

1968

**SCCRC 1966-1969 Document 28: Report of the Committee to
Make a Study of the South Carolina Constitution of 1895,
Columbia, South Carolina, April 1968**

John C. West

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

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HISTORY

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Report

OF THE

Committee To Make A Study

OF THE

South Carolina Constitution of 1895

WORKMAN
PAPERS

COLUMBIA, SOUTH CAROLINA

April 1968

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The Committee created by Concurrent Resolution No. S. 342, 1966, and continued by H. 1044, 1967, consists of the following members:

SENATORS

JOHN C. LINDSAY
MARION H. SMOAK
RICHARD W. RILEY

REPRESENTATIVES

SOLOMON H. BLATT, *Speaker*
JUDSON F. AYERS, JR.
W. BRANTLEY HARVEY, JR.
J. MALCOLM McLENDON,
Vice-Chairman

GOVERNOR'S APPOINTEES

SARAH LEVERETTE
HUGER SINKLER
T. EMMET WALSH
WILLIAM D. WORKMAN, JR.
JOHN C. WEST, Lieutenant Governor
Chairman

TRANSMITTAL LETTER

To

THE HONORABLE ROBERT E. MCNAIR
Governor of South Carolina

and

Members of the General Assembly
of South Carolina

The Committee to Make a Study of the South Carolina Constitution of 1895 created by a Concurrent Resolution of the General Assembly approved April 7, 1966, and reorganized and continued by a Concurrent Resolution approved March 22, 1967, herewith submits its report to the Governor and the members of the General Assembly.

The Committee has worked diligently during this year and has studied at length the constitutional needs of the State. The Committee has reviewed each and every section of the Constitution and has completed this phase of its study. Evaluating constitutional provisions, however, requires detailed study which cannot be hastily done. Consequently, the major portion of the Committee's report will not be available to this session of the General Assembly. The Committee believes that public hearings should be held before giving final approval to its recommendations on revision. Time has not permitted these hearings to be conducted.

The report which follows includes the recommendations of the Committee on page four, reviews the activities of the Committee for the year, explains its operational procedures and makes suggestions for continuing the activities of the Committee.

Respectfully submitted,

JOHN C. WEST, *Chairman.*

April, 1967

RECOMMENDATIONS

The Constitutional Study Committee recommends the following:

1. That the General Assembly approve a proposal sponsored by the Committee to change the procedure for amending the state constitution. This recommended change permits the submission of an entirely new article as a substitute for an existing article. The full text of this proposal is listed in the Appendix.
2. That the Committee be continued by the 1968 General Assembly. Continuing the Committee would permit:
 - (A) The holding of public hearings so that the citizens of the State can give their views on recommendations of the Committee pertaining to each Article.
 - (B) The careful drafting of a proposed new Constitution, along with full explanations of each section, to be submitted to the General Assembly in January, 1969.

INTRODUCTION

The nine-member Committee to Study the Constitution of 1895 originally created under a Concurrent Resolution of the General Assembly approved April 7, 1966, was continued and its membership enlarged to twelve members by a Concurrent Resolution adopted by the General Assembly on March 22, 1967. On July 21, 1967, the enlarged Committee met, reorganized, and planned its work for the year. The members selected the following officers: Lieutenant Governor John C. West, Chairman; Representative J. Malcolm McLendon, Vice-Chairman; and Mr. W. D. Workman, Jr., Secretary. Mr. Robert H. Stoudemire, Bureau of Governmental Research, University of South Carolina, was selected to continue as the Staff Consultant and Research Director.

During the year, the Committee held ten meetings, several of which continued for a day and a half. In addition, a number of shorter conferences have been held by many members working on specific assignments.

Although some changes were made in the procedures outlined in the 1967 Interim Report, the Committee recognized fully that local government and bonded debt provisions are major issues involved in constitutional revision. In its procedures and deliberations, the Committee acted on the basis of the mandate given to it by the 1966 Concurrent Resolution authorizing this study. The Concurrent Resolution assigned the following responsibilities to the Committee:

The committee shall study the Constitution and shall make recommendations to the General Assembly which shall include, but shall not necessarily be limited to:

- (1) Whether a convention should be called for the purpose of drafting a new Constitution;
- (2) Whether a series of general amendments can be proposed which will eliminate the archaic provisions of the existing Constitution and strengthen it in such other areas, so that it will provide a workable framework with proper safeguards for sound State, County, and local governments.

The committee shall in either event recommend (a) provisions which in its judgment should be included in a new Constitution; or (b) the amendments necessary to accomplish the strengthening and revision of the present Constitution.

The work of the Committee which is discussed in the following section has been directed toward these objectives.

ACCOMPLISHMENTS AND RECOMMENDATIONS

Committee Meetings.

At its July organizational meeting, the Committee agreed that the best results could be achieved by the committee working as a whole and that each and every section of the Constitution of 1895 should be thoroughly evaluated. In order to do this, the Committee met once every three weeks from September through February, studying one Article at a time until each of the articles was analyzed.

Analyzing the Constitution.

The discussion pertaining to each article was based on a Working Paper prepared by the Staff Consultant and other professors of the University. Fifteen working papers were prepared. In addition, written evaluations were obtained from a number of state officials and others qualified to give opinions on problems facing the Committee. The Working Paper for each Article contained a section by section analysis of the Article in question. The Working Paper included such matters as the difficulties experienced with the section in the past, the manner in which other state constitutions treated the subject matter, the proposals made on the subject by constitutional study groups in other states, and alternate proposals which may solve the deficiencies noted. Each Working Paper also presented related material and ideas not covered in the existing Article of the Constitution of 1895. The Working Papers were distributed to each committee member prior to a scheduled meeting so that each paper could be studied. All in all, the Committee had a wealth of background material on each section in the Constitution.

Revision Procedure.

After studying the background information in the Working Paper, the Committee evaluated each section and then decided if it should be retained, revised, or deleted. The section by section and article by article analysis was completed in February. From the decisions agreed upon by the Committee, a revised Article for each of the existing articles is being drafted, along with an explanation of each recommendation made by the Committee. These redrafted articles will be completed during May, 1968. A three-man subcommittee is carefully reviewing each redrafted article checking on such things as content, style, proper phraseology, and possible omissions or conflicts. During June, the full Committee will thoroughly consider the redrafted articles and approve a tentative draft of a proposed new Constitution for the State.

Public Hearings and Proposed Constitution.

During the summer, the Committee will hold a series of public hearings on its tentative draft of the Constitution. After considering the testimony given in the various hearings, the Committee plans to prepare a Proposed Constitution to submit to the General Assembly for its consideration. This Proposed Constitution will include a full explanation of each recommendation approved by the Committee and will clearly indicate all recommended changes. In effect, the sections which will be changed, added, or deleted will be the recommendations of the Committee.

Suggested Procedures to Effect Revision.

The Committee has discussed the various procedures which may be used to achieve the recommended changes in the Constitution. After the Committee adopts the final draft of a proposed Constitution, it will decide upon the method to recommend to the General Assembly to bring about these changes. In the meantime, so that an additional choice will be available, the Committee has recommended that a constitutional amendment be submitted to the voters in the General Election of 1968, permitting the submission through the amendment process of an entire new article including related subject matter as a substitute for an existing article. If the General Assembly and voters approve this amendment, then the General Assembly could propose changes of a major nature to the existing constitution through the amendment process. This recommended proposal is listed in the Appendix.

Continuation of the Committee.

The Committee recommends that the Constitutional Study Committee be continued for another session. If this is done, then a full report can be submitted to the 1969 General Assembly. The Committee had hoped to give a detailed report to this General Assembly, but found that this could not be done if the Constitution was to be fully analyzed as required by the 1966 Concurrent Resolution creating the Committee. Evaluating the State Constitution requires study, research, and full discussion, all of which are time consuming. The legislative members of the Revision Committee have initiated legislation to carry out this recommendation.

APPENDIX

Joint Resolution Proposing an Amendment to Article XVI, Section 1.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. There is proposed the following amendment to Section 1 of Article XVI of the Constitution of this State: add to the end of the first sentence “; *provided*, however, that revision of an entire article or the addition of a new article may be proposed as a single amendment with only one question being required to be submitted to the electors. Such amendment may delete, revise and transpose provisions from other articles of the Constitution provided such provisions are germane to the subject matter of the article being revised or being proposed.” The section when amended shall read:

“Section 1. Any amendment or amendments to this Constitution may be proposed in the Senate or House of Representatives; *provided*, however, that revision of an entire article or the addition of a new article may be proposed as a single amendment with only one question being required to be submitted to the electors. Such amendment may delete, revise and transpose provisions from other articles of the Constitution provided such provisions are germane to the subject matter of the article being revised or being proposed. If the same be agreed to by two-thirds of the members elected to each House, such amendment or amendments shall be entered on the Journals respectively, with the ayes and nays taken thereon; and the same shall be submitted to the qualified electors of the State, at the next general election thereafter for Representatives; and if a majority of the electors qualified to vote for members of the General Assembly, voting thereon, shall vote in favor of such amendment or amendments, and a majority of each branch of the next General Assembly shall, after such election, and before another, ratify the same amendment or amendments, by ayes and nays, the same shall become part of the Constitution: *Provided*, that such amendment or amendments shall have been read three times, on three several days, in each House. *Provided*, that a proposed amendment providing for a change in the bonded debt limitation of a county or any of its political subdivisions shall be voted on only by the qualified electors of such county.”

SECTION 2. The proposed amendment shall be submitted to the qualified electors at the next general election for representatives.

Ballots shall be provided at the various voting precincts with the following words printed or written thereon: "Shall Section 1 of Article XVI of the Constitution of this State be amended so as to provide for the revision of an entire article of the Constitution or the addition of a new article as a single amendment with only one question being required to be voted on and to allow constitutional provisions from other articles to be changed if such provisions relate to the subject matter of the article being revised or proposed?"

In favor of the amendment

Opposed to the amendment

Those voting in favor of the amendment shall deposit a ballot with a check or cross mark in the square after the words 'In favor of the amendment', and those voting against the amendment shall deposit a ballot with a check or cross mark in the square after the words 'Opposed to the amendment'."

(H. 2659, 1968)

