

1969

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

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MINUTES

The Committee to Make a Study of the Constitution of South Carolina, 1895, met on Tuesday, April 1, 1969 at 3:00 p.m. in the Senate Conference Room, Columbia, South Carolina.

The following members of the Committee were present:

Senators -

Richard W. Riley
E. N. Zeigler
John C. West

Representatives -

J. Malcolm McLendon
Robert L. McFadden

Governor's Appointees -

T. Emmet Walsh
W. D. Workman, Jr.
Sarah Leverette

Staff Consultant -

Robert H. Stoudemire

CHAIRMAN: We've had a request on a group who wish to be heard on the question of 18 year olds voting. We asked them to be here at 3:00, but we haven't seen them. That's the only group we have coming in. Bob, do you have any preliminary statement or should we get right into the agenda. At our last meeting we stopped before any final determination was made with respect to the property tax.

MR. STOUDEMIRE: The way we have it now is that all property subject to taxes shall be uniformly treated and uniformly assessed and no classification, no separation and so on. Then we have listed some exemptions. Further, we have permitted the General Assembly to add to the exemptions by uniform law applicable throughout the State. Within this, I don't think there would be grounds for the General Assembly to permit some of the requests that were made. As I see it, the question is do we stick with our position as now stated or do we get into some other type of statement.

MR. ZEIGLER: Mr. Chairman, does this include the proposition of the Farm Bureau?

MR. STOUDEMIRE: The way I see it, the Farm Bureau's proposition could not be met under the existing wording.

MR. WORKMAN: Nor could the Sterling Smith proposition. Smith said that the wording that we now have in the draft, as to uniformity, would mean that if they got around to taxing intangibles, for example, that intangibles would be taxed at exactly the same rate as manufacturing properties or rail lines or anything else. He thought that would be a horrendous development. The language we have now says that all types of property shall be assessed uniformly. My thinking is that the

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consensus of the Committee is that there be no classification so that all property, intangible or otherwise, all types of property, would be assessed and taxed uniformly, but the inclusion of the word "types" in our language conceivably could lead to an interpretation that a type of property would be an intangible. That all intangibles would be uniformly assessed and taxed and that all real property would be uniformly assessed and taxed. The matter to be decided is whether we want to keep that word "types" in there if it be the decision of the Committee to make everything uniform.

CHAIRMAN: I might point out that on the Senate floor this morning Senator Lindsay commented on the report of his Committee which was filed of use and tax sources. In his oral comments, he seemed to lean right heavily on an intangibles tax in lieu of the additional increase in sales tax. As I understand it, under the North Carolina system, the intangibles tax is a varying rate. If we kept the present position, we couldn't have an intangibles tax?

MR. STOUDEMIRE: They could be totally exempt or totally taxed. As I see it, there are three possibilities. As we have it now, uniformity; two, would be go back to classification and number three, just a broad statement to the effect that the General Assembly shall provide for equitable and fair taxation of property. Then you could go ahead and list your exceptions. That means they could not tax what you've exempted.

MR. WORKMAN: How about reading what we've got?

MR. STOUDEMIRE: "All real property and all personal property shall be subject to ad valorem taxes unless exempted by this Constitution or by law. All types of property subject to taxation shall be assessed uniformly throughout the State and all assessments shall be based upon actual value."

MR. WORKMAN: I can defend the position by saying that "all types", that this opens it up to classification. That farm land could be considered a type of property. Intangibles could be considered a type.

MR. ZIEGLER: I don't believe you could say farmland is a type of property.

CHAIRMAN: We got a letter from Dr. Auld. He recommended in a letter to the Committee that the Constitution should simply provide that the General Assembly shall provide by law for a fair and equitable system of taxing property. That's his judgment.

MR. WALSH: The March issue of a booklet entitled "The Nation's Cities" is an excellent compilation of the tax problems of municipalities in the United States. The United States Congress has had a special committee studying this. They have concluded that the number one requirement for saving the cities is going to the sort of system that Sterling Smith talks about. It may well be that we ought to go to something like Dr. Auld because you've got a real problem.

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CHAIRMAN: Very frankly, my thinking has changed somewhat. I believe I was on the majority originally to keep this more or less as it was, but after consideration and thinking it through, I'm inclined to think Dr. Auld's suggestion is the one that best suits my thinking.

MR. WALSH: Certainly, if you're going to say you can tax intangibles all alike, it would rule out any effective intangibles tax.

MR. McFADDEN: Is it the understanding of the Committee that this present proposal, for example, would permit the General Assembly to exempt motor vehicles from the property tax and substitute some other system or form of taxation.

CHAIRMAN: That would be permissible under the present--you could exempt a whole class of property.

MR. STOUDEMIRE: If it were done uniformly throughout the State. As I look to the future, if you say "all property shall be taxed" then if the old people make a homestead plea, if the farms around industrial areas make a plea, then I don't think our current wording would allow these pleas to be handled. It comes to the question of whether you want the wording so that whatever may be a strong issue five years from now could be handled.

MR. McLENDON: That could be done under Dr. Auld's suggestion, but not under our present language.

MR. STOUDEMIRE: As I look at our Constitution now, except where court cases are brought, our current provisions protect nobody. They are known for not being enforced. It could be that the words "fair, equitable, reasonable" or whatever you might come up with would be the clue.

MISS. LEVERETTE: Would Dr. Auld's suggestion under the fair and equitable wording--you are saying you would assume that that would lend itself to an interpretation for uniformity within groups. It would put the burden on the General Assembly to set it up, but you still would be protected under due process.

MR. STOUDEMIRE: You could say that "the General Assembly shall provide for a fair and equitable system of property taxes whereby the same class of property is treated uniformly". I see where you could word it so that you could specifically bring in--

CHAIRMAN: Is there any objection to changing this to something like the Auld thing?

MR. WORKMAN: There ought to be latitude for the Legislature to deal with the taxation of types of property--whether they plan to do it now or later, but we have got such a divergence of holdings the Legislature should have some discretion as to how they are going at it. There's a right valid argument with respect to intangibles, that if a man owns stock in a corporation, its principal holding is a manufacturing plant, that that manufacturing plant has paid its property taxes on the assessment of the plant, then the intangible stock which reflects

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ownership of the plant are again taxed which is a form of double taxation for the major holding of the corporation. I would favor, not in the Constitution, so restricting the Legislature that it could not make certain adjustments, depending on the type of property that it sought to tax.

MR. WALSH: In connection with what you have said, I think Pennsylvania has a system similar to that. If you own stock in a corporation which has invested so much money in physical facilities in Pennsylvania, there is no intangibles tax on that stock. If you own stock investments in Alaska, you pay a small tax each year.

MR. WORKMAN: North Carolina has a modification of that.

MR. WALSH: Apparently, it has worked fairly well. It has not caused any real problems. It is reasonable enough so that it doesn't have any adverse effect.

MR. WORKMAN: What is Dr. Auld's wording on that?

CHAIRMAN: "The General Assembly shall provide for a fair and equitable system of property taxation".

MR. WORKMAN: I would be inclined to go in that direction. If it be necessary to put any safeguards in, giving the individual taxpayer the right to make his case on the basis of equity to get into the courts or get into appeal on that so that he's not just caught up within some arbitrary tax commission ruling. He's got something in the Constitution to lean on, that he can just say that this is not equitable, that this is discriminatory.

MISS LEVERETTE: That's why I was wondering if this general wording would do that.

MR. WORKMAN: Mr. Chairman, I would move that the wording that we have in Section A, under VI, Finance, Taxation, Bonded Indebtedness be modified so as to make the General Assembly responsible for the taxation of properties and it be worded in such a way as to insure uniformity of treatment of persons within a given category.

MR. McLENDON: I prefer that to us making a decision or recommending it because the General Assembly will have more opportunity to study each detail connected with the tax program.

MR. WALSH: I'm inclined toward that way, too.

MISS LEVERETTE: This provision, too, would have the effect of doing what a Constitution is supposed to do. It would give some flexibility and would allow for changes in the economy and so on.

CHAIRMAN: Those in favor, signify by saying aye. Opposed, no. The ayes have it.

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MR. STOUDEMIRE: Let me ask you gentlemen a few questions. I assume, then, that you are still interested in "assessed uniformly throughout the State within a class". Are you still interested that whatever the class may come out to be, that the value within that class would be based on actual value--doesn't necessarily have to be 100%?

MR. McLENDON: That's the only yardstick.

MR. STOUDEMIRE: Now, you would like to continue the exemptions--in other words, this would say that the General Assembly has the right to do, but it cannot get into these things that are Constitutionally exempt. All right, then according to our general exemption that by general law throughout the State, the General Assembly could establish additional exemptions which would not be within any of the classes.

MR. WALSH: Somewhere in there it should be affirmatively stated that this be a fair, equitable and reasonable taxation applying to all people in similar circumstances and situations.

MR. WORKMAN: The one thing that I'm a little afraid that we can't get into--instead of saying that assessments would be based on actual value, that assessments would be at actual value so that then the variation would be in millage.

MR. McFADDEN: You're talking about actual value in relation to business and commercial property without regard to depreciation that ordinarily enter into the tax picture.

MR. WALSH: The actual value, as defined by State law, is what a purchaser will give and a willing seller will take.

MR. STOUDEMIRE: Mr. Chairman, I would assume that we would try to draft this thing and if we are not anticipating any other meetings--I'm assuming that this issue is so important that all members ought to be circularize with a draft and given an opportunity to o.k. it or to make suggestions and if there are enough suggestions, we may end up with a second circularization.

CHAIRMAN: All right, let's take up the next item. "Determination of the wording of Section K, Article VI relative to imposition of taxes by the county for "municipal type purposes."

MR. STOUDEMIRE: What we've said there is that if you levy a tax--it now only applies to bonds. If you issue bonds for the benefit of a certain area, the people in that area have got to pay off the bonds. Now, some people say that there ought to be a broader--

MR. WORKMAN: Let me read what this says, "Restrictions on counties to issue bonded indebtedness when services not county-wide. No law shall be enacted permitting the incurring of bonded indebtedness by any county for sewage disposal or treatment, fire protection, street lighting, garbage collection and disposal, water service or any other service or facility benefitting only a particular geographical section of the county unless a special assessment, tax, or service charge in an amount

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designed to provide debt service on bonded indebtedness or revenue bonds incurred for such purposes shall be imposed upon the area or persons receiving the benefit therefrom." In other words, it links the amortization of the bonds directly to those people who benefit by the improvements in these specified areas of fire, water, sewage, garbage and so on.

MR. WALSH: Where in here do we say that the counties can now do these things which they cannot now do?

MR. STOUDEMIRE: We took out the restriction that they could not.

MR. WORKMAN: We didn't limit county purposes. Now, the argument, as I recall from the last meeting, is, if we agree that this is proper insofar as bonds are concerned, will it not be also proper insofar as taxes are concerned?

MR. STOUDEMIRE: As I understood it, there was no disagreement in the Committee that divisions of the counties ought to get on with fire protection, garbage and etc., but that if it is going to do this, that it ought to be countywide or, if it is going to do it for a certain area, then that area should pay for it, without the countywide tax.

MR. WORKMAN: And I raise the point, not with respect to garbage, but with respect to services like water that it might well be to the benefit of the county to establish a water system which certainly, initially, might benefit a particular region, but that that would be a proper county function. This, in my judgement, would tend to create special service districts which is just what we are trying to get away from.

CHAIRMAN: Let me pose a question that arises. Suppose you've got a 200 million dollar industrial plant which proposed to locate in a certain section of the county provided you run water and sewage facilities there. Under this section, wouldn't you have to limit the tax necessary to pay those bonds to that particular section?

MR. WALSH: Mr. Chairman, you're overlooking the fact that it's an economically feasible thing to furnish that plant with electricity.

CHAIRMAN: I'm not arguing the question yet. I'm simply asking if this would prohibit a rather common situation.

MR. McLENDON: In Marion County, for instance, we have a candy company and somebody else and it's situated in school district number one and for each one of these industries, we have appropriated and illegally used, in each instance, \$100,000.00 of county money. The other three school districts are being taxed to pay back that \$200,000.00 and the only equitable way we found to distribute the taxes from this thing is that we are trying to give back to the other three districts, out of county taxes, their proportionate amount of that contribution in taxes over the years. So, incidentally--they're getting a benefit, but we ought not to be limited in the county to doing that sort of thing because it helps every person in Marion County.

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MR. STOUDEMIRE: Did you borrow the money?

MR. McLENDON: No, we just appropriated it out of the county funds.

MR. STOUDEMIRE: Have we reached a good compromise here? This thing says that if you borrow for a special area, the special area must pay. That gives a good deal of protection. On the other hand, it does allow a direct appropriation.

MR. McLENDON: If we'd followed the law, we would be almost 3200 employees less. If we had followed the law in the last seven years in Marion, we wouldn't have had either one of the fifteen plants that we've gotten there in the last seven years. There ought to be some way that we can do this legally.

MR. McFADDEN: Mr. Chairman, where there's borrowing involved under the Bonded Indebtedness provision--the first check on that the way this draft is now set up--that's got to be voted on by the people involved.

MR. STOUDEMIRE: Not if it is within three times the average tax collection.

MR. McFADDEN: But you don't have a tax collection for a new purpose, so you would, initially, have to have your vote.

MISS LEVERETTE: Do you think, Mac, that under this last, "shall be imposed upon the area or persons receiving the benefit therefrom"--is it stretching your imagination too much to think that an interpretation of county-wide benefit could be placed on that?

MR. WALSH: What is more important than food? Garbage disposal, electricity, butane gas, pans to cook in are fundamental to living. Seventy-five percent of the people are going to live in about four areas fifteen years from now. The trend is sharp towards that end. We've got to think of taking care of those large groups of people. If you're going to put a tax on half of those people who are now paying and getting those services and have paid for it over fifty years, then you're going to force them to de-incorporate and turn over all their services to the county. They couldn't live otherwise. There would be no financial way to live. I think any time you take tax money and give it to private industry, it's a bad purpose.

CHAIRMAN: I doubt that there has been--certainly, over half of the industries that have located in South Carolina in the past ten years have had some sort of concession that under a strictly legalistic theory would probably not hold up.

MR. McLENDON: That system can't be all bad.

MR. WALSH: I don't think there is any question that these things are good. At the same time, we have got to think about the fact that you are going to put it in here in the hands of people to discriminate against one-half, or more, of your people and, within fifteen years, two-thirds of your people. You're doing it against people that are

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now having the most difficult problems. You've got more slums in the City of Spartanburg than you've got in the county.

MR. WORKMAN : Your point is that people who reside in a city have, over the years, provided these services for themselves, at their expense. Now, they are required not only to maintain that, but to provide similar services, to extend services to other parts.

CHAIRMAN: This is sort of a middle ground on this theory, that it leaves to the discretion of the present officials the right to spend current appropriations, but if they're going to bind future administrations in the form of a bond issue, it's illegal. If the people don't like the way their elected officials govern them, then they can refuse to re-elect them.

MR. WALSH: That's impossible because there is not a single county in this State in which a single senator, except Richland, can be elected by the people who live in a municipality. You have no representation in the General Assembly direct from the municipality. I would have no fear about it if you say that every incorporated municipality could elect one senator. Let them elect three of the representatives, I would have no fear about it at all.

MR. WORKMAN: I predict that that is coming because the extension of the one man, one vote--the ultimate of that has got to be districts in which there is one representative per district.

MR. McLENDON : Mr. Chairman, is our present violation, which is prevalent in every county, a violation of the county purpose doctrine?

CHAIRMAN: That's my understanding.

MR. McLENDON: If you put this in here, and the present trend continues, and the delegations are made up of the same people for another six, or seven or eight years--if they haven't been deterred so far, this isn't going to deter them.

MR. WORKMAN: The only out that this provides, as Sarah indicated a moment ago, it permits the argument that the benefits are county-wide in effect. "...shall be imposed upon the area or persons receiving the benefit therefrom."

MR. McLENDON: I'm willing to leave it like it is.

MISS LEVERETTE: Although I don't think that is what we intended.

CHAIRMAN: Is there a motion that we keep this as it is or that we change it?

MR. WORKMAN: This is about as close to a compromise of the situation.

MR. McLENDON: We fought this out once before and came up with this language.

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MR. WALSH: I just want the record to clearly show that I think that if we leave it in this Section that we will, for all effective purposes, require the destruction of municipal governments in this State. There would be no economical basis on which they could continue.

MR. McLENDON: How would you suggest it be changed?

MR. WALSH: I think you're going to have to do what Huger says, either put another Section or change it to say, "no tax can be levied or bond issues". I think you can still do what you're talking about. Do it legally. I don't think that would prohibit doing exactly what you're doing. I think in instances in which some big industrial plant is of such a large significance to the county that it could be interpreted to have a full county benefit.

MR. WORKMAN: Emmet, there is one point that you overlook. When an investment is made by a county, either through tax exemption or issue of bonded indebtedness, as in the case of Marion County, the tax load for ordinary county purposes becomes shared over a broader area and the burden of supporting the county, is contributed to by an installation that didn't exist prior to this expenditure, therefore those persons in Marion, Mullins and elsewhere who would be required to pay "x" mills to support the county now pay "x" minus because of the contribution made by this new establishment.

MR. WALSH: So far as the expenses of general government, you're absolutely right on that. I'm talking about water and electricity. We've got dozens and dozens of publicly owned water companies in the United States. We've got municipally owned, county owned and publicly owned gas companies. We've got public garbage collection people. These are all services which are basically just as essential to living as food and when you say that one group of people is going to have to pay for those things for another group of people, you're creating burdens that I don't believe we ought to create.

MR. WORKMAN: Your feeling is that this ought to be enlarged to include taxes as well as bonded indebtedness?

MR. WALSH: Yes. These are services we are talking about. We're not talking about police powers. We're not talking about keeping the records in the courthouse or keeping the health records. We're talking about a service, any one of which directly benefits the man who receives it, without which he cannot live.

MR. WORKMAN: You've got another argument in the language here we've overlooked. We say "...service or facility benefitting only a particular geographical section of the County..." This would tend to negate my argument that the whole county would be benefitted, and under that, I would be inclined to go along with the tax bit.

MR. WALSH: I think you have a good point there.

MR. WORKMAN: Well, the issue evolves itself into whether or not we add the tax equivalent to the bonded indebtedness.

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MR. McLENDON: "for special services benifitting only---".

CHAIRMAN: Those in favor of keeping it as it is, raise your hand.

MR. WORKMAN: Let's vote first on the inclusion of the tax feature.

MISS LEVERETTE: Let me ask one thing, Bill, in connection with what you're talking about. You've got these two sections in here, "...only a particular geographical section..." and then "...upon the area or persons receiving the benefit therefrom". It's conceivable that this wouldn't be applicable at all if it benefits the whole county.

MR. WALSH: I move that we re-word this so as to include taxes in the special services, as well as in the bonded indebtedness.

MR. WORKMAN: Here, again, you have got a problem, Emmet. We say here "No law shall be enacted permitting the incurring of bonded indebtedness by any county..." As to taxes, you don't have to enact a law.

CHAIRMAN: Just levy a tax.

MR. WALSH: Everything we have named here is a thing that you could show would directly benefit the man. If he's got a fire truck, his insurance is down.

CHAIRMAN: Now, you've got "...or any other service or facility benifitting only a particular geographical area...". A very common thing is for a county to extend a water line to a new plant or sewage disposal. I don't want any confusion about it. Are we either permitting that or are we prohibiting it? What position are we taking? That's going to come up the first day this new Constitution is in effect.

MR. WALSH: Of course, it's prohibited now.

MR. WORKMAN: It's a question of the benefit..

CHAIRMAN: Whose discretion are you going to leave it to? Can the General Assembly determine or is every case a court test as to whether there's a benefit to a particular area that allows a county expenditure and a countywide tax?

MR. WALSH: Every situation now is a court case. I would say that two-thirds of them could be court cases. I think that's what you have to look after, too.

MR. STOUDEMIRE: But the court on those things has been clear.

MR. WORKMAN: This is a new provision. Why is it in there?

MR. WALSH: It's in there because we felt that if we were going to permit counties to do all of these things that there ought to be some restriction on them.

MR. WORKMAN: This, then, is, in effect, filling in a void that was left by the elimination of the county purpose.

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MR. STOUDEMIRE: It is a recognition that a county could perhaps collect garbage from four different areas, but that the city shouldn't be caught with buying the garbage truck.

MISS LEVERETTE: I think that when we undertook this, we were thinking in terms of services to communities, to areas and weren't thinking in terms of the industrial aspects of it and the question is whether or not it's going to apply. It doesn't look like it to me.

MR. WORKMAN : Your feeling is that this should be included as is, plus tax.

MR. WALSH: On these services. This wouldn't really be doing any more than a special service district is doing now.

MR. STOUDEMIRE: Could you add another sentence, "Services necessary to service an industrial establishment benefitting the whole county may be exempted from this proviso"?

MR. WALSH: It would certainly be all right with me. I question whether something like John was talking about would be restricted under this.

CHAIRMAN: It seems very clear to me that it would be.

MR. RILEY: What was your suggestion, John?

CHAIRMAN: I simply raise the question, Dick, that it is a common practice for counties or municipalities, in some instances, to run sewage and water facilities to new industrial plants. Sometimes running a water main for some distance. Under this provision, that would clearly be unconstitutional if any bond money were involved because the bond service would have to come from the particular geographic area served and that might well be the industry itself, only. If you go one step further and put in Emmet's other suggestion, that would mean you couldn't spend any money for any industrial project like that. That may be a good thing. I just want to point it out that it certainly isn't in accord with the present policies and thinking of South Carolina. In theory, it's hard to argue against it, but in practice it sure doesn't hold up that way.

MR. RILEY: The State law is interpreted, as I understand it, that in these sub-districts for water or sewer or things that could pertain to health, welfare and so forth, that they are permitted. Is that right?

MR. WALSH: In special districts. This would enable county government to do the same thing in a given area without creating a separate governmental unit.

MR. RILEY: Right now Wade Hampton Water and Sewer district can sewer such and such a street without nobody else getting any benefit, the general thinking being that the whole district benefits by it in that the plan is ultimately to sewer the district. Could the county not do that?

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MR. WALSH: The county could do it under this.

MR. STOUDEMIRE: It can't now.

MR. RILEY: I know they can't do it now, but could they do it here?

MR. WORKMAN: If they levied a tax on that area.

MR. WALSH: If you had this provision, the county government would determine that a particular area needed sewer and in furtherance of that plan; they'd develop a sewer plan. They would then borrow the money and lay the trunk lines and then each person who wants a lateral would pay a connection fee for that lateral.

MR. McLENDON: We have a whole area of the county which must have a thousand club houses in it and between Thursday morning and Friday night and the county of Marion goes in there and works the roads and provides garbage collection for them and we build a landing for the boats and on Saturday morning there isn't a soul down there to tax. The county does it because of the general recreational area that's involved. How are you going to get money out of Britton's Neck to pay a tax on a garbage district down there when there're not but a 100 taxpayers in the whole district and the county pays it because everybody in Marion and Mullins goes down there to recreate. You've got a recreational area with sewage, water and garbage disposal. It's a great asset to the county.

MR. WAESH: We've been arguing about a Constitution that nobody has ever followed since 1895.

MR. WORKMAN: Mr. Chairman, I move in the interest of progress, because this, to me, represents a compromise in the sense that the incurring of indebtedness for this special service district would require an assessment against the people receiving the benefit, I move the acceptance of the section as now drawn.

CHAIRMAN: Those in favor of the motion, raise your right hand. Opposed. Looks like we overruled Emmet this time.

MR. RILEY: Mr. Chairman, I do want to be on record as opposing any change in Section A.

CHAIRMAN: We have just changed it.

MR. RILEY: I'd like to be recorded as being in very serious opposition to it.

MR. ZEIGLER: What's your reason for your opposition to it?

MR. RILEY: I just don't want to get this particular thing in the General Assembly for discussion--it's so easy for this group or that group to influence something like that. If we change the present method, it would be completely detrimental to our local government in the metropolitan area with particular emphasis on the slum area.

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MR. WORKMAN: We again come back to the fact, which is the crux of the whole situation, that if the present Constitution were adhered to, we wouldn't be facing this situation.

MR. McLENDON: That's right.

CHAIRMAN: Well, if we finish in time, Dick, we'll be happy to go back, but we do have an obligation to finish here. Section (c). "Clarification of several points in the judicial article, mainly related to the unified court concept."

MR. STOUDEMIRE: Very briefly, our original decision was that we would have a limited unified court, and I've checked the records carefully, going down and including the magistrates court and including the probate court, family court and so on. The wording of Section A comes from Sarah. "The judicial power shall be vested in a unified judicial system, which shall include a Supreme Court, a Circuit Court", now pick up your verb again, "which shall also include such limited courts of uniform limited jurisdiction as may from time to time be established by general law."

MR. McLENDON: Under that, the traffic courts could be there.

MR. STOUDEMIRE: The traffic court can come under if the General Assembly prescribes. Does the Committee really intend to make the unified court go down through the magistrates? That's the question we need to know.

MR. WORKMAN: It was the recommendation of a few members of the House Judiciary Committee that it do include magistrates. They wanted virtually all courts, including traffic courts within the unified system. This is an outgrowth, I believe, of the American Bar Association study in which it was recommended that courts down through, and including, this level be part of the unified system.

CHAIRMAN: Is there any sentiment that magistrates should be excluded, that they should not be included. I'm inclined to think that they need to be included.

MR. ZEIGLER: What about "a Circuit Court"? Did you change that to "Circuit Courts"?

MR. STOUDEMIRE: It is "a Circuit Court".

MR. ZEIGLER: Are there, in fact, two circuit courts? The Court of General Sessions and the Court of Common Pleas.

MR. McLENDON: One court.

CHAIRMAN: That is two divisions of the Circuit Court, I would think.

MISS LEVERETTE: The same judge sits.

MR. WORKMAN: Let's go back to A. What was the wording? Just eliminate that last sentence? "The unified court system shall not include courts..."

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CHAIRMAN: "...shall include a Supreme Court, a Circuit Court, and such limited courts of uniform limited jurisdiction as may from time to time be established by general law".

MR. WORKMAN: I think "...may from time to time be established" should be changed to "...as provided by general law".

CHAIRMAN: "As provided." And omit the last sentence.

MR. McLENDON: How will it read as amended?

MR. WORKMAN: "The judicial power shall be vested in a unified judicial system, which shall include a Supreme Court, a Circuit Court, and such limited courts of uniform limited jurisdiction as may be provided by general law".

MR. WADSH: What you're saying now is "shall be included" or "may be included"?

CHAIRMAN: "Shall."

MR. WORKMAN: Well, it says "...shall include a Supreme Court, a Circuit Court, and such limited courts of uniform limited jurisdiction as may be provided by general law." What we are saying is that the unified system in itself would include Supreme Court and Circuit Court, plus such courts as established by general law by the Legislature.

MR. WALSH: Do you undertake that your municipal court would come under that?

MR. WORKMAN: If the Legislature made this a court of uniform limited jurisdiction by general law.

MISS LEVERETTE: Would that not still leave out a lot of these varieties of courts that you have now?

MR. WORKMAN: Unless they're under general law.

MISS LEVERETTE: It won't help any in making uniform what we already have and I don't know that we can do it. I guess there's nothing we can do in here.

MR. WORKMAN: This is, in effect, an invitation to the Legislature to provide uniformity within the limited courts and, by so doing, insure that they will be in the unified system.

MR. STOUEMIRE: Let me ask a question. At the time all this goes to the people to a vote, then your schedule would have to say, would it not, that the existing courts would remain until such time as the General Assembly provided for uniform treatment. I think you would have to put it in the schedule.

MR. WORKMAN: That's right.

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MR. STOUDEMIRE: Mr. Chairman, we've got a question in Section G. "It shall sit in each County in the State at least twice in each year at such stated times and places as the General Assembly may direct" and, of course, you know the present Constitution says "each division shall sit twice...". Is there any point in the Constitution in saying it at all? Do you need a Constitutional guarantee that the court meet in each county?

MR. WORKMAN: I don't think that it is necessary to mandate this in the Constitution. That the pressures which build up would in itself require the Legislature to provide for adequate sessions of the court.

MR. McLENDON: I don't see any real need for it.

CHAIRMAN: I don't have any strong feeling one way or another.

MR. STOUDEMIRE: This would be twice less than what the Constitution now calls for. It says the General Sessions shall sit twice and the Common Pleas shall sit twice.

MR. McLENDON: I have the feeling that the rights of the public are so great and the courts are so important, and there are some bars in the State that simply abolish court at the bar meetings. Civil court calendars get terribly congested because the lawyers decide not to hold court and they call up the Circuit Judge and tell him not to attend.

MISS LEVERETTE: Mac, wouldn't that be considerably improved under this unified set-up?

MR. WORKMAN: This would require at least twice each year in each County. Is that the limit that they now meet?

MR. McLENDON: No. Some will meet six, seven or eight times.

MR. WORKMAN: What we've got here is an absolute minimum which is exceeded in every instance.

MR. WALSH: This is ineffective, really.

CHAIRMAN: Why can't we just leave it out?

MR. WORKMAN: I think leave it out because with the authority now given to the Supreme Court, administrative authority---

MR. STOUDEMIRE: All right, "Qualification of Judges", Section K. The way we have it now would be that any judge who comes under the unified system would have to be a person of twenty-six, practicing attorney for five years and a resident for five years. Now, the question has been raised that isn't that too strong for magistrates, city recorder and so on and my thought was that, really, the heart of the court system to me is the Supreme Court and the Circuit Court and that perhaps the prescription of qualifications should simply be left to those two courts and let the Legislature take over.

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CHAIRMAN: I think that's, practically speaking, the right answer. Just leave out "...or any other Judge within the unified court system..."

MR. STOUDEMIRE: I've got about two other points. In the Legislature it says now "The doors...shall be open". Quite often the doors are not open, even though it's public. This is the way it is worded in the present Constitution. The question is whether or not the word "proceeding" would not be a better word. "Proceedings shall be open" unless there's an executive session.

CHAIRMAN: I think that's right.

MR. STOUDEMIRE: "The doors of each house shall be open, except on such occasions which in the opinion of either house may require secrecy". "The proceedings of each house shall be open..."

CHAIRMAN: "Shall be public".

MR. WORKMAN: I don't want to open up debate at this late state, but I think we might give some thought to the possibility of putting a requirement that it would require two-thirds or three-fourths or something to go into secret session. I would move that Section X be amended to say, "The proceedings of each house shall be open except on such occasions when, in the opinion of two-thirds of either house may require secrecy".

CHAIRMAN: I think two-thirds.

MR. McLENDON: I think so.

MR. RILEY: I don't think that's a protection of any kind. The thing about it is, especially in appointments, it would usually be between two or three people and they could never have two-thirds one way or the other. I was just wondering about permitting it at all.

CHAIRMAN: The provision has got to be for confirmation of appointments because you get into personalities there because if the Governor sends up a man who somebody knows something about, he ought to be able in executive session to bring that to the attention of the body and not have it publicized. Other than that, I can't see any reason for it.

MR. STOUDEMIRE: That's the question I was going to ask. If a rumor is going around about a recommended appointee, then can the members in the committee room or other places establish this among themselves that this rumor is not true.

CHAIRMAN: There is a provision under the Senate Rules, I guess, whereby if the Senate is going to deny confirmation, you have to call the man in and tell him what the basis is. I don't know whether that's a Senate Rule or Jefferson's Manual or what. What I'm saying is that I am very much in favor of limiting executive sessions.

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MR. McLENDON: In the House, we don't recommend or approve appointments. We have called a meeting of the Committee as a whole in order to hear some particular statement by somebody who was not a member of the House of Representatives who, under the rules, could not appear otherwise. Suppose we get into a deep financial discussion down there and nobody can answer the questions, but the Auditor. Under the rules of the House, he can't stand up there and tell us what it is and be questioned. Under this Committee as a whole proposition, it may be an essential bit of information we have to have and he might be the only man with the knowledge so that's the times that we have used it since I've been in the House.

CHAIRMAN: But there really isn't any need to be secret about it.

MR. McLENDON: No. Under the Committee as a whole rule the doors have to be closed. That's a House rule.

MR. WORKMAN: If we put in here, "The proceedings shall be open, except in such instances, on two-thirds vote".

CHAIRMAN: You want to make it two-thirds of the membership, or two-thirds of those present?

MR. WORKMAN: I think two-thirds of those present.

MR. STOUDEMIRE: "The proceedings of each house shall be public, except on such occasions which in the opinion of two-thirds vote of members present...". When we revised the Governor suspending embezzlers, people stealing the money, moral turpitude and so on, we changed that wording to say, "...officer and employee...". All right, now on embezzlement I think we should probably still say "officer or employee". On moral turpitude, however, if we say the Governor can suspend every employee, then this means garbage worker and we could swamp him. With your permission, if we could change that wording to say that "...the Governor can remove for moral turpitude officers...". This would get the sheriff, the clerk-treasurer, the clerk of court and people who have significant roles within each area. If we take out the word "employee", it would just mean the officers.

MR. McLENDON: Can't a department head dispose of an employee without the Governor having to do it?

MR. STOUDEMIRE: Yes. We just got carried away. Mr. Chairman, before we get into these other things, if we could have this understanding--this is what I would suggest that we agree that the editorial committee could read back over these things now and where we see that a word ought to be changed--we could either pick up the term "voter" or "elector"; that we could go ahead and do these things that would not change the meaning of a thing. Now, if we do find discrepancies pertaining to the meaning, then I would proceed to circulate some type of a memorandum to show that this is in doubt. If that is agreeable, then we can go ahead.

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MR. RILEY: I so move.

CHAIRMAN: Those in favor, signify by saying aye; opposed, no. The ayes have it.

MR. STOUDEMIRE: As you can see, Miss Leverette has gone through and told about the creation of the Committee. Over on page 5 she proceeds to tell about the Committee procedure which has been followed. Over on page 8, she quotes from Thomas Jefferson and she brings in Constitutional principles, standards used for drafting, application of principles and then, I think, Mr. Chairman, that if the Committee members of the General Assembly agreed to the first twelve pages, the last page sorta' leads into the considerations and recommendations the Committee wishes to recommend to the General Assembly.

CHAIRMAN: The only question I had--a very minor thing, we've had some slight changes in the composition of the members. I think we ought to note, for example, Senator Smoak and whoever else served.

MR. STOUDEMIRE: Mr. Chairman, I believe page 13 concerns questions of whether there will be a minority report or whether it will be this report with minority statements.

MR. WORKMAN: Well, I don't think that we can properly deny to any member, as he does in the Journal, to record his reasons for voting. As one who has been from time to time in the minority, this would be fully acceptable to me.

MR. McLENDON: All of us have been in the minority.

MR. WORKMAN: It would not be my inclination to submit a signed minority report. If somebody wanted to on a particular point, as for example Emmet on one thing you mentioned, Legislative members may find it desirable to take a position on something that they can foresee being either challenged on the stump or something that may be critical to their campaign. So, I don't think we ought to forestall it, but my recommendation would be that we simply indicate that there were differences of opinion, but that the Committee, within its collective consensus determine that we will agree on the submission of this, whether or not we agree to every point in it.

CHAIRMAN: Everyone is certainly free to make any statement, public or otherwise, that they want. If any of you on reflection want to submit a minority report, I don't think any of the majority group would want to foreclose it, but we will assume that unless you wish specifically to file a minority report--

MR. WALSH: On this particular question of this municipal thing. I think it is a very serious thing. It might be that I would want to make about a three paragraph statement of why I believe that is of critical importance, whereas I go along with the report of the Committee.

MR. STOUDEMIRE: All right, we can give you the Introductory. We can give you the Document and then we can give the appendices and tables.

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Then the question is, does the Committee wish to submit this to the General Assembly with concrete recommendations that this Report be submitted to the peoples, that you have a Constitutional Convention or that you use the article by article or you have no opinion at all?

MR. McLENDON: Doesn't the Act provide that we make some recommendation thereabout?

MR. STOUDEMIRE: It says you're supposed to take a stand, I think.

CHAIRMAN: I think the language speaks for itself and as I read it, I think it is logical and if the majority thinks we ought to go the amendment route, we ought to specify the general forms of amendment that we want. I think we ought to go to the point of saying "Here's how it could be done". Five sections, six sections or whatever it is.

MR. McLENDON: I agree with you. We need to make some specific recommendation along that line.

MR. WORKMAN: I've a very serious question, Mac. As I went back over the recommendations in the Report of Judge Lide's Committee; in addition to their Report, they submitted also the draft of amendments which would put into effect their recommendations. Now, if we do that, that means that we will put into the form of Joint Resolution each Article, presumably separately, unless we can devise a general format in which we propose the proposition and then say with respect to Article III, Judiciary shall be as follows. Now, the twofold question: (1) shall we do that in our Report and propose this type of legislation and (2) if we do, or if we don't who does, submit this question to the public--de we submit a whole Article verbatim?

MR. McLENDON: I didn't think that you would necessarily need to put it in your Report to the General Assembly, but out of this Committee ought to come some means by which McFadden, McLendon and Harvey can get the work of this Committee on the House desk and the Senate the same way. If we just stop with the Report, who's going to take the initiative to implement this two years of work?

MR. STOUDEMIRE: Mr. Chairman, we could do several things. We have plenty to work with here and I assume we have the authorization to get it in shape.

CHAIRMAN: As I see it, the first decision that I think ought to be embodied in the Report itself is whether we recommend a Convention or amendment? I don't know if we have actually taken that to a vote before. We have discussed it and I think we've gotten what amounts to a consensus, but there has been no formal action. In fact, we agreed to postpone formal action until we had completed what we thought was an acceptable draft.

MR. STOUDEMIRE: Actually, you recommend a complete revision of the Constitution be made.

CHAIRMAN: A majority recommends this, a minority that and if the majority is a revision by amendment, then do we go ahead and suggest

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that x number of sections proposed be submitted.

MR. WORKMAN: As Sarah has got in her Introduction, "The Committee shall in either event recommend (a) provisions...; or (b) the amendments necessary to accomplish...". We are, in effect, recommending provisions which, in our judgment, should be included in the new Constitution. If we do that, then Sarah do you interpret the "or" to exclude us from the necessity of drafting the amendments?

MISS LEVERETTE: I think what that meant there actually was to be done by the single amendment process. That takes it out of the total revision picture to me. That they were saying that the intention was that we give the provisions that should be included or amendments if it only called for a single amendment.

MR. WORKMAN: The amendment necessary to accomplish the strengthening and revision.

MR. STOUDEMIRE: The way I envision this, if one was going by the article by article approach, that the recommendation simply would be that the proposed article enclosed herein on the Declaration of Rights would be the proposed amendment to the Constitution and shall be submitted as amendment number one and amendment number two and on down the line.

CHAIRMAN: I think this answers a lot of questions that Mike and Bob must have and, certainly, we have in the Senate. We have got to give them something tangible to bite into.

MR. WALSH: This will be the same general format of the existing Constitution, you could say that this will be substituted for Article I. Wouldn't that do it?

MR. McLENDON: Doesn't it have more mechanical problems connected with it than that?

MISS LEVERETTE: Now brings the question of the schedule. There's going to have to be a separate schedule.

MR. STOUDEMIRE: It seems to me that to make sure--that next year that the members of this Committee are going to have to be continued activate them. In other words, my thinking would be to satisfy the fears that there would be a wholesale--that the Committee is going back into to full session and so on that it might be well to draft a Resolution--

CHAIRMAN: I think, as a practical matter, and we can talk about the mechanics of it. I can't think of any more competent persons to guide the legislation through the House and the Senate than the active House and Senate members that we have on this Committee. They're certainly knowledgeable and concerned. I would be a little afraid to propose a new Committee or the dissolution of this Committee because unquestionably, like these matters of scheduling and things, we may need to come back to the full Committee for changes, not only technical changes, but maybe policy changes. The General Assembly may decide to follow your suggestion,

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Bill, and eliminate the liquor question and they may need our advice on how to accomplish that.

MISS LEVERETTE: We would act as sort of consultants.

MR. STOUDEMIRE: If you submit new Article I, then it is an amendment. If it is introduced in the House, regardless of who introduced it, it automatically is referred to the Judiciary. O.K., it comes back. The Judiciary may accept it as it went to the Committee or they may rewrite the whole thing. All right, if you get into these dilemmas, do you have somebody to work them out?

MR. McFADDEN: We will have, from time to time, Resolutions proposing to amend the present Constitution and there should be some type of liason, whether we are directly involved or not, between what's in this proposed draft and what's in the proposed changes that are coming up, simply for the purpose of information on new matter that does come up.

CHAIRMAN: You have raised a very pertinent point.

MR. STOUDEMIRE: There is going to have to be some amendment on there that says that the proposed Article takes priority to individual. Otherwise, the people could approve all of these eighteen Articles and approve forty individuals.

CHAIRMAN: Let's just get ourselves in what seems to be an orderly fashion. First of all, let's put the proposition formally to the Committee of whether we wish to go on record as recommendation a Constitutional Convention or revision by the amendment process?

MR. ZEIGLER: Mr. Chairman, before you vote--seriously now, does this Committee think we could have a Constitutional Convention?

CHAIRMAN: Frankly, I'm going to vote against the Constitutional Convention, more than any other reason, because I don't think it, practically, can be had and I think it would weaken the effectiveness of our Committee's presentation to the General Assembly by so recommending. Now, that's purely a personal view. As a political purist, if I were, and I'm not, I'd say let's have the Convention. It's the clean way of doing it.

MR. WALSH: Theoretically, it's the clean way, but so much of the experience in other states has turned out that the product was so revolutionary or innovative in certain areas that people turned the whole thing down.

MISS LEVERETTE: But we haven't done that, Emmet.

MR. ZEIGLER: Mr. Chairman, I would have to vote for a Constitutional Convention because I think that is the only way you are going to get the Constitution substantially amended. I'm going to be a purist and vote against it although I don't think we can have a Constitutional Convention.

MR. WORKMAN: Well, in order to get something resolved, I move that the Committee recommend that the Constitution be revised by Convention.

MR. WALSH: You say you think they ought to have a Convention, but you don't think you can get one.

MR. ZEIGLER: I think that there's sufficient opposition--people are sufficiently alarmed about what might come out of a Convention to prevent it. But that doesn't mean that their fears are well-founded or that they represent the constitutional history of this State.

MR. WORKMAN: Let me modify my motion. I propose that this motion be voted by the total membership of the Committee, that a query be made of the missing members on this particular point so that all will be recorded and I move that the work of the Committee, as a working paper, be submitted to a Constitutional Convention for revision.

MR. McLENDON: Before you vote on that, and as a corollary, before these newspaper people carry out whatever we do in connection with this, we ought to know that we are going to come to the other question. If you are defeated, I would hate, for instance, for us to adjourn here today with this thing--the vote here may be in your favor, but I believe the whole tenor of the Committee is opposite from your point of view.

MR. RILEY: Mr. Chairman, I propose as a substitute motion, to the effect that the Committee be polled as to whether they prefer a Constitutional Convention or the article by article method or what other method, or none and each member vote accordingly.

MR. McLENDON: That's what I'm trying to get at.

MR. WORKMAN: Have the voting recorded.

CHAIRMAN: Those in favor of the motion, signify by saying aye. Opposed, no. The ayes have it. Let's take a vote of those present.

MR. WORKMAN: May I suggest this, that the members of the Committee be individually polled beginning with those present, their recommendation as to the method of revision.

CHAIRMAN: All right, we'll do it that way. Mr. Workman.

MR. WORKMAN: I recommend a Constitutional Convention.

MISS LEVERETTE: I recommend a Constitutional Convention.

MR. WALSH: I don't believe a Constitutional Convention can be achieved, thereby I would go with the article by article.

MR. ZEIGLER: Constitutional Convention.

MR. McFADDEN: Article by Article.

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MR. RILEY: I would vote article by article for the same reason that has been expressed. I would prefer the Constitutional Convention.

MR. McLENDON: Article by article. I'm opposed to it on principle. You would come out of a Convention with the worst sort.

CHAIRMAN: Article by article.

MR. ZEIGLER: Let me point out, Mr. Chairman, that I think you're going to face terrific difficulties with the article by article method and we may fall flatter on our faces than we've ever fallen before in the history of this State. Not only with getting the things through in a consistent fashion, but the sheer mechanics of the election and the Election Study Committee is working on this very problem now, but we anticipate the greatest difficulty in trying to get the electorate to do something that makes sense in these elections.

MR. McLENDON: Nick, I don't believe that if the proposition was submitted to the 174 members of the General Assembly, I don't believe you would get 50 votes for a Constitutional Convention.

CHAIRMAN: There is a great reluctance to go into an elective process, delegates to a Convention and they would beat us over the heads with New York.

MR. RILEY: Mr. Chairman, I would like to point this out, and I certainly sympathize with Nick, but historically, as I understand it, the Convention approved a Constitution without submitting it to the people and I think that is absolutely without the realm of possibility and consequently you get back to the question of if you submit them a whole Constitution or an article and I think they could consider the article by article approach a lot better than they could a whole Constitution.

CHAIRMAN: It's a wonderful subject to argue about, but I think we ought to go ahead, particularly in view of this tentative decision. That brings up the next question. We also then have the mandate to recommend specific amendments to accomplish the revision. Whether it is under the Resolution or not, I think we have that responsibility.

MISS LEVERETTE: I think when this originally was set up, we had not anticipated an article by article and even though it says "...or the amendments necessary to accomplish the strengthening and revision...", I think the revision there--. I think (a) meant an overall thing, revision and (b) something short of that.

CHAIRMAN: What I am saying is that we, and I am speaking for legislative members, we would like this packaged up for presentation, preferably, as a part of the Report. How much trouble is that, Bob? Do we take any Committee action to determine what should be included, specific sections? Do we need some Committee action to tell how many sections we will have and---?

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MR. STOUDEMIRE: I would say, going by article by article, we are going to create a new one in here for Officers and therefore the following 18 would be each submitted independently. 17. Now, you see you can't complete this thing until you see what the Legislature does with it.

MR. ZEIGLER: Let me suggest this, Mr. Chairman. Suppose the Judiciary Committee comes out with a different version of what you've put in the first Article. This might affect what you did in subsequent articles.

CHAIRMAN: How is it going to be considered by the committees unless we have joint Resolutions to accomplish this.

MR. ZEIGLER: There isn't any way to do it, but I don't believe you can put in more than one or two articles at a time. Just put them in for trial balloons and see what there course is. This means that the bulk of it will have to be done in '72 rather than '70.

MR. WORKMAN: Can our recommendation establish a list of priorities?

MR. WALSH: You might take bonded indebtedness.

MISS LEVERETTE: Bonded indebtedness, local government.

MR. ZEIGLER: What do we do with the coordination of these amendments. I, frankly, believe that this Committee should continue as an advisory group, but you need a reapportionment type committee of the House and Senate which would have to include the Chairman of the Judiciary Committee of the Senate and the Chairman of the Judiciary Committee of the House. I believe the only way that you're going to coordinate it is with that kind of committee. That can take these things up and coordinate the separate Constitutional proposals with what the Committee's recommended.

CHAIRMAN: I was thinking of two alternatives. The first alternative would be to have a Resolution designating the chairmen of the Judiciary Committee and some others to do it, but my preference would be to have you members of the Judiciary Committee speak to your respective chairman and ask him if on an informal basis he wouldn't channel to a special sub-committee, of which he would be an ex-officio member, all Constitutional amendments so that they could be coordinated with the work of the Constitutional Study Committee with the full understanding that if the Committee wills they can pull one away from the special sub-committee, but at least give the special sub-committee which would be the membership of this Committee--

MR. ZEIGLER: Well, haven't you got the problem of coordinating House and Senate groups?

MR. WORKMAN: Would it not be feasible to put in a Resolution for the creation of a Joint Committee on Constitutional Revision, the members of which would be the three senators and the three House members, plus the chairman of the Judiciary Committees of each body so that you come out then with an eight or a nine member committee on Constitutional Revision, to which Joint Committee these matters could be referred for consultation and recommendation. Whether it would work as a Joint

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Committee I don't know. That a Joint Committee within the Legislature where the weight of the vote would be with the members of this Committee, plus the Judiciary Committee chairmen, through whose Committee then necessarily would go, might be the vehicle by which what you have in mind could be accomplished.

MR. McLENDON: Legislatively, can the House and Senate Judiciary Committee refer a bill to some other committee rather than its own?

MR. ZEIGLER: On reapportionment, included in the Resolution was a provision that all bills dealing with this subject be referred to this Joint Committee for a recommendation before it would be considered by either house. Every bill that was introduced on reapportionment, either in the House or the Senate, came to that Committee.

MR. McLENDON: Then, did you refer it back to the Senate Judiciary, the House Judiciary?

MR. ZEIGLER: We referred it back to the Senate and then it could be referred to the Judiciary.

MR. RILEY: This operated as a separate, standing committee.

MR. ZEIGLER: Included in the Resolution that any legislation dealing with reapportionment had to go first to the reapportionment committee.

MR. RILEY: I believe it did and also in there the Committee was empowered to introduce bills as a Committee.

MR. McLENDON: Let me be sure I understand that. Then when that special committee handled it, its recommendation went back to its respective bodies.

MR. ZEIGLER: Since actually the reapportionment concerned the Senate, it went back to the Senate where we hassled over it and then it went to the House.

MR. McLENDON: Then it wound back up in each Judiciary?

MR. RILEY: This Committee would refer them directly to the floor.

MR. WORKMAN: Who would be listed as authors? The individual members?

MR. ZEIGLER: That doesn't mean they can't, once they get to that body, be referred to the Judiciary Committee.

MR. McLENDON: You're not preempting consideration by either Judiciary Committee.

MR. ZEIGLER: No, no.

CHAIRMAN: Where are we? Do we feel that we ought to try to get a special Legislative Constitutional Revision Committee consisting of...

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MR. ZEIGLER: Five members of the House, five members of the Senate, including the Chairmen of the Judiciary Committees and including the members of this Committee who will serve on that Committee. That will give you four extra people, over and above the six senators and House members now serving on this Committee.

MR. WORKMAN: What you have got now is seven, actually. You have got eight less the Lieutenant Governor. Three from the Senate and four from the House, including the Speaker, you see.

MR. ZEIGLER: Rule the Speaker out. Just the three members.

CHAIRMAN: Is that made as a motion? Suppose we do this. Let's check with the Chairman of the House Judiciary Committee and the Chairman of the Senate Judiciary Committee, informally, as to their feeling about this Committee.

MR. WORKMAN: Let me suggest that in your conversation that you indicate that there is no inclination at all to by-pass the Judiciary Committee of either house, but this is a mechanical vehicle that we think will expedite things. I think, frankly, that the Judiciary Committee of both houses ought to review our work because it is in a realm that they are concerned with and they've got the broader backgrounds that we have and I think we ought to bounce it off of them, even at the risk of having to change it. We'll just have to fight the changes as they come along. I think this, though, that if we acknowledge that the proper procedure, I'm speaking in the abstract now, would be to refer this matter to the Judiciary Committee, at least pass through there, in both houses. We can't avoid that. By saying that we expect it to be done, we then put on them the burden of either accepting or rejecting, or modifying what we have agreed upon after two and one-half years of work and it gives us a focal point to say where the departures from our recommendations are being made. If there be support, then the support becomes focused. If there be opposition, the opposition becomes focused and that those of us who from the outside will be working towards this will know what is at issue instead of just having it pop up on the floor of the House or Senate in a scatter gun debate. This resolves the issues within the Committee.

MISS LEVERETTE: One question I had, Bill. I was thinking in terms of what Nick said that in that way you would bring in all Constitutional amendments that were proposed other than the ones we are proposing, and that's where they had a problem. Now, all of them would not necessarily go to the Judiciary Committee, I don't believe.

MR. McLENDON: Yes, they would.

MISS LEVERETTE: You would have a clearance then, but you would have the Judiciary Committee doing all the clearing, but you wouldn't have a special Committee to sit down.

MR. WORKMAN: The Joint Committee on Constitutional Revision would be referred--an amendment, a resolution which may be proposed by an individual senator in the Senate. That would go initially--it could go to Judiciary and by the Judiciary referred to the Joint Committee. It

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could be referred by the Presiding Officer to the Joint Committee, but, in any event, the Joint Committee would make the recommendation as to the disposition of this which could be, in effect, that we find the point covered in this particular amendment is incorporated and the problem solved in Article so and so of the Committee's Report on the Constitution and then this goes back to Judiciary. It's a screening agency. This sorts out possible conflicts.

MR. ZEIGLER: All bills under reapportionment had to first come to the Joint Committee and then once something came out of the Joint Committee it could be acted on, but the Joint Committee, in effect, had veto power because a bill couldn't be considered unless we reported it out. It could be recalled from the Committee by a vote, but it stayed in the Committee until it was reported out and then once it came out it could go to the Judiciary Committee. Of course, we've got another problem. We've got three or four in each Judiciary Committee now which would have to be called back to the House and the Senate and then re-referred to this Committee, but I don't think you would run into any opposition. I think you've got to require that this Joint Committee pass on any new proposal that's introduced and then have it report out a recommendation.

MR. WORKMAN: Not making any effort to by-pass the Judiciary Committee.

CHAIRMAN: All right, is there anything else to come up?

MR. WORKMAN: One question, Bob, is whether or not we by either action or inaction shall ask to be discharged or whether the submission of our Report--

CHAIRMAN: I would suggest that we put a conclusion that we think this substantially concludes the Committee's work, but because there is more work to be done and because the Committee is interested, we prefer to remain as a consultant or remain in existence so we can undertake any further tasks the Legislature might prefer.

MR. McLENDON: I don't believe we are going to need any more money.

CHAIRMAN: I don't believe we're going to need any more money.

MR. McLENDON: I believe that under the terms of the Resolution when we report back we are out of existence unless we get new life.

MR. STOUDEMIRE: I believe the money is only for this year.

MR. WORKMAN: Well Concurrent Resolution 2898 of May of last year, the Committee was continued and directed to make a report to the General Assembly during the 1969 session. In the absence of further language, I would take it to be that we are discharged on the submission of that report. I think that the Committee, rather than requesting its continuation should indicate its willingness to serve if the General Assembly so desires.

MR. RILEY: Mr. Chairman, I presume you discussed this property assessment in detail.

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CHAIRMAN: Yes, sir, we did and the vote was unanimous to change it, of those present. We missed, of course, your position on it.

MR. WALSH: I don't believe your municipalities are ever going to clarify their situation until they are able to assess buildings on a different basis than land. Now, whether we'll go to anything like Mr. Smith is talking about I don't know.

MR. RILEY: What we're doing is opening the door to go in the other direction and not in the direction that you're anticipating. It's really going to be a mess.

There being no further business the meeting was adjourned.

The following is the result of the poll of the absent members concerning the method of revision:

MR. HARVEY: Article by article.

MR. LINDSAY: Article by article.

MR. SINKLER: Article by article.

W. D. Workman, Jr.
Secretary

Nettie L. Bryan
Recording Secretary