

1968

**SCCRC 1966-1969 Document 25: Memo. No. 11, Robert H. Stoudemire, Staff Consultant, to Members of the Constitutional Revision Committee, February 1, 1968, with enclosed Working Paper No. 14, a Summary of Major Decisions on Revision**

Robert H. Stoudemire

William D. Workman Jr.

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



Part of the [Law Commons](#)

---

**Recommended Citation**

Memo. No. 11, Robert H. Stoudemire, Staff Consultant, to Members of the Constitutional Revision Committee, February 1, 1968, with enclosed Working Paper No. 14, a Summary of Major Decisions on Revision, William D. Workman, Jr. Papers, South Carolina Legal History Collection, Law Library, University of South Carolina School of Law

This Memorandums, Working Papers, and Correspondence 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](mailto:digres@mailbox.sc.edu).

February 1, 1968

TO: Members of the Constitutional Revision Committee

FROM: Robert H. Stoudemire, Staff Consultant

1. The Constitutional Revision Committee is scheduled to meet on Tuesday, February 6, at 2:30 p.m., in the Wallace Room, S. C. State Board of Health, Bull Street Extension. It is assumed that the Committee will adjourn in time to attend the reception of the Municipal Association at 6:30 p.m.
2. The agenda for the meeting is listed below.
3. Enclosed is Working Paper #14 summarizing the major decisions of the Committee up to this point.
4. Enclosed is a report from the Judicial Council.

AGENDA

- I. Sections still pending
  - A) Decision on urban renewal ✓
  - B) Consideration of statement on Constitutional Officers ✓
  - C) Naming of Article on businesses-- Corporations?? Commerce?? Some other??
  - D) Statement on governmentally owned utilities, if thought necessary -- see Minutes, October 5, 1967, pp. 124-140. ✓
  - E) Statement on the application of state-wide laws in home rule governments.
- II. Discussion of sections which individual committee members may wish to re-evaluate or reconfirm *Liquor provisions (No change)*
- III. Preliminary report from Miss Leverette concerning procedures used in other states to effect major constitutional reform
- IV. Brief review of major revisions approved by the Committee -- see Working Paper No. 14 which is enclosed
- V. Discussion of procedures
  - A) Nature of the Report to be made by the Committee
  - B) Timing of the Report
  - C) Position of the Committee on effecting proposed changes
  - D) Reporting key items such as bonded indebtedness provision as a separate report versus waiting for the full report
  - E) Plans for reviewing the S. C. Draft Constitution
  - F) Discussion on continuing the life of the Committee

Article I - Declaration of Rights

Basically, this article was retained, however, the following major changes have been proposed.

1. Added a section to the search warrant provision permitting the General Assembly to provide for searches not necessarily involving a criminal situation -- electric, fire, plumbing inspection, etc.
2. Added a section to the search warrant provision giving protection against the unreasonable invasion of privacy.
3. Permitting the General Assembly to authorize the accused to waive grand jury indictment.
4. Added a section to insure fairness and due process in administrative procedures.
5. Transferred 5 sections to other articles -- taxation, dual officeholding, representation.

Article II - Right of Suffrage

1. Changed the name of the title to Suffrage and Elections.
2. Redrafted the dual office holding provision.
3. Reduced the residence requirement to 6 months.
4. Removed outdated sections on registration.
5. Restated disqualifications because of crimes in modern language.
6. Retained ten-year registration.
7. Retained reasonable literacy test.
8. Deleted a number of sections including registration boards, municipal elections, bonded indebtedness in municipalities.

Article III - Legislative Department

1. Adjusted the wording to reflect senatorial districts and to permit the General Assembly to disregard county lines if necessary in apportioning both houses.
2. Restricted Senate membership to not more than 46.
3. Updated section dealing with Sessions of General Assembly.
4. Provided for an annual salary and removed the 40-day restriction.
5. Established date for beginning term of office -- based on certification of returns.
6. Updated section on mileage, per diem, and special session pay.
7. Rephrased the oath of office and added a statement that no other oath could be required.
8. Removed homestead provision, subject to adequate treatment under statute.
9. Transferred section on public lands to Eminent Domain.
10. Required general laws except special laws may be enacted for game and forestry.
11. Omitted a number of outdated sections.

Article IV - Executive Department

1. Fixed the time for ending and beginning term of Governor.
2. Permitted the Governor to serve not more than 2 terms, but not more than 10 years.
3. Simplified the wording on contested and tied elections -- office of Governor.
4. Clarified the position of president of the Senate, Lieutenant Governor becoming Governor. Election of Lieutenant Governor by Senate if there is a vacancy.
5. Lieutenant Governor authorized to act in emergency situations if Governor absent. This idea to be carefully reviewed by Committee before final draft accepted. (Consultant has not as yet formalized the wording.)
6. Added section permitting the Supreme Court to determine disability of Governor.
7. Removed section on pardon and probation so that General Assembly may regulate. Reprieve and commutation vested in Governor.
8. Strengthened statement on agencies reporting to Governor.
9. Strengthened removal power of Governor.
10. Permitted the Governor to have 7 days to veto a bill.
11. Added section redefining the Governor's power to enforce the laws and constitution.
12. Sections dealing with oaths, commissions, etc., to be treated under a general section dealing with officers.

Article V - Judicial Department

1. Adopted Unified Court System to include such inferior courts as created by the General Assembly by general law, but excluding courts primarily concerned with local ordinances.
2. Removed the en banc procedure.
3. Added a section giving Chief Justice an administrative assistant.
4. Retained 16 circuits, but permitted 5 roving judges to be elected from statewide area.
5. Authorized the Supreme Court to remove judges under certain conditions.
6. Updated statement on compensation of judges.
7. Restricted major judges from practicing law and from running for public office. ?
8. Increased term of circuit judges (and roving judges) to 6 years.
9. Removed the following from the Constitution:
  - Probate judges
  - Clerks of Courts
  - Sheriffs
  - Coroners
  - Magistrates
10. Granted Supreme Court removal power.
11. Clarified section on power of judges at chambers.
12. Adopted the equivalent of the federal rule on instructing the jury.
13. Granted Attorney General supervision over Solicitors.
14. Solicitors. Must check the minutes for exact decision on constitutional status.

Article VI - Jurisprudence

1. Deleted entire article but retained two thoughts:
  - A) Change of venue -- to be placed in Declaration of Rights
  - B) Codification of laws section to be placed under the Legislative Article.

Article VII - County Government

1. County government to be treated under a general article on local government.
2. Restricted counties to not more than 46.
3. Updated language on merger of counties, changing boundaries, etc.
4. Provided for 5 classes of counties -- forms of organization, powers, functions, etc. General laws on county government may, however, apply to all 5 classes.
5. Rejected home rule (legal definition) for counties, unless part of metropolitan government.

Article VIII - Municipal Corporations and Police Regulations

1. Provided for incorporation, mergers, boundary adjustments, etc.
2. Adopted 5 classes of municipalities -- form of organizations, powers, functions, etc.
3. General municipal laws may apply to all classes.
4. <sup>Permitted</sup> Adopted home rule for cities having 25,000 population and over.
5. Provided for certain restrictions on home rule municipalities.
6. Removed business license provision from Constitution and taxation policy treated under Taxation.
7. Retained the franchise provision.
8. Transferred debt restriction to new article.
9. Tax exemptions for manufacturing enterprises, transferred to taxation to be regulated by General Assembly.

---

Police Authority

1. Deleted sections on armed police force, boards of health, and prize fighting.
  2. Retained section on alcoholic liquors, but transferred to another article.
-



Metropolitan Type Governments, Townships, Special Districts

1. Permitted home rule for metropolitan government in counties having 100 people per square mile.
  2. Permitted county-municipal consolidations for areas listed in no. 1.
  3. Permitted intrastate agreements.
  4. Permitted interstate agreements consistent with federal constitution -- all local governments.
  5. Deleted section on township governments. *e*
  6. Permitted existing governments to continue.
  7. Special districts continued to be regulated by General Assembly as is currently done.
- 

Article IX - Corporations

1. Delete the entire article as it is now stated.
2. Approved a general statement on the General Assembly regulating common carriers and public utilities (meaning private).
3. Approved a general short statement on the General Assembly regulating corporations by law.
4. Delayed the decision on regulating governmentally owned utilities.

Article X - Finance and Taxation

1. Approved statement that all property subject to taxation shall be uniformly assessed -- shall not be classified. ?
2. There will be one assessment for taxes -- applicable to all jurisdictions.
3. Property must be assessed on actual value.
4. Property may be exempt by general law -- thus getting around trying to list all the categories in the Constitution.
5. The exempted status of governmental property, educational property, and religious property may not be changed by law. These will be described in the Constitution.
6. Taxes must be levied in accordance with law for public purpose and purpose must be stated.
7. Retained the statement for the annual appropriation of taxes by the General Assembly.
8. Statement on the uniform application of taxes within a district shall be included.
9. Annual statement of revenues and expenditures must be published.
10. The Comptroller General shall be elected by the General Assembly and shall perform post-auditing duties.

(Note: This section will require a most careful drafting. The Committee in reaching its basic decisions left many thoughts incomplete. Consequently, the complete article will have to be reviewed by the Committee when the draft is complete.)

Article ?? Bonded Indebtedness

1. All indebtedness provisions will be placed in a new Article on this subject or included as a part of the Article on Finance and Taxation.
2. Revenue Bonds and Tax anticipation notes are not to be regulated by the Constitution.
3. All state bonds, except for the public service authority, shall be treated as full faith and credit bonds.
- \* 4. State issued bonds may not exceed two times the tax collections for the average of the past three years.
- \* 5. State bonds in excess of the amount in no. 4 may be issued by approval of 2/3 vote of the General Assembly.



6. If the state fails to meet payment, the state treasurer must levy a property tax for this purpose.
7. General obligation bonds for all local units may ~~not~~ exceed three times the locally collected taxes (not to include water revenue) unless a vote of the people permit a larger amount to be issued.
8. Debt must be paid by the unit of government receiving the benefit, such as special purpose districts.
9. General obligation debt may not exceed 30 years duration.
10. Ordinary county purpose as now included in the Constitution is repealed.
11. Abutting property provisions are eliminated, but such needs will be included within the objectives of no. 7 above?????

#### Article XI - Education

1. State Superintendent of Education to be appointed by the board.
2. State Board of Education will have 9 members. One from each congressional district elected by the General Assembly. There will be ~~three selected by~~ the Governor.
3. The General Assembly must provide for the maintenance and support of a system of free public schools, etc.
4. The General Assembly must provide for higher education, special types, etc.
5. State or local units may not directly aid private education, but may indirectly.
6. Allocation of income from sale of alcoholic liquors to education omitted.
7. Over-all this article will deal in terms of general statements showing the special concern about education, rather than the detailed specific provisions of the present constitution -- for example, in higher education.

#### Article XII - Charitable and Penal Institutions

1. This entire article as written has been deleted and a new approach adopted.
2. Instead, there will be two short sections stating that health, welfare, property, natural resources, etc. are great public concerns and that the General Assembly shall provide for these matters. Also, the General Assembly must provide for persons confined in prisons, etc.

Article XIII - Militia

1. Women are made a part of the militia.
2. Governor is made the commander in chief and selects the Adjutant General, with Senate approval. Term same as Governor's.
3. Qualifications of Adjutant General established by law.
4. Language generally updated.

Article XIV - Eminent Domain

1. Essentially this article is retained.
2. Sections from the Declaration of Rights and Legislative Article will be transferred and coordinated.
3. There appears to be adequate subject matter to retain the Article.

Article XV - Impeachment

1. Changed so the grounds are stated -- serious crimes or serious misconduct.
2. Removed the section on removal of officers for charges not justifying impeachment. Additional powers given to the Governor adequately cover such situations.

Article XVI - Amendment and Revision of the Constitution

1. Individual amendments approved by the voters will not be ratified by the General Assembly. Instead they will be effective 60 days later, unless amendment specifies different time.
2. Amendments may be proposed by the following methods, all requiring a 2/3 vote of the General Assembly for submission:
  - A) Simple amendment, making only a minor change
  - B) Amendment applying to an entire article and any other sections which are germane to the major revision
  - C) General Assembly proposing a completely new document
  - D) Convention, approved by the voters
3. Calling a convention would be based on a majority vote of those voting on the issue, rather than those voting at the election.
4. Secretary of State must act to call a convention approved by the vote of the people if the General Assembly does not act.

5. Delegates to a constitutional convention must be apportioned on the basis of representation in the House of Representatives.
6. The voters must be given an opportunity to vote on the question of calling a convention every 30 years. A Constitution approved by such a convention must be approved by the voters before becoming effective.
7. Deleted the provision which permits the voters of only the affected county to vote on constitutional amendments affecting such county.

Article XVII - Miscellaneous Matters

1. A number of the provisions were deleted as being obsolete.
2. Provisions on divorces, supreme being, and lotteries retained.
3. Substituted the shorter N. Y. version on the continuity of state and local government during emergencies. Approved by civil defense officials.
4. Details of the schedule deferred until draft document is approved.

Articles of Amendment

1. The two sections listed here were deleted.