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SCCRC 1966-1969 Document 34: Working Draft of Final Report Section III, Recommendations and Supplementary Material

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SECTION III

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RECOMMENDATIONS AND SUPPLEMENTARY MATERIAL

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RECOMMENDATIONS

The recommendations of the Committee to Make a Study of the Constitution of 1895 are summarized on page of this Report, ^{and are} ~~but each should be explained~~, ^{below.}

Recommendation No. 1. The present Constitution should be generally revised.

As pointed out in the introduction, the Committee discussed fully the ~~extent~~ ^{nature} of changes which should be proposed ^{to} ~~in~~ the present Constitution. Although some subject matter areas ^{such} as bonded indebtedness and local government need more revision than others, all members of the Committee agreed that the Constitution should be revised generally and not just in some ~~areas.~~ ^{aspects.}

As the Committee examined and evaluated each section of the Constitution, the need for extensive revision became quite clear. Some sections do not meet present needs, many are simply outdated, some hamper current governmental operations, and others overlap, making multiple changes necessary. Based on all the evidence, the Committee believes that its decision to propose a new Constitution rather than restricting its revision to a few of the most troublesome areas is wise.

Recommendation No. 2. The seventeen articles drafted by the Committee and submitted herein as the Proposed Constitution (see Section II) should be the basis

for constitutional revision. The Committee recommends that the proposed new Constitution submitted in Section II of this Report be the basis for a new Constitution. Considered as a whole, the proposed Constitution would give South Carolina a sound, workable document. The new Constitution provides adequate protection for the citizens of the State and at the same time permits flexibility in governmental organization and processes. ^{Furthermore,} If the proposed Constitution is adopted, the need for frequent amendments should be eliminated, ~~thus overcoming the burden which faces our citizens at every statewide general election.~~

Recommendation No. 3. The Article by Article amendment process ^{ratified} approved by the General Assembly on February 18, 1969, should be used in submitting each proposed Article approved by the Committee to the voters in either the 1970 or 1972 election. A majority of the Committee feels that revision of the Constitution should be achieved through the use of the article by article substitution procedure ~~approved in February, 1969,~~ rather than having a constitutional convention. The article by article amendment procedure is listed on page of this report. If the article by article approach is agreed upon by the General Assembly, each proposed new article must go through the regular legislative process for proposing amendments before being submitted to the electorate. Following approval by the voters, each would then have to be ratified by the next General Assembly. It should be emphasized that the article by article amendment procedure can only be used during the 1970 and 1972 general elections.

Using the article by article approach will require that each article be essentially independent of any other article. For the most part, each article proposed by this Committee meets this requirement. Careful planning must be done to avoid an incomplete Constitution in the event that the voters approve some articles but disapprove others. Moreover, each article must be properly coordinated with the Article on the Schedule.

Some members feel that the General Assembly should call a constitutional convention to prepare a new Constitution for the State and that the recommendations of this Committee should be a guide to the elected delegates in reaching their conclusions. Having a convention prepare a new Constitution would assure that the document would fit together as a unit, thus avoiding some of the difficulties which may be experienced under the article by article procedure.

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Recommendation No. 4. The General Assembly should create a special Legislative Committee consisting of Senators and House Members to act as a Steering Committee in getting each Article proposed in this Report approved by the General Assembly and submitted to the voters in proper form. The Committee created to Make a Study of the South Carolina Constitution of 1895 completes its work with the filing of this final Report. Since the article by article amendment procedure recommended in this Report is ^{in itself} primarily a legislative function, the Committee as presently constituted ^{need} ~~should~~ not be continued. Yet, in order to get the proposed articles before the General Assembly and later before the people, a Steering Committee of some type is needed. Therefore, this Committee proposes the creation of a Steering Committee for constitutional revision composed of legislative members only. Members of this Steering Committee should be familiar with the Constitution as proposed in this Report and should include representation from the standing legislative committees which consider constitutional changes.

To meet these requirements, it is recommended that representation on the Steering Committee consist of the following: ~~the~~ three senators and three House Members currently serving on the Constitutional Revision Committee, the Chairmen of the Senate and the House Judiciary Committees, and one additional Senator and one additional House Member.

This Steering Committee should be created by a Concurrent Resolution and should be active during the 1970 session and as long thereafter as the General Assembly may desire. It is anticipated that the Steering Committee would be given authority to oversee all matters pertaining to constitutional revision similar to the ^{agency} ~~way~~ in which reapportionment matters were referred to a special joint committee in 1966. Thus, the Steering Committee could initiate the article by article proposals recommended in this report, evaluate all the individual amendments proposed by the 1969 and 1970 legislatures, coordinate any such amendments with each of the proposed articles, prepare in detail the Article on

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the Schedule needed to govern the ^{implementation} effectiveness of a new Constitution, and evaluate any other matters related to constitutional revision.

To activate this Steering Committee, the Constitutional Revision Committee proposes that the 1969 General Assembly enact the following Concurrent Resolution:

A CONCURRENT RESOLUTION

TO CREATE A STEERING COMMITTEE ON CONSTITUTIONAL REVISION.

Be it resolved by the Senate, the House of Representatives concurring: That there is hereby created a steering committee on constitutional revision consisting of ten members, as follows: The three members of the Senate and the three members of the House of Representatives who served on the Committee to Make a Study of the South Carolina Constitution of 1895 pursuant to H. 2898 of 1968, the Chairman of the Senate Judiciary Committee, the Chairman of the House Judiciary Committee, one member of the Senate to be appointed by the President of the Senate and one member of the House of Representatives to be appointed by the Speaker of the House. All Senate vacancies shall be filled by appointment of the ~~Speaker of the House.~~

The committee shall have the authority to review and introduce in the General Assembly the Article by Article Amendments proposed by the Committee to Make a Study of the South Carolina Constitution of 1895 as listed in its Final Report of June, 1969; to review any amendments introduced in the General Assembly proposing changes to the Constitution and to recommend to the General Assembly how such amendments may be coordinated with the Article by Article Amendments recommended by the Committee to Make a Study of the South Carolina Constitution of 1895; to recommend to the General Assembly methods of procedure for submitting such articles to the voters of the State; to prepare an Article concerning the schedule necessary to coordinate the subject matter recommended in the Final Report by the Committee to Make a Study of the South Carolina Constitution of 1895; and to do such other things as it deems necessary relating to Constitutional

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revision. The committee shall from time to time make such reports and recommendations to the General Assembly as it deems necessary.

Recommendation No. 5. The Special Legislative Steering Committee ^{should} prepare at the proper time, the Article on the Schedule and determine if each Article submitted to the voters should also have its own schedule. If the General Assembly submits each of ^{The sixteen} ~~sixteen~~ articles proposed in this report to the voters, an Article on the Schedule must be prepared, ~~to accompany these articles.~~ ^{The Legislative Revision} This Committee decided that such an Article should be prepared after the General Assembly has decided on a method of procedure to effect constitutional revision. As pointed out in Article XVII of the Proposed Constitution, the Article on the Schedule must provide ~~regulations~~ for changing from the 1895 Constitution to the Proposed New Constitution; determine the time of the effective date of provisions, some of which may be delayed; protect existing constitutional rights and laws not in conflict with the Proposed New Constitution; fix time limits, if any, for the General Assembly to enact laws required by the new Constitution; and provide for any other matters which may need to be controlled.

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When preparing the Article on/Schedule, very careful consideration must be given to all amendments which are being submitted to the voters. It may be that some ^{pending} individual amendments which have been ^{drafted} ~~enacted~~ by the General Assembly ^{for submission to the voters} may conflict with the provisions of the Articles recommended in this report. If both individual amendments and complete articles are submitted at the same time, the Schedule should resolve any possible conflicts. For example, the effective date of an Article could be delayed, but after becoming effective it would supercede any other constitutional provisions on the subject.

Furthermore, thought must be given to placing a "temporary schedule" at the end of each Article submitted to the voters. This procedure may be necessary to insure the effectiveness of a particular article in the event that a related article is not approved or that the Article on the Schedule should be rejected.

Exceptions

EXPLANATORY STATEMENTS SUBMITTED BY COMMITTEE MEMBERS

Statement by T. Emmet Walsh on Section A (Property Subject to Taxation and Assessment), Article VI--Taxation, Finance, and Bonded Indebtedness

The present application of the property tax laws in South Carolina under the 1895 Constitution ^{is} ~~are~~ in clear violation of the Constitution in most counties and results in an inequitable and unjust system of property taxation. The bedrock of a good property tax system is a uniform assessment throughout the State of South Carolina. The recommendation of a majority of the Study Committee of the General Assembly would provide for the assessment of taxable property at actual value or according to such classification as may be prescribed by general law. This will, in my opinion, be an insurmountable obstacle to achieving a fair tax system in connection with real property taxation.

The new paragraph is virtually meaningless in that the General Assembly can do anything not prohibited by the Constitution. It does not require an equitable and just system of taxation. If any attempt at classification is made, it should be strictly limited to the classification of buildings and structures on land and taxing them on a different basis than land itself. To permit any other method or any other system is to invite invidious discrimination insofar as the taxation of real property is concerned. If we do not confine classification to the separation from buildings from land, then we should by all means retain the current provision in the 1895 Constitution. To follow the recommended change would greatly retard urban development and reward and encourage the withholding of land from its most productive use. If South Carolina is to "catch up" economically with the nation, we must use all our resources in the most productive fashion.

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Statement by W. Brantley Harvey, Jr., on Section A (Property Subject to Taxation and Assessment, Article VI--Taxation, Finance, and Bonded Indebtedness

EXISTING PROCEDURE FOR AMENDING THE SOUTH CAROLINA CONSTITUTION OF 1895

(Article XVI, Constitution of 1895)

Section 1. Any amendment or amendments to this Constitution may be proposed in the Senate or House of Representatives; Provided, however, that for the general elections in 1970 and 1972 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 yeas 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 yeas 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.

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Section 2. Two or more amendments. If two or more amendments shall be submitted at the same time, they shall be submitted in such manner that the electors shall vote for or against each of such amendments separately.

Section 3. Constitutional convention. Whenever two-thirds of the members elected to each branch of the General Assembly shall think it necessary to call a Convention to revise, amend or change this Constitution, they shall recommend to the electors to vote for or against a Convention at the next election for Representatives; and if a majority of all the electors voting at said election shall have voted for a Convention, the General Assembly shall, at its next session, provide by law for calling the same; and such Convention shall consist of a number of members equal to that of the most numerous branch of the General Assembly.