University of South Carolina

Scholar Commons

Committee to Study the South Carolina Constitution of 1895 (1966-1969)

South Carolina Constitutional Materials (Workman Papers)

1969

SCCRC 1966-1969 Document 13b: Minutes of the Committee to Make a Study of the Constitution of South Carolina of 1895, March 5, 1969

William D. Workman Jr.

Nettie L. Bryan

Committee to Make a Study of the Constitution of South Carolina of 1895

Follow this and additional works at: https://scholarcommons.sc.edu/scconstitutionalcommittee1966-69

 Part of the Law Commons

Recommended Citation

Minutes of the Committee to Make a Study of the Constitution of South Carolina of 1895, March 5, 1969, William D. Workman, Jr. Papers, South Carolina Legal History Collection, Law Library, University of South Carolina School of Law

This Minutes is brought to you by the South Carolina Constitutional Materials (Workman Papers) at Scholar Commons. It has been accepted for inclusion in Committee to Study the South Carolina Constitution of 1895 (1966-1969) by an authorized administrator of Scholar Commons. For more information, please contact digres@mailbox.sc.edu.

MINUTES

The Committee to Make a Study of the Constitution of South Carolina, 1895, held a second public hearing on March 5, 1969 at 3:00 p.m. in the Senate Conference Room, State House, Columbia, South Carolina.

The following members of the Committee were present:

Senators -
Richard W. Riley
John C. Lindsay
E. N. Zeigler

Representatives -
J. Malcolm McLendon
Robert L. McFadden

Governor's Appointees -
Sarah Leverette
W. D. Workman, Jr.

Staff Consultant -
Robert H. Stoudemire

Appearing before the Committee on March 5, 1969:

General Frank Pinckney, Adjutant General
Mr. James Dreher
Mr. J. K. Crowson, S. C. Highway Department
Mr. E. W. Brooks, S. C. Farm Bureau
Mr. L. S. James, S. C. Council on Human Relations

(The Vice Chairman of the Committee, Mr. McLendon, presided at the hearing on March 5th).

CHAIRMAN: We have no particular ground rules for those appearing. We have given you a schedule and we want to try to stay within it. General Pinckney, the Adjutant General has asked to be heard. General, we will hear from you now.

(General Pinckney's statement follows on page 2 of these Minutes)

GENTLEMEN:

I WOULD NOW LIKE TO REFER TO ARTICLE XII OF THE "DRAFT CONSTITUTION" PERTAINING TO THE MILITIA, WITH PARTICULAR REFERENCE TO SECTION C.

I AM IN FULL ACCORD WITH THE COMMITTEE'S RECOMMENDATION THAT THE GOVERNOR, BY AND WITH THE ADVICE AND CONSENT OF THE SENATE, SHALL APPOINT THE ADJUTANT GENERAL, BUT I DO NOT AGREE THAT THE TERM OF OFFICE SHALL BE COTERMINOUS WITH THAT OF THE GOVERNOR, AND I WANT TO TELL YOU WHY I TAKE THIS POSITION.

I HAVE BEEN ADJUTANT GENERAL FOR 10 YEARS NOW AND DURING THAT TIME I HAVE SEEN MANY ADJUTANTS GENERAL IN OTHER STATES COME AND GO EVERY TIME A NEW GOVERNOR TAKES OFFICE. IN SOME INSTANCES, BECAUSE OF THE FREQUENCY OF ELECTIONS IN SOME STATES, THE OFFICE CHANGED EVERY TWO YEARS. FURTHERMORE, I HAVE BEEN AMAZED TO LEARN OF THE LACK OF QUALIFICATIONS OF SOME SUCH APPOINTEES. ONE NEVER HAD A DAY OF MILITARY SERVICE; MANY WERE APPOINTED FROM OTHER SERVICES WITHOUT ANY KNOWLEDGE OR UNDERSTANDING OF THE NATIONAL GUARD; SOME WERE NOT PHYSICALLY QUALIFIED, AND OTHERS WERE OF VERY JUNIOR RANK, NOT QUALIFIED FOR PROMOTION, AND CONSEQUENTLY COULD NEVER BE FEDERALLY RECOGNIZED AS A GENERAL OFFICER -- ALL PURELY POLITICAL APPOINTMENTS. THIS IS WHAT I AM AFRAID COULD HAPPEN HERE, AND I WOULD HATE TO SEE IT HAPPEN, IF THE WORDING OF COTERMINOUS REMAINS IN YOUR DRAFT.

I WOULD ALSO LIKE TO POINT OUT THAT WHILE THE ADJUTANT GENERAL IS THE HEAD OF THE MILITARY DEPARTMENT OF THE STATE AND HIS DUTIES ARE PRESCRIBED IN THE MILITARY CODE, HIS MOST IMPORTANT RESPONSIBILITY IS THE ADMINISTRATION, TRAINING, SUPPLY AND COMMAND OF THE STATE'S NATIONAL GUARD. HE MUST HAVE THE KNOWLEDGE THAT COMES WITH EXPERIENCE AND TRAINING; THE MILITARY BACKGROUND THAT COMES WITH SERVICE; THE MILITARY EDUCATION AND FEDERAL QUALIFICATIONS FOR GENERAL OFFICER RANK IN ORDER TO BEST SERVE HIS STATE AND IT'S NATIONAL GUARD BECAUSE OF HIS RELATIONS AND CONSTANT CONTACTS WITH GENERAL OFFICERS AT ARMY, NATIONAL GUARD BUREAU AND HIGHER MILITARY COMMAND LEVELS. STATES THAT CONSTANTLY CHANGE ADJUTANTS GENERAL WITH EACH GOVERNOR, OR APPOINTEES THAT FAIL TO MEET THE QUALIFICATIONS I HAVE OUTLINED, ARE AT A DISTINCT DIS ADVANTAGE, AND MOST OFTEN THE GUARD SUFFERS MATERIALLY.

THE STATES WITH THE STRONGEST GUARD ARE THOSE WHERE THE ADJUTANTS GENERAL SERVE FOR LONG PERIODS OF TIME, AND ABOUT HALF OF THEM FALL IN THIS CATEGORY. WHILE THESE ADJUTANTS GENERAL ARE APPOINTED BY THEIR GOVERNORS THEY ARE APPOINTED FOR VARIOUS TERMS AND UNDER SPECIFIC CONDITIONS, AND CONSEQUENTLY SERVE SEVERAL GOVERNORS.

AS I STATED EARLIER MY SOLE INTEREST IS IN ASSURING THE CONTINUANCE OF A READY RESPONSIVE NATIONAL GUARD AS WE HAVE TODAY, AND I FEAR TO THINK WHAT COULD HAPPEN IN THE FUTURE IF EVERY GOVERNOR HAD THE POWER TO APPOINT A NEW ADJUTANT GENERAL.

I RECOGNIZE THAT THE COMMITTEE RECOMMENDS THAT THE QUALIFICATIONS FOR OFFICE BE REGULATED BY LAW, AND I THINK THIS IS AS IT SHOULD BE; SO I WOULD LIKE TO AGAIN RECOMMEND WHAT I HAVE PREVIOUSLY RECOMMENDED FOR INCORPORATION IN THE LAW, FOR THEN WITH THE CHANGES IN THE DRAFT CONSTITUTION I AM SUGGESTING THE LAW COULD BE CHANGED, IF NECESSARY, WITHOUT REVISING THE CONSTITUTION AT SOME LATER DATE.

I RECOMMEND THAT THE ADJUTANT GENERAL BE APPOINTED:

1. FROM ONE OF THE SENIOR OFFICERS OF THE NATIONAL GUARD. (TODAY WE HAVE TWO GENERALS AND 17 COLONELS, AND THIS WOULD NOT RESTRICT THE GOVERNOR'S SELECTION.)

2. THAT THE OFFICER APPOINTED, IF HE IS NOT PRESENTLY A GENERAL OFFICER, BE QUALIFIED AT TIME OF APPOINTMENT BY DEPARTMENT OF ARMY STANDARDS FOR FEDERAL RECOGNITION AS A GENERAL OFFICER.

3. THAT HE MEET THE PRESCRIBED PHYSICAL STANDARDS TO HOLD OFFICE. SHOULD HE AT ANY TIME FAIL TO PASS THE REQUIRED PHYSICAL EXAMINATION, THEN HE WOULD BE REQUIRED BY LAW TO RETIRE.

4. THAT HE SERVE ONLY UNTIL HE REACHES THE AGE OF 64 YEARS, UNLESS SOONER DISQUALIFIED, WHICH IS THE PRESCRIBED RETIREMENT AGE OF ADJUTANTS GENERAL.

5. THAT HE CAN BE REMOVED AT ANY TIME BY THE GOVERNOR FOR CAUSE.

A NUMBER OF STATES HAVE JUST SUCH GOVERNING LAWS, AND IT IS THEIR ADJUTANTS GENERAL THAT RECEIVE THE MOST CONSIDERATION; ACQUIRE THE GREATEST SUPPORT AND ACHIEVE THE MOST FAVORABLE RESULTS FOR THEIR NATIONAL GUARD. IN SOME STATES A COMMITTEE OF SENIOR OFFICERS THEMSELVES MAKE RECOMMENDATIONS, FROM WITHIN THEIR RANKS, TO THEIR GOVERNOR; IN OTHERS THE STATE NATIONAL GUARD ASSOCIATION MAKES SUCH RECOMMENDATIONS. EITHER OF THESE METHODS, OR WHAT I RECOMMEND, WOULD RESULT IN NOMINATING THE BEST QUALIFIED AND MOST ABLE REPRESENTATIVE FOR THE OFFICE.

I WOULD THEREFORE REQUEST THAT THE COMMITTEE DELETE ALL REFERENCE TO THE OFFICE OF ADJUTANT GENERAL BEING COTERMINOUS WITH THAT OF THE GOVERNOR AND SUBSTITUTE THE WORDING - "SHALL APPOINT THE ADJUTANT GENERAL WHOSE TERM OF OFFICE SHALL BE AS PRESCRIBED BY LAW" -- AND FURTHER REQUEST THAT YOU RECOMMEND THE LEGISLATION TO SUPPORT MY PROPOSAL.

CHAIRMAN: Mr. James Dreher is here from the Judicial Council, I believe.

MR. DREHER: I'm not speaking for the Council. I'm speaking only for myself.

CHAIRMAN: Mr. Dreher is an attorney in Columbia here and he is going to speak to some of the judicial problems. He is also a professor at the Law School.

MR. DREHER: With your permission, I would like to say a few words on my own behalf, about what may be a rather small point in the Judicial Article. I think the Committee has done an admirable job on the Judicial Article. It embodies many of the reforms that I had in mind when I was working for Mr. Robinson's Committee. At one time, I might have argued to have a complete integration into a state court system, but after seeing North Carolina's experience trying to do too much, I think the Committee was wise in taking this half-way stand. I do feel that if you bring the county courts into a uniform system, you have accomplished a great, great deal. The only thing that I wanted to

mention was that in your Section which authorizes the Legislature to elect five additional circuit court judges, in addition to the sixteen primary circuit court judges--it just may be a matter of language, but it provides after the restriction, after the paragraph about the election of the sixteen it says that the additional, up to five, "...Judges shall be elected in the same manner and for the same term as provided in the preceding paragraph...except that residence in a particular county or Circuit shall not be a factor in determining qualifications". Now, that means that they can be elected from anywhere and would have to, if elected, move to and have their office in the circuit with the excessive work load. I have no quarrel with it and I frankly feel that would be the proper interpretation. I would be in favor having them additional, second circuit judges in the counties that have the heavy work load.

CHAIRMAN: We understand our draft to mean that they would be elected at large and would live where they are elected from. The House Judiciary Committee last week reported out a bill that the judges would be elected at large, but that they would have to then become residents of the circuit to which they were assigned for the overload. The House passed that.

MR. WORKMAN: Mr. Dreher, do I understand you to say that by inclusion within a unified system, down to and including, county courts would be not only desirable, but feasible as you view South Carolina.

MR. DREHER: Yes, sir. I think you have almost come to that when you require that the statutory framework be uniform throughout the State.

CHAIRMAN: Thank you, Mr. Dreher. We have with us from the Highway Department Mr. Kenneth Crowson. Mr. Crowson, we will be happy to hear from you or any of your associates.

(Mr. Crowson's statement follows on page 7 of these Minutes)

Statement by J. K. Crowson, Secretary-Treasurer, State Highway Department

Mr. Chairman and Members of the Committee:

I want to express to you our thanks for giving us this opportunity to appear before you to make suggestions concerning highway financing in the draft of the proposed revised Constitution.

Mr. Pearman has had to go to Washington on urgent business in connection with Federal highway legislation and he asked me to represent him here at this meeting. He also asked me to extend to you his best wishes and his regrets at not being able to be here.

In appearing at this hearing, I want to address my remarks to Article VI - Finance, Taxation, Bonded Indebtedness - and more specifically to Section E - Tax shall be levied in pursuance of law; and Section L - State may incur bonded indebtedness; without vote of electorate.

It would appear to my layman's eye that under the provisions of the present draft the revenue from the gasoline tax and automobile license fees could conceivably be earmarked by the Legislature for any non-highway purpose, as well as for highway purposes. I use the term "tax revenue" instead of "tax collections" intentionally. The highway is, in essence, a revenue producing facility - no less than a university dormitory which produces revenue from the charging of student fees.

We support, unequivocally, the provisions in the Constitution draft that all bonds should be general obligations of the State, regardless of the purpose of issue, but we ask you to consider at the same time a provision to provide that all gasoline tax revenue and motor vehicle and driver license fees, and all other such special imposts on highway use, be dedicated to highway purposes. Twenty-eight states now provide in their Constitution for highway use tax revenues to be used exclusively for highway purposes.

Highway use tax revenues - gasoline tax and license fees - have traditionally and historically been dedicated or pledged to highway purposes in South Carolina and this philosophy of taxation has been favorably received by the people of the State. It is a fair method of taxation; it is easily understood; and it is financially sound and a convenient way of collecting a use charge. The South Carolina plan, as it has been in operation for 40 years, could well have been the pilot project for the Federal Highway Trust Fund plan established by the Congress in 1956 to finance the construction of the Interstate System.

Statutory appropriation of highway use tax revenues for highway purposes is fine as long as there are no statutory inroads into these taxes for non-highway purposes, but you are well aware of past efforts to divert highway use tax revenues to non-highway purposes in times of tight State budget problems; and only because of outstanding highway bonds have such inroads been defeated. There are no highway bonds outstanding now against the gasoline tax and license fees and with the highway construction program being a continuing program, it is unwise to issue bonds except to provide funds for a workable coordination between construction expenditure requirements and tax collections.

We no longer operate upon the theory in vogue when the $65 Million Bond Act was passed in 1929 that the State would proceed with completion of the State Highway System and pay for it over the years. The "Ride Now, Pay Later" slogan - along with the other slogan - "Get the Farmer out of the Mud" - may have gotten the $65 Million Bond Act passed; but no one any longer thinks in terms of "completing" the highway system. We all know that it will never be completed, as such, as long as motor vehicle use continues to increase.

Two years ago the Highway Department made estimates of highway needs - 1965 to 1975 and 1975 to 1985 - and these estimates show our needs to be $3,474,590,000 for all highway purposes - construction, maintenance, law enforcement and administration - for this 20-year period which, incidentally, is some $500 million above the highway income in sight. (This assumes that the Federal-aid coming to the State from the Highway Trust Fund will not be reduced after 1972.) This estimate includes $2,243,990,000 for new construction; this $2-1/4 billion is about twice what we have spent on highway construction in South Carolina since the State Highway Department was created in 1917. Through January 31, 1969 we had spent $1,187,790,113.35 and about half of this was spent in the past ten years. In other words, our highway construction expenditures have been as much in the past ten years as in the whole preceding 42 years. The estimates in our 20-year Highway Needs Study were reviewed by the Moody Report and found not to be unrealistic. We are now operating under a 5-year construction program of $450 million and while that program is only slightly below the annual average needs of $112 million over the 20-year period, the Moody Report questions only the adequacy of the program; with this exception, the Moody Report supports the projected program.

Highway needs are a continuing thing and it would not be unrealistic to earmark all highway use tax revenues for highway purposes in even so enduring a document as the Constitution.

I would like to leave with you a brochure published by the National Highway Users Conference which has the constitutional amendments or provisions printed in it for all of those states which have anti-diversion provisions in their Constitution. This brochure contains the wording of an anti-diversion constitutional amendment suggested by the National Highway Users Conference, but I would sug-

gest that you may consider a widening concept of the highway budget. I would not go so far as the Moody Report of advocating an open-end highway budget concept where the highway budget would be called upon to finance what we believe to be non-highway purposes, such as truck service facilities, railroad marshalling yards, containerization facilities at state ports, etc., but we are seeing items included in our highway budget today which were not there yesterday. I refer to the expense of junk yard and billboard control, rest areas and information centers on controlled access highways, and relocation assistance payments to persons displaced by highway construction, etc. These are costs and expenses which should be included in the highway budget and the wording of anti-diversion constitutional provisions should take these things into account, and not limit the use of special highway use tax revenues strictly to highway construction, maintenance and traffic law enforcement, as indicated in the suggested anti-diversion amendment of the National Highway Users Conference.

Also, may I leave with you several copies of the Highway Needs Study brochure published by the Highway Department last year. A study of this material is convincing evidence that the highway budget is going to need every penny of revenue derived from the gasoline taxes and other special highway use taxes. There is a great need for a big highway expansion program immediately in urban areas in our urban transportation plans such as the ones we have already developed here in Columbia, and at Charleston, Greenville, Orangeburg and Rock Hill, and others to be completed at Spartanburg, Sumter, Anderson, Florence and Greenwood, etc. To carry out these urban transportation plans alone will cost over $800 million, or the equivalent of all of the revenue from the present highway use taxes going to the

Highway Department for the next ten years; and we need to get started on carrying out these plans now.

The present 750 mile Interstate System in South Carolina will cost about $600 million when completed and it is estimated that we will need in the next ten years some 500 more miles of 4-land divided rural highways in addition to the 750 miles on the Interstate System and the 500 miles we already have on other state primary routes.

There is little argument against the statement in the Moody Report that "the transportation system of South Carolina is a vital lifeline in the economic growth."

The highway user is now being taxed 'way beyond what would be his normal share of the general taxes collected by the State for the expense of the State government and this special and excess tax can only be justified by using the tax revenues for the benefit of those paying it. The retail price of gasoline in Columbia is, for instance, 33.9 cents and 11¢ of this price is State and Federal tax (7 and 4). The tax is a 52% rate on the filling station operator's selling price. I know of no other commodity which is taxed this heavily - except liquor - where we can accept an element of the high tax rate as a regulatory tax. None of the gasoline tax rate can possibly be classified as a regulatory tax to discourage consumption.

We appreciate the opportunity you have given us to present this request.

CHAIRMAN: Thank you, Mr. Crowson. The Farm Bureau has asked to be heard and Mr. Brooks is here.

MR. BROOKS: Mr. Chairman, we would like to show you a series of slides.

(Script accompanying slide presentation begins on page 12 of these Minutes)

Presented by Mr. Tom Warren.

_____, allow me to express our appreciation for this
Ladies and/or gentlemen

opportunity of meeting with you - and on behalf of Farm Bureau sharing with you a problem with which we believe you too are concerned.

****

Now, in case there is some doubt in your mind as to what Farm Bureau is ... let me explain briefly. Farm Bureau is a non-governmental, farm family organization representing producers of all commodities. The members make the decisions in Farm Bureau through the time-tested processes of debate, discussion and majority rule. It is the largest general farm organization in the world, and in 1969 - South Carolina Farm Bureau recorded an alltime high in membership of 30,260 families - or approximately 90,000 individuals.

****

Out voting delegates met in annual session on November 16, 1968 - and adopted policy for the year 1969. As good citizens and businessmen, they were concerned with many matters and developed policy concerning a great variety of issues. Their number one concern; however, was one which affects the economic welfare of all property owners in South Carolina, and which poses a rapidly increasing problem.

_____, we're greatly concerned over the matter ...
ladies and/or gentlemen

****

... of Property Taxation.

****

We're living in what is sometimes called the Jet Age ... and we rightfully point with pride to our swift modes of transportation, our modern conveniences of every-day life, and our up-to-date approach to the problems of business and 20th Century living. In the area of property taxation; however, we have bcome bogged-down

and continue to use methods of ...

****

the ox-cart days of years gone by.

****

Today, we want to point-out to you the seriousness of the situation faced by property owners; and emphasize the necessity of standardizing assessment procedure and equalizing taxes on property according to its use rather than its market value.

****

Maybe we were a little facetious in speaking of our present property taxation procedure as an "ox-cart" method - but the facts are that it has been the same for as long as any of us care to remember (going back to early statehood days), and the state constitution provides that property be assessed for tax purposes at its cash value. We're also faimilar with the fact that values of real estate and their subsequent assessed value vary widely from county to county - and are most often arrived at by rule of thumb formulas; sometimes inequitable and very often not up to date. In recent years, with the growing need for county revenues ... most counties ... or districts within counties - are considering or embarking on long overdue ad valorem tax reform. Farm Bureau favors true tax equalization, but ... the first and primary step is that the valuations be equitable.

****

Now, to get into proper perspective - here's where we are in South Carolina. The legal basis for the assessment and valuation of real estate in South Carolina is derived from the state Constitution. Article 3, Section 29, provides for the assessment at actual value and state: "All taxes upon property, real and personal, shall be laid upon the actual value of the property taxed, as the same shall be

ascertained by an assessment made for the purpose of laying such tax."

****

The General Assembly has grappled with the issue in years gone-by and has provided in Section 65-1648 the following: "All property shall be valued for taxation taxation at its true value in money which in all cases shall be held to be the price which the property would bring following reasonable exposure to the market, where both the seller and the buyer are willing, are not acting under compulsion, and are reasonably well informed as to the uses and purposes for which it is adapted and for which it is capable of being used."

****

Article 10, Section 1, of the Constitution, states, among other things - "The General Assembly shall provide by law for a uniform and equal rate of assessment and taxation, and shall prescribe regulations to secure a just valuation of all property, real and personal and possessory, except mines and mining claims, the products of which alone shall be taxed; and also excepting such property as may be exempted by law for municipal, educational, literary, scientific, religious and charitable purposes."

****

This presents a serious problem to property owners ... because as applied to properties in rural-urban fringe areas; this method of assessment results in valuations for tax purposes that are strongly influenced by sales of farmland for non-farm use. Land that can support a market value of no more than a few hundred dollars per acre in agriculture may be valued at several thousand dollars per acre for taxation; if nearby lands have sold for subdivisions or industrial purposes for that amount. The same thing applies to homeowners in such areas.

****

Now, although you're aware that as the state's largest general farm organization our primary concern is for the welfare of rural people .. here today, we're concerned with the matter of equitable property taxation ... as it affects both rural and urban citizens, regardless of their vocation. It's the principal we wish to explore with you, so, let's get down to some specific cases.

****

Consider, if you would, the plight of this family ... and many more in the same situation. They have operated this dairy farm - located in the proximity of one of our largest cities - for many years; and the farm is quite substantial in acreage. When this family purchased and developed this enterprise; it was located quite a ways from the city - but through the years industry and housing have moved continually outward, until now they find themselves almost encompassed by the city limits. They have done an outstanding job in the dairy industry, and would like to continue; but because of inequitable property taxation, their days seem to be numbered. Property here is now valued at something more than $2,500 per acre - certainly not because of its value for agriculture, but because ...

****

of a housing development located across a 4-lane highway on which the property now fronts ... plus industrial development in the neighborhood. Unless relief is granted soon, this family will in reality be forced off the land against their will .. because they cannot afford to pay property taxes assessed on such speculative values. On a nationwide average - property taxes have increased by 230% from 1945 to 1965 while farm income remained pretty much unchanged. In this specific area, property taxes increased 6 fold from 1964 to 1967.

****

Here's another example. This man works in a factory at a nominal wage - which incidentally has increased over the past several years barely enough to offset the increase in the cost of living. He moved away from the city several years ago in order to enjoy the peace and quiet of country living. He doesn't have access to city water, sewage, or garbage service - nor does he have children in public schools. He purchased 15 acres of land in a then rather remote area, built a home; and hoped to enjoy his latter years. Suddenly he had a rude awakening.

****

This modern artery of transportation - which we will use and enjoy - was placed directly in front of his home. Maybe unfortunately, the right-of-way did not touch his property; but the increase in property taxes did ... to the tune of a seven fold increase, none of which went to improve his property, but to provide a service for everyone including non-property owners as well. He doesn't want to sell or move; and he can't afford to stay. This gentleman has a serious problem, and it's not of his own making.

****

Here's another example. This stand of young timber is located near Columbia, and adjoins a modern highway. The owner of this timberland also faces a serious tax problem. Timberland, as an investment is faced directly with the problem of long term returns; and its product takes from 20 to 50 years in general to be a marketable product. Also, timberland, in general, probably yields the lowest return on land investment of any crop ... its greatest attribute being ability to produce with relatively small labor and management costs to partially offset the long-term high risk position it is in. I'm talking about the risk of fire, insects, and disease and the extreme difficulty in preventing their damages. This land ... just as the other property we just saw .. has a cash value of approximately $2,000 per acre ...

according to a recent appraisal. Of course, this value is not established on the basis of this land's ability to produce income or return ... but rather solely on the location of the property.

****

You see, there's a modern 4-lane highway passing through the property, and industry has moved continually nearer through the years. We know of instances in this same locality where taxes on timberland were increased 10 fold in one year due to a property reassessment program. Now, timber is important to the economy of South Carolina. Approximately 60% of our land is in timber, most of which is being put to its best use. The timber industry as a whole, represents the third largest industry in our state - and contrary to general public opinion, two-thirds of the timberland ownership is made up of small woodland owners. We can ill afford to cripple or destroy this vital industry through inequitable taxation. Now, while we're on the subject of timber, let me mention another point of concern. In March, 1967, the South Carolina Tax Commission issued a directive to all County Auditors and/or County Tax Assessors which said in part and essence - "... you are hereby directed in making assessments of land for the year 1967 and thereafter to give consideration in determining the value of such land, to timber or trees standing thereon. "An opinion fromthe Attorney General's Office upheld the directive; which of course, adds an additional tax burden to the timberland owner.

****

As stated earlier in this presentation, this is not a problem that addresses itself to rural property owners only. Urban property owners are affected in a like manner, and in many instances find themselves hard pressed to hold onto property which through re-assessment has been taxed at an increased heavy rate. It's

tragic to see established, solid communities broken up and offered for sale due to this burden. This contributes to the development of ghettos in our cities - and presents a situation which we should certainly avoid in South Carolina.

****

Urban homeowners are faced with the same problem of speculative property values as their rural counterparts ... when shopping centers and industrial parks are located nearby ... and market value becomes the basis used for taxation.

****

So, under the circumstances just related, what choices does the property owner have? Very few ... in fact, only two, and these are to seek a sale for his property; or try to hand on and seek relief through an amendment to the constitution of South Carolina as it relates to property taxation. To sell is not always an easy, desirable or profitable solution. Experience has shown that tax pressures are likely to lead to transfer of property to developers or speculators, often well in advance of actual conversion to business or industrial use and often with little regard to any long-range plan for land use or development. Also, besides the loss of productive capacity in agriculture, all of our citizens will suffer from the disappearance of ...

****

nature trails,

****

recreation areas, fields, woods and wildlife around our growing cities .... and the most sinister aspect of all is that we could eventually reach a situation where there is no longer the ability or desire on the part of individual citizens to own property. This might seem far-fetched and dramatic at present; but ladies

and gentlemen, it has happened in other countries - and history also shows that when individual property rights are destroyed, the destruction of human rights follows very soon. We cannot allow it to happen here.

****

Of course, this problem of property taxation is not one which is peculiar just to South Carolina. All states have faced similar problems, and at least 16 have taken action and made provisions for a more equitable method of taxing property. With the increasing number and variety of state laws in this field, it is difficult to try to categorize them; but in broad terms, we can distinguish three general approaches. They are -

1. Use value assessment
2. Deferred tax
3. Restrictive agreement

****

The Maryland Law is a good example of the Use Value Assessment Law. In 1960 the Maryland legislature proposed a constitutional amendment (which was approved by a large majority of the voters) and passed a law providing for Use Assessment. The law says in part ... "lands which are actively devoted to farm or agricultural use shall be asssessed on the basis of such use ... it being the intent of the General Assembly that the assessment of farmland shall be maintained at levels compatible with the continued use of such land for farming and shall not be adversely affected by neighboring land uses of a more intensive character." The Act further provides that the State Department of Assessment and Taxation shall establish criteria for determining whether lands are in fact bona fide farms and qualify for this type assessment.

****

The law in Florida is similar and the Alaska law appears similar as well. Laws of the same nature are also on the statute books of Delaware and Iowa, plus others including Indiana and New Mexico.

****

Several states - including New Jersey - use a modification of the Use Value Assessment Law, which is entitled the Deferred Tax Plan. Under this type of law, the assessor determines two values for the property each year. He determines the agricultural value and the tax levy for the year is based on that value. In addition, however, he determines and records the full valuation of the property - or, the value that would have been used for tax purposes in the absence of the Use Value Assessment provision. When the property passes into non-agricultural uses, the difference between the taxes that were actually paid and the taxes that would have been paid in the absence of the special provision is collected. This is commonly called a roll-back tax and is levied for the year in which the land use changes - and the 2 years immediately preceding - in the state of New Jersey. Texas and Minnesota have similar laws with a 3 year rollback, and Oregon has one with a five year roll back. The effect of such a provision is to remove much of the financial incentive for an individual who is holding land for relatively near-term urban use to apply for the differential assessment. Another advantage claimed for the rollback tax is that it provides additional revenue at exactly the time when it is needed for new schools, sewer extensions, and so forth.

****

Several states - for which Hawaii is one - have met this problem of equitable property taxation by permissive legislation, allowing the local government and the landowner to enter into an agreement under which the

landowner agrees to keep his land in agricultural use for a period of five or ten years into the future, and in return is granted assessment on that basis. In Hawaii, the agreement or contract is automatically renewable indefinitely, subject to the cancellation by either party on five years notice at any time after the fifth year. In other words, the landowner initially ties his hands for ten years, and always has his hands tied for five years into the future. If he fails to observe the restrictions on use of his land, all of the difference between the taxes that were paid and those that would have been paid under the higher use, back to the time of the initial petition, becomes due. Five percent interest is charged. This method falls under the broad term of restrictive agreement, contracts and easements ... which is designed to reduce speculation in land properties. The laws in Pennsylvania and in California differ in some respects, and the California law is much more complicated; however, their effect is similar. Pennsylvania requires a five year covenant, automatically renewable every year. California uses a 10 year automatically renewable agreement, and the law has seen extensive use. Unofficial estimates indicate that nearly two million acres were covered as of early 1968.

****

This then is the spectrum of approaches to differential assessment of property; and the pressing question here today is - "Are we going to correct the inequitable situation in South Carolina before it reaches a disastrous stage; or shall property owners be penalized until we reach a point at which the ability or incentive to own private property is lost? If we're going to correct the situation - the question is then - <u>when and how</u>. Our leadership has studied

and discussed the matter in depth, and we believe that a combination of the aforementioned approaches would best serve the interest of the citizens of South Carolina. It is our recommendation that we pursue an approach similar to the New Jersey plan with some modifications. We recommend that land be assessed for taxation on the basis of its use and that a five year roll back provision be included in the plan. As to timber lands, we recommend that it be assessed and taxed on the basis of the land; productive ability or use; and if necessary, a reasonable severance tax be applied to the timber product at the time of harvest.

****

Now, in order to set the record straight, Farm Bureau is not opposed to Property Taxation, nor Tax Equalization Programs. Policy for 1969 states - and I quote in part - "We shall support a genuine tax equalization program in any county where after full understanding is developed, a majority of the people in that county desire such a program. We oppose any move to establish a new assessment or re-evaluation program on property taxes in South Carolina under the guise of equalization that promises in any instance, in our judgment, to raise the proportionate share of taxes being paid by homeowners as compared to other groups ...." Ladies and Gentlemen, in districts and counties where re-assessment programs have been completed, property owners have been penalized ... in some instances, very severely. Let me hasten to say; however, through no fault of local assessment boards - since they have any other choice to abide by present law.

****

Now, we certainly realize that as our population expands there is a need for greater local government services and for the revenue to pay for them.

Property Tax, however, is not the only source of revenue - as it was in our early days of statehood when we were a rural state, and property represented our primary tax base. Property owners want to pay their fair share; but since the majority of our citizens enjoy the fruits of business and industry; and our economy is becoming more and more based on industrial enterprises; property owners feel that the time is past due - when there should be a true tax equalization with everyone paying a proportionate share of the bill.

****

The problem of ad valorem taxation in South Carolina is acute. This was recognized by the South Carolina General Assembly during their last session, and two independent studies were initiated. By House Resolution, the Tax Commission was directed to study the question and to make recommendations to the House at the beginning of the 1969 session. Additionally, by concurrent Resolution a committee was established to study the matter and to report to the General Assembly. That committee is composed of two members of the Senate, two members of the House, the Chairman of the Tax Commission, the President of the Treasurers and Auditors Association and the State Treasurer. Now, the Tax Commission and the Special Tax Study Committee have been diligent in their efforts and studies to find a solution to the problem.

****

Many meetings have been held over the state, and many hours have been spent in discussing solution approaches.

****

I think it safe to say that interest on the part of the property owners of South Carolina is at an alltime high over this matter, and they are seeking for an answer, but however, when all is said and done,

****

we come back to the Constitution, and its mandatory provision that all property be assessed at its actual value and that all property be equally and uniformly assessed and taxed; and must therefore, conclude that the only answer lies in a Constitutional Amendment.

****

So, ladies and/or gentlemen, we have no intention of belaboring the point this evening; but in order that we the people as a sovereign state government -

... preserve our agricultural productive capacity

... preserve our open spaces for recreation

... pursue orderly development of our land resources

... preserve the individuals desire and ability to own property, and

... maintain justice for all,

we have respectfully requested...

****

... that the South Carolina General Assembly act during this session, by enacting a resolution proposing to the people of South Carolina an amendment to the constitution of the state - relating to property taxation - to the effect that property be assessed for the purpose of taxation on the basis of the value of its use, rather than its cash market value. We have pledged our total resources, efforts, and support in gaining understanding among the citizenry of our beloved state as to the necessity of such an amendment. We feel very deeply that this is vital to the future of South Carolina and its citizens; and sincerely covet your assistance in every way possible in achieving fair taxation of property for everyone.

****

Again, thank you for your presence and kind attention.

CHAIRMAN: Thank you, Mr. Brooks. Mr. James from the Council on Human Relations has asked to be heard. We are happy to have you with us.

(Mr. L. S. James' statement follows on page 26 of these Minutes)

March 5, 1969

STATEMENT TO THE COMMITTEE ON CONSTITUTION REVISION

By L. S. James, Director of Rural Advancement Program of The South Carolina Council on Human Relations.

Mister Chairman and Members:

I am L. S. James, Director of the Rural Advancement Program of the South Carolina Council on Human Relations. Our organization is non-partisan. We are in constant touch with many of the citizens of 38 counties in South Carolina in the central and lower parts of the state.

This means that we are in contact regularly in many ways with 600,000 of the 831,000 Negroes living in the coastal section of our state. From them we get the impression that they feel no one should be denied his right to his greatest opportunity as a free citizen to vote. We sense their general feeling is that the right to vote is a right of a free citizen and not a privilege. Therefore, this right should not be abridged by providing restricting qualifications which could be administered in a discriminatory manner. Even though a compulsory school attendance law will help to produce a more literate voter in the future, the ability to read and write is not felt to be a test of whether or not the voter is informed, when we are in an age of radio and television which provides information about candidates and issues.

To apply literacy requirements is a way of penalizing the illiterate for his educational condition for which he is not responsible. This is similar to criticizing a slave because he is a slave when the responsibility for his slavery is not his own. The state should accept the responsibility and see to it that no citizen is denied the right to vote because he can not read and write. The state of Maryland has a very large Negro popu-

lation, but I have never known them to penalize their illerates by keeping them from exercising their right to vote.

The Negroes have enjoyed exercising their right to the use of the ballot every since the 1965 Act of Congress was passes which made it illegal to deny them voting privileges by use of literacy tests. To revert back to the use of the literacy test will make our total Negro population very unhappy. The last census shows that the net migration of blacks from 1950 to 1960 out of South Carolina was 218,000, while during the same time, only 4,000white migrated. We are sure the state would like to make our Negro population feel more content and encourage some of those who have left to return.

The records show that black elected officials in the southern states reached an all-time high of 388, distributed as follows: legislators 30, city officials 152, county officials 54; law enforcement officials 81, and school board officials 71. This is a very good way to help stop out-migration from southern states which has reached an all-time high of some 4 million Negroes in our generation. The Negroes in South Carolina want to keep their right to vote so that they can get more black elected officials in all branches of our state government. This power of the ballot gives them a feeling of pride in citizenship.

From:
VOTER EDUCATION PROJECT
Southern Regional Council, Atlanta, Ga.

BLACK ELECTED OFFICIALS IN THE SOUTHERN STATES

	ALA.	ARK.	FLA.	GA.	LA.	MISS.	N. C.	S. C.	TENN.	TEXAS	VA.	TOTAL	
Legislators													
State Senate				2					2	1		5	30
State House			1	12	1	1	1		6	2	1	25	
City Officials													
Mayor	3	4			1	1		1				10	
City Council	28	10	15	6	13	7	11	15	8	10	18	141	152
Civil Service Board			1									1	
County Officials													
County Governing Board	2		1	5	11	4	1	4	5		2	35	
County Administration	1			1		1					1	4	54
Election Commission						15						15	
Law Enforcement Officials													
Judge, District Court							1					1	
Sheriff	1											1	
Coroner	1					1						2	
Town Marshal					2							2	81
Magistrate								4	4			8	
Constable	6		1		8	5			3			23	
Justice of the Peace	20	3			8	10			1		2	44	
School Board Officials													
School Board Members	5	33		3	9	6	4	2	1	8		71	71
TOTALS	67	50	19	29	53	51	18	26	30	21	24	388	388

Chart prepared as of information on hand January 10, 1969.
In Tennessee one man serves both as State Representative & City Councilman.

CHAIRMAN: You're mighty kind to come and be with us. Thank you.

(Mr. Tom Linton of the Legislative Council also appeared before the Committee, but due to the lack of time, it was agreed that the Staff Consultant would meet with Mr. Linton and hear his suggestions.)

There being no further business, the Committee adjourned at 5:20 p.m.

W. D. WORKMAN, Jr.
Secretary

Nettie L. Bryan
Recording Secretary