

T235
1958e

In re: - Proposed Legislation Relating to
the Assessment of Real and Personal
Property for Tax Purposes

ABSTRACT OF TESTIMONY

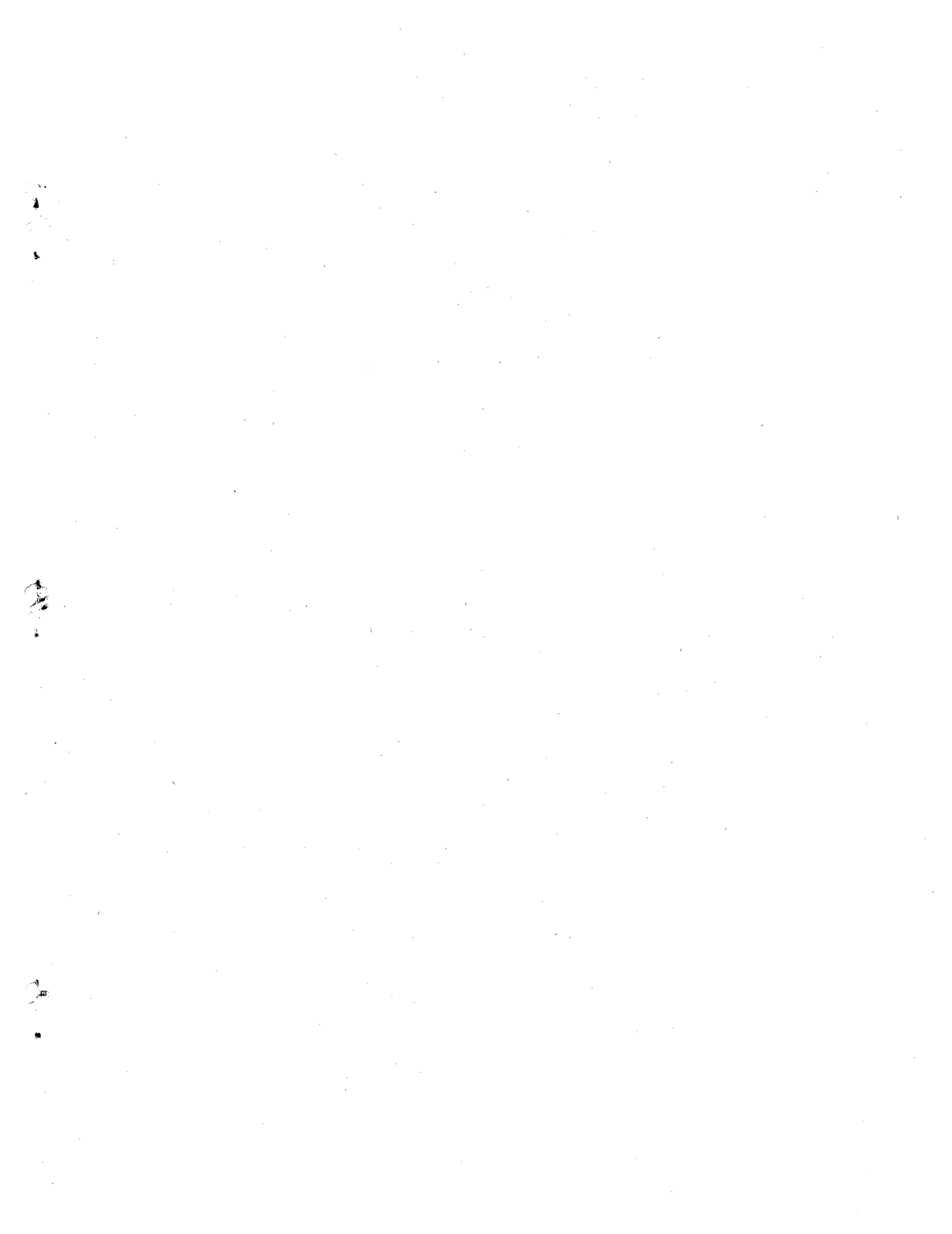
In Hearings Before
NEW JERSEY SENATE COMMITTEE ON REVISION AND
AMENDMENT OF LAWS

Prepared by -

Law Revision and Legislative Services
Division of Legislative Information
and Research

October 1, 1958

New Jersey State Library



In re: - Proposed Legislation : ABSTRACT OF TESTIMONY
Relating to the Assess- : In Hearings Before
ment of Real and : NEW JERSEY SENATE COMMITTEE
Personal Property for : ON REVISION AND AMENDMENT
Tax Purposes : OF LAWS

The purpose of this abstract of the testimony given before the Senate Committee on Revision and Amendment of Laws in its hearings upon the legislation pending in the 1958 Session of the Legislature relating to the assessment of real and personal property for purposes of taxation is to aid legislators in familiarizing themselves with "Who said what and why?" in these hearings, without the necessity of burrowing through the four volumes of testimony.

Both the issues raised and the reactions to them are sketched briefly and objectively. Notes referring to the actual statements as recorded in the official transcript are made wherever appropriate.

Each of the four hearings - one held in Trenton, one in Camden, and two in Newark - has been officially transcribed in separate volumes. References to any of these volumes are made thus: A reference to Volume 4, page 46, will read, (4, 46).

The Proposed Legislation

The proposed legislation under discussion is as follows:

Senate Joint Resolution No. 15, introduced by Senators Dumont, Hannold, Crane, Waddington, and Cowgill, which requests the Attorney-General to apply to New Jersey Supreme Court in case of *Switz v. Middletown Township* for modification of its mandate to



The President of the Mercer County League of Municipalities, Mr. Lloyd A. Carver, voiced the opinion of tax and local officials when he argued that under the provisions of the Switz decision "The time allotted to the municipalities to prepare for the practice of assessing at full true value is woefully inadequate." (1, 45).

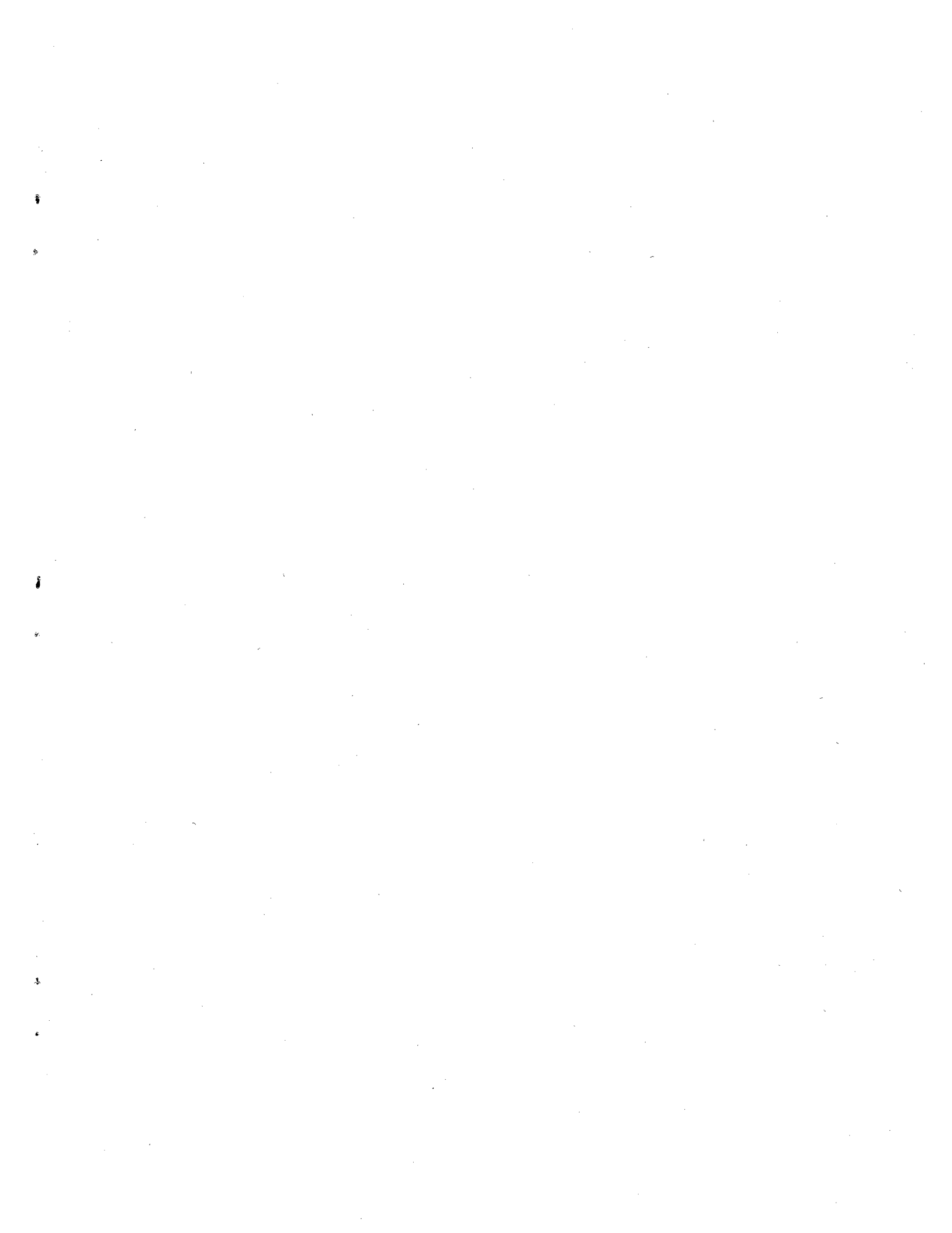
The extent of this inadequacy was discussed by Mr. Russel T. Wilson, Assessor for the City of Englewood and Chairman of the Tax Study Committee of the New Jersey State League of Municipalities, who estimated that it would require five years to complete the thorough revaluation program that the Switz decision made necessary. (1, 13-A).

One problem called attention to, is the lack of professionally qualified assessors to do the job.

A number of tax officials, including Mr. William T. Somers, Secretary of the Atlantic County Board of Taxation, and Marriott G. Haines, Assessor of Hainseport Township, joined Mr. Wilson in the assertion that the assessors now in office in New Jersey would have great difficulty in doing a proper job of revaluation.

They said that the problem resulted not only from the employment of incompetent personnel due to the practice of hiring assessors on a part-time basis and of not offering salaries sufficient to attract qualified personnel but also it results from failure to provide proper equipment and office space to perform the work, and from subjecting assessors to political pressures which interfered with good assessment practice.

(2, 37, 2A).



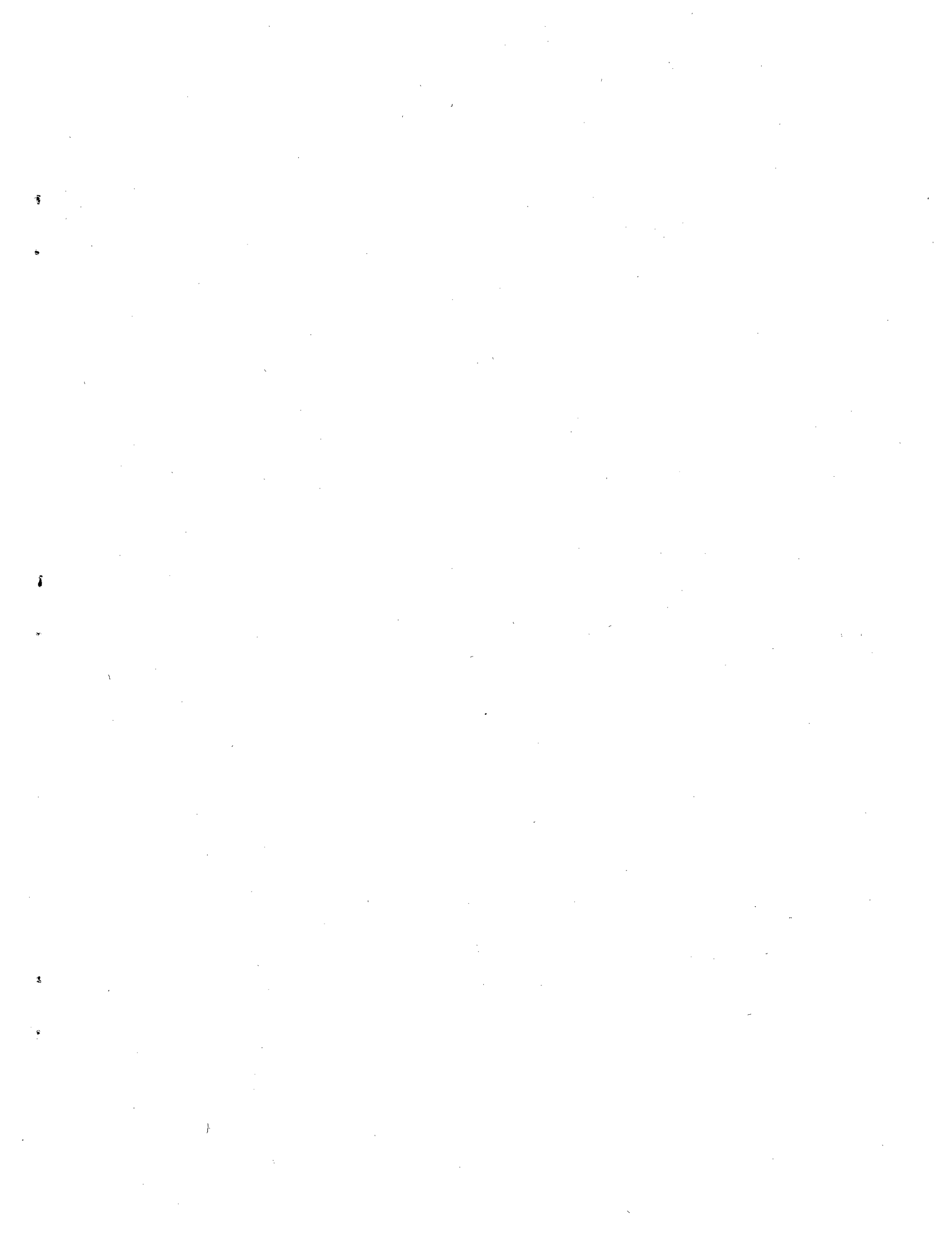
Furthermore, as Mr. Wilson pointed out, the mechanical impossibility, in a great many taxing districts of converting the figures now contained in the tax lists, which are represented by addressograph plates or other mechanical devices, to the new assessment digit ... makes it obvious ... that more time is needed by the assessors ... (1, 10-A).

The four who opposed the resolution expressed the following reasons for so doing.

Mr. Charles L. Andrews, Assessor for Moorestown Township said that postponement would "just cause a big delay, and if you wait until everybody is ready nothing will ever be done." (2, 4).

Mr. Perry Shoemaker, President of the Delaware, Lackawanna and Western Railroad, argued that the tax position of the railroads in the State is so bad that a further delay in altering the present situation could not be tolerated. (3, 29).

Mr. Sidney Grossman of the Lakewood Taxpayers Association opposed Senate Joint Resolution No. 15 because he felt that the resolution conflicted with the provisions of Senate Bill No. 211, which he favored. (1, 48).



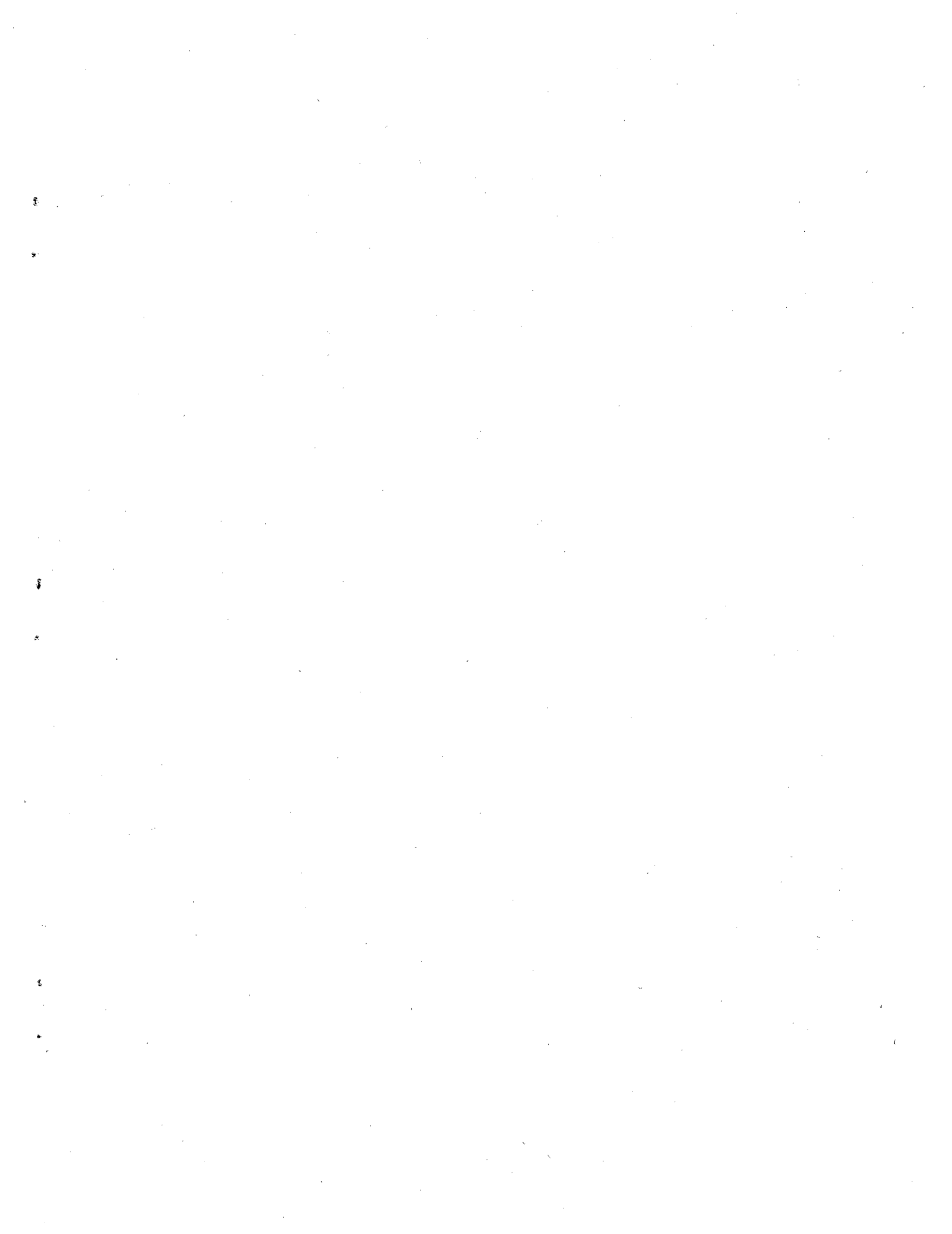
Mr. Herbert J. Hannoeh, Counsel for Switz in the Switz case said that he was unable to understand "on what theory the Legislature or the Attorney-General can come into the Switz case, which is a suit between Switz and Middletown Township, neither of whom are asking for any relief ..." (3, 3-A).

John A. Magovern of the New Jersey Chamber of Commerce and Herbert Starkey of the New Jersey Education Association, both expressed preference for immediate legislative action, but did not oppose the resolution.

Discussion of Proposed Legislation

Discussion of the other measures under consideration centered on two bills, Assembly Bill No. 350 and Senate Bill No. 211. Somewhat less time was devoted to Senate Bill No. 241 and Senate Concurrent Resolution No. 24, and very little attention was paid to Senate Bill No. 6, a fact which can be attributed to the close similarity between Senate Bill No. 6 and Assembly Bill No. 350.

The issue between Senate Bill No. 211 on one hand, and Assembly Bill No. 350, Senate Bill No. 241 and Senate Concurrent Resolution No. 24 on the other, hinged upon the question as to whether there was to be uniformity of assessment or classification of property for assessment for purpose of taxation in New Jersey.



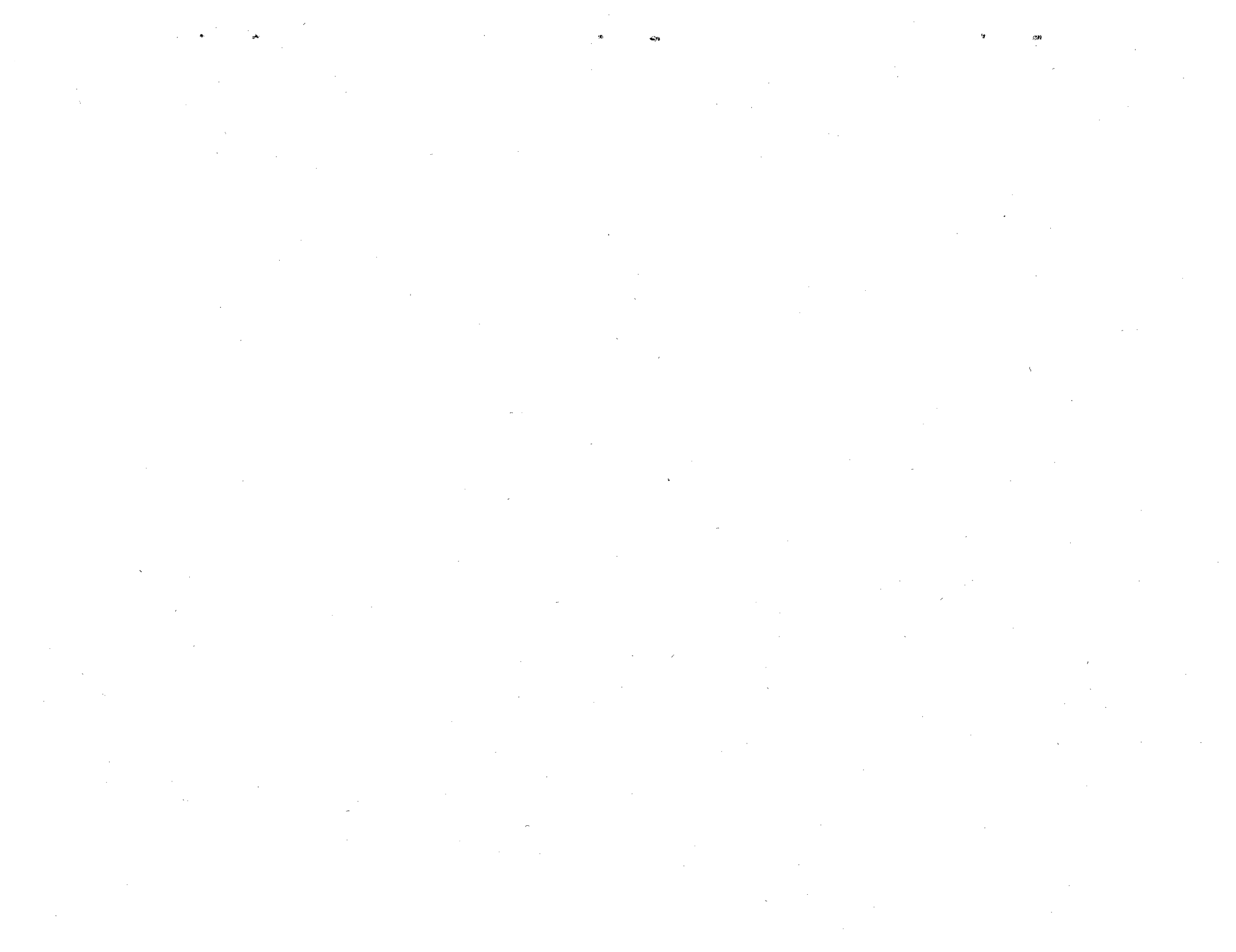
Those who favored uniformity, which included most representatives of business, industry, railroads, taxpayers and tax officials groups - generally supported Senate Bill No. 211. This bill if enacted into law could be alternative 1 of the State Tax Policy Commission's Ninth Report and thereby provide for a State-wide standard of taxation. (40-40-10).

Besides the elimination of inequities, State-wide uniformity and equalization was said to have the following advantages by those supporting Senate Bill No. 211:

(1) It would improve tax administration by clarifying the job of the assessor.

State Treasurer Aaron Neeld pointed out two "admirable features" in the bill. "Number one, it retains full true value as the standard ... Number two, it prescribes a standard for assessment, namely 40% of full true value ... It makes perfectly clear to the assessor what he's to do." (4, 5-A).

(2) The clarity of standard set up in this bill would aid the individual taxpayer by informing him of the precise nature of his tax assessment and valuation and it would presumably ease the burden upon the courts as well.



(3) The uniform public standard will aid the economic prosperity of the State by eliminating the uncertainties of variable assessments and the danger of competitive assessment practices on business firms. (4, 6).

Mr. Carlton W. Tillinghast, Executive Director of the New Jersey Taxpayers Association, warned that increased industrial location and expansion in New Jersey "will not be attained ... if municipalities continue to underassess industry in order to attract it, and later overassess it to meet mounting costs of local government." (1, 100A).

In short, for improved tax administration, for public awareness, and for economic health a uniform property tax was needed in New Jersey and many witnesses felt that Senate Bill No. 211 was the proper instrument to achieve this end.

Some witnesses supported this measure for other reasons.

Mr. Magovern stated that the State Chamber of Commerce desired the preservation of "the present aggregate total property tax burden borne by business and residential property owners respectively." His support of Senate Bill No. 211 was based upon the assumption that "the percentages, 40-40-10, set forth in the bill would result in aggregate property taxes on business about the same as under the present arrangements ...". On this assumption, he said, "This bill appears to be generally in accord with the position adopted by the State Chamber of Commerce with respect to the taxation of property." (1, 12).



A few supporters of Senate Bill No. 211 expressed themselves as favoring the legislation provided that it was amended to enact Alternative two of the State Tax Policy Commission's Report, rather than Alternative one.

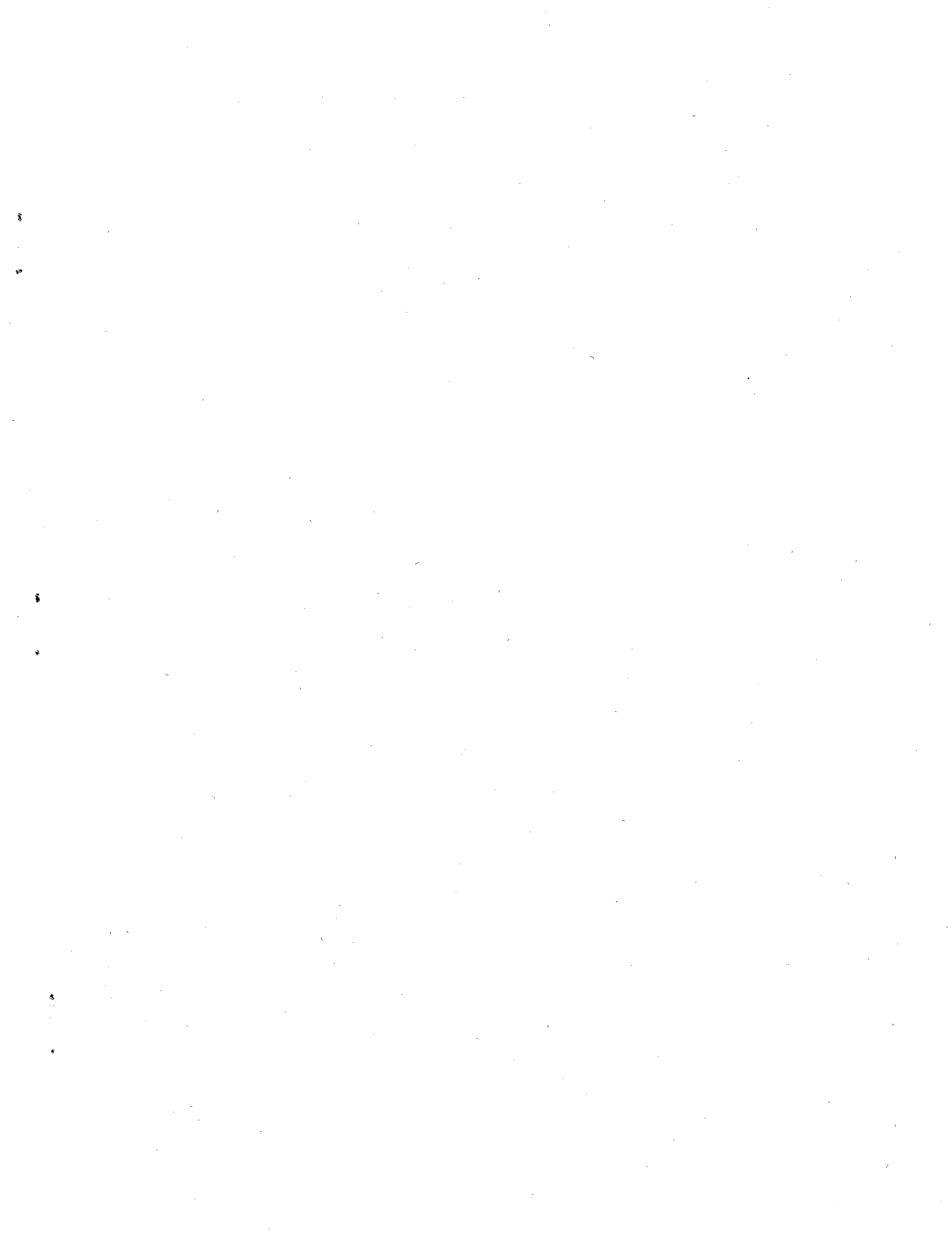
Mr. Carver of the New Jersey Association of Township Committeemen, and Mr. Starkey of the New Jersey Education Association, were in this category.

For the most part, those who supported Senate Bill No. 211 were also the strongest opponents to Assembly Bill No. 350, and to a lesser extent of Senate Bill No. 241 and Senate Concurrent Resolution No. 24.

These bills were viewed as being designed "to depart from the concept of a uniform system of assessment applicable throughout the State." (1, 101-A)

It appeared to be assumed that this charge was clear with regard to Senate Bill No. 241 and Senate Concurrent Resolution No. 24, so that most of the debate centered on Assembly Bill No. 350.

Many witnesses expressed the opinion that Assembly Bill No. 250 provided no clear-cut standard of value on which to base assessments.



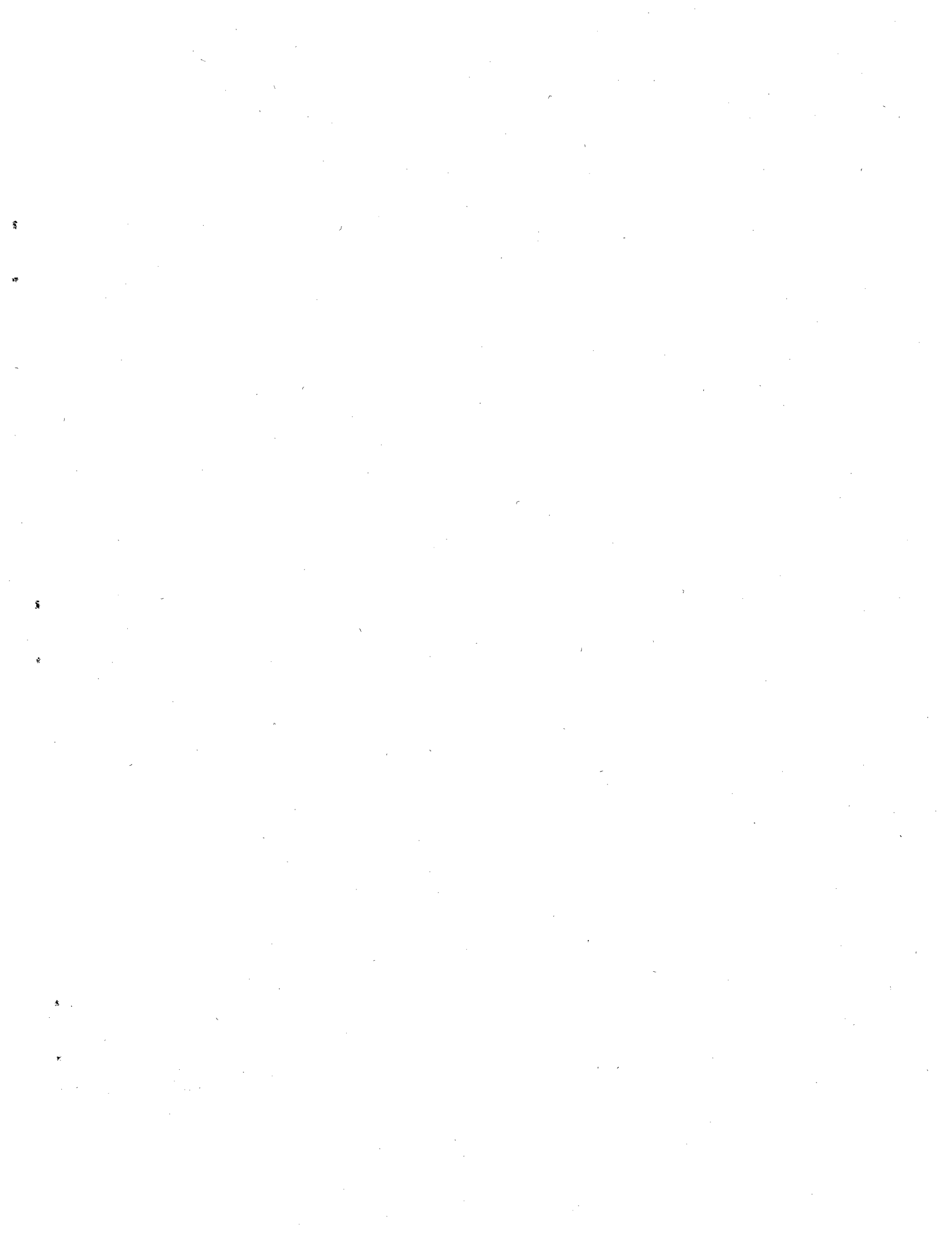
State Treasurer Neeld indicated his belief that Assembly Bill No. 350 was "devoid of any standard of value for assessment purposes." (4, 16-A).

Mr. Thomas E. Hunt, Assessor for the City of Newark, confessed simply that he couldn't understand the bill. "In the bill," he said, "it recites everything that an appraiser takes into consideration in arriving at an appraisal, but it doesn't tell us what weight to give to anything." (3, 54-A).

Mr. Cedric A. Major, President of the Lehigh Valley Railroad Company, seemed to express the opinion of the majority of those opposing Assembly Bill No. 350 when he argued that the bill "would remove the objective value standard from the law and substitute in its place a variety of subjective factors ... [which] appear to us to add up to no standard at all ..." (1, 42A). This lack of one clear standard would have at least two serious results.

First, it would make appeals to the Courts most difficult and, as Mr. Major said, "might well have the effect of denying any real judicial review."

Second, the enactment of this bill into law would produce a situation in which assessments could be based on any one of a number of standards, depending on the personal predilections of the assessor. This, in turn, would act as a great stimulus to continued discrimination in assessment practices. (1 - 43A).



The supporters of Assembly Bill No. 350 argued that:

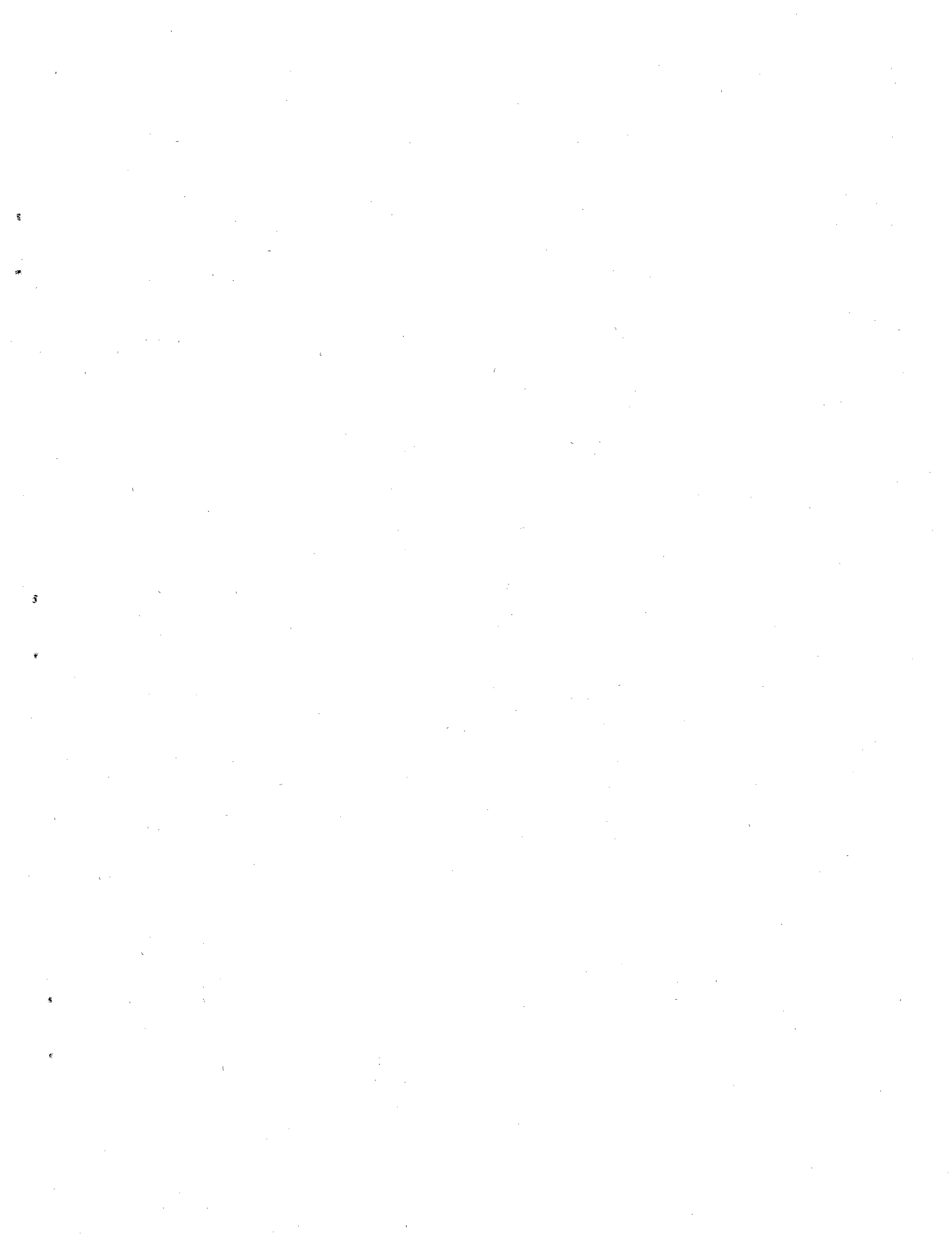
(A) Subjectivity was a necessary ingredient in any assessment and has always been so,

(B) Assembly Bill No. 350 merely provided a clear restatement of the factors that go into a good assessment, and

(C) Use of the standards as set forth in that bill combined with the proper enforcement of existing regulations pertaining to assessment procedure would result in tax equalization, thus eliminating the need for further legislation for this purpose.

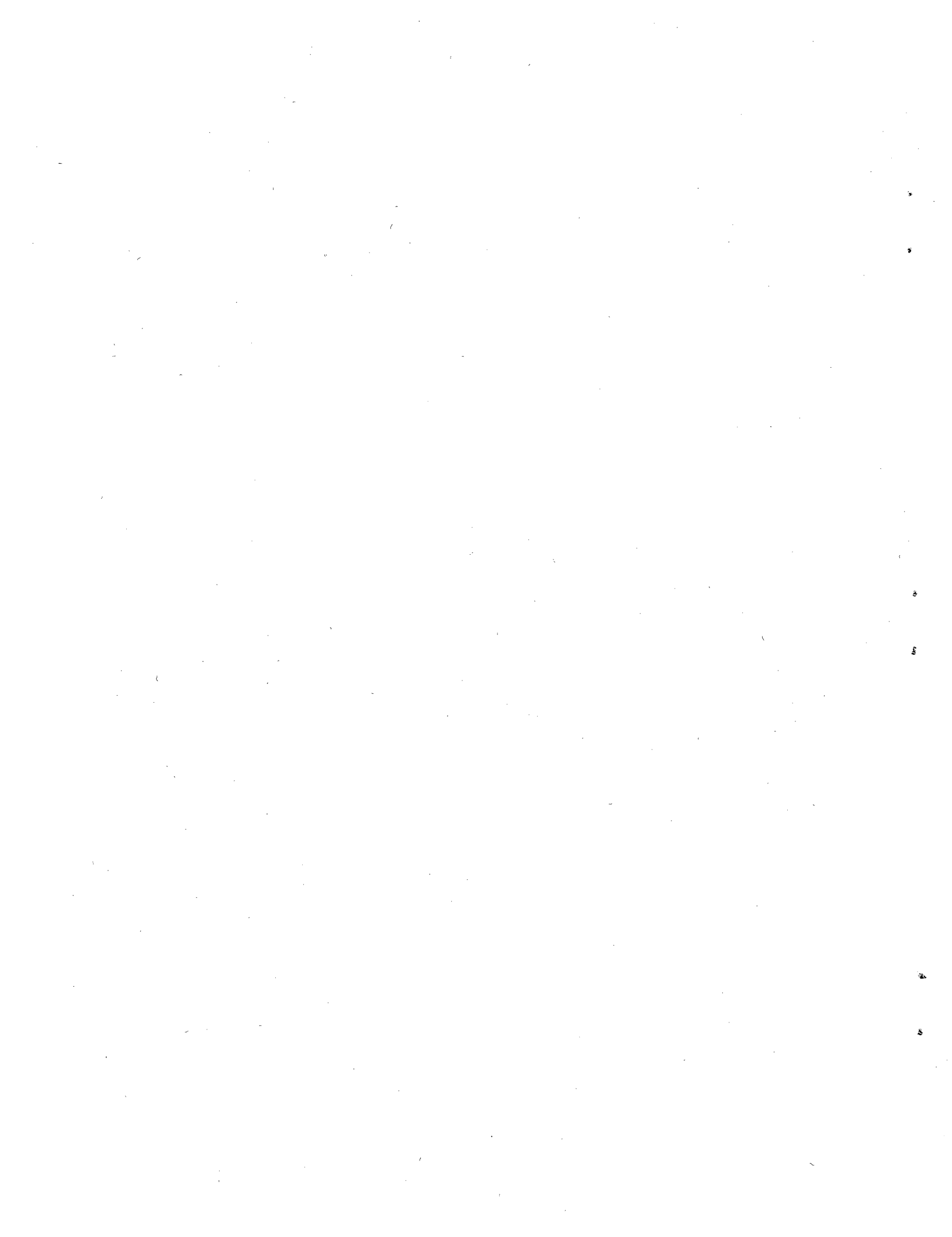
While many speakers contributed to these arguments, the statements of Mr. Nicholas S. Schloeder of North Bergen, who presented arguments for points (A) and (B), and Mr. James Rosen of Weehawken, who developed point (C), are cited as follows:

Mr. Schloeder began by making a sharp distinction between market value and true value. The courts, he said, have always made this distinction, basing it on the "degree of permanency" inhering in any property, a factor which must be taken into account in any true value assessment. Many intangibles go into this kind of assessment, as they always have according to the old statutes. Only minds unfamiliar with the assessment process could object to use of subjective criteria. "An assessment," he argued, "like an appraisal, should be a calculation of many



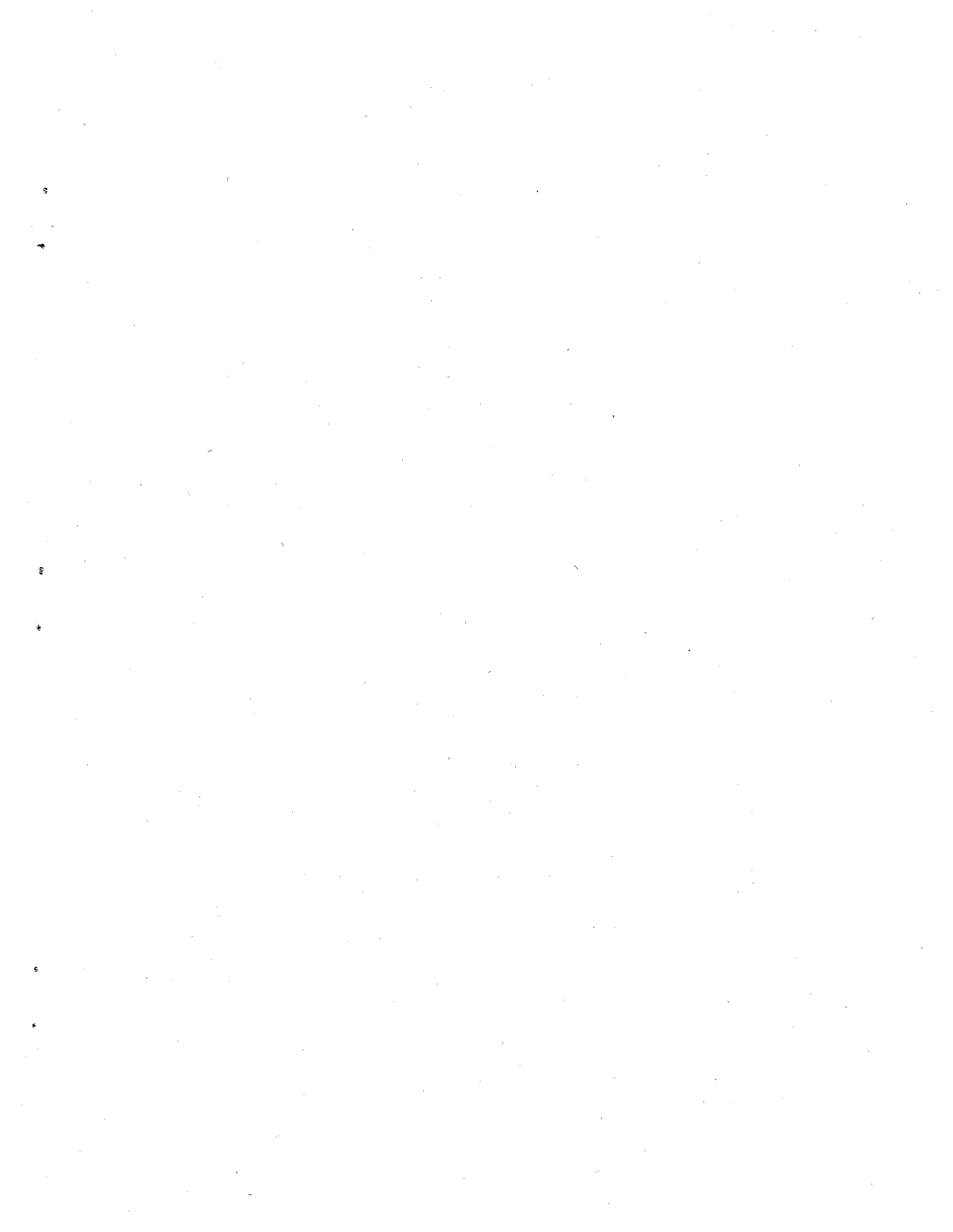
variables including intangibles. It involves calculation, not computation." (1,). This must continue to be so, he states, if the concept of true value, as opposed to market value, is to have any meaning. While he did not deny that use of subjective criteria sometimes leads to discrimination, he stated that use of purely objective standards based on selling price and computed by IBM machines would only lead to more of the same. "There is no royal road to the removal of discrimination," he said, "and more than thirty years in this field has convinced me that the present popular attempts to correct them from Trenton by the exclusive use of sales price has led to more inequality than existed before." (1, 63A). The remedy for this is to restore the use of subjective standards on a clearly-defined basis, as is done in Assembly Bill No. 350. The bill is, in his opinion, "more than adequate in setting up the standards in making an assessment," and he strongly endorsed it.

At a later hearing, Mr. Rosen followed up Mr. Schloeder's arguments by asserting that there was no need for further legislation to produce uniformity since legislation already existed to do this. "Today," he argued, "as a practical matter we have equalization as far as contribution to cost of county government



by each municipality within the county." He noted further that under the provisions of R.S. 54:136 and 54:137, as amended by the Laws of 1953, chapter 51, county boards of taxation were permitted to take steps to remove any local assessors who failed to comply with the constitutional standards of assessment and taxation. He stated also that under R.S. 54:126, the Director of the State Division of Taxation "Has a right to order the local assessors in a proper case to make a reassessment of any property undervalued or a reassessment of all property in any taxing district." He concluded by stating: "Here we have the tools at hand in which the county board as well as the State Director of Taxation can control the wilfull and intentional discrimination in any taxing district in any county of the State of New Jersey." (3, 11). Use of these tools, together with the clarification of a standard of taxation "which has been used by the Legislature for quite a period of time," [referring to Assembly Bill No. 350] would provide the necessary remedies for the defects in the State tax structure.

Thus, because subjectivity was necessarily implied in the assessment process, because this has always been so, and because there is no need to alter this situation to produce tax equalization as they stated, these witnesses supported Assembly Bill No. 350.



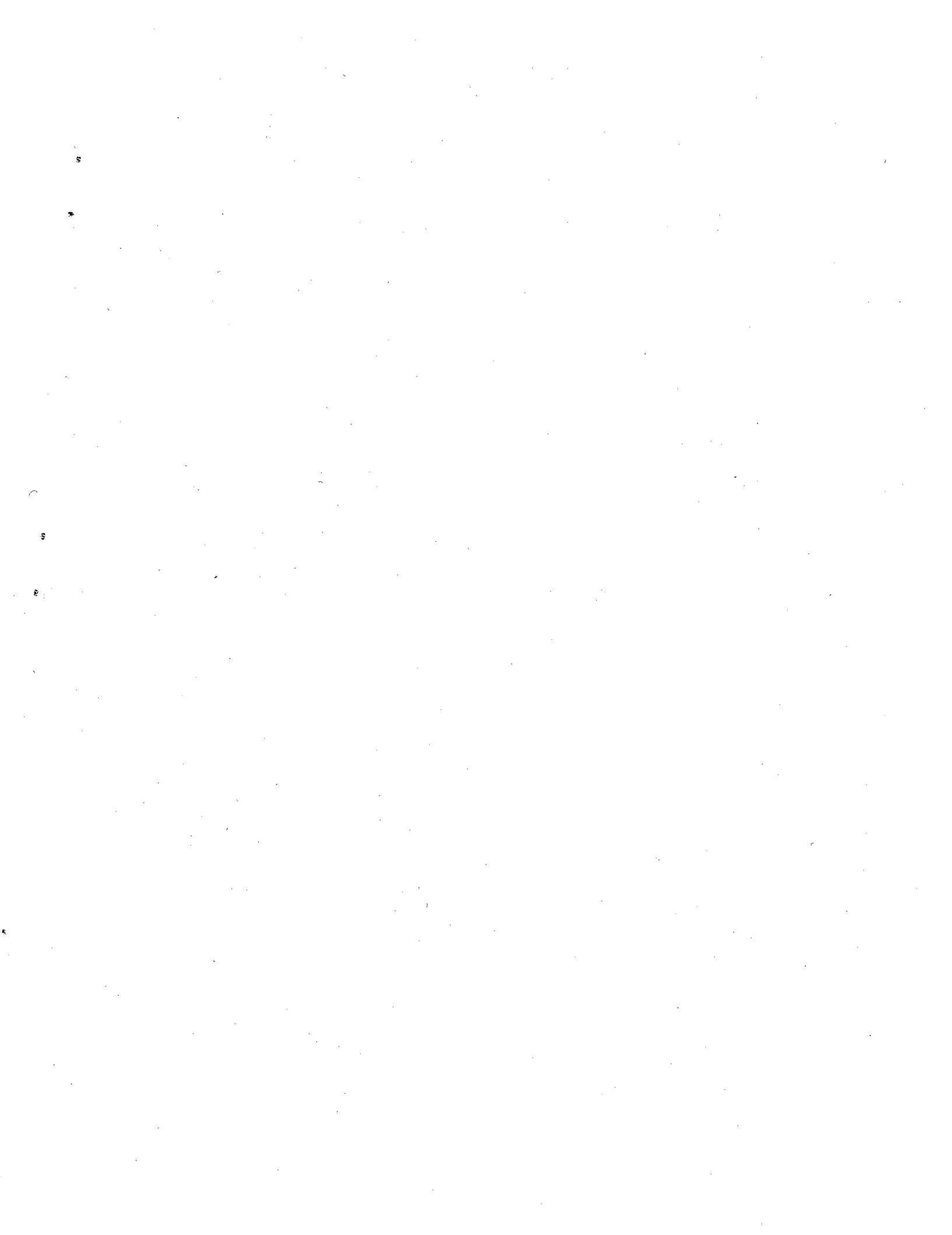
Summary

In summary, then, it is possible to say that in these hearings there was general agreement upon the necessity of gaining more time to resolve the tax problem. This resulted in the near unanimous support for Senate Joint Resolution No. 15.

Many witnesses supported uniform taxation of all real property in the State, and thus expressed a desire to see the passage of Senate Bill No. 211. This opinion was especially strongly expressed by the witnesses representing business, industry, railroads, taxpayer and assessor groups.

These groups also opposed Assembly Bill No. 350 because of the subjectivity of the standards therein proposed, which, they felt, would be a temptation to discrimination, and Senate Bill No. 241 and Senate Concurrent Resolution No. 24 because of the provisions of these bills which would in fact establish a tax structure not of uniform character.

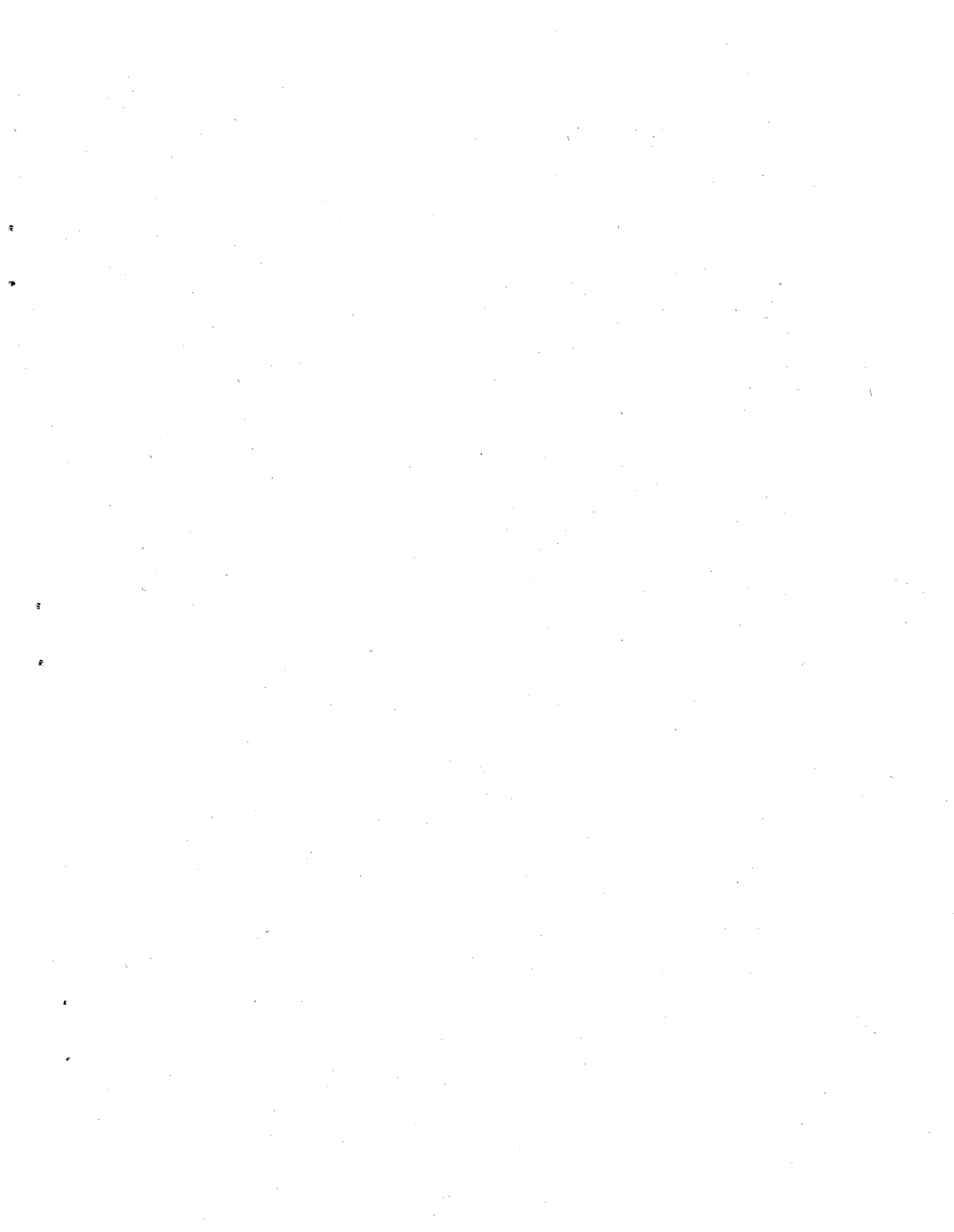
On the other hand, much opposition to tax uniformity was expressed, especially by representatives of communities located in northern New Jersey, and by representatives of rent-paying and home-owning groups located in that area.



These groups expressed themselves as being generally satisfied with the present tax structure and they argued that it was both impossible and unnecessary to seek greater equality through additional legislation. Implicit in this position, and often argued during the course of the hearings, was the concern for the political aspects of the tax structure.

The admitted purpose of Assembly Bill No. 350 is to preserve the so-called 'Home Rule' as is shown by the sponsor's statement on p. 111-A of v.1, as follows:

"I could interject a personal remark, Mr. Chairman, and say that when the day comes that the State of New Jersey is willing to contribute to the support of municipal government, I can see the reason and the basis for the theory of the New Jersey Taxpayers Association; but until such time, and these are my own remarks and not a question, and as long as the local taxpayers pay the cost of municipal government other than the two exceptions mentioned, I don't think it's any business of the State or any organization in the State to achieve this equalization as long as that local revenue is raised locally for local purposes. And that is one of the prime reasons behind Assembly 350 which, regardless of what anybody here has said -

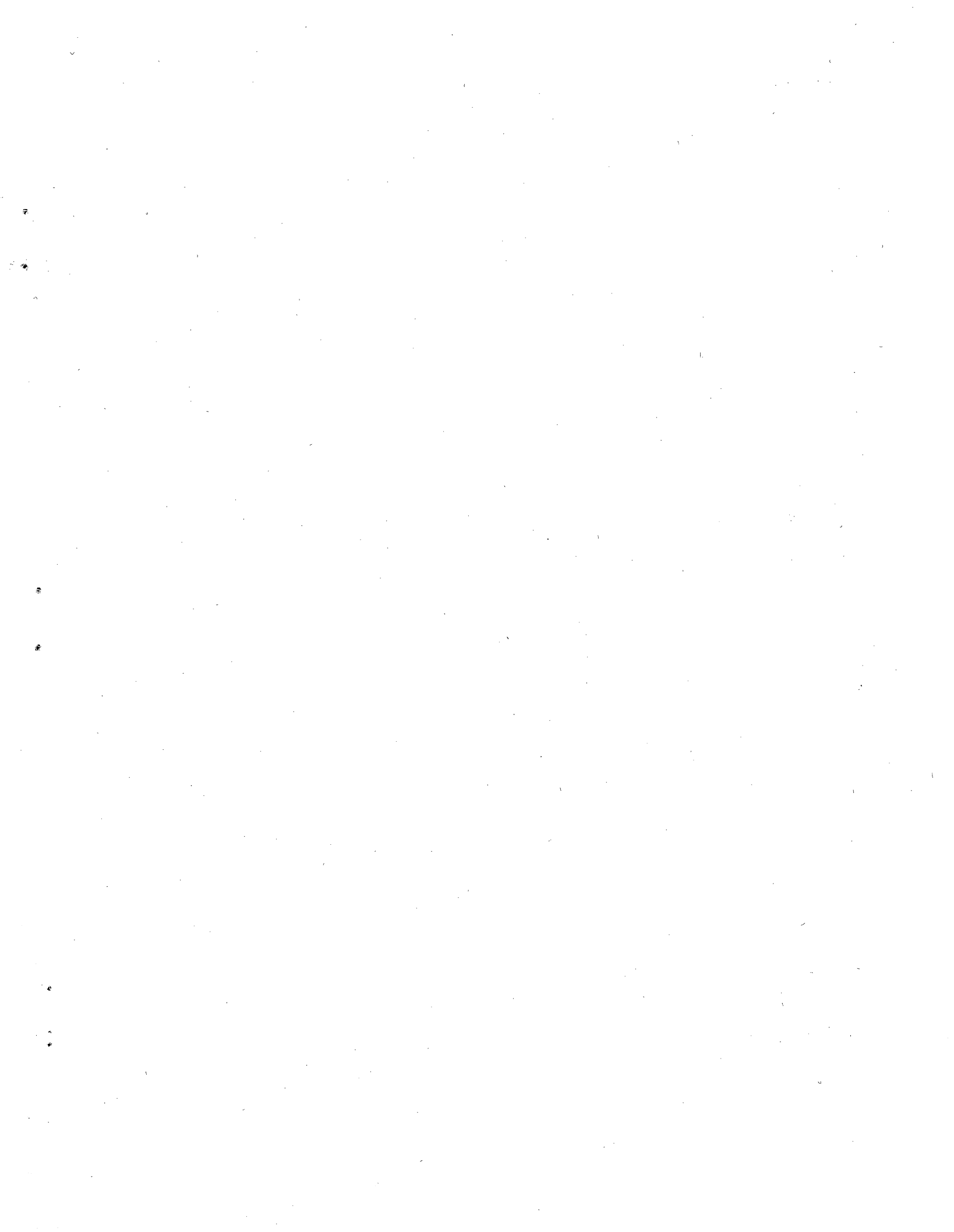


and I haven't heard anybody say this, and I am going to say it, I haven't heard anybody say it yet today - the local assessors will not assess at 100% because they are responsible to the local officials, and the local officials will not assess at 100% and will not direct the local assessors to assess at 100% because they would be turned out of office by the voters to whom they are responsible. And when the day comes for statewide assessment, under statewide practices and on statewide tables, that is the day you can kiss goodbye to local home rule and to your municipal government in this State. You might just as well abolish municipalities."

The many supporters of this bill took strong positions on this point. It was argued that Home Rule is traditional in New Jersey and that any system of statewide uniformity of taxation will destroy that tradition.

Mr. Rosen argued:

"If you are to give these [local] officials the right to spend the money, which they have today as a result of your laws, they must be given the power to tax, because the failure of power to tax will negate government." (3, 1).



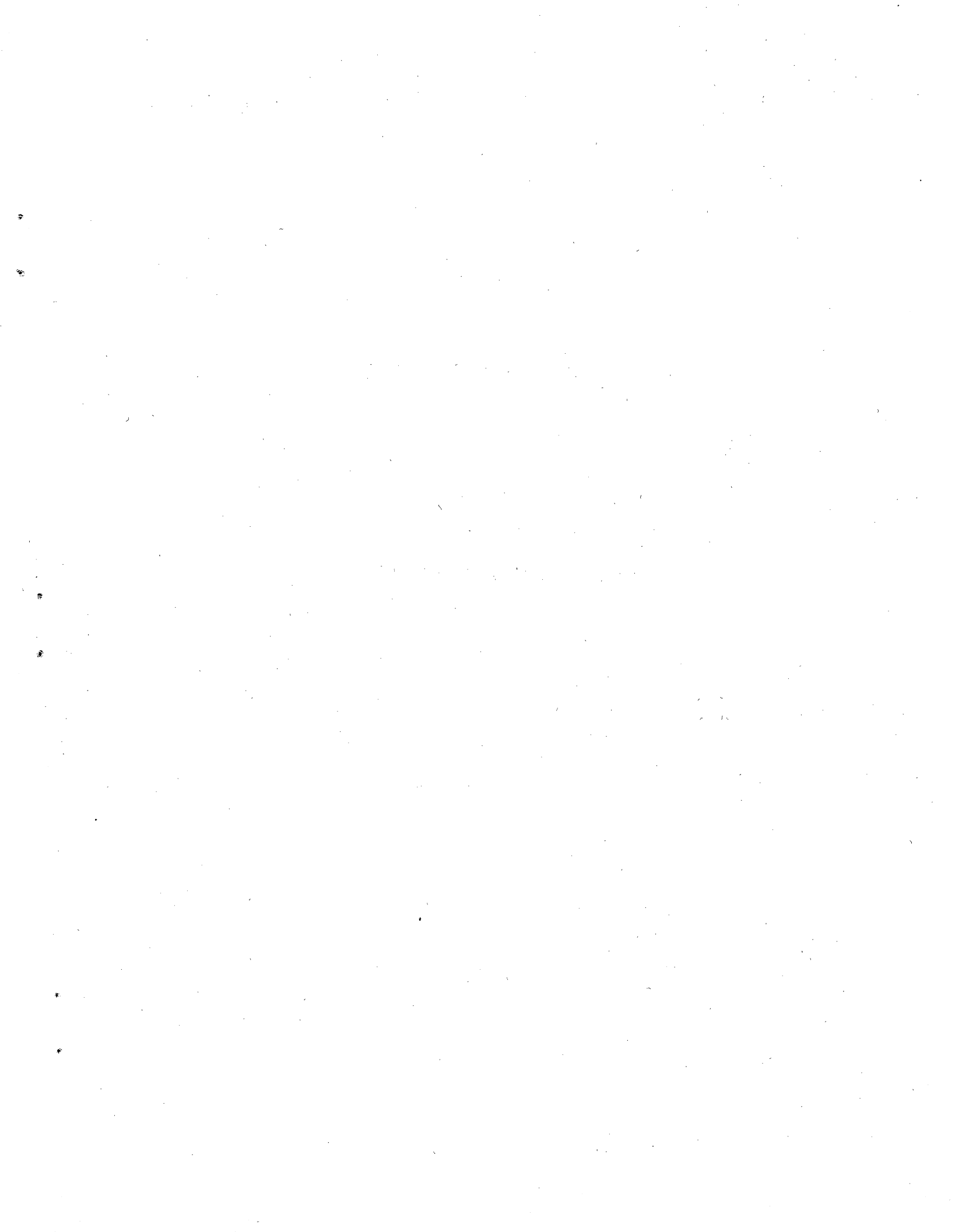
It was argued further that Home Rule was fair and just in New Jersey, because of the economic differences between the various sections of the State.(3, 10). This position found favor among the representatives of the farmers of the State. (3, 47-A).

While the supporters of Assembly Bill No. 350 were opposed to tax uniformity throughout the State, they were not necessarily in favor of classification. They opposed uniformity, and favored Assembly Bill No. 350 primarily because of their desire to preserve Home Rule, taxation by "the man who knows," the locally appointed and locally responsible assessor.

Several witnesses made suggestions which have not yet been reported.

Because Mr. Russel T. Wilson summed these up well at his second appearance before the Committee, his testimony will be used for that purpose.

Mr. Wilson stated that he recognized that a choice would eventually have to be made between tax uniformity or classification, but regardless of that choice certain things could be done to help solve the problem.



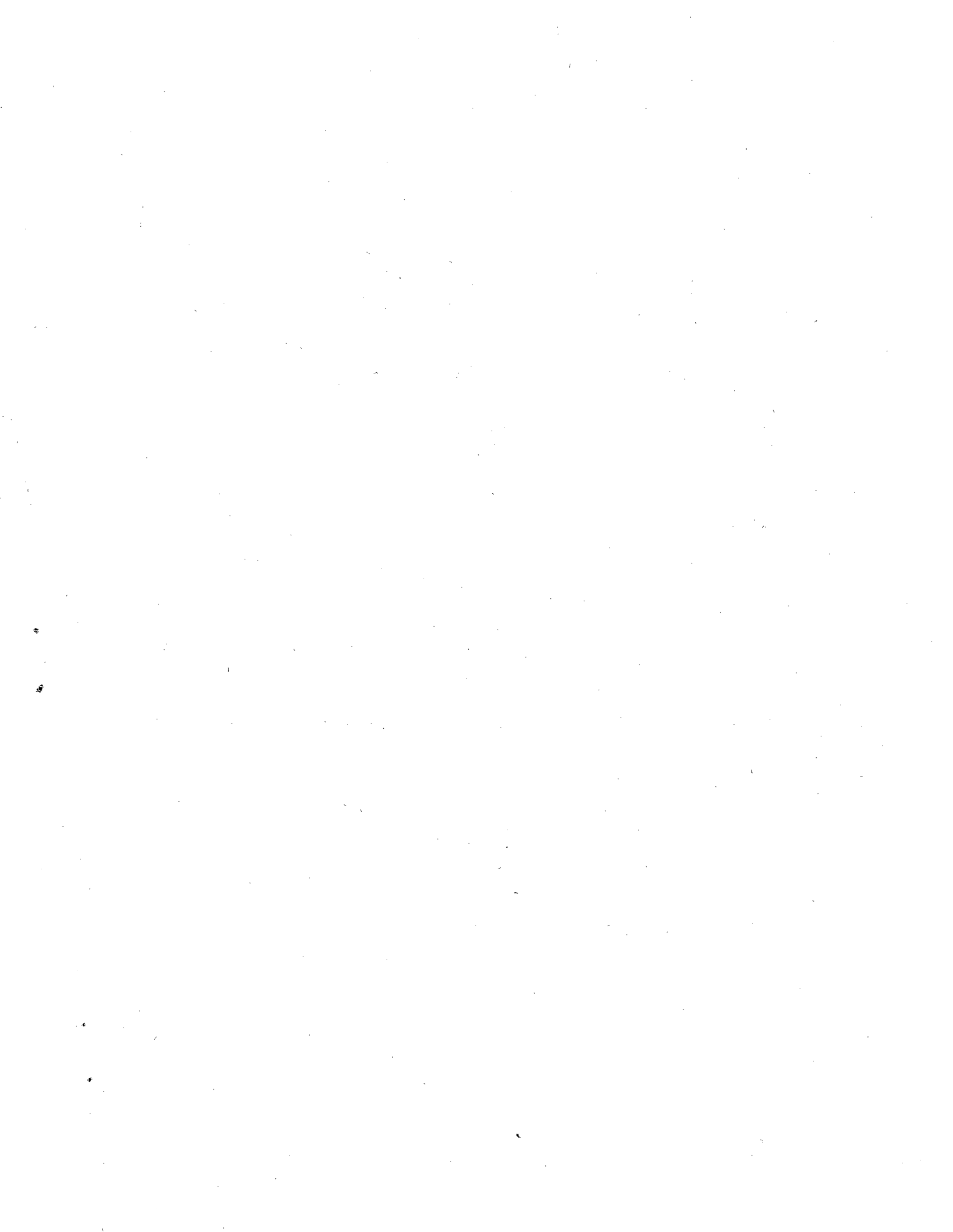
First, he suggested a stop-gap measure which would provide that "except where land or buildings, or both have been revalued ... the 1958 assessments be presumed correct for 1959 and perhaps for 1960." This was in line with his previous support for Senate Bill No. 6 as a stop-gap and also in concurrence with some other opinion, notably that of Mr. John F. O'Brien, a former tax assessor of South Orange.

Secondly, he suggested adoption of "a standard of value that would represent a range of values ... lets say, 40 to 50 or 35 to 45 per cent for real estate, because he felt that perfect uniformity, if that was desired, was impossible.

Thirdly, he suggested that "where there is a shift of tax burden as a result of this range of standards that the gap be closed gradually in order to avoid the impact of sudden shifts of tax burden, perhaps to the extent of 10% a year" to alleviate unfortunate dislocations caused by adoption of uniformity.

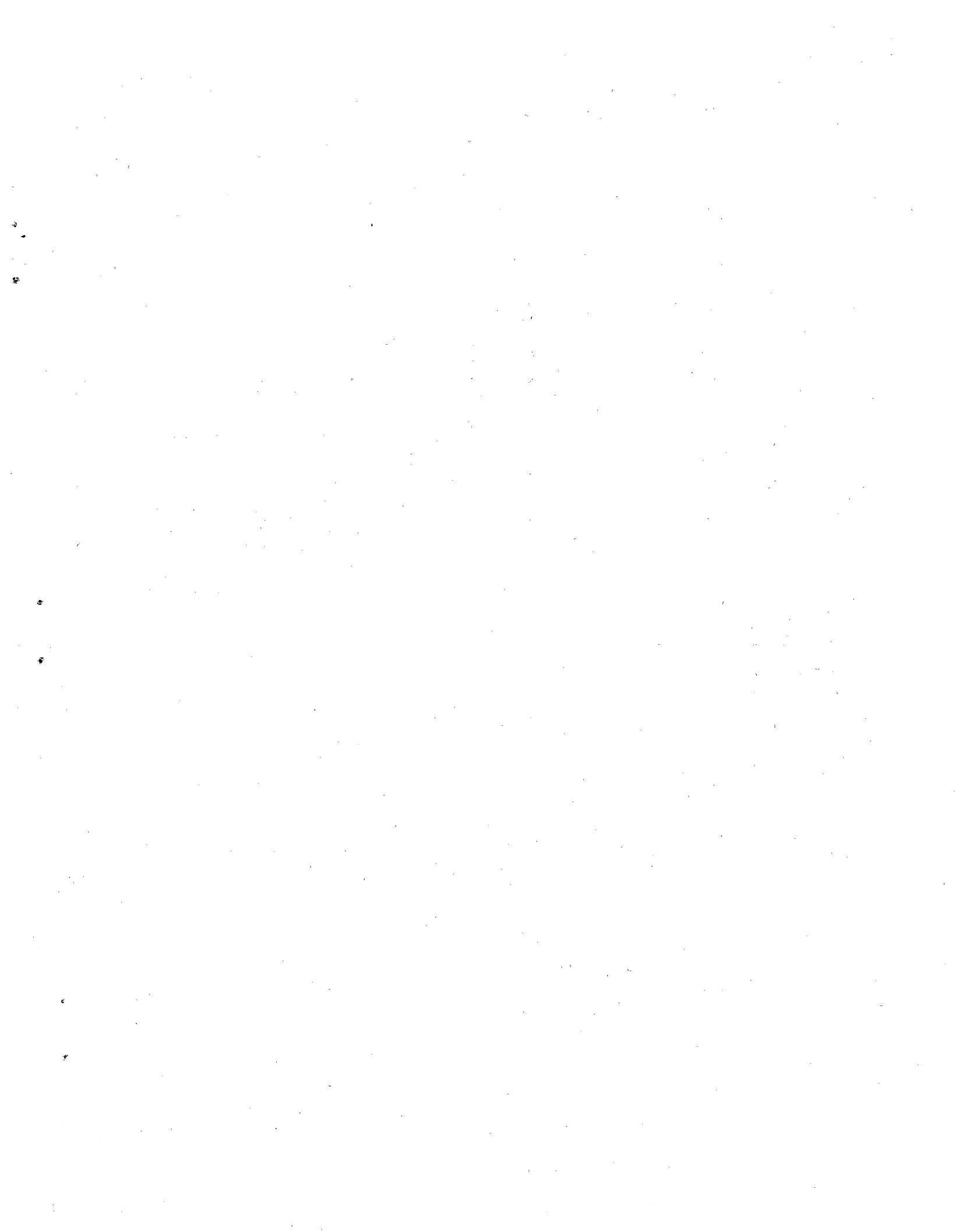
Fourthly, he advocated a tax convention, or something resembling that, as a means of deciding upon another broad based tax and of keeping the political struggle over this question within bounds. In this, he was reflecting the opinions of a number of others, who, for somewhat different reasons, also desired a tax convention.

Fifthly, because he felt that "the annual reassessment is utterly impossible," he urged that "consideration be given to a biannual or even a triannual assessment program." (4, 56, 57).



It will be seen that while the hearings probably present a cross section of opinion as to the subject matter before the Committee there was no general agreement as to the legislation which should be enacted in order to solve the problems which the pending legislation is intended to solve.

A copy of the recommendations contained in the Ninth Report of the State Tax Policy Commission referred to in the foregoing Abstract as Alternate 1 and Alternate 2 is annexed to this Abstract.



Excerpts

Ninth Report

Commission on State Tax Policy

RECOMMENDATIONS

A majority of the *Commission* concludes that the Legislature may choose between either of two Alternative recommendations:

Alternative 1

General Description (40 per cent-40 per cent-10 per cent)

- Real estate assessment at 40 per cent of its full value.
- Business machinery and equipment at 40 per cent of its value.
- Business inventories at 10 per cent of its value.
- Household personalty exempt.
- Veterans' exemptions unchanged (\$500).

Specific Standards

- Real estate—40 per cent measured from current market values.
- Farm personal property—
 - Farm inventories, crops and livestock, 10 per cent market or book value.
 - Farm machinery—40 per cent depreciated cost.
- Business personal property—
 - Business inventories—10 per cent book value.
 - Other business personalty—40 per cent book value.

Assessment Administration

- Business personal property—
 - State assessed for certification to municipalities.
 - All other property locally assessed.

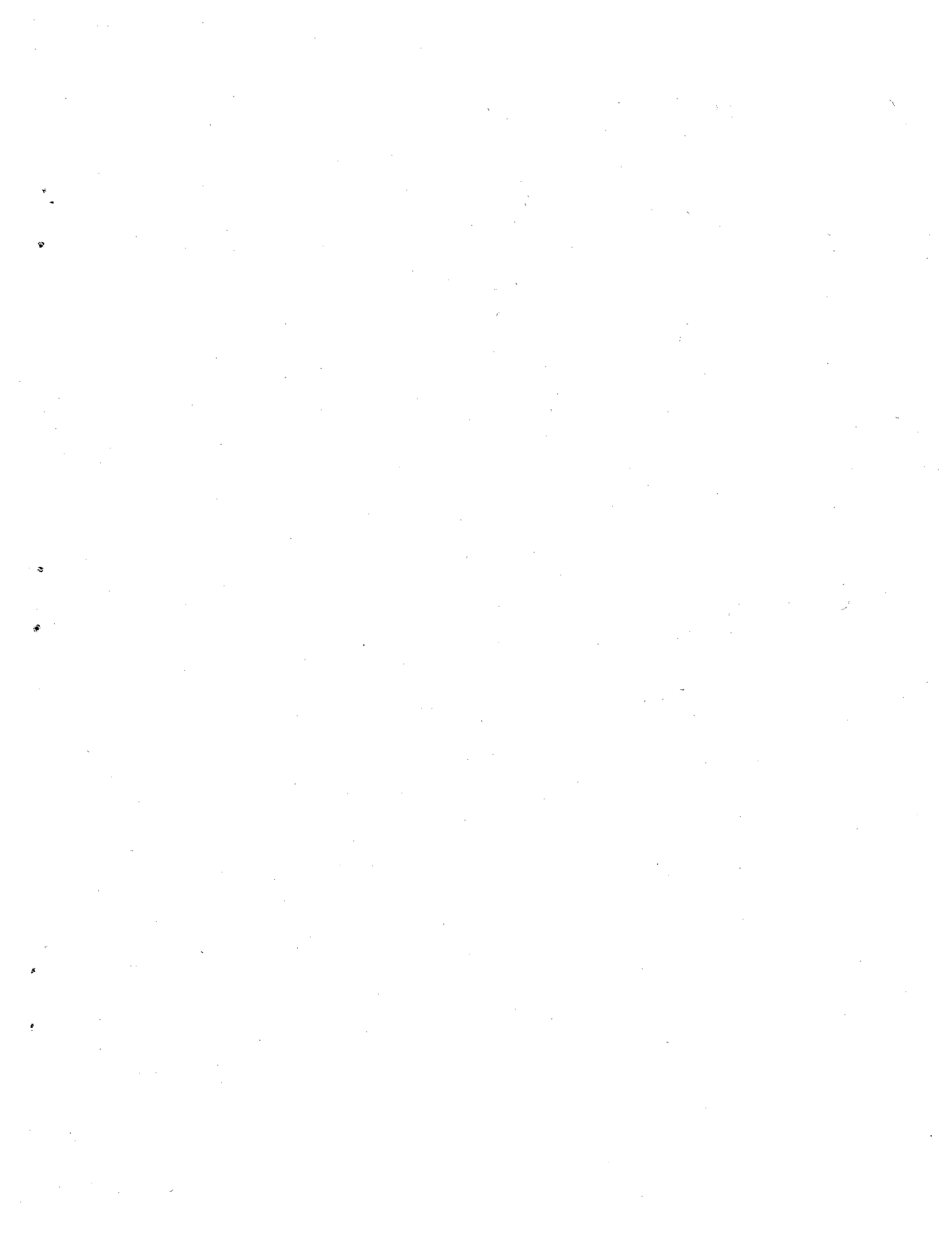
Alternative 2

An alternative plan complying with Section 2 of the Legislative Resolution (S. C. R. No. 28, Dec. 27, 1956) and which Commissioners Alexander and Dumont believe is the only alternative, may be summarized as follows:

Item	Tax in 1957
<i>Exempt from Property Taxation</i>	
Business inventories including farm crops and produce held for sale	\$31.0 million
Household personal property	15.5 million
Total	\$46.5 million

Other Property (real and personal)

- Uniform assessment at 40 per cent of full value—
 - with provision that full value of business personalty may be presumed to be book value subject to review.



Replacement Tax

Business net income tax—applicable to corporations and unincorporated business—with present Corporation Franchise Tax as a deduction (corporation pays greater of two taxes).

Revised Franchise Tax with 3 per cent income alternative	\$68 million
Present Franchise Tax	26 million
<hr/>	
Increased corporation tax	\$42 million
Unincorporated business tax (3 per cent)	9 million
<hr/>	
Total additional tax	\$51 million

State Revenues

Business income tax rates can be increased to provide additional State revenue—approximately \$22 million for each 1 per cent of tax rate.

EFFECTS OF THE RECOMMENDATIONS

TAXABLE VALUES

Real Estate Assessed Values

Assessed at 40% of true value, the real estate tax base (1957) would increase from \$6.9 billion to \$9.7 billion.

Business and Farm Machinery and Equipment Assessed Values

Assessed at 40% of cost less depreciation, the taxable values of machinery and equipment would increase from \$0.4 billion to \$1.7 billion.

Business and Farm Inventories

Alternative 1—Assessed at 10% of book or market value, the taxable value of inventories would decline slightly from \$0.39 billion to \$0.33 billion.

Alternative 2—Inventories would be dropped out of the tax base.

TAX RATES

The Average tax rate for 1957 would be reduced from \$8.30 per \$100 net valuation taxable to—\$5.59 per \$100 under Alternative 1 (40%, 40%, 10% assessment), \$5.28 per \$100 under Alternative 2 (40%, 40%, Replacement).



TAX LEVY (See Chart A)

Residential Taxes

Alternatives 1 and 2 will have different effects upon the various classes of property due to differences in the amount of tax absorbed by business.

Effect upon each class of property in each municipality shown in Appendix Tables.

Alternative 1—would reduce residential taxes by \$0.4 million—from \$322.1 million to \$321.7 million.

The net result of an \$8.1 million increase for residential real estate, a \$15.5 million reduction due to exemption of household personal property, less a \$7 million reduction in the tax value of veterans' exemptions.

Alternative 2—would reduce residential taxes by \$17.7 million—from \$322.1 million to \$304.4 million.

The net result of a \$9.6 million reduction for residential real estate, a \$15.5 million reduction due to exemption of personal property, less a \$7.5 million reduction in the tax value of veterans' exemptions.

Business Taxes

Alternative 1—would increase 1957 business taxes by \$5.8 million—from \$276.4 million to \$282.2 million.

The net result of a \$47.5 million reduction for business real estate and a \$53.4 million increase for business personal property.

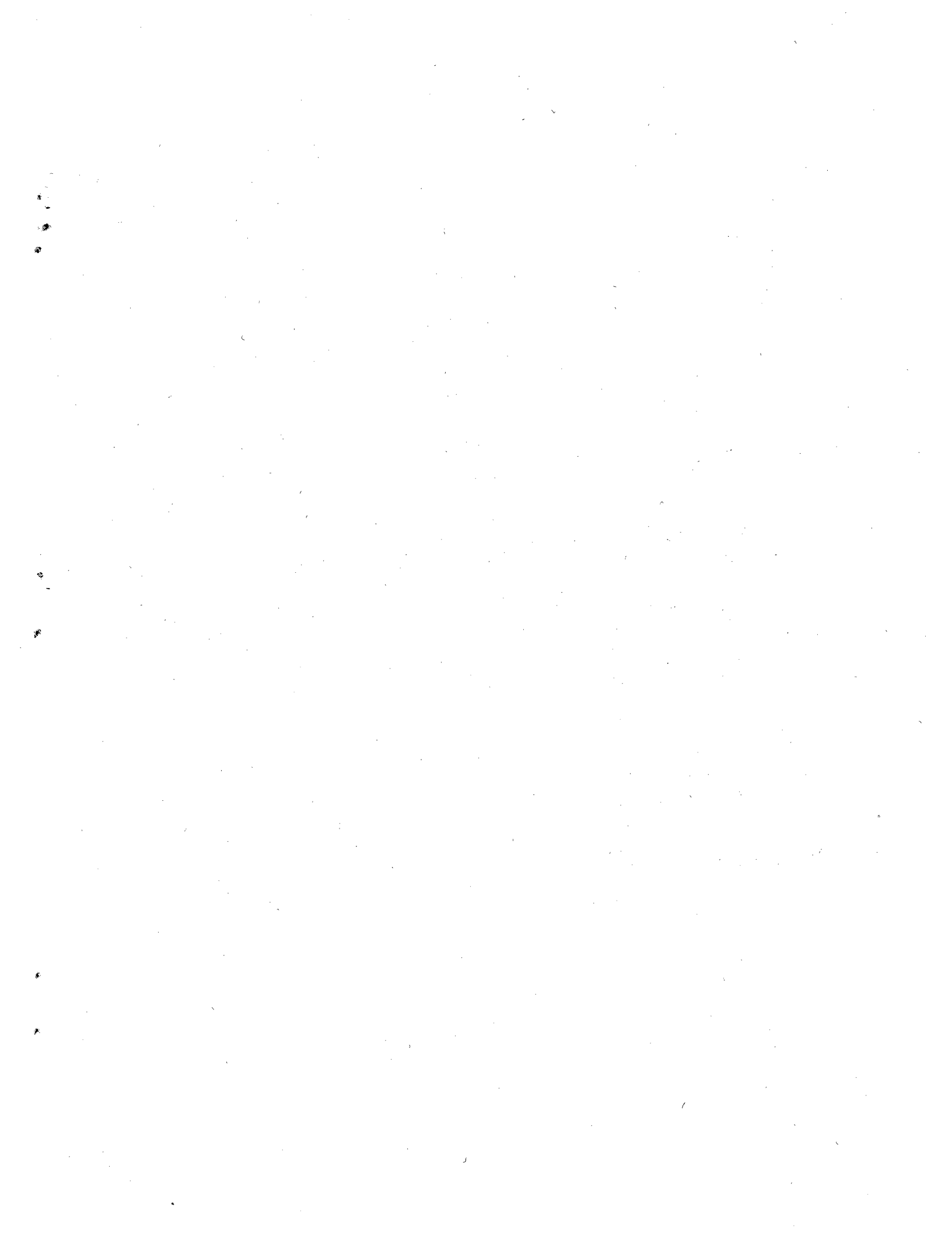
Alternative 2—would increase 1957 business taxes by \$25.4 million—from \$276.4 million to \$301.8 million.

The net result of a \$53.7 million reduction for business real estate, an increase of \$28.1 for business personal property and a new \$51 million business income tax.

Farm Taxes

Alternative 1—would increase 1957 farm property taxes by \$0.6 million—from \$11.6 million to \$12.3 million.

Includes a \$0.6 million increase for farm real estate and small increase for farm personal property.



Alternative 2—would reduce farm taxes by \$0.2 million—from \$11.6 million to \$11.4 million.

Includes a \$0.1 reduction for real estate and a \$0.1 reduction for personal property.

Vacant Land

Alternative 1—would increase taxes upon vacant land by \$1.1 million—from \$20.9 million to \$22.0 million.

Alternative 2—would reduce vacant land taxes by \$0.2 million.

Class II Railroad Property

Assuming railroad property is presently assessed at full value the *Lackawanna* decision would reduce local railroad taxes by approximately \$7 million from the \$14.5 million levied in 1957, and neither Alternative 1 nor 2 would deal with this problem.

DISTRIBUTION OF REPLACEMENT REVENUE

Alternative 2—Amount

The yield of a 3 per cent net business income tax less the amount of the corporate net worth tax, would be distributed annually to the municipalities, as a replacement for the exemption of business inventories and household goods under Alternative 2. Each municipality would receive a share of the distribution equal to the ratio of its own property tax levy to the total property tax levy of the preceding year. Any tax rate above 3 per cent on business net income would be retained by the State.

Class II Railroad Property Problem

A reduction in Class II Railroad property taxes is shown by the data, but is not caused by the recommendations. To offset the effect of such reduction, in municipalities having a large proportion of their tax rolls in Class II Railroad property, particularly in Hudson County, some distribution of additional State revenues would be required.

Effect

The net effect of the distribution formula on a county basis will be for business taxpayers as a group (excluding railroads) to provide at least as large a part of the local tax needs as at present. In state total and in the great majority of municipalities, on the basis of 1957 data, there would be a definite shift in the tax burden from residential property to business taxpayers.

