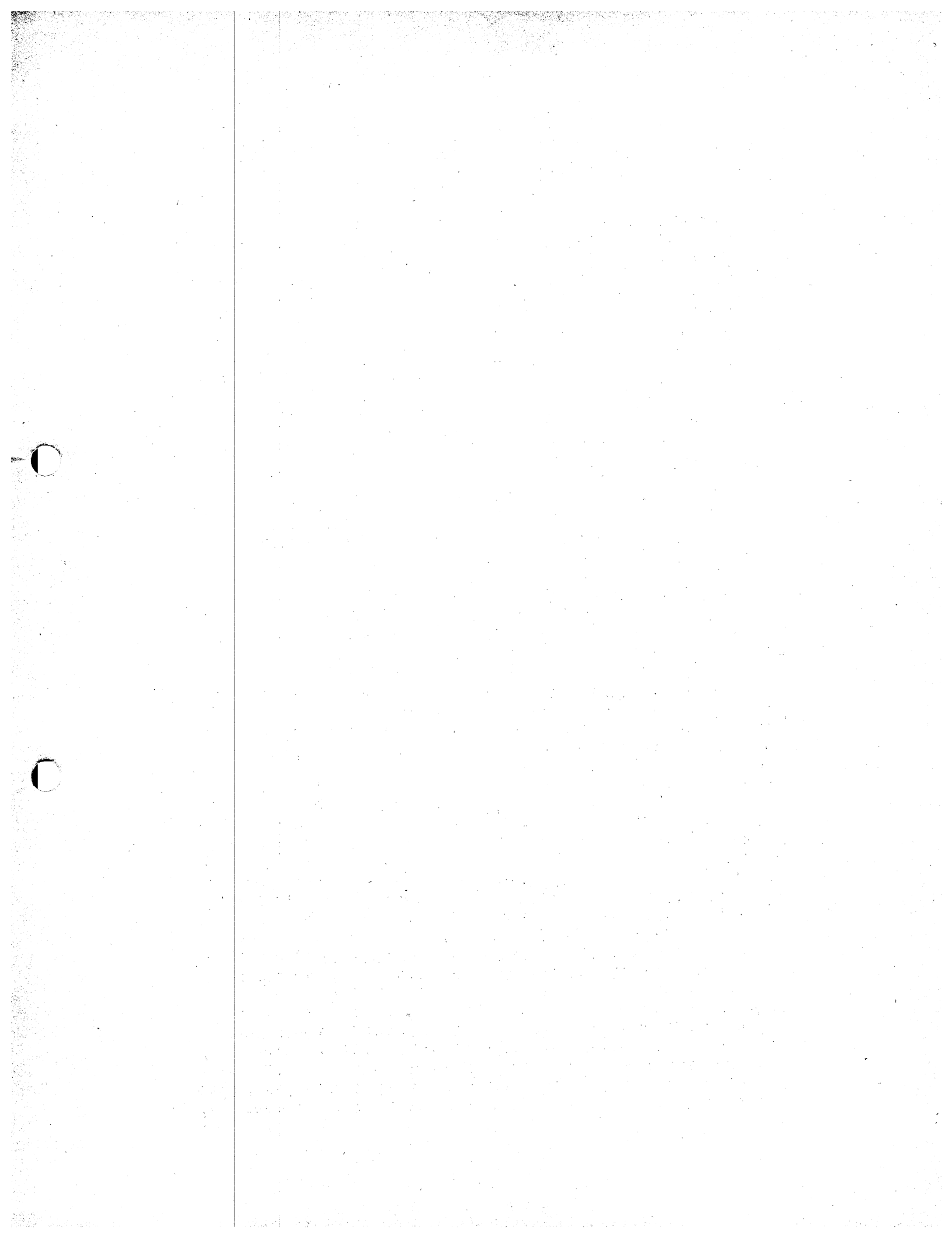
"As an example of our financial predicament, the U.S. Census Bureau shows that in 1955 the cost of doing business in the wholesale tobacco trade was 5.9%. Our mark-up in cigarettes, which constitutes about 80% of our total volume of business is either 3-1/2% or 4-1/4%. Our total net profit averages about 1/2 of 1%.

In this type of business, it is impossible to add labor costs that do not produce 8 hours worth of necessary labor in an 8-hour day. The addition of the tax-collecting duty has made this impossibility a reality.

Therefore, the reimbursement which we receive from the State for this duty, unwillingly bestowed upon us, must be based solely upon the additional cost of additional labor on a full-time basis.

"The other items of cost involved which include license fee, bond, meter rental, meter service, depreciation of machinery, maintenance and parts for machinery, ink, knives, glue, rollers and other appurtenances, additional insurance (compensation, state unemployment, social security, fire, burglary, robbery), additional rent (for stamping department and for storage of additional inventory), losses on accounts receivable, meter skipping, theft, etc., additional inventory because of tax, additional taxes, accounting expenses, office and clerical disbursements, heat, power, light and telephone, do not contain the controversial elements of the labor costs. We know that your survey will show the true figures as presented by our records.

"On a complete overall picture, in a survey made among our members, we find that a discount of 4% would allow a medium-sized distributor to break even and would show a considerable loss to the smaller licensee.



"The average amount of cigarettes stamped is about 10,000 cartons per week. At 3% this would show a gross return of \$7800.00 per year. The additional labor costs of this distributor is \$7800.00 a year and his additional costs average about \$3000.00. Therefore, at the present discount rate, the average distributor loses at least \$3000.00 annually on his tax operation. His loss at 4% would be small. The small dealer who only stamps about 5,000 cartons per week needs at least 6% to cover his additional costs.

"We respectfully request that you consider our problem as herein set forth in formulating your report to the Legislature and to the Governor.

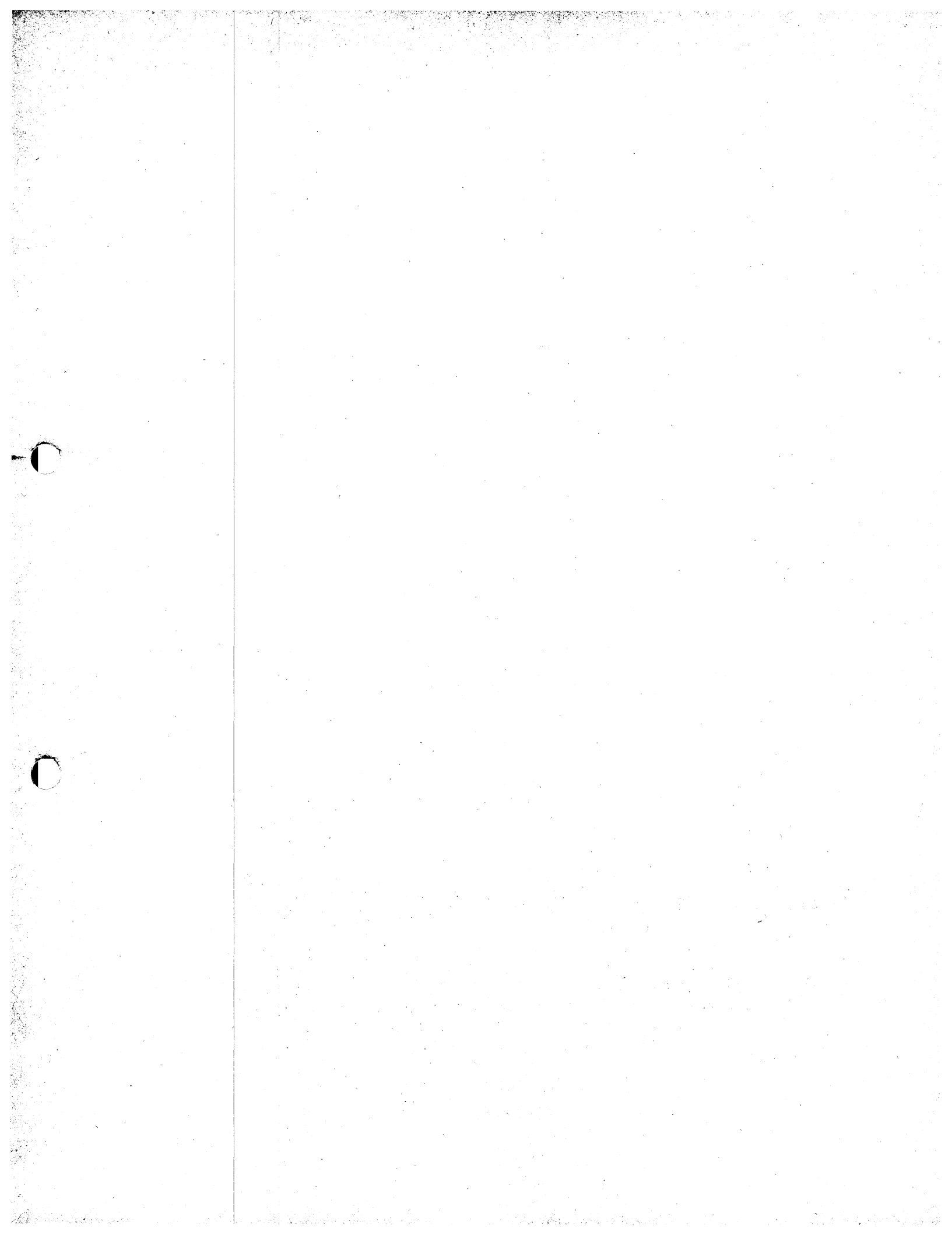
"Very sincerely yours,

TOBACCO DISTRIBUTORS ASSOCIATION
OF N. J.

By

Monroe A. Lewis
Executive Director "

cc: Mr. Amos Tilton



MR. LEWIS: The synopsis, to make it brief, is that there are two ways of ascertaining labor costs:

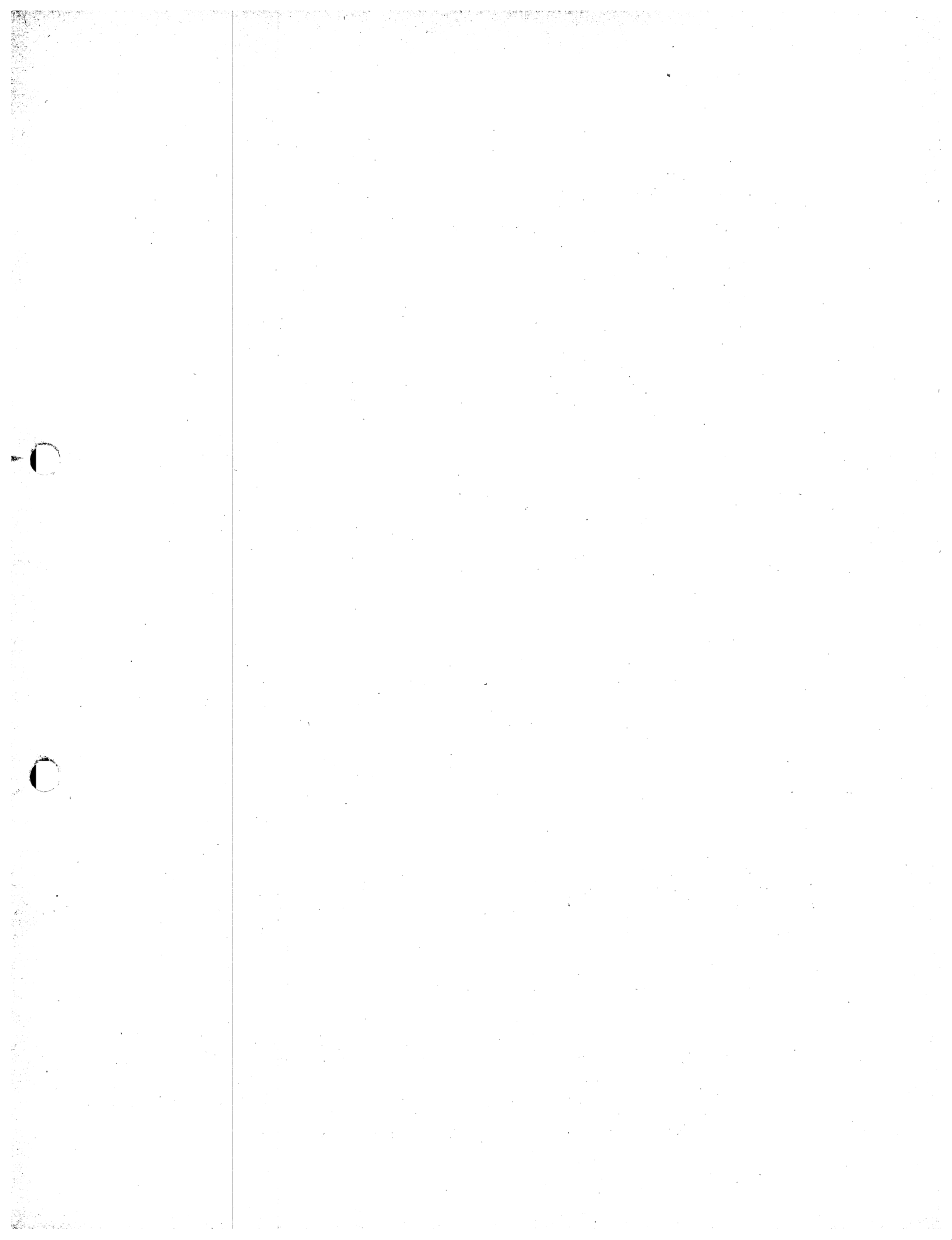
1. The actual cost of the additional labor required by the distributor to do tax stamping, and

2. The cost of labor reckoned on a man-hour basis, a piece-work basis.

We contended that we have to add certain people to our labor costs and that the only way we could be compensated properly is to receive credit for the entire cost of adding these new people to our force, and that trying to ascertain how long it takes for two men or three men to push a carton of cigarettes through a machine, and then multiply it by the number of cigarettes stamped, was an erroneous method of ascertaining labor costs. That is the tenor of the letter and that was our contention at that time.

We also contended at that time that the average cost outside of labor for an average jobber was \$3,000 per year, and we contended that the average jobber stamped 50 cases of cigarettes a day and that will show its importance later on.

The survey on September 7, 1956, by the Director of the Division of Taxation was submitted to the Legislature and the Governor. The survey of course was based upon the figures. They came into our place of business, they looked through our books and records, and for all practical purposes these figures included in the survey are pretty accurate. They are not exactly accurate but we will concede for the



purpose of this argument that they are fair. So when I contended in August that the average cost besides labor, outside of labor, was \$3000 per average distributor, the survey came up with \$2926 as the average cost to the distributors surveyed. So we weren't so far off. But now we come to the vexing question of labor, and the survey made by the Tax Department does not only try to apportion labor by a piece-work basis but it sets up some system of a norm. The survey says that the normal amount of cigarettes stamped by a tobacco distributor should be 160 cases of cigarettes a day. Now, how do they arrive at what they call a norm?

SENATOR SHERSHIN: Getting to that, how many of your 95 per cent distributors stamp 160 cases of cigarettes a day?

MR. LEWIS: None.

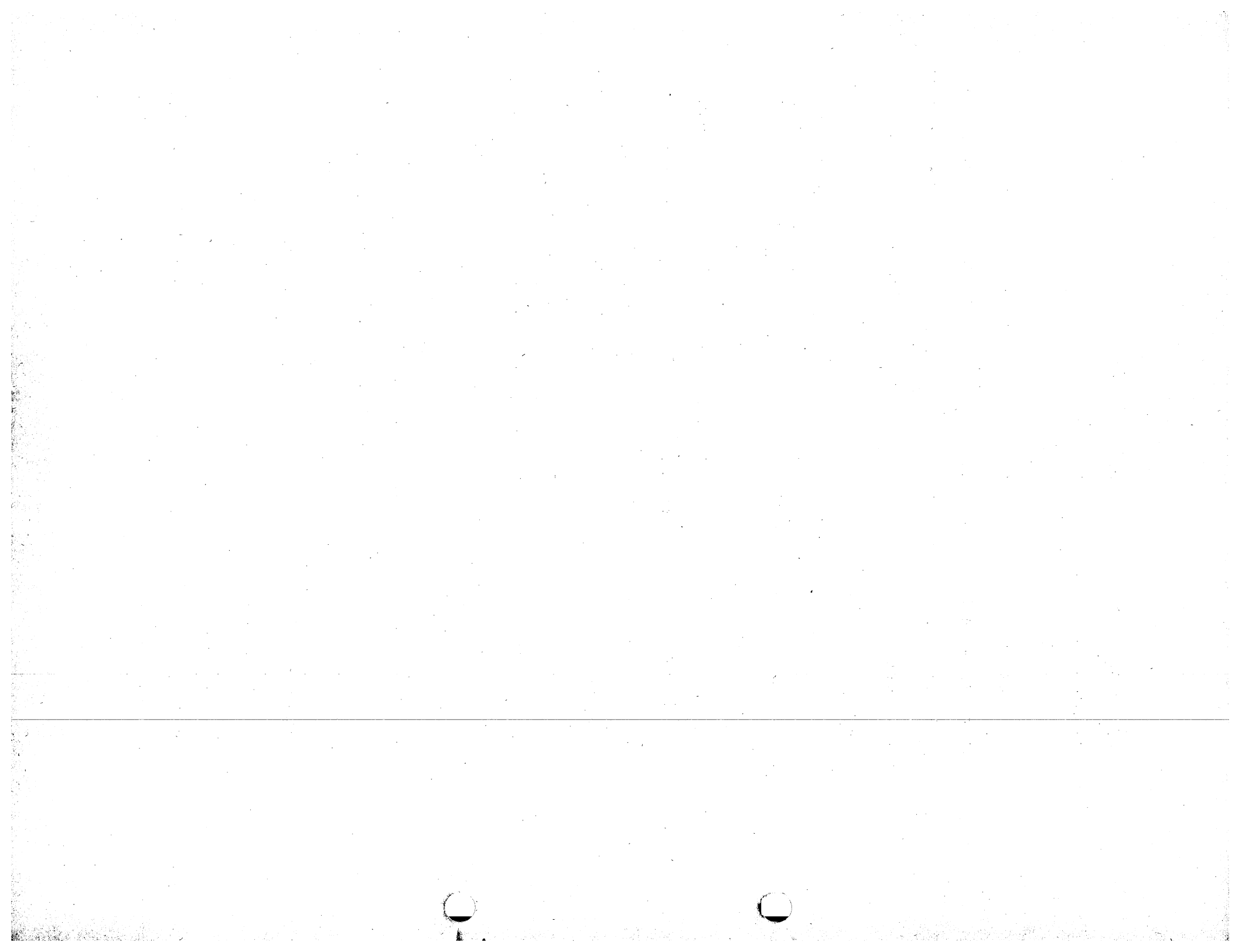
SENATOR SHERSHIN: How many stamp 150 cases a day?

MR. LEWIS: One. Not of the 95% but of 100%. One member of my association or the association I represent.

SENATOR SHERSHIN: In order to save time, I'll tell you what I'm doing here: Just so they have something in the record, will you submit to this Commission a supplementary letter to your testimony, giving the Commission the number of distributors who package or who stamp 150, then 125, and so on.

MR. LEWIS: I have it now.

SENATOR SHERSHIN: You have it right there? Will you submit it then to the Commission?



A. I can read it, it will only take a minute.

Q. Go ahead, read it.

A. 35 distributors, and these are the members of our association, who are a cross-section of the distributing trade, 35 distributors stamp up to 50 cases per day. Five distributors stamp between 50 and 60. Three between 60 and 70; two between 70 and 80; two do 100 and one does 140. Nobody in the association does 160. Now this is the method:

Q. Your contention is, that the norm established--

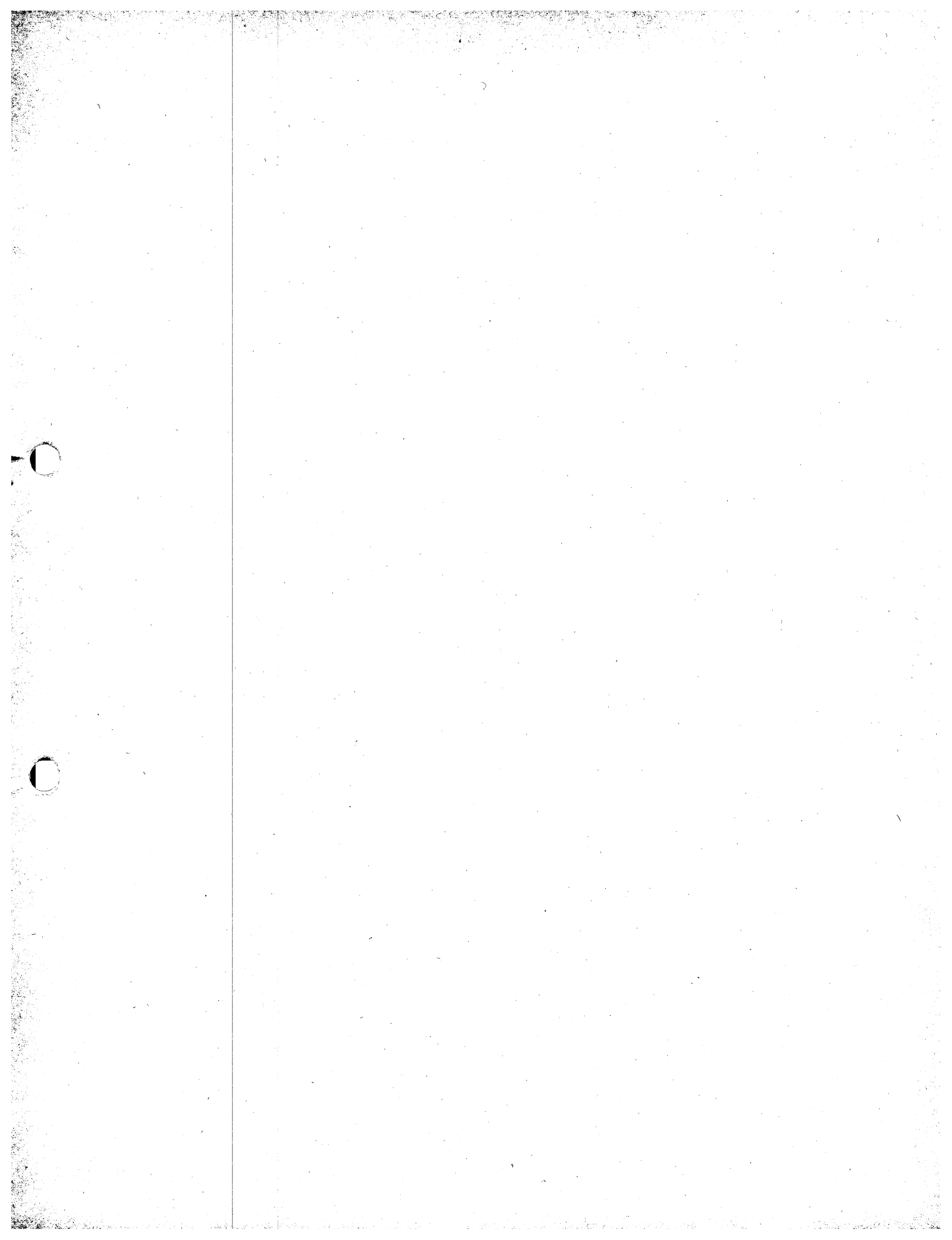
A. My contention is that the norm established is not a norm.

Q. And therefore the cost basis for labor should be higher?

A. That is right. The norm was established; they say on page three of the survey, that a survey was made of three large accounts. Licensee A, B, C. Licensee^A/stamps, they say, 218 cases of cigarettes per day. Licensee B, 192, Licensee C 231 cases a day. They take it and they average it up. . .

Q. May I interrupt again. Mr. Neeld, is it true that your survey was based on just taking in account these three large accounts and you did not go into the other smaller distributors?

MR. NEELD: Well, I would hate to answer on details of the survey but I can say as an overall basis that what we were trying to do was to determine what it would cost to stamp a case of cigarettes; therefore, we used--



SENATOR SHERSHIN: Would you say that you could consider the cost for a man who puts out 60 cases would be the same as that of a man who puts out 160?

MR. NEELD: No. I think you are correct. Your assumption there is probably right. Actually we found that three distributors, I believe it was, were averaging 160 cases a day and that, we used as a norm, and feeling that others would not necessarily proceed on the same efficiency basis, we used 75 per cent of that 214-- it was 214; I'm sorry. The figure is for one day's stamping, and 75 per cent, I believe, brings it down to 160.

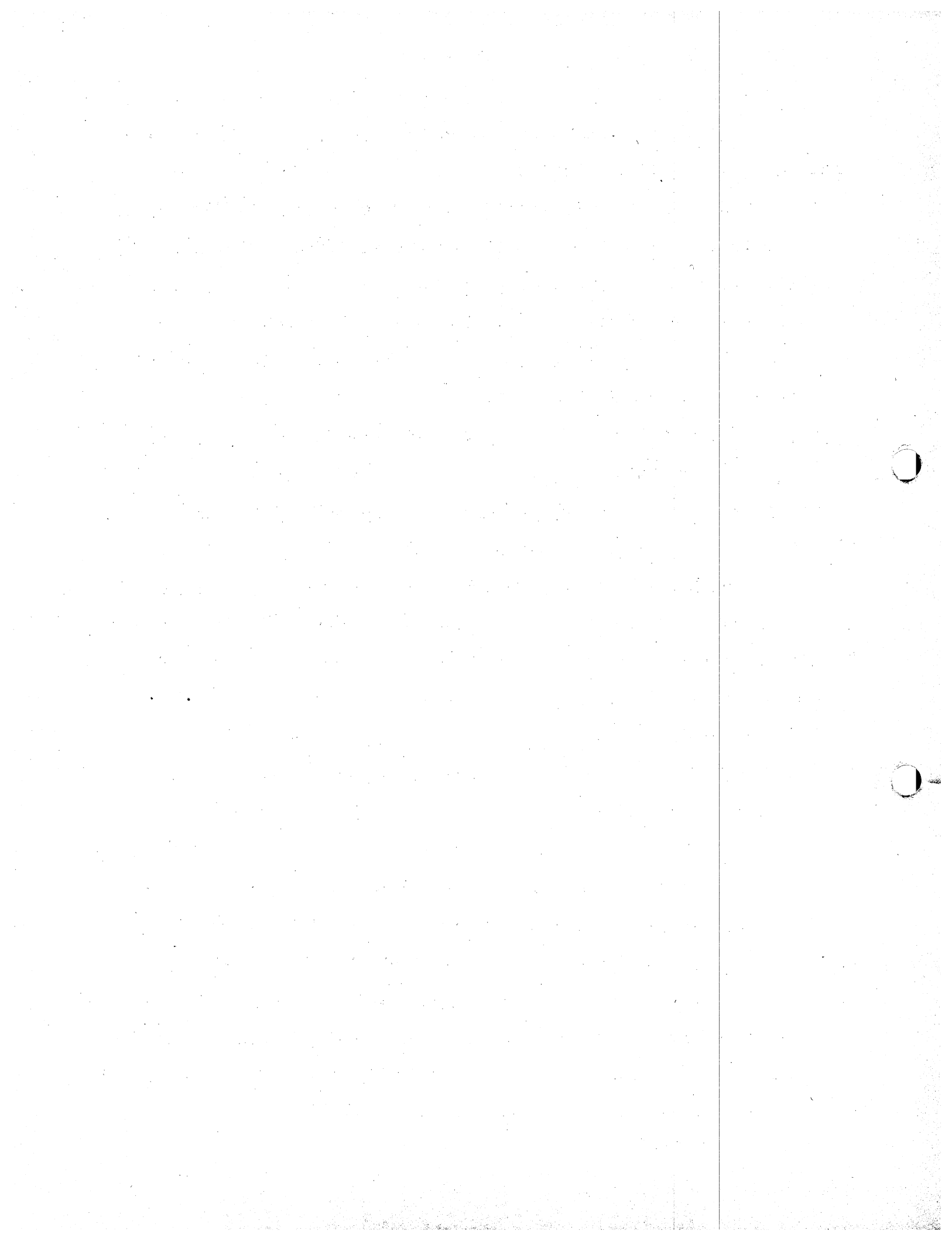
SENATOR SHERSHIN: If your auditors had this information which is now presented by Mr. Lewis, they might have come up with a lower norm so far as stamping?

MR. NEELD: We have all of that information and we will make it available to the Committee at any time that you see fit. We have a complete list of the distributors in the State and the quantity of cigarette-cent stamps purchased by each, so that we knew the volume handled.

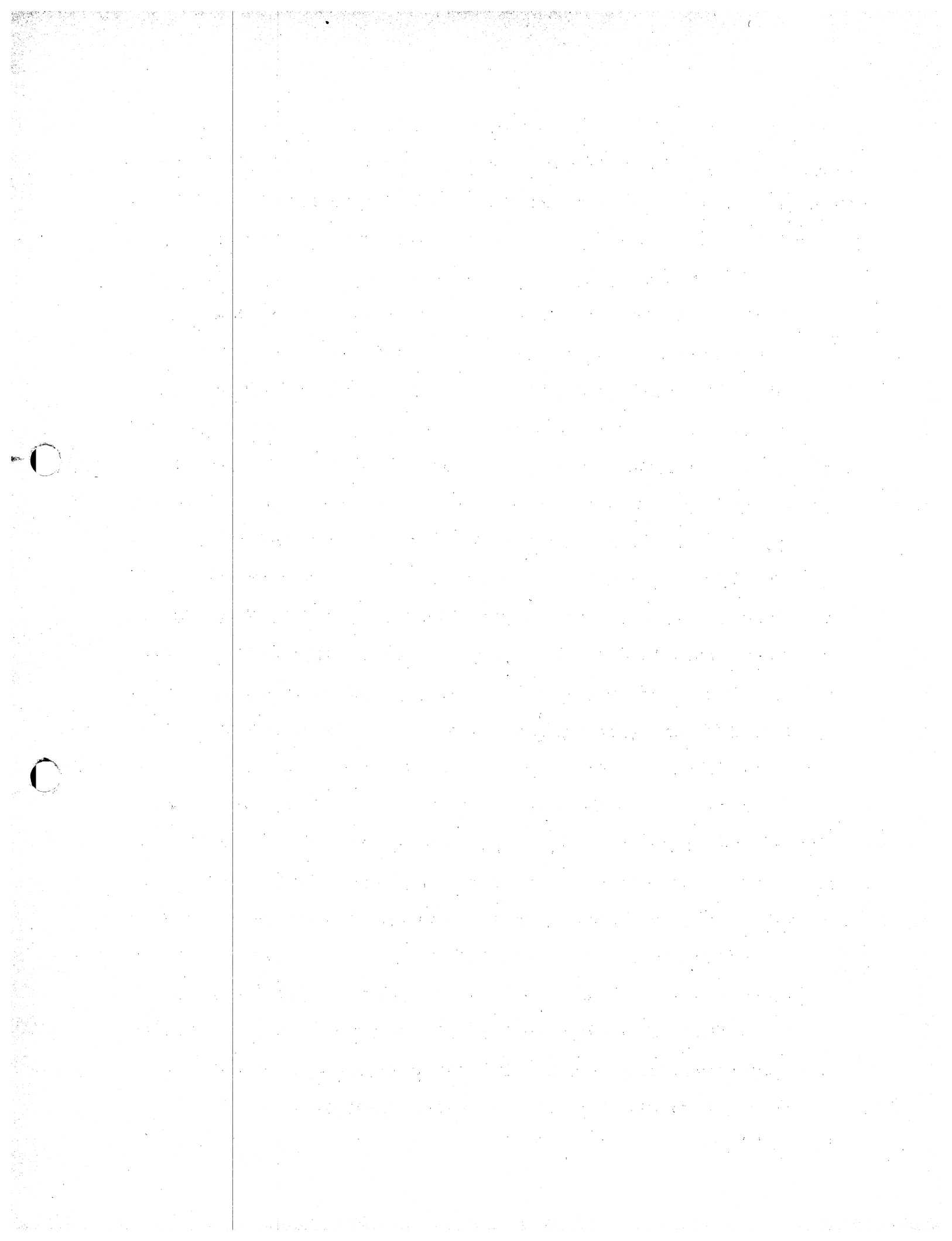
SENATOR SHERSHIN: Now, Mr. Lewis, I have given you a little rest so that you could rest your voice.

MR. LEWIS: Thank you. The norm was ascertained by taking the three largest distributors and it was determined that the norm was 160 cases a day. Despite the fact that the average amount of cigarettes stamped per day of the 47 distributors surveyed in this report, the average amount of cigarettes stamped per day is 46 cases, and the average amount being 46 cases, the department says the norm is 160 cases.

SENATOR SHERSHIN: You would say that the norm, therefore, in your case is 46 rather than 160.



MR. LEWIS: Now, on the question of labor allowances, labor costs, the survey says this: All wages relating to the stamping and moving of cigarettes for stamping purposes were raised to 100 percent, which is what we pay our labor, before applying the average stamping ratio of 160. Thus, if three employees make a total of \$9,000 per year and stamp an average of 80 cases of cigarettes per day which is 50 percent of the norm, 50 percent of \$9,000 or \$4,500 is allowed for wages. If I am a tobacco distributor, and all my business allows me to stamp is 80 cases a day and I retain three people to stamp them and they cost me \$9,000 a year for labor, the survey allowed me \$4,500 because they apportion 80 cases to 160. So if I am a small distributor and stamp 40 cases a day and my cost for labor is \$6,000, I am only allowed \$1,500 for labor cost because everything is apportioned to a ratio of my business to a 160 cases a day. Let me show you what is further brought out in this survey. They surveyed 47 distributors and this is supposed to be a complete cross-section of the distributing trade in the State of New Jersey. Out of the 47 distributors of the survey, they only list one and that is distributor No. 4 in the classification I, they only list one distributor that exceeds or reaches the plateau of 160 cases a day, all the others are low^{er} and they range down to, I say, ^{until} they get the average of 46. The one distributor that stamps 160 a day, has a labor cost of almost \$19,000 a year, \$18,812.

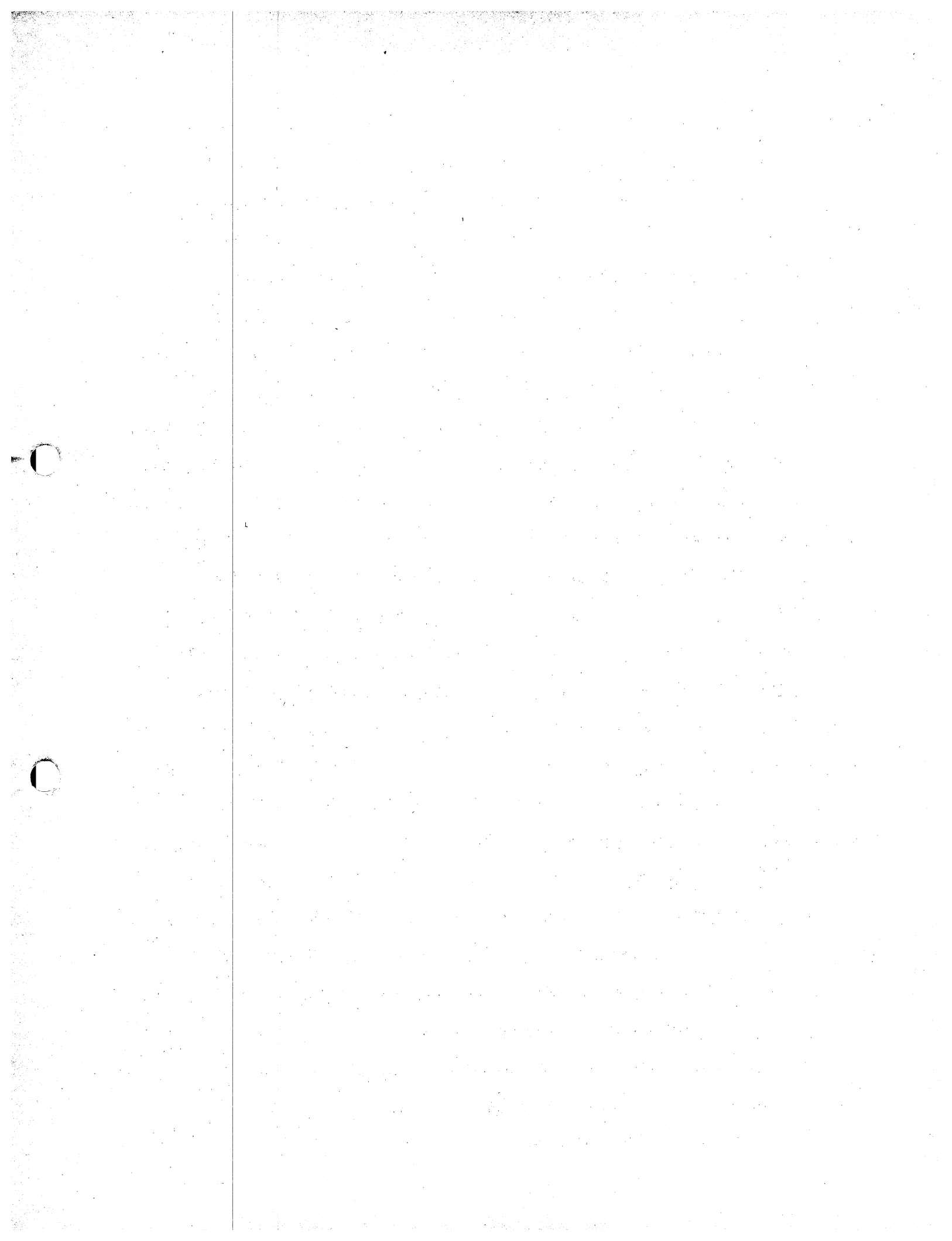


He gets full credit for his labor costs because he has exceeded the plateau of that norm. Now, this distributor - although I don't know who he possibly could be; I don't have any such person in my organization - must necessarily either use two stamping machines or must use one stamping machine, with a crew of five or six people, to reach that \$18,000 or \$19,000, or he must do a tremendous amount of overtime, and it certainly is not a normal operation. But he can spread it for \$18,000 or \$19,000, but his competitor, who uses the same machine with the ordinary crew of three people and stamps 80 cases a day and his cost of labor is \$9,000, he only gets credit for \$4,500. Now, that to me is the most uneconomical type of survey I have ever seen. I think it is ridiculous to apportion labor costs to a norm which does not exist. If they had at least apportioned it to the \$19,000 - but they don't apportion it to \$19,000. They apportion it to 160 cases. So that the average ordinary distributor who does 40 or 45 or 50 cases of cigarettes a day and employs the ordinary crew of people to do it is only receiving one-third or actually in this survey, gentlemen and Mrs. Perfette-- 28 per cent of our actual labor cost is allowed.

SENATOR SHERSHIN: Any lady on this Commission has got to be a gentleman, too.

MR. LEWIS: She surely is a lady.

Because if we take 46 as the real norm and divide it into the actual amount of labor, we are receiving in this survey credit for twenty-eight per cent of the actual labor costs - 28 per cent of the total. Now, this



survey takes in 47 distributors, I think representing 45 per cent of the total volume of business.

SENATOR SHERSHIN: Just a minute.

MR. LEWIS: Yes, sir.

SENATOR SHERSHIN: Mr. Neeld, do you have any copies of that survey that we might follow?

MR. NEELD: I might point out, Senator, that the folder includes not only the survey but a table setting forth two or three other items that we think will be of interest.

SENATOR SHERSHIN: As long as we have them here, we can follow through.

MR. NEELD: I would like to call your special attention to the fact that there is in the folder a list of the tax rates and the discount rates in each of the 42 states that have the cigarette tax.

SENATOR SHERSHIN: It will be very helpful to us.

MR. NEELD: You will also find in there a schedule of revenue that we derive from the cigarette tax and the total yearly payment that we claim to the distributor in compensation for the affixing of the cigarette tax stamp.

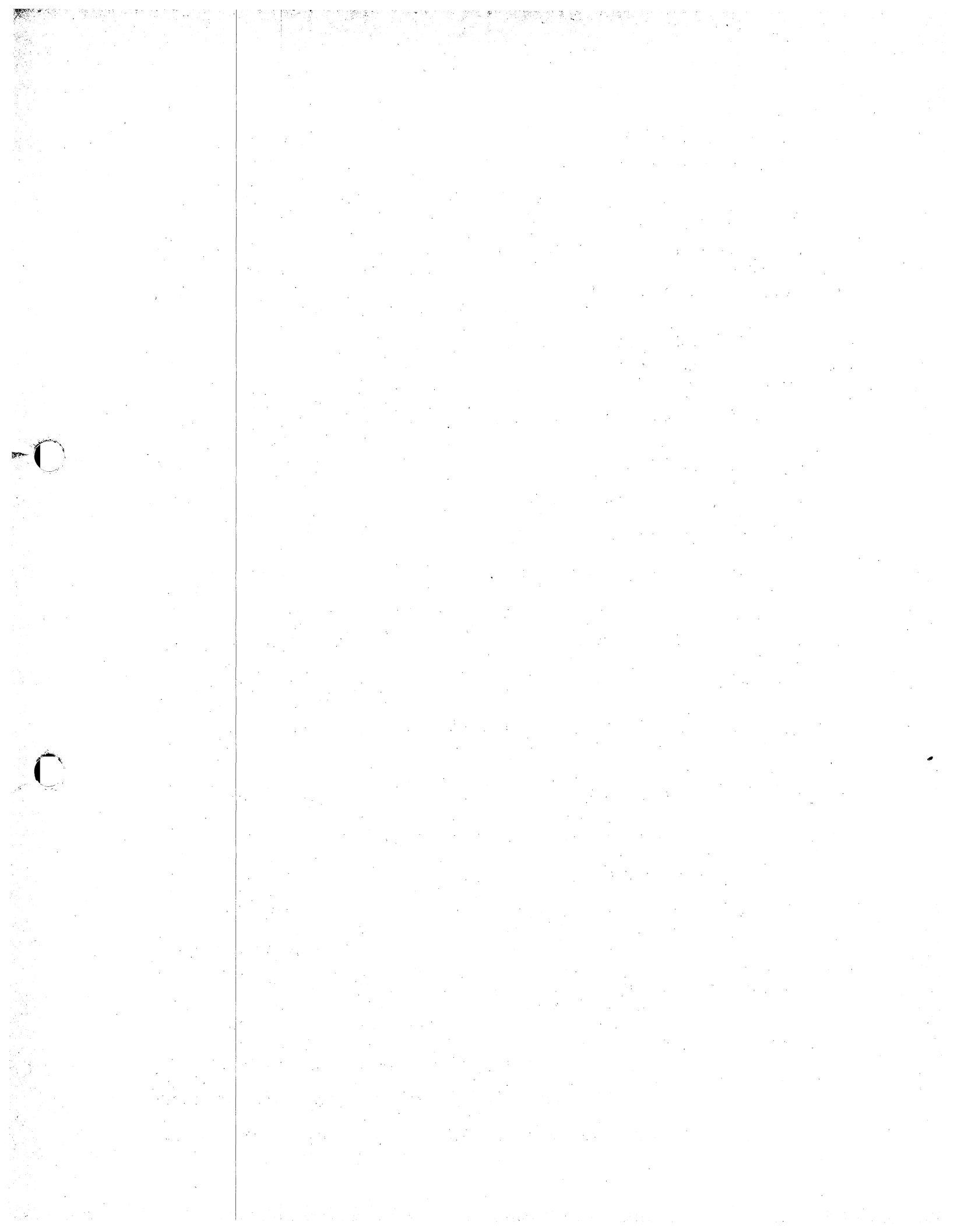
SENATOR SHERSHIN: We will appreciate having the schedule now so that we can follow Mr. Lewis as he is talking.

We're ready for you, Mr. Lewis.

MR. LEWIS: On Chart 2, which is a summary of all the compilations.

SENATOR SHERSHIN: Where do we find Chart No. 2?

MR. LEWIS: It's the first chart. We start off with the written matter and then we have Chart 1 and Chart 2.



That is a capitulation of all the distributors surveyed, and after that they go into classification - large, small, medium, etc. But in Chart No. 2, if we were to add up the number of cases stamped, which is five hundred sixty-six and some odd thousand and divide it by 47, and take a basis of a 5-day week or 260 working days a year, the daily average of all the distributors surveyed becomes 46 cases per day. Therefore, we have 46 into 160, or 28 per cent of all labor costs are allowed, using this formula of apportioning everything to 160 cases a day. The salary or wages allowed - and this is for the entire survey - is \$197,488, which represents 28 per cent of the total labor.

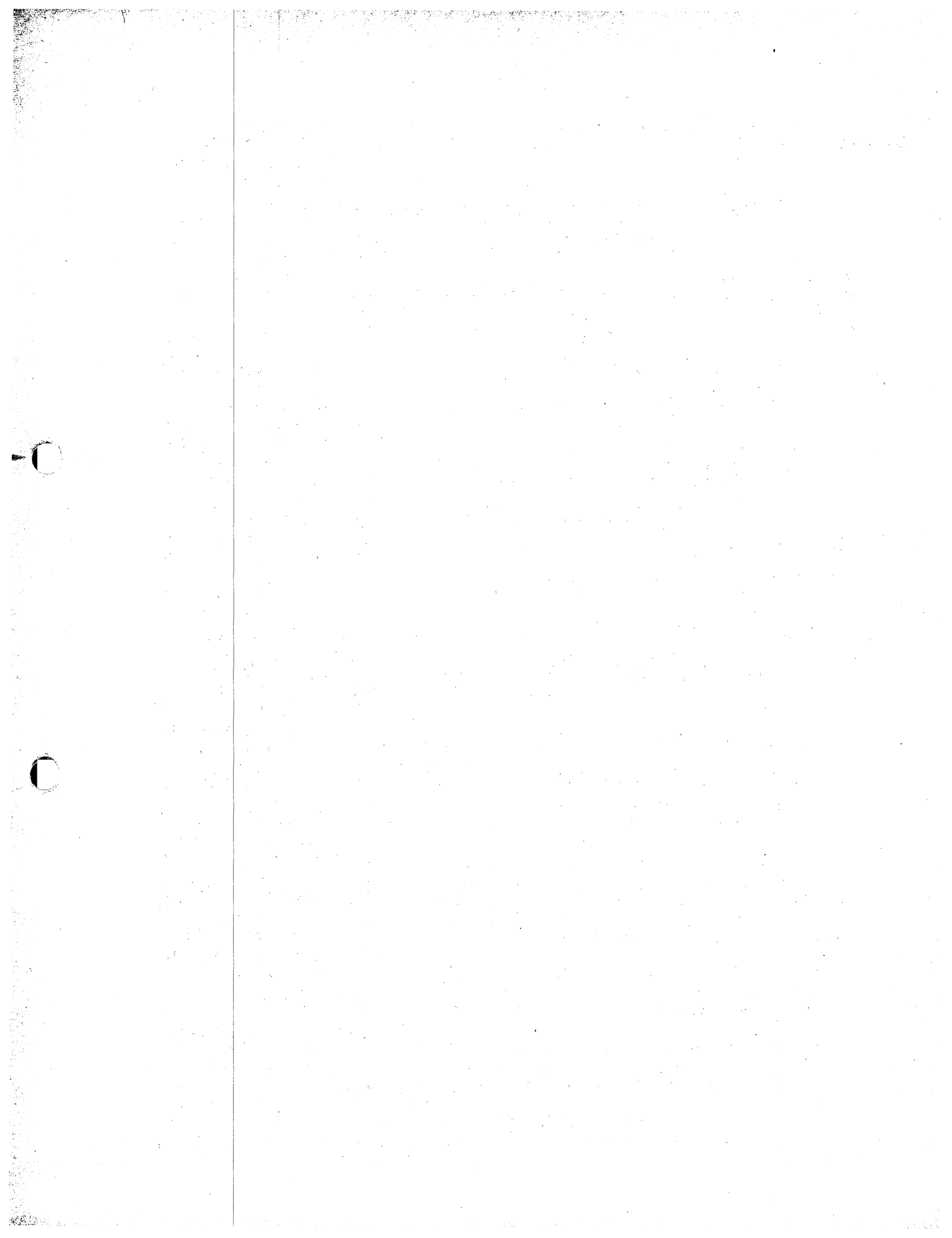
SENATOR SHERSHIN: That is what you say it represents.

MR. LEWIS: Under the formula of the survey, Senator. We are allowed, under the formula of the survey, 46 into 160, or 28 per cent.

SENATOR SHERSHIN: I have that proportion.

MR. LEWIS: The \$197,000 represents 46/160 of our total labor costs. Now, to reduce that to 100 per cent, that \$197,000 becomes - I'll find it in a minute - \$686,880, a differential in our favor of \$489,000. This survey, using this ratio, comes up with an answer showing that the net gain of all the distributors surveyed for the year was eighty-nine thousand and some odd dollars. If we apply the \$489,000 total labor costs, we would show a loss to the 47 distributors in this survey of \$400,000 a year.

SENATOR SHERSHIN: Wait a minute. You've studied this. Between



you and me, this is the first time I've seen it. What does this net gain or loss mean?

MR. LEWIS: The chart shows the initial investment, the maintenance, salaries--

SENATOR SHERSHIN: Never mind everything. Look at No. 10. What is the net gain?

MR. LEWIS: "Net gain" means, using these figures, the distributors surveyed in this survey, the 47, showing a net gain of \$89,000 at three per cent.

SENATOR SHERSHIN: Net gain because of the stamping operation? They are making that much money; is that what you are talking about?

MR. LEWIS: Over and above cost.

SENATOR SHERSHIN: Your contention is that you don't get a gain. You get a loss.

MR. LEWIS: My contention is that, if we reduce the labor cost to 100%, we would show a loss in this survey of \$400,000.

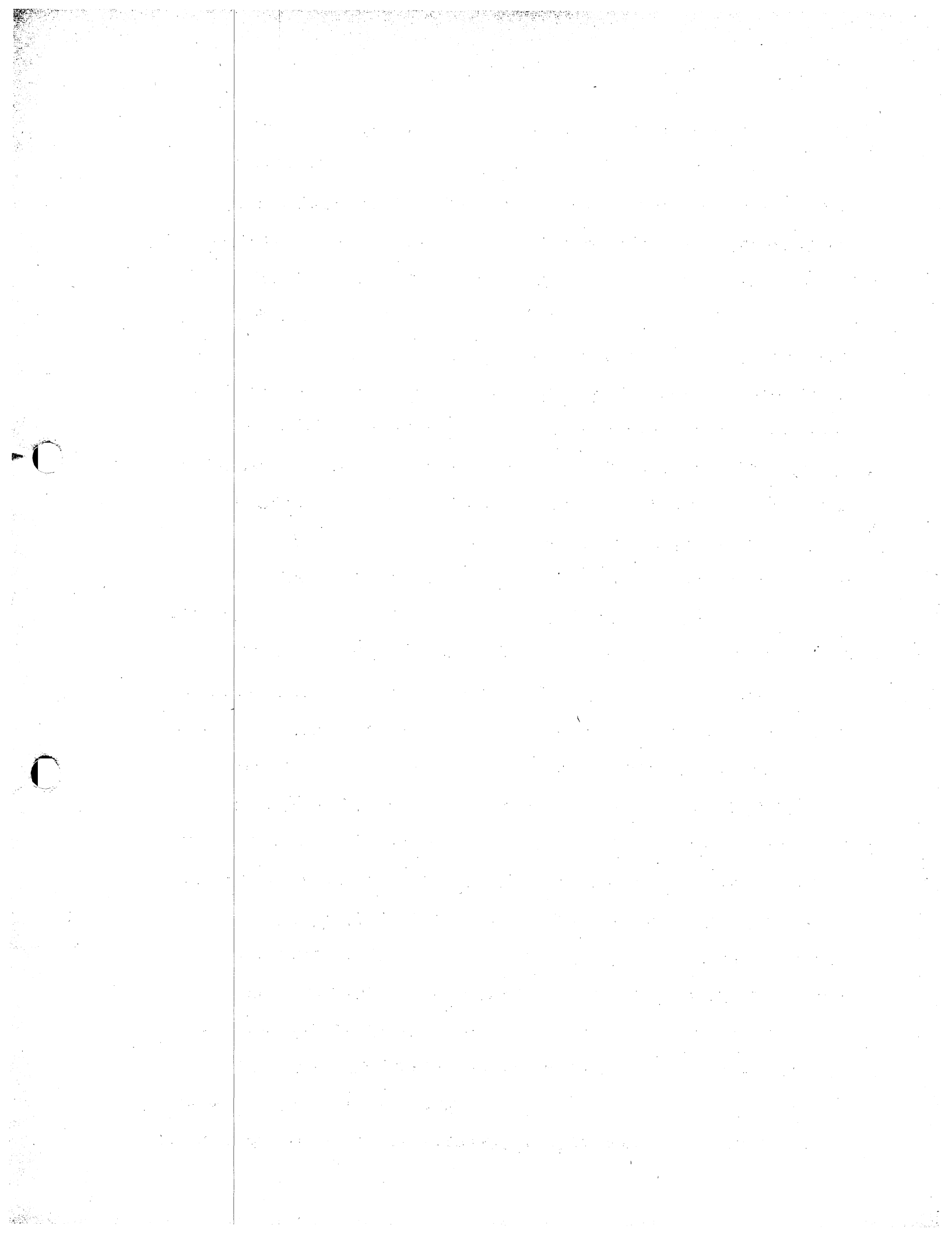
SENATOR SHERSHIN: Remember this, if you will, please. You may be familiar with the implements of this survey and the language that you use in the trade, but every member of the Legislature isn't, and we have to reduce it, in writing, at least.

MR. LEWIS: Well, let me say it again.

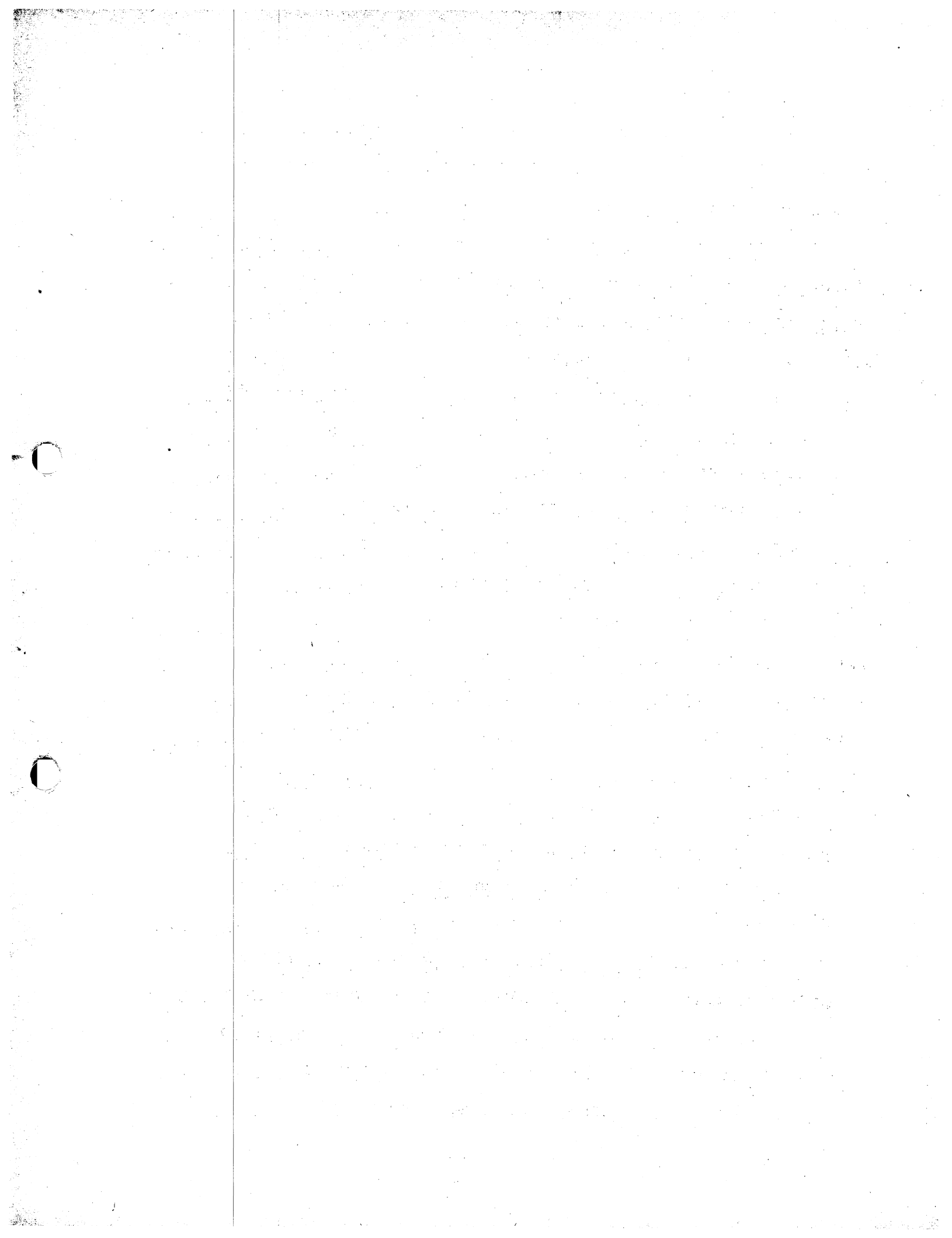
SENATOR SHERSHIN: It's clear now. Anything else that you have reference to, please elucidate so we can understand.

MR. LEWIS: Well, I was under the impression, Senator, that you had these charts.

SENATOR SHERSHIN: I'm not in the cigarette business.



MR. LEWIS: So the fallacy that we find in this survey is essentially the fallacy of apportioning labor costs to a norm that does not exist. I know, as a representative of the distributors and I know as a former employee of a distributor myself, that it is absolutely and physically impossible for any distributor with a normal crew of people working on a machine, on the cigarette stamping machine, to stamp any where near 160 cases of cigarettes a day. It is only in the abnormal operation in the three of one hundred in the state, that they attain that figure and they do it with an abnormal operation of labor as is shown in the labor costs and, as a matter of fact, the other two distributors that are mentioned in the body of the survey, that are supposed to exceed the plateau, are not even listed in the survey, there are no figures for them. So we do not know whether these other people used 20 men, working 20 hours a day or what. We do not know what the costs are. The only distributor in the survey that exceeds the 160 plateau is one. The others are all below. So economically as a basis of ascertaining costs, this survey is completely wrong. The figures are right. Give us the proper allowance for labor, give us 100 percent of our actual labor costs. This survey shows a loss of \$400,000 to the distributors in here, which is less than half of the distributors in the state or a loss of \$800,000 to the distributors in the state. Even ^{if} there were to be some mobility of labor, and



some of this labor could be used productively in other jobs-- even if we were to lop off \$2,000, we would still be entitled to the 2 per cent discount that was taken away from us in 1956.

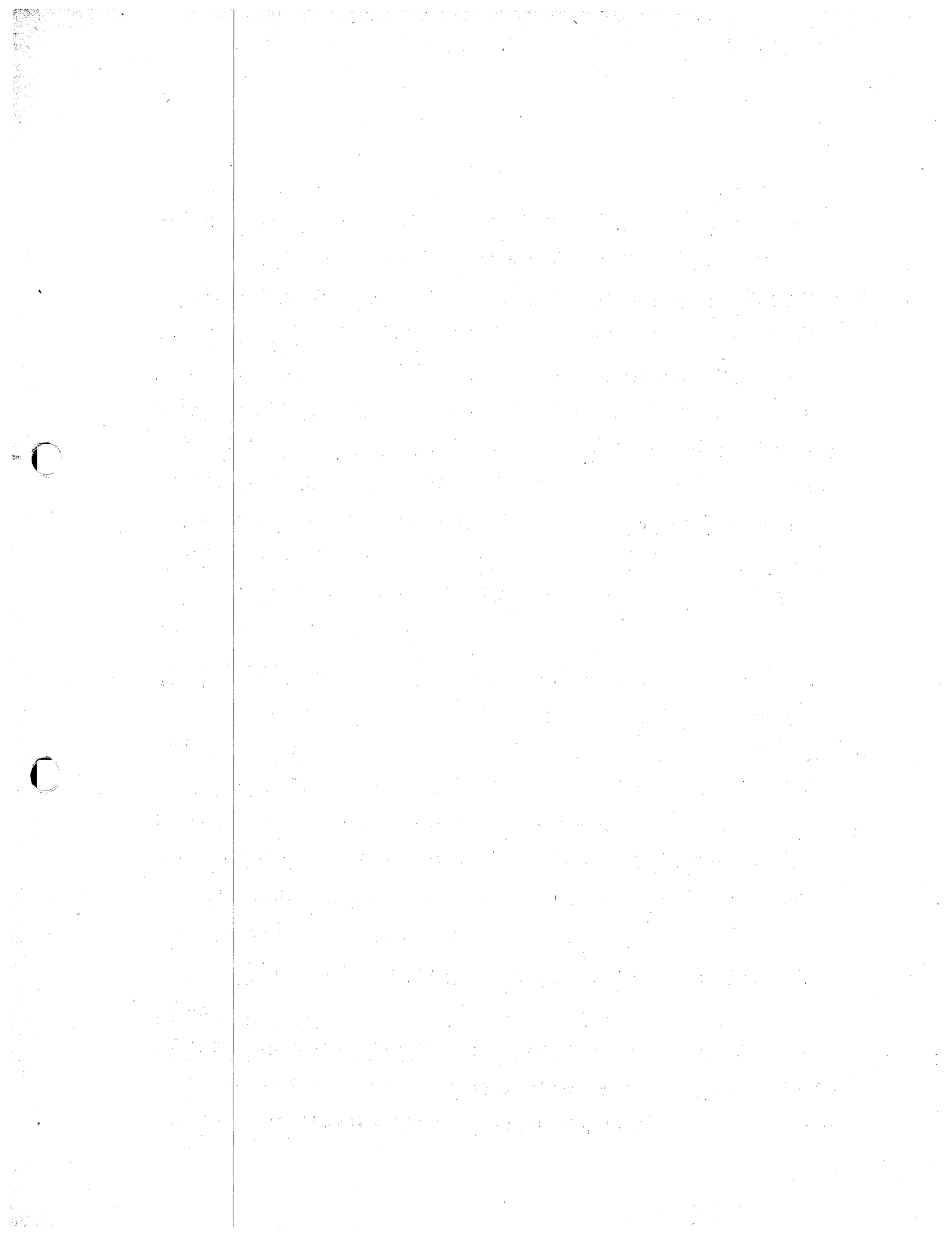
And, with that thought, I think we will turn our case over to more expert witnesses.

SENATOR SHERSHIN: If you were allowed the additional 2 per cent, would that absorb your four hundred and some odd thousand loss that you are talking about?

MR. LEWIS: Not fully. In order to absorb the complete labor cost--

SENATOR SHERSHIN: Why should you ask, or why didn't you ask that you be given what you feel you are entitled to have?

MR. LEWIS: Because, very honestly, Senator, we had made our own surveys, which we are not submitting because we are abiding by the figures in this survey-- we honestly believe that there is some proportion of mobility of labor. I don't think it exceeds 20 or 25% but there must be some apportionment of mobility of labor and that demanding the complete and total labor costs would be unfair. We don't want to be unfair. We don't want to make any money. In this operation, we want to break even, and we feel that the resumption of the 2 per cent, which would take in about 75 per cent of the total labor costs, would be sufficient to meet



our costs and it would satisfy our industry. I would say this, Senator, that I think some provision should be made in the tax law for a periodical check on the economic conditions, so that if the conditions continue, if the inflationary period continues to rise, some provision should be made whereby we can come in--

SENATOR SHERSHIN: You are in the business. What kind of a periodic check do you think ought to be made?

MR. LEWIS: I think once every 3 years would be sufficient.

SENATOR SHERSHIN: Every 3 years?

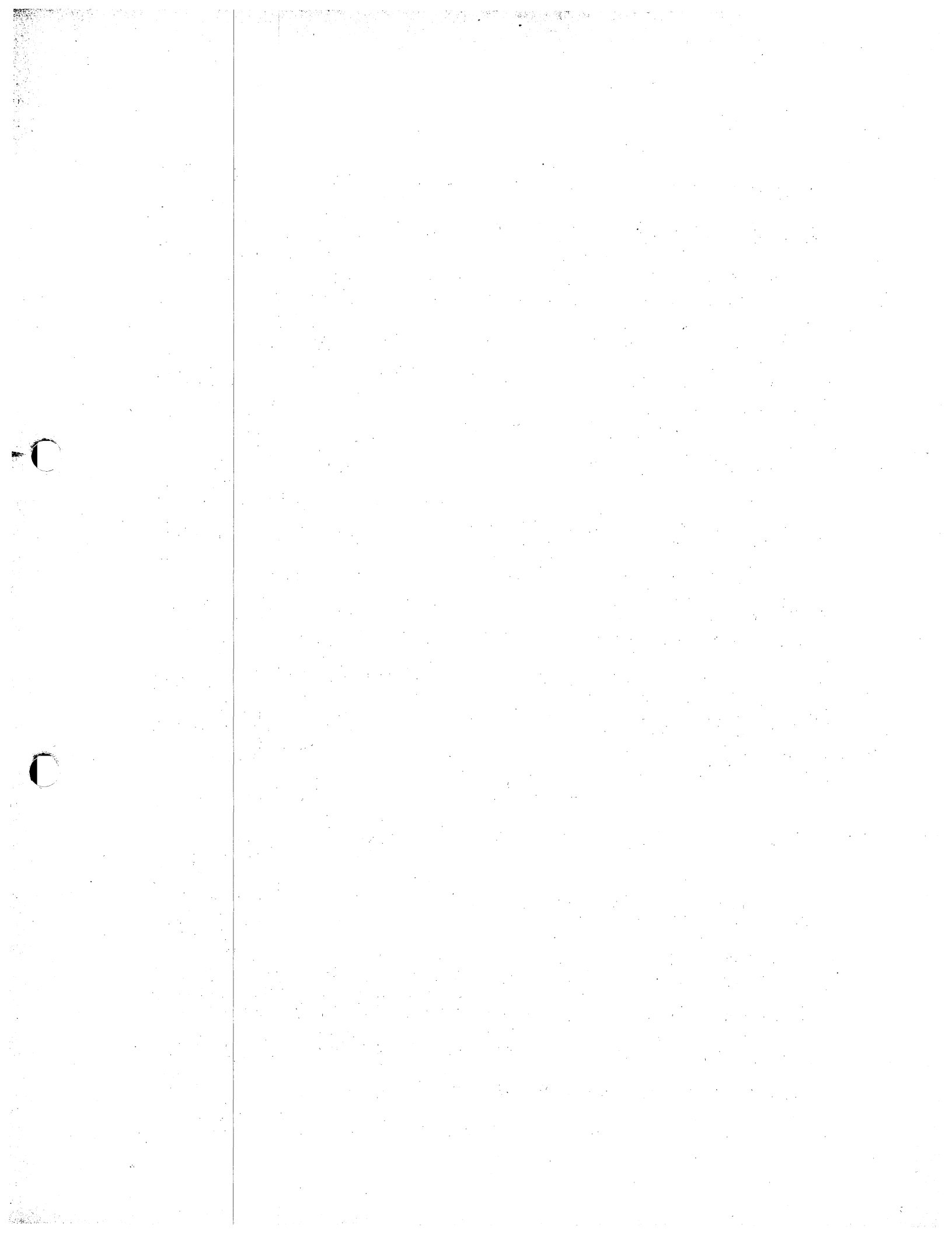
MR. LEWIS: I would say once in 3 years would be sufficient.

SENATOR SHERSHIN: Is there any further testimony. Any questions from the members of the Commission? Senator Lynch?

SENATOR LYNCH: Assuming, sir, that the cigarette tax was not increased in the year 1956, with no change in the tax structure at all, either by way or discount or increased tax, would your industry have come before the Legislature seeking additional relief?

MR. LEWIS: Oh, yes, absolutely. We discussed that with the head of the Cigarette Tax Bureau and we discussed it at great length over a period of time in our meetings, and we were prepared to come in with a bill asking for a two per cent increase if the cigarette tax had not been increased and if those bills had been defeated.

SENATOR LYNCH: In other words, regardless of what happened last year by way of legislation, you were still prepared



to come here seeking relief?

MR. LEWIS: Yes, absolutely.

SENATOR SHERSHIN: yet you are still satisfied to maintain the five per cent now?

MR. LEWIS: On five cents tax, Senator. That is an increase in our monetary return. The rate would remain the same, but it would take up the additional costs.

SENATOR SHERSHIN: Are there any further questions? Thank you, Mr. Lewis.

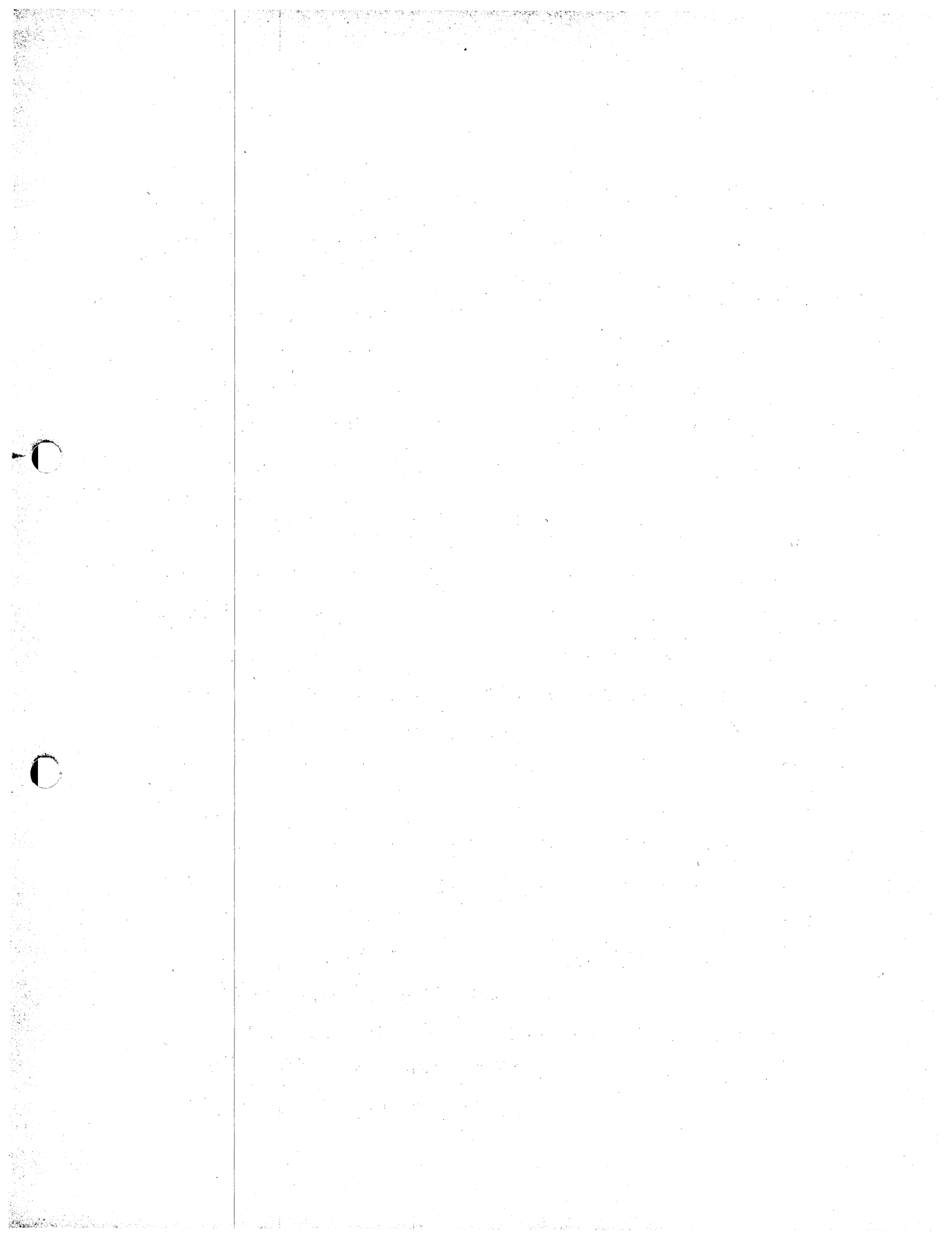
Your next witness, Mr. Saltzman. Mr. Saltzman, I made a statement that we would stop at 12:30. I know that you have a number of witnesses, and I don't intend to have this Commission sit here until six or seven o'clock at night. I am going to revise the luncheon schedule. We will quit at 12:30 and come back at 1:00. That means that you can go downstairs to the cafeteria, if you want to, and have a sandwich and come back here at one.

MR. SALTZMAN: We will be very happy to, Senator.

SENATOR SHERSHIN: Is that all right with you, Mr. Neeld? Is a half-hour lunch period all right with you, and come back at 1:00?

MR. NEELD: Yes, sir.

MR. SALTZMAN: Senator and members of the Committee, I would like to introduce to you Edgar O. Edwards, Associate Professor of Economics at Princeton University. Professor Edwards.



PROFESSOR EDWARDS: I should like to speak on one point and one point only; that is, the nature of the stamping norm as it is reflected in the published report, and the ambiguity of the stamping norm and the criteria on which it is based. Again, I should like to add in terms of what is in the report.

Now, the Commission should perhaps have something on my qualifications: I have had two and a half years' experience as a Cost Accountant and Production Comptroller prior to the war.

SENATOR SHERSHIN: With whom?

PROFESSOR EDWARDS: With the Telescope Folding Furniture Company.

SENATOR SHERSHIN: How large an establishment is that?

PROFESSOR EDWARDS: It employs about 250.

SENATOR SHERSHIN: Where is that located?

PROFESSOR EDWARDS: In Granville, New York.

SENATOR SHERSHIN: Any other cost accountancy experience other than that?

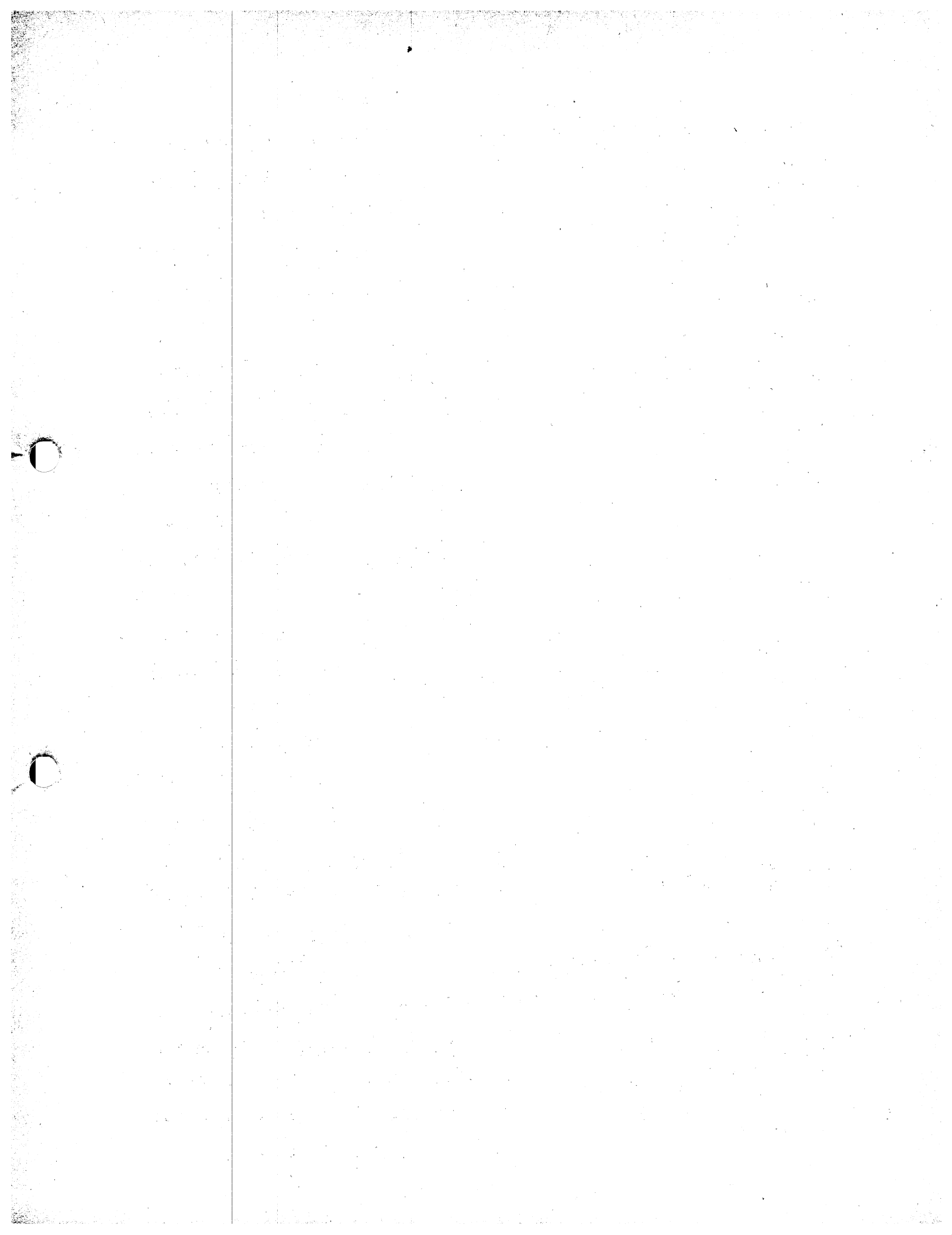
PROFESSOR EDWARDS: No, sir.

SENATOR SHERSHIN: You are a graduate of what school?

PROFESSOR EDWARDS: I have had 4 years of Accounting in college - Washington and Jefferson College. I completed my degree there, an A.B., in 1947. Since that time, I have received an M.A. and a Ph.D. degree from Johns Hopkins University in 1949 and 1952, respectively. Since then, I have been a member of the Princeton faculty in the Department of Economics, where I have taught Accounting, Corporation Finance, Economic Theory, and National Income Accounting.

SENATOR SHERSHIN: You are not teaching Cost Accountancy?

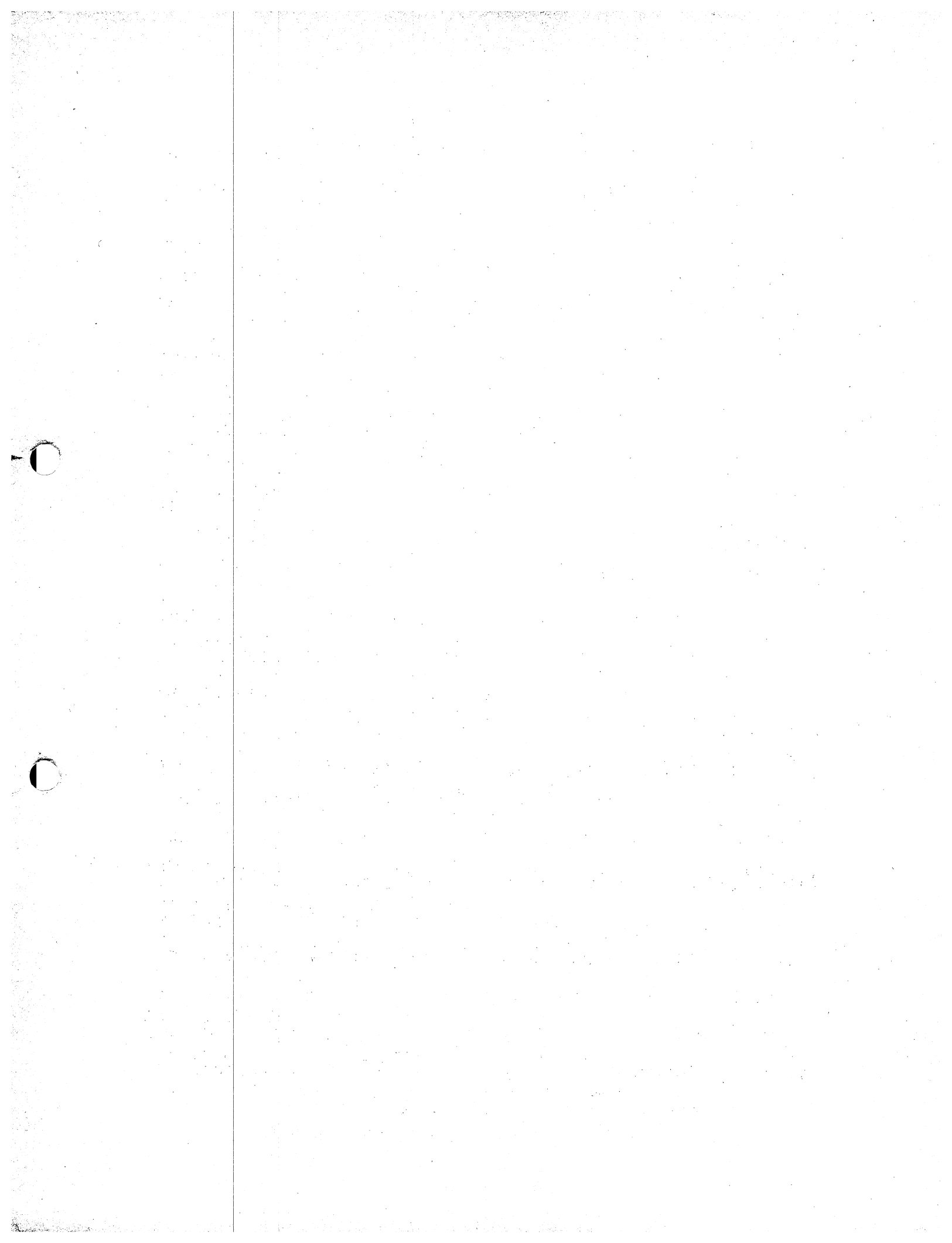
PROFESSOR EDWARDS: We have no course in cost accounting.



I have published articles in both accounting and economic journals. I have a book scheduled for publication next spring, entitled "Accounting Processes and Economic Problems," to be published by Harcourt-Brace.

I should like to repeat, however, that my testimony bears not on what I know the people who made up this survey did do in fact. It bears on what I can infer that they did, from this report, which I understand you have before you. The facts that I can infer from this report are, namely, two: First of all, I think it is quite clear that the norm that is used was based on a survey of three large accounts, and it has already been pointed out that, at most, apparently, only one of these accounts appears in the figures that are attached, unless the figures that were used from these three large accounts represented periods when they were working well above the average. However, the report does say that they used medium production months - this is on page 4 - rather than those months with exceptionally high volume. Further, I take it to have been the purpose of the report to establish the actual cost of production or of stamping and not to determine the most efficient method of production. The stamping norm, as it is developed in this report then, is used for only one purpose, so far as I can determine. It is used to determine the variable cost of labor; that is, the cost of variable labor.

It is not used to determine overhead labor costs - management, for example - except to the extent that management serves a specific function of working directly on the



stamping machine; in which case it would, of course, be a part of variable labor costs. Now, the norm in the report is computed as 75 per cent of the average daily stamping rates of the three large accounts where these are based on 65 working days, as I said, medium production months. The stamping process, to the extent that I understand it, is one that can be carried out in a variety of ways. You can use a different ration of labor to machine, depending upon the size of your operation. Further, of course, you can, in exceptional cases, use more than one machine. The possible combination or ways in which this production process can be carried on-

SENATOR SHERSHIN: Let me ask you this, sir: Are the machines all the same size that anyone uses?

PROFESSOR EDWARDS: I don't know this.

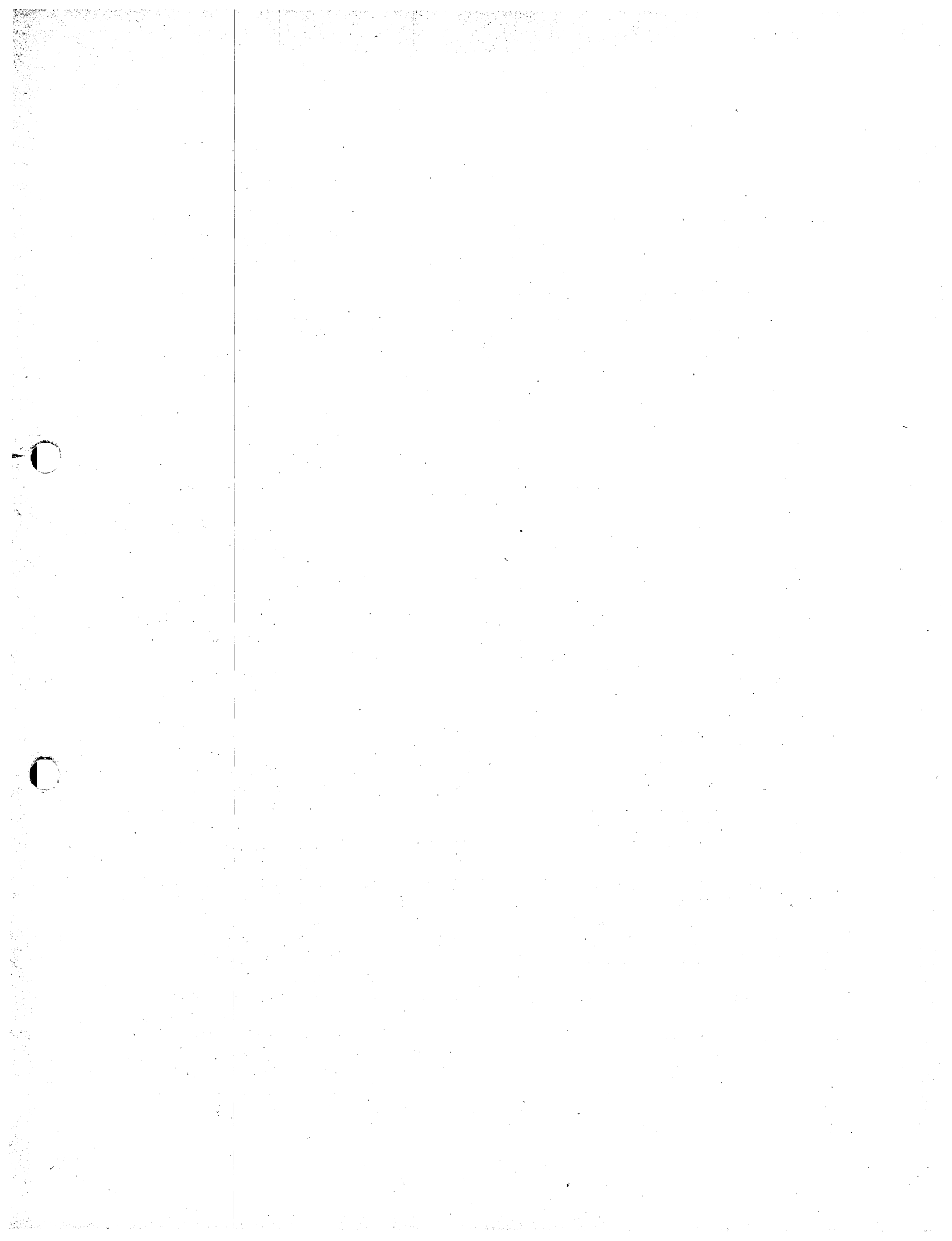
SENATOR SHERSHIN: Monroe Lewis, are the machines all the same size?

MR. LEWIS: Yes.

SENATOR SHERSHIN: There is only one machine?

MR. LEWIS: Only one. Only one machine is used by everybody - the same type of machine.

PROFESSOR EDWARDS: I would assume, however, it is possible to use conveyors belts and things of that sort, supplementing the machine.

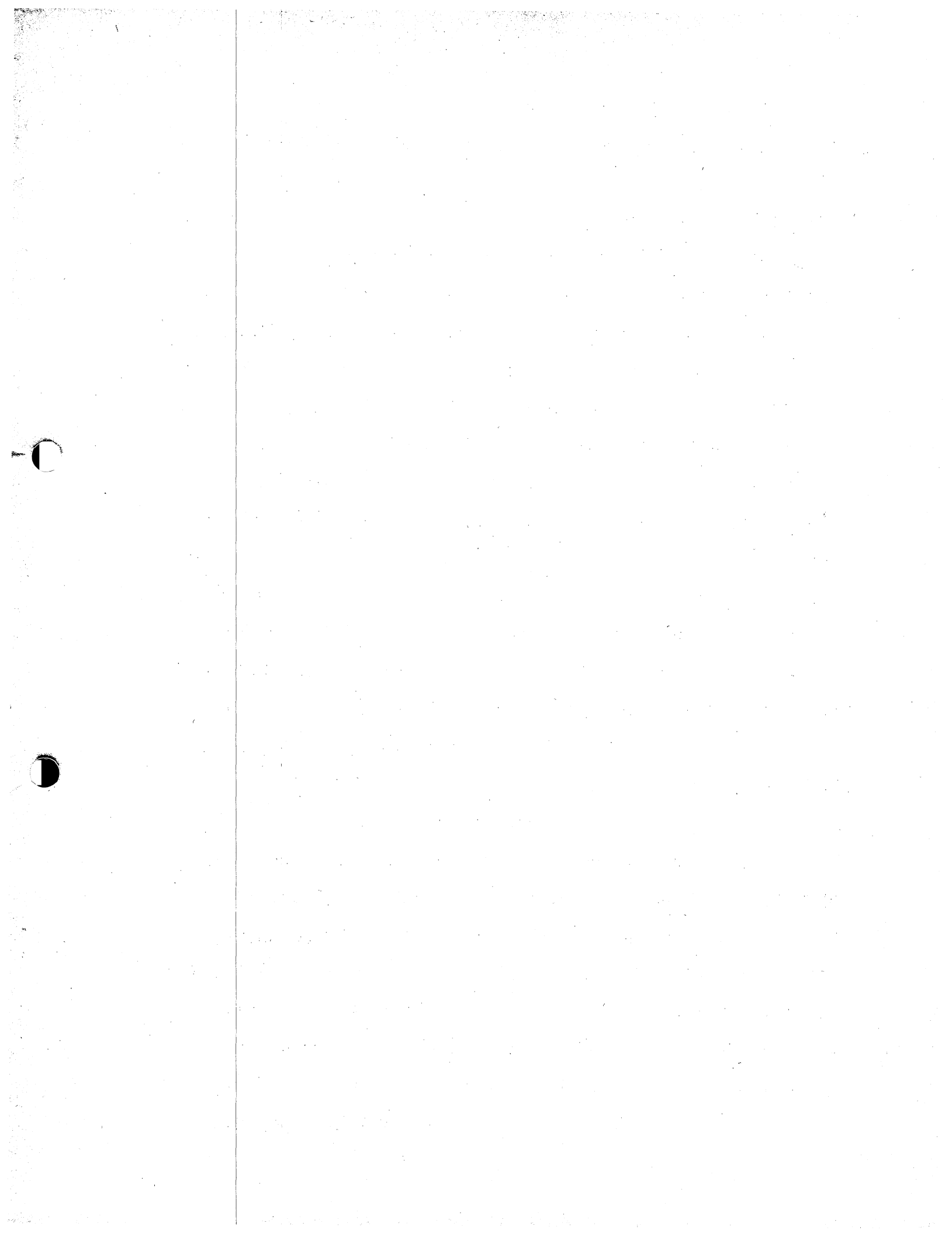


SENATOR SHERSHIN: All right. I was just wondering whether there was one machine or whether you might have one machine that would use less labor, as you say, but the initial cost might be a lot greater because of the greater capacity. My question has been answered.

PROFESSOR EDWARDS: I would take it, then, that the combinations that would be possible might run as follows:

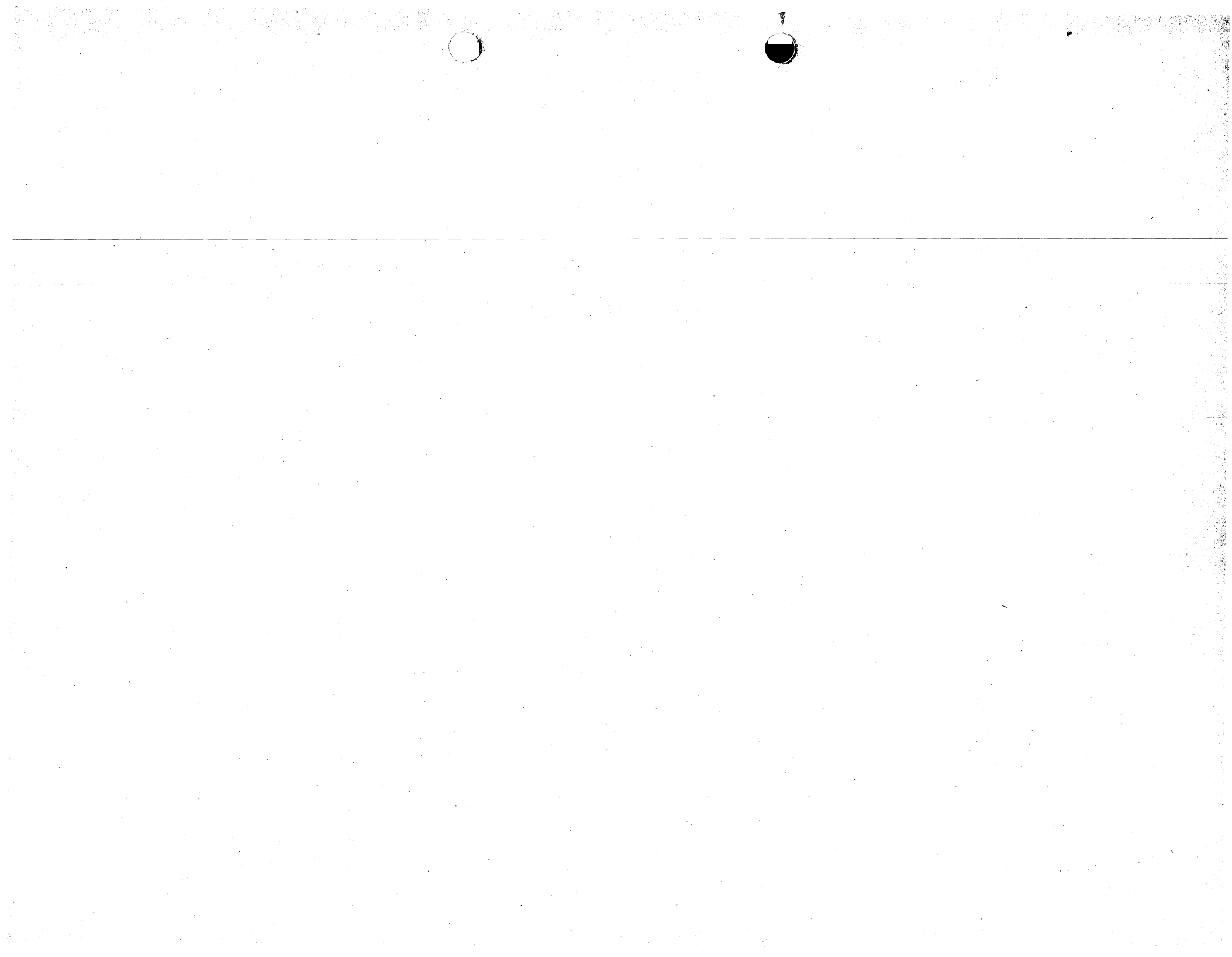
You could use two, three, four, five or, possibly, six men in conjunction with one machine. Now, if you use the larger number of men, of course, it implies a larger degree of specialization.

If you carry this too far, you will clearly run into diseconomy but if, of course, it is necessary, in small operations, to use a small number of men, you will also run into diseconomies at this end of the scale, in that the men will have to perform two or three different tasks and, in flitting from one to the other, they are bound to be less efficient than if you had an optimum degree of specialization. You could also use, say, four, five, six, all the way up through ten or twelve men in conjunction with two machines. I will speak primarily, however, about the combinations that are possible when there is only one machine in existence. Now, the norm in the report is clearly derived on the basis of the production possibility of large accounts. We are not told in the report what ratio of labor to capital is implied; that is, what ratio of labor to capital was



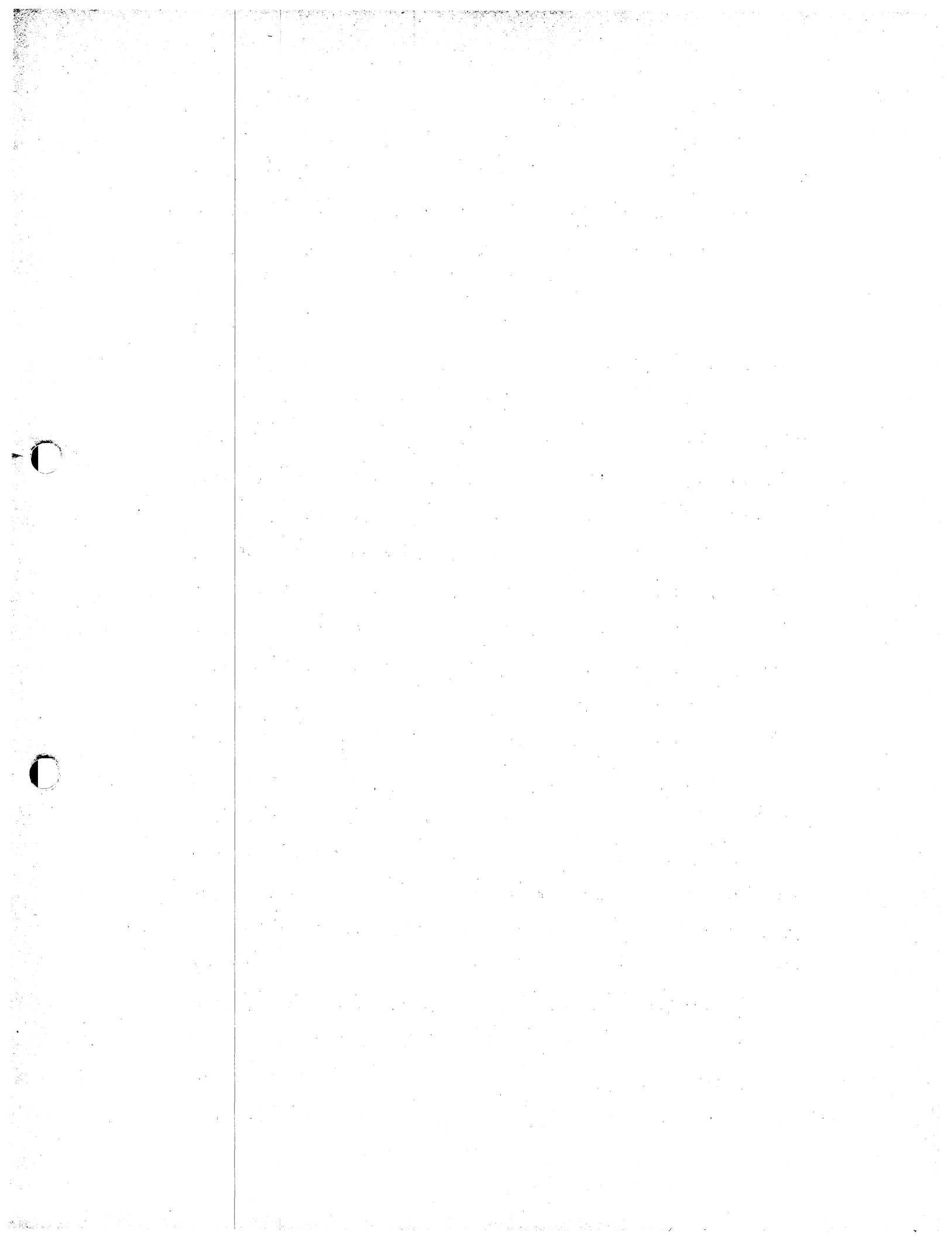
actually used in these large firms. It is clear, however, that all other companies, I assume that all of them are smaller, need not and indeed cannot use, perhaps, the same ratio that the larger companies can use. They may not have even that amount of men on the premises.

If the norm, which is computed as 160 cases per day, were based on, and this is hypothetical, I have no knowledge of this, if it were based on a 4 to 1 labor-machine ratio and full labor costs were allowed when this norm was achieved, it would make some sense, subject to a later qualification, to allow a firm using four men and one machine, only half the cost of ^{four} the/men if their output were only 80 cases per day, on the assumption, of course, that these men could use the additional time productively elsewhere in the company. It would not make sense, however, to assume that a firm employing two men with one machine should achieve the norm of 160 cases per day. Clearly, the amount these two men would be able to turn out in a day in conjunction with one machine would be substantially lower than 160 cases per day. If we do apply the norm of 160 cases per day to these people, the consequence would be that only half of the cost of the two men would be allowed and on the basis of the little I can infer from the report, this is apparently the way in which this was done. That means, that if the two men worked, let us say, all day long, produced 80 cases, nevertheless only half of their total labor costs would be admitted as legitimate labor costs,



because the total amount they turned out was only half of the norm. The total labor cost, in other words, in this example is all ready one-half of the total labor cost of the large firm and in applying the norm to this, we are accepting as legitimate cost only one-half of the smaller total. The report suggests, on page 5, that this is the technique used. Let me quote from this: "All wages relating to the stamping and moving of cigarettes for stamping purposes, were raised to 100 percent before applying the average stamping ratio. Thus, if three employees, making a total of \$9,000 per year, stamped an average of 80 cases of cigarettes ^{per day}, which is 50 percent of the norm, 50 percent of the \$9,000 or \$4,500 was allowed for wages."

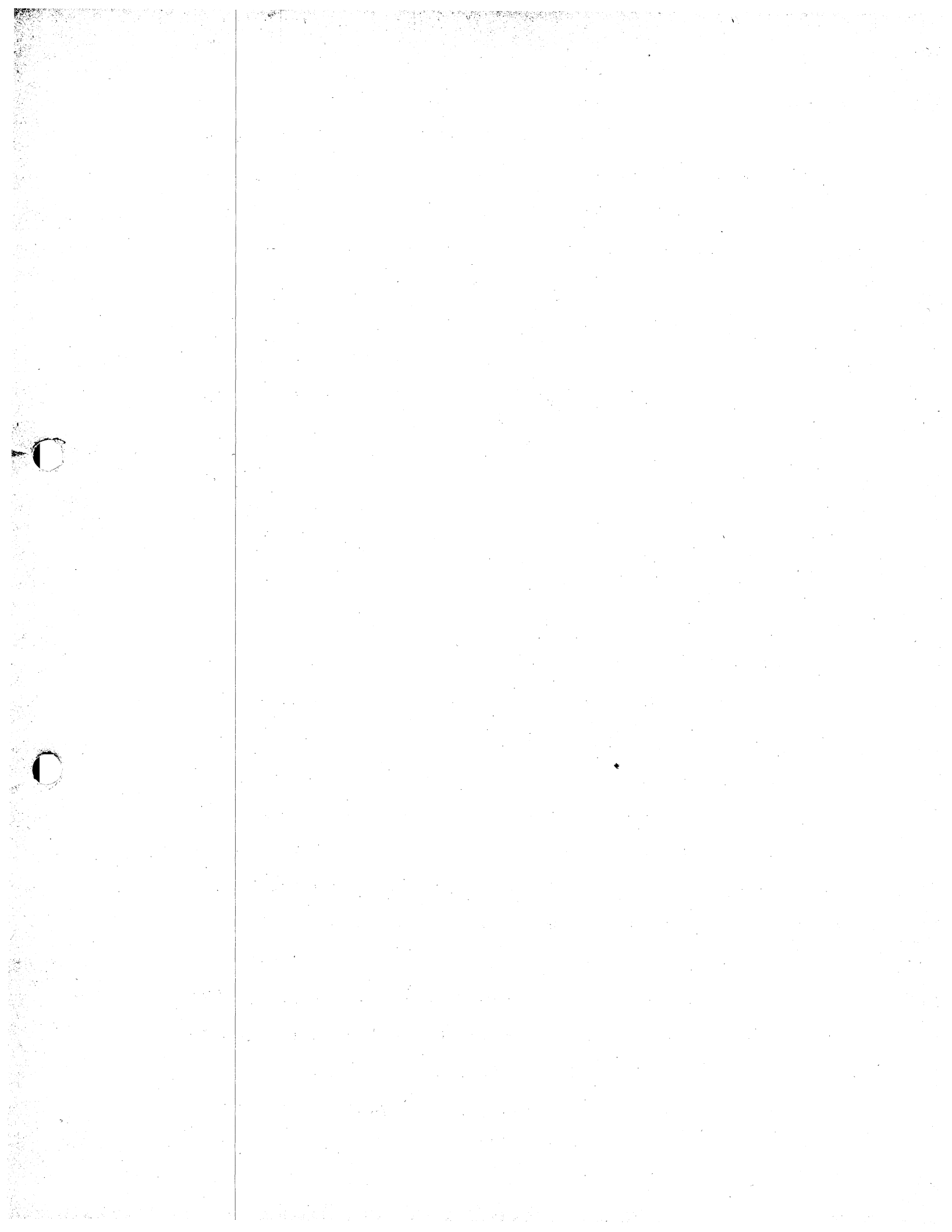
No other examples are given but I would take it from this that if four employees were employed making a total of \$12,000 per year and they stamped an average of 80 cases per day, that 50 percent of \$12,000 would be allowed, that is, \$6,000. However and, of course, the four men in this case would actually be much less efficient than the three men. On the other hand, if two men, working with one machine, whose total wages came to \$6,000 a year, if these two men stamped an average of 80 cases per day, which I would regard as certainly more efficient than three men or four men, apparently only 50 percent of the \$6,000, or \$3,000 would be allowed as the actual labor cost. I think and if I am



correct in inferring this from the report - and, of course, I have no other basis for judging - this is clearly, I think, an incorrect way of computing the legitimate labor costs involved in the stamping operation.

I would suggest, then, if a norm is to be used at all in trying to determine actual labor costs, that a separate stamping norm should be used for each type of production technique: A separate norm should be established, let us say, for those firms that use the technique of two men in conjunction with one machine; a separate norm for those firms that use a technique involving three men and one machine; four men and one machine; five men and one machine; conveyors. You would have to have a different norm for those that use, let us say, more capital equipment of this kind.

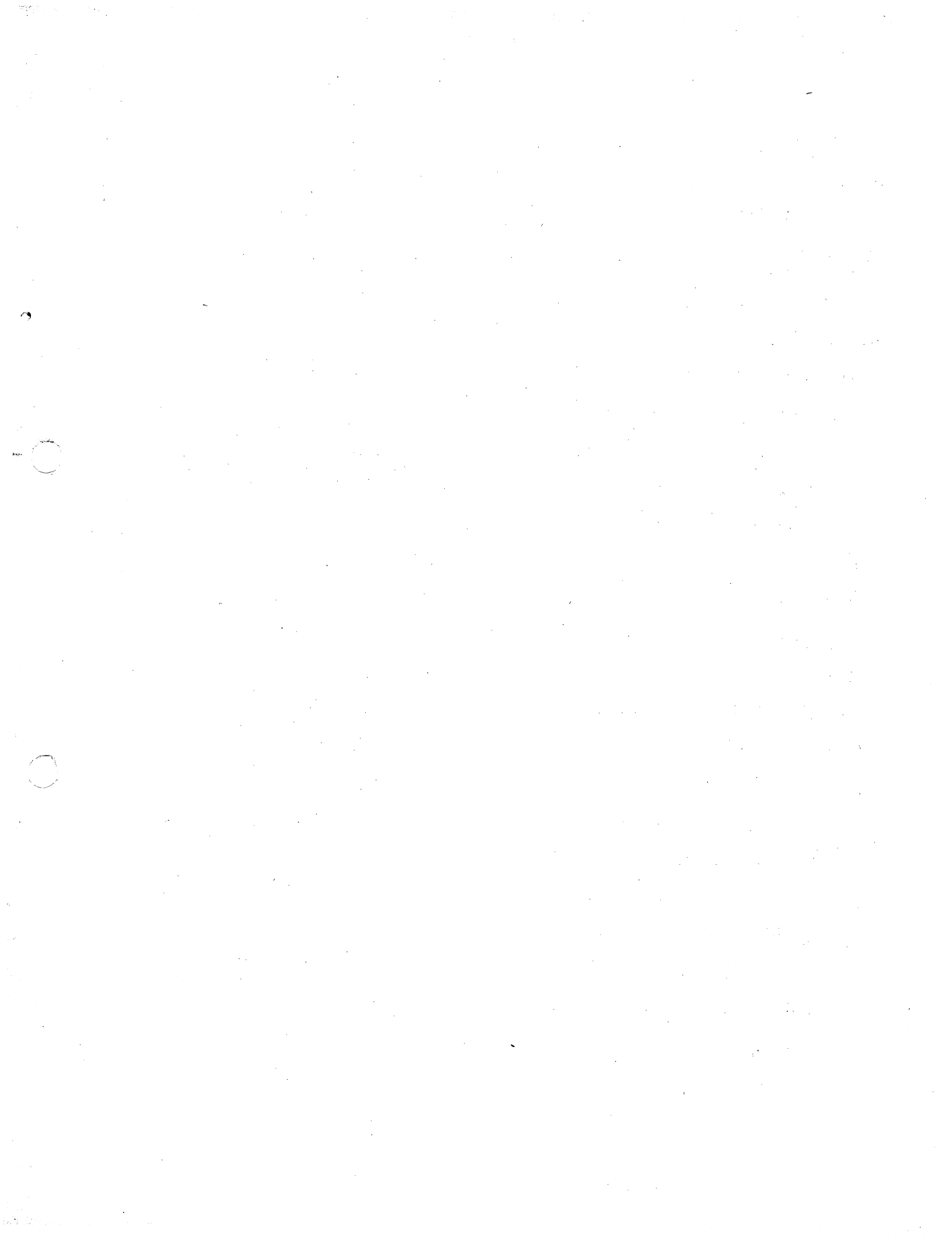
Now, the reason why you would need a separate stamping norm for each of these is because, having a norm for one production technique, it is, nevertheless, not usually possible to infer from this norm the norm that should exist for other production techniques. In other words, if the norm of 160 were to be consistent with the production technique involving four to one ratio with labor to capital, we cannot assume that two men and one machine should be able to produce 80 cases per day. Without investigating the facts, we cannot be sure - perhaps they should produce 90 or 100, perhaps only 50 or 60. This would be a question



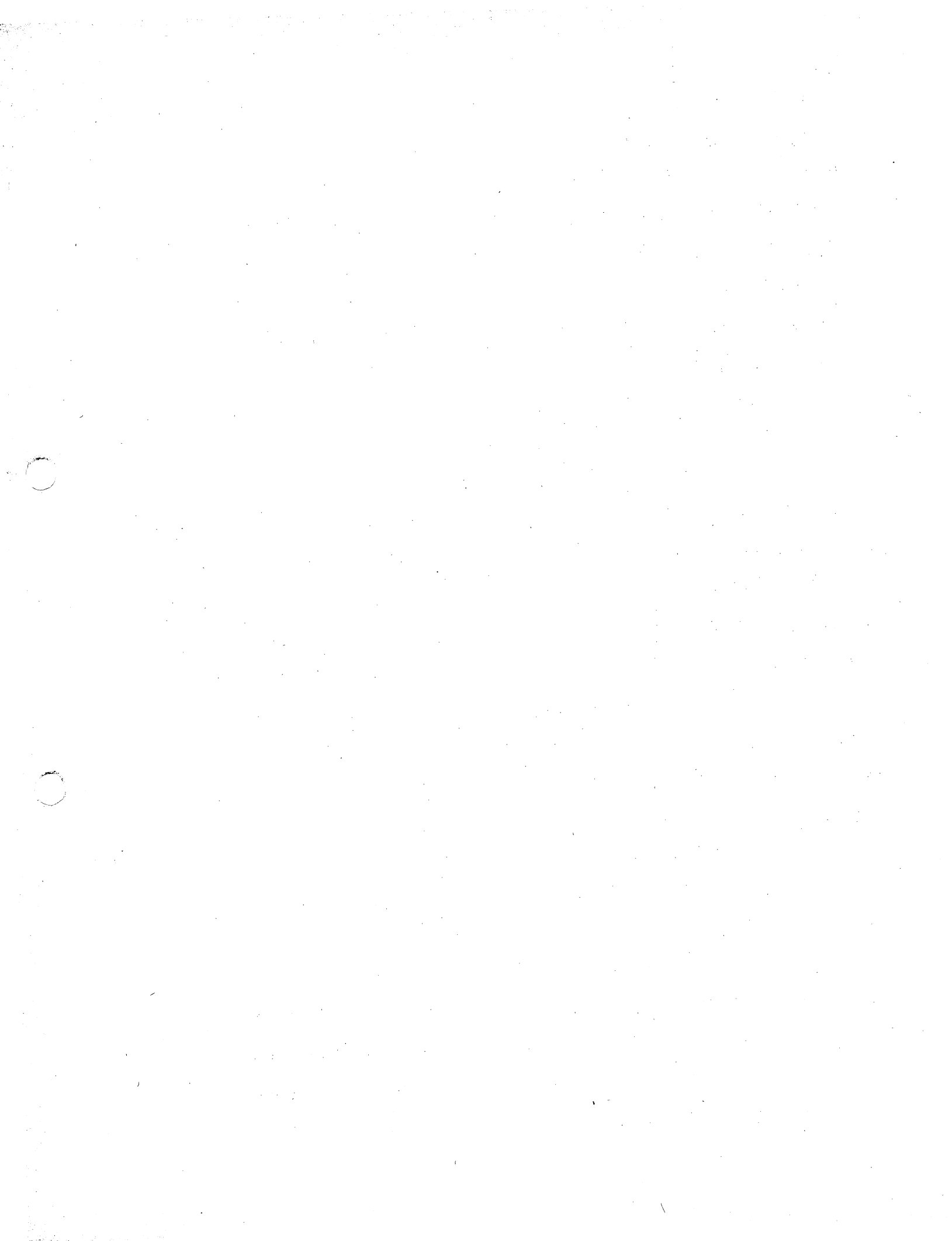
of study, of course. On the other hand, if someone used six men in conjunction with one machine, I would expect that their norm should be well above 160. If these separate standards were computed on the basis of large accounts, which I assume have relatively efficient operations, some reduction would be necessary to determine a norm that would be efficient with the smaller companies, using the same production technique as the larger firm. This is so because where output is smaller, the frequency of adjustments necessary for the machine as you move from one brand to another, is likely to be larger, set-up time is divisible by a smaller output so that in the process of setting up your machine or tearing it down or closing it up for the day is divisible by a smaller output. The work area is more likely to be used for multiple purposes in smaller firms and this, of course, would lengthen the set-up time. Labor is not likely to be as fully specialized in the small firm where perhaps they can work on the stamping operation only three or four hours a day. Whereas, in the large firm, the labor is likely to be fully specialized, making, of course, for increased efficiency at that level. The 75 percent ^{reduction} applied in the report, I would interpret as an estimate of this kind of adjustment though no facts are given to support the figure in the report. It could be different from 75 percent; I think, it is clear, however, that this kind of adjustment cannot be interpreted as a standard for different production techniques.



It can only be interpreted as a difference in efficiency using the same technique. We cannot use 75 percent^a clearly to get from a ratio of 160 or from norm of 160 when labor-management ratio is 4 to 1 to say the norm that should apply when we have only two men and one machine. If these difficulties were surmounted in the report, we are left, I think, with yet another. The use of norms computed for different production techniques, each, adjusted to reflect the reduced efficiency of smaller scale operations, rests yet on another assumption. This assumption is, that labor hired for the stamping operation can be efficiently used whenever it is released from the stamping operation. This assumption is not specified explicitly in the report that you have before^{you} but I think it is quite clear that the assumption is involved. The opposite assumption is used in computing the cost of stamping equipment. That is, full costs are allowed even though the equipment is often not in use. The equipment is regarded, I think, rightly so, as specific to one task. Labor is clearly more versatile,^{more mobile,} than is the equipment, and in large accounts where idle time is less likely to be a factor, labor may be fully utilized when it is released from stamping because alternative work is available. In certain small operations, however, the reverse may be the case. Especially if efficient part time help cannot be obtained. In other words, in a small operation, you may find, let us

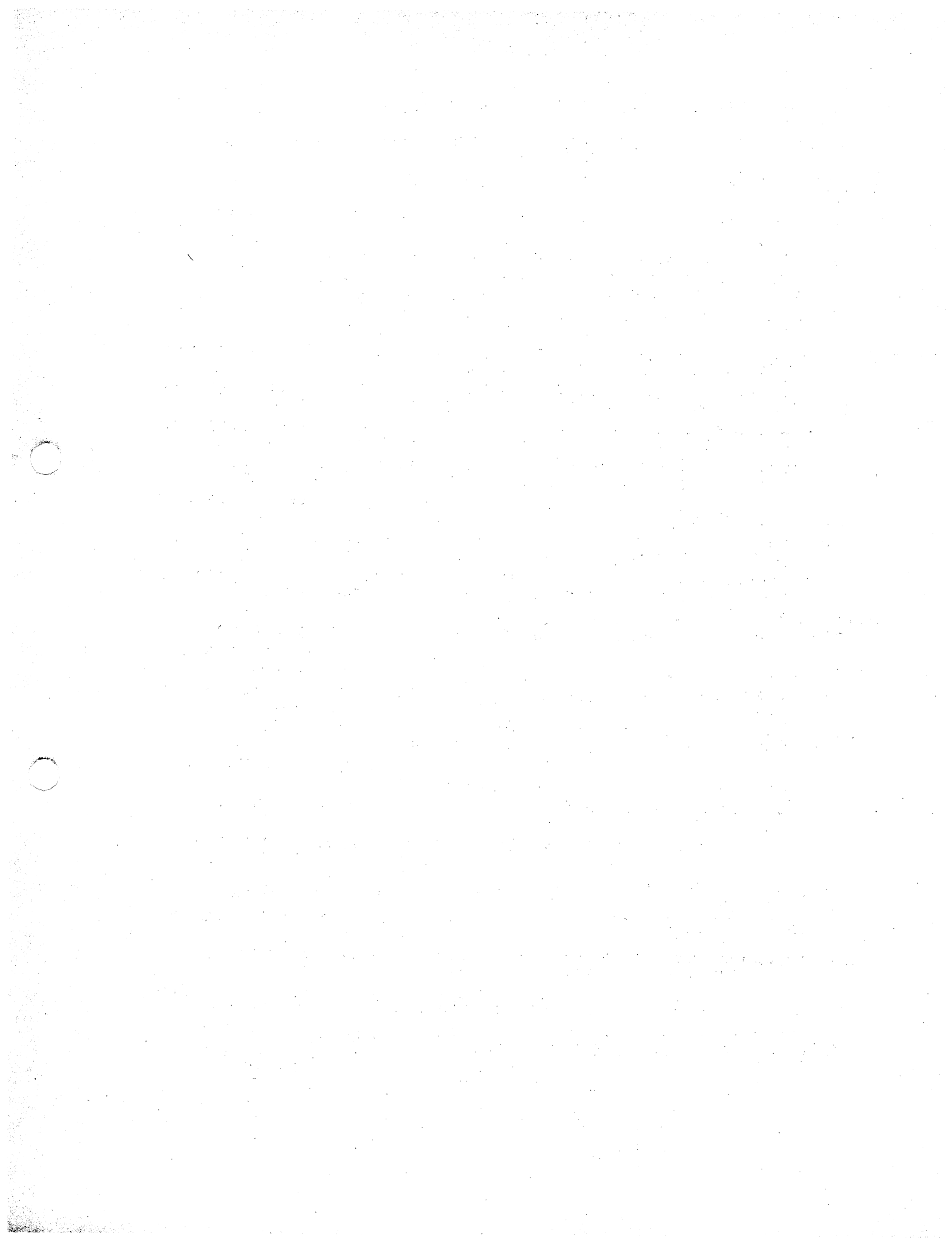


say, before the stamping operation was taken over, the small firm, let us say, employed three men. These three men were working full time. Now, let us say then, that they are required to take over a stamping operation. This stamping operation requires, let us say, two full time people for two hours. Now, if the firm cannot hire part time labor that is efficient at the task, then they might have to employ two additional men. The problem then would be what to do with these men in the other six hours of the day. Another possibility, however, is this. That is, they might employ one additional man, take one man off of his other task for two hours to help him to stamp the cigarettes. When this task is done then they might go back to working on the regular operation. But nevertheless, even in this case, you are going to have four hours of labor time that is really idle time although it might be used in ~~some sort of~~ ^{"make-work"} task. The other possibility for this small firm is to work the three men overtime in order to stamp the cigarettes. But, of course, overtime rates are much in excess of standard rates and if this were the case, then certainly in this instance, the labor costs should be computed at the overtime rates. I would not suggest, I want to make this clear, that stamping labor should be treated as immobile as is the equipment. That is the opposite assumption from that made in the report, that labor used on stamping cannot be used at all elsewhere when the stamping is completed. This opposite assumption, I think, is as



extreme as the one that is used in the report. It should not be arbitrarily assumed that labor is perfectly mobile, on the other hand. I would suggest, rather, that some compromise between these two extremes would probably best fit the practice.

Now, if I can simply summarize briefly, the points I have tried to make are as follows: First, the norm in the report takes no account of the different production techniques, is based on a production function of large firms and apparently penalizes the efficient small firm twice, by counting as a cost, only a portion of its legitimate cost. Second, different norms, if a norm is to be used at all, should be computed for different production techniques because one is not easily translatable into another. Third, the allowance of 75 percent for diseconomies of small scale operations using the same technique is not supported. It could be either greater or less. Fourth, the costing technique used assumes perfect mobility of labor from one type of work to another and further assumes that work alternative to stamping is available. Some assumption, intermediate between that of full mobility and that of zero mobility, could be probably shown as more consistent with the facts. Now, on the basis of the sparse statements in the report, I would judge that the technique used in the report, serves to under estimate the actual labor cost involved in the stamping operation. This is particularly true for any



firms that are smaller than those that were used in computing the norm.

Thank you. That is all I have.

SENATOR SHERSHIN: Thank you so much. Any questions from any members of the Commission?

Your next witness. May I just look at this schedule. Is Mr. Goldstein present? How long will Mr. Goldstein take?

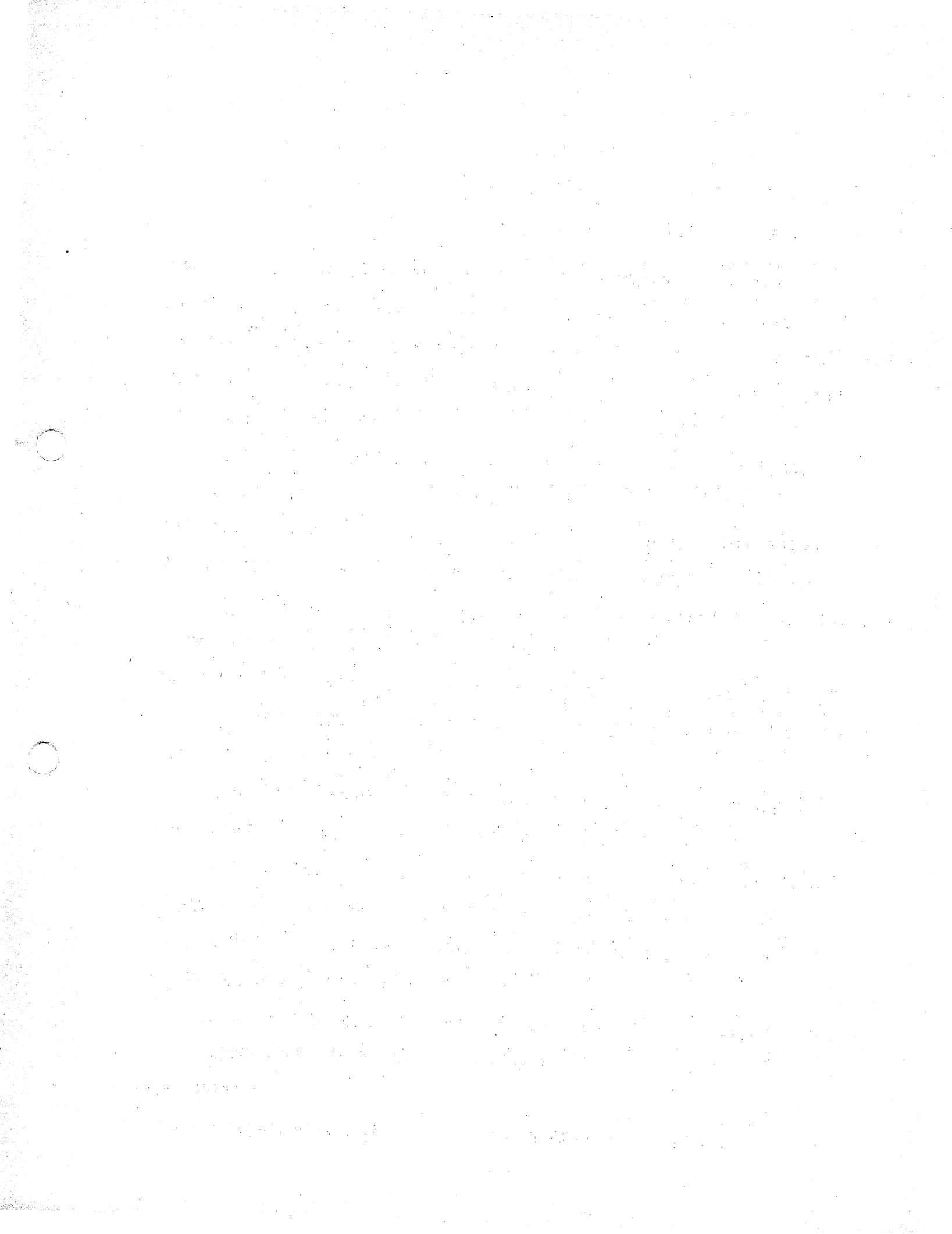
MR. GOLDSTEIN: Sir, I will consume about ten minutes of your time. I think I can finish within that time.

SENATOR SHERSHIN: Fine. Will you present your next witness, Mr. Saltzman?

MR. SALTZMAN: I present Mr. Harden E. Goldstein, Director in Charge of Public Relations and Statistics of the National Association of Tobacco Distributors.

H A R D E N E. G O L D S T E I N: Ladies and gentlemen, I would like to correct that, if I may. I am the Associate Director of the National Association of Tobacco Distributors and the Director of Market Research.

The combined membership of our Association, gentlemen, transacts over 95 per cent of the total sales volume consummated by the Wholesale Tobacco Trade in the United States. The membership of the NATD provides the major artery through which the manufactured goods of over fifty different industries are distributed to more than one million retail outlets



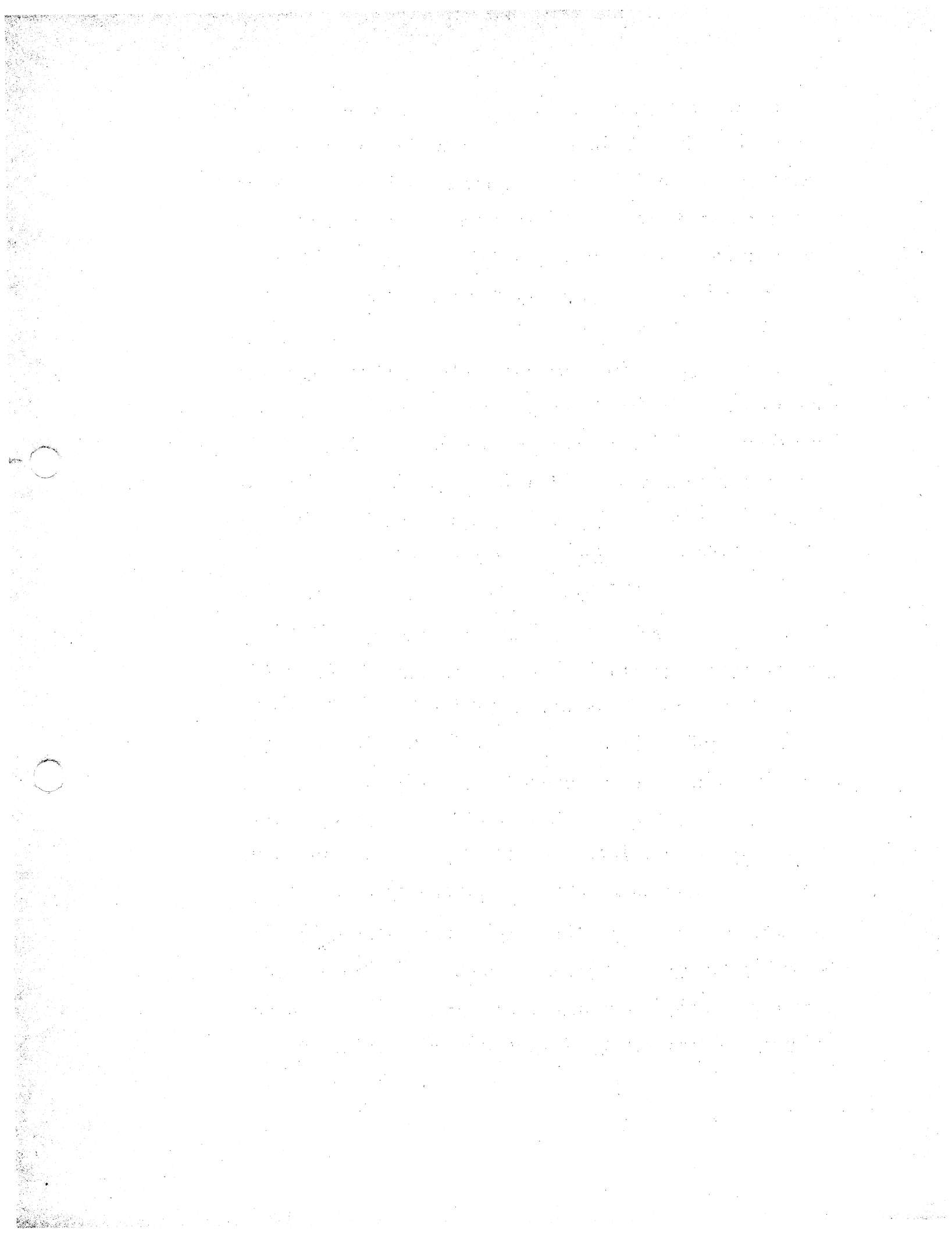
and through them to a goodly majority of America's consuming public.

In order to properly evaluate the statistics presented by the NATD today for the information and guidance of this honorable commission it is, I believe, important to point out the role of the Association's Market Research and Statistical Divisions.

Through these Divisions, the NATD collects and compiles authoritative data about the operative functions, activities and economic environment in which its members operate. They regularly collect and supply manufacturers, wholesalers, government agencies, newspapers, schools, libraries, etc., with statistical data on production, inventories, costs, employment, wages and other related subjects.

It is interesting to, ^{note} I think at this time, that Federal and State Government Agencies, as well as the press, regularly make use of statistical data secured from our office, since in many areas, their own facilities - because of budgetary limitations - do not afford as comprehensive a documentation of industry conditions.

In order to properly evaluate the justice of the request made by the Wholesale Tobacco Distributors of New Jersey for additional compensation for the services they render the state, it is essential that the equity of their claims be viewed in the light of the economic environment that presently affects them



and their counterparts throughout the United States.

I propose, therefore, to do the following. To set forth as concisely as possible, a documented picture of the difficult financial problems currently facing Wholesale Tobacco Distributors, along with evidence of the recognition afforded their serious plight by other states who also employ these people, to collect and account for monies raised by the state through the medium of cigarettes taxes.

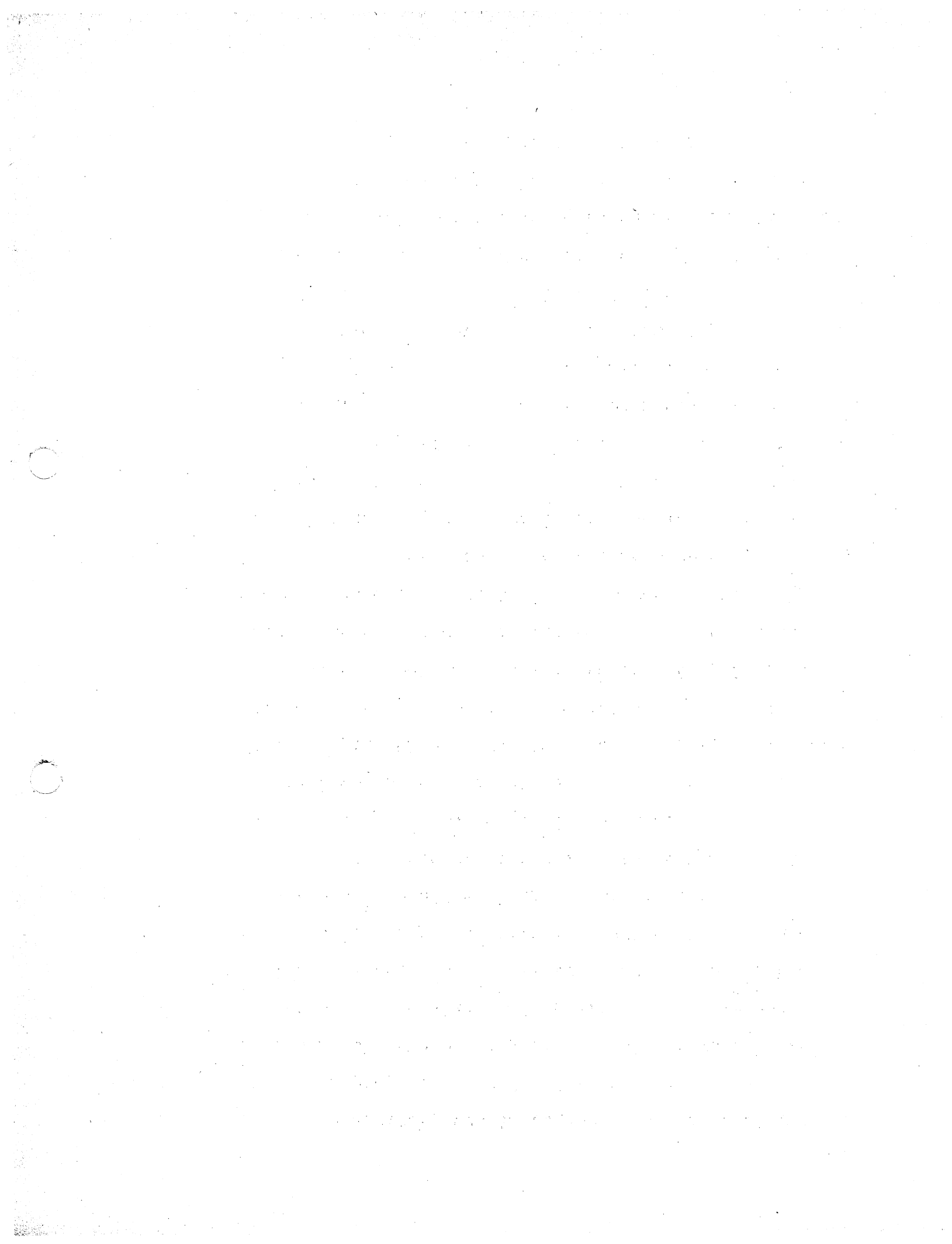
So that an accurate comparison and evaluation might be possible, all of the figures included in the portion of the statement that follows have been related as closely as possible to conditions existant in 1948, since it was in that year that New Jersey first enacted a cigarette tax law.

Now before going into it, with your permission, I would like to give you copies of the figures that are included as part of the report and I will be able to mention the results rather than read the entire columns.

Q. May I have a copy for our secretary?

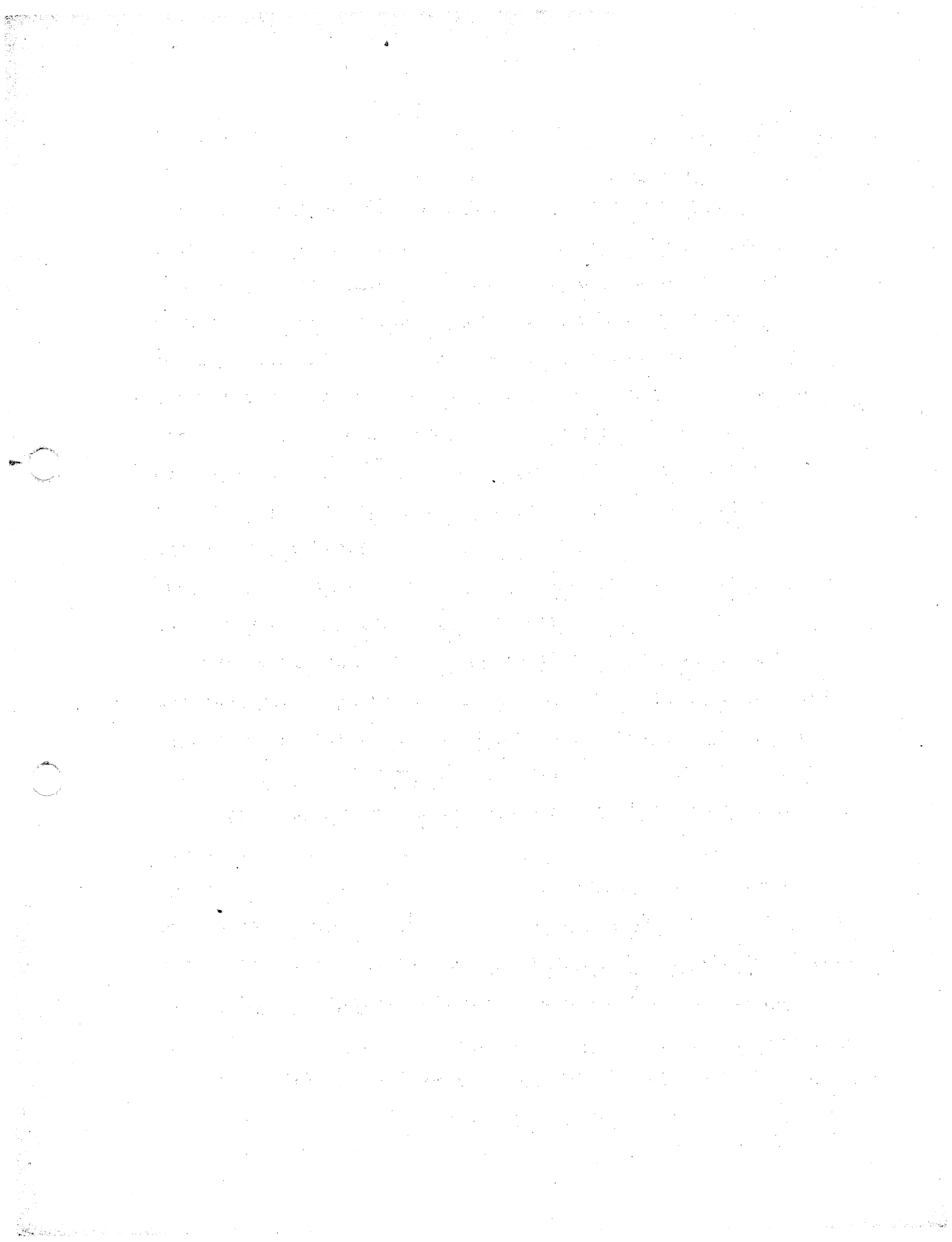
A. Certainly, here you are.

The first set of figures begins on page 2 of the report you have, at the bottom. Category 1, since we want to present as systematic a view of the situation as possible, deals with the economic environment in which the wholesale tobacco distributor operates. I might say, before reading these to you gentlemen, or the



conclusions, that I have listed on page 9 of this report, the statistical sources from which this data was secured.

The first category is the increase in prices of commodities and services (including interest, taxes and wages) and that, as you will note and the arithmetic always will proceed in the first two columns - the figure I will read, is 12.3%. Category (b) is the increase in wholesale prices (all commodities) compared to a base of 1947-1949 and that base will be used hereafter since it is considered a standard by both the Department United States/of Commerce and most industry groups. The increase in that category, you will note, is 13.2%. The next consideration is the increase in prices of manufactured tobacco products and in that case for the same period of time to 1956 the increase equals 24%. (d) is the increase in consumer prices based on the cost of living index and that increase equals 18%. (e) is the increase in wholesale prices measured in terms of the dollar's declining purchasing power. That also is against an adjusted base of 47-49 rather than earlier periods which would have shown a higher result because of statistical distortions. That difference, you will note, is 14.5%. (f) is the decrease in the number of primary wholesale tobacco establishments in the United States in the period we are concerned. That equals 18.2% something over 500, I believe the exact figure is 548 establishments.



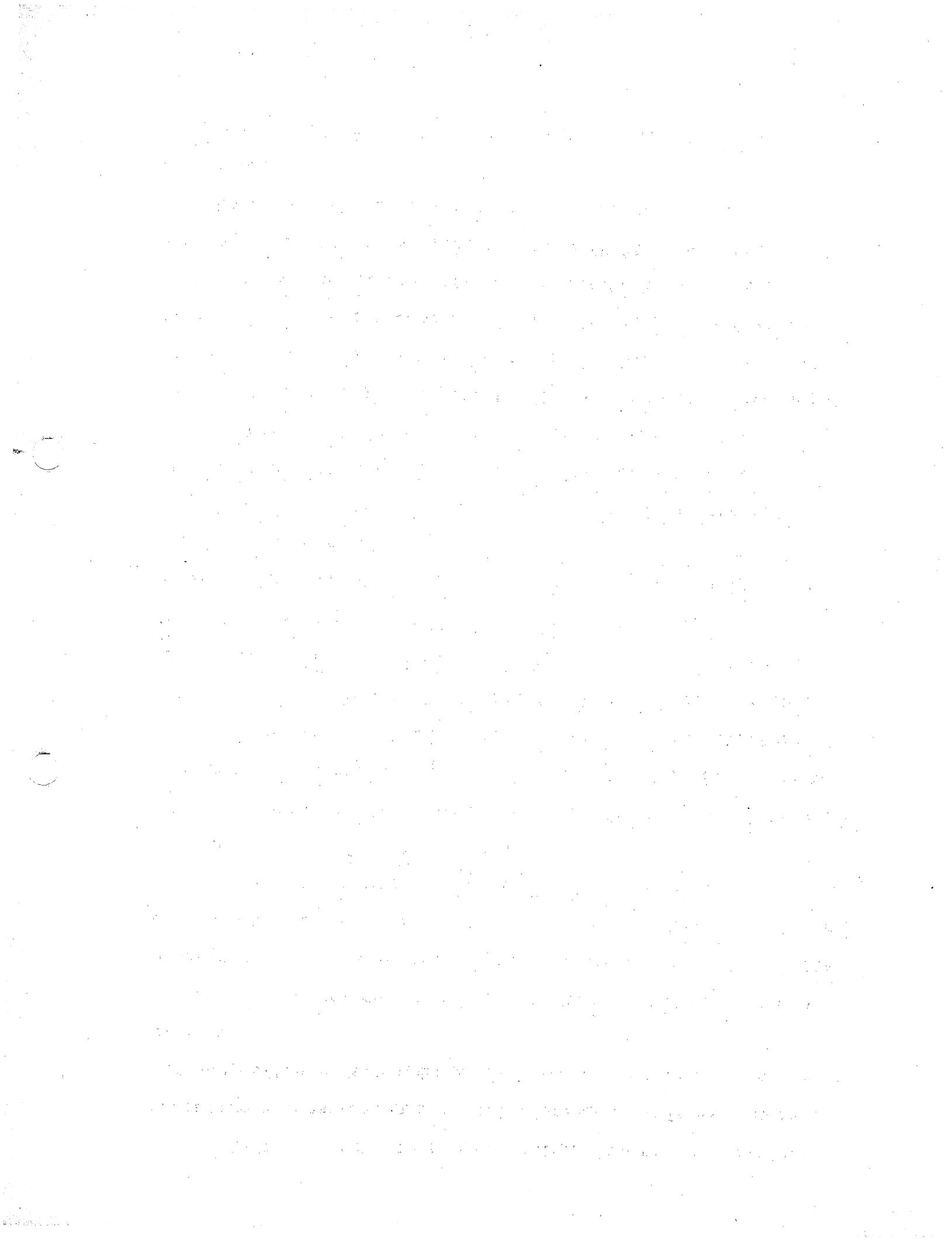
(g) is the increase in wholesale tobacco distributors' operating expenses as a per cent of sales. This is commonly and very often referred to as "the cost of doing business" - 27.12%.

(h) the increase in average wages prevailing in the wholesale trade. Now, this covers all wages of all categories of employees and you will note the increases equal 39.53%, in the case of weekly wages, and 41.48% in the case of hourly wages.

(i) notes the decrease in wholesale tobacco distributors' net profit as a per cent of net sales and, if I may, I would like to emphasize that the wholesale tobacco distributors' net profit in 1948 was the lowest for any wholesale group in the United States - 0.63%. In 1956, it also, unfortunately, has the notorious distinction of being the lowest for any wholesale group, and it is 0.36%, a decline of nearly 43% - 42.9%, in net profit.

(j) is the decrease in ratio of wholesale tobacco distributors' net sales to tangible net worth, and you will notice that is a very minor drop, but I point out that sales volume, contrary to expectations of most laymen who are not in the industry, has not increased proportionately with the rise in cigarette consumption. This is related to the fact that many mediums have sprung up during these years that have taken business away, cigarette business away, from the wholesale tobacco distributor as a channel of distribution.

1948 - 14.35 times. 1956 - 14.06 times.



Next, we have his average collection period. You will note that it has increased two days and even that small period results in a 14.28% increase.

(1) Increase in wholesale tobacco distributors' total debt as a percent of tangible net worth has grown 24.41%.

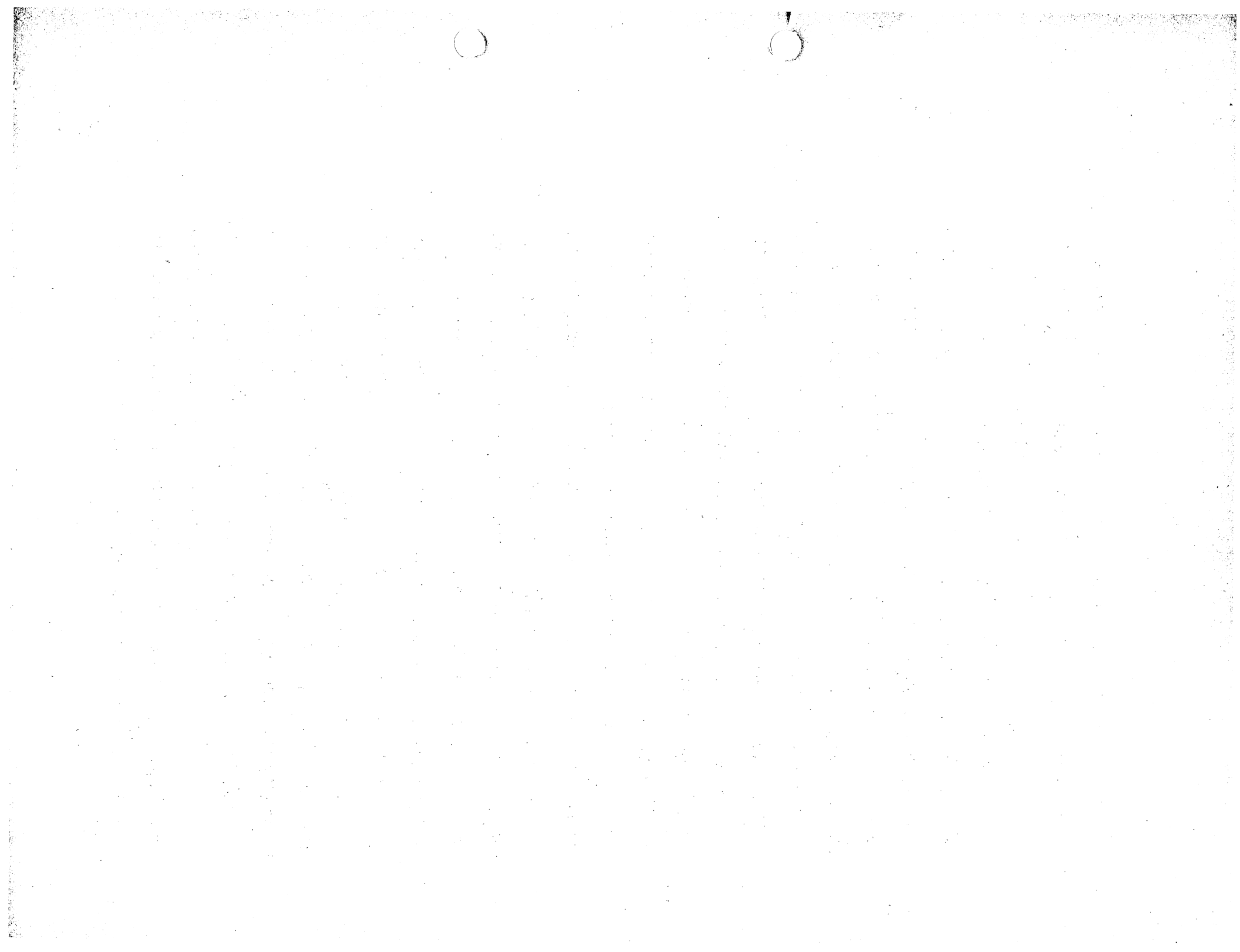
The second category, gentlemen, lists in groups a, b, c and d, the 28 states, that during the period 1948 to 1956, increased cigarette taxes. In list a, you have those states with their tax rate, in list b, and unless you want me to, although in the interest of saving time, I do not think it will be necessary to read these.

SENATOR SHERSHIN: We will have a copy of this incorporated into the minutes of the hearing.

MR. GOLDSTEIN: In list (b), you will find the states that increased their tax and decreased net compensation. You will note that in that chart, we have added two columns not very often used in most reports on cigarette taxation. It is the total cash compensation accruing as a result of the discount and a column showing either net decrease or net increase in cash compensation because of changes to the wholesaler. Chart (c) list four states which increased taxes and left, and that includes your own state, I might say, and left cash compensation at the same level.

Q. Say that again?

A. Chart C. covers four states which increased their cigarette tax, maintained their percent discount, or



rather reduced their percent discount and kept cash compensation at the same level. I am awfully sorry if I mis-stated.

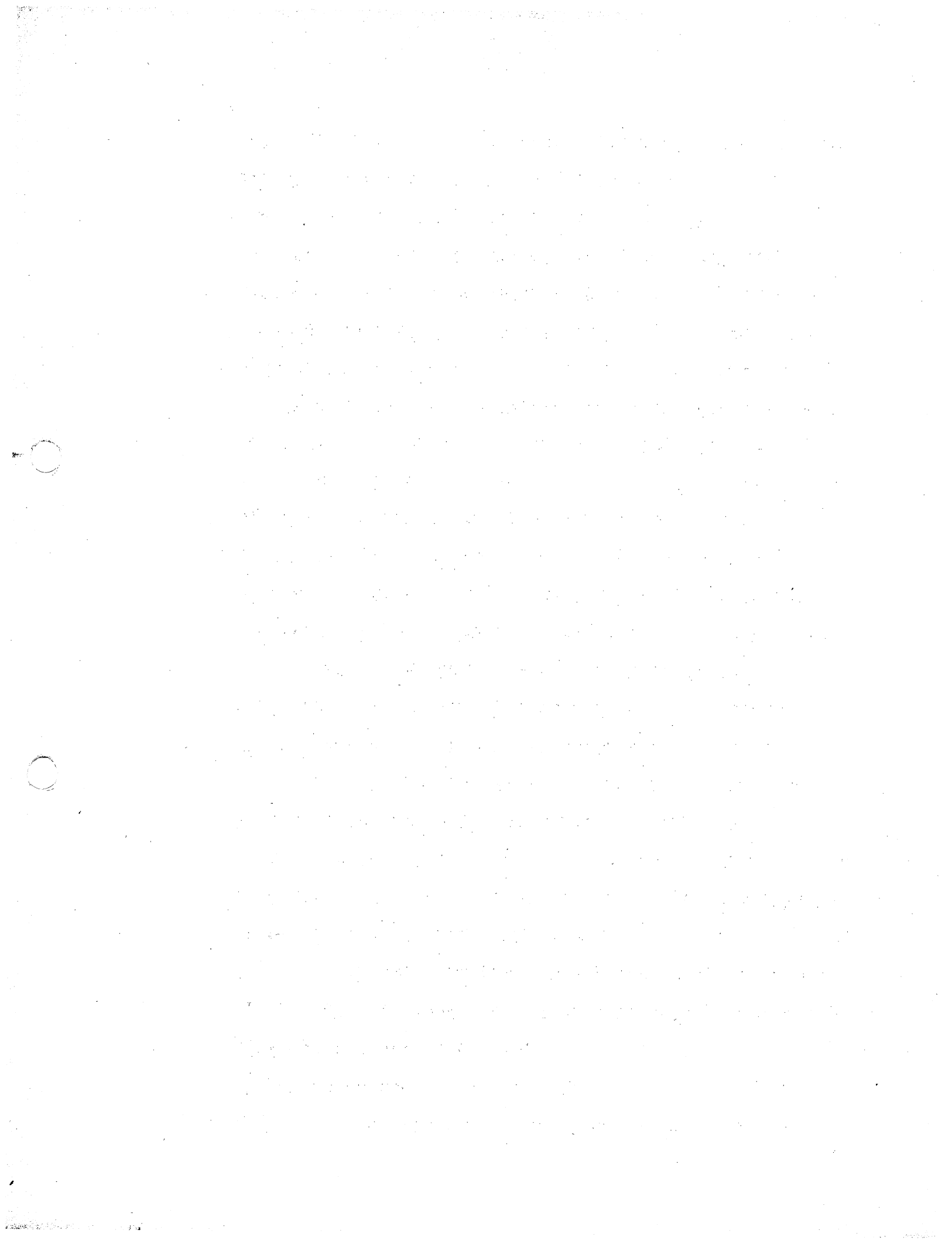
You will note, however, that in category(d) there are 21 of the 28 states that made the increase in cigarette taxes listed and in those columns, you will find both cash compensation paid wholesalers, which I think might be very interesting to you, and the net increase in the compensation to wholesalers.

If I may then skip, gentlemen, to page 8, I would like to make these points. First, we have tried to document the facts above purely for your records. We have not projected them or interpreted them. It is essential, I think, however, that we point out which of these statistics might be correlated and accordingly with you forebearance for another minute, I would like to make these points.

1. During a period which has seen all commodity prices rise by an average of 12.3% - general wholesale prices have risen by 13.2% and the prices of manufactured tobacco products to wholesalers have increased by 24%.

2. During a period in which the wholesaler's cost of acquisition has risen sharply, consumer prices have, because of pressures brought about by competition, risen much less rapidly.

3. The wholesaler presently finds himself with his dollar purchasing power decreased by 14.5%. At the



same time, his cost of acquisition has increased while consumer price increases (and therefore his selling prices) have not kept pace.

4. The conditions cited have resulted in an unusually high rate of business casualties, either by means of bankruptcy, voluntary retirement or merger, with the result that the number of Wholesale Tobacco Establishments in the United States has decreased by 548 or 18.2% in the period from 1948 to 1956. The surviving Wholesale Tobacco operations continue to be threatened by the same economic conditions that caused this sharp shrinkage. This, of itself, we believe, is dangerous to our economy - dependent as it is on private enterprise and a distribution system that can make the fruits of our production genius available to the entire population.

5. Contributing to the economic threats presently confronting those Wholesale Tobacco Distributors remaining in business are the following factors:

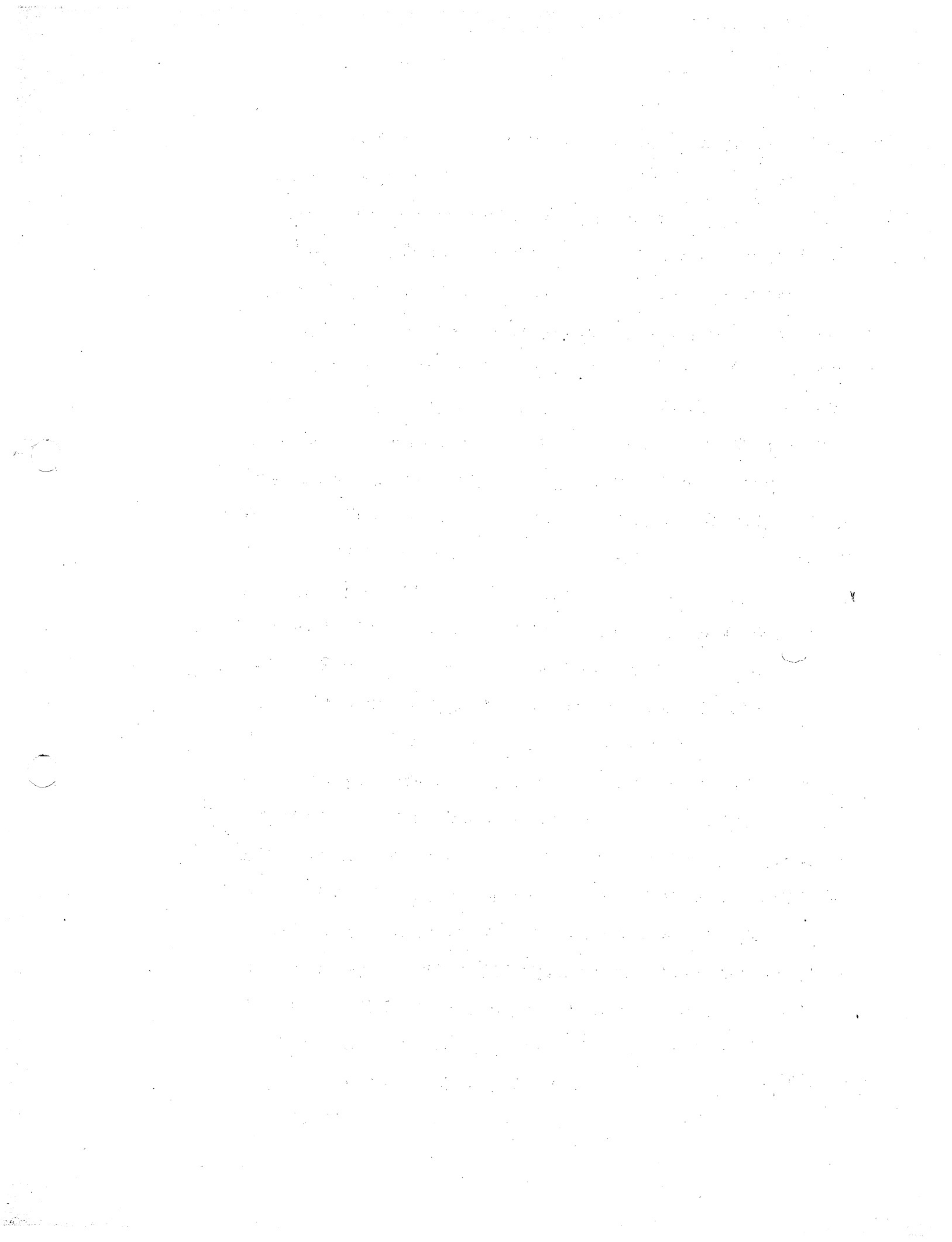
(a) An increase of 27.12% in their cost of doing business.

(b) An increase of at least 40% in the wages and salaries they must pay their employees.

(c) A decrease in their net profit of 42.9%.

Reducing previously small profit nearly to the vanishing point.

(d) An increase in the number of days that their



accounts receivable are outstanding, thereby reducing the rate of turnover of capital invested and requiring additional capital to finance credit extended.

(e) A 24.41% increase in their total debt outstanding as a percent of tangible net worth. Finally,

(f) Of the 28 states that increased the tax on cigarettes from 1948 to 1956, the preponderant majority, 21, felt it necessary by reason of the facts, to allow Wholesale Tobacco Distributors an increased amount of cash compensation for the services they are required to render the State.

Gentlemen, these are the facts; they are, unfortunately in our opinion, representative of the conditions confronting the Wholesale Tobacco Distributors in your state.

SENATOR SHERSHIN: Mr. Goldstein, thank you for keeping your word on the ten minutes, and secondly for your frank and candid presentation. I am wondering if you have an extra copy; I think that maybe Mr. Neeld would like to have a copy for his records. I ask you this question as a member of the commission. Did, at any time during the spring of 1956, anyone from the New Jersey State Cigarette Tax Department contact your offices for any information which could be used to determine a tax for New Jersey?

MR. GOLDSTEIN: I shall be as candid, sir. Not only did they, but candidly they felt that despite



the fact that our figures are on a national basis and, we think, with great application to your State. And, since I was not asked as a witness to argue the point, I hope that either this will be off the record or-

SENATOR SHERSHIN: Everything you say is on the record.

MR. GOLDSTEIN: I feel then, with your permission, that our figures show that the cost of stamping cigarettes is something about 8%. I think that if you compute the average of the States that have tax discounts, you will find that not only is yours low but that your net cash compensation to these people is much lower by reason either of the level of your tax, that is, some of the States have higher than 5%, or by reason that your discount is a lower than average discount.

SENATOR SHERSHIN: Was that information communicated to the New Jersey State Tax Department?

MR. GOLDSTEIN: I have no idea, sir. I assume that some of the figures were passed on to them by Mr. Lewis.

SENATOR SHERSHIN: But you had been contacted and you did furnish them some information?

MR. GOLDSTEIN: Yes, we did, sir. Some of the information, I noted was used here.

SENATOR SHERSHIN: Thank you so much.

Our time is 12:35 and we will adjourn for the present and come back at five minutes after one.

(R E C E S S)

AFTER RECESS

SENATOR FRANK S. SHERSHIN (The Chairman): The hearing will come to order.

Mr. Saltzman, will you please present your next witness?

MR. SALTZMAN: Mr. Chairman and members of the Committee, I present Mr. Bernard Brenner, who is President of the Pennsylvania Association of Tobacco Distributors. Mr. Brenner.

SENATOR SHERSHIN: We are glad to welcome you here to New Jersey, Mr. Brenner.

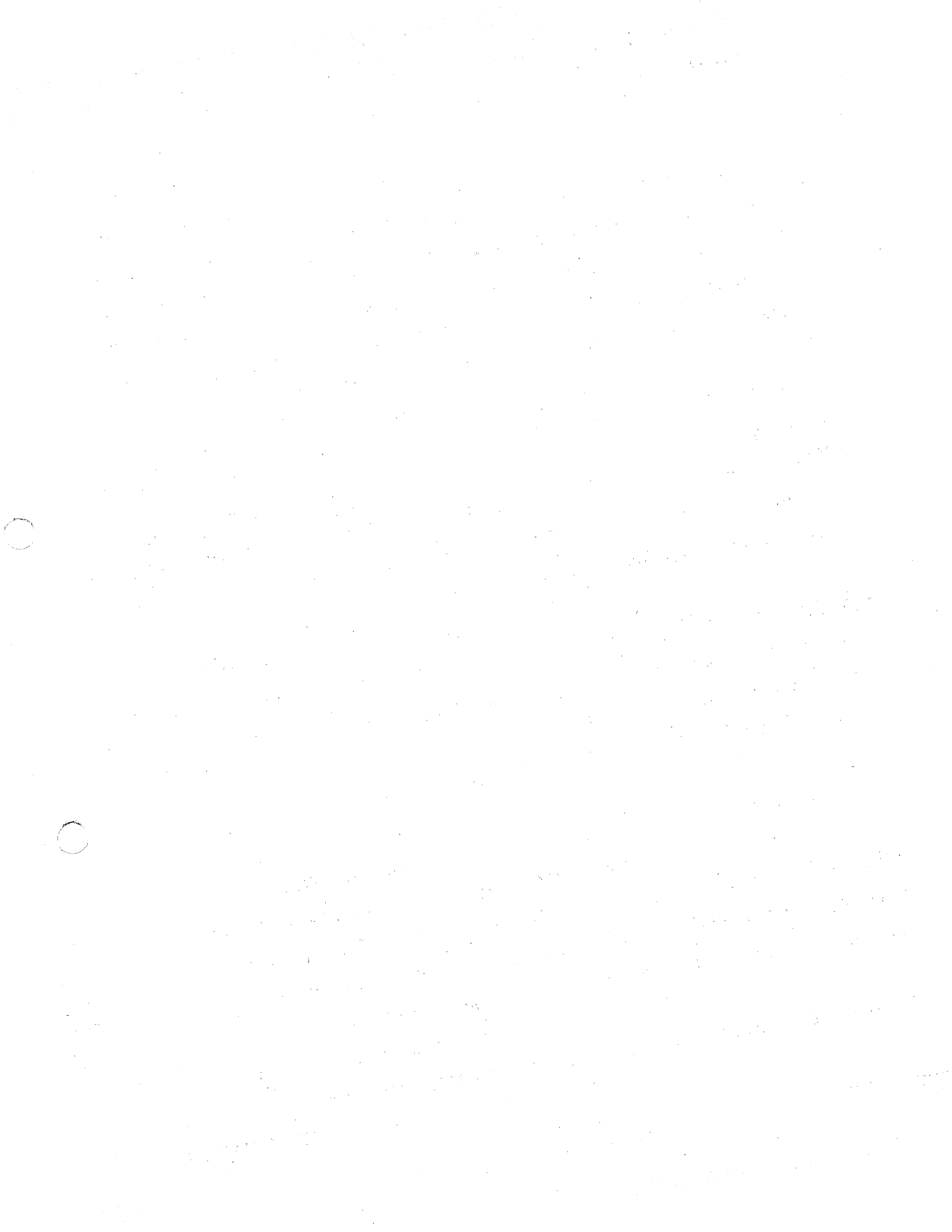
B E R N A R D B R E N N E R: Thank you. Mr. Chairman and members of the Commission, my name is Bernard Brenner. I am President of the Pennsylvania Association of Tobacco Distributors and Vice-President of M. Brenner & Sons, a wholesale establishment in Harrisburg, Pennsylvania.

I appear before this body in order to cite the experience in my own state in aid of your deliberations and to remove an inequity by restoring the compensation previously given tobacco distributors for services rendered in affixing state tax stamps to the rates prevailing in your state in 1948 when a tax on cigarettes was first levied.

The problem you are considering is not unique to your state alone. We, in Pennsylvania, now enjoy a 4% discount in the purchase of cigarette tax stamps. Our tax rate for cigarettes was previously four cents a pack and is now five cents a package. When this tax increase went into effect, our state did not reduce the discount but kept it at the same 4% level.

SENATOR SHERSHIN: Will you give us the year on that?

MR. BRENNER: Last year, sir. Just to elaborate --

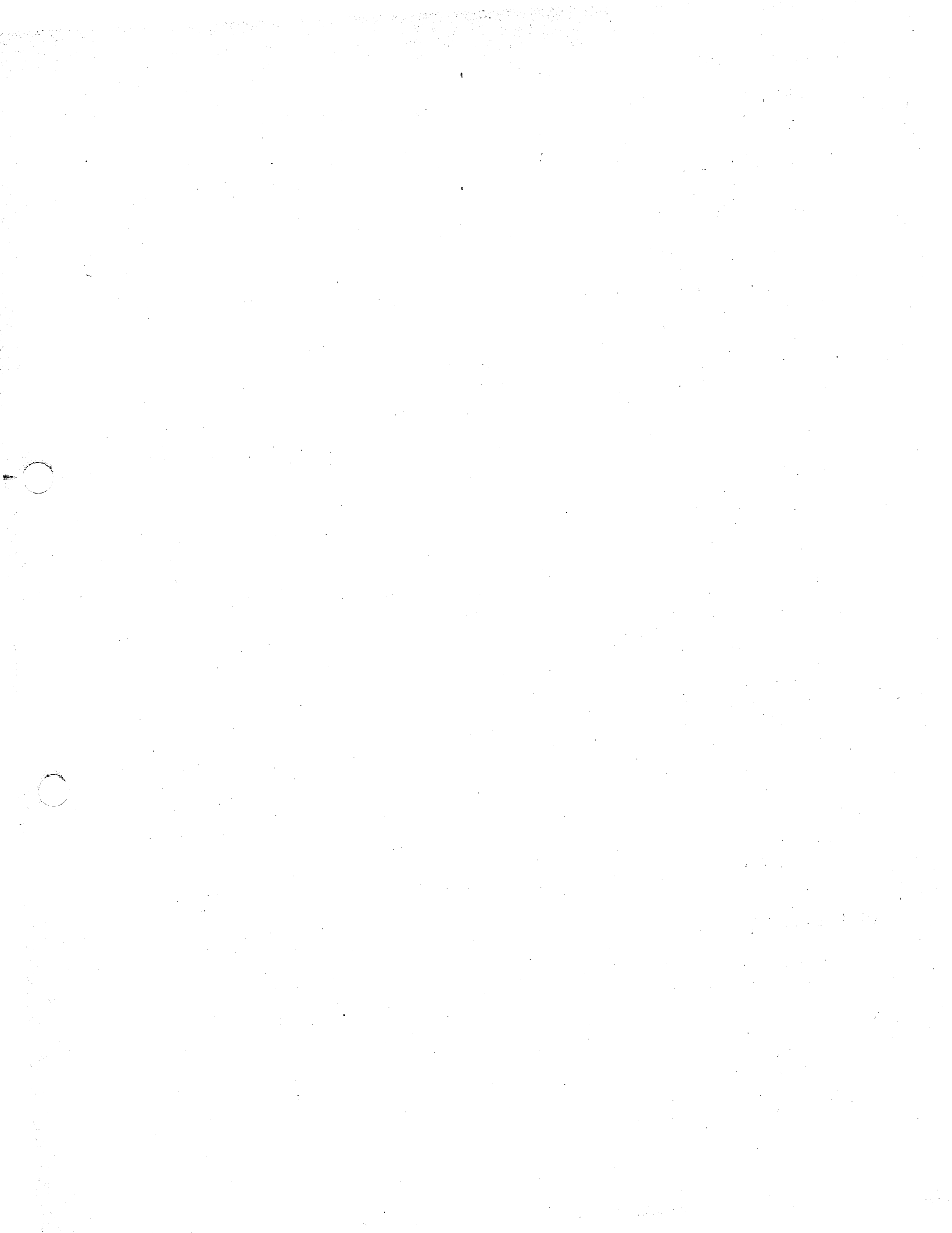


last year, when we had the heavy flood in the State of Pennsylvania, there was an emergency 1-cent tax put on our cigarettes, from four cents to five cents, and this year in the Legislature - it's now in the Legislature, it will be passed, and it will become a permanent tax of five cents and a four per cent commission.

Despite the fact that the discount granted us is 25% greater than the discount now allowed New Jersey distributors for the same service upon the same denomination of stamps, as the experience of my firm and of numerous others with whom I have discussed this problem shows, the amounts the distributors receive in compensation for their services do not begin to cover the expenses of acting as tax-affixing agents for our State, and we are now petitioning for an increase in our state's discount to five per cent in order to more reasonably defray our constantly climbing costs.

In order to affix the cigarette tax stamps as required by law, the distributor must allocate space within his establishment for setting up and operating the stamping department. Space so allocated is lost to the distributor for any of his normal and regular business functions. Nevertheless, the distributor pays rent for that space, or if he owns the building, he must charge off the use of that space as part of his regular building overhead, including such amounts as its pro-rata share of maintenance, repairs, real estate taxes, mortgage interest, insurance and the like.

The distributor must employ personnel to physically affix the stamps to the package of cigarettes. It likewise goes without saying that the distributor must pay his personnel



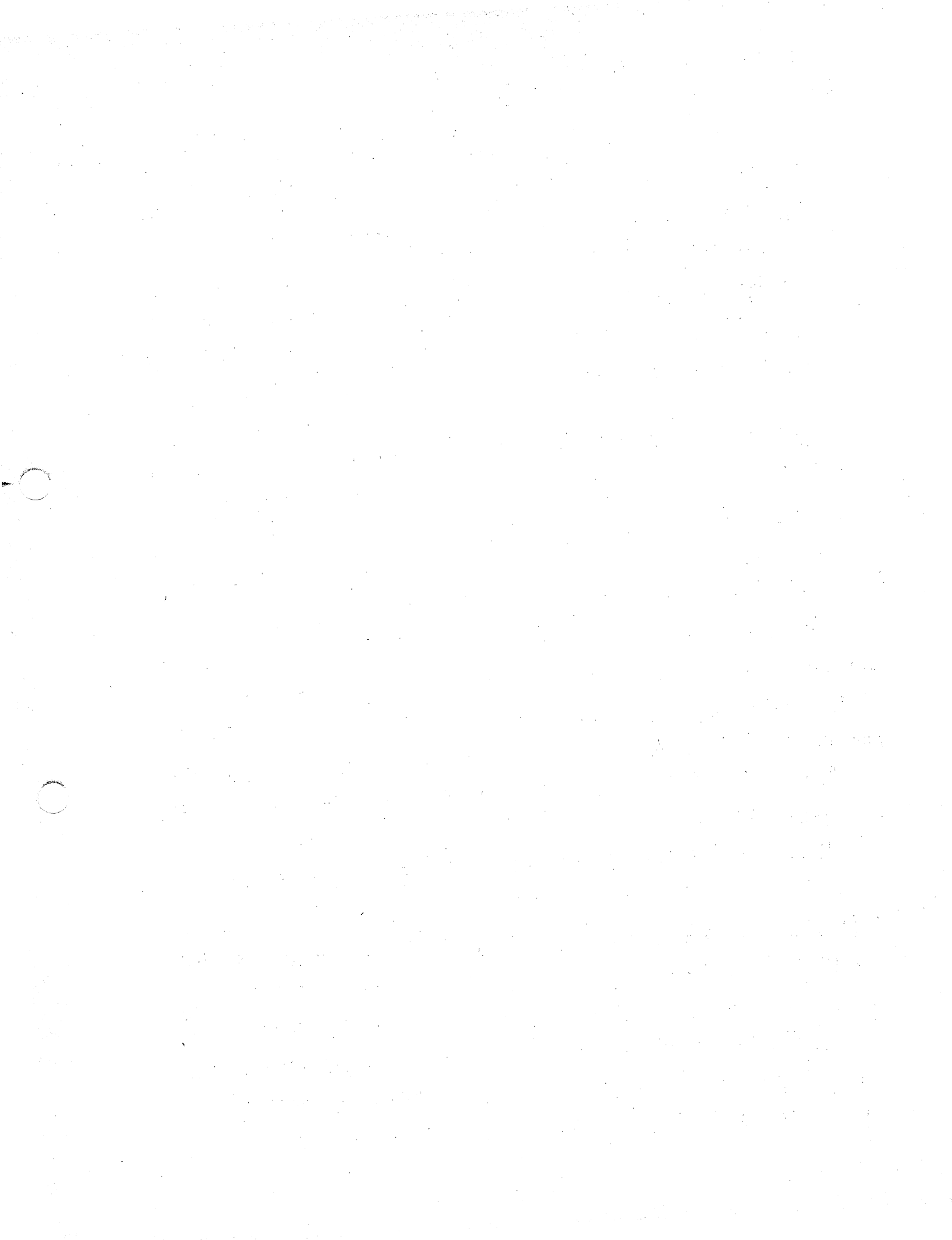
for the services that they perform. Hours spent by personnel in the service of the state, for which the distributor pays, are necessarily hours subtracted from the productive and profit-making capacity of the distributor.

In order to affix the stamps required by law, the distributor must first purchase them from the state. Capital that would otherwise be used for the acquisition of commercial commodities which would yield the distributor a profit must now be channeled into the sterile field of tax stamp purchases. If the distributor is not to reduce the total quantity of merchandise he purchases, he must, perforce, borrow in order to buy tax stamps. Thus, the distributor must pay interest to a lender for the services he performs for the state. Even if he pays no interest, he must forego the use of a portion of his capital for profitable purposes in order to comply with state law.

I know of no way to calculate the value of the lost profits suffered by the distributor as a result of cigarette tax loss, but I can assure this body that such loss is considerable.

The distributor must employ personnel to affix the stamps and train office help as well as stamp affixing personnel to serve the state. His office help must keep proper tax records, they must make out the necessary and requisite reports required by cigarette tax laws. They must take time away from their normal and productive functions in order to act as agents for the state.

The foregoing enumeration of service rendered and monies expended by the tobacco distributor in behalf of the state is



a representative sample of the totality of all our obligations taken on by the distributor in order to affix the state's tax stamps. In addition, the distributor must assume the risk of loss, theft or spoilage of the tax stamps. He must increase his insurance payments since his inventory has been increased by the value of the, otherwise to him, unprofitable stamps affixed to the cigarettes.

In the firm belief that men of good will, when presented with the facts, will ultimately unite on the fair and equitable thing necessary to be done in each particular case, I am convinced that this body, having been given the facts, will conclude that the present cigarette tax discount rate is onerous, unfair and unjustified and that the same should be rectified to provide an adequate return to the distributor for his labors, calculated at not less than a 5% discount of the present tax stamp rate.

SENATOR SHERSHIN: Thank you, Mr. Brenner. If that is the only manuscript you have, will you leave it with our secretary?

Now will you answer a few questions?

Q Of what size firm are you Vice President? How many people do you employ? A We employ one hundred.

Q How many cartons a day do you stamp? A We stamp about 100 cases a day; that is, 50 cartons per case, and 100 cases per day. Or it could be sometimes 60 cartons. It all depends on how they are packed.

Q Did you ever obtain a cost accountant's figures as to what it does cost you? A Not down to the basic points of all the factors involved. I could go into some



detail, since you asked the question. I had not planned to do so.

Q Well, perhaps I had better preface my question: What about the labor costs in Pennsylvania and New Jersey? Are they similar? A They are very similar. I heard the figure of \$1.50 or \$1.60, somewhere in that neighborhood.

Q Can you give us any idea of what your actual costs are for production, for stamping? A Not down to the point where it includes all the other factors, so far as the bookkeeping, etc.

Q Well, is there anything there that you have that might be helpful to this Commission, based on your experience on labor costs? A No, I don't.

SENATOR SHERSHIN: Mr. Neeld, may I ask a question at this time of you? Does the State of New Jersey allow for loss, theft or spoilage?

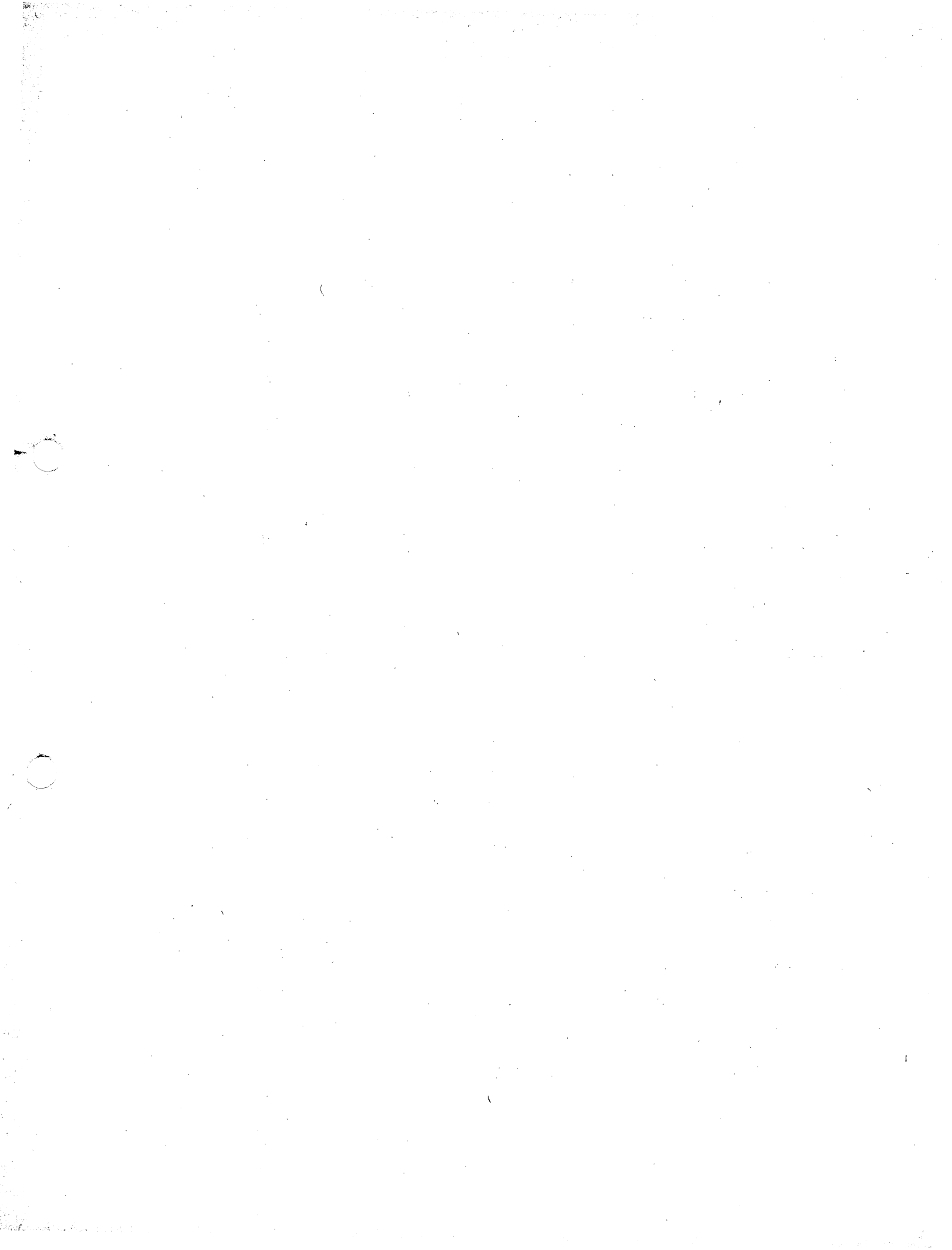
MR. AARON NEELD: Well, we would in a cost survey. Do you mean on the tax stamps?

SENATOR SHERSHIN: I am talking on the tax stamps, yes.

MR. NEELD: Well, now, that is a pretty broad general statement. Theft and otherwise, we do not allow. If a stamp could be identified as one which was misapplied, we will grant credit. I would like to be corrected if I am wrong on that.

SENATOR SHERSHIN: But anything that walks out of the shop, you can't give any credit for.

MR. NEELD: That is correct. A safety device under the cigarette tax law, because accounting procedure just can't keep up with that sort of activity.



SENATOR SHERSHIN: What about spoilage?

MR. NEELD: Spoilage in what way, Senator?

SENATOR SHERSHIN: Flood?

MR. NEELD: Yes.

SENATOR SHERSHIN: Fire?

MR. NEELD: On proof, if the stamp can be identified, a refund, the same as with liquor.

SENATOR SHERSHIN: It can't be identified in a fire.

MR. NEELD: No, not in a fire.

SENATOR SHERSHIN: And sometimes in a flood, you won't have a chance to identify it.

MR. NEELD: We require identification where it cannot be known--

SENATOR SHERSHIN: So, therefore, there would be a loss to the distributor unless there was positive proof given of identity.

MR. NEELD: Of course, understand the distributor carries, I presume, insurance against the loss of the tax as well as the loss of the product.

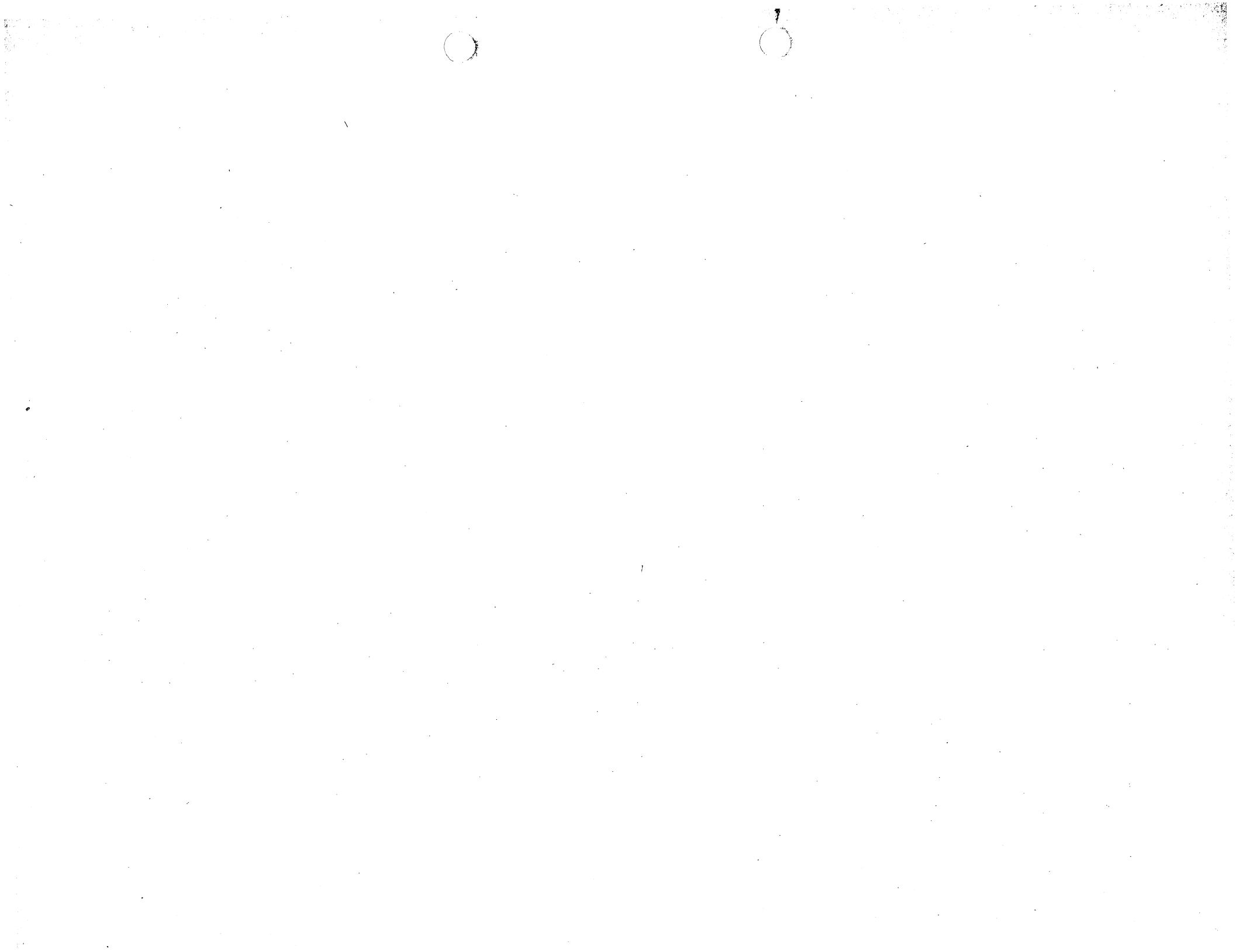
SENATOR SHERSHIN: That would probably be a normal business procedure.

MR. NEELD: Yes, I believe so.

SENATOR SHERSHIN: Did you take into consideration the cost of that casualty insurance in computing costs?

MR. NEELD: Yes, all types of insurance and taxes involving workmen's compensation and those incidental costs in the employment of labor also.

SENATOR SHERSHIN: Are there any further questions?



Mr. Krawczyk has a question.

ASSEMBLYMAN KRAWCZYK: How many of your full-time employees devote their full time to the stamping process?

MR. BRENNER: Four people.

ASSEMBLYMAN KRAWCZYK: And they do nothing else?

MR. BRENNER: That's all.

ASSEMBLYMAN KRAWCZYK: The year around?

MR. BRENNER: That's right.

SENATOR SHERSHIN: They are full time?

MR. BRENNER: They are full time.

SENATOR SHERSHIN: So the ratio that you are applying to is four to one according to the economist. He said four people to one machine, and that's what you use?

MR. BRENNER: That's what we use.

SENATOR SHERSHIN: And you have a production on the average of how many cases per day?

MR. BRENNER: One hundred.

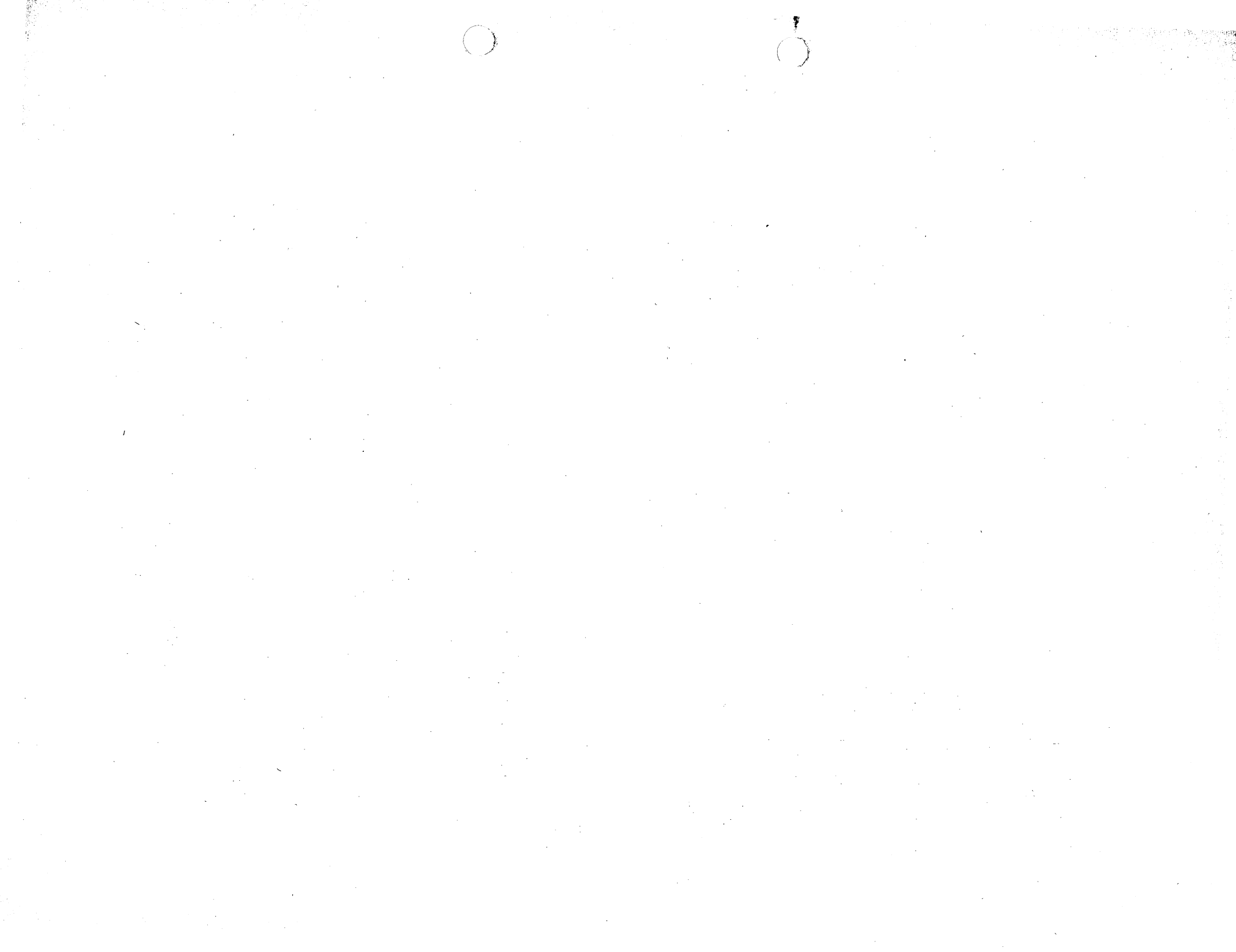
ASSEMBLYMAN HAINES: How much fluctuation do you have?

MR. BRENNER: Not too much fluctuation except when it comes to seasonal, such as at Christmastime, or the spring of the year, and when summer comes, there is an increase in the consumption of cigarettes.

ASSEMBLYMAN HAINES: Well, what I am trying to get at is, what is your maximum capacity with four men on one machine?

MR. BRENNER: I don't know. I wish I knew, because I wish I could sell more cigarettes.

ASSEMBLYMAN KRAWCZYK: Your peak period, sir.



MR. BRENNER: Oh, it might reach 120 or 125.

ASSEMBLYMAN KRAWCZYK: That is maximum performance?

MR. BRENNER: That's all the cigarettes we sell.

ASSEMBLYMAN KRAWCZYK: We're not driving you--

MR. BRENNER: No, I understand. I can't answer any further than that.

SENATOR SHERSHIN: Mr. Neeld, what ratio did you use in computing your cost figures? Four to one?

MR. NEELD: Ratio in computing cost figures?

SENATOR SHERSHIN: Yes, the number of employees to a machine.

MR. NEELD: I couldn't answer that. I would like to ask Mr. Cramer to answer that.

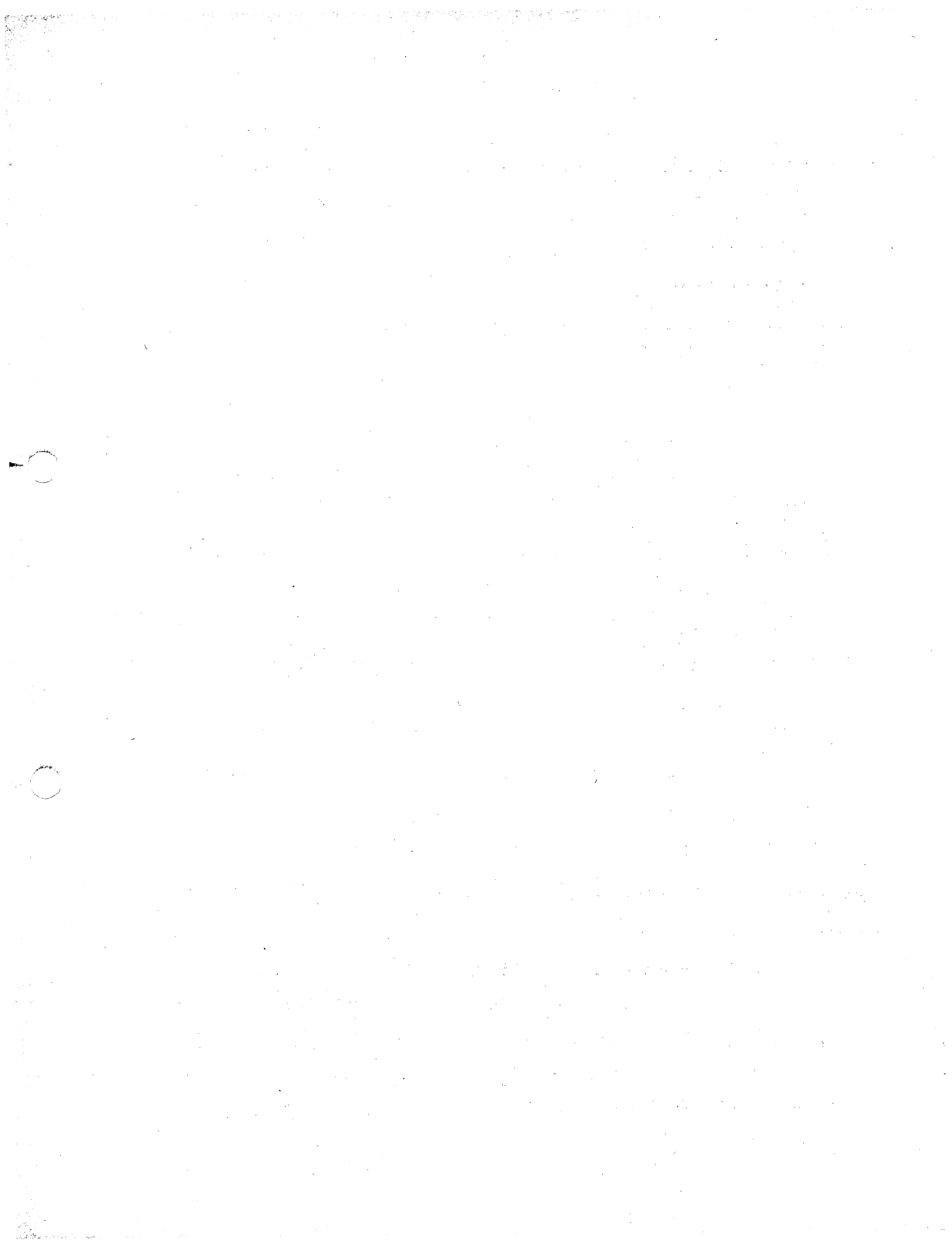
SENATOR SHERSHIN: Mr. Cramer, could you help us out?

MR. CRAMER: We didn't use a ratio to compute the number of employees. It was by actual count, Senator. In most establishments, I believe it was two individuals, either women or men, operating the machine, and one individual bringing the cigarettes in and opening the cases.

SENATOR SHERSHIN: So that would be three to one?

MR. CRAMER: That's right, sir. But it varies with each one. If they used three, then we had three in our survey; if they used two, we had two. Very few had four, and I believe that almost none had more.

SENATOR SHERSHIN: Coming back to the witness, Mr. Brenner, would you say that in the operation of your firm, it was necessary for you to have four men to process anywhere from 60 to 100 cases a day?



MR. BRENNER: I would say, just about. I don't think we need four for between 60 and 100. We could use three probably, but where we have the four we need that fourth person, which is not actually necessary-- or it's necessary but it doesn't give us full capacity.

SENATOR SHERSHIN: Well, the Director of the Tax Department came in with a report with an average of 160 cases per day. Do you feel that in the operation that you have, your four people on one machine could produce 160 cases a day?

MR. BRENNER: Very possibly.

SENATOR SHERSHIN: But you do use four people to produce 120?

MR. BRENNER: At times, not on the average.

SENATOR SHERSHIN: Could three people produce 120 cases per diem? What is the greatest number that three people, based on your experience, would produce in cases?

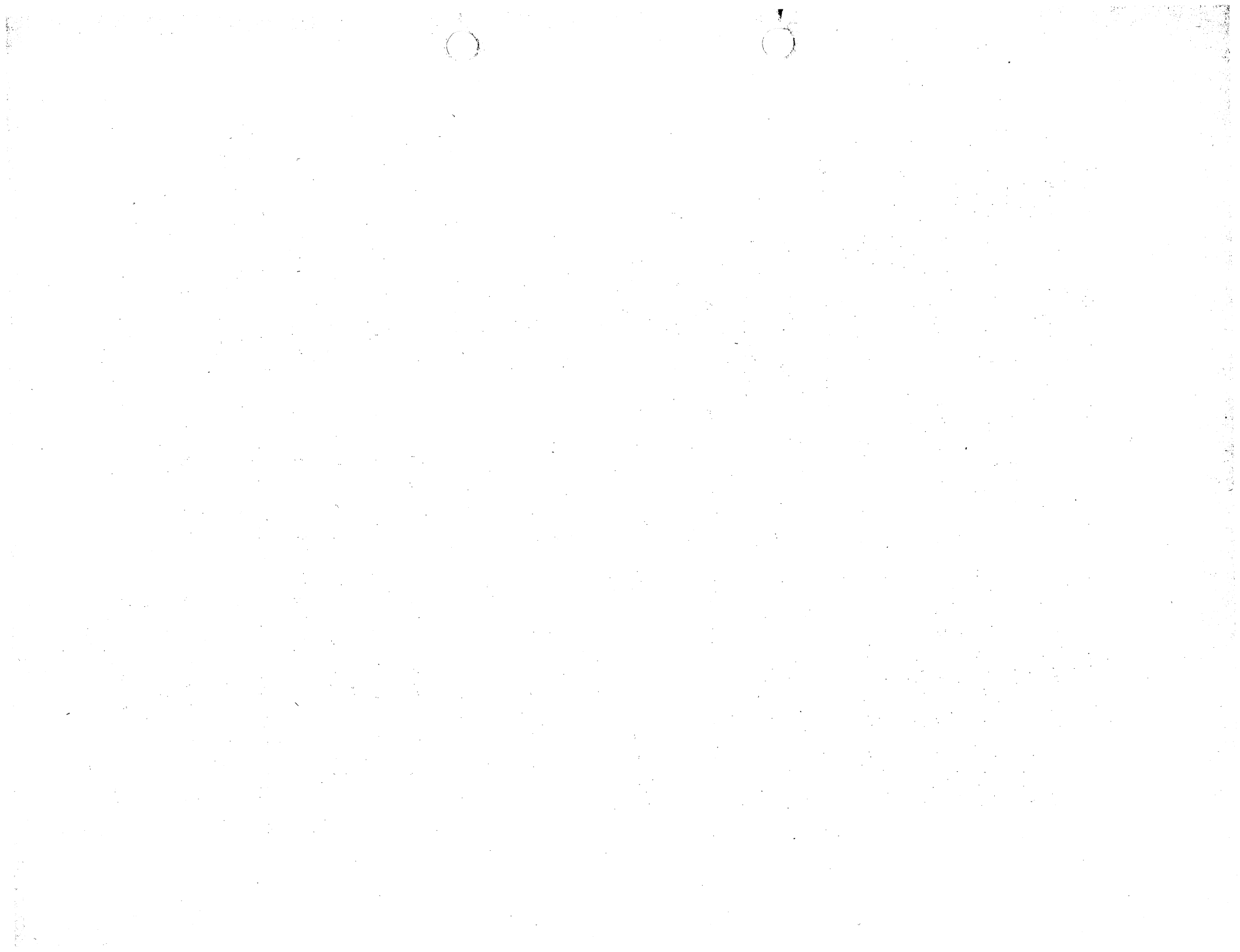
MR. BRENNER: I can't answer that. I don't have the figures at my finger tips.

SENATOR SHERSHIN: Are there any other questions?

That's all. Thank you so much, Mr. Brenner.

Mr. Saltzman, your next witness.

MR. SALTZMAN: The following witnesses, Mr. Chairman and members of the Committee, will be the tobacco distributors situated throughout the various portions of the State and, incidentally, all of them are members of our Tobacco Distributors Association. The first one whom I would like to present to you is Mr. Clarence Irwin, who trades as Mr. C. Irwin here in the City of Trenton.



SENATOR SHERSHIN: Before Mr. Irwin testifies, and this goes for all witnesses who will testify in like capacity, I would like for them to sketch in note form the size of their plant, the number of employees to each machine, and the number of cases they produce, so that we may have an experience rating.

MR. SALTZMAN: We have that ready, sir.

C L A R E N C E I R W I N: I am Clarence Irwin, and I operate as Clarence Irwin at 325 South Clinton Avenue in Trenton. In our warehouse, we have four employees, two of which are stamping cigarettes.

SENATOR SHERSHIN: How many people do you employ?

MR. IRWIN: We employ seven people all together.

SENATOR SHERSHIN: That is for the entire operation?

MR. IRWIN: Correct.

SENATOR SHERSHIN: How many people do you employ in the stamping operation alone?

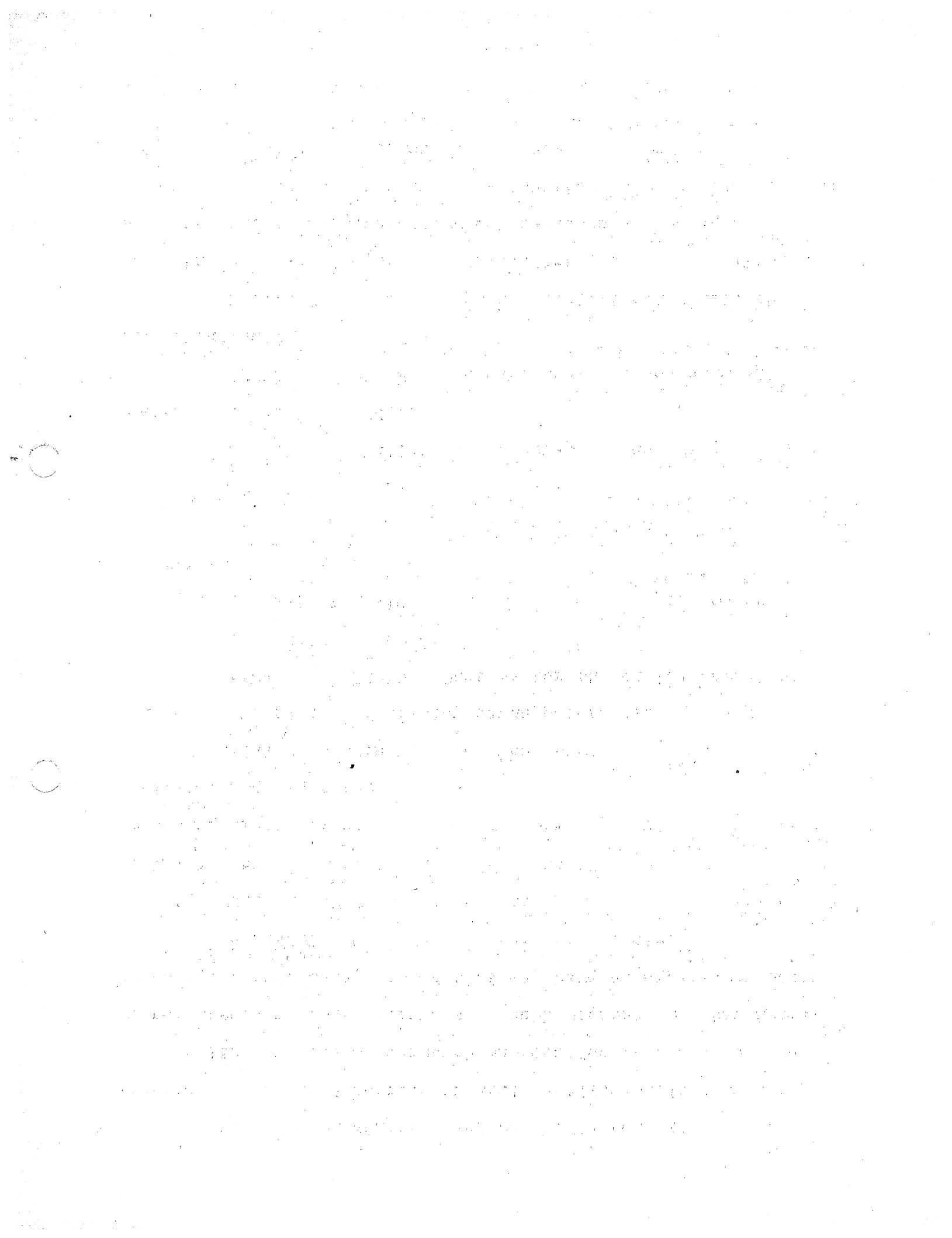
MR. IRWIN: In the stamping operation? Only two people.

SENATOR SHERSHIN: Full time?

MR. IRWIN: Full time. We stamp on an average of 42 cases of cigarettes a day.

SENATOR SHERSHIN: How many cases do you stamp at the peak load?

MR. IRWIN: Well, at peak level, I could cite the past three weeks. One of our competitors, the Trenton Tobacco Company, has been on strike, which caused us to have an increase in business, and the two men operating the stamping machine have stamped an average of 55 cases of cigarettes per day.



ASSEMBLYMAN HAINES: In eight hours? An eight-hour day?

MR. IRWIN: An eight-hour day. Incidentally, it probably takes them five or six hours a day for the stamping period. We also employ two bookkeepers, one of which does the accounts payable and also devotes a certain portion of her time to filing reports and keeping records for the Cigarette Tax Bureau. I really feel that without the stamping of cigarettes, we could eliminate two men in the warehouse and one bookkeeper could do all of our bookkeeping. Other than that, gentleman, I don't think there is anything else.

SENATOR SHERSHIN: What do you pay these men who are working on the stamping machine?

MR. IRWIN: They get paid \$1.35 an hour.

SENATOR SHERSHIN: Is the help steady?

MR. IRWIN: Yes. They put in a 40-hour week.

SENATOR SHERSHIN: Are there any other questions?

SENATOR LYNCH: This bookkeeper who does the work in connection with filing reports with the Cigarette Tax Bureau, how many hours per day or per week does she spend in that particular task?

MR. IRWIN: I would say on an average of approximately two hours a day. Are there any other questions, gentlemen?

SENATOR SHERSHIN: No further questions, Mr. Irwin. Thank you for coming.

MR. SALTZMAN: Our next witness is Mr. Sol Kolodny of the Jersey City Tobacco Company of Jersey City.

S O L K O L O D N Y: My name is Sol Kolodny, representing the Jersey City Tobacco Company in Jersey City. We stamp approximately 400 cases a week, which takes us



exactly four days. Now, we employ three people on a machine to do that kind of work. In addition to that, of course, we have clerical work, the same as any other distributor. We employ about two girls in that particular branch and they no doubt spend between two and three hours a day in accumulating all these figures.

SENATOR SHERSHIN: In other words, in four days you turn out 100 cases--

MR. KOLODNY: 100 cases per day.

SENATOR SHERSHIN: What do they do the fifth day?

MR. KOLODNY: We absorb those two people in our shipping department.

SENATOR SHERSHIN: What do you pay your help?

MR. KOLODNY: It costs us, with three people, approximately pretty close to \$10,000 a year.

SENATOR SHERSHIN: But you are using the three people and they are spending four-fifths of their time on the stamping operation.

MR. KOLODNY: Yes.

SENATOR SHERSHIN: So it costs you about \$8,000 for the stamping operation for the three people, is that right?

MR. KOLODNY: No, that's wrong.

SENATOR SHERSHIN: Well, you are spending ten thousand for three people, and four-fifths of the time would be \$8,000.

MR. KOLODNY: That's right.

SENATOR SHERSHIN: \$8,000 for the stamping operation

and \$2,000 for the absorption in any other work.

MR. KOLODNY: That's right; I'm sorry.

SENATOR SHERSHIN: How many hours a day?

MR. KOLODNY: Eight hours.

SENATOR LYNCH: What is their rate per hour?

MR. KOLODNY: Approximately \$1.45 or \$1.50.

SENATOR LYNCH: That is for three people?

MR. KOLODNY: Yes.

SENATOR SHERSHIN: If necessary, could you speed up production in peak periods?

MR. KOLODNY: In peak periods? Well, we happen to be in a location where we don't necessarily need any peak, because we happen to be in a section where there is no seasonal work, so our production is practically the same throughout the year.

SENATOR SHERSHIN: Would you say that your people are working efficiently, or do you think you could speed them up a little bit and save another day in the general operation?

MR. KOLODNY: Well, to speed up people at the present time is rather hard. They just wouldn't work for you, so you have to be diplomatic to get them to work. A lot of times people go out for coffee and spend ten or fifteen minutes, and we just leave them alone.

SENATOR SHERSHIN: Well, it's understood that people get coffee breaks. We even give them a coffee break here in the State House.

Any further testimony?

MR. KOLODNY: Now, in addition, of course, if we did not have to do the stamping, we could do away with these three

The first part of the document discusses the importance of maintaining accurate records of all transactions. It emphasizes that every entry should be supported by a valid receipt or invoice. This not only helps in tracking expenses but also ensures compliance with tax regulations. The second section covers the process of reconciling bank statements with the company's ledger. It provides a step-by-step guide on how to identify discrepancies and resolve them. The third part of the document focuses on budgeting and financial forecasting. It explains how to set realistic goals and monitor progress throughout the year. The final section discusses the role of internal controls in preventing fraud and ensuring the integrity of financial data. It highlights the need for a strong internal control system that includes segregation of duties and regular audits.

people, because on Friday we really don't need those people, on the fifth day, but nevertheless we have to pay them for 40 hours a week, so we absorb them.

SENATOR LYNCH: As I understand it, you pay these people to do the stamping roughly \$1.50 a day for an 8-hour day, which means \$12.00 a day or \$60.00 a week, so three people employed by you stamping costs you \$180 a week. I also understand that you stamp about 400 cases a week, for which you get 75¢ per case, which means a discount to you of \$300, as against your outlay in actual wages of \$180, so there is a difference of \$120 in your operation for other overhead in connection with this; is that correct?

MR. KOLODNY: May I answer that? You mustn't forget I haven't figured the bookkeeping department where all that work is necessary. We haven't figured that at all.

SENATOR LYNCH: No, but there is a spread here of \$120 to take care of the bookkeeping incidentals.

MR. KOLODNY: That's correct.

SENATOR SHERSHIN: Thank you, Mr. Kolodny.

Your next witness?

MR. SALTZMAN: The next speaker is Mr. Abe Marowitz of the Jersey Coast Tobacco and Candy Company, Belmar.

A B E M A R O W I T Z: My name is Abe Marowitz and I represent the Jersey Coast Tobacco and Candy Company in Belmar, New Jersey. We happen to be in a seasonal area and so we have two sets of figures. In the wintertime we use five men in our warehouse, who work a five and a half-day week, and according to our purchases of cigarette units from the State in the year 1956, we had an average in the winter months, and

when I say "winter months," I mean the nine months excluding June, July and August, of 190 cases a week or about 35 cases average per day. In the months of June, July and August, we hire an additional man for our stamping operation, making three men there, working a six-day week instead of a five and a half-day week, and our volume jumps to 380 cases average per week during June, July and August, and we average about 65 cases per day.

SENATOR SHERSHIN: What do you pay your summer help?

MR. MAROWITZ: Since we are now Union - we have been unionized - up until now it has been a different setup than it is now.

SENATOR SHERSHIN: What are you paying now. We are interested in today's cost.

MR. MAROWITZ: The help we have now stamping, we pay \$1.35 or \$1.40 an hour.

SENATOR SHERSHIN: Now, during the summertime when you are stamping 65 cases per day, and I am thinking that perhaps that might be the average of the distributors in other localities where they don't have seasonal work - how many men are used on the machine for stamping?

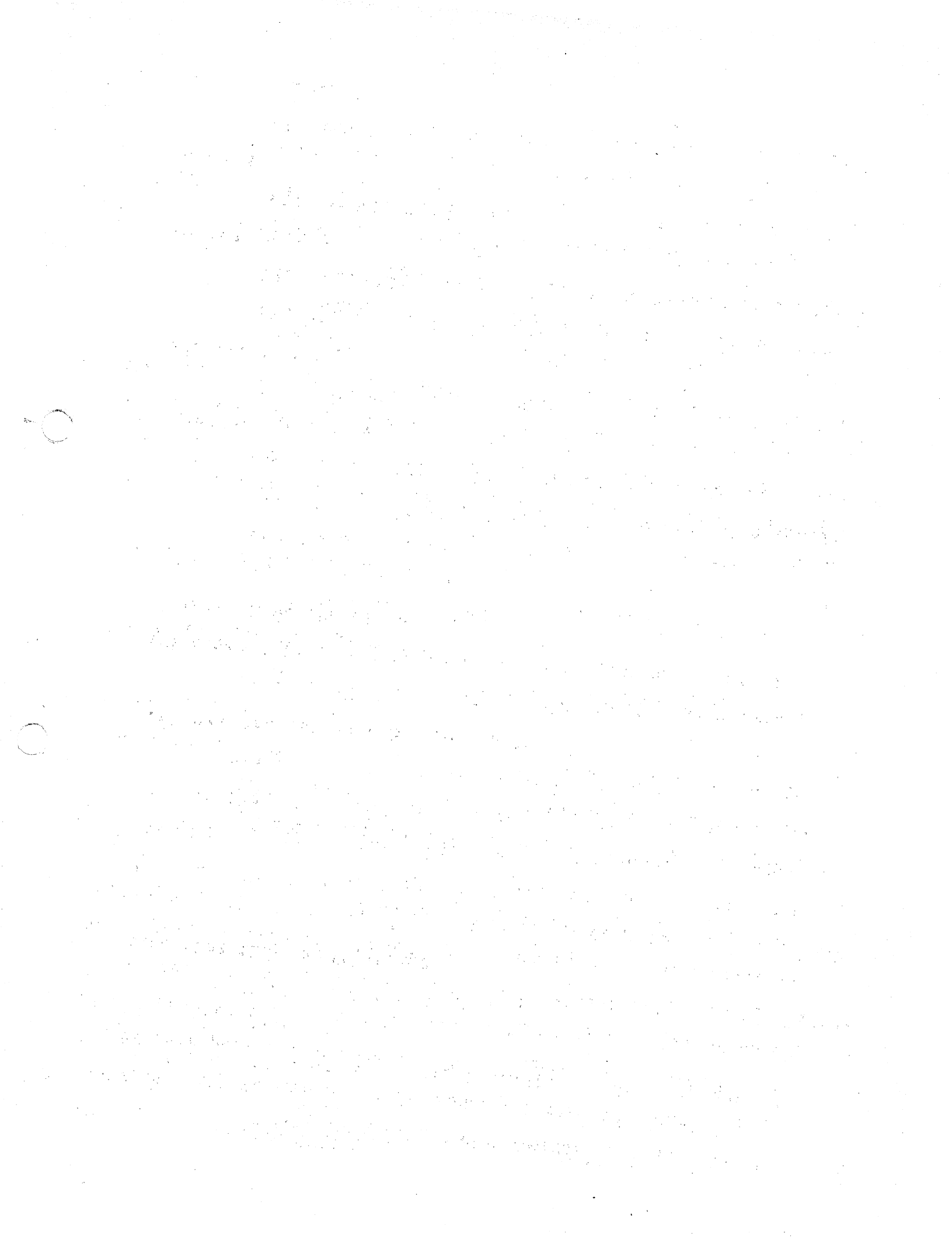
MR. MAROWITZ: We have three men in the operation?

SENATOR SHERSHIN: Full time?

MR. MAROWITZ: Full time.

SENATOR SHERSHIN: Five and a half days a week? Or six days a week?

MR. MAROWITZ: Well, they don't spend the entire eight days at it, no.



SENATOR SHERSHIN: How many days do they spend?

MR. MAROWITZ: We stamp every day in the week. We might stamp more one day than the next, one day for lack of cigarettes coming in.

SENATOR SHERSHIN: What do you do with the men during the time that they don't stamp?

MR. MAROWITZ: They just seem to help the other fellows. I direct them to keep busy; in other words, if we have one man packing orders, and the others are off the machine, we ask one to help the fellow pack orders, which isn't a necessity, but the net result is that the boys have a little time to spend and chew the fat just before leaving.

SENATOR SHERSHIN: In other words, you keep them on the payroll to insure yourself of having the employment ready when you have the cigarettes in?

MR. MAROWITZ: Yes.

Any other questions?

ASSEMBLYMAN HAINES: I would like to ask one question.

What is the cost of these machines, the stamping machines, for the whole outfit?

MR. MAROWITZ: Our original investment, as I recall, was about \$1600.

SENATOR SHERSHIN: How long does that machine last?

MR. MAROWITZ: We have had the machine since 1949 and we had it overhauled in 1956.

SENATOR SHERSHIN: Depreciation is a capital expense, isn't it?

MR. MAROWITZ: Yes, our accountant depreciates all the machinery.

Mr. SALTZMAN: Mr. Louis Stomel.

L O U I S S T O M E L: My name is Louis Stomel, of Jos. H. Stomel & Sons, 1263 Kaighn Avenue, Camden, New Jersey. I am also President of the Tobacco Distributors Association of New Jersey.

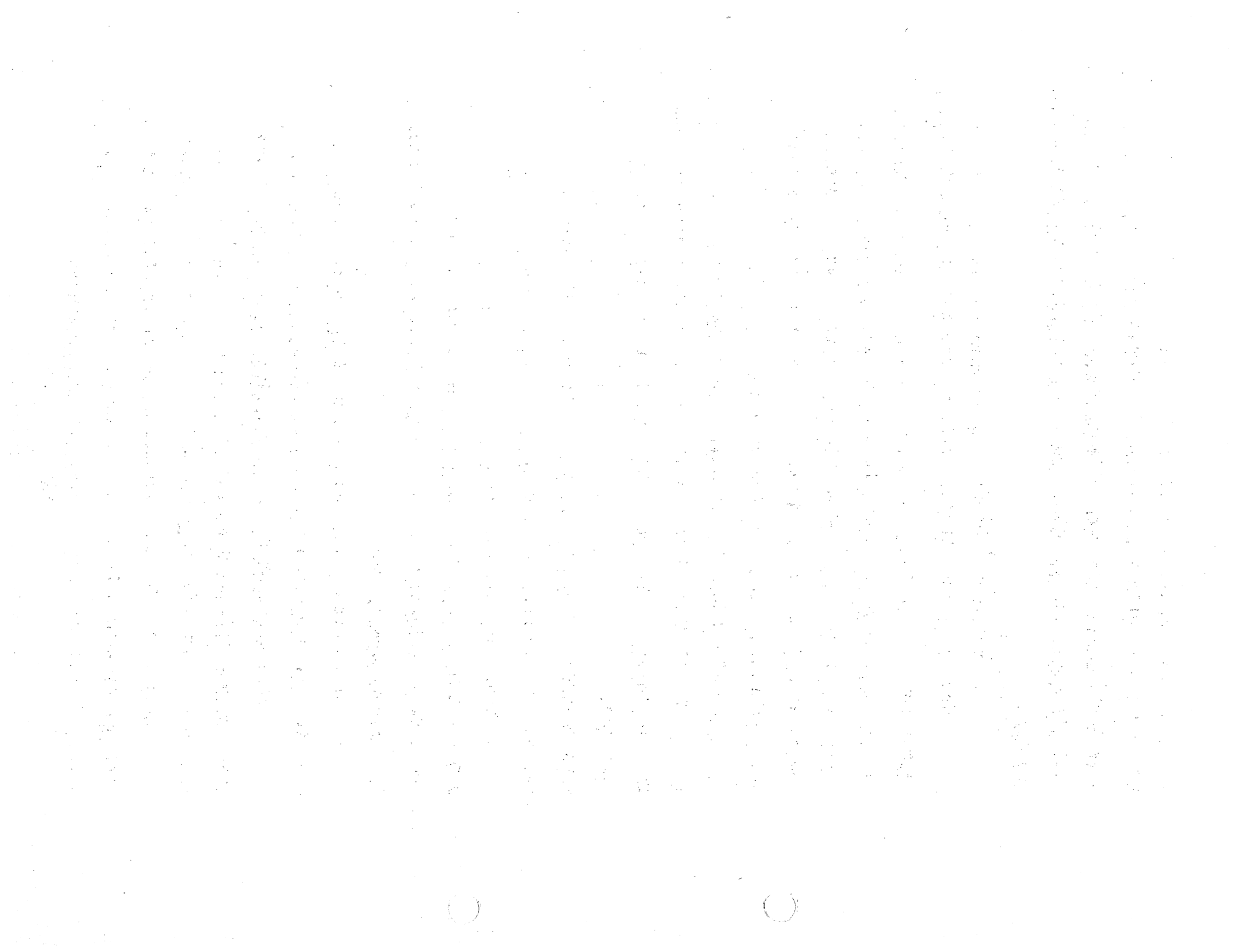
We have nine people working in our warehouse, three are stamping cigarettes although they are not stamping cigarettes all the time, they stamp cigarettes for an average of four to five hours a day. We'll stamp between forty and fifty cases in that particular period. Now, if we didn't have to stamp these cigarettes, we could probably eliminate three of these people and a bookkeeper. There is an average of two hours per day for bookkeeping. Now I would like to make a correction there.

SENATOR SHERSHIN: What is the prevailing wage in Camden? A We have two men that we are paying \$1.40 an hour and one man is getting \$1.75.

Q What is the percentage of time, I didn't jot down here, do they spend stamping? A Between four and five hours a day, this is all average.

Q And you stamp how many cases a day? A Between forty and fifty.

Q The report given to the Legislature by the Tax Department indicated that the norm for stamping operation would be one hundred and sixty cases per day; would you say that would be an accurate statement on the basis of your experience? A Well, I believe so, but a lot depends on the operation of every concern; some concerns have employees that if they are pushed, well, the minute they are pushed they slow up which ^{is} a normal procedure. Other organ-



izations know that they have people working for them, they know they have to keep themselves busy so they just drag their time out to keep their job. Does that answer your question?

SENATOR SHERSHIN:
Well, partially.

Are there any other questions from the members of the Commission?

Do you have anything further to say, Mr. Stomel?

MR. STOMEL: You mentioned something about doing 160 cases a day; well, I don't have that type business that would warrant me to do 160 cases a day.

SENATOR SHERSHIN: Any further questions?

MR. STOMEL: There is also a fact that someone mentioned-- the machine was \$1500 or \$1600 - well, that machine today is \$2100.

SENATOR SHERSHIN: All right, Mr. Stomel, if there is no further testimony. Thank you.

Your next witness, please.

MORTON SOLONDZ: My name is Morton Solondz, and I am affiliated with the New York Wholesale Candy House, 16 Belmont Avenue, Newark.

Our concern stamps an average of 50 to 55 cases a day with three operators.

SENATOR SHERSHIN: Q Full time? A They run about five and one-half to six hours a day.

Q How many days a week? A An average of five days a week. If the men don't have any cigarettes to do, then we will use them to help in the packing and other incidentals around the place, which we can do without.

Q Well, their time isn't wasted, is it? It's actually productive time. A Well, we can actually do without it, because we have proven that prior to 1948 we sold approximately eight or nine hundred cases of cigarettes a week, with four warehouse men, and now that we have this tax element, we use an average of 255 to 265 a week that we sell.

Q I can't hear you. 255 to 265 what? Cases? A That's right. We have seven warehouse employees, so therefore we can do without the three because we have proven that we have operated with four in a larger capacity without having the stamping to do. We also have one full-time bookkeeper and also a part-time bookkeeper, and we could possibly eliminate the part-time bookkeeper if we didn't have these tax records to take care of.

Q What do you pay your help in the Newark area? A We have two men that we pay \$1.50 an hour, and the third one gets \$1.80 an hour.

SENATOR SHERSHIN: Any other questions?

ASSEMBLYWOMAN PERFETTE: Do you pay them on an eight-hour day basis? A On an eight-hour day basis.

SENATOR SHERSHIN: Any other questions? Thank you, Mr. Solondz.

MR. SALTZMAN: Mr. Harry Rosenblum, of H. Rosenblum, Paterson.

H A R R Y R O S E N B L U M: I represent H. Rosenblum of 43 Bridge Street, Paterson.

We have four employees in the warehouse and all four are used for both packing, making orders and stamping. Part of the time, three men are used for stamping, usually in the afternoon.

BY SENATOR SHERSHIN:

Q What part of the time, Mr. Rosenblum? A Well, from

about one to five. In the morning they make up their orders.

Q They work about four hours a day? A Yes, about four hours a day.

Q What is the capacity of your company? A Well, we sell about 240 cases a week, which would be approximately 45 to 50 cases a day.

Q I can't understand that. Mr. Solondz testified that he gets out 50 to 55 cases a day and uses three men five and a half to six hours. You testify that you only put out 45 to 50 cases a day and your three men only work about four hours a day. A Well, there's a difference in the degree of employment. May I just inject this: Two of the men that I have of the three have been with me about 12 years.

Q What do you pay them? A About \$75.00 a week.

Q How much is that an hour? \$1.75 an hour? A I guess so. I have never used an hourly basis on them, but they tell me I should use it now since we are in the Union, but up until now, I never have.

Q What do you pay the other man? A About \$60.

Q \$60.00 a week? That's more like \$1.50 an hour.

A That's right.

SENATOR SHERSHIN: Thank you, Mr. Rosenblum. Is there any further?

MR. ROSENBLUM: I would like to inject just one more thing. I have only one bookkeeper, but for the past few years I did have to draft my wife to work and she is now helping the bookkeeper about three or four hours a day with the reports, and helping her out in general.



BY SENATOR SHERSHIN:

Q She really likes to do that, doesn't she, to take up a little of her time? A Yes, she does.

Q Too much time at home, not doing much. A Yes, and, fortunately, it doesn't cost me any money.

Q Therefore, it is not reflected in your costs, is it? A Not at the moment.

Q But she might ask for more things? A That's right. May I just suggest one more thing: My accountant tells me - of course, I knew about how much it was, but I did lose about \$3500 in bad accounts last year - the stores closing up. I think the approximate figure in tax money would be about \$750.

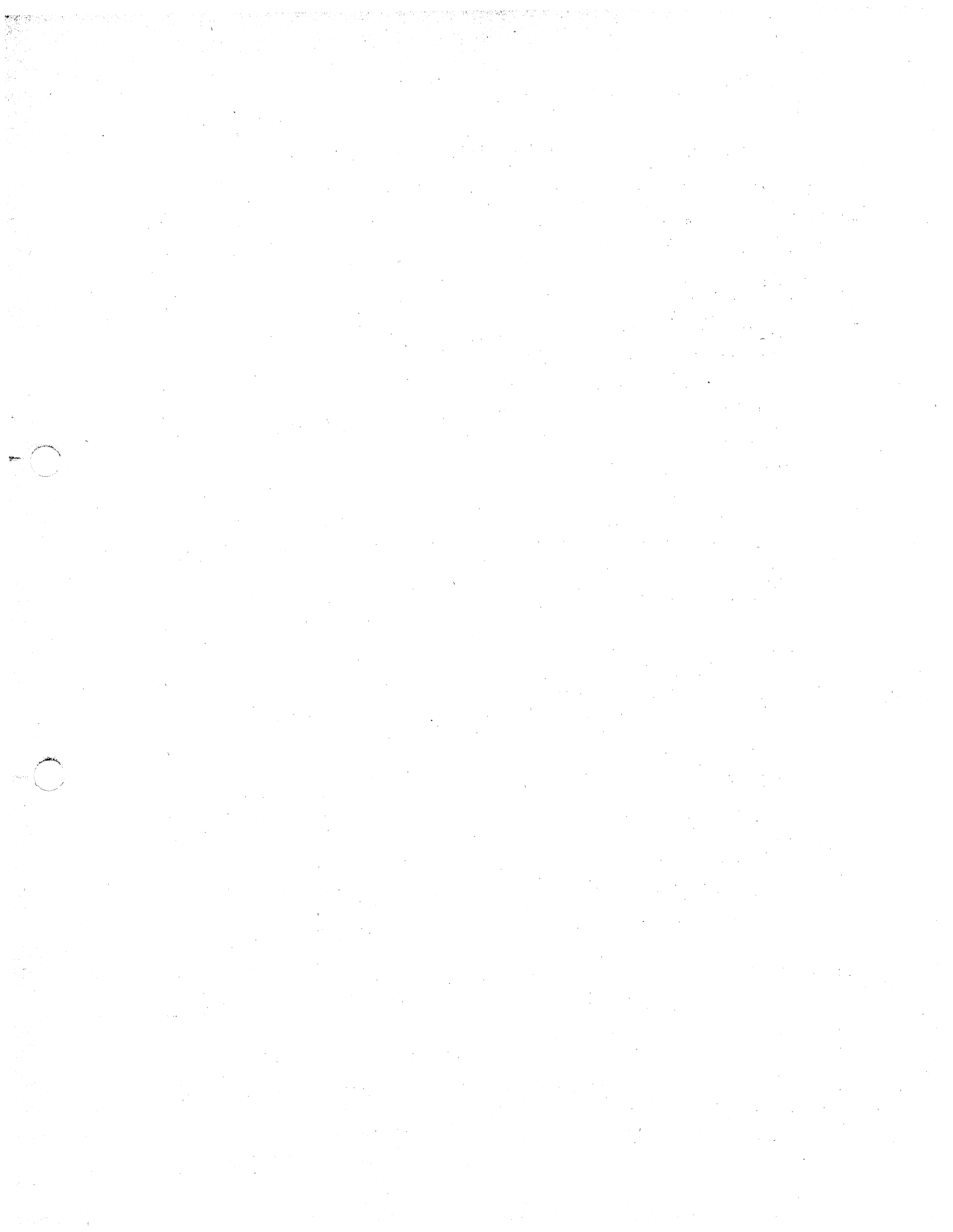
Q Well, let me ask you this: These bad accounts - you mean somebody going bankrupt or somebody going into receivership? A Yes, stores closing up.

Q And you don't get any credit for that cigarette money that you paid out in tax stamps, do you? A No, sir, and that's about \$750 more than it would normally cost me if I didn't have the stamps on the cigarettes.

Q And that is in one year? A That happened to be last year. We had a rough year. It normally doesn't run that much, but I did have a \$3500 loss.

SENATOR SHERSHIN: I wonder, Counsel, may I ask you this question: This is the first time it has been brought up in the testimony: Have you found out that there has been a similar experience with the other distributors with a loss that could not be reflected in any way unless it were done by an actual audit?

MR. SALTZMAN: Very frankly, sir, this is the first intimation I have had of it, although I have had several discussions



with the men about it.

SENATOR SHERSHIN: Well, let's get it into the record then.

Mr. Solondz, have you had any losses as a result of any bankruptcies or going out of business?

MR. SOLONDZ: Yes, sir, quite a few.

SENATOR SHERSHIN: What would you average your losses tax dollarwise because of such experiences annually?

MR. SOLONDZ: In dollars and cents, I can state that last year--

SENATOR SHERSHIN: I am not talking about the price of cigarettes. You would lose that anyway.

MR. SOLONDZ: No, I am talking about the total loss last year. We ran about \$8,000. We happened to have one large loss in there.

SENATOR SHERSHIN: Well, that wasn't tax dollars. That is total merchandise. I am talking about tax dollars.

MR. SOLONDZ: Well, about 20 per cent of that.

SENATOR SHERSHIN: Twenty per cent of that? A two thousand dollar loss?

MR. SOLONDZ: Yes.

SENATOR SHERSHIN: Mr. Neeld, in your report you had no basis on which to reflect any losses that might have occurred as a result of bankruptcies, etc., so far as costs?

MR. NEELD: In the cost survey we allowed as a proper charge against the cost of stamping the matter of losses on accounts that could not be collected.

SENATOR SHERSHIN: You did allow that?

MR. NEELD: Yes, sir. That is part of the cost.

SENATOR SHERSHIN: Well, that's already included now.

I would like also to get in the testimony of Louis Stomel.
Mr. Stomel, did you have any losses as a result of bad debts?

MR. STOMEL: Yes, I had quite a few.

SENATOR SHERSHIN: What was the total loss for last year,
approximately?

MR. STOMEL: Approximately \$1500.

SENATOR SHERSHIN: Tax money only?

MR. STOMEL: We had one account where it was \$900.

SENATOR SHERSHIN: Mr. Marowitz, did you have any loss
by virtue of bad debts?

MR. MAROWITZ: Yes, our tax loss was about five or six
hundred dollars.

SENATOR SHERSHIN: Sol Kolodny, the same experience?

MR. KOLODNY: I am not prepared to give you an honest
figure. All distributors do have losses--

SENATOR SHERSHIN: I am asking for your particular busi-
ness and if you are not prepared to answer it, we'll just skip
your answer.

SENATOR SHERSHIN: Mr. Irwin?

MR. IRWIN: We had a loss of approximately \$3,000 last
year.

SENATOR SHERSHIN: Tax dollars?

MR. IRWIN: About \$600 would be in tax dollars.

SENATOR SHERSHIN: Bernard Brenner?

MR. BRENNER: In our business, I don't know the exact
figure, but it wouldn't run that much.

SENATOR SHERSHIN: All right, thank you.

Are there any other questions of Mr. Rosenblum?

Thank you so much for coming down.



MR. SALTZMAN: Our final witness is Mr. Harry Michelson, of Gliken Brothers, Newark.

H A R R Y M. M I C H E L S O N: My name is Harry M. Michelson, and I represent Gliken Bros. of Perry Street, Newark, N.J.

We stamp approximately between 350 and 360 cases a week. We have six men on the floor; three to four of the men are busy stamping cigarettes.

SENATOR SHERSHIN: Three of the four, or, three or four.

MR. MICHELSON: Three to four men are busy stamping cigarettes at the same time, from between five to six hours, for five days stamping between seventy and seventy-five a day. When they are not stamping, they are packing and picking orders.

SENATOR SHERSHIN: So that time is entirely productive?

A That's right. Prior to the stamping we were able to manage with four men. We also have a bookkeeper who is obliged to spend considerable time in making up all the necessary records in connection with the stamping requirements. This takes him away from his other work, which he has to do at other times, so I consider this to be an added labor cost. We use five to six hours during the day and use three to four men because we think it is the best way^{to have} efficiency, to have them all working at the same time. When they are all finished stamping, one takes it apart, cleans it up, wipes the machine, then they start packing and picking the orders. We get a lot of work and most of our men have been with us, I think the youngest man there is there eight years now - eight to twelve years.

Q What do you pay your men? A The smallest man gets \$60.00, \$70.00, \$80.00 and \$100.00 a week.

Q That's \$77.00 average per week? A That's right.

Q Around \$1.75 or \$1.80 an hour. A Some get \$2.00 an hour, too.

Q Well, I mean the average. A That's right.

Q Do you have any losses as a result of bankruptcies, etc.?
A I don't think there is a distributor in business who doesn't have losses.

Q I don't doubt that, but I am asking you specifically.
A Yes, we certainly do.

Q What would you say your losses were? A Our losses last year, I think, were-- You mean stampwise?

Q Yes, stampwise? A Close to \$1,000. We have a little vending business besides our jobbing business and we have a lot of breakage which is not covered by insurance; that is, cigarettes and stamps that are consumed in the losses.

SENATOR SHERSHIN: All right. Thank you. Any other questions? If not, that will conclude the testimony of the Tobacco Distributors Association. We will now hear from Mr. Neeld and his assistants.

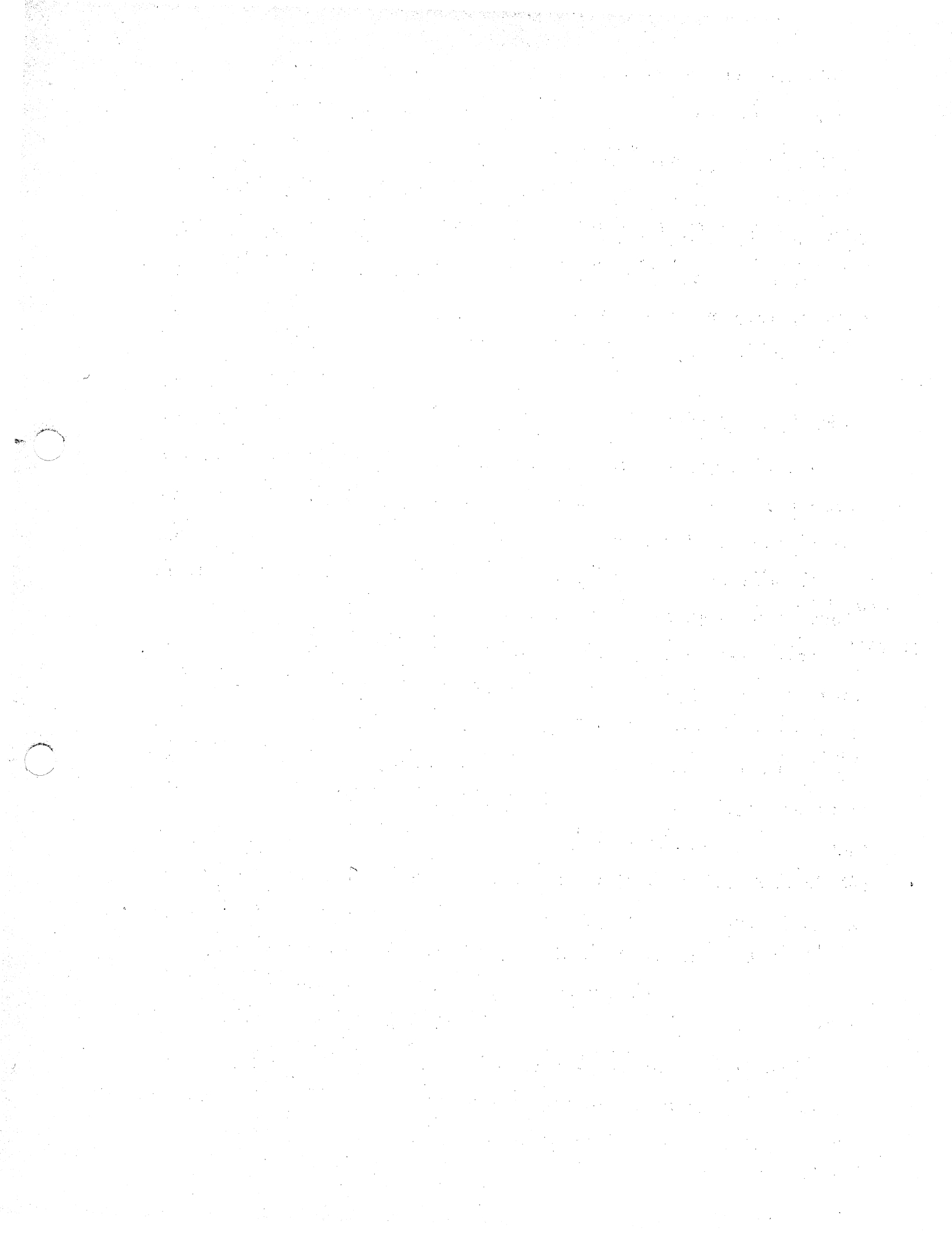
MR. SALTZMAN: May I interrupt for a moment?

SENATOR SHERSHIN: Yes.

MR. SALTZMAN: Mr. Lewis would like to make one short observation, if he may.

SENATOR SHERSHIN: Is it in rebuttal or is it going to be part of the same testimony?

MR. LEWIS: It is on the 160 cases a day. A hundred sixty cases a day represents an annual volume of \$4,700,000 per year at the present price of cigarettes. Using the national average of 65% of our business being in cigarettes, you need 160 cases a day to use it-- you would have an annual business of \$8,000,000. Now, the annual average business in the State of New Jersey of



all the tobacco distributors is \$1,780,000, and I am just informed or I believe in New York that of the 2400 distributors in the United States, only 21 reach the figure of \$8,000,000 a year in annual business.

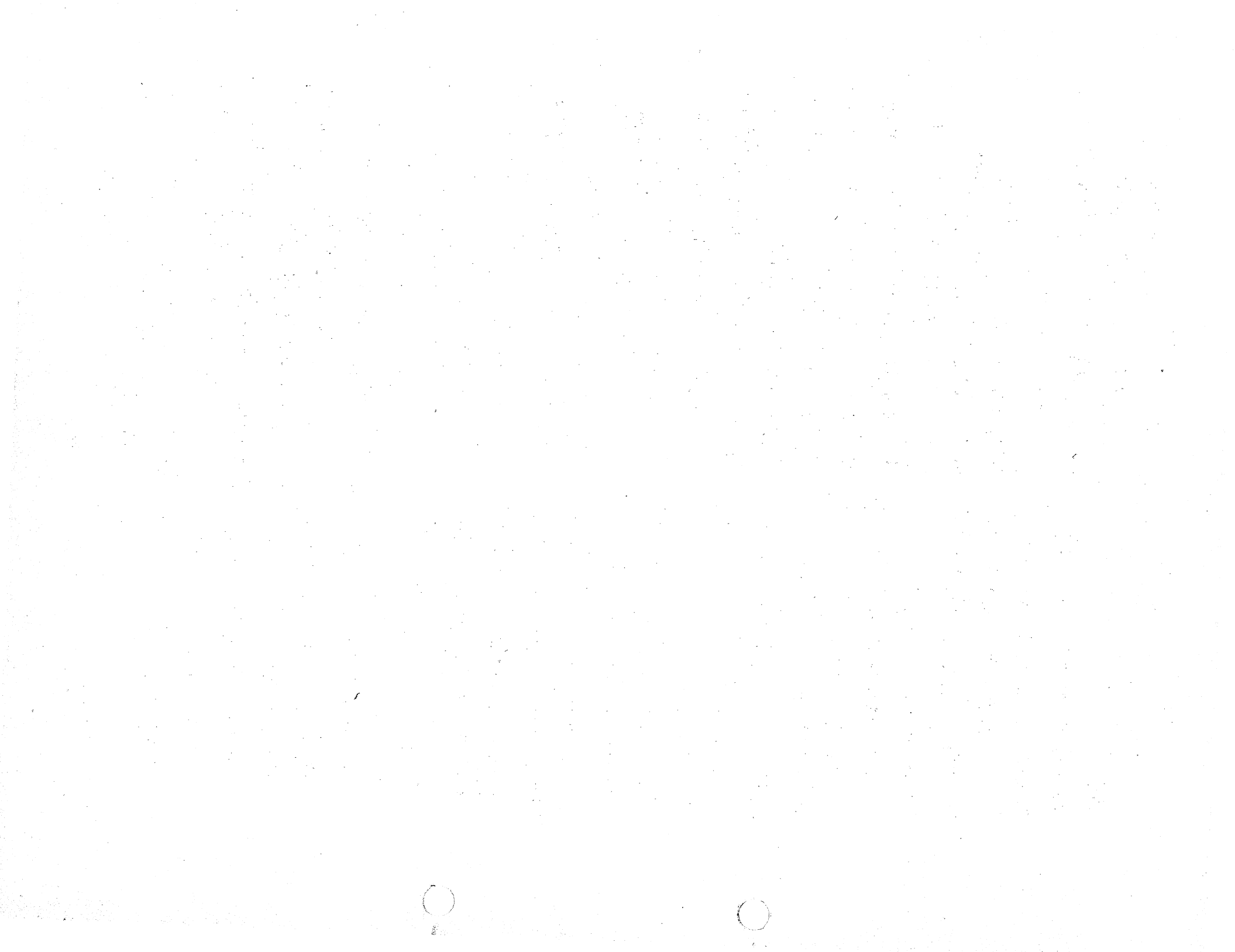
SENATOR SHERSHIN: All right, thank you.

Now, Mr. Neeld, do you want to present any of your witnesses, or do you just want to submit to questions? I think the Commission would like you to explain just how the survey was conducted and then we might ask questions after you are through.

A A R O N N E E L D: First, I would like the record to note the presence of Amos Tilton, State Supervisor of the Cigarette Tax Bureau, and Arthur B. Cramer, Chief Accountant of the Cigarette Tax Bureau, and the gentleman chiefly responsible for the development of the survey report of September 1956.

Now, I have prepared no memorandum for submission to the Committee. Frankly, we are not here to defend this report. The report speaks for itself. We would be glad, of course, to either outline how the report has been developed and to answer any questions with respect to the procedures which were used in the findings relating to the cost to affix the cigarette stamps.

I would also like to emphasize at the start that this is not a matter of the State of New Jersey vs. the distributors of cigarettes. We are as anxious as the distributor is to see that he is adequately compensated for the services which he performs for the State of New Jersey. He is more than the ordinary tax collector because in the affixing of tax stamps



there is a manual operation involved, which of course incurs operating expenses, and he should be reimbursed, and adequately reimbursed. On the other hand, he should not be overpaid.

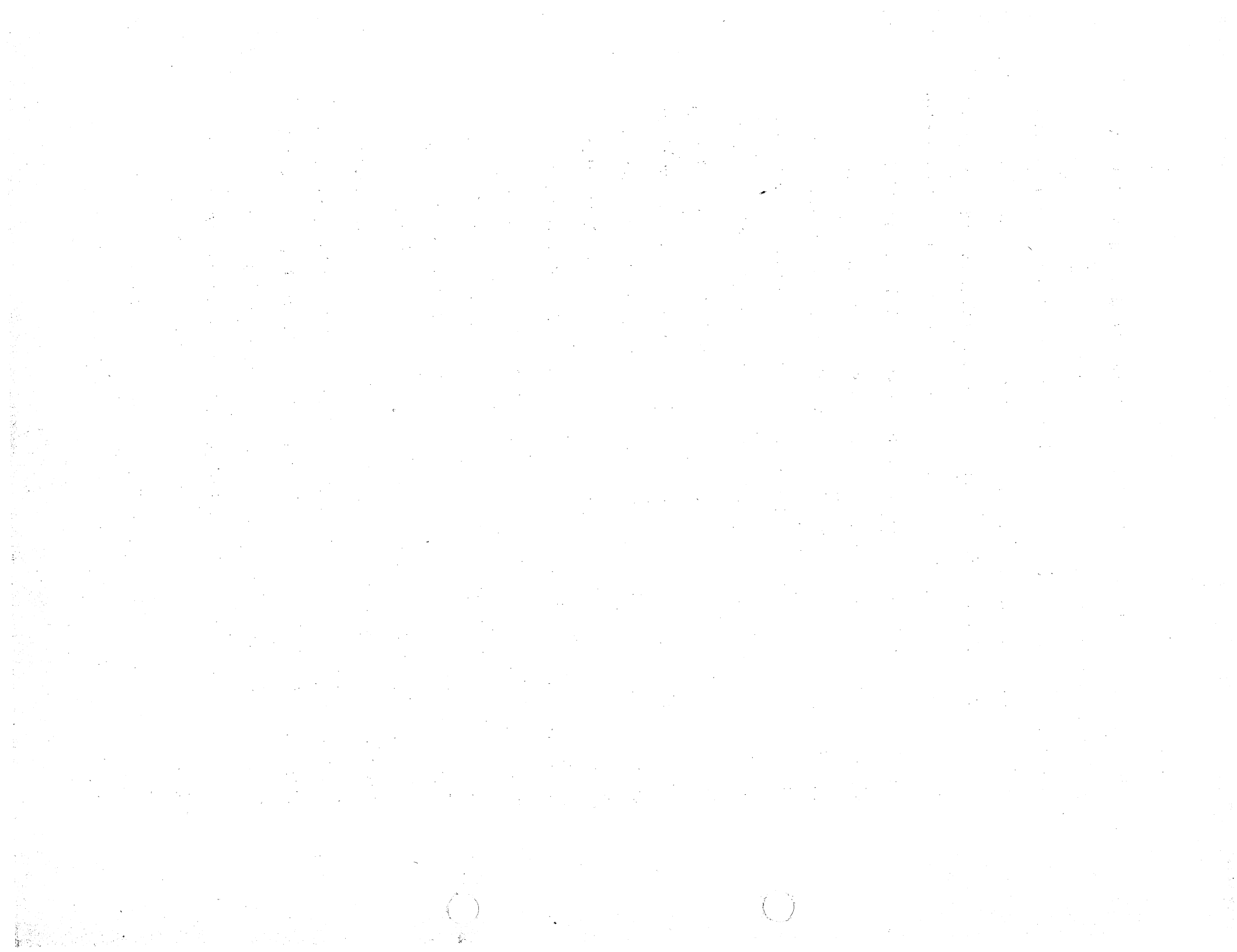
Now, going back to September of 1956, at the time of the adoption of this resolution, we were of the opinion that the cost survey was of such moment that there should be employed an expert cost accounting concern to conduct that survey - those experienced in such work. However, as I mentioned this morning, that involved an appropriation which the Legislature was unwilling to make at that time.

SENATOR SHERSHIN: How much would you say that would cost?

MR. NEELD: We had very little to go on, Senator, because a similar cost survey had not been conducted elsewhere recently and, in fact, so far as an expert concern, I don't know of any at the moment. We estimated that it would probably take \$20,000. I must frankly admit that that is just an estimate and very rough.

Now, when the resolution was adopted, we had no course, of course, but to comply with its terms, which was to file a cost survey report within a 60-day period, so we used the members of the staff of the Cigarette Tax Bureau for that purpose, under the direction of Mr. Cramer. We had no guide, no other surveys to use as a base. All of this is pioneer work, I would say, so far as cigarette tax administrators are concerned.

I would like to point out that when Chapter 10 was passed in 1956, it had only one purpose and that was to



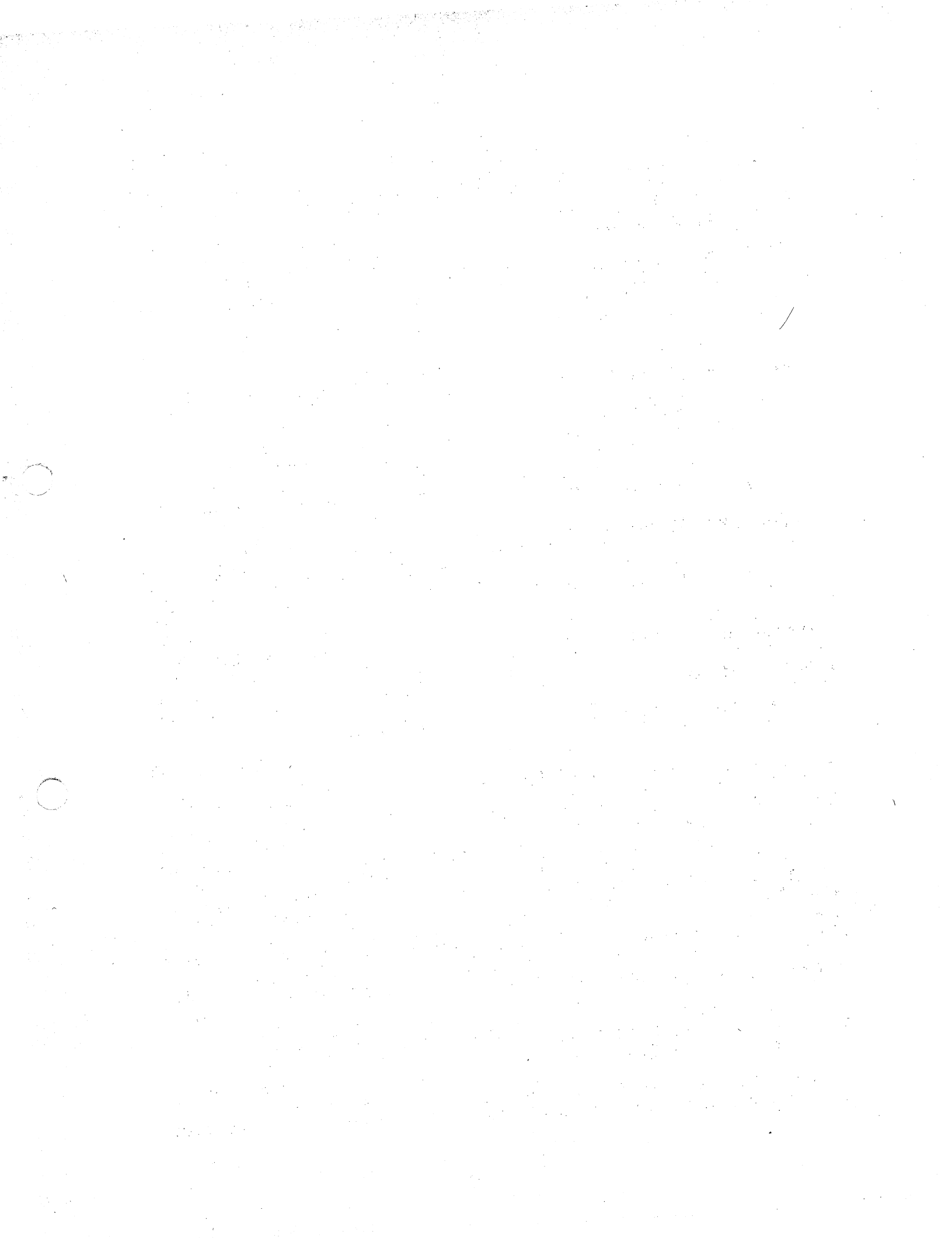
increase the cigarette tax rate from 3¢ per standard pack to 5¢ per pack.

SENATOR SHERSHIN: How did that reduction get into the law?

MR. NEELD: There was no thought at that time; it wasn't even under discussion so far as those who were interested in raising funds for school aid were concerned as to whether the distributor was adequately or inadequately paid. The changes in the law were made; namely, the rate was changed was 3¢ to 5¢ per standard pack; the discount rate was changed from 5% on a 3¢ rate to 3% on a 5¢ rate, which left the distributor just precisely where he was before the law was amended; namely, 75¢ a case. That was a subject for the Legislature to consider otherwise. We were then interested in raising approximately \$13,000,000 more a year in cigarette tax revenue. There was no thought of cutting, and we did not cut, the allowance to the distributors for his cost of affixing stamps.

Now, Mr. Cramer will be glad to outline the contents or to give you the contents of the report and the basis, but I would like to emphasize that every cost I have heard mentioned here today has been taken into account in arriving at the figure of cost per case for affixing cigarette stamps throughout the State on all levels of business; that is, as to volume of business--

SENATOR SHERSHIN: Except that you did predicate your conclusions on the basis of 160 cases as the norm of production.



MR. NEELD: That is correct.

SENATOR SHERSHIN: Therefore, if the norm of production was lower, your resultant cost would be higher?

MR. NEELD: I think that perhaps when Mr. Cramer explains the use of that norm, you will have a little clearer understanding as to how that enters into the picture. We were trying to determine what it should cost working on an efficient basis, how many cases of cigarettes could be stamped a day by a given number of employees with a certain payroll, and that norm was used then throughout all the businesses which had, of course, varying degrees of volume.

SENATOR SHERSHIN: May I ask these questions in general: You do admit that the State did not have the benefit of a cost accounting firm to go into this thing on an actual cost accounting basis?

MR. NEELD: Very definitely.

SENATOR SHERSHIN: And you further admit that this was pioneer work on the part of the State Tax Division?

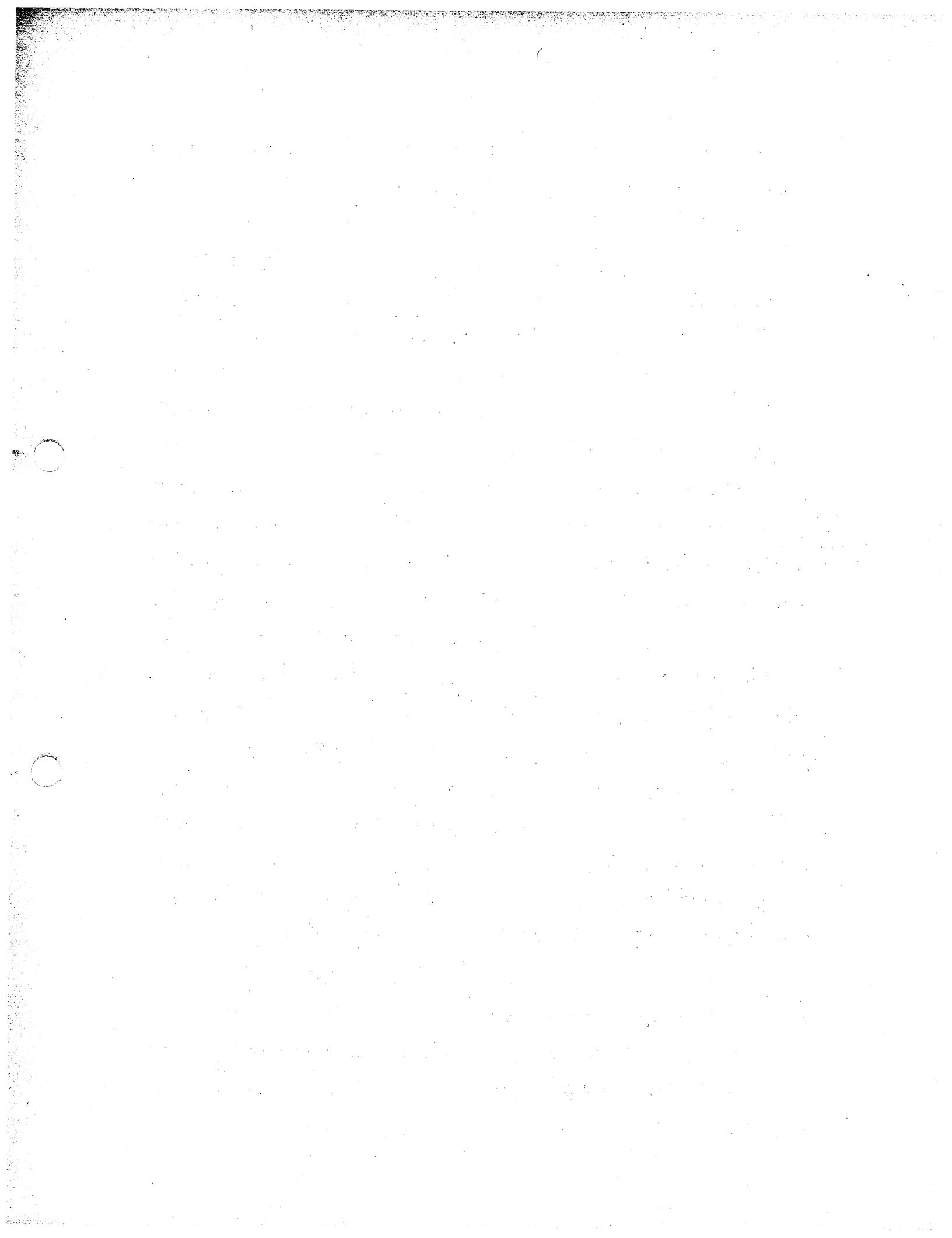
MR. NEELD: No question about it.

SENATOR SHERSHIN: And there were no experience charts that could have been referred to in any other states that were available at the time?

MR. NEELD: Correct.

SENATOR SHERSHIN: And your conclusions were based on a mathematical basis rather than on an actual cost basis?

MR. NEELD: No, Senator. I am sure that will all be developed. Our surveys were all on the grounds, in the field.



SENATOR SHERSHIN: Well, you did make a statement as to this, that so far as the industry was concerned, a 5% on a 3¢ tax was equivalent to a 3% on a 5¢ tax, so that there was still 75¢ per carton to the distributors.

MR. NEELD: Yes, sir.

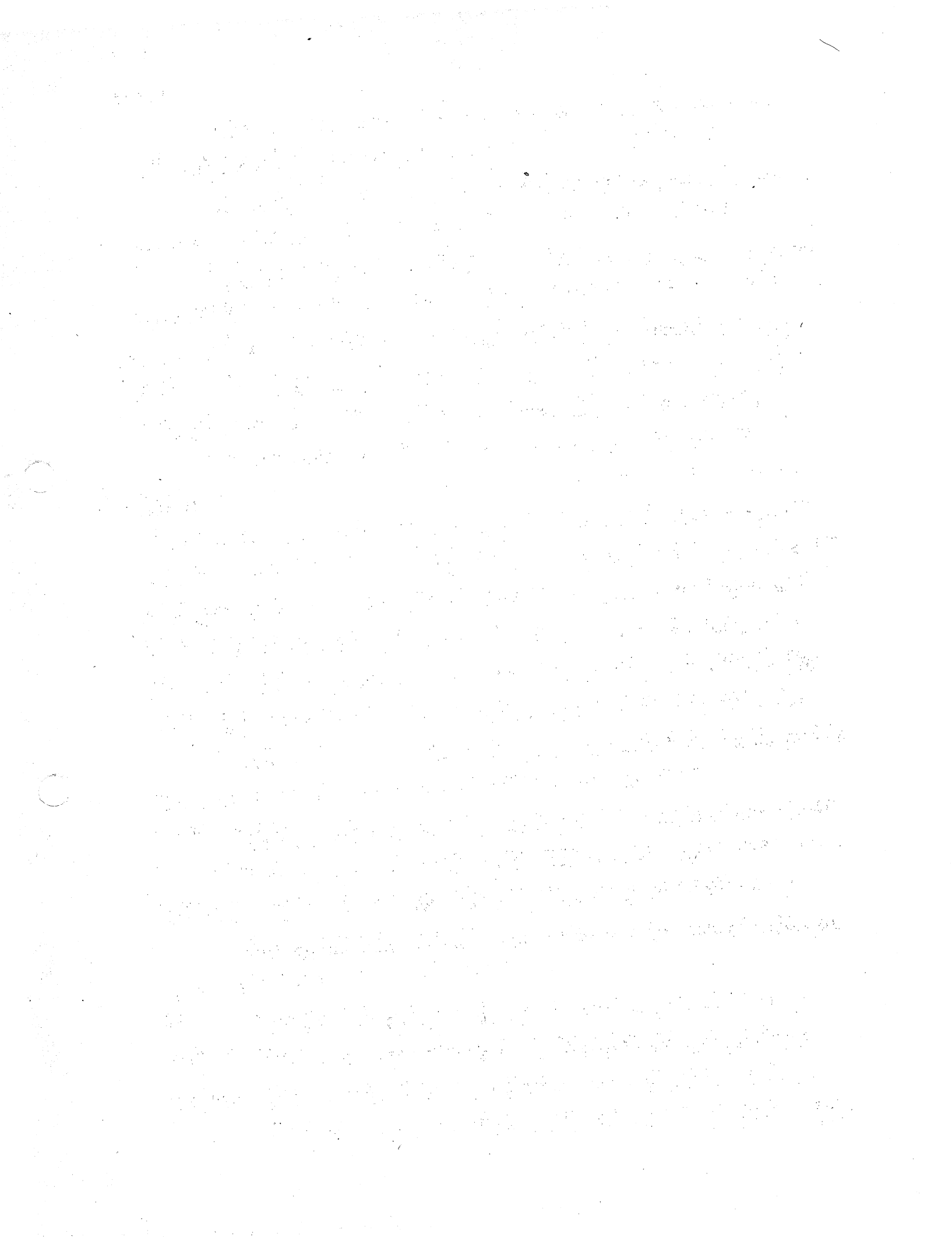
SENATOR SHERSHIN: But you also admit, do you not, that the distributors had come to the State Tax Department or rather there is testimony here this morning that they did come, asking for an increase in the discount rate previous to the time these bills were introduced. Isn't that so?

MR. NEELD: I would say that the matter of compensation to the cigarette tax distributor has been the subject of discussion for years. No bills were ever introduced, to my recollection, to that effect. And I would like to point this out, sir: I don't do it in any way of sharp criticism, but the original bills that would have increased the cigarette tax from three to five cents in 1956 would have left the discount rate to the distributor at five per cent, which would have meant that the compensation to the distributor would have been \$1.25 a case. I don't believe any cost survey would justify \$1.25. I don't have the figures--

SENATOR SHERSHIN: We are here to try to get some information for the benefit of this Commission and to help us in making a report to the Legislature.

What would a four per cent discount rate give?

MR. NEELD: One dollar. And I might just mention this: Each time you increase the discount rate by 1% a



point, the State, of course, supplies another \$333,000 as its cost for tax collections. That is no reason why it should not be considered. I thought your Commission should know.

SENATOR SHERSHIN: Well, I am glad to have the figure in here.

Are there any other other questions by the Commission members? I believe Mrs. Perfette has a question.

MRS. PERFETTE: No, that was my question.

SENATOR SHERSHIN: If there are no further questions. Mr. Neeld, do you want to put on Mr. Cramer?

MR. NEELD: Before I do that, Senator, may I make one more statement: I believe that you will recognize from the testimony that has been given here today that the problem is complicated because of the variation in the size, in the operations of the various distributors. Our duty, of course, was to determine a single discount rate, certainly not more than two at the most, uniformly applicable throughout the State.

Now, a discount rate that is fair to a small or a medium is a windfall to the large operator. A discount rate that is fair to the large operator, as our charts show in the report, you will find that the small operator is not adequately compensated.

SENATOR SHERSHIN: Would you consider that a graduated scale would be more equitable?

MR. NEELD: Not more than two rates, otherwise the complications of administration--

SENATOR SHERSHIN: And how would you base those two rates?

MR. NEELD: That is very difficult.

SENATOR SHERSHIN: Where would you have the breaking off point? Would you say up to 75 cases it shall be so and so; over 75 cases it shall be so much--

MR. NEELD: Well, you really don't do it that way by statute, Senator. You would fix a total stamp purchase amount; in other words, you would purchase \$200,000 worth of stamps at, say, 5% discount rate; then all ^{that} above/at four or three, the theory being that the larger the operation, of course, -the less the discount rate.

SENATOR SHERSHIN: Would you feel free to make that kind of recommendation as an equitable solution to this problem?

MR. NEELD: I don't see that on the facts that we have-- now, remember, we have a report. We believe it is adequately documented.

SENATOR SHERSHIN: I have no quarrel with the report, but I think you, yourself, have admitted that the report was not based on an actual cost accountancy report; it was done on the best available information in the shortest time possible to compile it.

MR. NEELD: Senator, I believe this, that that report reflects the best of our ability, and I have quite a lot of confidence in the men who developed that report, that they have used every cost factor, made adequate allowance for it, and the results that come from this report show that everyone is adequately compensated except the very small distributor who is stamping a quantity that really can't be

adequately compensated for, because, I think as one of your witnesses told you, his wife worked in the concern; they bring in a truck driver and they work people overtime; they work part time people, summer help. How can you strike a norm that is precise in all of the levels of the cigarette distributors' business under those circumstances?

We have used a norm which is based on a full operation, with one machine and the necessary men to operate it. Then, where you have a smaller operation, we have applied the ratio 40 cases to 160 cases. One-quarter of the payroll are the people who are active as full-time people, full pay; those who are part time, then apply the ratio.

SENATOR SHERSHIN: Of course, that is a mathematical deduction and the economist testified that we couldn't very well use that type of a ratio and come out, from an economical point of view with respect to cost; we couldn't take that.

MR. NEELD: That is true, but the trouble is he didn't tell us how to find a better basis for establishing salary costs. That is our problem. We readily admit and the tobacco distributor business readily admits that the only real complaint about this report is the allocation of salaries, and it is a difficult problem, not made so by any laxity in the development of the report. It is just a factual situation with which we were confronted. If there is a better way--

SENATOR SHERSHIN: You feel that there might be some room for modification?

MR. NEELD: Yes, there always is. If there is anything wrong in the development of the statistics in this

report, we certainly would like to know about it.

SENATOR SHERSHIN: I don't think there is any argument about the statistics. I think, as counsel for the distributors has indicated, that with respect to all the figures they agreed with them except they wanted to develop the argument of labor costs.

MR. NEELD: If there is a better way of allocating the part-time people to stamping duties, we don't know it. We will make available to the Commission all of our figures.

SENATOR SHERSHIN: At this time, Mrs. Perfette would like to be excused.

ASSEMBLYMAN HAINES: Which one of the gentlemen will now testify?

MR. NEELD: Mr. Cramer, who supervised the development of the report, will be glad to outline the procedures used and to answer any questions by the Committee.

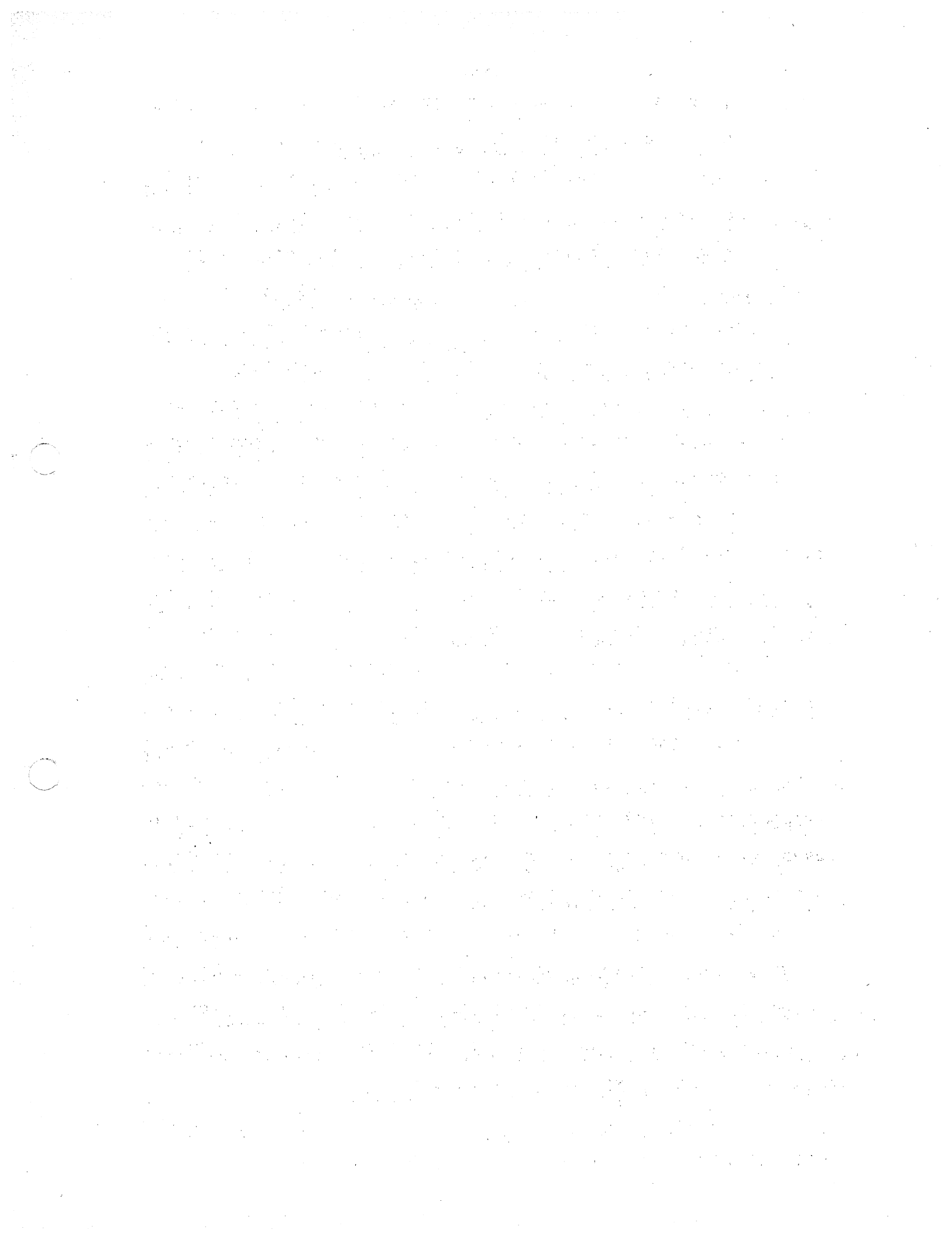
A R T H U R J. C R A M E R: My name is Arthur J. Cramer. I am Principal Accountant in the Cigarette Tax Bureau.

ASSEMBLYMAN HAINES: Do you have a report to give?

MR. CRAMER: We have no report to give other than the one we have already submitted.

ASSEMBLYMAN HAINES: I think the Chairman had some questions he wanted answered. He tells me to proceed and he is the one who is going to ask the questions, which makes it rather difficult.

Do any members have any questions?

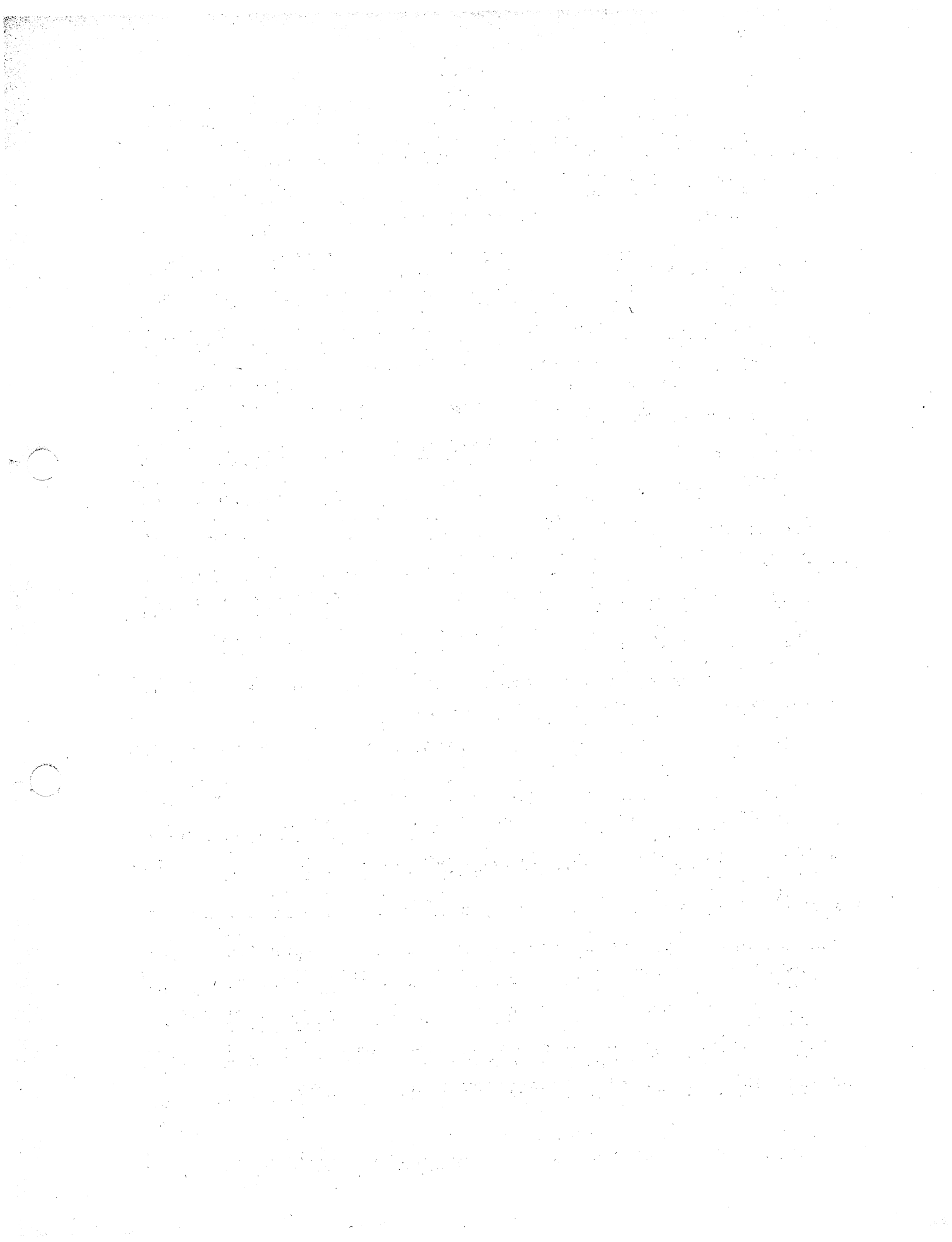


ASSEMBLYMAN KRAWCZYK: How did you arrive at the 160 norm?

MR. CRAMER: The manufacturers stated that the maximum capacity of their machines was 480 cases of cigarettes a day. We realized immediately it was impossible for anyone to get maximum capacity out of a machine, so in order to determine just what three people really could do with a machine, we sent investigators into three large organizations that were stamping, and the report shows it was at the rate of 231 cases or 218-- I believe it averaged out to 214 cases of cigarettes per day. Now, that showed us, under normal conditions, that three men operating a Pitney-Bowes machine could stamp at least 214 cases a day. Now, we find in our large categories that the stamping equipment usually is capable of stamping the needs of the distributor; in other words, if their needs are 160 cases a day, three men can do it very easily. If they are higher than that, we know they can stamp 231 because one distributor averaged it for a period of three months, and this was not during the exceptionally high production months, which was testified to earlier as the spring of the year, through the summer trade, and at Christmastime.

Now, using this 214 as a base, we determined that three outfits operating separately and distinctly could stamp an average of 214 cases a day. We said that with just normal efficiency, the rest could stamp at least 75%.

Now, based on that, we computed all our salary figures pertaining to the stamping operation; in other words, as pointed out before, if any organization stamped 80 cases of cigarettes a day, we raised the cost of salaries to 100%.



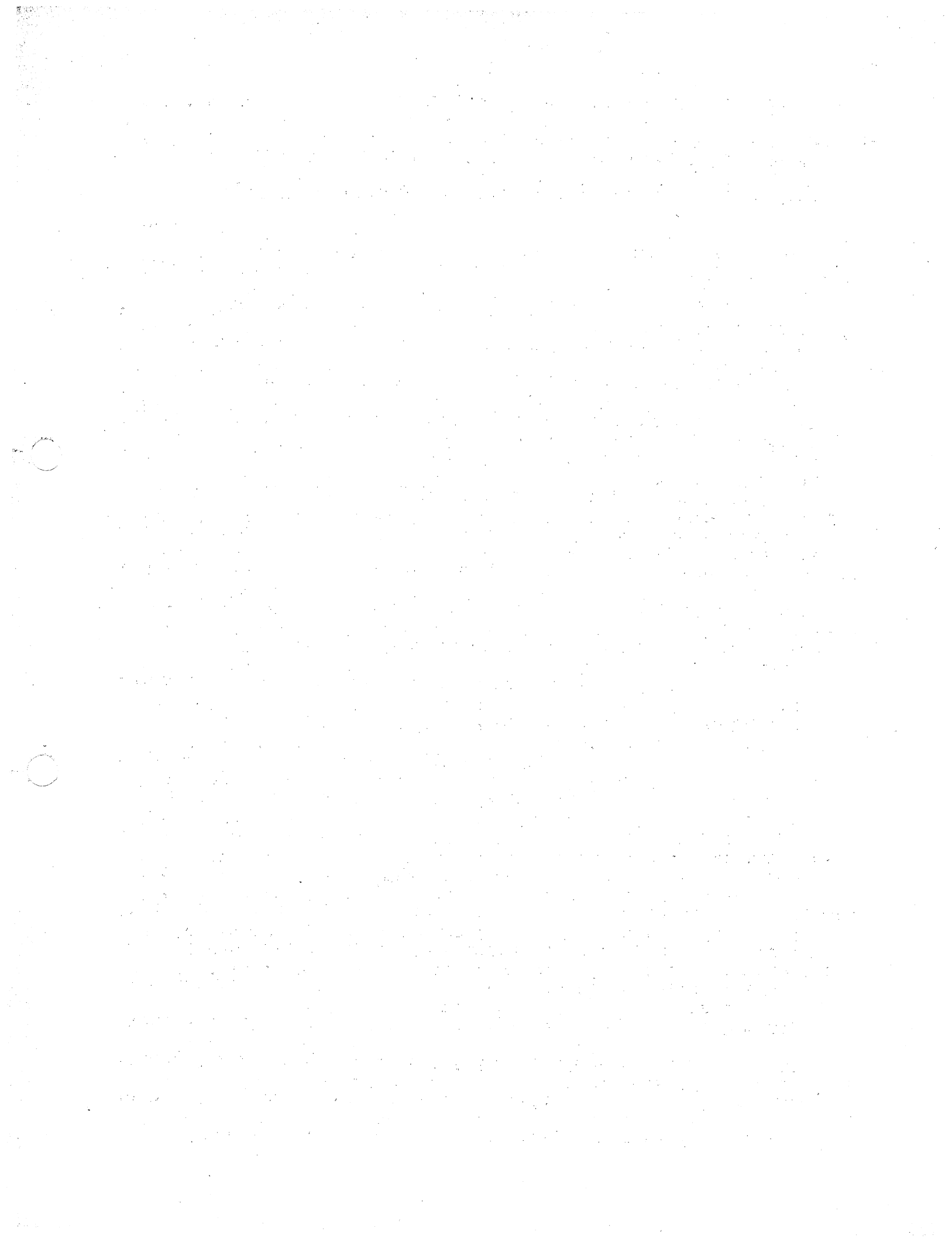
Now, I will explain it this way, why we did that: In some instances, temporary help, part-time help, all different kinds of help, and one pertaining to different parts of the day - on the basis of 100 per cent, when we applied the norm, we would get down to the relation between 80 cases per day to 160. Now, under those circumstances, as stated in the report, if three stampers were earning \$9,000 a year and the company was averaging 80 cases of cigarettes a day, we stated that those people were occupied one-half of the time in the stamping operation and, under those circumstances, that is what we allowed - 50 per cent of \$9,000, or \$4,500.

ASSEMBLYMAN HAINES: Did you take into consideration any of these seasonal distributors, like at Belmar?

MR. CRAMER: I think that one of our greatest problems was that ordinarily in an operation of this type, if you are looking at ten or twelve machines, everything would be operating at an even keel, but here you have chain store organizations, family organizations, vending machine outfits, and all kinds of circumstances, which made it very difficult. The seasonal again, of course, was pro rated upon the gross business. If they paid salaries during the months of June and July at the high rate of production, we allowed those salaries. That was taken into consideration but possibly not to the degree-- but we did do it right down to the individual dollar for each distributor.

ASSEMBLYMAN HAINES: Are there any further questions?

ASSEMBLYMAN KRAWCZYK: Well, I am a little concerned as to what happened to the distributors in between the group

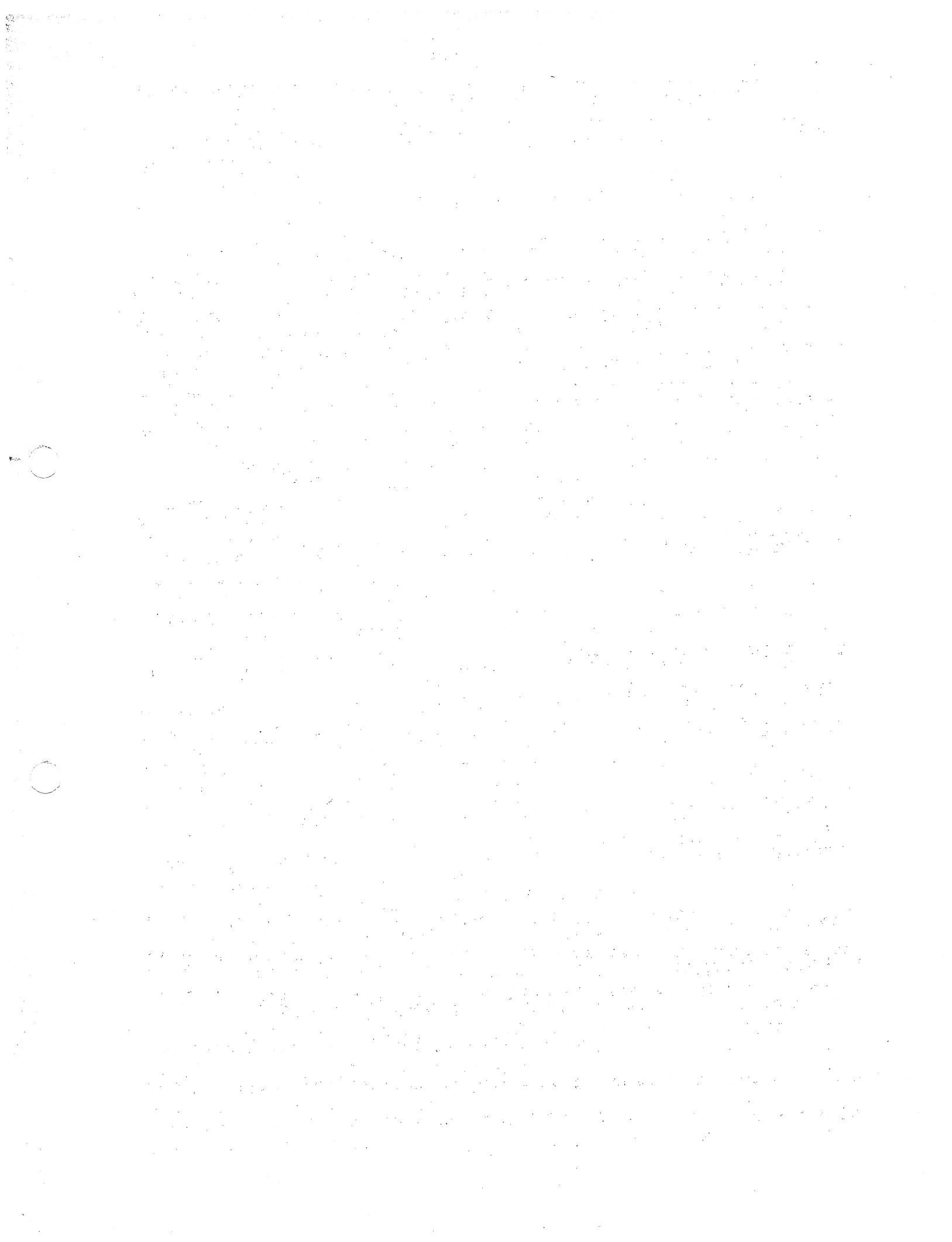


We have here and the ones you are speaking of - 214 cases a day, and I believe the maximum we heard of today was 100 cases. Was the survey made among the top, the cream?

MR. CRAMER: When we speak of 214 and then average it down to 160, what we are actually doing is not talking about a day's production; we are breaking it down on an 8-hour basis, and that eight hours indicates at the rate of 20 cases of cigarettes an hour. Now, according to our survey, we say that the average distributor can stamp 20 cases of cigarettes per hour because he ^{is} only stamping at the rate of 75% of what other distributors under the same circumstances or under possibly more efficient circumstances are doing - 100. So the thing that possibly is most confusing, as I said before, is that you are stating it on the per day basis when actually the breakdown is per hour. We broke it down to 20 cases per hour. If a distributor has 40 cases of cigarettes per day to stamp, we say that with normal efficiency he can stamp 40 cases in 2 hours.

ASSEMBLYMAN HAINES: I think you have worked this out on an ideal setup, but anyone who has experienced any activity in industry knows that very seldom are you able to run a plant that is 100 per cent efficient. Of course, we all realize there is no part-time labor today and these fellows, I assume, may sell 500 cases this week and 200 cases next week. Isn't that generally the way with dealers? You don't have an even load, do you?

MR. SALTZMAN: It fluctuates quite a bit. It only fluctuates in seasonal operations or immediately before Christmas-time; otherwise, it is pretty constant throughout the year. It



It might fluctuate two or three cases a day, but if a distributor has a business where he sells 40 cases a day, that will be pretty constant throughout the year.

ASSEMBLYMAN HAINES: Now, you only have one size machine. Now, regardless of whether you are selling 40 a day or 80 a day or 150 a day, you still have certain costs to write off. Did you take into consideration those costs to be written off on different sized outfits?

MR. CRAMER: It was considered on a percentage basis but the problem we are discussing here is whether, if you had an operation which took 2 hours a day, would you go out and hire three men to perform that operation? Generally, I think, and this is my personal opinion, you might hire one additional person if your original employees were completely occupied with present tasks. You might hire one additional person, which would represent six hours.

ASSEMBLYMAN HAINES: What percentage did you deduct for breakdowns and other contingencies of that kind?

MR. CRAMER: The companies submit monthly tax returns to us, so we know how many cigarettes they are stamping during a given month. We also know the amount of salaries that are paid these stampers. Again, it was done on a percentage basis. Very obviously, it is just impossible to take into consideration every one of these different variations that might occur at a given distributor's place of business. You must arrive at an average, otherwise we would be determining possibly 140 different cases.

SENATOR LYNCH: There has been some testimony today about various hazards that these distributors face in the

ordinary course of their business and costs that are incidental with the operation of the business, such as insurance rates, workmen's compensation, bad debts, bankruptcies, and the like, does your report reflect those statistics in coming to an answer?

MR. CRAMER: Yes, sir. Bad debts. At that time the tax rate was 3¢. I believe the cost of the cigarettes approximated 21 to 22¢. That meant roughly one-seventh. Now, we determined exactly what the distributor surveyed claims he lost; I don't mean bad debts, but bad debts pertaining to cigarettes, and then we allowed that portion of it which pertained to the cigarette tax itself - 100 per cent; in other words, if he lost \$7,000, we determined the rate was one-seventh, then we gave him \$1,000 allowance. Now, so far as the other items, every one was taken into consideration that I have heard mentioned here today. I don't think one item was mentioned that we had not considered. Now, if there were items such as glue, ink, and things of that sort where the cost was positive and actual, we allowed it at the rate of 100 per cent.

Now, you spoke of insurance and things of that sort, and that would give you a rough idea of what our problem was. The way that was determined was on a space ratio basis. Now, that was arrived at in the following manner: We determined through inquiry, through actual measurement, and through contact, I would say, with the Pitney-Bowes Company, how many square feet the Pitney-Bowes machine needed to efficiently operate. Then we determined how many additional cigarettes the distributor was required to carry in order to normally function

as a distributor and directly stemming from the cigarette tax law itself. Then we determined how much space those two functions required; that is, the operation of the machine, the storage of those cigarettes. Now, roughly, I believe - and I say roughly because it varied from distributor to distributor - it ran about seven to eight per cent of the total space we allocated to the cigarette stamping function. Again, I might get back to the storage of cigarettes and how we arrived at that. We found by measurement that approximately 40 cases of cigarettes - 100 cases of cigarettes piled six high would occupy approximately 40 square feet. But we said we realized in cases where Embassy and various odd brands are concerned, it was impractical to pile them six high, so your pile might look something like this, making not for inefficiency but just due to the nature of the storage. So we said that for aisle space and everything else, we will not allow the 40 square feet per hundred, but we will multiply that by five. That five makes allowances for these various inefficiencies for aisle space and other things beyond the control of the distributor. Now, that is how we arrived at the space ratio, and all your overhead, such as heat and taxes and everything was applied on that space ratio, and I say generally that ratio ran in the area of eight per cent of the total.

SENATOR LYNCH: One more question, sir: There has been testimony from several distributors that when they purchase stamps in the State, of course it takes away working capital, and because it does take away working capital they have had to go out in the market and borrow money. We all

know that today the money market is tight and the interest rates are high. Has that cost been reflected in your survey?

MR. CRAMER: Well, sir, may I explain it this way: The cigarette tax law required the department to issue credit to a distributor, provided he provides a credit bond to cover it. Now, assuming that he has to borrow an additional \$25,000 or he needs an additional \$25,000 to operate, he can go out and get a credit bond, the cost of which I believe varies from 1.2 to 1.8 per thousand. So, unless a distributor operates for cash, which isn't required, it is only in case, I guess, where they have excess cash around that they use it, why it would really be uneconomical to go out and borrow money when a credit bond is available.

SENATOR LYNCH: Now, the next question, sir: Again, all of the distributors have testified or have made known the fact that because of the tax records which they must maintain and keep and submit to the State monthly, or whatever it may be, all of them have had to employ, it seems, either additional help or the bookkeeping help has used part of its time in taking care of such records. Has your survey taken into consideration that angle of expense?

MR. CRAMER: The cost of the bookkeeper was ascertained by actual observation by the field man either during the time of his visit, it was ascertained through conversations with the boss, or probably through conversations with the bookkeeper herself. I would certainly feel that it was adequately taken care of, and I might say--

SENATOR SHERSHIN: I didn't get that. It wasn't, or it was?

MR. CRAMER: It was, in our survey. And I might say that that cost of the bookkeeping, of course, was not put on a norm basis. That was allowed actually dollar for dollar. If she devoted 20 per cent or 15 per cent or 10 per cent of her time to the bookkeeping, we allowed exactly that proportion of her salary in the survey.

SENATOR SHERSHIN: Mr. Cramer, did you personally make the in-the-field inspection?

MR. CRAMER: I did not, sir.

SENATOR SHERSHIN: How many men were employed in making the field survey?

MR. CRAMER: Four.

SENATOR SHERSHIN: And do you know whether or not they made any report as to whether some of these men employed in the stamp operations were later absorbed into the other operations of the business?

MR. CRAMER: By that, you mean, Senator, were they used for purposes other than stamping?

SENATOR SHERSHIN: Yes.

MR. CRAMER: I would say generally, almost without variation.

SENATOR SHERSHIN: Well, did the report indicate that the employers complain that they just had to carry these men or lose them?

MR. CRAMER: Well, sir, we have had many conversations on this subject and I believe that was just a point of information that they supplied us.

SENATOR SHERSHIN: You didn't believe it?

MR. CRAMER: Well, I should say, sir, as I said during your absence, if they needed one additional man, I felt that that is what they would hire, or if they needed three additional men, that's what they would hire, but in most cases I'm afraid the smaller ones did not need three additional men to perform the stamping.

SENATOR SHERSHIN: There was a recommendation that there ought to be a continual survey based maybe every three years. How do you feel about that?

MR. CRAMER: Our survey states the same thing, sir, but it does not give a time limit such as three years. We did say, due to changing conditions and things of that sort, it should be reviewed periodically.

SENATOR SHERSHIN: Well, what would you say to this Commission as to whether three years is a reasonable period, or five years, or whatever suggestion you may make?

MR. CRAMER: Well, sir, I haven't given it too much thought. I really couldn't say, but--

SENATOR SHERSHIN: Well, would you between now and the time we prepare our report give us the benefit of your opinion as to whether or not these surveys should be done on any three or five year period?

MR. CRAMER: Yes, sir.

SENATOR SHERSHIN: Mr. Neeld suggested that there were some inequities because of the size of the operation. Do you think that if this Commission were to consider the total operations that an equitable way of handling the tax matter would be to give 5% to the smaller operators and still maintain

a 3% for the large operators, by giving a tax dollar item as being the line of demarcation?

MR. CRAMER: Sir, in the folders that we supplied you, I believe we worked out a general cost of such a survey. We certainly did not express an opinion but we found that the distribution under certain conditions might be inequitable, and that those who are losing money of course would be compensated but the bulk of the money would go to those groups that are not losing money.

SENATOR SHERSHIN: Yes, but in view of the testimony here this morning that 95 per cent of the-- correct me if I'm wrong.

MR. SALTZMAN: Ninety per cent.

SENATOR SHERSHIN: Oh, that 75 per cent of the business in the State is conducted by 95 per cent of the distributors, and they being the smaller distributors, they are the ones who are losing money.

MR. CRAMER: Sir, may I first state that, in my opinion, that particular percentage figure used is completely incorrect.

SENATOR SHERSHIN: What would you say it might be?

MR. CRAMER: According to the figures worked out by us, I believe we determined that approximately 24 per cent of the distributors were doing 60 per cent of the business. That is shown on Exhibit I, which is the last page of our Report. Now, that is taken from an actual breakdown, not by survey, but from an actual breakdown of sales as recorded on the records of the Cigarette Tax Bureau. Those are actual; they

are not estimations of any sort.

SENATOR SHERSHIN: Are there any other questions?

Here's one question: If the distributor stamps 160 cases a day with three men, as the report indicates, you have allowed in your report a total cost to this distributor of \$19,000 a year. We have had testimony here that another distributor had three men and his cost was \$10,000 a year. How do you account for the \$19,000 figure?

MR. CRAMER: Well, Senator, this particular distributor who came up with the very high figure of \$19,000 is an extremely large distributor. There was a great deal of inefficiency in this particular operation, one of which was that the licensee didn't use a cutting machine. Now, almost every distributor in the business uses a cutting machine. That's used to open the carton, and instead of that they hired a man to stand there and cut those cartons open. He was just a complete loss to them.

Now, many other of these inefficiencies, as reflected in that one item, are reflected in others and it just showed up in cost. Now, as I say too, you might note that when this distributor was used and his very high per cent of cost was quoted, in fact it might have been overlooked that this particular distributor stamped 50,000 cases of cigarettes a year, where his closest competitor stamped only 36,000, and the others stamped twenty-six, twenty-five, twenty-three and twenty thousand, so while the cost is higher, there was a much greater number of cigarettes stamped. This distributor, as we stated here, stamped approximately 191 cases a day - I may be wrong on that particular figure-- 193 cases a day.

SENATOR SHERSHIN: Well, that's the one distributor. Can you tell us what two other distributors you checked? I don't mean the names. I am talking about the number of cases that they stamped per day.

MR. CRAMER: Well, that would be indicated by the totals. Again, we stated in our report that one stamped 231 cases a day and the other - I am quoting strictly from memory here - 218, 192, and 231; 192 is the one we used in the survey.

SENATOR SHERSHIN: So that your survey is based strictly on the large distributor, and you did not go into the small distributor at all for costs.

MR. CRAMER: Well, sir, during your absence a while ago, I attempted to explain: We went into these three distributors and we wanted to determine what three people stamping a gross amount of volume could actually do in a day, and we found - here are three people in one place could do 231 cases, and another organization could do 218. I would like to add here that we believe that the capacity of the three individuals was based upon the volume of the organization. Obviously, if they only have 40 cases to stamp, they can't stamp 160 or 231 or 218. After we determined that three people operating a machine eight full hours possibly could stamp an average of 214, we said there are many inequities and many differences which occur. There are different types of organizations, it may be a family-owned organization, etc., so we said we would allow 75 per cent of the 214 -- We had a distributor who could do 231 cases, not during peak loads, but for an average of three months, so we break it down to an average --

SENATOR SHERSHIN: That man who is doing 231, is he doing 45 different brands? Or is he just doing six brands?

MR. CRAMER: That, I don't know.

SENATOR SHERSHIN: I can see, if you are running Camels and you get your knives set for Camels, you can do 231 because you don't change the knives, but if you are a small distributor, you've got 20 cases of Camels and twenty cases of Marlboros and ten cases of Benson and Hedges, he has to stop that machine three different times and reset his knives and your efficiency is going to be lost.

MR. CRAMER: Well, sir, the only way I can answer that is, I would say that just a given number - it might be a small number of that entire group you named - comprise the bulk of the cigarettes stamped. You won't stamp as many Benson & Hedges as you will Luckies and Chesterfields and Camels.

SENATOR SHERSHIN: Well, it would be interesting on a case basis to determine whether the greatest quantity is in Camels, Luckies or Chesterfields.

MR. CRAMER: Well, the bulk. Of course, there are odd brands--

SENATOR SHERSHIN: Well, here are a couple of packages right here that aren't uniform, right here in front of us; Camels and Pall Malls. Pall Mall is a popular brand cigarette.

Are there any other questions?

Do you have any recommendations, Mr. Cramer, to make, other than what have been found and are contained in your report? You recommend that there ought to be a continuous re-evaluation of the discount structure. Do you have any other recommendations to make, based on the testimony that

you have heard today?

MR. CRAMER: No, sir.

SENATOR SHERSHIN: Any other questions?

ASSEMBLYMAN HAINES: You have considered a graduated discount program here, I wonder if you have considered giving a discount of three per cent to everyone and then those who only purchase a smaller amount of stamps - I don't know where you would break it - give them an additional per cent at the end of the year.

MR. CRAMER: That is in Part 2, sir, of that statement here.

ASSEMBLYMAN HAINES: Oh, that's the way you are going to do it.

MR. CRAMER: That was not a recommendation, sir. I believe that was just a possibility which was suggested to us or the question was broached to us by members of the industry.

SENATOR SHERSHIN: Mr. Cramer, are you familiar with the report that was given by Mr. Goldstein with respect to what other states are doing throughout the country?

MR. CRAMER: Well, sir, under my supervision we have had prepared a list showing what every State is doing throughout the country in the way of discounts, tax rates, and monetary allowances.

SENATOR SHERSHIN: In Pennsylvania they are giving a greater discount than they are here in New Jersey, is that so?

MR. CRAMER: That's correct, sir.

SENATOR SHERSHIN: And in New York?

MR. CRAMER: New York is giving 60¢ up to \$450,000, and above that they are giving 57¢ a case. I believe it might be pointed out here that in the City of New York, I believe I am correct, they do hand stamping.

SENATOR SHERSHIN: Many states throughout the Union that are giving in excess of 75¢ discount, according to this report.

MR. CRAMER: That's right, sir. On the third page, I believe, we broke it down into categories, what the different states allowed.

SENATOR SHERSHIN: Is there anything further? Mr. Neeld, do you want to add anything?

MR. NEELD: No, I think it has been fairly well covered. I might emphasize, Senator, if you will take a look at that schedule of discount rates that is summarized on the third page of the statement we have handed in, that the greatest number of states that fall in the group of 75¢ per case of cigarettes; in fact, 17 of the states have rates less or not exceeding 75¢ per case; that is 17 states out of a total of 42 assessing a cigarette tax. Now, that is not evidence, of course, that 75¢ is adequate. I simply point out that that is the prevailing rate.

SENATOR SHERSHIN: Where are the 17 states located, on the eastern seaboard or in the metropolitan area, or the midwestern states?

MR. NEELD: There is a complete list, Senator. I could go through it if you wish me to take the time.

SENATOR SHERSHIN: No. We have it in the record and we will look at it. I just thought you might, offhand, know.

MR. NEELD: Pages 1 and 2. I would say that the very high rates are southern and western.

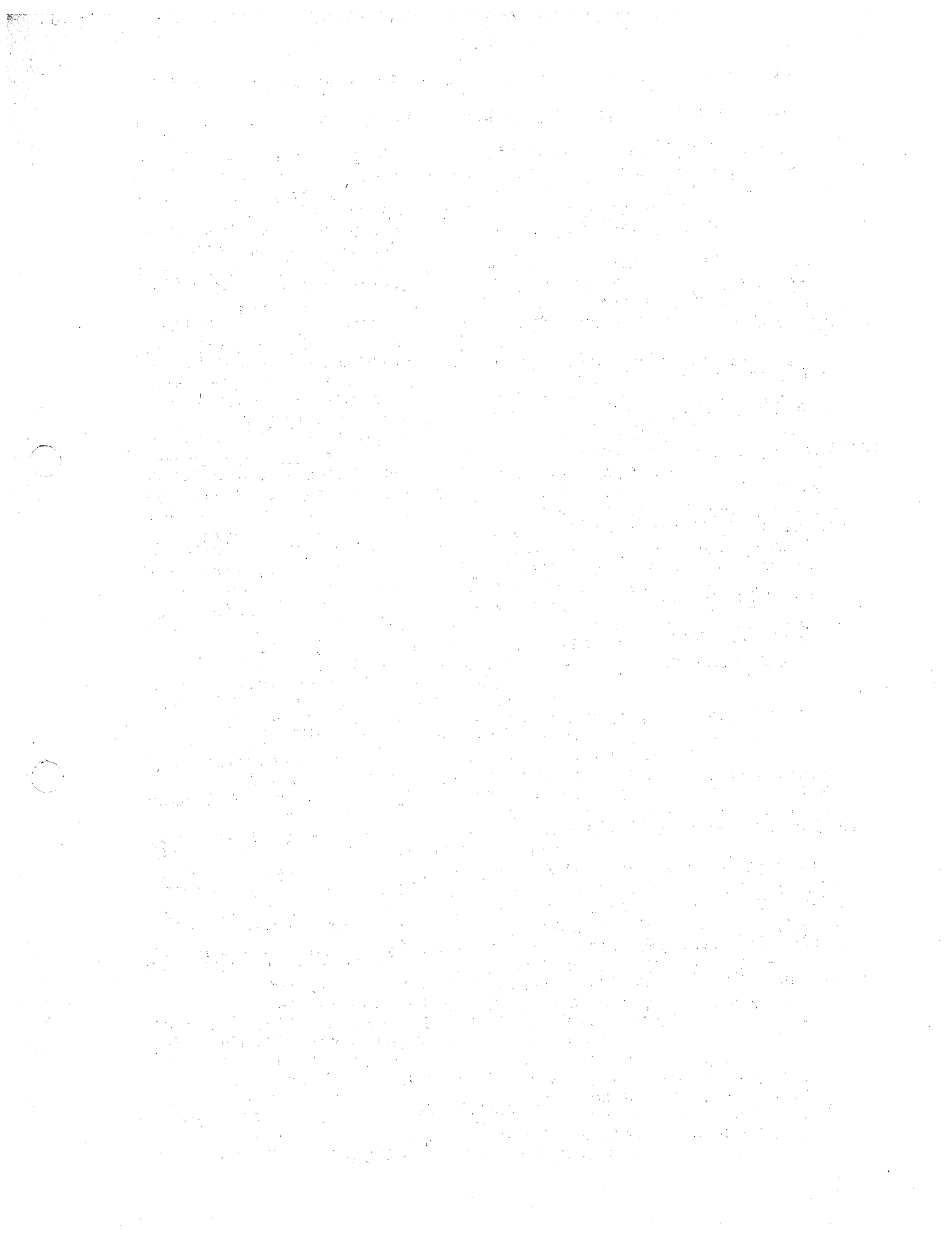
I might just point out what discount rates do in some states. We have one here, Louisiana - \$3.60 a case. I am not sure what sort of a cost survey could justify that compensation. They range all the way from that down to \$2.00, \$1.50, on down to as low as 50¢, 40¢.

SENATOR SHERSHIN: All right. Thank you, Mr. Neeld.

ASSEMBLYMAN HAINES: I would like to ask a question. Were you approached in 1956 for an increase in discount before the tax was raised?

MR. NEELD: I couldn't answer that, Assemblyman Haines. We have been approached over the years. It has always been a question as to whether the distributor is adequately compensated. I do say this, that when that bill was drafted, the one that became Chapter 10, the sole purpose, and that was under discussion all that day, you remember, at the time they adopted that bill under the school aid law - that was under discussion all day, and the only purpose of that bill, as I said before, was to increase the yield of the cigarette tax with no thought of changing the compensation in any way to the distributor, but leaving that open to such consideration as the Legislature saw fit.

ASSEMBLYMAN HAINES: Well, through the years how much increase were they talking of, from 5 per cent to seven, was it?



MR. NEELD: No, I don't there was ever any figure agreed upon. And I might mention that we had statistics here today showing the increase in cost of operation of the tobacco industry distributors. There is no question of the increase in cost. But that begs the question, because the big question is, was the 5 per cent, namely, 75¢ a case, adequate or more than adequate in 1948. That is still an open issue. Our report would indicate that the distributors were overcompensated at the time that act was adopted or enacted in 1948, but we had no survey at that time. We simply took what I might say was the prevailing rate in this matter of discount rates.

SENATOR LYNCH: Mr. Neeld, what is the total amount of the discount in a given year?

MR. NEELD: I will give you the exact figures, but it is roughly a million dollars; it will run \$1,033,000. For instance, in 1955, it was \$1,011,000. This is the rebate to the distributor. In 1955-56, it was \$1,039,000, and, of course, this year we don't know. It is \$530,000 to date on the first six months, indicating again about a little over a million dollars.

SENATOR SHERSHIN: Mr. Neeld, if the State were to undertake to do the stamping process itself, it would cost far more than \$1,033,000, would it not?

MR. NEELD: It would be impossible, I think to begin with, Senator, and I wouldn't want to venture a guess, because that would so change the whole operation that I don't know how you would estimate the cost. It could involve the distributor in tremendous additional costs also, transportation, and what not. It just isn't feasible and we have given that no consideration, but probably your premise is right, it would cost



more.

ASSEMBLYMAN HAINES: Does the manufacturer ever do the stamping?

MR. NEELD: No, sir. That is a suggestion that crops up every once in a while, but I think there is a very simple answer to it: the manufacturer could not possibly do the stamping, because he would have to carry inventories for 42 different states and, even then, you would have complications at the distributor level because you would send Camels or cigarettes into New Jersey with a 5¢ stamp on them, and the distributor would send them to New York where it is 3 or 4, or whatever it is, or over into Pennsylvania where there is another rate. You see, they obtain them unstamped and then we license them for out-of-state shipment according to the stamp rate of the state to which they go.

SENATOR SHERSHIN: Any further questions?

Thank you.

Do you have anything in rebuttal, Mr. Saltzman?

MR. SALTZMAN: Mr. Lewis would like to make a brief statement.

MR. LEWIS: I would just like to state that there are eight states that have 5¢ tax on cigarettes. No state has less than a 4% rate. It varies from 10 down to 4. No state has a 3% cigarette discount rate. They are all higher. The average throughout the country, and this was for 1955-56, was \$1.12 a case.

SENATOR SHERSHIN: Let's not take the average throughout the country, Mr. Lewis, because \$3.60 was given for one State,

and naturally that raises your average.

MR. LEWIS: That's only one state. It wouldn't raise it too much.

SENATOR SHERSHIN: Let me ask you this, Mr. Lewis: How do you feel about two grades - one breaking off at say \$200,000 or thereabouts, and another rate for those in excess of \$200,000?

MR. LEWIS: Well, if you adopted a rate of that type taking into consideration the average distributor, the average distributor in the higher category- you might say the average distributor would be from 1 to 50 cases a day.

SENATOR SHERSHIN: Well, how much does that mean in dollars and cents - 50 cases a day?

MR. LEWIS: In dollars and cents?

SENATOR SHERSHIN: Yes, tax dollars. \$200,000 a year?

MR. LEWIS: No. I would have to figure that out.

SENATOR SHERSHIN: Well, we have had testimony here that some people go as high as 60 or 70 or 80 cases a day. What would the total payment be in taxes per year?

MR. LEWIS: About \$355,000.

SENATOR SHERSHIN: Can you quickly estimate that, Mr. Need?

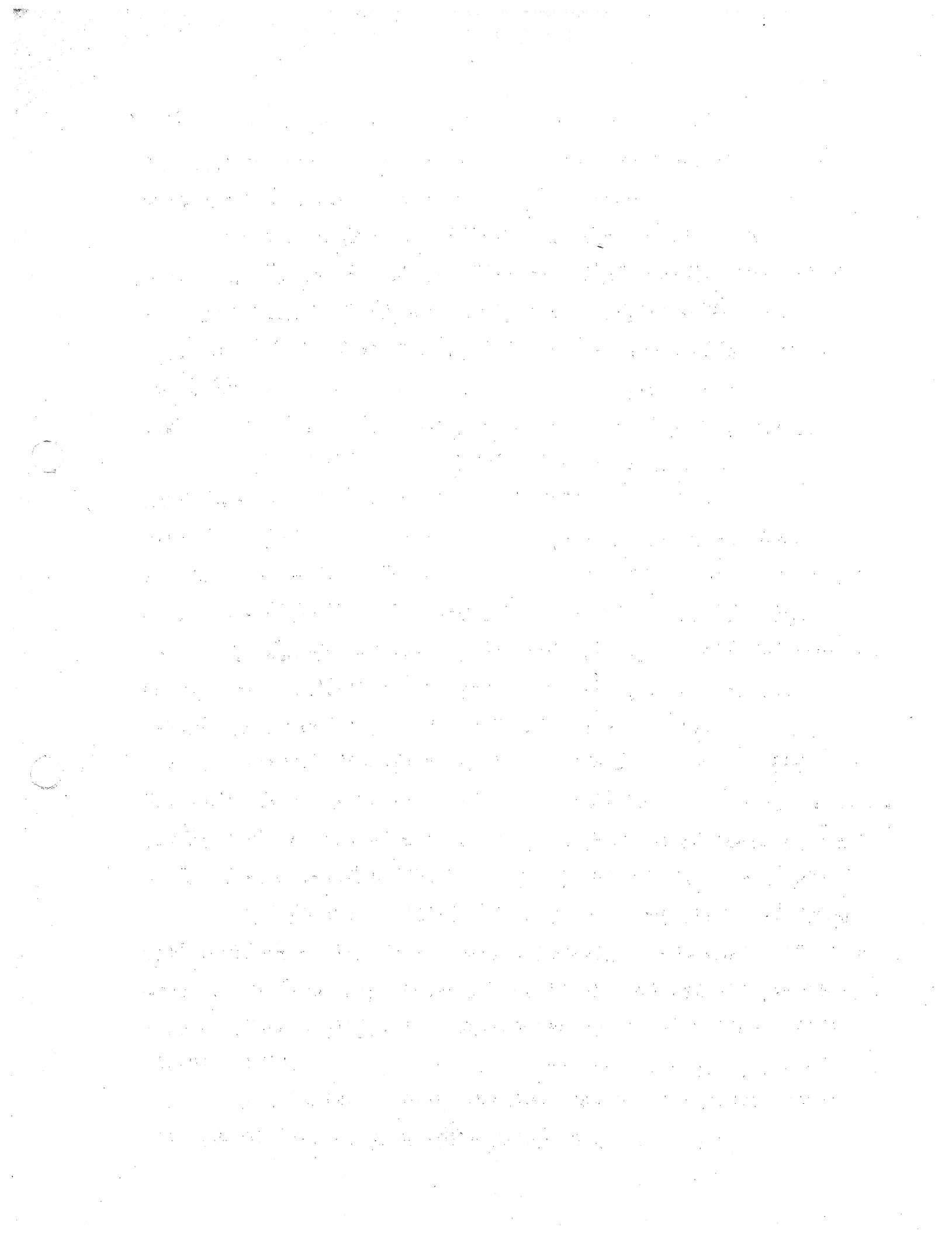
MR. NEED: Well, these are quick calculations--

SENATOR SHERSHIN: You are not being bound.

MR. NEED: Fifty cases a day, and I will just assume 300 working days in the year. That brings you up

MR. LEWIS: 260 working days a year.

MR. NEED: Well, I just say for an average 300 working days a year. That seems to be 15,000 cases; \$25.00 is the tax



per case. I figure it out - I don't know - as \$375,000. Now, you can adjust it to 260 if you want to.

SENATOR SHERSHIN: Well, if after considering this testimony-- Well, let me have your recommendations as to whether or not something might be done to take care of the smaller distributor and give him a break-even point somewhere.

MR. LEWIS: I think if we took the figure of 50 cases a day, if the figure of \$375,000 is right, that should be the breaking point, - because, as I said before, 95 per cent of our distributors are in that class. They are the ones who are losing the money. The big fellow who does 160 cases a day is doing all right. So breaking it off at the 50 cases a day level - that is 250 cases a week - multiplied by 50 - and ascertain the tax dollars involved, and break it off there; let's say 5 per cent up to that point and 3 per cent from there on, I think it would be equitable.

SENATOR SHERSHIN: You wouldn't take four per cent, would you?

MR. LEWIS: No. Four per cent, we know from experience in other states, has been a losing proposition to the distributor, and four per cent in this State would certainly be a losing proposition because our labor rates and all of our other rates are higher than they are in the rest of the country, except in the metropolitan area.

ASSEMBLYMAN HAINES: In your earlier testimony you said that you were thinking of asking for an increase from 5 to 7%, is that right?

MR. LEWIS: Right.

ASSEMBLYMAN HAINES: Well, you know that's about a 40 per cent increase, whereas now you are asking us to go from three to five per cent, which is a 66 per cent increase. There is a lot more increase there. Three to four per cent is a 33 per cent increase, but you are asking for a 66 per cent increase.

MR. LEWIS: Well, I can see that 7 per cent would be \$1.05 cash return under the old tax act and the five per cent increase would give \$1.25. I will say that in 1956, when we discussed this matter with the Tax Department, we discussed the 7 per cent under the 3¢ tax. Since then, we have had the misfortune in the State - maybe not a misfortune - but we are now under a contract with the Labor Union that has increased our labor costs substantially over our labor costs in 1956, so that our costs in 1957 are substantially higher than our costs were in 1956, because of the fact that all of our distributors, or 90 per cent of them, have become unionized this last year.

SENATOR SHERSHIN: In other words, you are saying that a year after the 1956 survey by the State Tax Department, your costs have risen because of labor union contracts?

MR. LEWIS: Substantially. The contract was written for the members of our Association on December 1 of last year.

SENATOR SHERSHIN: What were the wages paid prior to the union contracts?

MR. LEWIS: The average increase today runs about 10 to 15¢ an hour over last year, and even without that increase I imagine our labor costs would have gone up because that is the trend in the country.

SENATOR SHERSHIN: Is there any further testimony, Mr. Saltzman?

MR. SALTZMAN: I don't believe so.

MR. LEWIS: There is one other question--

SENATOR SHERSHIN: Well, the minute you stated it would take is starting to stretch to one of these king-size cigarettes.

MR. LEWIS: Well, there was some talk about the number of different brands stamped today by the ordinary distributor, as against somebody who handled 231 cases a day. I don't know who the distributor would be, but it sounds impossible. If a distributor operating with five or six people on a machine could stamp that many a day, it might be possible if he were stamping one brand all day long, but the smaller distributor--

SENATOR SHERSHIN: Mr. Lewis, I think you will give the Commission credit for having enough intelligence to make that deduction.

Well, there being no further testimony-- Mr. Neeld, do you have something further?

MR. NEELD: I would like to offer this as a suggestion or as a constructive comment to the Committee. I think it is perfectly clear from the testimony you have heard here today that, No. 1, we have conducted a survey by non-experts. While it has been accepted in all areas except the matter of salaries, nevertheless we readily concede that it has not been prepared by ^a cost accounting firm qualified in that field. I believe also there has been nothing handed to this Committee, or at least very little factual information upon which the

Committee will be able to determine the cost of stamping cigarettes. In all fairness to the State of New Jersey and to the cigarette distributing business, I would strongly recommend that it is well worth spending money to purchase a cost survey by a competent concern. I would just like to point this out: Our revenues are estimated for the current fiscal year at \$33,000,000 net. The distributor's reimbursement figure is \$1,000,000 approximately. I think we are dealing with sufficiently large amounts to warrant the spending of - I approximated \$20,000; that may be too much or too little. But in any event, it is a de-minimus item in relation to the revenue funds we are dealing with here.

SENATOR SHERSHIN: Thank you so much, Mr. Neeld.

Mr. Saltzman, do you want to make a closing statement?

MR. SALTZMAN: I would like to take this opportunity-- I don't believe there is any point in my summing up.

SENATOR SHERSHIN: I don't think you should take the time to sum up. We have detailed notes here and a complete stenographic report.

MR. SALTZMAN: May I say then, sir, to the members of the Committee that we appreciate your courtesy and your patience in sitting here all day listening to this evidence. We earnestly seek your sympathetic deliberations and we hope that you will give it favorable recognition.

SENATOR SHERSHIN: There being no further testimony, we will declare this hearing closed. Copies of the testimony, when available, will be forwarded to counsel and to Mr. Neeld. May I thank the witnesses on behalf of the Committee.

(HEARING CONCLUDED)



