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1939

Report

of the

New Jersey Commission on Tax Law Revision

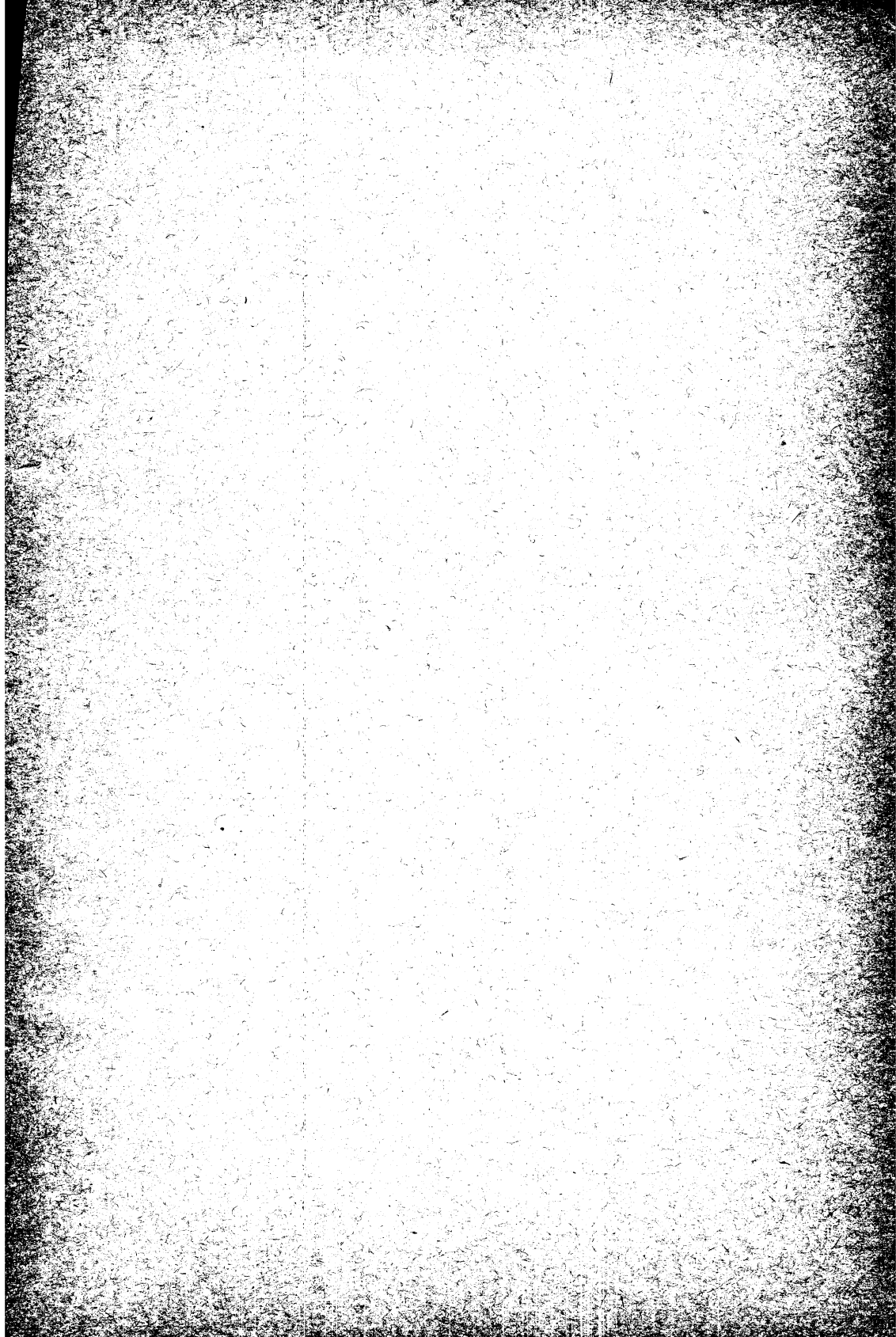
(Created by the 1938 Legislature)

PART I

Taxation of Real and Personal Property

March 6th, 1939

New Jersey State Library



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**REPORT OF THE NEW JERSEY COMMISSION
ON TAX LAW REVISION**

(Created by the 1938 Legislature)

The "New Jersey Commission on Tax Law Revision" was created by Chapter 95 of the Laws of 1938, as amended by Chapter 402 of the Laws of 1938, to consist of the State Auditor, the State Tax Commissioner, the President of the State Board of Tax Appeals, the State Comptroller, the State Treasurer, the Commissioner of Education, the Commissioner of Local Government, one member to be appointed by the Executive Board of the New Jersey State League of Municipalities to be designated by said Board, three members of the Senate to be appointed by the President thereof, three members of the Assembly to be appointed by the Speaker thereof, and three members to be appointed by the Governor.

The Commission was "charged with the duty of inquiring into the subject of taxation and tax proposals generally and making a complete study of all laws relating to the assessment and collection of taxes within this State . . . and of determining in what respects existing tax laws of the State may most effectively be simplified, modified, rearranged, consolidated, restated and revised to insure greater efficiency in the assessment and collection of all taxes with a resulting diminution of the ever-increasing annual accumulations in the municipal liens and charges," and further to "familiarize itself with the functioning of all the laws relating to taxes within this State, so that it may be in a better position to determine what changes, if any, may be advantageous to the people."

The New Jersey State League of Municipalities designated its Secretary, Samuel Kenworthy; the President of

the Senate appointed Senators Arthur F. Foran, Robert C. Hendrickson, and Edward P. Stout; the Speaker of the Assembly appointed Assemblymen Charles Browne, Frank S. Platts, and Oscar R. Wilensky; and the Governor appointed Messrs. Horace K. Corbin, James H. R. Cromwell, and Raymond M. Greer to be members of the Commission, who together with Frank Durand, the State Auditor, J. H. Thayer Martin, the State Tax Commissioner, Charles Quinn, the President of the State Board of Tax Appeals, Frank J. Murray, the State Comptroller, William H. Albright, the State Treasurer, Charles H. Elliott, the Commissioner of Education, and Walter R. Darby, the Commissioner of Local Government, constitute the Commission.

The Commission met and organized on July 1, 1938, at which time it chose Senator Edward P. Stout, Chairman; Assemblyman Oscar R. Wilensky, Vice Chairman, and Assemblyman Frank S. Platts, Secretary. On July 8, 1938, at a meeting of the Commission, it appointed John B. McGeehan as Executive Secretary, and Arthur N. Pierson as Expert Advisor on Research and Survey, and also appointed an Executive Committee consisting of J. H. Thayer Martin, Walter R. Darby, Horace K. Corbin, Raymond M. Greer, Robert C. Hendrickson, Charles H. Elliott, and Samuel Kenworthy, with the Chairman and the Vice Chairman as ex-officio members.

The Commission immediately proceeded to inquire into and make a study of the tax system of the State of New Jersey, and also of the tax systems of other States, including the States of New York, Pennsylvania, Ohio, Michigan, Illinois and Wisconsin.

As the result of its inquiry and study, the Commission submits this report, setting forth its findings and recommendations respecting the taxation of real and personal property.

Local Tax Situation

The Commission reports:

1. That the tax law of this State requiring that real and personal property be assessed at full value is grossly disregarded; that in 1938 the value of personal property in this State was approximately \$12,000,000,000, and the value of all real property \$5,500,000,000; and that the total local taxes levied against real and personal property was \$256,591,625, of which amount \$226,756,044 was levied against real property upon an assessed valuation of \$4,990,850,441, and \$29,835,581 against personal property upon an assessed valuation of \$677,027,272. These levies demonstrate that for 1938 real property carried 88.37% of the total tax levy, while personal property carried only 11.63%. Of the total levy against personal property of \$29,835,581, approximately \$20,000,000 was levied against personal property other than the personal property of public utility corporations and insurance companies that are subject to direct taxation of their personal property;

2. That in 1937 the levy for local taxes upon real and personal property was \$242,987,933, and that of this amount less than \$174,000,000 was collected in that year; that in 1938 there was over \$100,000,000 in uncollected taxes, evidenced by tax title liens and tax titles, which amount represents nearly one-half of the local tax levy upon real property for 1938; that more than one-fifth in value of all locally assessed real property is now owned or controlled by banks, building and loan associations and insurance companies; that in numerous instances, by reason of the exorbitant taxes imposed upon real property, the home owner has been compelled to surrender his home either to the mortgagee or to the municipality;

3. That during the past eight years there has been a reduction in the assessed valuation of real property in this State amounting to 12 $\frac{3}{4}$ %, which automatically resulted in an increase in the local tax rate without any increase in the cost of local government;

4. That real property in the State of New Jersey bears a greater burden of taxation than is borne by real property in comparable States. In most of the other States, including New York, Pennsylvania, Connecticut, Ohio, Michigan, Illinois, Wisconsin and California, the tax base has been broadened and the revenue derived from the new taxes so imposed or a part thereof has been used to lighten the burden of real property taxation;

5. That some States have adopted "tax limitation" on real property, but this has not accomplished the desired objective, even though it reduced the taxes upon real property, because it has resulted in the curtailment of essential services of local government; for example, in Dayton, Ohio, last year, by reason of tax limitation, its public schools were closed for several months because it did not have sufficient tax revenue to operate them;

6. That most of the municipalities of this State are in a very serious financial condition, as the result of the exorbitant taxes levied upon real property, and municipalities are finding it more difficult each year to collect the taxes so levied, and, furthermore, these exorbitant taxes are destroying the value of real property, and thus financially embarrassing the owners thereof, whether individuals or institutions.

These intolerable conditions make a revision of our present tax laws imperative, so that the owners of personal property will be required to pay their just share of the cost of local government, and the owners of real property relieved accordingly, and our municipalities saved from ruin.

The Commission, without bias or prejudice, undertook to solve the grave tax problem confronting it and to recommend to the Legislature a plan of revision of our present tax laws, to accomplish the objectives for which the Commission was created.

Plan for Revision

The Commission recommends to the Legislature the following plan of revision of the tax laws of this State as to the local assessment and collection of taxes:

(1) That personal property taxes, both tangible and intangible, be levied and collected by the State Tax Department, instead of the haphazard local assessment and collection of these taxes, so as to establish equality and uniformity in the assessment and collection thereof, regardless of the location of the personal property or the residence of the owner;

(2) That all household furniture and personal belongings of the individual, and farm equipment of the farmer, be exempted from taxation, because of the difficulty in ascertaining the value of this class of property and the prohibitive cost of assessing and collecting the taxes;

(3) That all tangible personal property of the individual, except that used in business, be exempted from taxation, and that the intangible personal property of the individual, except that used in business, up to a valuation of \$10,000, be exempted from taxation, and that the valuation in excess thereof be taxed at the rate of one-tenth of one per cent, which will be \$1 per \$1,000;

(4) That all intangible personal property used in industry and business; other than retail business, be exempted from taxation, and that, in lieu thereof, a tax at the rate of one-tenth of one per cent be imposed upon the capital and surplus of such industry or business used in the State of New Jersey, and that the tangible personal property of such industry and business be assessed at true value, and a fixed rate of \$20 per \$1,000 be applied, instead of the local rate of taxation, which, in 1938, averaged over \$45 per \$1,000;

(5) That all the tangible and intangible personal property of retail business, including fixtures, equipment, stock-

in-trade, and accounts receivable, be exempted from taxation, and that in lieu thereof a 3% tax be imposed upon the gross receipts of retail business; this gross receipts tax to be accompanied by a 3% tax on all purchases made outside of New Jersey, in order to protect the retail merchants of this State against such purchases. This latter tax is known as a "use" tax, and its legality and effectiveness have been established in several States. The gross receipts tax here proposed is definitely not an additional tax, nor a sales tax, nor a new form of taxation. It is not an additional tax, nor a sales tax, because it is in lieu of the present taxation of the tangible and intangible personal property of the retail merchant, and in lieu of the taxation of the tangible personal property of the individual, which are exempted from taxation under the Commission's plan. It is not a new form of taxation because the Legislature, confronted with a similar situation in 1918, imposed a tax at the average rate of taxation in this State upon the gross receipts of certain public utility corporations in lieu of the taxation of their personal property, and this law has been in effect for over twenty years. The gross receipts tax of these corporations for 1938 was in excess of 4½% of their gross receipts. This proposed gross receipts tax will not be an undue burden upon the retail merchant or the consumer, because, if the present tax laws were enforced, it is estimated that as much taxes would be raised on the tangible and intangible personal property of retail business and the tangible personal property of individuals, as will be raised under the proposed 3% gross receipts tax. It is obvious that the portion of the gross receipts tax which the retail merchant cannot absorb will be passed on to the consumer the same as if there were an increase in the cost of merchandise to the retail merchant. Under the present tax law, the stock-in-trade of the retail merchant must be assessed at the average of such personal property during the year preceding the date of assessment. It would be almost impossible for

the State Tax Department, or any other agency of the government, to ascertain the value of the average of such personal property during the year preceding the date of assessment, and, therefore, an assessment of this class of personal property would be impracticable. Since the retail merchant and the consumer will not be required to make any greater contribution towards the cost of local government under the gross receipts plan than if their personal property was assessed as such, no injustice or inequity results;

(6) That the taxation of the gross receipts of certain public utility corporations in lieu of the taxation of their personal property be continued, but at a fixed rate of 5% instead of at the average rate of taxation, the taxes to be collected by the State Tax Department and distributed to the respective municipalities on the basis of the value, as determined by the State Tax Commissioner, of the personal property located therein of these public utility corporations; and that the personal property of all other public utility corporations be subject to a similar gross receipts tax, or an equivalent, so that the municipalities will receive no less in taxes than they are now receiving from the local taxation of such personal property;

(7) That the present law in respect to the taxation of bank stock be continued; and

(8) That the present tax law in respect to the taxation of the personal property of insurance companies be continued, but at a fixed rate of 5% instead of at the local rate.

These recommendations of the Commission for the equitable taxation of personal property form one integrated plan to raise \$60,000,000. The paramount feature of the plan is the taxation of the gross receipts of retail business, in lieu of the taxation of the tangible and intangible personal property of the retail merchants and the taxation of the tangible personal property of individuals. This feature is the very foundation of the plan, and to eliminate it would be total disintegration.

Distribution

The Commission recommends that the money to be raised under its plan should be distributed as follows:

1. The sum of \$20,000,000 first be set aside as an equalization fund to be distributed to the respective municipalities so as to replace the taxes now levied against personal property. The amount of this distribution shall be reduced 10% each year thereafter.

2. A further sum of \$20,000,000 to be distributed to the school districts on the existing basis in lieu of the State school tax and school railroad tax receipts in present distribution.

3. The remainder of the revenue, including after the first year the amounts flowing from the equalization fund, to be divided in thirds and distributed to the taxing districts on the following basis:

- a. One-third on the basis of the total real estate ratables of the previous year;
- b. One-third on the basis of the total operating municipal budgets of the previous year, excluding debt service; and
- c. One-third to school districts on the basis of the total number of children of school age.

This distribution and the effective collection of yearly taxes under the Commission's plan, with the resulting decrease in extra levies for uncollected taxes, should bring about a reduction of approximately one-third in the local rate of taxation of real property. The reduction in the tax rate under this distribution should be indicated upon the local tax bills.

Enforced Economy

To prevent counties, municipalities and school districts from using the taxes distributed under the Commission's plan for any purpose other than the direct relief of real

property, the Commission proposes as an integral part of its plan that:

- (a) counties cannot increase their local budgets for operating expenses more than 3% ;
- (b) municipalities cannot increase their local budgets for operating expenses more than 5% ; and
- (c) school districts cannot increase their budgets for operating expenses more than 5% over the proportionate increase in the base budget corresponding to the increase in the actual school enrollment over the enrollment for the base year,

without first obtaining, in each case, the approval of the people at a referendum to be held at a general election. The allowable percentage of increase in the respective budgets is not to be cumulative.

Taxation of Railroad Property

The Commission, as a result of its inquiry and study respecting the taxation of railroad property, reports:

1. That the Central Railroad Company of New Jersey; Reading Railroad Company; Erie Railroad Company; New Jersey and New York Railroad Company; Delaware, Lackawanna and Western Railroad Company; New York, Susquehanna and Western Railroad Company; Lehigh Valley Railroad Company; and New York Central Railroad Company; are in financial distress, among other causes, by reason of the heavy taxation of their railroad property, and that the balance of the unpaid railroad taxes for the years 1932 to 1938, inclusive, amounts to \$34,834,312.04, of which amount the New Jersey Central owes \$11,965,308.93, the Reading owes \$286,506.10, the Erie owes \$5,067,064.86, the D. L. & W. owes \$7,858,763.16, the N. Y. S. & W. owes \$1,019,968.55, the Lehigh Valley owes \$5,664,310.23, and the New York Central owes \$2,965,076.89;

2. That the taxes imposed by the State upon these companies have been in litigation for several years last past;

that the New Jersey Central and the Lehigh Valley first instituted suit in the United States District Court for the District of New Jersey, in respect to the taxation of their railroad property for the year 1932, (1) challenging the method by which the State taxing authorities assessed railroad property, (2) contending that the provisions of the Railroad Tax Act, as applied by the State Tax Department, failed to give consideration to all of the factors which go to make up the taxable value of property in railroad use, and (3) asserting that there is a systematic under-valuation of locally assessed property, and, by reason thereof, an erroneous or fictitious State average rate of taxation is ascertained, and that the application of this rate to certain of the railroad property results in the imposition of an unjust and illegal tax upon railroad property; and that year after year railroad companies have applied to the Federal courts for relief, but to date have been unsuccessful in any of the litigation respecting the taxation of their property; and

3. That these railroad companies assert that if they are compelled to pay in full the taxes levied against them, they will be forced into bankruptcy, and they have petitioned the Legislature to adjust these unpaid taxes to within their ability to pay in order that they may be solvent and continue to function as common carriers.

This matter of adjustment of their taxes, however, is not the problem of this Commission, but the facts are stated here for the purpose of emphasizing the present railroad tax situation and the necessity for revision of our railroad tax laws.

The Commission recommends that the present ad valorem system of taxation of railroad property should be continued, but that the rate of taxation should be reduced.

The adoption of the Commission's plan of taxation of real and personal property will result in a substantial reduction in the rate of taxation of locally assessed real property, and railroad property should likewise have a

similar reduction in the rate of taxation. Second class railroad property, which is assessed by the State and the local rate of taxation applied, will automatically receive the benefit of the reduced local rate of taxation of real property, and first, third and fourth classes of railroad property, which are assessed by the State and the average rate of taxation applied, will also be benefited by having the average rate of taxation of real property reduced. Railroad taxes collected from first, third and fourth classes of railroad property go to the State, in main, for the support of our free public schools, and the Commission estimates that the reduction in the average rate of taxation under its plan will result in the railroad companies paying \$4,000,000 less in taxes than the present levy upon these three classes of railroad property. To secure to the State this \$4,000,000 for the support of our free public schools, the Commission recommends a "mileage tax" upon trucks and busses using our public highways, and an increase in the license fees of trucks, to replace the \$4,000,000 loss in railroad tax revenue and establish fairer competition between the railroads and the trucks and busses.

Conclusion

Under the law, the Commission is directed to report to the Legislature a plan of revision of our present tax laws and to cause to be introduced such bill or bills as in the Commission's judgment may be required for the proper carrying out of its objects. The Commission has not drafted any bill or bills to carry out its plan of revision of the tax laws respecting the taxation of real and personal property because it would be idle to spend time in drafting bills until the Legislature has approved the Commission's plan.

The proposed plan of the Commission is the result of months of diligent inquiry and industrious study of our present tax system, and the Commission submits that if its plan is adopted it will secure to the taxpayers of this

State equitable taxation of both real and personal property without raising one cent more from the taxation of these two classes of property than is raised today under our archaic system of taxation, and without giving the counties, municipalities or school districts one cent more of tax moneys to spend.

The Commission is not unmindful of the attacks that have been made and that will be made upon its proposed plan, particularly the gross receipts tax feature, by the owners of personal property who are now escaping the payment of personal property taxes, or who are not paying their fair and just share of the cost of local government, or who assert that real property should bear practically the entire burden of taxation.

The Commission respectfully submits by this report its plan of revision of our tax laws respecting the taxation of real and personal property. Annexed hereto and made a part hereof are seven graphs illustrating the salient features of the Commission's plan, as compared with the present taxation of real and personal property. It is now the duty of the Legislature, representing the people of this State, to decide:

(1) Whether the present local tax situation shall continue, and real property bear 88.37% and personal property only 11.63% of the burden of taxation, which will result ultimately in the confiscation of real property and the complete financial breakdown of our municipalities;

(2) Whether the present tax law in respect to the taxation of personal property, both tangible and intangible, shall be strictly enforced, thereby compelling the assessment of these two classes of personal property at 100% of true value and the local rate of taxation applied, which will result in the confiscation of personal property and drive business and industry out of this State; or

(3) Whether the Commission's proposed plan of revision of our present tax laws respecting the taxation of real and personal property shall be adopted, which will result

in the equitable taxation of both real and personal property, a relief to real property from the present exorbitant taxes, encouragement to business and industry in our State, and inducement to others to locate here.

NEW JERSEY COMMISSION
ON TAX LAW REVISION,

EDWARD P. STOUT,
Chairman,

FRANK J. MURRAY,
HORACE K. CORBIN,
CHARLES QUINN,
CHARLES H. ELLIOTT,
ARTHUR F. FORAN,
WALTER R. DARBY,
SAMUEL KENWORTHY,
FRANK DURAND,
J. H. THAYER MARTIN,
WILLIAM H. ALBRIGHT,
RAYMOND M. GREER,
ROBERT C. HENDRICKSON,
CHARLES BROWNE.

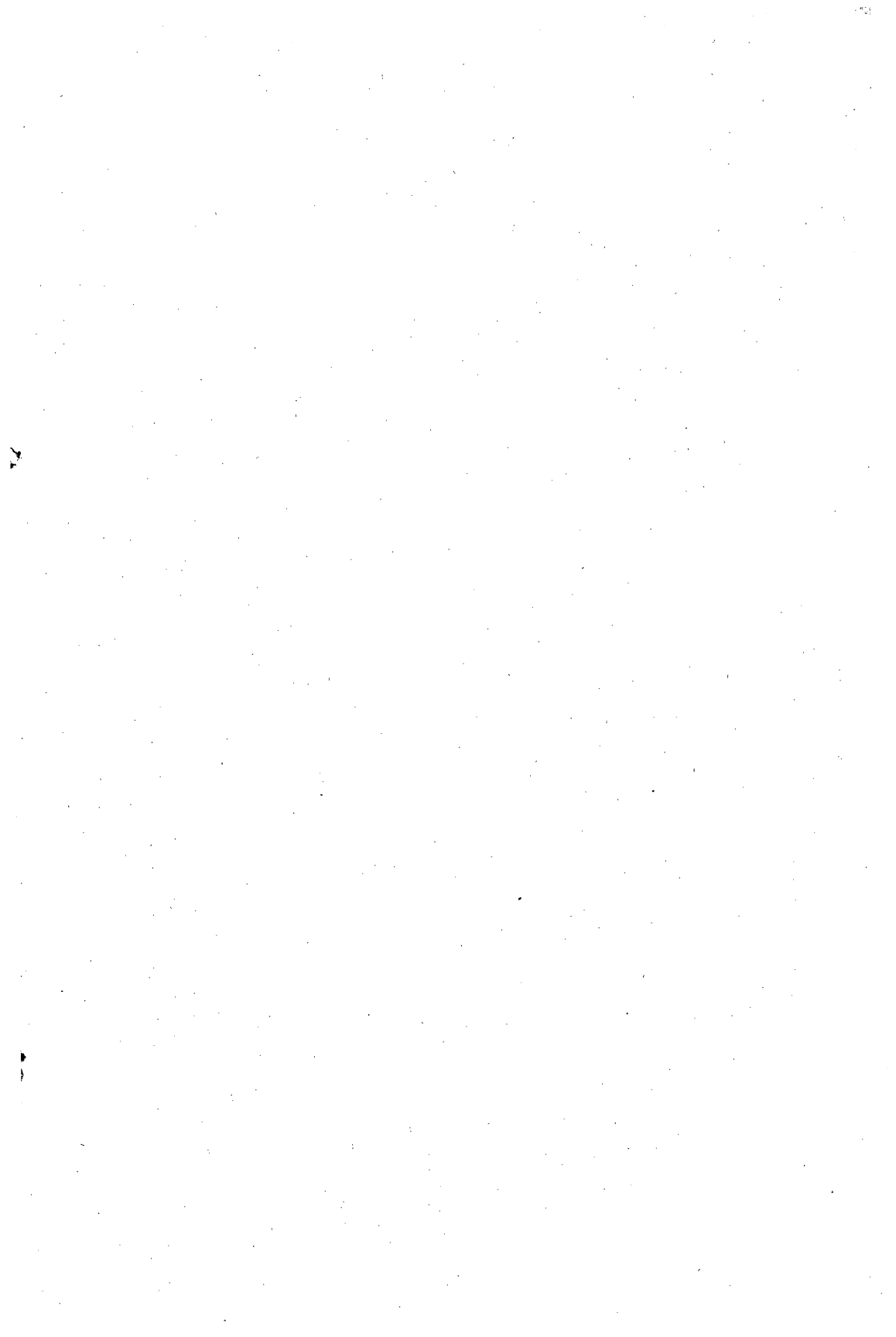
March 6, 1939.



NO ADDITIONAL • TAXES •

**NOT ONE CENT MORE CAN BE RAISED
BY TAXES UNDER COMMISSION'S PLAN
THAN NOW RAISED UNDER PRESENT
LAW**

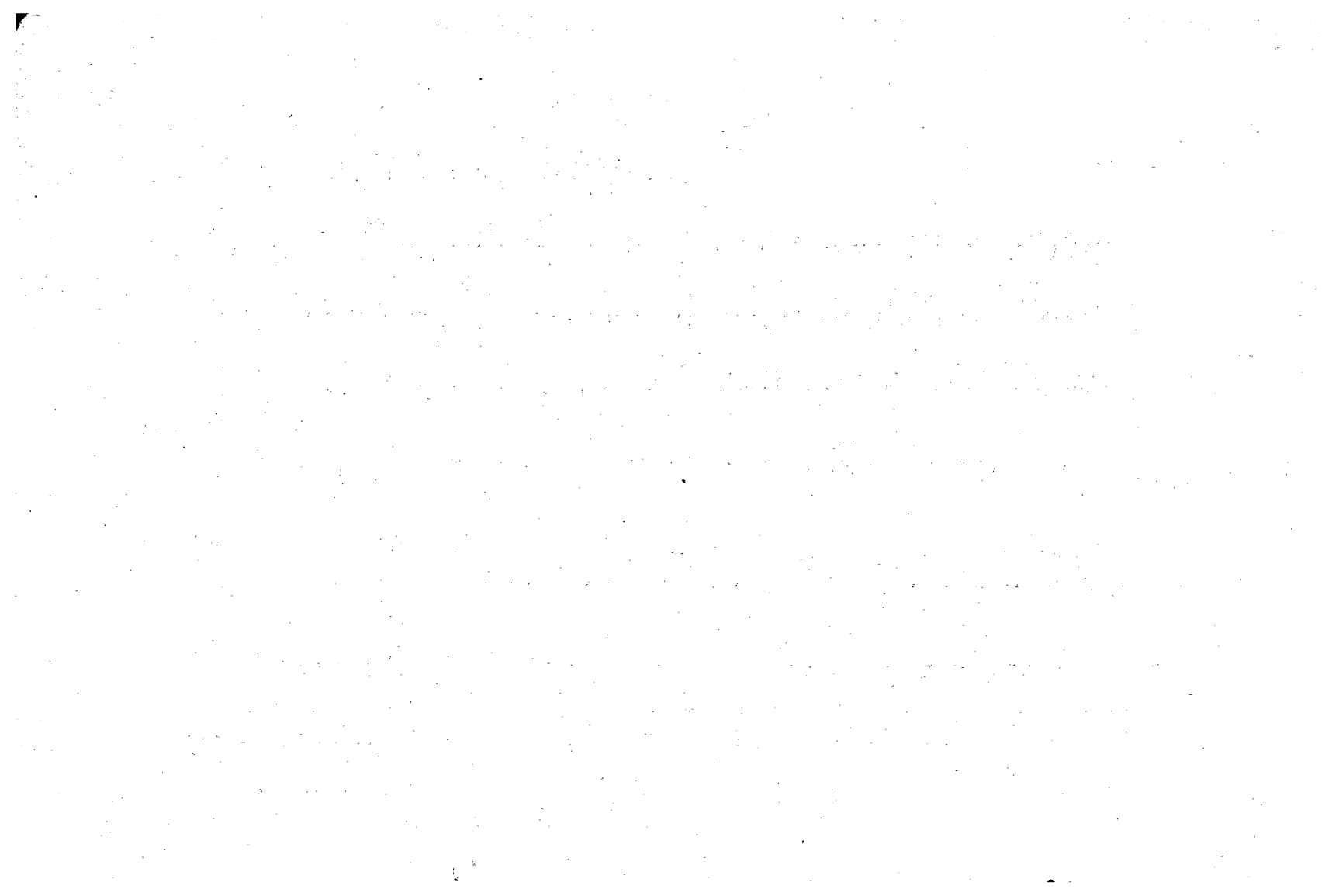
But **REAL ESTATE WILL BE HELPED
AND BUSINESS AND INDUSTRY
PROTECTED**



METHOD PROVIDED TO MAKE CERTAIN THAT REVENUE WILL ACTUALLY REDUCE TAXES ON REAL PROPERTY

19

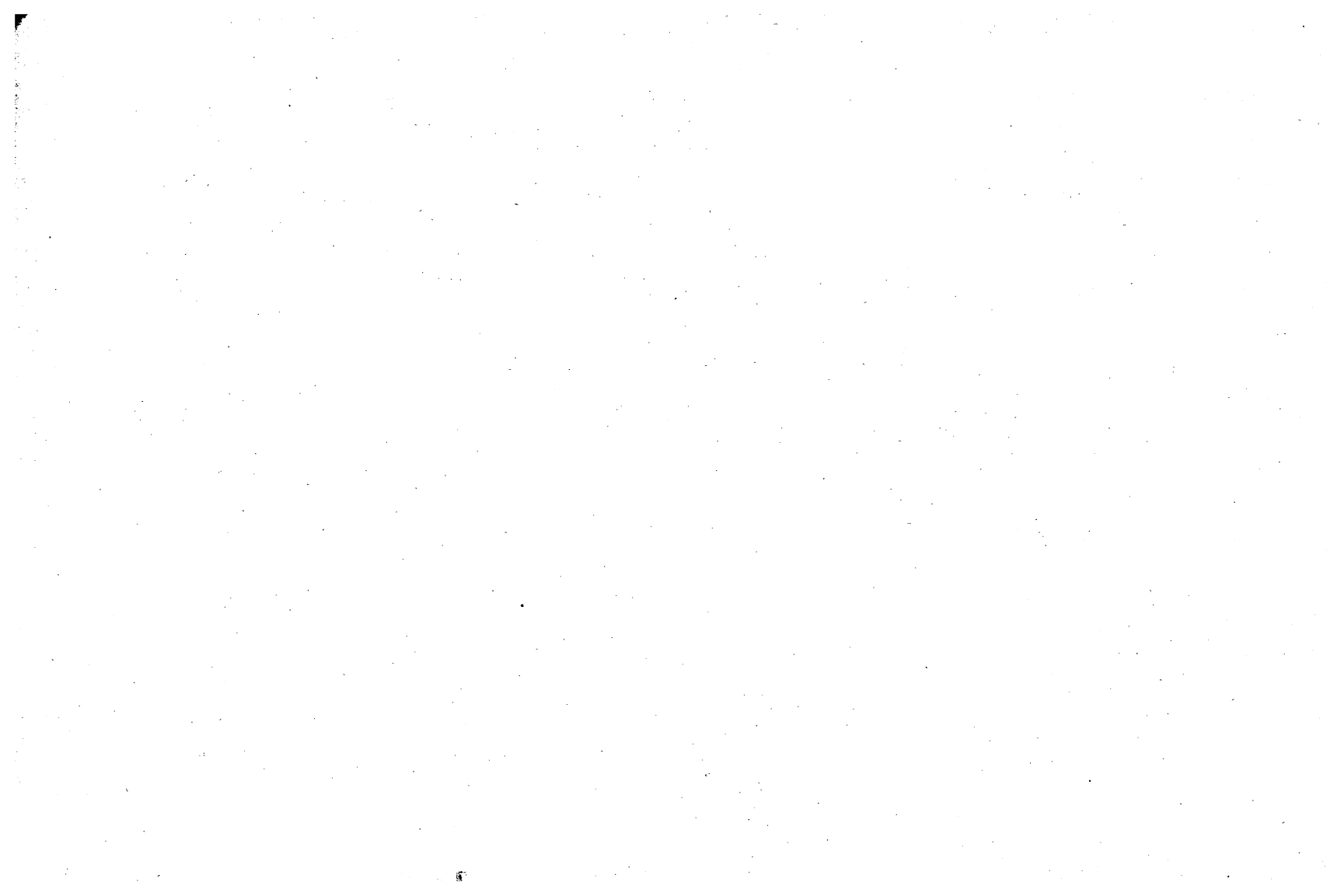
Law that counties, municipalities and school districts can not spend any more money without approval of voters at referendum at general elections allowing only 3% leeway to counties and 5% to municipalities.

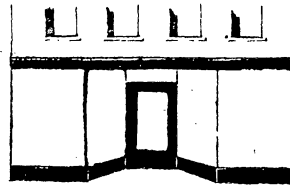


DISTRIBUTION

Assessment and collection of all personal property taxes and in lieu taxes *by* State Tax Commissioner *and* all revenues so collected distributed as follows:

- (1) \$20,000,000 back to municipalities on basis of personal property taxes collected in 1938 amount reduced 10 % each year
- (2) \$20,000,000 to schools in lieu of state school tax *and* school railroad tax receipts in present distribution
- (3) of remainder:
 - (a) one-third to municipalities on basis of real estate ratables:
 - (b) one-third to municipalities on basis of operating budgets:
1938
 - (c) one-third to school districts on basis of number of children of school age.





RETAIL BUSINESS

UNDER PRESENT LAW

REAL PROPERTY Full Value at Local Rate
(Av. $4\frac{1}{2}\%$)

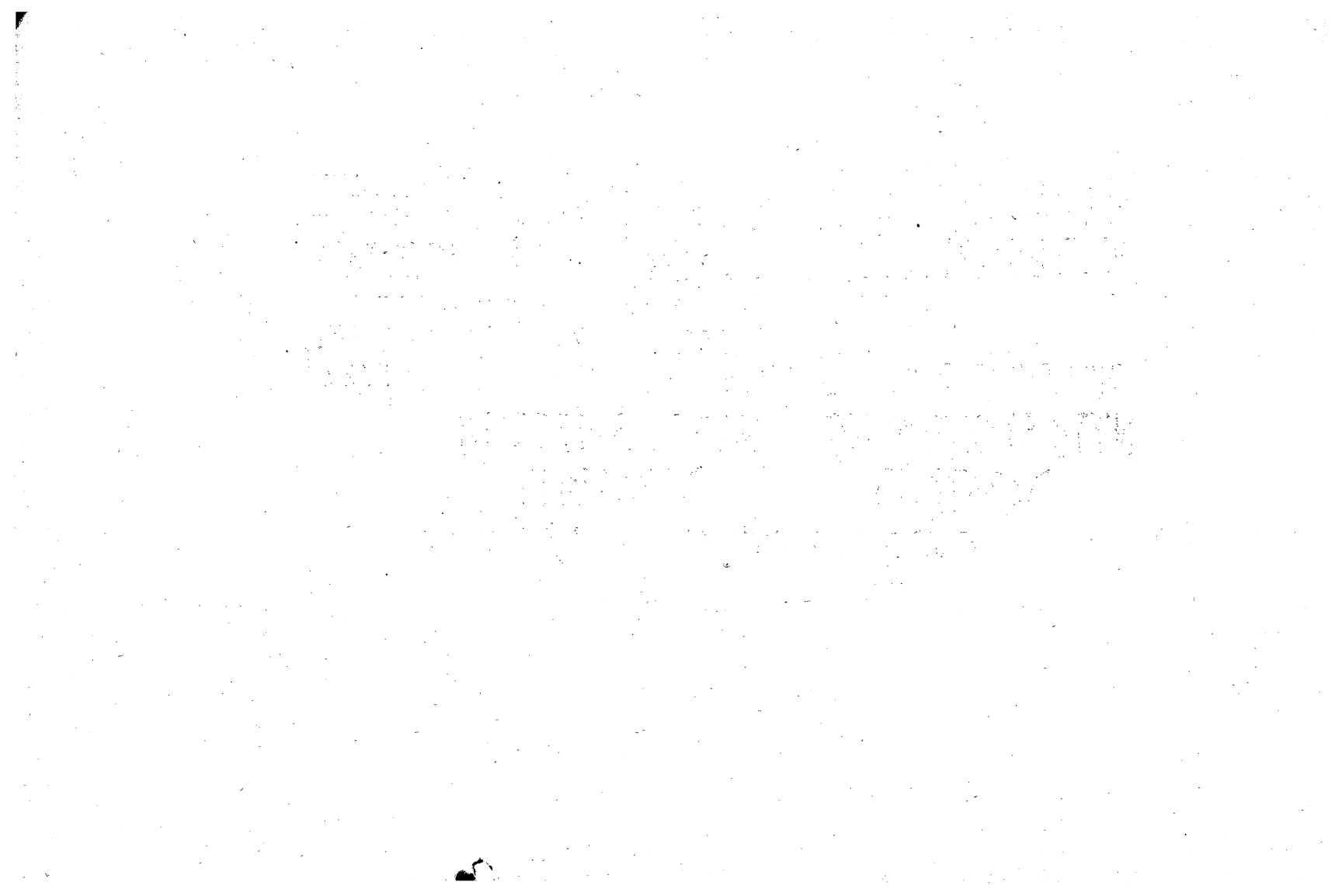
TANGIBLE PERSONAL PROPERTY Full Value at Local Rate
(Av. $4\frac{1}{2}\%$)

INTANGIBLE PERSONAL PROPERTY Full Value at Local Rate
(Av. $4\frac{1}{2}\%$)

UNDER COMMISSION'S PLAN

Full Value at local Rate
(Est. Av. 3%)

All Exempt } In lieu there
} of 3% tax on
All Exempt } Gross receipts
} with 3% Use Tax

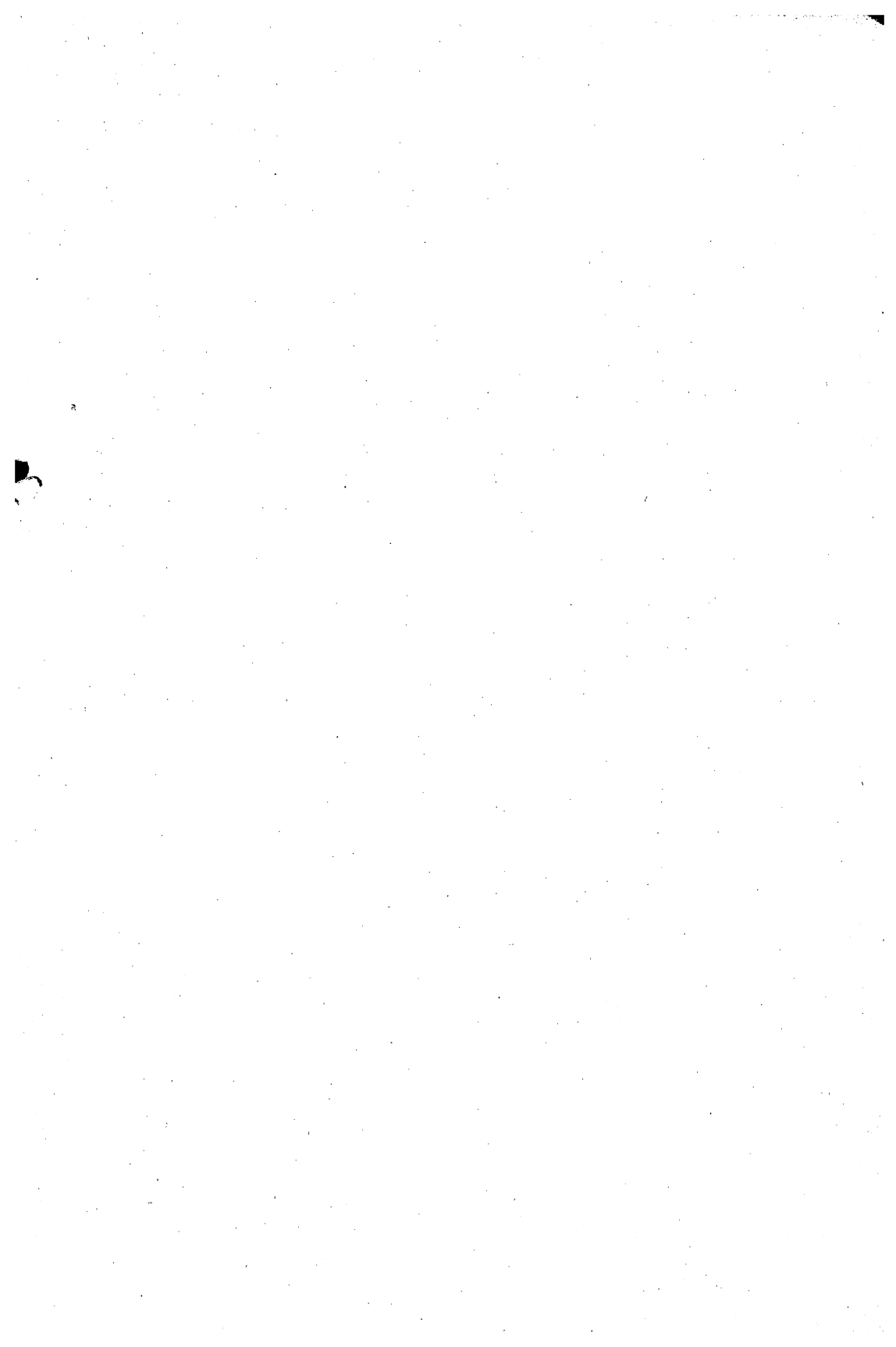


Present Tax Law *and* Proposed Tax Law



INDIVIDUAL

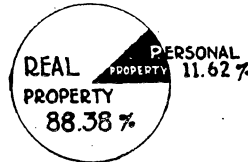
	Under Present Law	Under Commission's Plan
Real Property	Full Value at Local Rate (Av. 4½%)	Full Value at Local Rate (Est. Av. 3%)
Tangible Personal Property	Full Value at Local Rate (Av. 4½%)	All Exempt
Intangible Personal Property	Full Value at Local Rate (Av. 4½%)	\$10,000 Exempt <i>and</i> \$1 ⁰⁰ Per Thousand on Excess

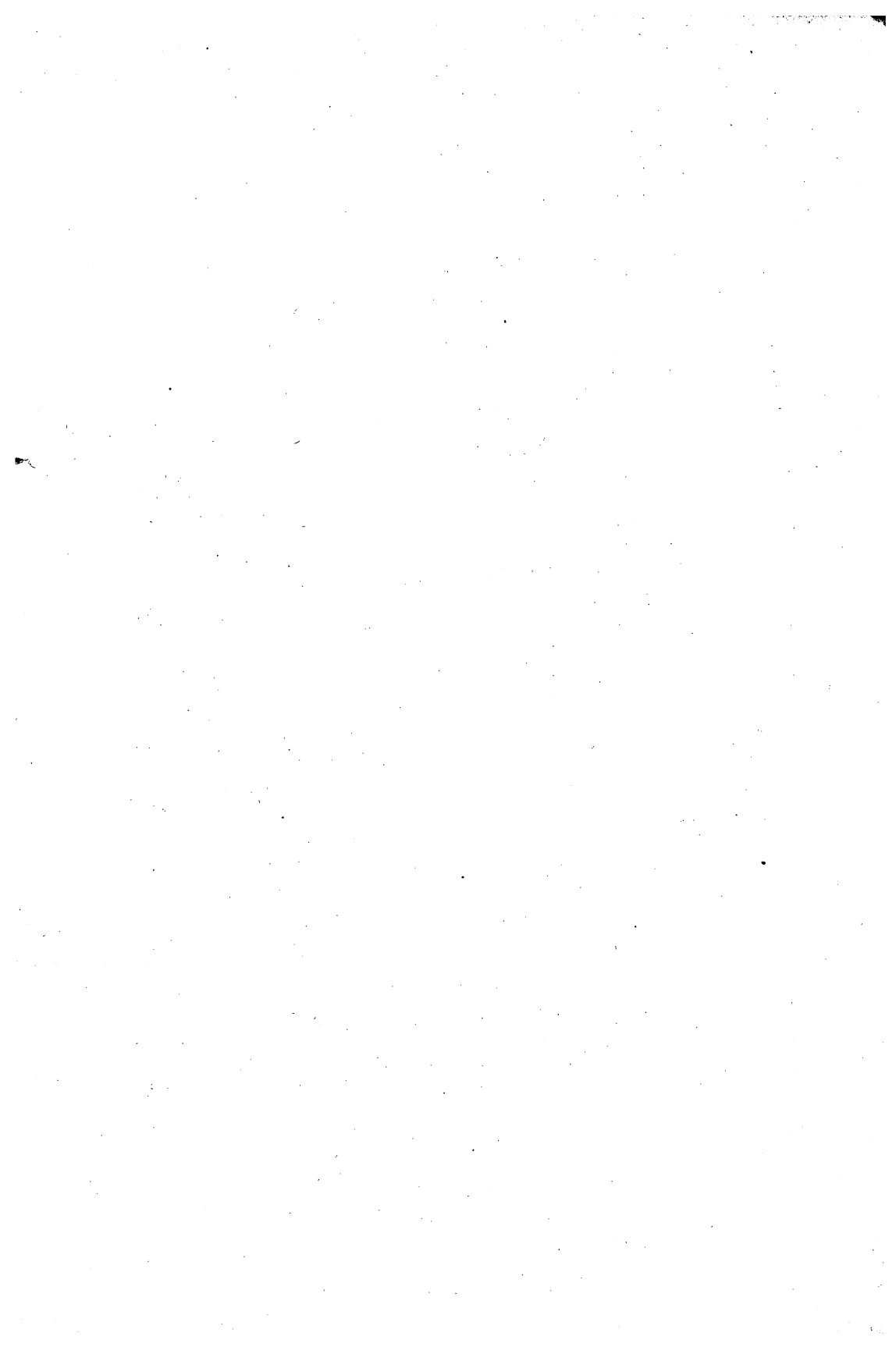


**VALUE OF REAL PROPERTY *in* N.J.
 1938 (Estimated) \$ 5,500,000,000.
 VALUE OF PERSONAL PROPERTY *in* N.J.
 1938 (Estimated) \$ 12,000,000,000.**



LOCAL TAX LEVY 1938 \$ 256,591,625.74
Amt. Levied on Real Prop. 226,756,044.29
Amt. Levied on Personal Prop. 29,835,581.45







ALL BUSINESS OTHER THAN RETAIL BUSINESS

UNDER PRESENT LAW

REAL PROPERTY	Full Value at Local Rate (Av. 4 1/2 %)
TANGIBLE PERSONAL PROPERTY	Full Value at Local Rate (Av. 4 1/2 %)
INTANGIBLE PERSONAL PROPERTY	Full Value at Local Rate (Av. 4 1/2 %)

UNDER COMMISSION'S PLAN

Full Value at Local Rate (Est. Av. 3%)
Full Value at Fixed rate of 2%
Exempt and in lieu a tax on the capital and surplus used in N. J. at 1/10 of 1%

