

1969

## **SCCRC 1966-1969 Document 32: History and Summary Outline of the Committee to Make a Study of the Constitution of South Carolina of 1895 Work and Final Report**

Robert H. Stoudemire

William D. Workman Jr.

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

 Part of the [Law Commons](#)

---

History. Nine-man committee created by Concurrent Resolution of April 7, 1966.

Organized in August, 1966.

Membership expanded to 12 by Concurrent Resolution of March 22, 1967 and this Committee was continued by the 1968 General Assembly.

The Committee has made two interim reports, 1967 and 1968.

Exclusive of printing costs, the Committee's expenses should not exceed \$15,000. Quite a record, we think.

Procedure. Twelve-man Committee. Committee met as a whole rather than sub-committees. Research work supervised by a research director. <sup>(staff consultant)</sup> Working Paper prepared for each Article. Committee in a series of meetings reviewed each and every section of the Constitution. As a part of this review, the Committee decided on the provisions it wished to adopt.

All the decisions of the Committee evaluated by a three-member editorial Committee. Each Article, then, further reviewed by the full Committee. The "Committee Draft" which we are releasing today was then put into final form.

After a series of public hearing, the Committee will make its final recommendations to the General Assembly. The recommendations to the General Assembly will be in the form of proposed new Constitution. The proposed Constitution will be presented Article by Article, showing on the left side each section recommended by the Committee, with an explanation of the Committee's conclusions on the right side.

#### Highlights of the Proposed Changes.

Prior to going through the Constitution Article by Article, the Committee evaluated the Constitution as a whole. In doing this, the Committee concluded that local government, bonded indebtedness, and outdated provisions especially needed attention.

Furthermore, the Committee felt that additional procedures should be provided for making major amendments to the Constitution. Consequently, last year the Committee proposed that an Article by Article amendment procedure be submitted to voters. As you know, this was approved in the General Election and when ratified by the General Assembly, this will be another significant means of changing the Constitution.

2  
Declaration of Rights. All of the historic provisions have been retained essentially as they are listed in the current Constitution. Major changes recommended are:

1. Protection of the individual against unwarranted invasion of privacy.
2. Authority for the General Assembly to permit the accused to waive a grand jury indictment.
3. Protection of the individual against arbitrary action by administrative boards and in administrative procedures.

Elections and Suffrage. Although rephrased and rearranged, the substance of this article has been retained. The Committee, however, proposes that:

1. Residence for voting be reduced to 6 months in the State.
2. Permanent registration be permitted if the General Assembly approves.
3. The General Assembly provide the details for disqualification because of serious crimes and mental incompetency.

General Assembly. Over-all this Article is basically the same. Major changes are:

1. Changing the phrasology so that house and senate election districts conform to the requirements of Reynolds v. Sims.
2. Senate members limited to not more than 46.
3. Retention of at least one house member per county, so long as the court permits.
4. Recommending that the Comptroller General be elected by the General Assembly and that he be given the authority of auditing revenues and expenditures in the name of the Legislature.
5. Streamlining the provision prohibiting special legislation.

The Governor and the Executive Branch. Major recommendations are:

1. Allow the Governor to be re-elected for a second term. Maximum of 2 elected terms, total not to exceed 10 years.
2. Clear statement on disability, succession to office, temporary and permanent absence. Questions on disability and removal determined by the Supreme Court.
3. Vacancy in office of Lieutenant Governor immediately filled from the Senate membership.
4. Strengthening the power of the Governor to see that all laws are faithfully enforced and to restrain unconstitutional and illegal actions.
5. Strengthening the power of the Governor to suspend employees.
6. Having the Governor to appoint the Adjutant General, State Treasurer, Secretary of State, and Attorney General continue to be elected.

The Courts and the Judiciary System. Major changes are:

1. Creation of a modified <sup>unified</sup> uniform court system, under the supervision of the Chief Justice and his administrative assistant.
2. Requiring courts of record below the Circuit Court to be established by general law.
- ✓ 3. Permitting the Supreme Court to have disciplinary power over all judges within the unified court.
- ✓ 4. Authorizing the General Assembly to select 5 more circuit judges.
5. Transferring the selection of court and law enforcement officials to the General Assembly: sheriffs, solicitors, clerks of court, probate judges, magistrates. Does not imply any suggestions on manner of selection.
- ✓ 6. Giving the Attorney General general supervisory powers over circuit court prosecutions.

Finance: Taxation, Bonded Indebtedness. The Committee proposes:

1. Present provisions on property taxation essentially retained. Classification is not recommended.
2. The historic property tax exemptions are continued but additional exemptions may be made by general law, applicable uniformly throughout the state.
- ✓ 3. Basing both state and local bonded indebtedness on the amount of tax collections made by each unit of government concerned.
4. All state indebtedness treated as General Obligations of the state.
- ✓ 5. General Assembly may authorize bonds to be issued upon a regular vote up to the Constitutional debt limit. Additional bonds may be issued upon a 2/3 vote of the General Assembly.
6. Constitutional debt limits are fixed for local general obligation bonds issued without a popular vote. Additional bonds may be issued if voters approve.
7. As in the present Constitution, the taxing power is left essentially to the General Assembly.

Local Government. Major recommendations are:

- ✓ 1. Requiring the General Assembly to enact general laws governing the different classes of counties and municipalities.
- ✓ 2. Permitting the General Assembly to provide for home rule of cities of 25,000 and over, but on matters of local concern only.
3. Authorizing the merger of governments in metropolitan counties, to include Aiken, York, etc.
4. Permitting home rule charters for governments which may be merged.
5. Allowing intergovernmental cooperation, both intra- and inter-state.
6. Requiring bonded indebtedness benefitting only a specific area to be paid for by that area.

4

Functions of Government. The Committee proposes that:

1. The detailed provisions related to corporations, welfare, health, mental health, penology, etc. be deleted. Broad, fundamental statements substituted.
2. The Supt. of Education be selected by a nine-member board. *of education*
3. The Board of Education to be chosen on this basis: 6 by the General Assembly, 3 by the Governor.
4. The state be permitted to aid private education indirectly. (Presently both direct and indirect aid prohibited.)

Other changes.

1. The General Assembly be authorized to grant urban renewal powers to localities. Based on the Georgia provision.
2. Amendment procedures proposed are:
  - (A) Permitting amendments to pertain to whole articles and related subject matter.
  - (B) Permitting the General Assembly to propose a new Constitution.
  - (C) Placing the calling of a constitutional convention on the ballot every 30 years.

General Conclusions.

- A. Adjustments will be made as amendments approved in the 1968 election are ratified.
- B. Although discussed, the Committee has not voted on the procedure it will recommend to effect its proposed Constitution.
- C. The Schedule Article cannot be prepared until procedures and time tables are clearly established.
- ✓ D. The Proposed Constitution contains approximately 12,000 to 13,000 words. This is about one-third the present length. (45,500) (in 1964)
- E. Bonded Indebtedness provisions will not exceed 1 1/2 pages as compared to the 35 to 40 pages now.
- F. In its final report, each section of the present Constitution will be accounted for on the basis of retained, revised, deleted, transferred, combined.
- G. An outline of areas which would require laws to be enacted will be provided.